



FINAL
ENVIRONMENTAL IMPACT REPORT

FOR THE

FIELD & POND PROJECT

SCH: 2018072029 (PREVIOUSLY #2016032024)

JANUARY 2020

Prepared for:

Yolo County Community Services Department
292 W. Beamer Street
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Prepared by:

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D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm



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FINAL EIR

Chapter	Page Number
Executive Summary	ES-1
1.0 Introduction	1.0-1
1.1 Purpose and Intended Uses of the EIR	1.0-1
1.2 Environmental Review Process	1.0-2
1.3 Organization of the Final EIR	1.0-3
2.0 Comments on Draft EIR and Responses	2.0-1
2.1 Introduction.....	2.0-1
2.2 List of Commenters	2.0-1
2.3 Comments and Responses	2.0-2
3.0 Revisions.....	3.0-1
3.1 Revisions to the Draft EIR.....	3.0-1
4.0 Final Mitigation Monitoring and Reporting Program	4.0-1
4.1 Mitigation Monitoring and Reporting Program	4.0-1
 Tables	 Page Number
Table 2.0-1: List of Commenters on Draft EIR	2.0-1
Table 4.0-1: Mitigation Monitoring and Reporting Program	4.0-2

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INTRODUCTION

A limited project-level environmental impact report (EIR) is required for the Field & Pond Project (Project) pursuant to the requirements of the California Environmental Quality Act (CEQA) and order of the Yolo County Superior Court.

A Project EIR is an EIR which examines the environmental impacts of a specific development project. This type of EIR focuses primarily on the changes in the environment that would result from the project. A Project EIR examines all phases of the project including planning, construction and operation. The Project EIR approach is appropriate for the Project because it allows comprehensive consideration of the reasonably anticipated scope of the Project, including development and operation of the Project, as described in greater detail below.

PROJECT BACKGROUND

The original Mitigated Negative Declaration and Initial Study (collectively referred to as MND) for the Project was issued on March 8, 2016. As a result of changes since the original MND was issued, a revised MND (RMND) was completed and recirculated on June 28, 2016. Additional minor changes to the RMND were made in an Errata dated October 5, 2016. Collectively, the MND, RMND, and Errata are referred to herein as the “Project MND.”

The Yolo County Planning Commission reviewed the Project application and RMND and denied the requested Use Permit for the Field & Pond Project on August 11, 2016. The decision was appealed to the Yolo County Board of Supervisors. The Yolo County Board of Supervisors approved the Use Permit and adopted the Project MND on October 11, 2017.

A lawsuit regarding the Project was filed with the Yolo County Superior Court on November 14, 2017. The lawsuit (*Farmland Protection Alliance v. County of Yolo* [Case No. CV PT 16-1896]) alleged that the Use Permit was in violation of the California Environmental Quality Act (CEQA), the provisions in the Williamson Act, and the provisions of the County zoning code, and that the CEQA documentation failed to address impacts associated with a range of environmental topics, including traffic, agriculture, and endangered species. Yolo County Superior Court issued a Statement of Decision on January 16, 2018, a Judgment on June 20, 2018, and a Peremptory Writ of Mandate on July 2, 2018 regarding the lawsuit (see Appendix B). The Court found that substantial evidence supported a fair argument that the Project may have a significant environmental impact on tricolored blackbird, valley elderberry longhorn beetle, and golden eagle. The remaining claims were denied. The Judgment and resulting Writ of Mandate requires the County to undertake further study and preparation of an Environmental Impact Report to address only the potential impacts of the Project on the tricolored blackbird, valley elderberry longhorn beetle, and golden eagle.

PROJECT DESCRIPTION

The following provides a brief summary and overview of the Project. Chapter 2.0 of the Draft EIR includes a detailed description of the Project, including maps and graphics. The reader is referred to Chapter 2.0 of the Draft EIR for a more complete and thorough description of the components of the Project.

The Project site is in use as a home site (residence) and event site that includes three dwellings, three barns, a water tower, several grain silos, and a two-acre man-made fishing and recreational pond. Improvements on the Project site include paved and gravel driveways that access the existing homes and outbuildings, as well as paved and gravel parking areas, outdoor gathering areas for both the residents and for event attendees, and associated landscaping and pathways. Regular maintenance activities occur to maintain the dwellings, buildings, outbuildings, and grounds.

The Project was a request for a Use Permit to operate a large bed and breakfast and large special events facility, known as Field & Pond, on agriculturally-zoned property that has historically been identified as the “William Cannedy Farm.” The Project site is located approximately five to six miles northwest of the City of Winters on the northern portion of an 80- acre parcel identified by two separate Assessor’s Parcel Numbers (APNs), which is currently in use as a home site and an event site. As noted previously, the Project site includes three dwellings, three barns, a water tower, several grain silos, and a two-acre fishing pond. The Project site has been used for special events, both by-right and pursuant to the permit issued by the Board of Supervisors, as previously described. Chickahominy Slough bisects the property separating the 11-acre home site areas where the Project is located, from the southern portions used as grazing land and contain oak woodlands in hilly terrain.

The Project includes use of the property grounds and existing structures as a large bed and breakfast and large event center that would accommodate lodging for up to nine guest rooms, as well as indoor/outdoor events for up to 300 attendees per event (with most events drawing around 120 people).

While the initial proposal was to host up to 35 events for the first year of operation, mitigation measures imposed by the Board of Supervisors for issuance of the Use Permit limited the number of events to 20 per year, not to exceed 150 attendees, with the exception of four events that may be up to 300 attendees, among other requirements. The Use Permit approved by the Board of Supervisors contained a number of additional conditions of approval. Conditions of approval based on mitigation measures for environmental resources analyzed in the Project MND, other than the tricolored blackbird, valley elderberry longhorn beetle, and the golden eagle, will remain in effect and are not affected by this EIR.

Refer to Chapter 2.0, Project Description, in the Draft EIR for additional description of Project details.

ALTERNATIVES TO THE PROJECT

Section 15126.6 of the CEQA Guidelines requires an EIR to describe a reasonable range of alternatives to the Project or to the location of the Project which would reduce or avoid significant impacts, and which could feasibly accomplish the basic objectives of the Project. The alternatives analyzed in this EIR include the following three alternatives in addition to the Project:

- No Project Alternative
- Elderberry Transplanting Alternative
- Elderberry Redesign Alternative

These alternatives are described in detail in Section 4.5, Alternatives Considered in this EIR, in the Draft EIR. The No Project Alternative is the environmentally superior alternative. However, as required by CEQA, when the No Project Alternative is the environmentally superior alternative, the environmentally superior alternative among the others must be identified. The Elderberry Redesign Alternative would avoid all significant environmental impacts associated with the Project and is the Environmentally Superior Alternative, since an environmentally superior alternative must be identified among the alternatives other than the Project.

COMMENTS RECEIVED

The Draft EIR addressed environmental impacts on the tricolored blackbird, valley elderberry longhorn beetle, and golden eagle associated with the Project that are known to the County, were raised during the Notice of Preparation (NOP) process, or raised during preparation of the Draft EIR.

During the NOP process, nine comments were received related to the Draft EIR. A copy of each comment letter and a summary of oral comments are provided in Appendix A of the Draft EIR. Each comment was considered during preparation of the Draft EIR.

The County received nine comment letters regarding the Draft EIR from public agencies and private citizens. These comment letters on the Draft EIR are identified in Table 2.0-1 of this Final EIR. The comments received during the Draft EIR review processes are addressed within this Final EIR.

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This Final Environmental Impact Report (Final EIR) was prepared in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (Section 15132). The County of Yolo (County) is the lead agency for the environmental review of the Field & Pond Project (Project) and has the principal responsibility for approving the Project. This Final EIR assesses the expected environmental impacts resulting from the Project and associated impacts from subsequent operation of the Project, as well as responds to comments received on the Draft Environmental Impact Report (Draft EIR).

1.1 PURPOSE AND INTENDED USES OF THE EIR

CEQA REQUIREMENTS FOR A FINAL EIR

This Final EIR for the Project has been prepared in accordance with CEQA and the State CEQA Guidelines. State CEQA Guidelines Section 15132 requires that a Final EIR consist of the following:

- the Draft EIR or a revision of the draft;
- comments and recommendations received on the Draft EIR, either verbatim or in summary;
- a list of persons, organizations, and public agencies commenting on the Draft EIR;
- the responses of the lead agency to significant environmental concerns raised in the review and consultation process; and
- any other information added by the lead agency.

In accordance with State CEQA Guidelines Section 15132(a), the Draft EIR is incorporated by reference into this Final EIR.

An EIR must disclose the expected environmental impacts, including impacts that cannot be avoided, growth-inducing effects, impacts found not to be significant, and significant cumulative impacts, as well as identify mitigation measures and alternatives to the Project that could reduce or avoid its adverse environmental impacts. CEQA requires government agencies to consider and, where feasible, minimize environmental impacts of development, and an obligation to balance a variety of public objectives, including economic, environmental, and social factors.

PURPOSE AND USE

Yolo County, as the lead agency, has prepared this Final EIR to provide the public and responsible and trustee agencies with an objective analysis of the potential environmental impacts resulting from approval, construction, and operation of the Field & Pond Project. The Final EIR addresses only the potential impacts of the Project on the tricolored blackbird, valley elderberry longhorn beetle, and golden eagle by order of the Yolo County Superior Court. Responsible and trustee agencies that may use the EIR are identified in Sections 1.0 and 2.0 of the Draft EIR.

The environmental review process enables interested parties to evaluate the Project in terms of its environmental consequences, to examine and recommend methods to eliminate or reduce potential adverse impacts, and to consider a reasonable range of alternatives to the Project. While

CEQA requires that consideration be given to avoiding adverse environmental effects, the lead agency must balance adverse environmental effects against other public objectives, including the economic and social benefits of a project, in determining whether a project should be approved.

This EIR will be used as the primary environmental document to evaluate all aspects of construction and operation of the Project. The details and operational characteristics of the Project are identified in Chapter 2.0, Project Description, of the Draft EIR (August 2019).

1.2 ENVIRONMENTAL REVIEW PROCESS

The review and certification process for the EIR has involved, or will involve, the following general procedural steps:

NOTICE OF PREPARATION

Yolo County circulated a Notice of Preparation (NOP) of an EIR for the Project on July 12, 2018 to trustee agencies, the State Clearinghouse, and the public. A public scoping meeting was held on July 18, 2018 to present the Project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. Concerns raised in response to the NOP were considered during preparation of the Draft EIR. The NOP and responses to the NOP by interested parties are presented in Appendix A of the Draft EIR.

NOTICE OF AVAILABILITY AND DRAFT EIR

Yolo County published a public Notice of Availability (NOA) for the Draft EIR on August 15, 2019 inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2018072029) and the County Clerk, and was published in a local newspaper pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review and comment from August 23, 2019 through October 7, 2019.

The Draft EIR contains a description of the Project, description of the environmental setting, identification of Project impacts on the tricolored blackbird, valley elderberry longhorn beetle, and golden eagle, and mitigation measures for impacts found to be significant, as well as an analysis of Project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less-than-significant impact, and provides detailed analysis of potentially significant and significant impacts. Comments received in response to the NOP were considered in preparing the analysis in the Draft EIR.

RESPONSE TO COMMENTS/FINAL EIR

The County received comment letters regarding the Draft EIR from public agencies and private citizens. These comment letters on the Draft EIR are identified in Table 2.0-1, and are provided in Chapter 2.0 of this Final EIR.

In accordance with CEQA Guidelines Section 15088, this Final EIR responds to the written comments received on the Draft EIR, as required by CEQA. This Final EIR also contains minor edits to the Draft EIR, which are included in Chapter 3.0, Revisions. This document, as well as the Draft EIR as amended herein, constitute the Final EIR.

CERTIFICATION OF THE EIR/PROJECT CONSIDERATION

The County will review and consider the Final EIR. If the County finds that the Final EIR is "adequate and complete," the Board of Supervisors may certify the Final EIR in accordance with CEQA and County environmental review procedures and codes. The rule of adequacy generally holds that an EIR can be certified if:

- 1) The EIR shows a good faith effort at full disclosure of environmental information; and
- 2) The EIR provides sufficient analysis to allow decisions to be made regarding the project which intelligently take account of environmental consequences.

A Mitigation Monitoring and Reporting Program, as described below, would also be adopted in accordance with Public Resources Code Section 21081.6(a) and CEQA Guidelines Section 15097 for mitigation measures that have been incorporated into or imposed upon the Project to reduce or avoid significant effects on the environment. This Mitigation Monitoring and Reporting Program has been designed to ensure that these measures are carried out during Project implementation, in a manner that is consistent with the EIR.

1.3 ORGANIZATION OF THE FINAL EIR

This Final EIR has been prepared consistent with Section 15132 of the State CEQA Guidelines, which identifies the content requirements for Final EIRs. This Final EIR is organized in the following manner:

CHAPTER 1.0 – INTRODUCTION

Chapter 1.0 briefly describes the purpose of the environmental evaluation, identifies the lead, agency, summarizes the process associated with preparation and certification of an EIR, and identifies the content requirements and organization of the Final EIR.

CHAPTER 2.0 – COMMENTS ON THE DRAFT EIR AND RESPONSES

Chapter 2.0 provides a list of commenters, copies of written and electronic comments made on the Draft EIR (coded for reference), and responses to those written comments.

CHAPTER 3.0 – REVISIONS

Chapter 3.0 consists of minor revisions to the Draft EIR in response to comments received on the Draft EIR.

CHAPTER 4.0 – FINAL MMRP

Chapter 4.0 consists of a Mitigation Monitoring and Reporting Program (MMRP). The MMRP is presented in a tabular format that presents the impacts, mitigation measure, and responsibility, timing, and verification of monitoring.

2.1 INTRODUCTION

No new significant environmental impacts or issues, beyond those already covered in the Draft Environmental Impact Report (EIR) for the Field & Pond Project, were raised during the comment period. Responses to comments received during the comment period do not involve any new significant impacts or add “significant new information” that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.

CEQA Guidelines Section 15088.5 states that: *New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.*

Sections 2.0 and 3.0 of this Final EIR include information that has been added to the EIR since the close of the public review period in the form of responses to comments and revisions.

2.2 LIST OF COMMENTERS

Table 2.0-1 lists the comments on the Draft EIR that were submitted to the County during the 45-day public review period for the Draft EIR. The assigned comment letter or number, letter date, letter author, and affiliation, if presented in the comment letter or if representing a public agency, are also listed. Letters received are coded with letters (A, B, etc.).

TABLE 2.0-1 LIST OF COMMENTERS ON DRAFT EIR

<i>RESPONSE LETTER</i>	<i>INDIVIDUAL OR SIGNATORY</i>	<i>AFFILIATION</i>	<i>DATE</i>
A	Ian Boyd	California Department of Fish and Wildlife	10-1-2019
B	Scott Morgan	Governor’s Office of Planning and Research, State Clearinghouse and Planning Unit	10-8-2019
C	Plan Review Team	Pacific Gas & Electric Company	8-23-2019
D	Leland Kinter	Yocha Dehe Wintun Nation	9-16-2019
E	William Chapman	Yolo County Resident	10-3-2019
F	Bruce Rominger	Yolo County Resident	10-4-2019
G	Chad Roberts	Yolo County Resident	10-6-2019
H	Patty Rominger	Yolo County Resident	10-4-2019
I	Robyn Rominger	Yolo County Resident	10-2-2019

2.3 COMMENTS AND RESPONSES

REQUIREMENTS FOR RESPONDING TO COMMENTS ON A DRAFT EIR

CEQA Guidelines Section 15088 requires that lead agencies evaluate and respond to all comments on the Draft EIR that regard an environmental issue. The written response must address the significant environmental issue raised and provide a detailed response, especially when specific comments or suggestions (e.g., additional mitigation measures) are not accepted. In addition, the written response must be a good faith and reasoned analysis. However, lead agencies need only to respond to significant environmental issues associated with the project and do not need to provide all the information requested by the commenter, as long as a good faith effort at full disclosure is made in the EIR (CEQA Guidelines Section 15204).

CEQA Guidelines Section 15204 recommends that commenters provide detailed comments that focus on the sufficiency of the Draft EIR in identifying and analyzing the possible environmental impacts of the project and ways to avoid or mitigate the significant effects of the project, and that commenters provide evidence supporting their comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

CEQA Guidelines Section 15088 also recommends that revisions to the Draft EIR be noted as a revision in the Draft EIR or as a separate section of the Final EIR. Chapter 3.0 of this Final EIR identifies all revisions to the Field & Pond Project Draft EIR.

RESPONSES TO COMMENT LETTERS

Written comments on the Draft EIR are reproduced on the following pages, along with responses to those comments. To assist in referencing comments and responses, the following coding system is used:

- Each letter is lettered or numbered (i.e., Letter A) and each comment within each letter is numbered (i.e., comment A-1, comment A-2).

MASTER RESPONSE – SCOPE OF THE EIR

Multiple comments address issues that are outside the scope of this EIR. The purpose and scope of the Draft EIR is discussed in the Introduction and Executive Summary chapters of the Draft EIR. In summary, a lawsuit regarding the Project was filed with the Yolo County Superior Court on November 14, 2017. The lawsuit (*Farmland Protection Alliance v. County of Yolo* [Case No. CV PT 16-001896]) alleged that the Use Permit was in violation of the California Environmental Quality Act (CEQA), the provisions in the Williamson Act, and the provisions of the County zoning code, and that the CEQA documentation failed to address impacts associated with a range of environmental topics, including traffic, agriculture, and endangered species. Yolo County Superior Court issued a Statement of Decision on January 16, 2018, a Judgment on June 20, 2018, and a Peremptory Writ of Mandate on July 2, 2018 regarding the lawsuit. As discussed in Chapter 2 of the Draft EIR, the Court found that substantial evidence supported a fair argument that the Project may have a significant environmental impact on tricolored blackbird, valley elderberry longhorn beetle, and golden eagle. The remaining claims were denied.

The Judgment and resulting Writ of Mandate requires the County to undertake further study and preparation of an Environmental Impact Report to address only the potential impacts of the Project on the tricolored blackbird, valley

elderberry longhorn beetle, and golden eagle. The analysis in the Draft EIR and Final EIR is limited to the topics identified by the Judgment and resulting Writ of Mandate issued by Yolo County Superior Court. Impacts to other resources were analyzed in the Project Mitigated Negative Declaration (MND). Where a comment raises issues that are outside of the Court-mandated scope of this EIR, the response refers the commenter to this Master Response and, where applicable, directs the commenter to the section of the Project MND that addresses the issues identified by the commenter.

From: Boyd, Ian@Wildlife [mailto:Ian.Boyd@Wildlife.ca.gov]
Sent: Tuesday, October 1, 2019 9:59 AM
To: Stephanie Cormier <Stephanie.Cormier@yolocounty.org>
Cc: Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>
Subject: CDFW Comments on the DEIR for the Field & Pond ZF # 2015-0018 (Field & Pond Use Permit)

Hello Ms. Cormier,

The California Department of Fish and Wildlife (CDFW) received the Notice of Availability of the Draft Environmental Impact Report (DIER) from the County of Yolo for the Field and Pond ZF# 2015-0018 (Field and Pond Use Permit)[Project]. CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

The California Department of Fish and Wildlife (CDFW) is responding as a **Trustee Agency** for fish and wildlife resources, which holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. CDFW may potentially be a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) if it may need to make discretionary actions under the Fish and Game Code, such as the issuance of a Lake or Streambed Alteration Agreement (Fish & G. Code, § 1600 et seq.) and/or a California Endangered Species Act (CESA) Incidental Take Permit (Fish & G. Code, § 2080 et seq.).

