

FOR DEPARTMENT USE ONLY

| Date Received | Amount Received | Amount Due | Date Complete | Notification No. |
|---------------|-----------------|------------|---------------|------------------|
| | \$ | \$ | | |



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NOTIFICATION OF LAKE OR STREAMBED ALTERATION



Complete EACH field, unless otherwise indicated, following the enclosed instructions and submit ALL required enclosures. Attach additional pages, if necessary.

1. APPLICANT PROPOSING PROJECT

| | | | |
|------------------|------------------------------|-----|--|
| Name | Richard T. Loewke | | |
| Business/Agency | Loewke Planning Associates | | |
| Street Address | 547 Wycombe Court | | |
| City, State, Zip | San Ramon, California, 94583 | | |
| Telephone | (925) 804-6225 | Fax | |
| Email | Dick@loewke.com | | |

2. CONTACT PERSON (Complete only if different from applicant)

| | | | |
|------------------|---------------------------------|-----|----------------|
| Name | Hope Kingma, Monk & Associates | | |
| Street Address | 1136 Saranap Avenue | | |
| City, State, Zip | Walnut Creek, California, 94595 | | |
| Telephone | (925) 947-4867 x212 | Fax | (925) 947-1165 |
| Email | Hope@monkassociates.com | | |

3. PROPERTY OWNER (Complete only if different from applicant)

| | | | |
|------------------|-----------------------------|-----|--|
| Name | Mr. Edward Biggs | | |
| Street Address | 4271 Valley Lane | | |
| City, State, Zip | Fairfield, California 94534 | | |
| Telephone | (707) 718-6798 | Fax | |
| Email | | | |

4. PROJECT NAME AND AGREEMENT TERM

| | | | | |
|-----------------------------|---------------|--|----------------------|------------------------|
| A. Project Name | | Canyon Estates Project | | |
| B. Agreement Term Requested | | <input checked="" type="checkbox"/> Regular (5 years or less) <input type="checkbox"/> Long-term (greater than 5 years) | | |
| C. Project Term | | D. Seasonal Work Period | | E. Number of Work Days |
| Beginning (year) | Ending (year) | Start Date (month/day) | End Date (month/day) | |
| 2017 | 2021 | April 15 | October 15 | 180 |

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

5. AGREEMENT TYPE

Check the applicable box. If box B, C, D, or E is checked, complete the specified attachment.

| | | |
|----|--|----------------------------|
| A. | <input checked="" type="checkbox"/> Standard (Most construction projects, excluding the categories listed below) | |
| B. | <input type="checkbox"/> Gravel/Sand/Rock Extraction (Attachment A) | Mine I.D. Number: _____ |
| C. | <input type="checkbox"/> Timber Harvesting (Attachment B) | THP Number: _____ |
| D. | <input type="checkbox"/> Water Diversion/Extraction/Impoundment (Attachment C) | SWRCB Number: _____ |
| E. | <input type="checkbox"/> Routine Maintenance (Attachment D) | |
| F. | <input type="checkbox"/> CDFW Fisheries Restoration Grant Program (FRGP) | FRGP Contract Number _____ |
| G. | <input type="checkbox"/> Master | |
| H. | <input type="checkbox"/> Master Timber Harvesting | |

6. FEES

Please see the current fee schedule to determine the appropriate notification fee. Itemize each project's estimated cost and corresponding fee. **Note: The Department may not process this notification until the correct fee has been received.**

| A. Project | | B. Project Cost | C. Project Fee |
|------------|---|--------------------------------|--------------------|
| 1 | Soft Bottom Arch Crossing | \$ 25,000 | \$ 613.75 |
| 2 | Outfall Structure | \$ 5,000 | \$ 307.25 |
| 3 | Re-alignment of the City of Vallejo's Water Lines | \$ 2,500 | \$ 245.50 |
| 4 | Culvert Expansion | \$ 1,500 | \$ 245.50 |
| 5 | Utilities Crossing | \$ 150 | \$ 245.50 |
| | | D. Base Fee (if applicable) | |
| | | E. TOTAL FEE ENCLOSED | \$ 1,657.50 |

7. PRIOR NOTIFICATION OR ORDER

A. Has a notification previously been submitted to, or a Lake or Streambed Alteration Agreement previously been issued by, the Department for the project described in this notification?

Yes (Provide the information below) No

Applicant: _____ Notification Number: _____ Date: _____

B. Is this notification being submitted in response to an order, notice, or other directive ("order") by a court or administrative agency (including the Department)?

No Yes (Enclose a copy of the order, notice, or other directive. If the directive is not in writing, identify the person who directed the applicant to submit this notification and the agency he or she represents, and describe the circumstances relating to the order.)

Continued on additional page(s)

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

8. PROJECT LOCATION

| | | | | | |
|---|---|--|--|--|----------------------------------|
| A. Address or description of project location. (Include a map that marks the location of the project with a reference to the nearest city or town, and provide driving directions from a major road or highway) | | | | | |
| The project site is accessed from the east side of Newell Drive in the City of American Canyon (Figures 1 and 2). Figure 3 provides an aerial photograph of the project site that shows the project site and the surrounding land uses. Approximately 37.30 acres of the 108.68 acre project site are within the limits of the City of American Canyon. | | | | | |
| <input type="checkbox"/> Continued on additional page(s) | | | | | |
| B. River, stream, or lake affected by the project. | | Unnamed ephemeral tributaries | | | |
| C. What water body is the river, stream, or lake tributary to? | | | Newell Creek | | |
| D. Is the river or stream segment affected by the project listed in the state or federal Wild and Scenic Rivers Acts? | | | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Unknown |
| E. County | Napa | | | | |
| F. USGS 7.5 Minute Quad Map Name | | G. Township | H. Range | I. Section | J. ¼ Section |
| Cordelia | | T4N | R3W | NA | NA |
| | | | | | |
| | | | | | |
| <input type="checkbox"/> Continued on additional page(s) | | | | | |
| K. Meridian (check one) | | <input type="checkbox"/> Humboldt <input checked="" type="checkbox"/> Mt. Diablo <input type="checkbox"/> San Bernardino | | | |
| L. Assessor's Parcel Number(s) | | | | | |
| 059-040-078 & 059-040-079 | | | | | |
| <input type="checkbox"/> Continued on additional page(s) | | | | | |
| M. Coordinates (If available, provide at least latitude/longitude or UTM coordinates and check appropriate boxes) | | | | | |
| Latitude/Longitude | Latitude: 38°10'39.494"N | | Longitude: 122°14'13.968"W | | |
| | <input checked="" type="checkbox"/> Degrees/Minutes/Seconds | | <input type="checkbox"/> Decimal Degrees | <input type="checkbox"/> Decimal Minutes | |
| UTM | Easting: | Northing: | | <input checked="" type="checkbox"/> Zone 10 <input type="checkbox"/> Zone 11 | |
| Datum used for Latitude/Longitude or UTM | | <input type="checkbox"/> NAD 27 | | <input checked="" type="checkbox"/> NAD 83 or WGS 84 | |

