APPLICANT COMMENTS

Letter 89 – Wildland Resource Managers (December 28, 2017)

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Wildland Resource Managers
P.O Box 102
Round Mountain, California 96084

Mr. Richard W. Simon, Director
Department of Resource Management
Shasta County
1855 Placer Street, Suite 103
Redding, California 96001

December 28, 2017

Dear Rick,

I have had the opportunity to review the Tierra Robles Draft Environmental Impact Report (DEIR), thank you for sending it to me. I respond here not as a planning commissioner but rather as a professional biologist with over 40 years of management experience, and as one of the team members that worked over 10 years on this project.

My comments are as follows: While the authors of the DEIR have provided a great deal of analysis over many subjects I believe that they have significantly missed the mark with respect to two, those being the projects impacts to the biological resource and a scientific approach to mitigation. The failures in these areas presents a skewed picture of the project and leads to misplaced mitigation emphasis. These concerns are easily illustrated as follows:

On Pg. 2-17: The DEIR states "No projective alternative:" The existing site would remain unaltered and in its current condition...no physical changes would occur... Within a living ecosystem it is incorrect to say that the site would remain unaltered and in its current condition. Vegetation continues to grow, increasing fire fuels and the chance for a dominant fire event. The oak resource will continue to be in an overstocked condition with increasing decadency, reducing the habitat quality. Lack of grazing will result in the reduction of vernal wetland habitat quality as grasses will outcompete sensitive wetland plant species. These are environmental impacts and the concept of no impact through no action is a false premise. A no action will have an impact on the environment and should be spelled out as such. Failure to do so will lead the public to a faulty understanding of what would happen under such a management option. 89-a

On Pg. 5.4-30, under Wetland Delineation the DEIR states: "A Corp verification is valid for a 5-year period." The TR planning team requested and received a "preliminary determination" which has no time limit on it. The 5-year period is for a "jurisdictional determination" which involves on-site work done by the ACOE. The "preliminary determination" is utilized to have the ACOE validate the wetlands mapping as accurate. The project received ACOE preliminary jurisdictional determination verification by letter on October 24, 2011 and this letter was forwarded to the authors of the DEIR. So, the statement in the DEIR saying that the wetlands delineation "may be subject to renewal if wetlands or other waters of the US are impacted" is incorrect and misleading.

On Pg. 2-36 Impact MM5.4-1e states: Project applicant shall preserve an offsite population of Red Bluff dwarf rush in perpetuity.... equal to or greater than on site populations.... My question and concern go hand in hand; Why? The project was specifically designed to avoid all wetlands, including habitat for the RBDR. In addition, a basin hydrology analysis done for the area inclusive of the rush habitat found that post project hydrology would mirror pre-project hydrology. Therefore, the geographical and hydrological features of the basin will retain the present habitat character of the swale post development. This is based on real science, not subjective analysis. In addition, to protect this habitat from disturbance, a buffer area was placed around the wetland areas as well as designated building pad locations being placed greater than 100' from the habitat (BR, Figure 4, pg. 36). Clearly, there will be no impact to the habitat of rush. To say there is impact requiring mitigation is, from all evidence, simply incorrect and without any substation within the DEIR. I think this is a serious misuse of the principal of mitigation. Mitigation is defined as: the action of reducing the severity, seriousness, or painfulness of something." So, the question herein is where is the impact that must be mitigated for? This has not been demonstrated in the DEIR.

On Pg.3-34 the DEIR notes: "Provide significant onsite oak woodland *preservation* and implement an oak management strategy designed to maintain and enhance the onsite oak resource." This statement is in conflict with itself. You cannot preserve a living organism, we can *retain* it. Preservation and active management are incompatible terms. By saying the oak woodland will be *retained* we can then say they will be retained through management as described in the TR Oak Management Plan in such a manner as to improve the stand in terms of vigor and habitat quality. This is a fundamental principal of biology and the EIR should clearly state that habitats are retained through management and that a no action alternative actually is an action by default of doing nothing, with a corresponding result of loss of habitat quality, increased fire danger and degradation of the oak resource. The project area is within a fire climax ecosystem and if not managed, in time, it will burn with potential catastrophic results. This should be spelled out in the no action alternative section. 89-a