A-1

CDFW agrees with the impact assessment and mitigation measures provided by Mr. Jim Estep in his Field and Pond project, supplemental survey data for focused EIR Memo dated May 31, 2018. However, in the biological section of the DEIR no avoidance and mitigation measures are included for tricolored blackbird (*Agelaius tricolor*). CDFW recommends including the mitigation measures for tricolored blackbird provided by Mr. Estep in the May 2018 memo into Impact 3-1 in order to bring impacts to a less than significant level for tricolored blackbird. CDFW would also recommend installing permanent or temporary fencing and signage along established pathways, warning event participants of the sensitive habitat during tricolored blackbird nesting season. Annual surveys performed by a qualified biologist may also be warranted to determine if nesting does occur in the marsh habitat during nesting season and ensure that the tricolored blackbirds are not affected by routine disturbance caused by maintenance of the grounds or events at the facility.

A-2

The pond and Project site are directly adjacent to Chickahonimy Slough. It is not clear to CDFW how the pond is filled with water, but if there is a direct hydrological connection between the pond and Chickahominy Slough, the pond may be subject to Fish and Game Code 1600 et. seq. CDFW recommends that the DEIR disclose the hydrology of the pond and discuss whether Project activities would require Notification for Lake and Streambed Alteration. Notification to CDFW is required, pursuant to Fish and Game Code section 1602 if the project proposes activities that will substantially divert or obstruct the natural flow of water; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. CDFW approval of projects subject to Notification under Fish and Game Code section 1602, is facilitated when the EIR discloses the impacts to and proposes measures to avoid, minimize, and mitigate impacts to perennial, intermittent, and ephemeral rivers, streams, and lakes, other features, and any associated biological resources/habitats present within the vicinity of the project.

A-3

CDFW appreciates the opportunity to comment on the Notice of Availability for the DEIR to assist in identifying and mitigating project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Ian Boyd, Environmental Scientist at (916) 358-1134 or ian.boyd@wildlife.ca.gov.

A-4

Thank you,

Ian Boyd

Environmental Scientist
Habitat Conservation Program
North Central Region (Region 2)
[1701 Nimbus Rd., Suite A](#)
[Rancho Cordova, CA 95670](#)
P: 916-358-1134
ian.boyd@wildlife.ca.gov

Response to Letter A: California Department of Fish and Wildlife

Response A-1: The commenter notes that the California Department of Fish and Wildlife (CDFW) received the Notice of Availability of the Draft EIR. The commenter has responded as a Trustee Agency for fish and wildlife resources, and the commenter may potentially be a Responsible Agency under CEQA. This comment is noted. This comment serves as an introduction to the comment letter and does not warrant a response. No further response is necessary.

Response A-2: The commenter agrees with the impact assessment and mitigation measures provided by Jim Estep (dated May 31, 2018). The commenter recommends including the mitigation measures for tricolored blackbird provided by Mr. Estep in the May 2018 memo into Impact 3-1 in order to bring impacts to a less than significant level for tricolored blackbird. CDFW would also recommend installing permanent or temporary fencing and signage along established pathways, warning event participants of the sensitive habitat during tricolored blackbird nesting season. According to the commenter, annual surveys performed by a qualified biologist may also be warranted to determine if nesting does occur in the marsh habitat during nesting season and ensure that the tricolored blackbirds are not affected by routine disturbance caused by maintenance of the grounds or events at the facility.

This comment is noted. It is noted that the comment does not address the analysis and conclusions in the Draft EIR that impacts to tricolored blackbirds are less than significant, and only indicates a preference for the mitigation measure identified in the Estep Environmental Consulting May 31, 2018 memo (Estep May 2018 Memo) without identifying why the mitigation measure would be necessary.

The Estep May 2018 Memo described documented tricolored blackbird observations at the man-made pond since 2011 and concluded that there has not been confirmed nesting or breeding at the Project site. The Estep May 2018 Memo identifies that the small amount of suitable nesting habitat (0.2 to 0.4 acre), small number of tricolored blackbird occurrences, the lack of confirmed breeding, and presence of red-winged blackbirds as the primary breeding occupant of the marsh suggest that the Project site is not a significant potential breeding site for tricolored blackbirds. The Estep May 2018 Memo further concluded that the the Project site has been subject to ongoing baseline human noise and disturbances since the pond was constructed on or around 2003 and that a periodic increase in noise disturbance and human presence is not expected to have a substantial negative effect on the already limited use of the site by tricolored blackbirds. The memo concluded that the Project will not result in habitat-related impacts to tricolored blackbirds and would not result in substantial adverse effects to the species or substantially reduce the number of restrict the range of the species. The memo concluded that the impact to tricolored blackbird associated with the Project is less than significant. The memo provided a mitigation measure to ensure that the pond remains available as potential habitat for tricolored blackbird and other species; however, this mitigation measure is not necessary to address any adverse impact of the Project pursuant to CEQA, but was provided as a recommendation to maintain and potentially improve what has been identified as marginal habitat without documented occurrences of breeding based on data from 2011 through 2018. Since the Project would have a less than significant impact, this mitigation measure is not necessary to ensure that the Project would not have an impact.

In addition to documenting the reports and memos provided by Estep Environmental Consulting related to the Project site, the Draft EIR also included the results of the Observations and

Assessment of Field and Pond Site, County Road 29, Yolo County, California completed by Robert Meese, Ph.D., a recognized expert on tricolored blackbirds. Since 2004, Dr. Meese has been conducting research on the tricolored blackbird, served as the scientific lead for the Tricolored Blackbird Working Group, and has published multiple reports, including tri-annual surveys documenting tricolored blackbird presence throughout California. Dr. Meese's review of the Project indicated that the Project site is of marginal importance to breeding tricolored blackbirds, due to inappropriate habitat configuration, pond maintenance, and human activity-related noises and further concluded there has not been confirmed breeding at the Project site over the past several years (with the memo describing documented occurrences from 2011 through 2018) despite episodic reports of presence at the Project site.

In preparing the Draft EIR, the County closely reviewed and considered the memos and reports provided by Estep Environmental Consulting, the observations and assessment provided by Robert Meese, Ph.D., as well as comments provided in relation to the Project including comments on the Draft EIR, in determining whether the Project would substantially reduce the habitat of the tricolored blackbird, cause the tricolored blackbird population to drop below self-sustaining levels or eliminate the tricolored blackbird community, substantially reduce the number or restrict the range of the tricolored blackbird, or otherwise have a substantial adverse effect on the tricolored blackbird. Based on the analysis provided by Estep Environmental Consulting and Robert Meese, Ph.D., the Draft EIR concluded that the Project would not have a significant impact on the tricolored blackbird and that no mitigation was necessary.

As noted in the Observations and Assessment of Field and Pond Site, County Road 29, Yolo County, California prepared by Dr. Meese (2018), since 2011, the condition of the cattails associated with the pond has deteriorated from a preponderance of the young, green, erect stems preferred by nesting birds to an accumulation of dead, lodged stems, especially in the northern reaches of the pond, that are shunned by nesting tricolored blackbirds due to the increased visibility of nests and access to nests by mammalian predators.

This is consistent with the 2018 Yolo Final Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) which discusses on pages 6-125 and 6-126 that fresh emergent wetland may need to be actively managed to maintain breeding colonies of tricolored blackbird. The HCP/NCCP states that tricolored blackbirds need large, continuous stands of bulrush/cattail that are at least 30 to 45 feet wide to provide adequate space for breeding as well as protection from predators and that tricolored blackbirds need young, lush vegetation rather than senescent stands of vegetation. The HCP/NCCP further indicates that to maintain these conditions, it may be necessary to burn, mow, or disc bulrush/cattail vegetation every 2 to 5 years, to remove dead growth and encourage the development of new vegetative structure.

As shown in the April 1, 2015 aerial photo shown in Appendix C, which is the photo most representative of the Project site before events began in 2015, there was an extremely narrow fringe of fresh marsh in some portions of the pond, with the majority of cattail growth shown as brown and clearly not tall and green, and does not provide continuous growth of stands that are at least 30 feet wide. The April 1, 2015 aerial is reproduced below with a yellow marker identifying a width of 30 feet; as shown, the widest area of growth is less than 30 feet.

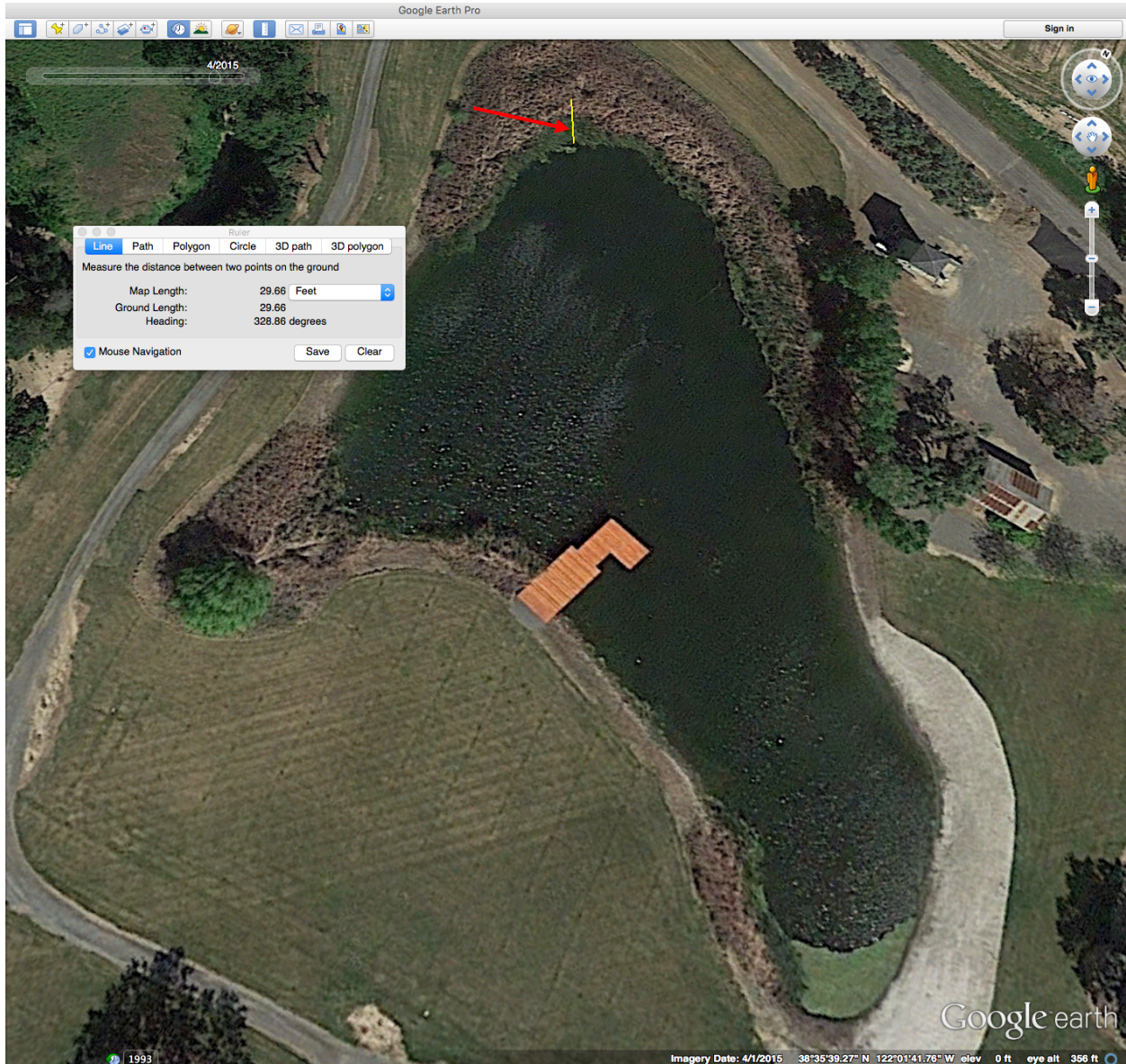


Figure 1: Man-made Pond on Project Site, April 1, 2015

The below aerials represent the conditions closest to the Project site when the Notice of Preparation was issued in 2018. As shown, there is not significant new cattail growth and conditions more reflect the dead, lodged stems that Dr. Meese indicated was not suitable rather than fresh, emergent growth.

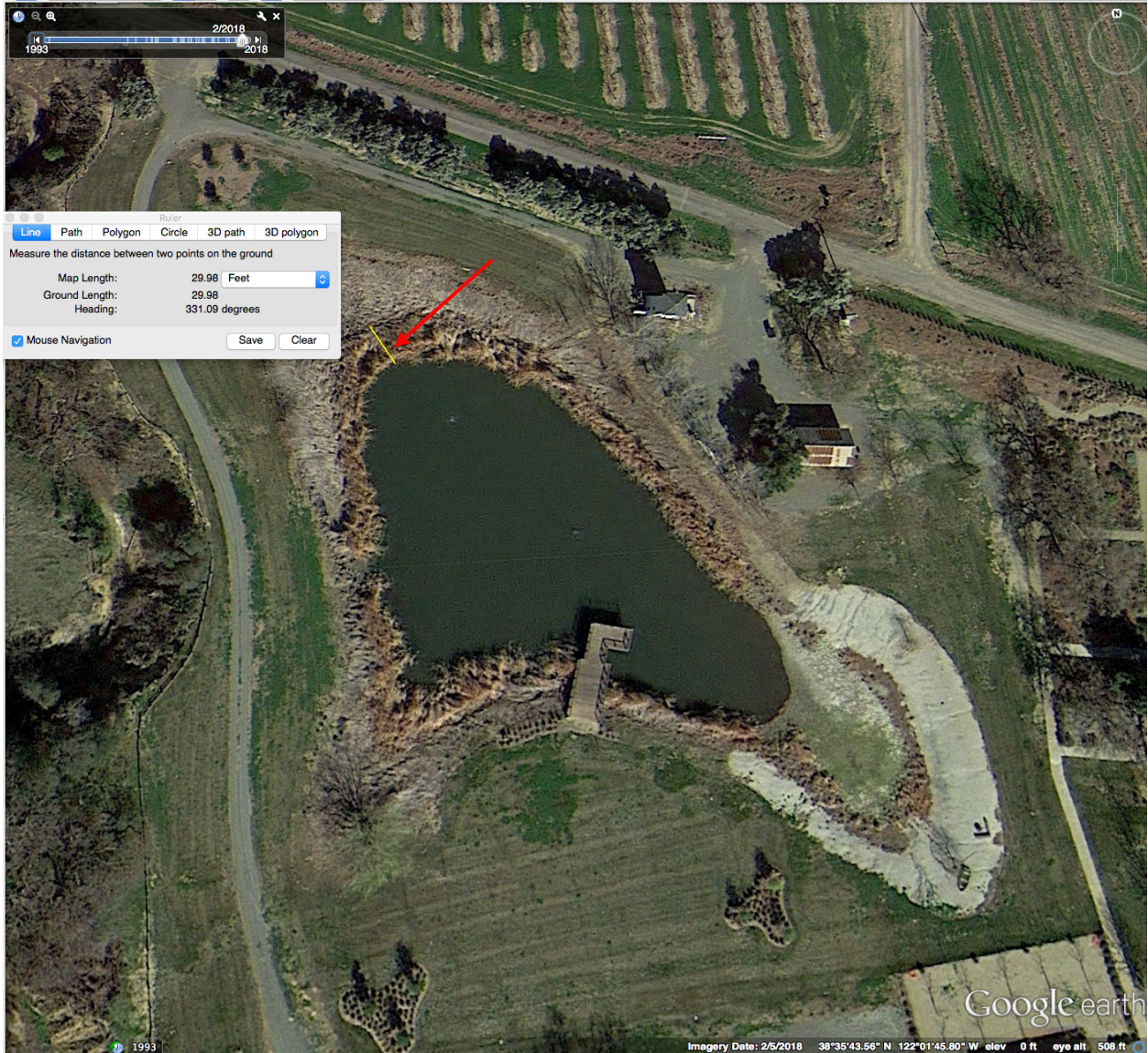


Figure 2: Man-made Pond on Project Site, February 5, 2018

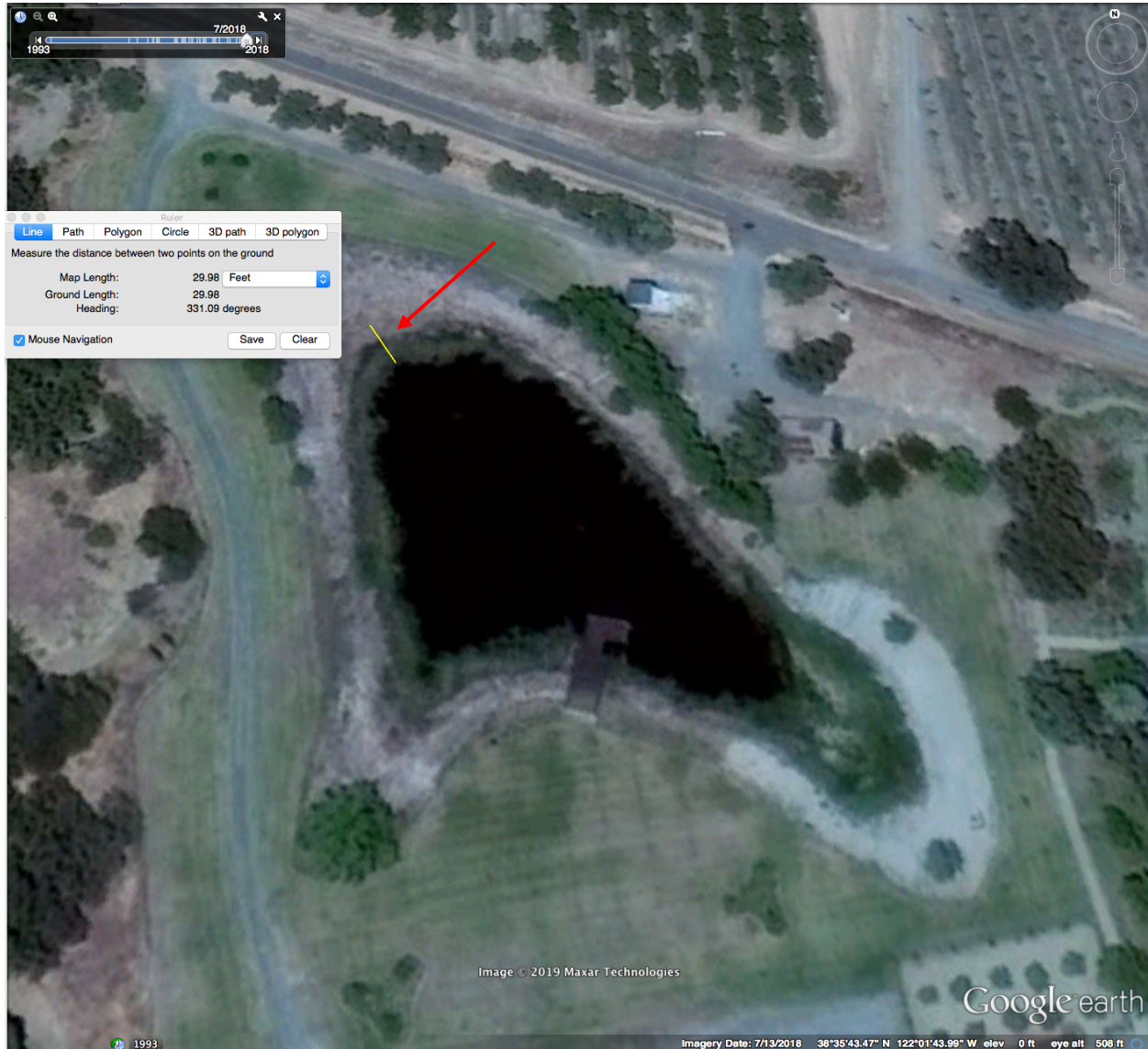


Figure 3: Man-made Pond on Project Site, July 1, 2018

Dr. Meese indicated that the combination of inappropriate habitat configuration (the narrow perimeter fringe), pond maintenance to conserve open water, and human activity-related noises create conditions that are ill-suited to breeding by tricolored blackbird. This is noted on page 3.0-18 of the Draft EIR.