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

9. PROJECT CATEGORY AND WORK TYPE (Check each box that applies)

| PROJECT CATEGORY | NEW CONSTRUCTION | REPLACE EXISTING STRUCTURE | REPAIR/MAINTAIN EXISTING STRUCTURE |
|--|-------------------------------------|-------------------------------------|------------------------------------|
| Bank stabilization – bioengineering/recontouring | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bank stabilization – rip-rap/retaining wall/gabion | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Boat dock/pier | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Boat ramp | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bridge | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Channel clearing/vegetation management | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Culvert | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Debris basin | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dam | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Diversion structure – weir or pump intake | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Filling of wetland, river, stream, or lake | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Geotechnical survey | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Habitat enhancement – revegetation/mitigation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Levee | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Low water crossing | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Road/trail | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sediment removal – pond, stream, or marina | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Storm drain outfall structure | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Temporary stream crossing | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Utility crossing : Horizontal Directional Drilling | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jack/bore | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Open trench | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other (specify): | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

10. PROJECT DESCRIPTION

A. Describe the project in detail. Photographs of the project location and immediate surrounding area should be included.

- Include any structures (e.g., rip-rap, culverts, or channel clearing) that will be placed, built, or completed in or near the stream, river, or lake.
- Specify the type and volume of materials that will be used.
- If water will be diverted or drafted, specify the purpose or use.

Enclose diagrams, drawings, plans, and/or maps that provide all of the following: site specific construction details; the dimensions of each structure and/or extent of each activity in the bed, channel, bank or floodplain; an overview of the entire project area (i.e., "bird's-eye view") showing the location of each structure and/or activity, significant area features, and where the equipment/machinery will enter and exit the project area.

The applicant is proposing to construct a low density executive housing community within the 37.30 acre portion of the project site (Exhibit A). The southwestern 37.30 acres of the 108.68-acre project site were annexed into the City of American Canyon and American Canyon Fire District in June of 2015. The proposed specialty housing project would accommodate up to 35 single-family estate homes, and would include multiple common areas within the subdivision boundary.

The proposed project includes a clear span/soft bottom arch crossing over an ephemeral tributary, construction of a rock spillway/outfall structure into an ephemeral drainage on the project site, re-alignment of the City of Vallejo's water line across an ephemeral drainage on the project site, an extension of an existing culvert in an ephemeral drainage on the project site for purposes of widening and improving an existing unimproved road, and installation of utility lines across the ephemeral tributary under the soft bottom arch crossing.

The majority of the site is characterized by grazed, non-native annual grassland, with gently sloping to steep topography. Elevations range from approximately 100 feet to 500 feet (Figure 2). Newell Creek, an intermittent creek borders the project site along its northwestern boundary. Two ephemeral tributaries traverse the project site draining westward to Newell Creek (Figure 3).

Continued on additional page(s)

B. Specify the equipment and machinery that will be used to complete the project.

Excavator, backhoe, bulldozer, front loader, dump trucks, and other construction equipment.

Continued on additional page(s)

C. Will water be present during the proposed work period (specified in box 4.D) in the stream, river, or lake (specified in box 8.B).

Yes No (Skip to box 11)

D. Will the proposed project require work in the wetted portion of the channel?

Yes (Enclose a plan to divert water around work site)
 No

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11. PROJECT IMPACTS

A. Describe impacts to the bed, channel, and bank of the river, stream, or lake, and the associated riparian habitat. Specify the dimensions of the modifications in length (linear feet) and area (square feet or acres) and the type and volume of material (cubic yards) that will be moved, displaced, or otherwise disturbed, if applicable.

The total volume of fill in CDFW jurisdiction will be 58.5 cubic yards of fill material (soil, concrete, pipe) and 5.4 cubic yards of riprap. Please see the attached report for details regarding impacts.

Continued on additional page(s)

B. Will the project affect any vegetation? Yes (Complete the tables below) No

| Vegetation Type | Temporary Impact | Permanent Impact |
|--------------------|---|---|
| Ephemeral Drainage | Linear feet: <u>63</u> Total area: <u>0.0015</u> | Linear feet: <u>81</u> Total area: <u>0.0018</u> |
| | Linear feet: _____ Total area: _____ | Linear feet: _____ Total area: _____ |

| Tree Species | Number of Trees to be Removed | Trunk Diameter (range) |
|--------------|-------------------------------|------------------------|
| 0 | | |
| | | |
| | | |

Continued on additional page(s)

C. Are any special status animal or plant species, or habitat that could support such species, known to be present on or near the project site?

Yes (List each species and/or describe the habitat below) No Unknown

California red-legged frog and Callippe silverspot butterfly.

Continued on additional page(s)

D. Identify the source(s) of information that supports a “yes” or “no” answer above in Box 11.C.

See attached letter report.

Continued on additional page(s)

E. Has a biological study been completed for the project site?

Yes (Enclose the biological study) No

Note: A biological assessment or study may be required to evaluate potential project impacts on biological resources.

F. Has a hydrological study been completed for the project or project site?

Yes (Enclose the hydrological study) No

Note: A hydrological study or other information on site hydraulics (e.g., flows, channel characteristics, and/or flood recurrence intervals) may be required to evaluate potential project impacts on hydrology.

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

12. MEASURES TO PROTECT FISH, WILDLIFE, AND PLANT RESOURCES

A. Describe the techniques that will be used to prevent sediment from entering watercourses during and after construction.

All work will be completed when the tributaries are not flowing. All necessary erosion and siltation controls will be in place during excavation of fill. A full erosion control plan consistent with best management practices (BMPs) will be in place during the project to ensure that activities will not result in de minimus fill falling into the ephemeral drainage downstream.

Continued on additional page(s)

B. Describe project avoidance and/or minimization measures to protect fish, wildlife, and plant resources.

The avoidance, or protection measured in the USFWS 1999 programmatic Consultation will be implemented to reduce potential impacts to the California red-legged frog.

Continued on additional page(s)

C. Describe any project mitigation and/or compensation measures to protect fish, wildlife, and plant resources.

The applicant proposes to mitigate for project-related impacts to the ephemeral drainage via planting of riparian vegetation along Newell Creek. The proposed Riparian Restoration Area will total 0.46 acre. A complete Riparian Restoration Plan will be prepared that, when implemented, would compensate for impacts to CDFW jurisdiction. The Riparian Restoration Plan would provide an outline of the goals and success criteria for the riparian restoration, and a list of the proposed monitoring and reporting requirements. In addition, the applicant proposes to preserve 67.18 acres as an Open Space Preserve, and this area will be permanently protected via recordation of a conservation easement over this mitigation land.

Continued on additional page(s)

13. PERMITS

List any local, state, and federal permits required for the project and check the corresponding box(es). Enclose a copy of each permit that has been issued.

