Letter 43
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Sierra Nevada Arborists, 2001 was a tree inventory
Foothills Associates, 2004 concerned the VELB Mitigation Monitoring Plan
Stantec, 2005 constituted the tree removal summary.

43-126 cont'd

Other than the outdated Acorn survey from 1991, and possibly Sanders's work, these narratives do not qualify as adequate current field surveys to assess the plant, vegetation, and/or wildlife impacts, especially to sensitive species. **Please require a new EIR for this project with biological assessments that meet state and federal protocol standards and recommendations.**

43-127

It is stated in Vol II, Appendix I, page 5 that ECORP visited the site again on November 16, 2005, to conduct a "Special-Status Species Assessment in a "reconnaissance-level" field survey. No explanation is given as to what was assessed, how, under what conditions, or whether standards of protocol were followed. No explanation is given as to the scope or description of this reconnaissance-level survey. No information ascertained from the survey, nor the survey itself. The information provided is primarily a narrative of previous work. The conclusion is stated, "As the past botanical work is somewhat dated (circa 1992), follow-up surveys may be warranted." (Vol II, Appendix I, Biological, ECORP, page 5) **When the applicant's own professional consultants acknowledge the obsolescence and need for new surveys, what more compelling arguments can be presented? Please conduct a new, complete botanical/biological survey(s) and identify procedures used.**

43-128

For the 2006 DEIR, ECORP performed an assessment and review of previously submitted studies which are outdated, incomplete, inadequate, and possibly unavailable for review (Appendix referenced in 1995 DEIR, page AA-1). The DEIR acknowledges in the special-status species assessment, that the white tailed kite, Northern Harrier, and Cooper's Hawk have all been observed on the project site, but there is no evidence in the DEIR that any of these special-status birds, or any of the others listed, were assessed or studied according to state or federal standards of protocol.

As an example of how incomplete and inadequate the assessment is, we submit the following.

The DEIR acknowledges (Vol I, page 4.8-17 & Vol II, Appendix I, page 14) that suitable breeding habitat for the California Threatened species, Black Rail, exists on site. However, this fact is dismissed with the statement that, "none have been observed during prior field surveys." One would never expect to "observe" this highly elusive species except as a result of thorough and focused surveys done at the appropriate time of day and at the appropriate season. There is no evidence that such surveys were ever conducted. Therefore, this project has the very real potential to impact a critically threatened California species. **We ask that, before any further work is done, thorough surveys for Black Rail be completed. At a minimum, such surveys must be conducted by a biologist experienced with this species; they must be conducted during peak breeding season (late March through April), at peak calling times (shortly before dawn and shortly after dark); and they must include playback of taped breeding calls (since this species is very rarely detected other than by calls).**

43-129

We ask that the City make a specific inquiry to California Department of Fish and Game asking whether that agency considers the nature and extent of the field surveys conducted on this site to be adequate to conclude that Black Rails are not present.

Migratory birds forage and nest in Clover Valley and can be observed at appropriate times of the year. Although we may have missed it, we cannot find

26

Letter 43 cont'd

43-129 cont'd

meaningful reference to migratory birds in this DEIR. Herons, egrets, and Canada geese protected by the Migratory Bird Treaty Act (MBTA) are among a few that have been observed regularly in the valley but do not have an impact analysis in the DEIR. Please address this apparent oversight, provide information, and recirculate for public review.

43-130

The Davis2 Draft 2001 update states, "As Articulated by Holland (1995)" (page 4). However, no reports or any other references of work performed by Dr. Holland are to be found in any of the three Draft EIR's that have been prepared for Clover Valley. Either we are missing a 1995 Holland report, or this is a typographical error. If it is the former, **please conduct a new EIR and provide us with all documentation.**

43-131

Page 4.8-13, Fish. Although a short negative narrative is provided in both Vol I and Vol II that attempts to defend a position that fish cannot migrate in Clover Valley Creek, further analysis of other fish is dismissed. No list of fish found in Clover Valley Creek, or potential, is to be found nor is any further discussion conducted; however, there are fish in Clover Valley Creek in the area of the proposed project. Conspicuously absent from this DEIR is any listing of fish species that have been observed in Clover Valley Creek.