Further, as concluded on page 3.0-29 (Impact 3-1) of the Draft EIR, implementation of the Project, including an increase in activity, noise, and disturbances, would not have a substantial adverse effect on potential habitat on the Project site and would not significantly impact the habitat or range of the tricolored blackbird.

As described in the Draft EIR under Impact 3-1 on pages 3.0-27 through 3.0-31, the Project site contains marginal habitat for tricolored blackbird, the baseline levels of disturbance on the Project site associated with the residence, recreational uses of the man-made pond, and maintenance of the site are not conducive to tricolored blackbird nesting and breeding, and there have been no

confirmed incidences of nesting nor breeding during the time frame studies. Therefore, the finding in the Draft EIR that the Project would not have a significant impact on the tricolored blackbird is based on substantial evidence that the Project would not substantially reduce the habitat of the tricolored blackbird, would not cause the tricolored blackbird population to drop below self-sustaining levels or eliminate the tricolored blackbird community, would not substantially reduce the number or restrict the range of the tricolored blackbird, or would otherwise have a substantial adverse effect on the tricolored blackbird is determined to be supported by substantial evidence and no mitigation is required. Therefore, the Draft EIR will not be revised to include mitigation, including the recommended measures during tricolored blackbird nesting season, as such measures are not warranted.

Response A-3: The commenter notes that the pond and Project site are directly adjacent to Chickahominy Slough, and it is not clear how the pond is filled with water, or if there is a direct hydrological connection between the pond and the Slough. The commenter recommends that the Draft EIR disclose the hydrology of the pond and discuss whether the Project would require Notification for Lake and Streambed Alteration. The commenter then outlines the notification process if the Project proposes activities that will substantially divert or obstruct the natural flow of water; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. The commenter concludes that approval of projects is subject to Notification, and is facilitated when the EIR discloses the impacts to and proposes measures to avoid, minimize, and mitigate impacts to perennial, intermittent, and ephemeral rivers, streams, and lakes, other features, and any associated biological resources/habitats present within the vicinity of the Project.

This comment is noted. The man-made pond is part of the existing condition on the Project site. The Project does not propose any changes to the pond nor does the Project propose any changes to hydrological features on the Project site. No revision to the Draft EIR is required.

Response A-4: The commenter notes that the CDFW appreciates the opportunity to comment on the Draft EIR in order to assist in identifying the mitigating Project impacts on biological resources. This comment is noted. This comment serves as a conclusion to the comment letter and does not warrant a response. No further response is necessary.



Gavin Newsom
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Kate Gordon
Director

October 8, 2019

STEPHANIE CORMIER
Yolo County
292 W. Beamer St.
Woodland, CA 95695

Subject: Field & Pond Project
SCH#: 2018072029

Dear STEPHANIE CORMIER:

The State Clearinghouse submitted the above named EIR to selected state agencies for review. The review period closed on 10/7/2019, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act, please visit: <https://ceqanet.opr.ca.gov/2018072029/2> for full details about your project.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

B-1

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL 1-916-445-0613 state.clearinghouse@opr.ca.gov www.opr.ca.gov

Response to Letter B: Governor’s Office of Planning and Research, State Clearinghouse and Planning Unit

Response B-1: The comment acknowledges that the County has complied with the State Clearinghouse review requirements, pursuant to CEQA. No further response is necessary.



Plan Review Team
Land Management

PGEPlanReview@pge.com
6111 Bollinger Canyon Road 3370A
San Ramon, CA 94583

August 23, 2019

Stephanie Cormier
County of Yolo
292 W Beamer St
Woodland, CA 95695

Ref: Gas and Electric Transmission and Distribution

Dear Ms. Cormier,

Thank you for submitting the Field & Pond User Permit plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.
2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.
3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management



Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <http://usanorth811.org/wp-content/uploads/2017/05/CA-LAW-English.pdf>

1. **Standby Inspection:** A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
2. **Access:** At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
3. **Wheel Loads:** To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. **Grading:** PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.
5. **Excavating:** Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches $[24/2 + 24 + 36/2 = 54]$ away, or be entirely dug by hand.)



Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an "Impressed Current" cathodic protection system. Any proposed facilities, such as metal conduit, pipes,



service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.



Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. **Buildings and Other Structures:** No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "RESTRICTED USE AREA – NO BUILDING."
2. **Grading:** Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
3. **Fences:** Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
4. **Landscaping:** Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
5. **Reservoirs, Sumps, Drainage Basins, and Ponds:** Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
6. **Automobile Parking:** Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
7. **Storage of Flammable, Explosive or Corrosive Materials:** There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.
8. **Streets and Roads:** Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for



proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

Response to Letter C: Pacific Gas & Electric Company

Response C-1: The commenter notes that if the Project is adjacent or within Pacific Gas & Electric (PG&E) owned property and/or easements, PG&E will work with the applicant to ensure compatible uses and activities are located near the facilities. The commenter also provides attachments relating to the requirements for gas and electric facilities. The commenter notes that: the PG&E plan review process does not replace the application process for PG&E gas or electric service that may be required for the Project; if a project is being submitted as part of a larger project, the entire scope and PG&E facilities should be included in the CEQA document; and, an engineering deposit may be required to review plans for a project. The commenter concludes that uses within the PG&E strip and/or easement may include a Public Utility Commission Section 851 filing.

This comment is noted. While this comment does not address the adequacy of the Draft EIR, the commenter is referred to Draft EIR Chapter 2.0 (Project Description), which identifies existing conditions. PG&E facilities are not anticipated to be disturbed by the Project and it is understood that PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required. No further response is necessary.



YOCHA DEHE
CULTURAL RESOURCES

September 16, 2019

Yolo County - Community Services Department
Attn: Stephanie Cormier, Principal Planner
292 W. Beamer Street
Woodland, CA 95695

RE: 26055 County Road 29 Project

Dear Ms. Cormier:

Thank you for the notification dated, August 23, 2019, regarding cultural information on or near the proposed 26055 County Road 29 Project, Yolo County. We appreciate your efforts and wish to respond.

Based on the information provided by the Notice of Availability of the Draft Environmental Impact Report, Yocha Dehe Wintun Nation is not aware of any known cultural resources near this project site and a cultural monitor is not needed.

However, if any new information is available or cultural items are found, please contact the Cultural Resources Department. In addition, we recommend cultural sensitivity training for any pre-project personnel. Please contact the individual listed below to schedule the cultural sensitivity training, prior to the start of the project.

Robert Geary, Tribal Monitor Supervisor
Yocha Dehe Wintun Nation
Office: (530) 215-6180
Email: rgeary@yochadehe-nsn.gov

Please refer to identification number YD - 04232015-01 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

Leland Kinter
Tribal Historic Preservation Officer

Yocha Dehe Wintun Nation
PO Box 18 Brooks, California 95606 p) 530.796.3400 f) 530.796.2143 www.yochadehe.org

D-1

Response to Letter D: Yocha Dehe Wintun Nation

Response D-1: The commenter notes that the Yocha Dehe Wintun Nation is not aware of any known cultural resources near the Project site, and a cultural monitor is not needed. The commenter also requests that their Cultural Resources Department be contacted if any new information is available. The commenter concludes with a recommendation that cultural sensitivity training for any pre-Project personnel be provided. This comment is noted. As discussed under the Master Response, the analysis in the Draft EIR and Final EIR is limited to the topics identified by the Judgment and resulting Writ of Mandate issued by Yolo County Superior Court; the comment does not address these topics. The commenter is referred to the Section V (Cultural Resources), Item b) of the Project MND for a discussion of impacts related to archaeological resources, including Native American resources, and associated mitigation measures.

From: William A. Chapman [mailto:wchap3@juno.com]
Sent: Thursday, October 3, 2019 8:25 PM
To: Stephanie Cormier <Stephanie.Cormier@yolocounty.org>
Subject: RE: Draft Environmental Impact Report for Field & Pond ZF# 2015-0018

October 3, 2019

Stephanie,

I am a neighboring property to
the EIR ZF# 2015-0018 at 24909 County
Road 29.

Western Yolo County has experienced
the effects of range wildfire during 2018.
Our property lost over 14 miles +/- of boundary
fencing because of the 2018 County Fire and
three maintenance structures. We are
VERY concerned about fire!

Nationwide - our current insurance carrier -
has issued a nonrenewal on our
Fire insurance policy - because of
wild fire potential.

In addition to FIRE --- we are located at
the end of a ONE LANE - DEAD END county road.
The road access is LIMITED by a ONE LANE BRIDGE.
Emergency equipment and fire personnel
must travel some five miles down a ONE LANE
ROAD and cross a ONE LANE BRIDGE to
reach our DEAD END OF THE ROAD location.

Were the above FIRE and ACCESS issues reviewed, discussed,
and resolved in the pending Draft
Environmental Impact Report for Field & Pond
ZF# 2015-0018 -- WHAT WERE THE ANSWERS ???
Please review the attachments -

I am concerned - and at risk.

The Clarence Scott Ranches

Established and Family Managed since 1850
c/o William A. Chapman
4038 Boulder Drive
Antioch, California 94509-6233

Telephone - 925 - 754 -3595
E-mail: wchap3@juno.com

E-1

Note: Notice of Nonrenewal of Insurance from Commenter's insurance company omitted.



Response to Letter E: William Chapman

Response E-1: The commenter owns a neighboring property at 24909 County Road 29. The commenter provides background information regarding wildfires in western Yolo County and expresses concerns about fire safety. According to the commenter, Nationwide issued a nonrenewal notice for the commenter's fire insurance policy due to wildfire potential. The commenter is located at the end of a one lane, dead end country road which is accessed by a one lane bridge. According to the commenter, emergency equipment and fire personnel must travel five miles down a one lane road and cross a one lane bridge to reach their location. The commenter concludes by asking if the fire and access issues were reviewed, discussed, and resolved in the Draft EIR. The commenter includes the following attachments: Nationwide Agribusiness Insurance Company Notice of Nonrenewal of Insurance; a letter from the commenter to Ag Alert pertaining to the nonrenewal notice; and two photographs of a truck driving on the one-lane bridge.

This comment is noted. As discussed under the Master Response, the analysis in the Draft EIR and Final EIR is limited to the topics identified by the Judgment and resulting Writ of Mandate issued by Yolo County Superior Court; the comment does not address these topics. The commenter is referred to the Project MND for a discussion of impact analysis related to emergency access in Section XVI (Transportation and Traffic), item e) and the impact analysis related to fire protection and emergency access, in Section XIV (Public Services), item a).

To: Stephanie Cormier,

October 4, 2019

Yolo County community Services Dept.

From: Bruce Rominger

Re: Draft Environmental Impact Report for Field & Pond ZF#2015-001

This is a biased, un-scientific report that should not be accepted by the Yolo County Board of Supervisors. Once again the County has failed to consider the environmental baseline conditions that existed before the project commenced.

The writer of this report recognizes that many previous comments have requested that the EIR start with conditions before the project was approved as evidenced by:

Sec. 1.10 "Baseline used in the Draft EIR for determining impacts to tricolored blackbird, valley Elderberry Longhorn Beetle, and the Golden Eagle, with recommendations that the baseline take into account Project site conditions at the time of the initial Project application and environmental review rather than when the Notice of Preparation for the Draft EIR was published. This issue is addressed in Chapter 3.0."

F-1

No it isn't!

It mentions the conditions existing prior to Project application but then ignores the obvious effects that the ongoing operations have had. It concludes that there aren't enough TCBS to be a viable colony so no mitigation is necessary. No rational person could ignore the fact that there was a viable colony there for years until the events started! An EIR is supposed to assess the environment *before* the project and then a qualified biologist estimates the impact the project will have and what mitigation is necessary to avoid any adverse effects. Instead Yolo County allowed the biologists recommendations to be edited by an attorney and issued a MND which the Judge later declared illegal. Now we have had over four years of project operation without a proper EIR. (emphasis added)

Sec. 1.0 This document says it is supposed to be an "*objective* analysis of the potential environmental impacts resulting from *construction and operation* of the Field & Pond project."

An EIR is not objective if the applicants' attorneys are allowed to edit the mitigation recommendations made by the qualified biologist. The original MND had recommendations from the consulting biologist to keep *operations* and construction 100 feet away from the pond and to not allow amplified music because of its potential harmful impacts on the TCBS. The county staff allowed the applicants attorneys to strike out the operations word and the proposed ban on amplified music. Are the attorneys objective, qualified biologists?

F-2

Sec. 1.4 "This type of DEIR should focus primarily on the changes in the environment that would result from the project." It goes on to say "The EIR shall examine all phases of the project including planning, *construction and operation*."

F-3

<p>Why is this DEIR not addressing the obvious effects that the construction and ongoing operations have already caused to the TCB? (See chart) We no longer have to guess what impacts this project will have on this species, we have very strong evidence that damage has been done!</p>	<p>F-3 cont'd</p>
<p>Sec. 4.5 "Where a potential alternative was examined but not chosen as one of the range of alternatives, the CEQA Guidelines <i>require</i> that the EIR briefly discuss the reasons the alternatives was dismissed"</p>	<p>F-4</p>
<p>This didn't happen. Why is there no discussion of the alternatives the biologist suggested? Alternatives recommended by the biologist that included no operation within 100 feet of the pond and no amplified music.</p>	<p>F-4</p>
<p>Sec. 1.8 A potential impact is considered significant if a project would substantially degrade the environmental quality of land, air, water, minerals, flora, fauna, ambient noise, etc.</p>	<p>F-5</p>
<p>It is clear we have had a significant impact when you look at the population crash of the TCB since the Project began operations. (See chart) Why is there no further mitigation required when we have overwhelming evidence that the current mitigation has not prevented the crash of the TCB population?</p>	<p>F-5</p>
<p>The TCB is supposed to be surveyed every year. Where is the data from 2019?</p>	<p>F-5</p>
<p>In Table ES-2 Impact 3-1 it states:</p>	<p>F-5</p>
<p>Tricolored blackbird: Project implementation would not substantially reduce the habitat, cause a wildlife population to drop below self-sustaining levels or eliminate an animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened species, have a substantial adverse effect, either directly or indirectly, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</p>	<p>F-5</p>
<p>The phrase "Project implementation would not" is a very telling statement. This project has already been implemented (illegally according to the Judge). The author is using the most recent TCB data to say further operations will not do significant harm to this population. Why are they not looking at all the data that is available from the years before the project started operating to see the actual harm the project has already done. The EIR has information from Hilary White about previous population and breeding information and it appears there has been no effort in this study to document or use this information. She says breeding <i>was confirmed</i> in the past so why in Table 3.0-1 do you have the following statement? Where did she get this information and why wasn't it used?</p>	<p>F-6</p>
<p>Table 3.0-1 "Moderate potential to occur. Suitable nesting and foraging habitat present. No evidence of nesting from past surveys or CNDDB. Three CNDDB occurrences within 3 miles of the site; two of which include the Project site."</p>	<p>F-6</p>

The following paragraph describes things prohibited under Federal law.

Section 9 of FESA generally prohibits all persons from causing the "take" of any member of a listed species. (16 U.S.C. § 1538.) This prohibition applies mainly to animals; it only extends to plants in areas "under federal jurisdiction" and plants already protected under state law. (Id., subd. (a)(2)(B); see also Northern Cal. River Watch v. Wilcox (9th Cir. 2010) 620 F.3d 1075.) "Take" is defined in statute as, "... to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." (16 U.S.C. § 1532(19).) Harass is defined in regulation as "...an intentional or negligent act or omission that creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavior patterns that include, but are not limited to, breeding, feeding, or sheltering."

F-7

It is easy to see that the amplified noise allowed can be considered a "take". The biologist notes that TCBs are sensitive to disturbance and recommends not allowing amplified noise. The county allowed this recommendation to be over-ruled and the TCB use of the pond has dropped.

Yolo county General Plan says:

Policy CO-2.22: Prohibit development within a minimum of 100 feet from the top of banks for all lakes, perennial ponds, rivers, creeks, sloughs, and perennial streams. A larger setback is preferred. . . .

F-8

Why did Yolo County allow construction on and around the party barn and a fence to be built for over 1000 feet along the top of the bank of Chickahominy Slough? All within the 100' prohibited area. All of this construction activity was done in violation of the county code and the county did nothing to stop it and has ignored it in this DEIR. Was there even a survey for Elderberry bushes before this construction was allowed?

Yolo County has worked very hard for many years and has spent huge sums (\$15 million?) of state money to implement a HCP/NCCP with 12 species listed for further action and protection. The Tri-colored blackbird is one of those and in fact is on the top of the page for the Yolo HCP website. It appears we are trying to help TCBs on one hand while we are allowing the destruction of a colony at the same time. Why would Yolo County allow this project to proceed and produce a DEIR with such a bias against one of our protected species?

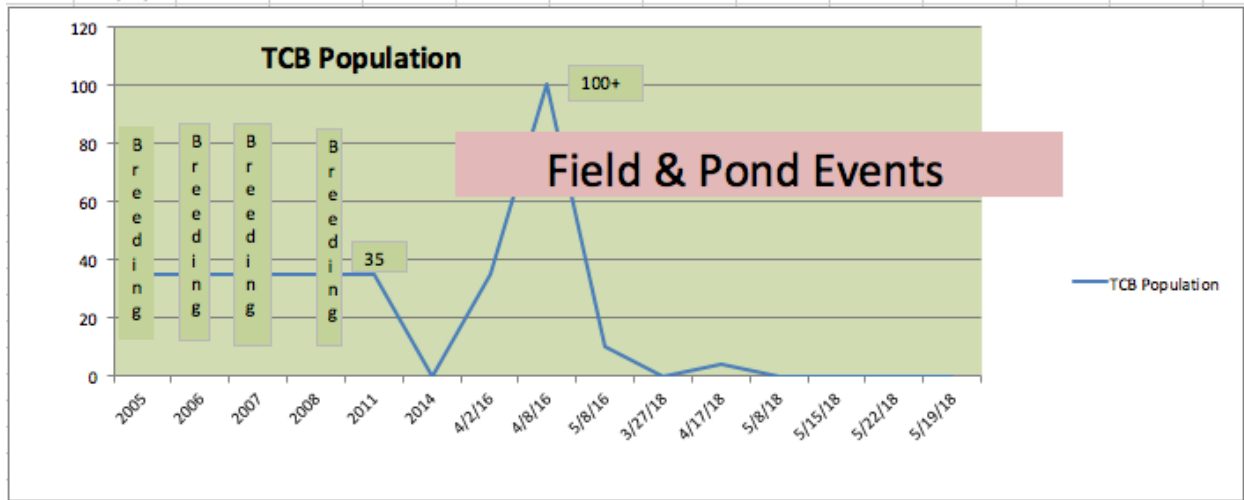
F-9

For these and other reasons the county must not accept this DEIR as written and must instruct staff to answer for the illegal activity that has been allowed and correct the bias and lack of objectivity that is rampant throughout this document.