- A. RWQCB 401 Water Quality Certification Applied Issued
- B. City of American Canyon, Notice of Determination Applied Issued
- C. U.S. Army Corps of Engineers, NWP Applied Issued
- D. Unknown whether local, state, or federal permit is needed for the project. (Check each box that applies)

Continued on additional page(s)

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

14. ENVIRONMENTAL REVIEW

| | | | |
|---|--|---|----------------|
| A. Has a draft or final document been prepared for the project pursuant to the California Environmental Quality Act (CEQA), National Environmental Protection Act (NEPA), California Endangered Species Act (CESA) and/or federal Endangered Species Act (ESA)? | | | |
| <input checked="" type="checkbox"/> Yes (Check the box for each CEQA, NEPA, CESA, and ESA document that has been prepared and enclose a copy of each) <input type="checkbox"/> No (Check the box for each CEQA, NEPA, CESA, and ESA document listed below that will be or is being prepared) | | | |
| <input type="checkbox"/> Notice of Exemption <input type="checkbox"/> Initial Study <input type="checkbox"/> Negative Declaration <input type="checkbox"/> THP/ NTMP | <input checked="" type="checkbox"/> Mitigated Negative Declaration <input type="checkbox"/> Environmental Impact Report <input checked="" type="checkbox"/> Notice of Determination (Enclose) <input type="checkbox"/> Mitigation, Monitoring, Reporting Plan | <input type="checkbox"/> NEPA document (type): _____ <input type="checkbox"/> CESA document (type): _____ <input type="checkbox"/> ESA document (type): _____ | |
| B. State Clearinghouse Number (if applicable) | | 2014082050 | |
| C. Has a CEQA lead agency been determined? | | <input checked="" type="checkbox"/> Yes (Complete boxes D, E, and F) <input checked="" type="checkbox"/> No (Skip to box 14.G) | |
| D. CEQA Lead Agency | City of American Canyon | | |
| E. Contact Person | Brent Cooper, Planning Director | F. Telephone Number | (707) 647-4348 |
| G. If the project described in this notification is part of a larger project or plan, briefly describe that larger project or plan. | | | |
| | | | |
| <input type="checkbox"/> Continued on additional page(s) | | | |
| H. Has an environmental filing fee (Fish and Game Code section 711.4) been paid? | | | |
| <input checked="" type="checkbox"/> Yes (Enclose proof of payment) <input type="checkbox"/> No (Briefly explain below the reason a filing fee has not been paid) | | | |
| <i>Note: If a filing fee is required, the Department may not finalize a Lake or Streambed Alteration Agreement until the filing fee is paid.</i> | | | |

15. SITE INSPECTION

| |
|--|
| Check one box only. |
| <input type="checkbox"/> In the event the Department determines that a site inspection is necessary, I hereby authorize a Department representative to enter the property where the project described in this notification will take place at any reasonable time, and hereby certify that I am authorized to grant the Department such entry. |
| <input checked="" type="checkbox"/> I request the Department to first contact (insert name) <u>Ms. Hope Kingma, Monk & Associates, Inc.</u> at (insert telephone number) <u>(925) 947-4867 x212</u> to schedule a date and time to enter the property where the project described in this notification will take place. I understand that this may delay the Department's determination as to whether a Lake or Streambed Alteration Agreement is required and/or the Department's issuance of a draft agreement pursuant to this notification. |

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

16. DIGITAL FORMAT


Is any of the information included as part of the notification available in digital format (i.e., CD, DVD, etc.)?

Yes (Please enclose the information via digital media with the completed notification form)

No

17. SIGNATURE

I hereby certify that to the best of my knowledge the information in this notification is true and correct and that I am authorized to sign this notification as, or on behalf of, the applicant. I understand that if any information in this notification is found to be untrue or incorrect, the Department may suspend processing this notification or suspend or revoke any draft or final Lake or Streambed Alteration Agreement issued pursuant to this notification. I understand also that if any information in this notification is found to be untrue or incorrect and the project described in this notification has already begun, I and/or the applicant may be subject to civil or criminal prosecution. I understand that this notification applies only to the project(s) described herein and that I and/or the applicant may be subject to civil or criminal prosecution for undertaking any project not described herein unless the Department has been separately notified of that project in accordance with Fish and Game Code section 1602 or 1611.


Signature of Applicant or Applicant's Authorized Representative

2/01/16
Date

RICHARD T. LOEWKE
Print Name

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
STREAMBED ALTERATION AGREEMENT
APPLICATION**

**CANYON ESTATES PROJECT
CITY OF AMERICAN CANYON, CALIFORNIA**

January 27, 2016

Prepared on Behalf of:

Loewke Planning Associates
547 Wycombe Court
San Ramon, California 94583
Attention: Mr. Richard T. Loewke, AICP

Applicant's Agent:

Monk & Associates, Inc.
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867, ext. 201
Contact: Mr. Geoff Monk

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FIGURES & SHEETS
(At Back of Report)

Figure 1. Canyon Estates Project Site Regional Map.

Figure 2. Canyon Estates Project Site Location Map.

Figure 3. Aerial Photograph & Parcel Map of the Canyon Estates Project Site.

Figure 4. Known Special-Status Species CNDDDB Records Within 2 Miles of the Canyon Estates Project Site.

EXHIBITS
(At Back of Report)

Exhibit A. Preserve Area, Canyon Estates, prepared by Bellecci & Associates, Inc. December 2015.

Exhibit B. Soft Bottom Arch Crossing Detail, prepared by Bellecci & Associates, Inc. December 2015.

Exhibit C. Outfall Structure, prepared by Bellecci & Associates, Inc. December 2015.

Exhibit D. City of Valley Water Line Re-Alignment, prepared by Bellecci & Associates, Inc. December 2015.

Exhibit E. Culvert Expansion for 25' Access Road, prepared by Bellecci & Associates, Inc. December 2015.

Exhibit F. Riparian Restoration Area, prepared by Bellecci & Associates, Inc. December 2015.

ATTACHMENTS
(Attached at End of Report)

Attachment A. Sheet 1. Confirmed Wetland Delineation Map of the Canyon Estates Project Site, April 14, 2015.

Attachment B. Notice of Determination, City of American Canyon, dated February 4, 2015.

1. INTRODUCTION

On behalf of Loewke Planning Associates (herein referred to as the applicant), Monk & Associates, Inc. (M&A) is requesting that the California Department of Fish and Wildlife (the CDFW) issue a Streambed Alteration Agreement (SBAA) pursuant to 1602 of the Fish and Game Code for the proposed Canyon Estates Project (Exhibit A), located in the City of American Canyon, Napa County, California (Figures 1 and 2).