Fish in Antelope Creek, although missing from this DEIR have the potential to reach Clover Valley Creek, especially with high water events (such as Dec 31, 2005) A list must be provided which would include the F&G files that list species found in historically in Antelope Creek and currently in Clover Valley Creek. Historically, fish found in Antelope Creek (and possibly Clover Valley Creek) included Fall-run Chinook salmon, Golden shiner, Green sunfish, Carp, Speckled dace, Sacramento pikeminnow, Brown and Black bullhead, bass, Mosquitofish, Hitch, and Sacramento sucker. In addition to the F&G records, historically, Pacific Lamprey may have been (and may be) in Clover Valley Creek. The impacts to the fish currently in Clover Valley Creek need to be analyzed and made available for public review.

Constant reference is made to the NOAA Fisheries BO. There are two dates given for its issuance. One is that the BO was issued on May 9, 2002 (page 4.8-13 and 4.8-54). However, Vol II sites a different BO dated October 22, 2002 (Vol II, Biological, ECORP, page 24 MM 3b). Although a portion of a supposed NOAA BO is printed on page 4.8-32, we do not have access to that document,[1] nor do we know which issuance is being referenced. The ECORP report in Vol II, page 24, MM3b states, "The setback between the proposed roads and Clover Valley Creek shall be increased from 50 feet to 75 feet, per the conservation recommendations from NMFS in the Biological Opinion dated October 22, 2002." This contradicts what is stated in Vol I. **Unless an inadvertent typo error, please provide a copy of the NOAA BO document(s) and explain the discrepancy in both the statements and the dates. Please allow the public to comment on the correct document(s) in a new Draft EIR.**

43-132

According to a recent discussion with NOAA staff, since 2002 species have been reclassified and critical habitats have been redesignated by NOAA. **Please determine if the 2002 BO reference is current and update the potential impacts using NOAA's latest species classifications and habitat designations. Please recirculate this information and allow the public to comment.**

[1] Since writing this section of our comments, we have found the NOAA BO document on the internet. We believe the majority of the public will not be able to find it, and thus our comments relative to its unavailability are still valid.

Letter 43 cont'd

43-133 NOAA recently informed us that under the terms and conditions of the BO prepared by Kelly Finn in 2002, on page 18, the 50 feet setback from the riparian corridor is **MANDATORY**. A GP amendment will **not** override this mandate. Also, we were informed that the 50 feet setback for the bike trail is also **MANDATORY**. No elements of the project may enter these setbacks. **Please investigate the actual terms and conditions of the NOAA BO; please provide a copy of the BO for the public to study. Please recirculate this information in a new EIR.**

43-134 Vol II, Appendix I, Biological, ECORP report, page 25 states that the permanent setback would be implemented by the project applicant with annual monitoring reports...." **How was an annual monitoring plan determined to be sufficient (as opposed to a weekly or monthly monitoring program)? Who will fund the preparation of the annual monitoring reports? Will funding guarantees or performance bonds be required? Who will enforce violations or noncompliance? What will the penalties or repercussions consist of? Please provide this information and circulate it for public review. Please indicate how the monitoring plan will be effective in keeping the impacts to less-than-significant levels.**

43-135 Page 4.8-23—1997 Development Agreement (DA)

We are told the DA was approved with the oak tree removal percentages. We are not informed whether or not an EIR was prepared for that DA.

We are told that in the DA, Exhibit C is the General Plan Amendment GPA-91-07. We are not informed whether or not an EIR was prepared for that General Plan Amendment.