Thank you,

Bruce Rominger

Field & Pond Tri-Colored Blackbird Pond			
Date	population		
2005	35	breeding confirmed	(breeding colony)
2006	35	breeding confirmed	(breeding colony)
2007	35	breeding confirmed	(breeding colony)
2008	35	breeding colony unconfirmed	
2011	35		
2014	0		
4/2/16	35	photos (not counted)	
4/8/16	100	or more (several hundred?)	
5/8/16	10		
3/27/18	0		
4/17/18	4		numbers not counted
5/8/18	0		
5/15/18	0		
5/22/18	0		
5/19/18	0		



Response to Letter F: Bruce Rominger

Response F-1: The commenter states that the environmental baseline conditions that existed before the Project commenced have not been considered. The commenter also states that the effects that ongoing operations of the Project have had on tricolored blackbirds are ignored, and that a viable tricolored blackbirds colony was on-site for years until the events started. The commenter indicates their belief that Yolo County allowed the biologists recommendations to be edited by an attorney and a Mitigated Negative Declaration was later declared illegal by the judge.

This comment is noted. The commenter has cited text on page 1.0-7 of the Draft EIR, which includes a list of concerns and controversies raised during the Notice of Preparation (NOP) comment period for the Project. While the commenter states that the Draft EIR does not address baseline conditions at the time of the initial Project application, the baseline conditions as of the timing of the Project application are described in Chapter 3.0 of the Draft EIR. As described on pages 3.0-25 through 3.0-27 of the Draft EIR, baseline conditions as of August 2015 (the Project application was deemed complete) and as of July 2018 (the Notice of Preparation was issued) are both analyzed as potential baselines from which impacts are considered in the Draft EIR.

As part of the Draft EIR, supplemental biological analysis was performed by Estep Environmental Consulting and Robert Meese, Ph.D. While the commenter states that a viable tricolored blackbird colony was on the Project site for years before the events started, Estep Environmental Consulting and Dr. Robert Meese, Ph.D. each provided a review of tricolored blackbird observations on the Project site beginning in 2011, prior to either Project baseline period. As discussed on page 3.0-30 of the Draft EIR, tricolored blackbirds were observed at the Project site in 2011, 2016, and 2018 and no observations of birds were made in 2014 or 2017. No breeding or nesting was documented in the 2011 through 2018 timeframe. A site visit during nesting season in 2014 indicated that no birds were present on the Project site; this site visit occurred prior to the start of by-right events on the Project site in October 2014. This information is supported by data reported in the Tricolored Blackbird Portal and the California Natural Diversity Database, as well as personal observations made by Jim Estep of Estep Environmental Consulting and Dr. Robert Meese. It is noted that only one observation of tricolored blackbirds on the Project site is documented in the CNDDDB database in 2011.

As described in the Draft EIR, the Project site has been subject to a baseline level of human noise and disturbances, including activities associated with the man-made pond since the pond was constructed on or around 2003. The pond is part of the farm residence complex and receives regular disturbance from maintenance activities, regular mowing of the lawns that surround the pond, maintenance of vegetation in and around the pond, recreational activities including boating and fishing, which occurred on or around the pond and the boat dock extending into the pond, and skeet shooting from the tower adjacent to the pond, road traffic along County Road 29, noise and dust from farm activities on the adjacent land on the north side of County Road 29, and from ongoing non-Project use of the house, barn, and pond, as discussed on page 3.0-26 of the Draft EIR. These activities occurred regularly prior to any use of the site as an event center.

Estep Environmental Consulting and Dr. Robert Meese have identified that the baseline human disturbance on the site associated with use as a home site with recreational features would have affected the potential of the occupancy of the site by tricolored blackbirds. Therefore, while the use of the Project site as an event center would periodically increase the number of people and related noise levels onsite during scheduled events, the baseline conditions, including those

present on the Project site in 2015 at the time of the Project application, were not conducive to tricolored blackbird nesting and breeding on the Project site. As discussed in the Estep Environmental Consulting memo dated May 2018, any periodic increase in noise disturbance and human presence associated with Project operations is not expected to have a substantial negative affect on the already limited use of the site by tricolored blackbirds.

It is noted that the determination regarding the potential impacts to tricolored blackbird is less than significant, as discussed under Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR, for both the 2015 baseline condition and the 2018 baseline condition. The impact conclusions are the same, regardless of the time period selected as the initial baseline.

The commenter states that the Draft EIR mentions the conditions existing prior to the Project application but then ignores the obvious effects that the operation has had, indicating that there was a viable colony there (on the Project site) for years until the events started and further states that an EIR is supposed to assess the environment before the Project then a qualified biologist estimates the impact the Project will have. The commenter provides no documentation of a viable colony that existed for years on the Project site prior to the Project. The past and recent tricolored blackbird activity on the site is discussed throughout Chapter 3.0, Biological Resources, of the Draft EIR. The commenter is referred to the discussion of the Project's environmental setting associated with biological resources on Draft EIR pages 3.0-3 through 3.0-19, which provide the results of a field survey performed by Estep Environmental Consulting in May 2016 after the Project application was accepted as complete by the County, and observations made by Dr. Robert Meese, Ph.D., who has surveyed the site multiple times from 2011 through 2017 and has not confirmed nesting or breeding activities on the Project site.

As discussed on page 3.0-9, the May 8, 2016 Biological Site Assessment identified that reports of tricolored blackbirds at the two-acre pond were received as recently as 2014, but that there were no confirmed reports of breeding. The May 8, 2016 Biological Site Assessment included a survey of the Project site from 9:30 AM to 2:00 PM on April 27, 2016, which addressed the entire 80-acre property and included a focused assessment of the two-acre pond and associated marsh to determine the presence of tricolored blackbirds. During the survey, 10 individual tricolored blackbirds were detected at the pond marsh. None of the tricolored blackbirds exhibited breeding or territorial behavior. Red-winged blackbirds, including territorial male red-winged blackbirds and numerous female red-winged blackbirds, were observed to occupy the entire perimeter of the marsh. The survey concluded that while it did not appear tricolored blackbirds were nesting at the site, the site was considered occupied by the species and the neighboring lands provide suitable foraging habitat.

The May 24, 2016 Biological Site Assessment indicated that the Tricolored Blackbird Portal identified 35 birds detected in 2011, 0 birds identified in 2014, and 1 bird detected in 2016 on the Project site. While there were no reports of the site by tricolored blackbirds in 2009 or 2010 by CNDDDB data or the Tricolored Blackbird Portal, Estep Environmental Consulting does identify that a map used during the 2008 Statewide Tricolored Blackbird Census appeared to identify the two-acre pond as an unconfirmed location for a breeding colony site; however, this map did not include any actual confirmation of breeding.

In response to the commenter's claim that there was a viable colony for years on the Project site prior to the commencement of events, a review of the Results of the Tricolored Blackbird 2008 Census (Rodd Kelsey, Landowner Stewardship Program, Audobon California, September 11,

2008) was conducted. This census was conducted well before either of the baseline conditions on the Project site. The 2008 Tricolored Blackbird Census included review of all known historic colony sites throughout the state, which included all past colony sites reported in 2005 and those sites in the California Natural Diversity Database with confirmed locations. Volunteers were also asked to add additional colony sites that they were aware of that were not on the initial list of colonies. While 1,900 tricolored blackbirds were observed in Yolo County, the 2008 Tricolored Blackbird Census did not document any tricolored activity on the Project site. Specifically, the Project site is not listed in Appendix 3 which included the survey observations at known historic colony sites nor is the Project site listed in Appendix 4 which included the survey observations at known non-colony sites and sites of unknown breeding status. Therefore, no observations of tricolored blackbird on the Project site were made as part of the 2008 Statewide Tricolored Blackbird Census. It is noted that while several observations of tricolored blackbird on the Project site from 2008 through 2018 have been made during breeding season, none of the observations included confirmation of breeding. As identified by Dr. Robert Meese, a report of the presence of tricolored blackbird or an observation of the birds at the site is not adequate to confirm breeding as the species often inspects multiple potential breeding locations prior to selecting the site where it ultimately chooses to breed. Dr. Robert Meese further states that for a single observation to confirm breeding, specific behaviors such as nest-building, the feeding of nestlings, or the presence of young out of nests would have to be identified. Despite the commenter's claims of breeding, there has been no breeding observed on the Project site within the last five years of either baseline condition and, due to the marginal habitat and regular human activity on the Project site regardless of event hosting, the site is not considered an adequate breeding site. No revisions to the Draft EIR to address the baseline conditions are warranted in response to this comment.

Response F-2: The commenter states that the EIR is not objective if the applicants' attorneys are allowed to edit the mitigation recommendations made by the qualified biologist. The commenter also notes that the original MND had recommendations from the consulting biologist to keep operations and construction 100 feet away from the pond and to not allow amplified music because of its potential harmful impacts on the tricolored blackbird. The commenter also claims that County staff allowed the applicant's attorneys to strike out the operations word and the proposed ban on amplified music.

This comment is noted. This EIR was prepared by an outside consultant under contract to, and supervision of, the County. Supplemental reports by Estep Environmental Consulting and Dr. Robert Meese were prepared, as documented in Chapter 3.0 of the Draft EIR, and independently reviewed and analyzed by the County and its consultant to further address the potential for tricolored blackbird on the Project site. This EIR is not conclusory in nature, but rather, has carefully considered conditions documented on the Project site from five years prior to biological resources report prepared to address the initial Project application and five years prior to the Notice of Preparation, including each documented occurrence of tricolored blackbirds on the Project site, the nature of the habitat present on the Project site, and the typical activities involved in the use of the site prior to the Project. The analysis is documented in Chapter 3.0 of the Draft EIR and is also supported by the consideration of comments and concerns related to the Draft EIR in this Final EIR. This EIR reflects the independent judgment and conclusions of the County. It is noted that during the preparation of this EIR, no information has been provided by experts that documents any breeding activity of tricolored blackbirds on the Project site in the period reviewed for the baseline conditions and no evidence has been provided by experts that indicates that the Project site provides substantial habitat for the tricolored blackbird, that the Project would cause

the species to drop below self-sustaining levels, that the Project would eliminate the tricolored blackbird community, substantially reduce the number or restrict the range of the species, or otherwise have a significant impact related to a substantial adverse effect on the tricolored blackbird. No revisions to the Draft EIR are warranted in response to this comment.

Response F-3: The commenter questions why the Draft EIR does not address the effects that construction and operations have already caused to tricolored blackbird. The commenter provides a chart that appears to reflect their understanding of tricolored blackbird occurrences at the Project site. This comment is noted.

It is noted that the data provided by the commenter for 2005 through 2008 is not cited and no substantiation is provided for the claims for 2005 through 2008; none of the 2005 through 2008 data is documented in the CNDDDB. The Draft EIR summarizes the historic observations of tricolored blackbird on the site dating back to 2011. This Final EIR provides additional review of activities on the site in 2008. Dates earlier than 2008 are not evaluated in this EIR as they are well outside of the five-year period examined prior to either baseline and are not indicative of baseline habitat and breeding conditions and are not appropriate to use for evaluation of potential impacts associated with the Project. There has been no confirmed breeding documented on the Project site since 2008. The commenter's indication that there was a breeding colony of 35 birds in 2008 is not supported by any of the data provided in the CNDDDB or in the 2008 Tricolored Blackbird Census. As described under Response F-1, an observation of tricolored blackbirds is not enough to confirm breeding as the species often visits multiple locations before selecting a breeding site and also may stop to rest. The Draft EIR also analyzes the impacts of the Project, including construction and operation. The Project is discussed in Chapter 2.0, Project Description. The impacts to tricolored blackbirds are discussed in pages 3.0-27 through 3.0-31 of Chapter 3.0, Biological Resources. An active colony has not been present on the Project site within the last five years of either baseline and the site is not considered an adequate breeding site. Because of this, impacts to the species as a result of construction and operation of the Project were determined to be less than significant.

The information provided by the commenter does not provide any evidence that the events on the Project site have affected breeding. The observations of no birds on the Project site was made in April 2014, prior to the commencement of events on the Project site in October 2014. Further, breeding was not confirmed on the Project site as part of the 2008, 2011, or 2014 statewide surveys and no other reports of breeding during the five years prior to either baseline are documented in the Tricolored Blackbird Portal or in the CNDDDB. The Project site provides marginal habitat (approximately 0.2 to 0.4 acre of the pond and immediate surrounding area), which has declined since 2011, as discussed under Response A-2 and in Chapter 3.0 of the Draft EIR, and the human activities that occurred on the Project site under and prior to the 2015 and 2018 baseline conditions are not conducive to nesting and breeding activities as the tricolored blackbird is documented to be very sensitive to noise and disturbance and the condition of the potential habitat on the Project site has declined, as discussed on pages 3.0-9 through 3.0-18 of the Draft EIR and further analyzed under Impact 3-1 on pages 3.0-28 through 3.0-31 of the Draft EIR.

Response F-4: The commenter questions why there is not discussion of the alternatives suggested by the biologist, which include no operation within 100 feet of the pond and no amplified music. This comment is noted.

As discussed on page 3.0-11 of Chapter 3.0, the May 24, 2016 Biological Site Assessment updated the recommendations to minimize noise and disturbances to remove the requirement that only acoustic live music be permitted during events and that recorded music be kept to low decibel levels, to specify a 100-foot buffer around the western and northern portion of the pond and along Chickahominy Slough and prohibiting visitor access into the buffer during the tricolored blackbird breeding season (March through August), and to not allow maintenance of cattail growth during the breeding season. A fourth recommendation was also added to monitor tricolored blackbird activity and further minimize disturbances if breeding is confirmed. This fourth recommendation involved monitoring tricolored blackbird activity at the two-acre pond for a minimum of five years to determine occupancy and breeding status, noting that monitoring could cease if breeding was not confirmed during the five-year period, but if breeding is confirmed, that monitoring shall continue until five consecutive years of non-breeding is confirmed. If breeding is confirmed in any given year, a 1,300-foot buffer would have been required between breeding locations on the two-acre pond and any construction activities. This would require a preconstruction survey to be conducted each construction year. Further, if breeding is confirmed in a given year, then a 500-foot buffer from breeding is required and all visitor access is prohibited within the 500-foot buffer during breeding season (March through August).

The Draft EIR reviewed occurrences of tricolored blackbird on the Project site. As described under Impact 3-1 of the Draft EIR and further described under Responses F-1 and F-3, there have been no documented occurrences of breeding for five years from either baseline condition, the habitat on the Project site suitable for the species is marginal, and regular human disturbance that would deter breeding by the tricolored blackbird species, which is known to be sensitive to noise and human disturbances, occurs on the Project site, including boating, fishing, use of the boat dock, mowing of the lawns, and property maintenance, regardless of whether events are hosted. The tricolored blackbird is not considered likely to breed at the Project site. Therefore, the Draft EIR determined that the potential impact to the tricolored blackbird is less than significant and no mitigation is required. Despite the claims of breeding made by the commenter, the commenter provides no documentation of breeding activity for either baseline period considered and provides no evidence that necessitates any changes to the conclusions presented in the Draft EIR.

The Project would not have a significant impact on the tricolored blackbird, and thus no revisions to the Project through development of an alternative to reduce the impact is warranted. As described in CEQA Guidelines Section 15126.6 paragraph (a) states the following (shown in italics) related to alternatives to the Project:

Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

As described under Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR and as described in the response to this comment letter, the Project would have a less than significant impact associated to potential effects on the tricolored blackbird. As the Project would not have a significant effect on the tricolored blackbird, consideration of an alternative to avoid or substantially lessen significant effects associated with tricolored blackbird is not warranted. No change to the Draft EIR is necessary.

Response F-5: The commenter notes that there has been a significant impact when looking at the population crash of the tricolored blackbird, referencing the chart they developed, since the Project operations began. The commenter also questions why there is no further mitigation required when there is overwhelming evidence that the current mitigation has not prevented the crash of the tricolored blackbird population. The commenter further questions where the tricolored blackbird survey data for 2019 can be found.

This comment is noted. As discussed in Responses A-3, F-1 and F-3, the impacts to tricolored blackbirds are discussed in pages 3.0-27 through 3.0-31 of Chapter 3.0, Biological Resources. An active colony has not been present on the Project site within the last five years of either baseline period and the site is not considered an adequate breeding site. Because of this, impacts to tricolored blackbirds as a result of construction and operation of the Project were determined to be less than significant, and no mitigation is required. Additional survey data from 2019 is not necessary to substantiate the conclusions of the Draft EIR as adequate analysis and consideration of the Project site's potential for breeding is provided in the Draft EIR and discussed in this Final EIR. While the commenter claims there has been a crash in the tricolored blackbird population on the Project site since events began, it is noted that the tricolored blackbird population on the Project site has not been documented to breed in 2008 nor in subsequent years as discussed in this Final EIR. The Project applicant hosted the first by-right event on the Project site in October 2014 and there was no documented breeding in the years preceding the event. See Response F-1.

As noted above, a fourth recommendation was added to the May 24, 2016 Biological Site Assessment to monitor tricolored blackbird activity and further minimize disturbances if breeding is confirmed, implementing Mitigation Measure BIO-3 from the Project MND and Avoidance and Minimization Measure 21 in the Draft Yolo County Habitat Conservation Plan/Natural Resources Conservation Plan, which has since been adopted. The requirement notes that that monitoring could cease if breeding was not confirmed during the five-year period, but if breeding is confirmed, that monitoring shall continue until five consecutive years of non-breeding is confirmed. As previously identified, tricolored blackbird activity has been reviewed for the Project site for each baseline period identified in the Draft EIR and no breeding has been documented in the five-year period prior to either baseline. No further analysis is necessary to support the conclusions of the Draft EIR.

Response F-6: The commenter notes that the Project has already been implemented, indicates their belief that the Project is operating illegally according to the Judge, and that the EIR uses the most recent tricolored blackbird data to say further operations will not do significant harm to this population. The commenter also questions why the EIR does not look at data that is available from years before the Project started operating. Further, the commenter questions why the information from Hillary White about previous population and breeding is not in the EIR, and asks questions regarding White's statements. The commenter concludes with statements from Table 3.0-1 of the Draft EIR.

Regarding the commenter's claim that the Project is operating illegally according to the judge, it is noted that the Project is operating in accordance with the Writ of Mandate from the Superior Court of California, County of Yolo, dated July 2, 2018. The direction provided in the Writ of Mandate by the Superior Court judge did not require the County to set aside the approval for the Project. Rather, the Writ of Mandate dated July 2, 2018 stated that the Project approval and related mitigation measures shall remain in effect during this period of further environmental

analysis. The Project is required to comply with all adopted conditions of approval and mitigation measures.

Regarding the commenter's statement that the EIR does not consider data from prior to operations associated with the Project, the commenter is referred to Chapter 3.0 of the Draft EIR. The Draft EIR includes a description of conditions and activities present on the Project site at the time the application was deemed complete in August 2015 as well as the time of the July 2018 Notice of Preparation (see Draft EIR pages 3.0-26 through 3.0-27). Observed occurrences of tricolored blackbird are discussed on pages 3.0-7 through 3.0-19 of the Draft EIR. The EIR addresses conditions at the Project site, including data associated with tricolored blackbird occurrences, for the 2015 and 2016 baseline conditions and historical documented data, including information from as early as 2008, as described in previous responses.

As discussed on page 3.0-2 of Chapter 3.0 of the Draft EIR, Hillary White, Ecological Consultant at H.T. Harvey & Associates, indicated in an April 5, 2016 email identifying data from the Tricolored Blackbird Portal that indicated a tricolored blackbird colony at the Brian Stucker Pond and Field and Pond site. One of the data points was from 2005 that indicated that breeding was unconfirmed. According to Hillary White, there are two confirmed colonies of tricolored blackbirds at the on-site pond documented in the UC Davis Tricolored Blackbird Portal. According to the Hillary White report, the data indicates that the pond did have a breeding colony in 2005. It is noted that the data provided by Hillary White states that this breeding colony is "unconfirmed", but the Hillary White report notes that breeding at that location has been confirmed in subsequent years. It is noted that although Hillary White states that breeding at the Project site was confirmed, Ms. White does not provide any documentation of breeding at the site and does not provide any records from the Tricolored Blackbird Portal, CNDDDB, or other verifiable source to document the claim. A review of the Tricolored Blackbird Portal data reported by Estep Environmental Consulting and Dr. Robert Meese, the Results of the Tricolored Blackbird 2008 Census, and the CNDDDB database does not indicate any documented tricolored blackbird breeding from 2008 through 2018. The Draft EIR disclosed the information provided by Hillary White and provided additional analysis and consideration of available information, including information provided by recognized tricolored blackbird expert, Dr. Robert Meese.