On Pg. 5.4-40-41, under Oak Mitigation Credits, the DEIR states that the impact of the proposed project on oak woodland is high and correlates to a "significant adverse environmental effect;" yet there is no substantiation for such a statement. The report credits the project with 304.2 acres of mitigation credits with 137.8 being applied through an off-site conservation easement. This section on mitigation seems to indicate that the preparers of the DEIR do not comprehend the value of the oak management proposed as part of the plan. Rather than it having a significant adverse environmental effect, it will have a significant positive environmental impact as testified by Dr. Phil McDonald at our meeting with CDFW last spring. To point, the DEIR makes "estimates" of impacts to the oak woodlands without any quantifiable data and notes that there would be direct loss of 221 acres. The statement implies that the project will take out of production these acres. Anyone living below 2,000-foot elevation within Shasta County interfaces with oaks and realize that wildlife certainly utilize oak woodlands in association with residential homes and wildlife will certainly utilize the oak resource of TR post project. Further, house site locations are restricted to those areas on a lot that would impact the fewest number of oaks. The TR Oak Management Plan was put together by a Registered Professional Forester, two PhD oak researchers and a Certified Wildlife Biologist, all with significant experience in oak management, and promotes a management stratagem that enhances oak resource values and stand vigor, and yet the DEIR authors postulate an adverse effect. Further, in the meeting of April 12, 2017 this issue was discussed in detail and the DEIR team members acknowledged, to their credit, that their mitigation numbers were a

"SWAG." At that meeting it was clearly agreed that there would only be the need for 65 acres of offsite mitigation in combination with the proposed oak management plan. This deviation from agreed to mitigation is most concerning and does not bode well for the reputation of the County Planning process. If one thinks critically about buying into an oak conservation easement, while it might sound good, it accomplishes nothing biologically. Those oaks that make up the conservation easement area are there already and will most likely be retained due to present environmental laws with no actual management planning to enhance the stand vigor; so, such mitigation is a feel-good approach only with no real value. Conversely, the oak management strategy outlined within the TR Oak Management plan is an on-site approach that has real and long-lasting benefits to the oak resource and associated biological resources such as wildlife. This is what should have been brought out in the DEIR and needs to be brought out in the final EIR.

On Pg. 5.4-56: Annual grassland and oak woodlands: The conversion and fragmentation of annual grasslands and oak woodlands are irreversible losses of wildlife habitat and remain cumulatively considerable and therefore, significant and unavoidable impacts. Again, this is an inaccurate and unsubstantiated statement. The only actual conversion would be the footprint of the roads and houses themselves. Other than that, the oak woodland areas and grassland areas will continue provide habitats. The EIR acknowledges this on pg. 5.4-54 where it notes "the proposed project site has a higher potential to be used by smaller mammals such as raccoons and striped skinks, particularly if denning habitat is available nearby. ...these species generally thrive in developed areas, impacts are considered less than significant." It is anticipated that with buildout there will be a greater diversity of habitat and water availability as landscaping occurs which will introduce additional floral species as well as irrigation.

On Pg. 2-31 Impact 5.2-3 states that "loss of agricultural lands on the subject property shall be offset through establishment of a conservation easement providing for agricultural use of offsite lands in perpetuity..." 89-a
Further, on page 5.4-38 it states that "Annual grasslands are not considered a sensitive natural community by CDFW and mitigation is not typically warranted." And further it states that "remaining grassland will provide sufficient mitigation." So, the question being, where are the agricultural lands to be mitigated for? The soil type of the grassland areas is of the Red Bluff series of gravelly old alluvium and suitable for range pasture and homesites, possible orchard (Shasta County Soil Survey, 1971). This is not prime agricultural land. The DEIR acknowledges this point on pg. 5.2-16 where it states: "the proposed project would not significantly impact prime farmland, unique farmland, or farmland of statewide importance." If remaining grassland provides sufficient mitigation as stated in the DEIR it stands to reason that there would be no reason to establish a conservation easement offsite to provide for loss of agriculture lands.

On Pg. 5.4-13; Essential Fish Habitat, the DEIR comments: "Project area is within a hydrologic unit (Cow Creek) which is designated as EFH for Chinook salmon." While this may be true, CDFW noted to the project planning team the on-site reach of Clough Creek is not suitable habitat for salmonids. Further, the DEIR on Pg. 5.4-20 Table 5.4-4 states streams on project are potential rearing/spawning habitat. This again is not consistent with the CDFW analysis.

On page 5.4-27 the DEIR states that approximately five elderberry clusters have been identified on-site. EPLAN's map of 8/9/12 that indicates three sites on the project area with three locations just off property. WRM's investigation concurred with the ENPLAN map. The DEIR does not accurately reflect the field conditions noted by both ENPLAN and WRM.

I believe these examples illustrate my concern that the DEIR misrepresents the true impacts of the project and by failing to do so misapplies mitigation approaches. I would hope that the Shasta County Planning Department would not accept a final EIR that makes the same errors.

Thank you for the opportunity to comment.

I remain, yours respectfully, 89-a

Steven J. Kerns

Steven J. Kerns, Principal and Certified Wildlife Biologist

cc: Stephen Nelson, Robert Geringer, David Storer

Response to Letter 89 – Wildland Resource Manager

Response 89-a: The applicant provided comments related to biological resources on the Draft EIR.