In Resolution (No. 97-49), labeled as Exhibit C in the DA, we are informed that an EIR was certified for the **project**; but in that 1996 FEIR, we find no mention of the oak tree removal arrangement or of the DA. In fact, in the Mitigation Measures, ZMM 2a, of that FEIR, it is stated, "Oaks removed or destroyed during development should be compensated for under the City of Rocklin Oak Tree Ordinance. (REQ)"

Was an EIR completed for either the Developer Agreement and/or the General Plan Amendment that supposedly deals with the oak tree removal percentages or any aspect of the oak tree removal from this project?

43-136 The City and the applicant apparently believe no mitigation is required for the removal of the 1632 oaks (public roadways). The DEIR states that impacts to biological resources are considered significant if they "Conflict with adopted environmental policies and goals of Rocklin, such as a tree preservation policy or ordinance;" (page 4.8-24, first bullet). The developer cannot be insulated from mitigating the significant impact (loss of 1632 oaks) by excluding them under the mistaken notion that the DA supercedes CEQA. Thus, the 1632 oaks that are to be removed for the roadways must be mitigated. **Please provide adequate MM and circulate for public review.**

Page 4.8-26+27, Loss of oak trees.

43-137 The DEIR attempts to explain that with the Development Agreement (DA), the City gave up mitigation opportunities in exchange for a preserve that it was rightfully entitled to. In an effort to put a cap on the destruction, a 25% limit was set. However, to avoid consequences of exceeding that limit, and trigger rightful mitigation measures, the dance of "exclusions" was put in place. Not only were public roadway tree removal

28

Letter 43
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numbers not counted toward the MM threshold limit, but also it appears trees removed for the commercial area were not included in the count to reach the limit either.

This project has a significant oak woodlands impact. It is not mitigation to claim that the oaks that are not removed will remain as an oak tree preserve, and thus avoid adequate mitigation measure. Not removing oaks on slopes that are too steep for building is not mitigation. **The project must compensate for its oak habitat impacts by replacing or providing substitute oak woodland resources or environments. Please provide adequate mitigation for the loss of not only the public roadways but for the entire project.**

43-137 cont'd

The Oak Tree Preservation Ordinance was enacted on May 11, 1993. The Development Agreement was signed at least 4 years later, thus, the DA violated the Oak Tree Ordinance. Either that part of the DA contract (or all) must be voided since an illegal activity cannot be enforced, or the applicant and the City must enforce the Oak Tree Ordinance and its mandated mitigations. **Please conform to legal procedures in voiding the contract that violates legal policies and require mandated mitigation for tree removal in excess of 26%.**

43-138

In addition, California legislation SB 1334, passed in 2004, protects oak woodlands and requires more rigorous mitigation for removal of oaks. A number of woodlands mitigation alternatives in the bill are: (1) Conserve in perpetuity, through the use of conservation easements, two oak trees of the same species for each oak tree that is removed. (2) Restore former oak woodlands provided that at least twice as many trees will be restored as the project removes. (3) Contribute funds to the Oak Woodlands Conservation Fund. **How is the proposed project's tree removal complying with SB 1334?**

43-139

A major problem for the public in reviewing this impact, assuming the DA terms override the City's oak tree ordinance, CEQA, and SB 1334, is that we do not know for certain the count of each oak tree specie removed for the public roadways, commercial, off-site sewer line installation, etc. Appendix J should have the summaries of the totals (species type, purpose for removal). Instead, we are given a "Phase Layout" exhibit which points but doesn't tell us which roads count toward the cap and which are in the free zones. A table is provided for Valley View Parkway and another for "major roads," but we don't know if private, gated roads are counted in the major roads (since some inadvertently may be). The letter "E" is designated as Easement, but we don't know if that means utility easement or private road easement. **Please clearly designate how many trees and which species will be removed for public roads, private roads, residential units, utility easements, bike trail, commercial, and on and off-site sewer line installation. Please allow the public to review those tree removal findings and comment.**