The quoted statement from Table 3.0-1 is correct. Past surveys and the CNDDDB results do not indicate that evidence of *nesting* (emphasis added) has been found on the site. There are three CNDDDB occurrences within three miles of the site, and two of the occurrences included the Project site. Table 3.0-1 also notes that tricolored blackbird has a moderate potential to occur on-site, and that suitable nesting and foraging habitat is present. While there is the potential for occurrence (e.g., presence of the species on the Project site does not mean that the site has a high likelihood for nesting and breeding activities, as discussed under Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR). No changes to the Draft EIR are necessary in response to this comment.

Response F-7: The commenter quotes Section 9 of the Federal Endangered Species Act, and notes that amplified noise can be considered a "take". The commenter further notes that the biologist notes that tricolored blackbirds are sensitive to disturbance and recommends not allowing amplified noise. The commenter further notes that the County allowed this recommendation to be over-ruled and the tricolored blackbird use of the pond has dropped.

This comment is noted. Amplified music is not considered a "take" under the Federal Endangered Species Act. Tricolored blackbirds are in fact sensitive to disturbance. While small numbers of

tricolored blackbirds have occupied the marsh in some years during the breeding season since 2011 when breeding was suspected, the documented tricolored blackbird sightings have not verified any breeding or nesting activity. In 2011, 35 tricolored blackbirds were observed at the pond; nesting was not confirmed. No tricolored blackbird use of the pond was documented in 2012, 2013, 2014, 2015, and 2017. There have been no occurrences of the species at the pond since 2016. In 2016 and 2018, a small number of individuals were observed flying above the pond before flying away, but they were not observed at the pond. The small amount of suitable nesting habitat (approximately 0.2 to 0.4 acre of the pond and immediate surrounding area), the small number of tricolored blackbird occurrences, the lack of confirmed breeding, and presence of red-winged blackbirds observed as the primary occupant of the marsh indicates the marsh area was not a likely breeding site for tricolored blackbird at either baseline period and no breeding was documented at either baseline period. Further, surveys of the site have been negative for breeding as previously described. Due to the baseline conditions for human activity and disturbance on the Project site, the marginal habitat, and lack of any confirmed breeding from 2008 through 2018, the site is not anticipated to support breeding and implementation of the Project is not anticipated to have a significant effect on the species, as discussed under Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR. No changes to the Draft EIR are necessary in response to this comment.

Response F-8: The commenter quotes Policy CO-2.22 and questions why the County allowed construction on and around the party barn and a fence to be built for over 1,000 feet along the top of the bank of Chickahominy Slough. The commenter also questions if there was a survey for elderberry bushes before the construction was allowed. The activities identified by the commenter are by-right improvements, such as installation of a fence less than seven feet high and improvements to the existing barn, and occurred during Project review.

This comment does not address the Draft EIR. The commenter is referred to Impact 3-3, discussed on Draft EIR pages 3.0-32 through 3.0-34 for analysis of impacts related to the VELB and discussion of Mitigation Measure 3-1, which would reduce potential impacts to the VELB to less than significant. This comment is noted and has been forwarded to the decision makers for their consideration. No revisions to the Draft EIR are necessary to address this comment.

Response F-9: The commenter notes that the tricolored blackbird is a species protected by the HCP/NCCP, and questions why the County has allowed the Project to proceed and produce a Draft EIR with such bias against one of the protected species.

Potential impacts to the tricolored blackbird are assessed under Impact 3-1 of the Draft EIR. The commenter has not provided any evidence that warrants revision to the Draft EIR to address impacts to the tricolored blackbird. Substantial evidence is provided in the Draft EIR and Final EIR regarding the lack of confirmed breeding on the Project site since 2008, the baseline level of disturbance on the Project site, which is a level not conducive to nesting and breeding activities as discussed in Chapter 3.0 of the Draft EIR, and the marginal habitat the Project site provides for tricolored blackbird. This evidence supports the conclusion that the Project would have a less than significant impact on the tricolored blackbird. No revisions to the Draft EIR are warranted to address this comment.

This comment is noted and has been forwarded to the decision makers for their consideration.

CHAD ROBERTS, PH.D.

SENIOR ECOLOGIST (ESA), PROFESSIONAL WETLAND SCIENTIST (SWS)



06 October 2019

Stephanie Cormier, Principal Planner
 Yolo County Community Services Dept.
 292 West Beamer Street
 Woodland, CA 95695
stephanie.cormier@yolocounty.org

Subject: Comments, EIR, Field & Pond ZF # 2015-0018 (SCH # 2018072029)

Dear Ms. Cormier:

Having reviewed the county's Draft Environmental Impact Report (DEIR) for the proposed project, I offer comments relating to the proposed project that are focused primarily on the DEIR's content. A broader concern exists, however, with respect to the Yolo County environmental review process that led to the need for an EIR, as has been a concern for some Yolo County citizens for several years.

The county is obligated by CEQA to exercise diligence in considering the potential adverse environmental effects of projects that it proposes to approve. The reviews are legally required to be thorough and penetrating examinations of the consequences of the proposed projects on numerous environmental concerns, and such examinations often require in-depth studies by technically competent specialists, as well as thoughtful examinations of planning and economic contexts that may have a greater influence on the future than on the present. CEQA reviews are required to be based on facts; they're not *pro forma* exercises in filling out forms that must be completed in order to be able to get the proposed projects to decision-making bodies where nonenvironmental considerations about the proposed project often determine the outcome of the environmental review.

G-1

The current DEIR is an exercise that clearly meets CEQA's requirements for a fact-based assessment, although the exceedingly narrow overall EIR focus (fundamentally specified by a judge, rather than being based on a careful consideration by Yolo County staff or decision-makers) arguably does not address several potentially significant environmental concerns (e.g., traffic and wastewater treatment and disposal) that really should have been addressed in thorough environmental reviews before the project ever reached county decision-makers. Some of these concerns were included in a short letter submitted to the county as a response to the Notice of Preparation for this DEIR; the letter is included in Attachment A in the DEIR (beginning on the 134th page of the published document), and is incorporated here as if fully set forth.

G-2

The DEIR's narrow scope avoids addressing several environmental concerns that arise as a consequence of land use issues (although the primary solution offered in the DEIR for one environmental issue is based squarely on a land-use requirement that the county disregarded in its prior process for this project), all of which are focused primarily on the appropriateness of the proposed land use in the project location and its relationships to and/or conflict with other existing and planned land uses near that location. Notwithstanding the ruling of the Superior Court, these evident conflicts are intended to be assessed and identified in CEQA documents as project impacts, and the county's CEQA process should have addressed them before the county's decision-makers approved the proposed project.

Stephanie Cormier, Yolo County Community Services Department
 Comments, EIR, Field & Pond ZF # 2015-0018 (SCH # 2018072029)
 06 October 2019
 Page 2

No comments are included here with respect to the assessments in Chapter 3 of the DEIR for Tricolored Blackbird and Golden Eagle (although it should be noted that the taxonomic identification for the latter species on page 3.0-31 is incorrect), other than that the assessments for these species and for the Valley Elderberry Longhorn Beetle (VELB) would better have been conducted when the county conducted its initial environmental review for the project.

G-3

With respect to the assessment for the VELB, I agree with the conclusions about potential impacts from the project. While I do not disagree with the additional VELB-specific “protective measures” recommended on DEIR page 3.0-33, I have a significant concern that how the county and the applicant will achieve the requirement in the fundamental underpinning mitigation measure (compliance with Yolo County General Plan policy CO-2.22) is not identified in the DEIR. **Mitigation Measure 3-1** currently includes the following sentence: “In order to avoid direct and indirect impacts to VELB, the Project applicant shall comply with Yolo General Plan Policy CO-2.22 by maintaining a 100-foot no-development setback from the upper bank of Chickahominy Slough.” Policy CO-2.22 is stated in the DEIR on pages 3.0-23/24 and repeated here:

“Policy CO-2.22 Prohibit development within a minimum of 100 feet from the top of banks for all lakes, perennial ponds, rivers, creeks, sloughs, and perennial streams. A larger setback is preferred. The setback will allow for fire and flood protection, a natural riparian corridor (or wetland vegetation), a planned recreational trail where applicable, and vegetated landscape for stormwater to pass through before it enters the water body. Recreational trails and other features established in the setback should be unpaved and located along the outside of the riparian corridors whenever possible to minimize intrusions and maintain the integrity of the riparian habitat. Exceptions to this action include irrigation pumps, roads and bridges, levees, docks, public boat ramps, and similar uses, so long as these uses are sited and operated in a manner that minimizes impacts to aquatic and riparian features. (DEIR MM BIO-1b)”

G-4

Compliance with this policy (which is mandatory for the county in this DEIR, because the policy is incorporated in the General Plan as a mitigation measure specified in the EIR certified by Yolo County when the General Plan was adopted) requires adherence to all of the elements in the policy. *All of the stipulations in this policy should be identified explicitly in the DEIR as separate mitigation sub-elements in Mitigation Measure 3-1* (or in a separate mitigation measure). Merely stating that ‘development is prohibited’ within a 100-foot zone outward from the top-of-bank is unlikely to result in ‘minimizing impacts to aquatic and riparian features,’ or in addressing the underlying reasons for establishing such protection.

A number of additional General Plan policies for biological resources are identified on pages 3.0-22 to 3.0-24 in the DEIR, and these policies should also be mandatory requirements for the proposed project; all should be identified as requirements for its approval in the DEIR. One key policy for conservation reasons is policy CO-2.1:

G-5

“Policy CO-2.1 Consider and maintain the ecological function of landscapes, connecting features, watersheds, and wildlife movement corridors.”

Stephanie Cormier, Yolo County Community Services Department
 Comments, EIR, Field & Pond ZF # 2015-0018 (SCH # 2018072029)
 06 October 2019
 Page 3

Policy CO-2.1 identifies an overarching guideline for conservation: the ecological connectedness of landscape elements, and their integrity as functioning landscapes. However, the DEIR fails to incorporate other adopted policies that are applicable for the project site, which have been identified as concerns in prior comments for the CEQA process for this project.

G-5
 cont'd

By way of background, the primary conservation significance of the project site results from two factors: (1) the availability of habitat on the project site for wildlife, plants, and ecological processes that occur on the site; and (2) the role that the project site plays stitching together a conservation framework for Yolo County as a whole, as well as how Yolo County lands participate in regional conservation beyond Yolo County's borders. Such concerns are core elements in the State Wildlife Action Plan (SWAP)¹ and the "Areas of Conservation Emphasis" (ACE)² program of the California Department of Fish & Wildlife. These roles specifically relate to "connectivity," also characterized as "landscape linkages," which refers to properties of landscapes that enable movements of biological organisms among landscape elements. Connectivity provides or supports ecological processes that have been shown both to lessen biodiversity reductions resulting from habitat loss and fragmentation and to enhance the rate of biodiversity increase during habitat recovery (e.g., Damschen et al 2019).

Streamside riparian areas are known to be among the most important connectivity elements in conservation science; riparian zones are the most naturally integrated habitat networks in virtually all landscapes, providing critical connectivity among aquatic and terrestrial ecosystems (Naiman et al 1993; Seavy et al 2009; Huber et al 2014; Fremier et al 2015). Riparian areas are significant connectivity elements in the recently adopted Yolo Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP; see, e.g., Figure 6-3 "Ecological Corridors" in the adopted plan). The HCP/NCCP was still in draft form (i.e., not an approved plan) when the Field & Pond project was initially reviewed; were the project proposed under current conditions, its effect on landscape-based connectivity provided by the Chickahominy Slough/Salt Creek "corridor" would need to be considered as a potentially significant concern. Mitigation approaches necessary to reduce the effect on riparian connectivity to less-than-significance would minimally include measures of the

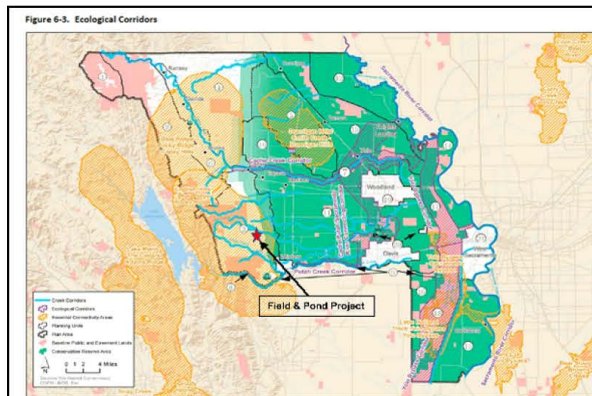


Figure 6-3 in the adopted Yolo HCP/NCCP identifies essential habitat connectivity elements. The Field & Pond project occurs within the English Hills/Blue Ridge/Rocky Ridge Essential Connectivity Area, and includes the mapped Chickahominy Slough/Salt Creek Corridor.

G-5
 cont'd

¹ State Wildlife Action Plan URL: <https://www.wildlife.ca.gov/SWAP>.

² Areas of Conservation Emphasis URL: <https://www.wildlife.ca.gov/Data/Analysis/ACE>.

Stephanie Cormier, Yolo County Community Services Department
 Comments, EIR, Field & Pond ZF # 2015-0018 (SCH # 2018072029)
 06 October 2019
 Page 4

same kinds and extents as those proposed in the DEIR (i.e., riparian-area setbacks and adherence to the General Plan's connectivity guidance).

In addition to policy CO-2.1, DEIR pages 3.0-22 to 3.0-24 also quote the following policies that apply for riparian areas on the project site:

“Policy CO-2.3 *Preserve and enhance those biological communities that contribute to the county's rich biodiversity including blue oak and mixed oak woodlands, native grassland prairies, wetlands, riparian areas, aquatic habitat, agricultural lands, heritage valley oak trees, remnant valley oak groves, and roadside tree rows.*” (emphasis added)

“Policy CO-2.9 Protect riparian areas to maintain and balance wildlife values.”

Several additional policies in the adopted Conservation Element establish county guidance for maintaining connectivity within Yolo County landscapes; these are not identified in the DEIR, although they're directly applicable for this project and this site and should have been included in the DEIR:

“Policy CO-2.34 Recognize, protect and enhance the habitat value and role of wildlife migration corridors for the Sacramento River, Putah Creek, Willow Slough, the Blue Ridge, the Capay Hills, the Dunnigan Hills and Cache Creek.”

“Policy CO-2.35 Consider potential effects of climate change on the locations and connections between wildlife migration routes.”

“Policy CO-2.38 Avoid adverse impacts to wildlife movement corridors and nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds). Preserve the functional value of movement corridors to ensure that essential habitat areas do not become isolated from one another due to the placement of either temporary or permanent barriers within the corridors. Encourage avoidance of nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds) during periods when the sites are actively used and that nursery sites which are used repeatedly over time are preserved to the greatest feasible extent or fully mitigated if they cannot be avoided. (DEIR MM BIO-4a)”

Policy CO-2.38 is also based on a mitigation measure adopted as part of the certification and approval processes for the Yolo County General Plan and its EIR; identifying and avoiding impacts to connectivity is intended by the adopted General Plan to be a substantive conservation concern for all projects considered by the county. As noted previously, connectivity is identified as a substantive conservation concern in the adopted HCP/NCCP, which is prospectively identified in the adopted General Plan's Conservation Element as a future vehicle through which plan policies may be executed. While connectivity is not identified in the current DEIR as a concern for the proposed project site, the primary focus of VELB protection (and the underlying commitment to implement policy CO-2.22) is on the riparian area of Chickahominy Slough. *Identifying factors that support connectivity and implementing them on the project site, thereby preserving the functional connectivity values provided by the Chickahominy Slough riparian corridor, should be added to the identified mitigation elements in **Mitigation Measure 3-1*** (or included as a separate mitigation measure).

G-5
 cont'd

Stephanie Cormier, Yolo County Community Services Department
Comments, EIR, Field & Pond ZF # 2015-0018 (SCH # 2018072029)
06 October 2019
Page 5

Significant funding and the efforts of many Yolo County citizens have been invested in conservation planning efforts for the county's landscape in recent decades. A focus on conservation concerns should have been included in the original county assessments for the proposed project covered by this EIR. As the Superior Court ruled, the omission of assessments of project effects for several sensitive species was clearly an omission contrary to the requirements of the California Environmental Quality Act; an appropriate approach to addressing these effects was already identified in the county's adopted General Plan. In addition, the adopted General Plan specifies a focus on conservation concerns for riparian areas and connectivity, and assessments of the project's effects on those concerns should have been included in the original CEQA assessment for this project; this focus must be incorporated in this DEIR's coverage. Such assessments are, in fact, intended by the adopted General Plan to be part of staff and decision-maker reviews for every project considered by the county.

G-7

Thank you for considering the current and future environment in Yolo County and our region. Please feel free to contact me if there are questions about relationships among land use and conservation.

Sincerely,



Chad Roberts
Conservation Ecologist

Copies: May, Lindbo, Echiburu, Saylor, Brazil, Schneider, Fulks, Schubert, Mooney, Rominger

References

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Response to Letter G: Chad Roberts

Response G-1: The commenter introduces the letter by stating that the comments focus primarily on the Draft EIR's content, and concludes with their understanding of the County's obligations under CEQA.

This comment is noted. This comment serves as an introduction to the comment letter and does not warrant a response. No further response is necessary.

Response G-2: The commenter notes that the Draft EIR meets the CEQA requirements for a fact-based assessment, but notes that the EIR has a narrow focus and other concerns should have been addressed in reviews before the Project reached County decision makers. The commenter concludes that the narrow scope of the Draft EIR avoids addressing traffic, wastewater, and land uses issues, and that the County should have addressed these concerns before the Project was approved.

This comment is noted and has been forwarded to the decision makers for their consideration. As discussed under the Master Response, the analysis in the Draft EIR and Final EIR is limited to the topics identified by the Judgment and resulting Writ of Mandate issued by Yolo County Superior Court; the comment does not address these topics. The commenter is referred to the Project MND for the impact analysis related to traffic in Section XVI (Transportation and Traffic), the impact analysis related to wastewater treatment and disposal in Section VI (Geology and Soils), item e, Section IX, (Hydrology and Water Quality), item a, and Section XVII (Utilities and Service Systems), item a, and the impact analysis related to land use policies and regulations in Section X (Land Use and Planning).

Response G-3: The commenter notes that no comments are included (in their letter) related to the tricolored blackbird or golden eagle, other than the taxonomic identification for golden eagle is incorrect on page 3.0-31, and that the assessments for tricolored blackbird, golden eagle, and VELB would better have been conducted when the County conducted its initial environmental review for the Project. This comment is noted and has been forwarded to the decision makers. The taxonomic identification for golden eagle has been corrected, as shown in Chapter 3.0, Revisions, of this Final EIR.

Response G-4: The commenter notes their agreement with the conclusions about potential impacts from the Project related to VELB, but is concerned about how the County and applicant will achieve the requirement of Mitigation Measure 3-1 pertaining to Policy CO-2.22 of the General Plan. The commenter notes that all of the stipulations in Policy CO-2.22 should be identified explicitly in the Draft EIR. This comment is noted.