We are requesting a SBAA for the proposed project, which includes a clear span/soft bottom arch crossing over an ephemeral tributary (Exhibit B), construction of a rock spillway/outfall structure into an ephemeral drainage on the project site (Exhibit C), re-alignment of the City of Vallejo's water line across an ephemeral drainage on the project site (Exhibit D), an extension of an existing culvert in an ephemeral drainage on the project site for purposes of widening and improving an existing unimproved road (Exhibit E), and installation of utility lines across the ephemeral tributary under the soft bottom arch crossing (Exhibit B). Since the ephemeral drainage feature on the project site would likely be subject to jurisdiction pursuant to section 1602 of the California Fish and Game Code, the applicant is requesting that the CDFW issue a SBAA for the proposed project. A check in the amount of \$ 1,657.50 is attached to this streambed alteration agreement application in order to process this request.

2. APPLICANT

Loewke Planning Associates
547 Wycombe Court
San Ramon, California 94583
(925) 804-6225
Attention: Mr. Richard T. Loewke, AICP

3. APPLICANT'S AGENT

Please copy all correspondence with applicant to applicant's agent.

Monk & Associates, Inc.
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867, ext. 201
Contact: Mr. Geoff Monk

4. PROJECT SITE LOCATION AND DESCRIPTION

The project site is accessed from the east side of Newell Drive in the City of American Canyon (Figures 1 and 2). Approximately 37.30 acres of the 108.68 acre project site are within the limits of the City of American Canyon. The majority of the site is characterized by grazed, non-native annual grassland, with gently sloping to steep topography. Elevations range from approximately 100 feet to 500 feet (Figure 2). Newell Creek, an intermittent creek borders the project site along its northwestern boundary. Two ephemeral tributaries traverse the project site draining westward to Newell Creek (Figure 3).

The area surrounding the project site is rapidly transitioning from agricultural use to residential development. Newell Drive and the Standard Pacific Homes Vintage Ranch Residential Development occur immediately west of the project site. The Jack & Bernice Newell Wilderness Preserve (Newell Preserve) is located immediately to the northeast of the project site. Land owned by the Napa Valley Unified School District (NVUSD) that has been designated as a California red-legged frog preserve is located on the eastern project site boundary. The Newell Property lies to the south, with NVUSD high school and American Canyon Road further to the south. Figure 3 provides an aerial photograph of the project site that shows the project site and the surrounding land uses.

5. PROJECT DESCRIPTION

The applicant is proposing to construct a low density executive housing community within the 37.30 acre portion of the project site (Exhibit A). The southwestern 37.30 acres of the 108.68-acre project site were annexed into the City of American Canyon and American Canyon Fire District in June of 2015. The proposed specialty housing project would accommodate up to 35 single-family estate homes, and would include multiple common areas within the subdivision boundary.

The applicant will dedicate a conservation easement over the remaining approximate 67.18 acres of the project site as an Open Space Preserve (the Preserve) to mitigate for indirect impacts to federally listed species that could result from development of the project site. The acreage of the Preserve does not include a Public Access Trail that is routed through the western limits of the Preserve, or the other existing superior easements located within the Preserve Area. The City of American Canyon owns and maintains a 3.20 acre parcel that is located outside the boundaries of the proposed 67.18 acre Preserve. Also, within the Preserve a short segment of road is proposed to be constructed off the existing non-potable water tank road to provide access to a potable water tank that has been fully approved for construction on land owned by the City of American Canyon east of the project site (Exhibit A).

6. WETLAND DETERMINATION

M&A biologists Mr. Geoff Thomas and Ms. Hope Kingma conducted a wetland delineation on the project site in 2007. The Corps issued a jurisdictional determination letter and confirmed the jurisdictional map on August 15, 2008. This jurisdictional map remained valid until August 15, 2013. On August 20, 2014, M&A biologists Ms. Kingma and Mr. Tim O'Donnell conducted a wetland delineation to re-verify Corps' jurisdiction on the project site. Mapped features on the project site were determined to meet jurisdictional criteria presented in the Corps' 1987 *Wetlands Delineation Manual* (Corps 1987) and the Corps' regional supplement for the Arid West Region (Corps 2008). M&A submitted a Request for Re-Verification of Jurisdictional Determination to the Corps on November 18, 2014. On February 25, 2015, Mr. Bryan Matsumoto and Mr. Daniel Breen of the Corps visited the project site to field-verify the wetland delineation map and confirm the extent of the Corps' jurisdiction on the project pursuant to the Clean Water Act. On April 14, 2015 the Corps confirmed jurisdiction over 1.51 acres of waters of the U.S. on the project site (Corps File No. 400759N). The Confirmed Preliminary Jurisdictional Determination Map and the Corps preliminary jurisdictional determination letter are provided as Attachment A.

7. PROPOSED IMPACTS TO CDFW JURISDICTION

7.1 Soft Bottom Arch Crossing and Utilities Crossing

Exhibit B shows the proposed soft bottom arch crossing that clear spans the ephemeral drainage. The top of the culvert will be 7 feet above the bed of the channel and 4 feet above the top-of-bank. The concrete footings will be installed outside the top-of-banks, as illustrated in Exhibit B. The total volume of fill for the arch crossing structure will be 248 cubic yards, while the fill for the footings installed outside the top-of-banks will be 119 cubic yards. The total area of impact for the footings installed outside the top-of-banks will be 524 square feet.

Exhibit B shows the utilities that will be installed under this crossing across the ephemeral drainage via a 43-foot wide open cut trench. A 24-inch joint trench (gas, cable and electrical service lines) will be installed within the arch culverted crossing, while the remaining utility lines will be installed in an open cut trench through the ephemeral tributary under the clear span/soft bottom arch crossing. The utilities to be installed across this drainage include a 12-inch stormdrain pipe, an 8-inch sanitary sewer pipe, an 8-inch reclaimed water line, and an 8-inch potable water line. Temporary impacts to the ephemeral drainage associated with the open cut trench for these utilities will be 43 square feet (0.001 acre) below the OHWMs of the ephemeral tributary as illustrated in Exhibit B. The original contours of the ephemeral tributary will be restored to conform to the banks of the ephemeral tributary up and downstream of the arch crossing.

7.2 Outfall Structure

The proposed project includes the construction of a single stormwater outfall structure in an ephemeral tributary to Newell Creek (Exhibit C). To minimize the impacts from the construction of the outfall structure to the maximum extent possible, the outfall structure has been carefully designed to receive hydromodified (i.e., reduced peak flows) stormwater discharges from a water quality detention basin that will be constructed at the south end of the project site (See Exhibit A and Exhibit C).

The stormwater outfall will require the placement of riprap on the banks of the ephemeral tributary down into the bottom of the tributary. In total, there would be 146 square feet of riprap used to construct the outfall structure (5.4 cubic yards of riprap). That stated, the outfall structure would only result in permanent impacts (fill) to 28 square feet (0.0006 acre) (1 cubic yard of riprap) below the Ordinary High Water Marks (OHWM) of the ephemeral drainage, as illustrated on Exhibit C. The riprap would not be concreted, but would be back-filled with native soils and hydroseeded to better blend the structure into the existing bed and banks.

All construction work in CDFW jurisdiction associated with the outfall structure will be scheduled for the dry season (April 15 through October 15) and when there is no flow in the ephemeral tributary. Construction equipment will work from above the top-of-bank. There will be no vehicle passage, vehicle parking, or materials storage below the top of bank.

