



DEVELOPMENT SERVICES  
DEPARTMENT

**CITY OF SACRAMENTO**  
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## **DELTA SHORES FINAL ENVIRONMENTAL IMPACT REPORT**

**SCH No. 2007042070**

**ERRATA No. 3: January 9, 2009**

The Delta Shores Final Environmental Impact Report (Final EIR) has been released for public review. The City has provided copies of responses to written comments on the Draft EIR to persons and agencies submitting such comments. The City issued Errata No. 1 to the Final EIR dated December 10, 2008, and Errata No. 2 on December 17, 2008.

The following additional changes are being made to the Final EIR as circulated. The discussion below identifies the changes and the affected sections of the Final EIR.

### **1. Discussion re: Mitigation Measure 5.4-3 (Final EIR page 2-15 et seq.)**

Impact 5.4-3 (DEIR, page 5.4-30 et seq.) identified project impacts on foraging habitat for Swainson's hawk and other raptors. The impact was identified as less than significant based on mitigation that included preservation of suitable raptor foraging habitat at a ration of 1:1.

Comments received regarding the impact and proposed mitigation resulted in a re-examination of the mitigation. The Final EIR included revisions to Mitigation Measure 5.4-3 that more specifically identified the proposed mitigation areas, identified performance standards for selection of such lands, and confirmed the need for a written mitigation plan that would identify the specific mitigation components. The revised mitigation measure was as follows:

- 5.4-3 *Prior to the issuance of grading permits, the project applicant shall preserve an equal amount of suitable raptor foraging habitat, at a 1:1 ratio or greater, or a ratio acceptable to GDFG.<sup>30</sup> Suitable foraging habitat includes alfalfa or other low growing row crops. The applicant shall preserve approximately 100 acres of suitable Swainson's hawk habitat closest to within a five mile radius of the project site. An additional approximately 800 acres at the Brannon Farms location shall be actively farmed and maintained with a crop rotation that is known to support high quality foraging habitat (e.g., alfalfa) in perpetuity. The Brannon Island Farms site is currently located within close proximity to several active*





Swainson's hawk nests, according to the CNDDDB. Any habitat identified by the applicant shall be evaluated using the following five criteria in consultation with the CDFG:

- i. Does the mitigation parcel provide suitable foraging habitat?
- ii. Is the parcel located in close proximity to the impacted foraging habitat?
- iii. Is the parcel occupied or adjacent to active Swainson's hawk nests?
- iv. Is the parcel adjacent to other protected habitat thereby contributing to a larger habitat preserve?
- v. Is the parcel outside of areas identified for urban growth?

Preservation could shall occur through the purchase of conservation easements or fee title of lands with suitable foraging habitat. A mitigation plan shall be established and submitted to the City for approval prior to the issuance of grading permits and, at a minimum, shall include confirmation of title and encumbrances, details on mitigation site location, development, maintenance and monitoring. Any easements shall be in compliance with Government Code Section 65965. Land and easements shall be approved by the City in consultation with CDFG.

30. — CDFG, Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California, November 8, 1994.

Additional comments regarding mitigation for impacts to Swainson's hawk and raptor foraging habitat were received after distribution of the Final EIR. These comments criticized the selection of the Brannan Island Farm as replacement habitat because of its distance from the project site. In a letter to the applicant and copied to City staff, the Friends of the Swainson's Hawk, for example, stated that locating replacement habitat twenty miles away would harm the Swainson's hawks "...because distance of quality foraging from nesting sites is a critical variable in reproductive success. Studies have shown that reproductive success varies with distance foraged by parenting hawks. Beyond 10 miles, the energy efficiency of serving the nest site drops significantly." The commenter noted: "Five miles would be best, but 10 miles is much better than 20 miles distant, which would be useless to the local SWH population presently using the Delta Shores site." (Correspondence to staff, December 29, 2008; See Staff Report for hearing on January 13, 2009, Attachment 7).

The California Department of Fish and Game also criticized the selection of the Brannan Island Farm site. The Department indicated, in part:

"Mitigation lands designed to offset the impact to SWH foraging habitat should be biologically based. Providing these mitigation lands as close to the impacted nesting hawks as possible is necessary, as discussed in our previous letters to the City. If the City





is ultimately unable to locate viable mitigation lands within the distance identified as necessary in the DEIR (within five miles), then mitigation lands should be identified within as close proximity to the proposed project site as possible. The FEIR does not and should provide a discussion of the properties available between the identified five mile distance and the distant Brannon Island Farms. “ (Correspondence to staff, December 18, 2008; See Staff Report for hearing on January 13, 2009, Attachment 7).

The Final EIR acknowledges concerns that have been raised by the applicant regarding the feasibility of acquiring sufficient and appropriate mitigation land within five miles of the project site. There is, based on the correspondence received by the City, disagreement regarding the availability of such lands and the feasibility of acquiring such land or easements if the project is approved. There is also recognition that land within ten miles of the project site could provide adequate mitigation if other required components of habitat were met.

Based on these comments and a review of the Draft EIR and Final EIR discussions, the City has determined that the mitigation for loss of foraging habitat should be revised to require that mitigation be provided through the purchase of credits at a CDFG-approved mitigation bank which has the project within its service area or with conservation easements or fee title to lands located within ten miles of the project site, or a combination thereof. This would ensure that land identified for replacement habitat would respond to the species requirements relating to energy efficiency, survival of nesting chicks and reproductive success. In addition, the description of suitable foraging habitat will be revised to include fallow land, which also provides suitable foraging habitat.