Policy CO-2.22 of the Draft General Plan is provided in full on page 3.0-23 of the Draft EIR. Mitigation Measure 3-1 has been revised to include the stipulations of Policy CO-2.22 related to the limitations, as well as allowed improvements, associated with the setback. See Chapter 3.0, Revision, of this Final EIR.

Response G-5: The commenter suggests that the additional General Plan policies identified on pages 3.0-22 to 3.0-24 be included as mandatory requirements for the Project. The commenter also notes that Policy CO-2.1 identifies an overarching guideline for conservation: the ecological connectedness of landscape elements, and their integrity as functioning landscape. The commenter concludes

that the Draft EIR fails to incorporate other adopted policies that are applicable for the Project site, which have been identified as concerns in prior comments for the CEQA process for this Project.

The commenter states that, by way of background, the primary conservation significance of the Project site results from two factors: (1) the availability of habitat on the Project site for wildlife, plants, and ecological processes that occur on the site; and (2) the role that the Project site plays stitching together a conservation framework for Yolo County as a whole, as well as how Yolo County lands participate in regional conservation beyond Yolo County's borders. The commenter provides background information from various sources, including HCP/NCCP, regarding streamside riparian areas and their connectivity importance. The commenter notes that the HCP/NCCP was still in draft form when the Project was initially reviewed, and makes statements regarding if the Project was proposed today (i.e., after the HCP/NCCP was adopted).

The commenter reproduces General Plan Policies CO-2.3, CO-2.9, CO-2.34, CO-2.35, and CO-2.38. These policies establish County guidance for maintaining connectivity within Yolo County landscapes, protecting riparian areas for wildlife values, addressing the habitat value and role of specific wildlife migration corridors, considering the effects of climate change associated with wildlife migration routes, and avoiding adverse impacts to wildlife movement corridors and nursery sites. According to the commenter, these policies are not identified in the Draft EIR, although they are directly applicable for this Project and this site and should have been included in the Draft EIR.

It is noted that many of the policies cited by the commenter provide guidance to the County, through permissive language, regarding the approach to considering and evaluating a project, rather than establishing specific guidelines or standards that are required to be applied to each project within the County or specific restrictions relevant to the three species that are the subject of this EIR.

With the exception of the commenter's discussion of VELB in association with Policy CO-2.38 (addressed separately below), the commenter does not identify any specific fault in the Draft EIR analysis associated with the three species that are the subject of this EIR nor does the commenter identify any significant impact associated with the three species that would be avoided or reduced through including the General Plan Policies CO-2.1, CO-2.3, CO-2.9, CO-2.34, and CO-2.35 as mitigation measures. Rather, the commenter provides a general discussion on the Project site's availability as habitat for wildlife, plants, and ecological processes, the Project site's role in an overall conservation framework for the County, and a discussion of riparian connectivity. These issues were not included in the three topics identified by the Court for analysis in the Draft EIR.

As discussed under the Master Response, this EIR is limited to analysis of the Project's impact on the tricolored blackbird, golden eagle, and VELB. This EIR addresses the ecological function of the Project site's landscape and features, particularly the man-made pond and associated features and Chickahominy Slough, specific to the three species identified by the Court, and identifies how the Project does not have a significant impact on the ecological function of the Project site associated with tricolored blackbird, golden eagle, or VELB, as discussed under Impacts 3-1 through 3-3 in Chapter 3.0 of the Draft EIR. The commenter is referred to the Master Response related to the general biological resources topics raised by the commenter, including effects on riparian habitat, sensitive natural communities, wildlife and fish movement, wildlife corridors, and conflicts with local policies or ordinances protecting biological resources, and is further referred to the Project MND, Section IV (Biological Resources), item b) for analysis of Project impacts related to riparian

habitat and other sensitive natural communities, , item d) for a discussion of the Project's impacts related to the potential to interfere with fish, wildlife, and other native resident species or impede the use of native wildlife nursery sites, and item e) related to the potential for the Project to conflict with local policies or ordinances protecting biological resources.

It is noted that the commenter does address VELB protection in relation to the concerns associated with Policy CO-2.38. According to the commenter, Policy CO-2.38 is also based on a mitigation measure adopted as part of the certification and approval processes for the Yolo County General Plan and its EIR; noting that identifying and avoiding impacts to connectivity is intended by the adopted General Plan to be a substantive conservation concern for all projects considered by the county. The commenter indicates that while connectivity is not identified in the current Draft EIR as a concern for the Project site, the primary focus of VELB protection (and the underlying commitment to implement Policy CO-2.22) is on the riparian area of Chickahominy Slough. According to the commenter, identifying factors that support connectivity and implementing them on the Project site, thereby preserving the functional connectivity values provided by the Chickahominy Slough riparian corridor, should be added to the identified mitigation elements in Mitigation Measure 3-1 (or included as a separate mitigation measure).

With respect to the commenter's concerns associated with VELB protection and the riparian area of Chickahominy Slough, the Project would not impact the Slough or VELB habitat. As discussed in Impact 3-3 on pages 3.0-32 through 3.0-34, elderberry shrubs and VELB are not known to be sensitive to noise or human presence and, the existing baseline includes regular activity on the Project site grounds, including activity in the vicinity of the elderberry shrubs. While the elderberry shrubs could be disturbed or adversely affected by construction activities, as addressed below, it is not anticipated that an increase in human presence associated with events being held on the site would result in any adverse effect the elderberry shrubs, which are located behind a rail fence, and thus would not have a significant impact on VELB. This is consistent with the HCP/HCCP guidance regarding establishing buffers for VELB, which indicates that where existing development is already within the stipulated buffer distance (i.e., existing uses prevent establishment of the full buffer), that the development must not encroach farther into the space between the development and the sensitive natural community.

Construction and similar ground-disturbing activities near elderberry plants have the potential to disturb the VELB's habitat. While the Project would not extend the developed footprint on the Project site closer to the existing elderberry shrubs, the potential for construction activities to disturb the elderberry bushes and result in associated impacts to the VELB is a potentially significant impact.

To avoid direct or indirect disturbance to elderberry shrubs that provide potential habitat for VELB during construction activities, USFWS guidelines require a 100-foot construction setback from potentially occupied elderberry shrubs. All elderberry shrubs in the vicinity of the Project site occur within the riparian corridor along Chickahominy Slough and would be protected from direct or indirect disturbances of new construction by maintaining the required 100-foot setback, as required by Mitigation Measure 3-1.

The Draft EIR includes Mitigation Measure 3-1 to provide specific protective measures, described above, to ensure that activities in the vicinity of the Slough do not have a substantial adverse impact on the VELB, which would include any VELB nursery sites. Thus, Mitigation Measure 3-1 addresses the language in Policy CO-2.38 that encourages avoidance of nursery sites. Policies CO-

2.34 and CO-2.38 are added to the Draft EIR, Chapter 3.0, Regulatory Framework section as shown in Chapter 3.0, Revisions, of this Final EIR.

Chapter 3.0 of the Draft EIR has been revised to include Policies CO-2.34 and CO-2.38 in relation to the features of the site associated with the three species that are the subject of this EIR. The remaining policies that are general in nature, as previously described, are not included in the Draft EIR. No revision to the Draft EIR analysis or mitigation measure was warranted in response to this comment. This comment is noted and has been forwarded to the decision makers for their consideration.

Response G-6: The commenter notes that significant funding and the efforts of many Yolo County citizens have been invested in conservation planning efforts for the county's landscape in recent decades. The commenter notes that a focus on conservation concerns should have been included in the original county assessments for the Project covered by this EIR. The commenter indicates that, as the Superior Court ruled, the omission of assessments of Project effects for several sensitive species was clearly an omission contrary to the requirements of CEQA; an appropriate approach to addressing these effects was already identified in the county's adopted General Plan. In addition, according to the commenter, the adopted General Plan specifies a focus on conservation concerns for riparian areas and connectivity, and assessments of the Project's effects on those concerns should have been included in the original CEQA assessment for this Project. According to the commenter, this focus must be incorporated in this Draft EIR's coverage.

This comment serves as a conclusion to the comment letter. Please see Responses G-2 through G-5. No further response is necessary.

TO: Stephanie Cormier, Principal Planner, Yolo County Community Services Department

FROM: Patty Rominger

DATE: October 4, 2019

RE: Draft Environmental Impact Report for Field & Pond Z.F.# 2015-001

Well, apparently I shouldn't be responding to the Field and Pond Draft Environmental Report (EIR) because according to the report, I'm too ill-informed to do so. Why they ever invited us to comment only to slap us down as unqualified is disrespectful to the experience we bring to the discussion.

H-1

I find it sad that living in an area for one's entire life holds no value to those writing up this study. Our direct observations of changes in the flora and fauna over the years apparently carry no weight since we don't have a PhD behind our names nor did we have the foresight to write down all of our observations over the years.

I will say that the first paragraph of this Draft with the statement "Field & Pond would be allowed to continue operating the Project under the strict control of the County's permitting scheme during this period" makes me seriously question the validity of the rest of the draft, since there has been NO strict control by the County of the Field and Pond project. ... nor would I even say control at a basic minimum at any time.

Field and Pond has been a project riddled with violation after violation even before their permit was issued. Those violations have been well documented throughout the years and the County's LACK of response to those violations has also been abundantly clear.

H-2

So starting off the Draft EIR with a line of complete malarkey is certainly in alignment with the County's complete failure to enforce its own codes and Field and Pond's Conditions of Approval throughout the permitting process and beyond.

I do have questions regarding the findings on the tricolored blackbird. I cite the following quote on page 3.0 - 13: There are several other potentially occupied ponds in the vicinity of the Project site, including three ponds with reported occupancy. Two are approximately 0.75 miles northeast of the Project site and one is approximately 1.5 miles northeast of the Project site. There is also a similar pond approximately 0.3 miles north of the Project site, and several others to the northwest and southwest; however, these are all on private property and no survey information is available.

H-3

In studies such as these, isn't it helpful to gather information from nearby sites which may impact the findings of the Field and Pond site? If so, are private property owners contacted to gain access for the purpose of studying the potential nesting sites of the birds?

On page 3.0 – 14 the following is stated: “The memo noted that while no tricolored blackbird habitat would be removed by the Project, the Project applicants are not required to otherwise maintain water levels in the pond or maintain marsh habitat around the perimeter of the pond. The pond and associated habitat is maintained because it provides aesthetic value to the property and supports a variety of wildlife species, a desirable feature to the landowners.” Isn’t this a contradiction? If the FP owners fail to maintain water levels and marsh habitat around the perimeter of the pond ... wouldn’t the actions of not maintaining the water level and marsh habitat in fact be removing tricolored bird habitat?

H-4

The memo concluded that disturbance from noise and human presence can also potentially affect occupancy by tricolored blackbirds. Although the use of the Project site as an event center would periodically increase the number of people and related noise levels onsite during scheduled wedding events, the Project site has been subject to ongoing baseline human noise and disturbances since the pond was constructed on or around 2003. Were these human baseline human noise and disturbances since 2003 documented? What facts validate that the “Project site has been subject to ongoing baseline human noise and disturbances since the pond was constructed on or around 2003? If we are required to base our comments on proven facts, the writers of this Draft must be required to do so as well.

H-5

The pond is part of the historic farm residence complex and receives regular disturbance from maintenance activities, mowing of the lawns that surround the pond, road traffic along County Road 29, noise and dust from farm activities on the adjacent land on the north side of County Road 29, and from ongoing non-Project use of the house, barn, and pond. The suggested comparison between the related noise levels at a wedding of 150-300 people, along with loud, amplified music and a substantial increase in vehicle traffic to the occasional (non-wedding) noise level of periodic lawn mowing, sparse, periodic road traffic and rare occurrences of noise from farming activities in the orchards north of Field and Pond is simply ridiculous. Where is the proof the sound levels are comparable?

H-6

Whether or not baseline disturbances have prohibited or limited nesting by tricolored blackbirds is unknown; however, a periodic increase in noise disturbance and human presence is not expected to have a substantial negative affect on the already limited use of the site by tricolored blackbirds. Nothing in this sentence is based on fact. It is unknown (and therefore unprovable) whether or not baseline disturbances have prohibited or limited nesting by tricolored blackbirds. The second sentence is based upon an expectation, not a proven fact. To me, this one, final sentence invalidates all of the previous findings and comes down to one big unproven guess.

H-7

Estep Environmental Consulting concluded that the Project will not result in habitat-related impacts to the tricolored blackbird. Because of the limited use of the site by tricolored blackbirds, including the lack of nesting records over the last 5 years and lack of occurrence records in the last 2 years; and because of the historic and existing baseline disturbance of the site, impacts related to noise disturbance from

H-8

scheduled events are not expected to result in substantial adverse effects to the species (CEQA Appendix G) or substantially reduce the number or restrict the range of the species (CEQA Section 15065). This impact is therefore considered less than significant. *Again, "impacts related to noise disturbance from scheduled events are not expected to result in substantial adverse effects to the species or substantially reduce the number or restrict the range of the species." They are not expected to ... but they could. There is nothing definite in this conclusion. It is a guess.*

H-8
cont'd

The applicant indicated that the previous owner used the water tower located northwest of the pond for skeet shooting; skeet-shooting equipment was located in the top floor of the tower that would eject pucks out over the pond to be shot at. The previous owner continued to store skeet equipment following the 2014 acquisition of the Project site by the Project applicants (Dahvie James personal communication to Beth Thompson, 2018)."

Is there documentation proving that the skeet-shooting equipment belonged to the previous owner? Just having the equipment on site proves nothing. When I married and moved into my new home there was an African lion skin in the attic. Did that make me a lion hunter? I think not!

H-9

If the previous owner did use the skeet-shooting equipment, are there written records of the time of year the previous owner supposedly participated in these activities? Are there records proving that the skeet-shooting occurred during the tricolored blackbird breeding season?

Why are these accounts taken as a matter of fact in the report and our comments are questioned as "speculative" and "unfounded?" The authors of this Draft should be held to the same standards of documentation and proof which they require of us.

And finally, if we are going to talk environmental impacts, let's look at the County's response to Field and Pond not being required to put in a new septic system even though according to the Site Evaluation Report "The site eval shows that the existing system does not meet current standards (it is scanned into OnBase)...In a nutshell: Dahvie will need to install a new system." An existing septic system failure would contaminate our groundwater and Chickahominy Creek...a very negative environmental impact!

H-10

But, to escape the requirement to put in a new septic system, the County deemed Field and Pond a single-family dwelling, rather than a business. Taken from a January 22, 2017 email from Leslie Lindbo to Dahvie James: "Hi Dahvie, I am so sorry you are feeling this way. I feel like I've disappointed you and I'm sorry for that. I want you to know we have the very best of intentions which unintentionally caused this delay. Please let me explain. Deb and I have been struggling with the approval of the septic system. Under strict interpretation of the septic ordinance, a change in use would require the whole system to be brought up to current

code. This would cost a lot of money and more delays. Deb and I are both sensitive to the process that you've encountered so far and do not want to cause you unneeded costs or further delays. With that in mind we reasoned that use of the structure as a B & B was substantially similar to a single family dwelling – you know, with a family occupying the rooms. We further reasoned that if the house was sold as a single family occupancy, we wouldn't require the system to be upgraded, so as long as the use was substantially similar to a single family home use, then we could allow the existing system."

Wow! When my father-in-law added another bathroom to his home on County Road 29 with just two people in residence, he was required to install an entirely new septic system! Having multiple guests at the B & B and hundreds of guests for weddings is hardly the use of a single family home.

Field and Pond was licensed as a BUSINESS. #18 of their Conditions of Approval states "A Business License in good standing shall be maintained by the property owner or operator of Field and Pond." Thus calling Field and Pond a single-family residence to give them a pass on their septic system upgrade is one more example of the County giving the owners of Field and Pond preferential treatment by refusing to enforce county codes and Field and Pond's own Conditions of Approval. **Please note: Field and Pond received a Notice of Violation from Yolo County on September 23, 2019 citing that Field and Pond, among other things, does NOT hold a current business License! Yet one more example of Field and Pond's history of repeated violations!**

I ask that the County Board of Supervisors, in reviewing this Draft EIR, look beyond the words in the document to the arrogant, irresponsible behavior of the owners of Field and Pond, who in repeatedly violating their business's Conditions of Approval, have seriously put at risk public health and safety. Field and Pond's permit needs to be revoked.

H-10
cont'd

Response to Letter H: Patty Rominger

Response H-1: The commenter makes statements regarding the local experience the commenter brings to the discussion, and the local insight over flora and fauna the commenter has fostered over the years.

It is noted that in the consideration of comments and input from the public, the Draft EIR analysis is bound by the Court determination, which included several factors that the County, as lead agency, may consider in determining the reliability of evidence as it relates to whether the information is not only relevant and material, but is sufficiently reliable to have solid evidentiary value. These factors are summarized on page 3.0-2 of the Draft EIR, and are included below:

- Whether the evidence has an adequate foundation in the witness' personal knowledge of facts, noting that expressions of subjective concerns and personal beliefs do not constitute substantial evidence and that speculation, argument, and unfounded conclusions are likewise not substantial evidence.
- Whether the evidence is provided by a qualified source. Opinions can constitute substantial evidence when they are provided by a witness who is qualified to render an opinion on the subject. Fact-based observations by persons qualified to speak to a question qualify as substantial evidence.
- Whether the evidence is not reliable for other reasons. A lead agency may find that hearsay is not sufficiently reliable to be treated as substantial evidence.

While this comment does not specifically address the adequacy of the Draft EIR, this comment is noted and has been forwarded to the decision makers for their consideration.

Response H-2: The commenter claims that there has been no strict control over the County's permitting scheme for this Project, and the Project has been riddled with violations before their permit was issued. The commenter states that the violations have been well documented throughout the years, and concludes that the County has failed to enforce its own codes and the Project Conditions of Approval. While this comment does not specifically address the adequacy of the Draft EIR, it is noted that the Project application was processed in compliance with the County requirements for a request for a Use Permit. The Project has been implemented consistent with the requirements of the Writ, which provided that the Use Permit and related mitigation measures would remain in effect during this period of further environmental analysis, and Field & Pond would be allowed to continue operating the Project under the strict control of the County's permitting scheme during this period. This comment is noted and has been forwarded to the decision makers for their consideration.

Response H-3: The commenter reproduces text from page 3.0-13 of the Draft EIR regarding the documented occurrences of tricolored blackbird in the vicinity of the site. The cited text concludes that "There is also a similar pond approximately 0.3 miles north of the Project site, and several others to the northwest and southwest; however, these are all on private property and no survey information is available." The commenter notes that it would be helpful to gather information from nearby sites, and questions whether private property owners were contacted to gain access for the purpose of studying the potential nesting sites of the birds.

Although private property owners of land outside the Project site were not contacted to gain access for the purpose of studying the potential nesting sites of tricolored blackbird, several

surveys of the Project site have been completed over the last several years and the Project site was identified as a potential tricolored blackbird site for the 2008, 2011, and 2014 Statewide Tricolored Blackbird Census efforts and has been visited by Dr. Robert Meese prior to the Project baseline as part of his efforts to document potential tricolored blackbird breeding locations. The site-specific surveys are discussed on pages 3.0-8 through 3.0-19 of Chapter 3.0, Biological Resources and include information from the Tricolored Blackbird Portal related to previous visits to the Project site to identify tricolored blackbird activity on the site. Additionally, the CNDDDB was also used to find the GIS-mapped locations of the species studied in the Draft EIR, including tricolored blackbird.

As discussed under Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR, the tricolored blackbird is a species sensitive to noise and human activity. Further, the tricolored blackbird may consider several sites prior to selecting a nesting and breeding site. Whether the tricolored blackbird nests on nearby sites would not determine the suitability of the Project site for tricolored blackbird nesting and breeding; the Project site's suitability for tricolored blackbird breeding is addressed in the Draft EIR under Impact 3-1 on pages 3.0-29 through 3.0-31.