43-140

The count for the tree removal does not indicate what is included in zone 2, the parkway. Were the counts based on a two-lane road or based on the original proposed four-lane roadway? Were the counts based solely on 80' wide right of way or did the count expand to include the trees lost from the slopes on either side of the roadway? Sheet RP-6 shows four "benches" on the uphill side, "varies 10'-20'" which could result in 40 to 80 more feet of additional tree removal. When this is added to the downhill terracing, the tree removal swath is potentially 240 feet. Are the trees removed from the slopes and benches counted in the "free" public roadways tree removal count or are they counted for mitigation purposes? We need to be told the tree removal count for the two-lane parkway, the four-lane parkway, and the cut-and-fill areas. Without these numbers, we cannot compare and evaluate the number of trees being removed. Please provide the

43-141

Letter 43 cont'd

true breakdown of tree removal for each public and private roadway, pad, easement, trail, and commercial.

43-141 cont'd

The phase layout map clearly does not identify any of the roadways north of Valley View Parkway as being a part of either phase 2 or 3. **Were trees removed for roadways north of the parkway included in the public roadways count, or are those all private, gated roads?**

43-142

Also, the specie breakdown cannot be obtained unless one thumbs through the lists of over 7,400 trees and phase tables to total up the removals. The table that would summarize phase 4a, one of the largest tree phase removals **is missing from Vol II**. **Please provide a breakdown of trees removed on public and private roadways so that the public can figure the percentages. Please provide a summary of specie removal in each of the categories as well and recirculate for public review.**

43-143

The use of the term "phase" is a bit misleading in light of a statement in the DEIR that the applicant plans to do one major phase of grading (page 3-15). **How is "phasing" in a timing context related to this project's planned tree removal process?**

43-144

The DEIR states, "The Development Agreement specifies that trees removed as a result of General Plan project roadways are not counted toward the 25 percent cap." (page 4.8-26) If the GP amendment only refers to Valley View Parkway, then only trees removed for the GP amendment approved parkway should be credited for the exclusion. The tables say "public roads," which implies that the exclusion toward the 25% cap included trees on all other public roadways in the project. Are we to assume the private, gated roadways were **not** included in the exclusion? We have no way of knowing. **Have all the public roadways been approved in GP amendments? Or just the cross valley parkway? If all the public roadways in the proposed project were included in the GP amendment, please provide that amendment for public review.**

43-145

Calculations are given for tree removal for roads, and small lots (residential "pad" is specifically stated—page 4.8-26). **How was the actual tree removal count per lot determined**? Without a better detailed count breakdown, we cannot review the number of trees to be removed or their percentages or their species.

43-146

The statement is made that the tree count removal may be conservative since some counted trees may not be removed during grading. (p 4.8-26) However, damaging the drip line, and/or other soil/root disturbances (parking of construction vehicles or cars, stockpiling fill, etc.) can impact tree mortality that is not noticed for a year or two or longer. It would be just as prudent to assume that once grading or home construction begins, trees not removed initially may be subsequently removed and result in an even larger totals of trees removed. Also, home owners are notorious for "view trimming," improper watering, and other inadvertent lethal oak tree practices. **Was any consideration given to the possibility that the tree removal totals were underestimated? Please provide adequate detail for the public to review the actual tree removal statistics for determining percentages, caps, and mitigation.**

43-147

Page 4.8-27, MM-1(b). The MM measure stated is not mitigation. It is a strategy to be developed. It is something nebulous that the applicant will develop for review by the Community Development Department. **The MM must specifically address an impact with an activity that we can review. Please present appropriate mitigation and recirculate for public review.**

43-148

Page. 4.8-28, I-3—Impacts to special-status grassland plant species. In Vol II, "Impact 2. Impacts to Grassland," page 21, which is the latest supporting document for

30

Letter 43
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the ECORP "Biological Impact Analysis," it states, "A recent determinate survey for special-status plants has not been performed on the project site; therefore a follow-up rare plant survey targeting potentially occurring grassland special status species [three listed] is suggested during the appropriate blooming periods. **This information should have been included in Vol I to give a more accurate description of the project impacts. The suggested follow-up survey should have been included in this DEIR analysis as well. Please conduct the suggested survey, publish the results, and allow the public to comment via a new EIR.**