7.3 Re-alignment of the City of Vallejo’s Water Line

The proposed project is required to relocate two existing potable water lines owned by the City of Vallejo that bisect the proposed subdivision. These pipelines will be relocated downslope from their existing locations within the proposed subdivision to provide access to these pipelines, if needed. The new alignment will be across Open Space Lot “A” along the western project site boundary (Exhibit D). The waterline pipes will be installed across an ephemeral drainage on the project site via a 20-foot wide open cut trench. Impacts associated with the open cut trench will be 20 square feet (0.0005 acre) below the OHWMs of the ephemeral tributary as illustrated in Exhibit D.

7.4 Culvert Expansion

The proposed project will require improvements to an existing road on the project site. This road currently is used by the City of American Canyon to access their non-potable water tank. As illustrated in Exhibit E, an existing 18-inch culvert in the ephemeral drainage on the project site will be replaced and expanded to facilitate a Fire District-required connection between Circle “D” and Circle “E” (Exhibit E). Total permanent impacts associated with the replacement and extension of the culvert at this location will be 53 square feet (0.0012 acre) below the OHWMs of the ephemeral tributary as illustrated in Exhibit E.

8. CDFW FEE

| Project | Project Cost | Project Fee |
|---|---------------------|--------------------|
| Soft Bottom Arch Crossing | \$ 25,000 | \$ 613.75 |
| Outfall Structure | \$ 5,000 | \$ 307.25 |
| Re-alignment of the City of Vallejo’s Water Lines | \$ 2,500 | \$ 245.50 |
| Culvert Expansion | \$ 1,500 | \$ 245.50 |
| Utilities Crossing | \$ 150 | \$ 245.50 |
| TOTAL | | \$ 1,657.50 |

9. MITIGATION PROPOSAL

The applicant proposes to mitigate for project-related impacts to the ephemeral drainage via planting of riparian vegetation along Newell Creek. The proposed 0.46 acre Riparian Restoration Area is illustrated in Exhibit F. A complete *Riparian Restoration Plan* will be prepared that, when implemented, would compensate for impacts to CDFW jurisdiction. The Riparian Restoration Plan would provide an outline of the goals and success criteria for the riparian restoration, and a list of the proposed monitoring and reporting requirements.

In addition, the applicant proposes to preserve 67.18 acres of the project site as an Open Space Preserve, and this area will be permanently protected via recordation of a conservation easement over this mitigation land. A total of 1.39 acres of wetlands and other waters will be preserved within the 67.18 acres of the Open Space Preserve (Exhibit A and Attachment A).

10. SPECIAL-STATUS SPECIES

10.1 Plants

No special-status plants have been mapped on or adjacent the project site (Figure 4). M&A conducted five separate, formal special-status plant surveys of the project site in July and September 2007, March and April 2008, and May 2013. Overall, a total of 137 plant species were observed on the project site. Of these 137 species, 58 plants (or 42%) were native, and 79 plants (or 58%) were non-native. No special-status plants were observed during these five separate surveys. Regardless, rare plant surveys will be conducted in the year prior to construction, to confirm the presence or absence of special-status plant species.

10.2 Animals

Figure 4 provides a graphical illustration of the known CNDDDB records for special-status species within 2 miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. No special-status animal records have ever been mapped on the project site. However, a total of 7 special-status animal species are known to occur in the region of the project site. Many of these species require specialized habitat such as vernal pools, lakes and rivers, marshes, ponds, coastal scrub, or other habitats that are not found on or adjacent to the project site. Hence, these species can be dismissed from consideration. Because of the sensitivity of several special-status wildlife species known to occur in the project area, and/or the potential presence of some of the species on or immediately adjacent to the project site, we discuss eight (8) special-status wildlife species below.

10.2.1 CALLIPPE SILVERSPOT BUTTERFLY

Callippe silverspot butterfly (*Speyeria callippe ssp. callippe*) is a federally listed endangered species. It has no state status. There is no designated critical habitat. This butterfly is found in native and non-native annual grassland habitats that support either its host and/or food plants. Female Callippe silverspots lay their eggs on the dry remains of Johnny jump up (*Viola pedunculata*) plants or on the surrounding debris. Within about one week of hatching, the larvae eat their egg shells and then wander a short distance to spin a silk pad upon which they pass the summer and winter. Upon completion of their diapause the following spring, the larvae immediately seek out the Johnny jump ups to feed. In May, each larva forms a pupa. Adults emerge in about two weeks and live for approximately three weeks. The flight period of this butterfly ranges from mid-May to early-July, typically ending around July 4th (D. Arnold, Entomologist, pers. comm. with S. Lynch of M&A, 1998). Adult nectar plants include Italian thistle (*Carduus pycnocephala*), milk thistle (*Silybum marianum*), bull thistle (*Cirsium vulgare*), California buckeye (*Aesculus californica*), and coyote mint (*Monardella villosa*) (Thomas Reid Associates 1982). Ideal habitat conditions for this species are grasslands on hilltops (where mating occurs) that support larval food plants and/or nectar plants. However, all three of these habitat components need not be present in one area. Presence of the larval food plant (Johnny jump-up) may be enough for this butterfly to lay its eggs. Once the larvae metamorphose, adult butterflies may travel up to several miles to find suitable nectar plants (op. cit.).

The Callippe silverspot butterfly is known from 14 historic populations in the San Francisco Bay region. Its historic range includes the inner Coast Ranges on the eastern shore of San Francisco Bay

from northwestern Contra Costa County south to the Castro Valley area in Alameda County. On the west side of the Bay, it once ranged from San Francisco south to the vicinity of La Honda in San Mateo County. Currently, extant colonies are known only from private land on San Bruno Mountain in San Mateo County, Joaquin Miller Park in Alameda County (USFWS 1997), on Pleasanton Ridge in Alameda County, and at the junction of Highway 37 and Highway 116 in Sonoma County (D. Arnold, pers. comm. with S. Lynch of M&A, 2007).

A 2006 record for Callippe silverspot butterfly documents this species occurring along Saint John Mines Road, which is located approximately 3.5 miles southeast of the project site (CNDDDB Occurrence No. 14), although the exact location is unknown. During extensive rare plant surveys of the project site, M&A has not observed the host plant of the Callippe silverspot butterfly. While Johnny jump-ups have been observed adjacent to the project site, along the ridge on the CDFW California red-legged frog Preserve (S. Lynch, personal observation), this species is unlikely to occur within the project development footprint on the project site. Regardless, the applicant proposes to preserve 67.18 acres of the project site as an Open Space Preserve, permanently protecting any potentially suitable habitat for the Callippe silverspot butterfly.

10.2.2 CALIFORNIA RED-LEGGED FROG

The California red-legged frog (*Rana draytonii*) was federally listed as threatened on May 23, 1996 (Federal Register 61: 25813-25833) and as such is protected pursuant to the Federal Endangered Species Act. The California red-legged frog is also a state “species of special concern.”