Mitigation Measure 5.4-3 will, therefore, be revised as follows. The text below identifies the text of the mitigation measure as revised in the Final EIR, with proposed changes from that text show with additions in underline and deletions in ~~strikethrough~~.

**(CHANGES TO CURRENT TEXT IN FINAL EIR) MM 5.4-3:** *Prior to the issuance of grading permits, the project applicant shall preserve an equal amount of suitable raptor foraging habitat, at a 1:1 ratio. ~~or greater.~~ Suitable foraging habitat includes fallow land, alfalfa or other low growing crops. ~~The applicant shall preserve approximately 100 acres of suitable Swainson’s hawk habitat closest to within a five mile radius of the project site. An additional approximately 800 acres at the Brannan Farms location shall be actively farmed and maintained with a crop rotation that is known to support high quality foraging habitat (e.g. alfalfa) in perpetuity. The Brannan Island Farms site is currently located within close proximity to several active Swainson’s hawk nests according to the GNDDB. Preservation shall occur through the purchase of credits at a CDFG-approved mitigation bank which has the project within its service area, or through the purchase of conservation easements or fee title of lands with suitable foraging habitat no further than a ten (10) mile radius of the perimeter of the project site, or through any combination of the foregoing. Any habitat identified by the applicant shall be evaluated using the following five criteria in consultation with the CDFG:~~*

- i. Does the mitigation parcel provide suitable foraging habitat?





- ii. *Is the parcel located in close proximity to the impacted foraging habitat?*
- iii. *Is the parcel occupied or adjacent to active Swainson's hawk nests?*
- iv. *Is the parcel adjacent to other protected habitat thereby contributing to a larger habitat preserve?*
- v. *Is the parcel outside of areas identified for urban growth?*

~~Preservation shall occur through the purchase of conservation easements or fee title of lands with suitable foraging habitat.~~ A mitigation plan shall be established and submitted to the City for approval prior to the issuance of grading permits and, at a minimum, shall include confirmation of title and encumbrances, details on mitigation site location, development, maintenance and monitoring. Any easements shall be in compliance with Government Code Section 65965. Land and easements shall be approved by the City in consultation with CDFG.

These revisions to the mitigation measure would ensure that adequate replacement habitat is located within a proximity to the project site that will support reproduction of the species and provide effective habitat. The impact would remain **less than significant**.

## **2. Discussion re: Off-Site Improvements (Final EIR page 2-1)**

The Final EIR confirmed that the project would require construction of an 18-inch sewer force main that would connect the project site to the SRCSD Central Interceptor located in Franklin Boulevard. Such a connection would be required in Phase Three of the project that calls for residential construction east of Interstate 5. See, e.g., Draft EIR Figure 5.8-1; Final EIR Comment 6-2 and Response)

As noted in the Final EIR discussion, the sewer force main pipeline would be constructed within the Cosumnes River Boulevard right-of-way, and micro-tunneling at Morrison Creek would maintain a 200-foot buffer from the creek. Any land area disrupted through construction would be previously disturbed, and it is likely that installation of the pipeline would occur in conjunction with roadway projects, thus minimizing potential impacts. Any impact would be less than significant.

## **3. Discussion re: Mitigation Measure 5.2-1 (Final EIR page 2-1 et seq.)**

The Final EIR set forth mitigation for Impact 5.2-1. While the Draft EIR concluded that the impact was less than significant, the applicant had identified voluntary mitigation that would be implemented as part of the project. The mitigation measure as set forth in the Final EIR requires the applicant to preserve five hundred (500) acres at the Brannan Island Farms site. As confirmed in the Final EIR, the same site was to be used for mitigation for impacts for loss of Swainson's hawk foraging habitat.

As set forth above, Mitigation Measure 5.4-3, which relates to Swainson's hawk foraging habitat, has





been modified. The Brannan Island Farms site will not be utilized for such mitigation, and instead the applicant will be required to preserve land within ten miles of the project site for such purposes.

As noted in Mitigation Measure 5.4-3, farmland may provide foraging habitat for Swainson's hawks and other raptors. In cases in which impacts for agricultural resources and foraging habitat occur with respect to the same project on the same site, mitigation for both impacts is allowed on another site, if that site meets the requirements for both farmland and foraging habitat. The mitigation for farmland has, therefore, been revised to allow the applicant to utilize, when appropriate, the same site(s) identified in MM 5.4-3 to satisfy the requirements of Mitigation Measure 5.2-1. The revised text of Mitigation Measure 5.2-1 is as follows:

***(CHANGES TO CURRENT TEXT IN FINAL EIR): MM 5.2-1: The Development Agreement shall include a special condition requiring the preservation of farmland at a 1:1 mitigation ratio by preserving an equal amount of farmland approximately five hundred (500) acres at the Brannan Island Farms site and approximately two hundred eighty-two (282) acres elsewhere in Sacramento County at a site location(s) approved by the City comprised of Prime Farmland and Farmland of Statewide Importance, prior to the issuance of any grading permit, in order to reduce any impacts arising from the conversion of the current agricultural uses at the project site to urban development. Where mitigation provided pursuant to Mitigation Measure 5.4-3 for the loss of Swainson's hawk foraging habitat also meets the requirements for farmland mitigation, it shall be applied in satisfaction of the foregoing requirement.***

Impact 5.2-1 remains, with the identified mitigation, ***less than significant.***