43-148 cont'd

Vol I, page 4.8-28 specifically mentions Sanford's arrowhead, implies that it is addressed under Impact 4.8 I-4, and then concludes that since special-status grassland plants do not occur on site, the project would have less-than-significant impact. However, in VOL II, page 21 ECORPS, "Impact 2. Impacts to Grassland" and "Impact 2a. Impact to Special-Status Grassland Plant Species," MM 2a states that "A determinate survey for special-status plants shall be performed within one year … for each plants species as indicated below: Big-scale balsamroot..., Brandegee's clarkia..., and Stinkbells..." **Since the three special-status species are listed as potentially occurring on site, the botanic survey is outdated (performed 14+ years ago), and a follow-up rare plant survey is suggested by ECORPS, then why is the impact considered less-than significant and no mitigation is required? Please explain the criteria and logic used. Please address the inconsistency between what is stated in Vol I and Vol II with regard to the potentially occurring special-status plant species. Why are these three plants listed in Vol II, but not included in the DEIR Vol I impact?**

43-149

Page 4.8-29, 4..8 I-4. The DEIR in "Construction –related impacts…intrusion," states that the ground truthing of the current wetland delineation [expired] represents current conditions, that the NOAA Fisheries recommendation was a 75 foot buffer, and that the City will designate a buffer area greater than 50 feet for perennial streams. No mention is made of setbacks or buffers from the many natural drainage contours found in the proposed project. Currently an open culvert that drains under Park Drive onto the project site releases a great deal of run-off and now has cut deeply into the hillside. **Please identify all the natural drainages, perennial and seasonal, analyze the impacts, and apply recommended setbacks accordingly. Please make this information available to the public for review.**

43-150

Page 4.8-30, 4.8MM-4(c). Although the "no net loss" of wetlands would seem reasonable, because of cumulative losses of over 90% of all wetlands in California, a 1:1 ratio as proposed is not acceptable. It is not unusual in this region to require 2:1 or even 3:1 wetlands mitigation ratios. Restored wetlands have lower plant diversity than natural wetlands and, therefore, are not as desirable. **Please require greater than 1:1 wetlands MM.**

43-151

This section also states that the applicant has obtained a permit from the Corps; we can only assume this is a reference to a wetland fill permit, which has expired. If not referring to the expired wetland fill permit, **what valid permit is being referenced here?**

43-152

This MM is not in fact mitigation. What we are given is a process for the planning of the replacement. We are not given the ratios, location, nor any of the other standard requirements for wetlands mitigation. Furthermore, instead of requiring funding or performance bonding/endowment funding, we are informed that the plan "may" include these aspects. **Please provide the actual mitigation measures and not a**

43-153

31

Letter 43 cont'd

43-153 cont'd

description of a process of a plan that may or may not be funded. Please recirculate the EIR with this information provided for review.

43-154

4.8MM-4(d). **Has the City's Community Development Department agreed to monitor the fencing for the project as stated? How will the monitoring be funded for the estimated 5 to 7 years of construction build out? What are the penalties for noncompliance?**

43-155

Page 4.8-31, 4.8 I-5. Long-term operational impacts to riparian and seasonal wetland habitat due to intrusion. The loss of riparian wetland is addressed, but the encroachment within the 50' buffer is not described other than indicating that it would occur "in a few locations...." We need to be given distances; just **how much intrusion into the buffer zone is planned? With the bike path? With the proposed fencing around the residential units adjacent to the creek? With the project roadways where, as previously mentioned, the MM requires the setbacks to be "increased from 50 feet to 75 feet? Please provide information as to the amount of encroachment being proposed in a recirculated EIR for public comment.**