Response H-4: The commenter cites text from page 3.0-14 of the Draft EIR pertaining to the maintenance of the on-site pond area. The commenter questions if the actions of not maintaining the marsh habitat around the pond would be considered a removal of tricolored blackbird habitat. As noted on page 3.0-14 of the Draft EIR in the paragraph preceding the quoted text, the extent of marsh vegetation around the perimeter of the pond is dependent on water levels in the pond, which can fluctuate. The maximum area of emergent marsh vegetation totals approximately 0.4 acres, which is nearing the minimum patch size to support a tricolored blackbird nesting colony. In 2017, the extent of emergent vegetation was reduced to about 0.2 acres, apparently due to lowered water levels in the pond. The Project does not propose removal of the pond and associated marsh vegetation. If the Project applicant fails to maintain the water levels and marsh habitat this would not constitute removal of significant tricolored blackbird habitat as the pond only provides marginally suitable habitat during times where the water levels are high and, as discussed under Impact 3-1, the Project site is not a significant location for tricolored blackbird nesting or breeding with no nesting or breeding activities documented since prior to 2008 (the Project site was visited during breeding season in 2008, 2011, 2014, 2016, 2017, and 2018 and, while tricolored blackbirds have been observed on the Project site, nesting has not been documented or confirmed, as described in Response F-1). It is further noted that the Project site is not identified as nesting habitat or recent occurrence in the Countywide map identifying tricolored blackbird modeled habitat and occurrences (Yolo Final Habitat Conservation Plan/Natural Communities Conservation Plan, 2018, Figure A-12). No revision to the Draft EIR is necessary to address this comment.

Response H-5: The commenter cites text from page 3.0-14 of the Draft EIR pertaining to the noise levels and human presence on-site, and ongoing baseline human noise and disturbances since the pond was constructed on or around 2003. The commenter questions: (1) if these baseline noise and disturbances have been documented; and (2) what facts validate that the Project site has been subject to ongoing baseline human noise and disturbances since the pond was constructed on or around 2003. The commenter concludes that the writers of the Draft EIR must be required to base their comments on proven facts.

The Project site is located on a historic farm residence. During the site's time as an agricultural use, human noise and disturbance has undoubtedly occurred at various levels, depending on the season, year, and location on the site. The pond is part of the historic farm residence complex and

receives regular disturbance from maintenance activities, mowing of the lawns that surround the pond, road traffic along County Road 29, noise and dust from farm activities on the adjacent land on the north side of County Road 29, and from ongoing non-project use of the house, barn, and pond. These operations result in baseline noise and disturbance, which is cited in this comment. Aerial imagery of the site was reviewed via Google Earth from 2003 through 2018; this imagery shows the pond on the project site, the on-site road north of the pond, outbuildings in the vicinity of the pond, the boat dock, as well as boats and man-made items located in or adjacent to the pond. Use of the dock as well as maintenance of the dock is shown in several photos. Improvements to the site, including the landscaped areas and roadways, are also shown to be modified associated with the use of the Project site. The lawn area around the pond evidences maintained landscaping around the pond in multiple photos, the marsh area around the pond changes in size and appears to be maintained or modified from time to time, and the pond appears to be maintained from time to time. The photos document occupancy and use of the Project site. In addition to review of historical imagery, the Project applicant was interviewed by the Consultant hired by the County to prepare the EIR and the Project applicant described their use of the Project site, including their use during non-event periods and prior to hosting events, as well as features of the Project site that were used by the previous resident. The commenter is referred to Draft EIR pages 3.0-25 through 3.0-27.

It is noted that *nesting tricolored blackbirds are identified to be sensitive to noise, vibrations, lighting, and other human-related disturbance from construction or urban or rural development* (emphases added), and similar ongoing disturbances to nearby habitat as a result of human occupation (Yolo Final Habitat Conservation Plan/Natural Communities Conservation Plan, 2018, Section 5.7.12.12). The Project site has multiple rural residences, as described in Draft EIR Chapter 2.0, Project Description, and was subject to the ongoing disturbances associated with such use under either baseline condition described in Draft EIR Chapter 3.0, Biological Resources. The rural use of the Project site as a home site, including various residential, recreational, and agricultural functions, over the years is clearly a condition identified as the type of activity that could render habitat less suitable for tricolored blackbird. No change to the Draft EIR is necessary to address this comment.

Response H-6: The commenter cites text on page 3.0-14 of the Draft EIR. The commenter states that the comparison between Project noise (i.e., from the events) and the noise resulting from the farming activities is ridiculous. The commenter concludes by questioning where is the proof that the sound levels are comparable. In the text after the cited text in this comment, the following statements are made: "Whether or not baseline disturbances have prohibited or limited nesting by tricolored blackbirds is unknown; however, a periodic increase in noise disturbance and human presence is not expected to have a substantial negative affect on the already limited use of the site by tricolored blackbirds." The Draft EIR does not claim that the noise resulting from farming activities is the same as (or comparable to) the noise that would result from the Project. Instead, the Draft EIR notes that tricolored blackbirds will visit a site to determine if it is potentially suitable for nesting and will readily abandon a site if there is significant human disturbance during the time which the species may attempt to establish a nest. Factors which contribute to whether or not tricolored blackbirds will abandon a site or not include, but are not limited to, noise and human activities. See Response H-5. No revision to the Draft EIR is warranted in response to this comment.

Response H-7: The commenter argues that the quoted statement made in the Draft EIR is not based on fact, is not provable, and is based on expectation. According to the commenter, the final sentence invalidates all of the previous findings and comes down to one unproven guess.

The quoted text was provided by Jim Estep in the May 31, 2018 memorandum and was included in the summary of the May 31, 2018 memorandum on page 3.0-14 of the Draft EIR. The quoted statement is based on Mr. Estep's expertise in the biological field and knowledge of the site-specific conditions. Mr. Estep's qualifications and experience is summarized in page 3.0-8 of the Draft EIR. The Draft EIR analysis is bound by the Court determination, which included several factors that the County, as lead agency, may consider in determining the reliability of evidence as it relates to whether the information is not only relevant and material, but is sufficiently reliable to have solid evidentiary value. These factors are summarized on page 3.0-2 of the Draft EIR, and are included below:

- Whether the evidence has an adequate foundation in the witness' personal knowledge of facts, noting that expressions of subjective concerns and personal beliefs do not constitute substantial evidence and that speculation, argument, and unfounded conclusions are likewise not substantial evidence.
- Whether the evidence is provided by a qualified source. Opinions can constitute substantial evidence when they are provided by a witness who is qualified to render an opinion on the subject. Fact-based observations by persons qualified to speak to a question qualify as substantial evidence.
- Whether the evidence is not reliable for other reasons. A lead agency may find that hearsay is not sufficiently reliable to be treated as substantial evidence.

The commenter is referred to Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR for the Draft EIR's analysis of potential impacts to tricolored blackbird. The impact analysis in the Draft EIR is based on information provided by qualified sources, including the CNDDDB, the tricolored blackbird portal, information provided by Mr. Estep, a biologist with experience in the subject matter, and information provided by Dr. Meese, a recognized expert on tricolored blackbirds and the author of the Results of the 2017 Tricolored Blackbird Statewide Survey (November 8, 2017) and the Results of the 2014 Tricolored Blackbird Survey (July 31, 2014). Information provided by other sources, including Hillary White, Ecological Consultant, and Chad Roberts, Ph.D., is addressed on pages 3.0-2 and 3.0-3 of the Draft EIR. No revision to the Draft EIR is necessary in response to this comment.

Response H-8: The commenter states that there is nothing definite in the reproduced conclusion regarding tricolored blackbirds. The reproduced conclusion in this portion of the comment is from the information and analysis provided by Jim Estep in the May 31, 2018 memorandum, which was provided in the summary of field surveys that have been conducted for the Project site on pages 3.0-8 through 3.0-19 of the Draft EIR. Please see Response H-7. The commenter is referred to Impact 3-1 on pages 3.0-27 through 3.0-31 of the Draft EIR for the Draft EIR's analysis of potential impacts to tricolored blackbird.

Response H-9: The commenter cites text from the Draft EIR regarding skeet shooting and skeet shooting equipment on the Project site. The comment asks several questions regarding this text, including: Is there documentation proving that the skeet-shooting equipment belonged to the previous owner? If the previous owner did use the skeet-shooting equipment, are there written records of the time of year the previous owner supposedly participated in these activities? Are there records proving that the skeet-shooting occurred during the tricolored blackbird breeding season? Why

are these accounts taken as a matter of fact in the report and our comments are questioned as “speculative” and “unfounded?”

This comment is noted. According to the Project applicant, when interviewed by Beth Thompson of De Novo Planning Group, the prior owners were known to use the pond recreationally and practiced skeet shooting in the vicinity. There are no records of when the skeet-shooting occurred, as the activity was purely for personal recreation. The Project applicant (current owner) stated that the prior owner requested as part of the sale to leave the skeet shooting the equipment on the Project site (the equipment was located in the water tower, the structure located northeast of the pond) of the site and then returned to the site to pick it up following the close of the sale, so the Project applicant has direct knowledge from the previous owner of the equipment, its use, and its location.

It is noted that the Draft EIR does not rely solely on the skeet shooting as the only source of disturbance that would interfere with nesting attempts; the skeet shooting is provided as an example of the recreational use of the property. The residential and recreational use of the Project site associated with the rural residences would cause disturbance likely to deter nesting attempts by the tricolored blackbird; see Response H-5. No change to the Draft EIR is necessary to address this comment.

Response H-10: The commenter expresses concerns regarding the lack of new septic system on the Project site and the potential to contaminate the groundwater and Chickahominy Slough. The commenter cites an email from Leslie Lindbo to Dahvie James on January 22, 2017. The commenter notes that her father-in-law was required to install a new septic system when a new bathroom was constructed. The commenter notes that the Project was licensed as a business (pursuant to Condition of Approval #18), and that the Project was issued a violation from the County citing that the Project does not hold a current business license. The commenter concludes by asking that the County Board of Supervisors, in reviewing this Draft EIR, look beyond the words in the document to the arrogant, irresponsible behavior of the owners of Field and Pond, who in repeatedly violating their business’s Conditions of Approval, have seriously put at risk public health and safety. Field and Pond’s permit needs to be revoked.

This comment does not address the adequacy of the Draft EIR. This comment is noted and has been forwarded to the decision makers for their information and consideration.

TO: Stephanie Cormier, Principal Planner, Yolo County Community Services Department

FROM: Robyn Rominger

DATE: October 2, 2019

RE: Draft Environmental Impact Report for Field & Pond ZF# 2015-0018

The environmental consulting firm that the county hired to write the Draft Environmental Impact Report can try as it might to come up with mitigation measures to protect the golden eagles, tricolored blackbirds and valley elderberry longhorn beetles at Field and Pond during periods of construction, but the periods of construction are just one relatively small part of what goes on at the site. The Draft EIR is totally inadequate because it does nothing to address the loud noise and threats of fire to the three wildlife species. It's totally absurd to think that this Draft EIR solves or mitigates all the problems.

Our farm has been actively involved in enhancing wildlife habitat on our property, which includes expanding the region's wildlife corridor from the Coast Range foothills to the Sacramento Valley. We also created a pond and planted tules in it to provide breeding and nesting habitat for the endangered tricolored blackbirds. The Field & Pond project totally undermines what we, the Andersons, the Stones and other farmers and ranchers are doing to protect the environment in western Yolo County.

I-1

We are appalled that our county supervisors chose to approve a wildlife-unfriendly project, particularly next door to a wildlife-friendly farm that has made it a top priority to protect all species, including the golden eagles, tricolored blackbirds and valley elderberry longhorn beetles that the Draft EIR addresses. Indeed, our farm has been recognized for decades for the work that we do to protect the environment while producing food and providing open-space benefits, and we recently won a national award for our environmentally friendly practices: the National Conservation Planning Partnership's Hugh Hammond Bennett Award for Conservation Excellence. We intend to continue our efforts to protect the environment for future generations.

When the biologist who the county hired to evaluate the presence of tricolored blackbirds in the pond came out with his report (which included photographic evidence of the birds inhabiting the tules in the pond), the Field & Pond attorneys changed the language of the biologist's opinion right before the county supervisors voted on whether or not to accept it. The attorneys changed the mitigation measures pertaining to new construction. It's questionable that the supervisors were even aware of these last-minute changes at that point, since the Field & Pond attorneys certainly weren't going to mention how they altered the language before the vote. Importantly, the public was not given the opportunity to comment on this revised language. In addition, we have photographic evidence of how the Field & Pond owners had the blackbirds' habitat removed, in an effort to permanently scare off the blackbirds. Based on their actions, how can the owners be trusted to protect any species or follow the letter of the law?

I-2

It's clearly a crime against nature to allow this project to go forward, on so many different levels.

I-2
cont'd

The loud, amplified music wasn't even mentioned in the Draft EIR, and that absolutely has an impact on the wildlife. It cannot be denied that the sounds of the bass, drumbeats, loud voices, etc. impact the animals. We have witnessed deer and fawns running away from the Field and Pond property during their noisy events.

I-3

It's disgraceful that the county approved a nightclub in the middle of a nature preserve. This is precisely what happened, as the Field & Pond site has a wildlife conservation easement on all but 11 acres of the 80-acre site. The Yolo County Planning Commission denied the conditional use permit because, among other things, the members recognized that such a project does not belong in a wildlife preserve.

The owners of the property have a selfish disregard for the golden eagles, tricolored blackbirds, the valley elderberry longhorn beetles, and all the wildlife species on the ranch. They are so self-serving and have shown no interest in protecting the environment. Their actions and behavior are shameful, and it comes at the expense of all wildlife species in and around the site. Some people in the environmental community have voiced their opposition to the project, but it has fallen on deaf ears.

I-4

Aside from the fact that Field & Pond is a nuisance, the owners have allowed their guests to use fireworks (two days before the Camp Fire destroyed Paradise) which is an absolute violation of their conditional use permit, and this is a direct threat to ALL species. The owners of the property are endangering the wildlife, the nearby residences and businesses, and everyone downwind from the Field and Pond site, which includes the residences of Golden Bear Estates and new home subdivisions in Winters. The county counsel tried to argue that sparklers are not fireworks, and he is simply wrong. The fire code defines sparklers as fireworks and it's well-known that it only takes one spark to start a fire.

I-5

In addition, Judge Kathleen M. White allowed Field & Pond to continue operations during the EIR process but she ordered the county to strictly enforce the conditions of approval during this time. Why hasn't the county complied with her ruling?

I-6

The Field & Pond owners need to be held accountable for their actions, not given a pass. Why are they allowed to violate the laws and the county's own rules? Why are they given a pass when no one else is?

For all of these reasons and more, the Draft EIR is inadequate because it does not protect the tricolored blackbirds, valley elderberry longhorn beetles or golden eagles; in fact, the Field & Pond project endangers the health and safety of ALL species, including the guests who attend the events at the site on a dead-end road which, due to the threat of fire, is a death trap in the making. I strongly urge the Yolo County Board of Supervisors to deny the approval of this Draft EIR and revoke Field & Pond's conditional use permit.

I-7

Response to Letter I: Robyn Rominger

Response I-1: The commenter notes that the Draft EIR includes mitigation measures to protect golden eagles, tricolored blackbirds, and VELB during construction, but the Draft EIR does nothing to address the loud noise and threats of fire to the three wildlife species. The commenter notes that their farm has been actively involved in enhancing wildlife habitat on our property, which includes expanding the region's wildlife corridor from the Coast Range foothills to the Sacramento Valley. According to the commenter, the Field & Pond Project totally undermines what the commenter and other farmers and ranchers are doing to protect the environment in western Yolo County. The commenter is appalled that the County supervisors chose to approve a wildlife-unfriendly project, particularly next door to a wildlife-friendly farm that has made it a top priority to protect all species, including the golden eagles, TCBs, and VELB that the Draft EIR addresses.

This comment is noted. The Draft EIR analyzes impacts resulting from both construction and operation of the Project. Impacts to golden eagles, TCBs, and VELB are discussed in the Draft EIR, Chapter 3.0, Biological Resources, under Impact 3-2 (page 3.0-31), Impact 3-1 (pages 3.0-27 through 3.0-31), and Impact 3-3 (pages 3.0-32 through 3.0-34), respectively.

As discussed under Impact 3-2 on page 3.0-31 of the Draft EIR, the Project will not remove nesting or foraging habitat for the golden eagle species. Because there are no nesting golden eagles in the vicinity of Project site and no known nest sites, noise or other human activity disturbance would not significantly impact nesting golden eagles. Therefore, impacts to golden eagles are considered less-than-significant.

As discussed under Impact 3-1 on pages 3.0-27 through 3.0-31 of the Project site, nesting habitat on the Project site for tricolored blackbird is marginal and surveys of the Project site by qualified biologists have been negative for breeding. Breeding has not been confirmed on the Project site at the time of either Project baseline and that site visits to determine potential breeding have not confirmed breeding since prior to 2008, that activities on the Project site at the time of either baseline period discussed in the Draft EIR were not conducive to tricolored blackbird nesting and breeding. Further, Dr. Meese identified that the habitat on the site has changed since 2011, with the cattails becoming an accumulation of dead, lodged stems with only a narrow perimeter fringe of potential habitat. As discussed on pages 3.0-28 through 3.0-29 of the Draft EIR, the Project site's importance as habitat is limited. The Project does not include the direct disturbance or removal of breeding habitat, and increased activity on the Project site would not have a substantial adverse effect on potential habitat on the Project site and would not significantly impact the habitat or range of the tricolored blackbird. The potential for tricolored blackbird breeding on the Project site is discussed on pages 3.0-28 and 3.0-29 of the Draft EIR. Due to the conditions of the Project site, including marginal habitat and a baseline level of human disturbance and use of the Project site, the Project, including both construction and operation, would not have a significant impact on the tricolored blackbird as discussed on pages 3.0-29 through 3.0-31 of the Draft EIR.

As discussed under Impact 3-3 on pages 3.0-32 through 3.0-34 of the Draft EIR, the VELB is not known to be sensitive to noise and human disturbance so Project operations, including event activities, are not anticipated to have an adverse effect on VELB or the elderberry shrubs, which are located behind a rail fence. Construction and similar ground-disturbing activities near elderberry plants have the potential to disturb the VELB's habitat. While the Project would not extend the developed footprint on the Project site closer to the existing elderberry shrubs, the potential for construction activities to disturb the elderberry bushes and result in associated

impacts to the VELB is a potentially significant impact. The Draft EIR includes Mitigation Measure 3-1 to reduce this potentially significant construction-related impact to a less-than-significant level.

Response I-2: The commenter claims that the Project attorneys changed the mitigation language of the County-hired biologist's report right before the County voted to accept or not. The commenter argues that it is questionable that the supervisors were even aware of these last-minute changes at that point, since the Field & Pond attorneys certainly weren't going to mention how they altered the language before the vote. The commenter also notes that she has photographic evidence of how the Field & Pond owners had the blackbirds' habitat removed, in an effort to permanently scare off the blackbirds.

The commenter is referring to the Project MND in her discussion of activities occurring prior to the County's vote on the Project. It is noted that Mitigation Measure BIO-3 does not require maintenance of any potential tricolored blackbird habitat but rather limits disturbance to the potential habitat during nesting season. This comment does not address the Draft EIR. This comment is noted and has been forwarded to the decision makers for their consideration.