The applicant has discussed these concerns with the Lead Agency and has determined that all environmental resources have been evaluated appropriately by the Lead Agency in the Draft EIR and that mitigation measures are sufficient for the proposed project. The comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration. No further response is necessary and no change to the Draft EIR is necessary.

Letter 90 – S2-J2 Engineering – Steve Nelson (December 29, 2017)

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December 29, 2017

Richard W. Simon AICP, Director
Department of Resource Management
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1855 Placer Street, Suite 103
Redding, CA 96001

RE: Comments on the Draft Environmental Impact Report (DEIR) for the proposed Tierra Robles Planned Development Project (SCH No. 2012-102051)

Dear Mr. Simon:

Thank you for the opportunity to provide comments on the above referenced DEIR. I am happy to provide you with the following comments below all in an effort to assist the County as it prepares the Final Environmental Impact Report (FEIR) for Tierra Robles.

Oak Woodland Mitigation

The main area that requires attention by the preparers of the DEIR (and is a significant issue to us as the applicant) is the treatment in the DEIR of the mitigation described for Oak Woodlands. First let me state that, as the applicant, I have not agreed to mitigation measure MM 5.4-1a due to its excessive rate of mitigation as "required" by the County. Specifically, the DEIR does not recognize our groundbreaking efforts contained within the Oak Woodland Preservation Plan (OWPP) and ignores its qualitative treatment/efforts of the significant woodland areas. It is our determination as the applicant that, based on the work strategy contained within the OWPP, our project has more than mitigated for the impacts to Oak Woodland pursuant to CEQA. 90-a

The DEIR contains a variety of mitigation components (mitigation ratios) that are not supported by science, the courts or other CEQA documents (EIR's, Mitigated Negative Declarations or Negative Declarations) that we have seen. Further, the ratios are not ones that the County has implemented pursuant to Public Resources Code section 21083.4 (b) (4). The DEIR however, has identified 446.6 acres of the project site as "impacted areas". Of this number, 146.2 acres are areas that have "direct impacts" for roads and building envelopes. There are 300.4 acres identified as having "edge" impacts within the Resource Management Areas (RMA's); and as such, the impact to Oak Woodlands is not as severe as that for "direct impacts". Thus the "edge" impacts are assessed at a lower impact value

and when added to the direct impacts total an area of 221 acres that need to be mitigated. For a reason uncertain to me, the DEIR then requires a mitigation of 2:1 for these 221 acres, totaling 442 acres. The mitigation standard in the DEIR of 2:1 is taken from a 2008 publication by the University of California (UC) Integrated Hardwood Range Management Program (IHRMP); a program that was discontinued in 2009. The report, which was a "Guide for Planners" in response to recently enacted legislation (SB 1334) – is entitled, "The Oak Woodlands Impact Decision Matrix." The above referenced "recommendation" as stated in the DEIR is actually not a "recommendation" in the document it references, but one of two choices or "considerations" that an agency could use for mitigation and incidentally, is found in the "Appendix" of the 14 page document, entitled "Mitigation Considerations". The FEIR must accurately reflect this source for its lack of a formal recommendation or be deleted in its entirety therein.

Based on our analysis, the project is "over-mitigated" and has a surplus of credits that can be used for other developments in the County at a future date. Assuming that the mitigation ratios are appropriate on page 5.4-41 (as created by the County), then the project has "over-mitigated" by 83.2 acres. This is calculated using a known industry standard of 1:1 mitigation, by recognizing the credit values of 304.2 acres on the same page referenced above and subtracting 221 acres for the "direct and edge impacts". 90-a

On a parenthetical note, I do not agree with the notion that the RMA's are "impacted" areas and as such, there should be no mitigation assessed in any calculation. This would mean that the project has actually "over-mitigated" by 158 acres. This is determined by subtracting 146.2 acres of "direct impacts" from the onsite mitigation credits of 300.4 acres. The DEIR should be amended to include one of the two methods that I have outlined above.

Again, thank you for the opportunity to comment on the DEIR. Please call me if you have any questions or need clarification on any comment that I have presented.

Steve Nelson
Project Engineer

Response to Letter 90 – S2-J2 Engineering

Response 90-a: The applicant provided comments related to biological resources, specifically the proposed oak woodland mitigation in the Draft EIR.

The applicant has discussed these concerns with the Lead Agency and has determined that all environmental resources, specifically biological resources, have been evaluated appropriately by the Lead Agency in the Draft EIR and that mitigation measures are sufficient for the proposed project. The comment is noted for the record and will be provided to the Planning Commission and Board of Supervisors for consideration. No further response is necessary and no change to the Draft EIR is necessary.