43-156

A most disturbing aspect of this DEIR is the either misleading or contradictory statements with regard to just how much encroachment within the setbacks is occurring. On page 4.8-31, it is stated as "a few locations...but 50' elsewhere." On page 4.8-32, it is stated "this fencing [around residential units adjacent to the creek] occurs within 50 feet of the riparian area in a few locations..."; in referencing the balancing act, "only in limited instances"; and with regard to the bike trail "the only place in which the 50-foot buffer is not maintained...." However, maps indicate that the encroachment of the bike trail itself may occur in a number of places—not just one as implied; also the residential units may be within the 50' encroachment on Forest Clover Road. **Please require the applicant to adhere to the 75' recommendations or to point out all encroachments, along with the depth in feet and inches, the slopes, and the type of surface at each of those encroachments so that we may review the impact as CEQA intended.**

43-157

One of the most significant impacts to the riparian wetland may be the loss of any valley oak. Although we cannot thoroughly review the impacts because we are not given exact locations of the creek crossings and/or the number of trees and species that will be removed, we are informed that valley oaks will be lost. We can attempt to total from the tree summary Phase charts (Vol II, Appendix J), but table 4a is missing. Without the summary information, a public review of the tree numbers, species, and phase counts cannot be conducted without counting each of the 24 pages of tree inventory sheets for 4a. Since it is one of the largest tree inventory lists, it is critical that that summary information be provided to the public in a manner that is easily read. We can only assume approximately 200 valley oak will be removed from the riparian areas. Please provide a total of the number of valley oak that will be removed.

In the many pages of tree count, no reference is found to one of the finest trees in the valley which is an incense cedar, located east of the creek, near the current unofficial creek crossing. **How could that tree have been overlooked in the count? What is its fate? If it is to be removed, what will be the mitigation?** Hopefully this is not a reflection of the accuracy of the tree count. It must be noted that every time there is a tree count, new totals emerge.

32

Letter 43 cont'd

43-158 The proposed residential fencing is also going to encroach into the buffer zone and is significant on other impact levels. The setbacks or buffers are required in part to protect the integrity of the creek. With residential back yards encroaching within the buffer, one can only imagine the chemicals (fertilizers, herbicides, pesticides), pet waste, and other assortment of toxic or harmful run off that can pollute the creek within the project as well as downstream. **Please explain why these encroachments are not designated significant. Please require that no residential property of any type, including boundary lines, encroach within the required setbacks.**

43-159 We are informed that the NOAA 75 feet buffer recommendation appears in the BO under "Conservation Recommendations" and further explanation in the DEIR is presented. However, the public is not given any opportunity to review the BO. The Conservation Recommendations cannot be reviewed to ascertain the context in which they were suggested. **Please provide NOAA BO documentation to support the NOAA recommended 75 feet buffer. We are requesting a new EIR in order to adequately review these documents upon which a major encroachment is being based.**

43-160 The DEIR dismisses NOAA's 75 feet buffer recommendation by claiming that words such as "should" "encourage" "recommend" and "consider" do not constitute a mandate. As a respected public agency, NOAA fisheries does not arbitrarily assign distances for setbacks. The NOAA BO clearly explains how contaminants from increased impervious surfaces suppresses the immune responses of juvenile Chinook salmon, how polluted stormwater run off can result in lethal impacts to the fishery, and how the setbacks allow some dilution. Without adequate buffers, the runoff takes a direct route directly into the creek. During storm events, filters would be overloaded and unable to remove pollutants. The NOAA BO consists of many pages of eye-opening impacts which the public should have access to. NOAA's opinions are scientifically based, and its standards for protecting the creeks are neither excessively high nor unreasonable. **Please adopt NOAA recommendations, provide the BO documents for the public to review, and recirculate the EIR.**