The California red-legged frog is typically found in ponds, slow-flowing portions of perennial and intermittent streams that maintain water in the summer months. This frog is also found in hillside seeps that maintain pool environments or saturated soils throughout the summer months. Populations likely cannot be maintained if all surface water disappears (i.e., no available surface water for egg laying and larval development habitat). Larval California red-legged frogs require 11-20 weeks of permanent water to reach metamorphosis (i.e., to change from a tadpole into a frog), in water depths of 10 to 20 inches (USFWS 2002). Riparian vegetation such as willows and emergent vegetation such as cattails are preferred red-legged frog habitats, though such habitat is not necessary for this species to be present. Populations of California red-legged frog will be reduced in size or eliminated from ponds supporting non-native species such as bullfrog, Centrarchid fish species (such as sunfish, bluegill, or largemouth bass), and signal and red swamp crayfish (*Pacifastacus leniusculus* and *Procambarus clarkii*, respectively), all of which are known California red-legged frog predators. However, the presence of these non-native species does not preclude the presence of the California red-legged frog.

California red-legged frogs also use upland habitats for migration and dispersal. The USFWS’s Recovery Plan for the California Red-Legged Frog states that frog overland excursions via uplands can vary from 0.25 mile up to 3 miles during the course of a wet season, and that frogs “have been observed to make long-distance movements that are straight-line, point to point migrations rather than using corridors for moving in between habitats” (USFWS 2002). The information presented in the USFWS’s Recovery Plan was taken from a publication by Bulger et al. (2003) that recounts a study in coastal redwoods in Santa Cruz area. M&A believes that such overland straight-line migrations are primarily limited to periods of heavy rainfall or during

periods when ambient conditions exhibit high moisture levels such as in fog belts along the coast. Working in Pointe Reyes National Seashore on the coast of California, Fellers and Kleeman (2007) found approximately 31 percent of California red-legged frogs moved more than 30 meters from their breeding sites and about 69 percent moved less than 30 meters from their breeding site during seasonal movement periods. Similarly, Bulger et al. (2003) found that 60 percent of their radio tagged frogs stayed within 30 meters of their breeding sites.

In locations that are characterized by hot and seasonally dry climates, the California red-legged frog is inclined to stay closer to its aquatic environments or will not migrate. Tatarian (2005) who studied an inland population of California red-legged frogs in eastern Contra Costa County where the climate is far drier than the coastal environment, found that all movements started after the first 0.5 cm of rain in the fall, with more terrestrial movements being made in the fall pre-breeding season (57%) than in the winter breeding season (32%) or spring post-breeding season (11%). Tatarian (op. cit.) also found that California red-legged frogs moved greater average distances aquatically (84.6 m) than terrestrially (27.7 m). Greater terrestrial distances were moved in the pre-breeding season (35.2 m) than in the breeding season (15.5 m) or post-breeding season (16.3 m) with the majority of movements occurring for only one of the 3-4 day survey periods. The majority of frogs (57%) were position faithful within a pool, indicating they did not migrate at all. These data suggest that long forays across the landscape found in coastal populations are less likely in dry inland locations.

The Recovery Plan for the California Red-Legged Frog states that populations are “most likely to persist where multiple breeding areas are embedded within a matrix of habitats used for dispersal.” “The primary constituent elements for California red-legged frogs are aquatic and upland areas where suitable breeding and non-breeding habitat is interspersed throughout the landscape and is interconnected by unfragmented dispersal habitat” (USFWS 2002).

The closest known record for the California red-legged frog is located on the adjacent property, approximately 0.3-mile east of the project site (CNDDDB Occurrence No. 228). This occurrence is a California red-legged frog population that was discovered by M&A biologists in 1996. The property where the California red-legged frogs were found has since been designated as an Ecological Preserve owned and managed by the CDFW (herein after referred to as the “CDFW California red-legged frog Preserve”). M&A continues to work on the California red-legged frog Preserve today and has observed as many as 35 adult frogs in one day at the record location. This California red-legged frog population occurs in the upper reaches of an intermittent drainage that is a tributary to American Canyon Creek. Two spring boxes located within the drainage serve as breeding and over-summering sites for the frogs.

Another record for the California red-legged frog is located 0.5-mile west of the project site (CNDDDB Occurrence No. 896). This occurrence was recorded in 2006 in a human-made cement tank that was historically used in a quarry operation. One adult frog was identified at this location, which is downstream of both the project site and the California red-legged frog population on the CDFW California red-legged frog Preserve. It is likely that this frog migrated from the CDFW California red-legged frog Preserve via a tributary on the project site and then overland to the record location.

The wetlands and drainages on the project site do not provide suitable breeding habitat for the California red-legged frog. However, because of the proximity and hydrological connectivity of the project site to the CDFW California red-legged frog Preserve, and the presence of suitable dispersal/migration habitat onsite, the proposed project site is regarded as providing California red-legged frog dispersal habitat.

While no impacts are expected to occur to individual California red-legged frogs from the proposed project, the proposed development project and associated infrastructure will impact 28.38 acres of habitat that provides suitable upland migration habitat for California red-legged frog. The applicant proposes to preserve 67.18 acres of the project site as an Open Space Preserve, and this area will be permanently protected via recordation of a conservation easement over this mitigation land.

10.2.3 WHITE-TAILED KITE

The white-tailed kite (*Elanus caeruleus*) is fully protected under the California Fish and Game Code. Fully protected birds may not be “taken” or possessed (i.e., kept in captivity) at any time (§3511). It is also protected under the Federal Migratory Bird Treaty Act (50 CFR 10.13). The white-tailed kite is typically found foraging in grassland, marsh, or cultivated fields where there are dense-topped trees or shrubs for nesting and perching. They nest in a wide variety of trees of moderate height and sometimes in tall bushes, such as coyote bush (*Baccharis pilularis*). Native trees used are live and deciduous oaks (*Quercus* spp.), willows (*Salix* spp.), cottonwoods (*Populus* spp.), sycamores (*Platanus* spp.), maples (*Acer* spp.), toyon (*Heteromeles arbutifolia*), and Monterey cypress (*Cupressus macrocarpa*). Although the surrounding terrain may be semiarid, kites often reside near water sources, where prey is more abundant. The particular characteristics of the nesting site do not appear to be as important as its proximity to a suitable food source. Kites primarily hunt small mammals, with California meadow voles (*Microtus californicus*) accounting from between 50 to 100 percent of their diet (Shuford 1993).

The closest known record for this species is located 4.5 miles southwest of the project site (CNDDDB Occurrence No. 104). M&A has observed this species foraging over the project site. The project site’s oak trees, willows and coyote brush provide suitable nesting habitat for the white-tailed kite. Such habitats occur in Newell Creek immediately adjacent to the proposed project footprint. Preconstruction nesting surveys will be conducted before any tree/shrub removal and earth-moving activities commence on the project site. If nesting white-tailed kites are found on or adjacent to the project site, a buffer should be established until the young have fledged.