Response I-3: The commenter notes that loud, amplified music was not mentioned in the Draft EIR, which would impact wildlife. The commenter also notes that she has witnessed deer and fawns running away from the Project site during noisy events. The commenter concludes that it is disgraceful that the County approved the Project, and the County Planning Commission denied the conditional use permit before the members recognized that such a project does not belong in a wildlife preserve.

This comment is noted. As described under the Master Response, this EIR addresses only the three species identified by the Court. The commenter is referred to the Project MND for a discussion of the Project's impact on wildlife in general.

As noted on page 2.0-5 of Chapter 2.0, Project Description, most events, with the exception of corporate retreats, are expected to include amplified music, which, according to the applicant, would not exceed 75dB at the property lines. The Permit requires that noise levels at the nearest residents' property lines shall not exceed 60 dBA during any scheduled event, among other requirements. The impacts of this amplified music and noise to wildlife are discussed throughout Chapter 3.0, Biological Resources, of the Draft EIR. As discussed on page 3.0-10, the Estep Environmental Consulting Biological Assessment (dated May 31, 2018), disturbance from noise and human presence can also potentially affect occupancy by tricolored blackbirds. Although the use of the Project site as an event center would periodically increase the number of people and related noise levels onsite during scheduled wedding events, the Project site has been subject to ongoing baseline human noise and disturbances since the pond was constructed on or around 2003. The pond is part of the historic farm residence complex and receives regular disturbance from maintenance activities, mowing of the lawns that surround the pond, road traffic along County Road 29, noise and dust from farm activities on the adjacent land on the north side of County Road 29, and from ongoing non-Project use of the house, barn, and pond. As discussed under Impact 3-1, a periodic increase in noise disturbance and human presence associated with the Project, including construction and operation, is not expected to have a substantial negative affect on the already limited use of the site by tricolored blackbirds.

Additionally, as noted in the Observations and Assessment of Field and Pond Site, County Road 29, Yolo County, California completed by Robert Meese (2018), the combination of inappropriate

habitat configuration (the narrow perimeter fringe), pond maintenance to conserve open water, and human activity-related noises create conditions that are ill-suited to breeding by tricolored blackbirds. This is noted on page 3.0-18 of the Draft EIR. Further, as concluded on page 3.0-29 (Impact 3-1), implementation of the Project, including an increase in activity, noise, and disturbances, would not have a substantial adverse effect on potential habitat on the Project site and would not significantly impact the habitat or range of the tricolored blackbird.

Response I-4: The commenter states that the owners of the property have a selfish disregard for the golden eagles, tricolored blackbird, and VELB, and all the wildlife species on the ranch. The commenter makes other statements regarding opposition to the Project.

This comment does not address the Draft EIR. This comment is noted and has been forwarded to the decision makers for their consideration.

Response I-5: The commenter notes that the property owners have allowed their guests to use fireworks, which the commenter believes is a violation of their conditional use permit and notes that this is a direct threat to all species. According to the commenter, the county counsel tried to argue that sparklers are not fireworks, but the fire code defines sparklers as fireworks and it's well-known that it only takes one spark to start a fire.

This comment does not address the Draft EIR. This comment is noted and has been forwarded to the decision makers for their consideration.

Response I-6: The commenter notes that Judge White allowed the Project to operate during the EIR process but ordered that the County strictly enforce the conditions of approval during this time. The comment questions why the County has not complied with Judge's ruling, and why the applicant is allowed to violate the laws and the County's own rules.

This comment does not address the Draft EIR. This comment is noted and has been forwarded to the decision makers for their consideration.

Response I-7: The commenter notes that the Draft EIR is inadequate because it does not protect the tricolored blackbird, VELBs, or golden eagles. The commenter also notes that the Project endangers the health and safety of ALL species, including the guests who attend the events at the site on a dead-end road which, due to the threat of fire, is a death trap in the making. The commenter concludes that the County should deny the approval of the Draft EIR and revoke Field & Pond's conditional use permit.

In Chapter 3.0, Biological Resources, of the Draft EIR, under Impacts 3-1 through 3-3, the potential for the Project to have a significant impact on tricolored blackbird, VELB, and golden eagle species is discussed. The Draft EIR reviewed the potential habitat and documented occurrences (or lack thereof) for tricolored blackbird (Impact 3-1) and golden eagle (Impact 3-2) and determined that the Project would not have a significant impact on either species, thus, no mitigation measures are necessary. As described under Impact 3-3, while VELB is not anticipated to be sensitive to human activity, including noise, and no direct disturbance of valley elderberry bushes is anticipated as part of either Project construction or operation, there is the potential for activities in the vicinity of Chickahominy Slough to disturb VELB habitat. Therefore, Mitigation Measure 3-1 is provided to require specific protection measures to ensure that activities in the vicinity of Chickahominy Slough do not have a substantial adverse impact on the VELB. This comment is noted and has been forwarded to the decision makers for their consideration.

This section includes minor edits and changes to the Draft Environmental Impact Report (EIR). These modifications resulted from responses to comments received during the public review period for the Draft EIR.

Revisions herein do not result in new significant environmental impacts, do not constitute significant new information, nor do they alter the conclusions of the environmental analysis that would warrant recirculation of the Draft EIR pursuant to State CEQA Guidelines Section 15088.5.

Other minor changes to various sections of the Draft EIR are also shown below. These changes are provided in revision marks with underline for new text and ~~strike out for deleted text~~.

3.1 REVISIONS TO THE DRAFT EIR

ES EXECUTIVE SUMMARY

The following change is made to Mitigation Measure 1 in Table ES-1 under Impact 3-1 on page ES-6 of the Draft EIR.

Mitigation Measure 3-1: *Maintain a setback from Elderberry Bushes and Chickahominy Slough for construction activities, excluding agricultural activities. In order to avoid direct and indirect impacts to VELB, the Project applicant shall comply with Yolo General Plan Policy CO-2.22 by maintaining a minimum 100-foot no-development setback from the upper bank of Chickahominy Slough.*

The setback shall allow for fire and flood protection, a natural riparian corridor (or wetland vegetation), a planned recreational trail where applicable, and vegetated landscape for stormwater to pass through before it enters the water body. Recreational trails and other features established in the setback should be unpaved and located along the outside of the riparian corridors whenever possible to minimize intrusions and maintain the integrity of the riparian habitat. Exceptions to the no-development limitation include irrigation pumps, roads and bridges, levees, docks, public boat ramps, and similar uses, so long as these uses are sited and operated in a manner that minimizes impacts to aquatic and riparian features. The Project applicant shall also implement the following avoidance and minimization measures:

Protective Measures

- 1. Fence and flag all areas within a 100-foot buffer from each valley elderberry shrub that is within the Project construction area. This area within the 100-buffer shall be avoided during construction activities unless encroachment has been approved by the USFWS. If encroachment has been approved by USFWS, a minimum setback of at least 20 feet shall be provided from the dripline of each elderberry plant.*
- 2. Brief construction contractors on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements.*
- 3. During construction, erect signs every 50 feet along the edge of the avoidance area with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the*

Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment."

The signs shall be clearly readable from a distance of 20 feet, and shall be maintained for the duration of construction.

4. *Prior to any construction activities, a qualified biologist shall provide written training for all onsite contractors, work crews, and personnel on the status of the VELB, its host plant and habitat, the need to avoid damaging the elderberry shrubs, and the possible penalties for non-compliance.*

Restoration and Maintenance

1. *Following the completion of construction, restore any damage done to the buffer area (area within 100 feet of elderberry plants) during construction. Provide erosion control and re-vegetate with appropriate native plants.*

These restrictions shall be included on future Improvement Plans in order to ensure compliance. The restrictions do not apply to habitat restoration, maintenance, and enhancement activities. The Improvement Plans shall be subject to review and approval by the Yolo County Community Services Department.

1.0 INTRODUCTION

No changes were made to Chapter 1.0 of the Draft EIR.

2.0 PROJECT DESCRIPTION

No changes were made to Chapter 2.0 of the Draft EIR.

3.0 BIOLOGICAL RESOURCES

The following changes were made to page 3.0-24 of Chapter 3.0 of the Draft EIR:

Policy CO-2.41: Require that impacts to species listed under the State or federal Endangered Species Acts, or species identified as special-status by the resource agencies, be avoided to the greatest feasible extent. If avoidance is not possible, fully mitigate impacts consistent with applicable local, State, and Federal requirements. (DEIR MM BIO- 5a)

Policy CO-2.34: Recognize, protect and enhance the habitat value and role of wildlife migration corridors for the Sacramento River, Putah Creek, Willow Slough, the Blue Ridge, the Capay Hills, the Dunnigan Hills and Cache Creek.

Policy CO-2.38: Avoid adverse impacts to wildlife movement corridors and nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds). Preserve the functional value of movement corridors to ensure that essential habitat areas do not become isolated from one another due to the placement of either temporary or permanent barriers within the corridors. Encourage avoidance of nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds) during periods when the sites are actively used and that nursery sites which are used repeatedly over time are preserved to the greatest feasible extent or fully mitigated if they cannot be avoided. (DEIR MM BIO-4a)

The following change was made to page 3.0-31 of Chapter 3.0 of the Draft EIR:

Golden eagle (~~Aquila chrysaetos~~~~Accipiter cooperii~~) is designated as a fully protected species afforded special protection by the CDFW. They nest in cliffs, rock outcrops, and large trees, and forage in grassland, shrubland, and cropland habitats. The closest recorded occurrence is approximately 10.16 miles to the west of the Project site at Lake Berryessa.

The following changes were made to pages 3.0-32 and 3.0-33 of Chapter 3.0 of the Draft EIR:

Mitigation Measure 3-1: *Maintain a setback from Elderberry Bushes and Chickahominy Slough for construction activities, excluding agricultural activities. In order to avoid direct and indirect impacts to VELB, the Project applicant shall comply with Yolo General Plan Policy CO-2.22 by maintaining a minimum 100-foot no-development setback from the upper bank of Chickahominy Slough.*

The setback shall allow for fire and flood protection, a natural riparian corridor (or wetland vegetation), a planned recreational trail where applicable, and vegetated landscape for stormwater to pass through before it enters the water body. Recreational trails and other features established in the setback should be unpaved and located along the outside of the riparian corridors whenever possible to minimize intrusions and maintain the integrity of the riparian habitat. Exceptions to the no-development limitation include irrigation pumps, roads and bridges, levees, docks, public boat ramps, and similar uses, so long as these uses are sited and operated in a manner that minimizes impacts to aquatic and riparian features. The Project applicant shall also implement the following avoidance and minimization measures:

Protective Measures

- 1. Fence and flag all areas within a 100-foot buffer from each valley elderberry shrub that is within the Project construction area. This area within the 100-buffer shall be avoided during construction activities unless encroachment has been approved by the USFWS. If encroachment has been approved by USFWS, a minimum setback of at least 20 feet shall be provided from the dripline of each elderberry plant.*
- 2. Brief construction contractors on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements.*
- 3. During construction, erect signs every 50 feet along the edge of the avoidance area with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment."*

The signs shall be clearly readable from a distance of 20 feet, and shall be maintained for the duration of construction.

- 4. Prior to any construction activities, a qualified biologist shall provide written training for all onsite contractors, work crews, and personnel on the status of the VELB, its host plant and habitat, the need to avoid damaging the elderberry shrubs, and the possible penalties for non-compliance.*

Restoration and Maintenance

1. *Following the completion of construction, restore any damage done to the buffer area (area within 100 feet of elderberry plants) during construction. Provide erosion control and re-vegetate with appropriate native plants.*

These restrictions shall be included on future Improvement Plans in order to ensure compliance. The restrictions do not apply to habitat restoration, maintenance, and enhancement activities. The Improvement Plans shall be subject to review and approval by the Yolo County Community Services Department.

4.0 OTHER CEQA-REQUIRED TOPICS

No changes were made to Chapter 4.0 of the Draft EIR.

5.0 REPORT PREPARERS

No changes were made to Chapter 5.0 of the Draft EIR.

This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Field & Pond Project (Project). This MMRP has been prepared pursuant to Section 21081.6 of the California Public Resources Code, which requires public agencies to “adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment.” A MMRP is required for the proposed Project because the EIR has identified significant adverse impacts, and measures have been identified to mitigate those impacts.

The individual mitigation measure follows the numbering sequence as found in the Draft EIR and includes revisions to the mitigation measure after the Draft EIR were prepared. These revisions are shown in Chapter 3.0 of the Final EIR. All revisions to mitigation measures that were necessary as a result of responding to public comments have been incorporated into this MMRP.

All mitigation measures identified in the *ZF 2015-0018 Field + Pond Use Permit Mitigation Monitoring and Reporting Plan* adopted September 13, 2016 by the Board of Supervisors continue to be required, except where modified as shown in Table 4.0-1.

4.1 MITIGATION MONITORING AND REPORTING PROGRAM

The MMRP, as outlined in the following table, describes mitigation timing, monitoring responsibilities, and compliance verification responsibility for all mitigation measures identified in this Final EIR.

The MMRP is presented in tabular form on the following pages. The components of the MMRP are described briefly below:

- **Mitigation Measures:** The mitigation measures are taken from the Draft EIR in the same order that they appear in that document.
- **Mitigation Timing:** Identifies at which stage of the Project mitigation must be completed.
- **Monitoring Responsibility:** Identifies the agency that is responsible for mitigation monitoring.
- **Compliance Verification:** This is a space that is available for the monitor to date and initial when the monitoring or mitigation implementation took place.

IMPLEMENTATION AND MONITORING RESPONSIBILITIES

The County of Yolo will be the primary agency responsible for implementing the mitigation measures and will continue to monitor mitigation measures that are required to be implemented during the operation of the Project. The Yolo County Department of Community Services, through the Community Services Director (Director), and his/her duly appointed subordinates shall have the primary responsibility for implementation, compliance, and enforcement of this MMRP. If the Director finds that there is reasonable cause to believe that non-compliance with this Program exists, he or she shall take such measures as necessary or expedient, pursuant to existing

enforcement provisions of the Yolo County Code, to enforce and secure compliance with the provisions of this Program.

PROCEDURES TO ENSURE IMPLEMENTATION

As a condition of project approval, the project applicant shall agree to enter into an Agreement to Implement the Mitigation Monitoring and Reporting Program. This Agreement shall be executed and recorded by the applicant no later than sixty (60) days after project approval or prior to the issuance of the first permit, plan approval, or commencement of construction on the project, whichever event occurs first. In no event shall an applicant be deemed to have fully satisfied all conditions of approval of a project unless this Agreement has been executed and recorded.

NONCOMPLIANCE

- A. Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Yolo County Community Services Department in written form providing specific information on the asserted violation. The Community Services Department shall initiate an investigation and determine the validity of the complaint; if noncompliance with a mitigation measure has occurred, the County shall initiate appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue.
- B. If the applicant fails to comply with any adopted mitigation measure in the MMRP, County Community Development Services staff shall issue a "Stop Work Order," a "Notice of Violation," or a notice of County's intent to pursue a Code Enforcement action. An applicant who desires to remedy the non-compliance shall be given an opportunity to consult with the Community Services Department to determine the extent of the violation and to take any necessary remedial action.
- C. The project applicant shall consult with the Community Services Department within 15 days of the issuance of a "Stop Work Order," a "Notice of Violation," or a notice of County's intent to pursue a Code Enforcement action. Failure of the applicant to take remedial action to the satisfaction of the Director shall result in Code Enforcement action through the appropriate County Department or through any appropriate County law enforcement agency.

TABLE 4.0-1: MITIGATION MONITORING AND REPORTING PROGRAM

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
All mitigation measures identified in the ZF 2015-0018 Field + Pond Use Permit Mitigation Monitoring and Reporting Plan adopted September 13, 2016 by the Board of Supervisors continue to be adopted and required, except as modified below.				
BIOLOGICAL RESOURCES				
<p><u>Impact 3-1: Tricolored blackbird:</u> Project implementation would not substantially reduce the habitat, cause a wildlife population to drop below self-sustaining levels or eliminate an animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened species, have a substantial adverse effect, either directly or indirectly, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</p>	<p>No mitigation required. Mitigation Measure BIO-3 identified in the the ZF 2015-0018 Field + Pond Use Permit Mitigation Monitoring and Reporting Plan adopted September 13, 2016 is not required.</p>			
<p><u>Impact 3-2: Golden eagle:</u> Project implementation would not substantially reduce the habitat, cause a wildlife population to drop below self-sustaining levels or eliminate an animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened species, have a substantial adverse effect, either</p>	<p>No mitigation required. Mitigation measure xx identified in the the ZF 2015-0018 Field + Pond Use Permit Mitigation Monitoring and Reporting Plan adopted September 13, 2016 is not required.</p>			

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
<p>directly or indirectly, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</p>				
<p><u>Impact 3-3: Valley elderberry longhorn beetle:</u> Project implementation has the potential to substantially reduce the habitat, cause a wildlife population to drop below self-sustaining levels or eliminate an animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened species, have a substantial adverse effect, either directly or indirectly, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service</p>	<p>Mitigation Measure BIO-1 in the ZF 2015-0018 Field + Pond Use Permit Mitigation Monitoring and Reporting Plan adopted September 13, 2016 is replaced by Mitigation Measure 3-1 below.</p> <p>Mitigation Measure 3-1: <i>Maintain a setback from Elderberry Bushes and Chickahominy Slough for construction activities, excluding agricultural activities. In order to avoid direct and indirect impacts to VELB, the Project applicant shall comply with Yolo General Plan Policy CO-2.22 by maintaining a minimum 100-foot no-development setback from the upper bank of Chickahominy Slough.</i></p> <p><i>The setback shall allow for fire and flood protection, a natural riparian corridor (or wetland vegetation), a planned recreational trail where applicable, and vegetated landscape for stormwater to pass through before it enters the water body. Recreational trails and other features established in the setback should be unpaved and located along the outside of the riparian corridors whenever possible to minimize intrusions and maintain the integrity of the riparian habitat. Exceptions to the no-development limitation include irrigation pumps, roads and bridges, levees, docks, public boat ramps, and similar uses, so long as these uses are sited and operated in a manner that minimizes impacts to aquatic and riparian features. The Project applicant shall also implement the following avoidance and minimization measures:</i></p>	<p>Yolo County Community Services Department</p>	<p>Prior to construction, during construction, and during the lifetime of the project</p>	

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
	<p><u>Protective Measures</u></p> <ol style="list-style-type: none"> 1. Fence and flag all areas within a 100-foot buffer from each valley elderberry shrub that is within the Project construction area. This area within the 100-buffer shall be avoided during construction activities unless encroachment has been approved by the USFWS. If encroachment has been approved by USFWS, a minimum setback of at least 20 feet shall be provided from the dripline of each elderberry plant. 2. Brief construction contractors on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements. 3. During construction, erect signs every 50 feet along the edge of the avoidance area with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." <p>The signs shall be clearly readable from a distance of 20 feet, and shall be maintained for the duration of construction.</p> <ol style="list-style-type: none"> 4. Prior to any construction activities, a qualified biologist shall provide written training for all onsite contractors, work crews, and personnel on the status of the VELB, its host plant and habitat, the need to avoid damaging the elderberry shrubs, and the possible penalties for non-compliance. 			

ENVIRONMENTAL IMPACT	MITIGATION MEASURE	MONITORING RESPONSIBILITY	TIMING	VERIFICATION (DATE/INITIALS)
	<p><u>Restoration and Maintenance</u></p> <p>1. Following the completion of construction, restore any damage done to the buffer area (area within 100 feet of elderberry plants) during construction. Provide erosion control and re-vegetate with appropriate native plants.</p> <p>These restrictions shall be included on future Improvement Plans in order to ensure compliance. The restrictions do not apply to habitat restoration, maintenance, and enhancement activities. The Improvement Plans shall be subject to review and approval by the Yolo County Community Services Department.</p>			