43-161 In the NOP, the California Department of Fish and Game (F&G) submitted a number of recommendations, including item 9, "Incorporate measures for Low Impact Developments [LID] as part of any project design in an effort to mitigate water quality impacts." LID suggests setbacks of 100 to 200 feet from floodplain edge. In the NOP for the 2002 Draft EIR, F&G stated that permanent wetlands should be protected by no less than 100-foot setback buffer areas; that intermittent streams and swales should be protected by no less than a 50-foot non-building setback buffer; and that buffer widths should be modified to protect the most sensitive species (May 23, 2001, page 1). The proposed 50' buffer, which is not enforced, does not come close to adhering to sound principles suggested by two highly respected public agencies. **Please adhere to both F&G's recommendations and follow the LID principles with regard to creek setbacks.**

43-162 Related to the use of NOAA's wording above, Rocklin's General Plan is quite clear as well in stating: For purposes of interpreting and applying this General Plan, words such as "should," "encourage," "discourage," and "promote" are intended to state a genuine commitment to the objective [of] the policy, to be honored in all cases unless compelling and countervailing considerations warrant otherwise. In those cases, the decision-maker shall make specific findings as to those compelling and countervailing considerations. (page 1-2)

33

Letter 43
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Please follow this General Plan commitment to adhere to the objective of the policy and not the whim of the project. To encroach into the 75' recommended setbacks, in a steep-sloped, sensitive creek area when it is not compelling, is to mock the commitment to resource conservation. Please require 75' setbacks in relatively level riparian areas and 100 to 200 feet setbacks especially in riparian areas within 75' of steep slopes.

Rocklin's 1991 General Plan also addresses the creek setback issues in "Community Safety Element" Goal/Policy 7: To prohibit development along stream channels that would adversely reduce the stream capacity, increase erosion, or cause deterioration of the channel."

Clover Valley's steep slopes will cause massive loads of sediment and run off into the creek when storms occur. With residential units, fences, biking/hiking trails, and sewer lines at the bottom of the steep slopes, and possibly other incidental encroachments in the buffer zones, the integrity and suitability for fish habitat of Clover Valley Creek as well as future restoration projects will be jeopardized.

43-162
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Rocklin's 1991 General plan also addresses the steep slope restrictions in "Community Safety Element" Goal/Policy 11: To limit development areas with severe slopes."

These are serious, significant impacts that require mitigation. **Please examine and analyze the encroachment areas in relation to their unique setting in the project (relatively open? flat area or steep? narrow confines?) and not in the broad generalization that is typical of the landscape in the rest of Rocklin. Please consider the impacts in light of the multiple 1991 General Plan policies that clearly send an intention to NOT ALLOW the type of development that is proposed in this project. Please revise the impacts and mitigation accordingly and recirculate the DEIR for comment.**

Impact I-5 is particularly disturbing in its being designated at less than significant and having no MM required for the following reasons:

The General Plan's 50 feet buffer, behind which the project attempts to insulate and diminish its obligation to protect riparian areas (and circumvent NOAA's recommended 75 feet buffer and F&G's larger buffer), is not acceptable or appropriate when the integrity of a viable creek is at stake. Although the GP citation is from page 60, it is taken out of context and placed in the DEIR as a diversion from more compelling wording in the sentence following the 50 feet setback reference, which is, "The City will designate a buffer area **greater than 50 feet for perennial streams when it is determined that such a buffer area is necessary to adequately protect drainage and habitat areas**." (page 60, emphasis added). To cite only the one sentence out of context with the entire Action Plan is misleading.

43-163

The 2002 NOAA BO states the rationale for the 75' buffer on page 9,

> "The buffer distances represented by measured points measured at 500 ft. intervals indicate that the roads which follow the contour of Clover Valley Creek is proposed to be located mostly less than 75' from the creek's edge on both sides, and often within 50 feet. Over time, this would also limit the ability of the creek to migrate naturally within the floodplain and could lead to channelization of the creek flow. Channelized flow would cause downcutting and erosion, and could over time lead to degradation of the riparian corridor. This could cause increased sediment and elevated water temperatures in downstream areas which may be used for steelhead rearing."

34