10.2.4 NORTHERN HARRIER

The northern harrier (*Circus cyaneus*) is a California species of special concern. This raptor is also protected under California Fish and Game Code §3503, 3503.5, 3800, and 3513 that protects nesting raptors and their eggs/young. The northern harrier is also protected from direct take under the Migratory Bird Treaty Act (50 CFR 10.13). Northern harriers build grass-lined nests on the ground in dense, low-lying vegetation in a variety of habitats, although they are typically found nesting in grassland or marsh habitats. This species is particularly vulnerable to ground predators such as coyotes (*Canis latrans*), red fox (*Vulpes vulpes*), and various snake species. Ground nesting birds in general are also subject to disturbance by agricultural or vegetation control practices (for example, disking).

The closest known record for this species is located 4.6 miles west of the project site (CNDDDB Occurrence No. 28). Northern harriers have been observed foraging over grassland habitat on the project site but a nest has never been observed during the 2007, 2008, and 2013 surveys. Although the northern harrier is not known to currently nest on the project site, it is a mobile species that frequently changes nesting locations and could nest in the grasslands on the project site in the future. Preconstruction nesting surveys will be conducted before earth-moving activities commence on the project site. If nesting northern harriers are found on or adjacent to the project site, a buffer should be established until the young have fledged.

10.2.5 SWAINSON'S HAWK

The Swainson's hawk (*Buteo swainsonii*) is a state listed threatened species pursuant to the California Endangered Species Act, Title 14, California Code of Regulations. While it has no special federal status, it is protected from direct take under the Federal Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-711). Swainson's hawks, their nests, eggs, and young are also protected under California Fish and Game Code (§3503, §3503.5, §3513, and §3800). Finally, pursuant to CEQA, this hawk would be considered "rare" and impacts to its nest sites or hunting habitat (also called "foraging habitat") would likely be regarded as significant based upon guidelines provided for this raptor.

The Swainson's hawk is generally a summer visitor to California. In the fall months, most Swainson's hawks migrate to South America before returning to the United States to breed once again in the late spring. There is a small population of Swainson's hawks that remain resident in California year-round. The nesting population of Swainson's hawks in California was reduced considerably over historical nesting populations when the species was afforded protections pursuant to the California Endangered Species Act in 1984. Since that time, the nesting population of Swainson's hawk has significantly recovered in California, as have other raptor species that were previously protected both as State and Federal listed species. Both the peregrine falcon (*Falco peregrinus anatum*) and the bald eagle (*Haliaeetus leucocephalus*) were similarly listed species under both the State and Federal Endangered Species Acts, but have both been delisted owing to population recovery. It is M&A's opinion that the Swainson's hawk population has also greatly recovered, but owing to the absence of a thorough population census in California since the species was listed by the Department, it remains protected pursuant to the California Endangered Species Act.

This raptor inhabits open to semi-open areas at low to middle elevations in valleys, dry meadows, foothills, and level uplands (Kochert 1986). It nests almost exclusively in trees and will nest in almost any tree species that is at least 10 feet tall (Schmutz et. al. 1984). Nests are constructed in isolated trees that are dead or alive along drainages and in wetlands, or in windbreaks in fields and around farmsteads (Palmer 1988). Swainson's hawks occasionally nest in shrubs, on telephone poles, and on the ground. In the Central Valley of California, the majority of Swainson's hawk nests and territories are associated with riparian systems and nests are commonly found in cottonwoods and oaks (Schlorff et. al. 1984). They have also been documented nesting in eucalyptus (*Eucalyptus* spp.), black walnut (*Juglans hindsii*), black locust (*Robinia pseudoacacia*), almond (*Prunus dulcis*), Osage orange (*Maclura pomifera*), Arizona cypress (*Cupressus arizonica*) and pine (*Pinus* spp.) (CNDDDB records).

Foraging habitats include alfalfa fields, fallow fields, beet, tomato, and other low-growing row or field crops, dry-land and irrigated pasture, and rice land when not flooded (CDFG 1994). The Swainson's hawk generally forages in open habitats with short vegetation containing small mammals, reptiles, birds, and insects. Its primary prey in the Central Valley is California meadow vole (*Microtus californicus*). Agricultural areas are often preferred over more natural grassland habitats due to larger prey populations. In addition, agricultural practices (planting, maintenance, harvesting, disking) allow for access to prey, and very likely increase foraging success of Swainson's hawks by flushing prey (personal communication between J. Estep and G. Monk 2002). During the nesting season, Swainson's hawks usually forage within two miles of the nest. Swainson's hawk does not require habitats that contain many perches because it most often searches for prey aerially; therefore it can occupy habitats with few or no perches except the nest tree (James 1992).

A 2005 record for a nesting Swainson's hawk is located approximately 4.2 miles north of the project site along the south bank of Suscol Creek, in south Napa (CNDDDB Occurrence No. 1619). Swainson's hawks have not been observed nesting any closer than 4.2 miles from the project site. However, the Swainson's hawk is a mobile species that is could nest in the riparian canopy or the coast live oak trees on the project site in the future. Preconstruction nesting surveys should be conducted before tree removal and earth-moving activities commence on the project site. If Swainson's hawks are identified nesting on or immediately adjacent to the project site, appropriate mitigation measures will be implemented.

The CDFW has prepared a *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California* (CDFG 1994) (hereinafter the Mitigation Guidelines) that prescribe avoidance and mitigation guidelines for impacts to Swainson's hawk nesting and foraging habitats. This document emphatically presents a case that impacts within 10 miles of any active nesting territory that are not mitigated, would be contrary to protections afforded Swainson's hawks through CEQA (14 CCR §15380). The Mitigation Guidelines further state that acceptable mitigation to offset impacts to Swainson's hawk foraging habitat can be met by Fee Title acquisition of Swainson's hawk habitat, or by acquisition of conservation easements over lands that can be managed for this hawk species (hereinafter Habitat Management Lands). Any land acquired through Fee Title would have to be donated to a suitable conservation organization for management. In addition to providing Habitat Management Lands, applicants would be assessed a management fee for the long-term management of the Habitat Management Lands by a suitable conservation organization.

Although the project site is located within the 10-mile radius of a known Swainson's hawk nest (CNDDDB records), and is therefore within the "defined foraging area" for this species (CDFG 1994), the grasslands on the project site provide less appealing hunting habitat than other open spaces in the region of the project site. The site has relatively steep terrain with densely wooded areas and Swainson's hawks generally prefer flatter terrain for hunting. This likely is a response to competitive pressures from other hunting raptors such as the red-tailed hawk that are common in hillside habitats of the area. Thus, it is M&A's opinion that this hawk would be unlikely to be found hunting over the project site. Therefore, the proposed project will not result in impacts to Swainson's hawk foraging habitat. Regardless, the applicant will be placing 67.18 acres of the project site into a dedicated open space preserve, which will satisfy the CDFW's mitigation

requirements for impacts to potential Swainson's hawk foraging habitat within 5 miles of a known nest site. Consequently with dedication of the 67.18 acre open space preserve, no further regard for potential impacts to Swainson's hawk foraging habitat are warranted.

10.2.6 WESTERN BURROWING OWL

The western burrowing owl (*Athene cunicularia hypugaea*) is a California species of special concern. Its nest, eggs, and young are also protected under California Fish and Game Code (§3503, §3503.5, and §3800). The burrowing owl is also protected from direct take under the Migratory Bird Treaty Act (50 CFR 10.13). Finally, based upon this species' rarity status, any unmitigated impacts to special-status species would be considered a "significant effect on the environment" pursuant to §21068 of the CEQA Statutes and §15382 of the CEQA Guidelines. Thus, this owl species must be considered in any project that will, or is currently, undergoing CEQA review, and/or that must obtain an environmental permit(s) from a public agency. When these owls occur on a project site, typically, mitigation requirements are mandated in the conditions of project approval by the CEQA lead agency.

Burrowing owl habitat is usually found in annual and perennial grasslands, characterized by low-growing vegetation. Often, the burrowing owl utilizes rodent burrows, typically ground squirrel burrows, for nesting and cover. They may also on occasion dig their own burrows, or use man-made objects such as concrete culverts or rip-rap piles for cover. They exhibit high site fidelity, reusing burrows year after year. Occupancy of suitable burrowing owl habitat can be verified at a site by observing these owls during the spring and summer months or, alternatively, the presence of its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement (white wash) at or near a burrow entrance. Burrowing owls typically are not found in grasslands with tall vegetation or wooded areas because the vegetation obscures their ability to detect avian and terrestrial predators. Since burrowing owls spend the majority of their time sitting at the entrances of their burrows, grazed grasslands seem to be their preferred habitat because it allows them to view the world at 360 degrees without obstructions.

The closest known record for burrowing owl is located 1.1 miles south of the project site (CNDDDB Occurrence No. 109). According to this 1979 record, a burrowing owl was observed in a grassy area near "Susan Road." This habitat has been lost to development. Regardless, western burrowing owls are also known to currently occupy the NVUSD's California red-legged frog preserve located approximately 0.3-mile southeast of the project site.

In May 2013, M&A biologists observed burrowing owl pellets and white wash near a fence post on the eastern boundary of the project site. However no burrowing owls, burrows, or burrow hosts, the California ground squirrel (*Spermophilus beecheyi*), were observed onsite in 2013. Further, the project site grasslands are currently not grazed, and the tall dead vegetation on site discourages burrowing owl occupancy. As such, M&A does not believe this ground-nesting owl is currently present onsite. The white wash and pellets may simply have been from a visiting/hunting owl. Regardless, this is a mobile species that could move onto the project site in the future. In order to avoid potential impacts to burrowing owls, a nesting season survey should be conducted the year that development of the project site commences. The survey should follow the survey methodology prescribed in the Department's *Staff Report on Burrowing Owl*

Mitigation (CDFG 2012). If burrowing owls are identified nesting on or immediately adjacent to the project site, mitigation measures will be implemented.

10.2.7 LOGGERHEAD SHRIKE

The loggerhead shrike (*Lanius ludovicianus*) is a California species of special concern. Active nests, eggs, and young are also protected pursuant to Fish and Game Code §3503. It is also protected under Fish and Game Code Section 3800. This small, predaceous bird of open and often arid habitats prefers areas with scattered shrubs, trees, posts, fences, utility lines, and other acceptable perching locations. This shrike preys mostly upon large insects, but also takes small birds, mammals, amphibians, reptiles, fish, carrion, and various invertebrates. It typically constructs a stick nest on a stable branch in a densely foliated tree or shrub. Blackberry (*Rubus* spp.), rose (*Rosa* spp.) and willows (*Salix* spp.) provide nest sites. Site selection is apparently based on the degree of protective cover rather than on a particular plant species (Shuford 1993). Although nest height varies from 1.5 to 30 feet above ground, it is rarely less than three feet (op. cit.).

Loggerhead shrikes have not been detected on the project site during M&A's 2007, 2008, and 2013 surveys. However, the open grassland community on the project site provides suitable hunting ground for loggerhead shrikes, and the oaks, willows, blackberry thickets, and shrubs that occur onsite provide potentially suitable nesting habitat. Preconstruction nesting surveys should be conducted before tree removal and earth-moving activities commence on the project site. If loggerhead shrikes are identified nesting on or immediately adjacent to the project site, mitigation measures will be implemented.

10.2.8 TRICOLORED BLACKBIRD

Tricolored blackbird (*Agelaius tricolor*) is a California "species of special concern." It has no federal status. In 2014, the Center for Biological Diversity petitioned the California Department of Fish and Wildlife (CDFW) to list this blackbird under the California Endangered Species Act (CESA). In December 2014 the Fish and Game Commission implemented emergency protections from nest destruction and shooting protecting the tricolored blackbird under the CESA. Those protections expired in June 2015 without the Fish and Game Commission listing the tricolored blackbird. Thus, at this date the tricolored blackbird is designated as a species of special concern by the State of California. It should be noted that on August 19, 2015 that the Center for Biological Diversity again petitioned the California Department of Fish and Wildlife (CDFW) to list the tricolored blackbird. If the petition is accepted and the Fish and Game Commission concludes (i.e., a final ruling is made) that listing under the CESA is warranted, tricolored blackbirds would then be provided with full protection under the CESA. As of the date of this report, *tricolored blackbird nesting habitat* is protected as this blackbird is a Species of Special Concern (nesting).

A gregarious species, the tricolored blackbird is typically found near freshwater, particularly near marsh habitat. Nesting colonies are typically found in stands of cattail and bulrush (*Scirpus* spp.), although they are also known to utilize blackberry patches and thistle clumps (*Cirsium* spp. and *Cynara* spp.) adjacent to water. Flooded lands, margins of ponds, and grassy fields in summer and winter provide typical foraging habitat for this species.

The closest record for this species is located 1.9 miles north of the project site (CNDDDB Occurrence No. 243). This species may forage over the project site and marginal nesting habitat

occurs in the dense blackberry thickets along Newell Creek that borders the project site. Although tricolored blackbird has not been identified on the project site during M&A's 2007, 2008, or 2013 surveys, this is a highly mobile species that could move into the area and nest on the project site in future years. Preconstruction nesting surveys should be conducted before tree removal and earth-moving activities commence on the project site. If tricolored blackbirds are identified nesting on or immediately adjacent to the project site, mitigation measures will be implemented.

11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Mitigated Negative Declaration for the Canyon Estates Project was approved and adopted by the City of American Canyon on January 20, 2015 (State Clearinghouse # 2014082050). The Notice of Determination dated February 4, 2015 is included as Attachment B).

12. PROJECT SCHEDULE

The applicant proposes to begin project site construction and grading in the 2017.

13. LITERATURE CITED

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