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MEMORANDUM

To:	Brett Walker, AICP, Senior Planner, City of Novato
From:	Darcey Rosenblatt, Senior Project Manager
Subject:	Response to Comments on the Bahia River View Project Mitigated Negative Declaration
Date:	July 26, 2021

An Initial Study and Mitigated Negative Declaration (IS/MND) was prepared for the Bahia River View Project (project). The IS/MND was circulated for a 20-day public review period from June 11, 2021 to July 1, 2021. A notice of intent to adopt a mitigated negative declaration for the project was sent to all affected property owners within 600 feet of the boundaries of the project site, all responsible and trustee agencies, the Marin County Clerk, the Federated Indians of Graton Rancheria, and all persons requesting notice pursuant to Novato Municipal Code (NMC) Section 19.58.020, CEQA, and the CEQA Guidelines. During the public review period, the City received a total of 31 comment letters on the IS/MND. Table 1 below lists the names of commenters and comment letter dates.

Table 1
Comment Letters on the the Bahia River View Project MND

Commenter	Comment Date
Lynn Berger	June 29, 2021
Mark Bevan	June 29, 2021
Biagio and Edith Cacciatore	June 22, 2021
Shirley Chao	June 28, 2021
Lynn and Jim Emrich	June 30, 2021
Michael Hall	June 30, 2021
Brooke Kimple	June 29, 2021
Geoff Kinnaird	June 28, 2021
Alan Lazure	June 29, 2021
Jan Lazure	June 24, 2021
Marin Audubon Society	July 1, 2021
Heather Merath	June 29, 2021
Jaime Millican	June 30, 2021
Jaime Millican and E. Thomas Cottrell	June 30, 2021
Tim O'Connor	June 28, 2021
John Pedone and Kathy Knebel	June 30, 2021
Susannah Perri	June 29, 2021
Linda Pollack	June 30, 2021
Kimberly Price	June 22, 2021
Kimberly Price	June 29, 2021
Flinn Moore Rauck	June 28, 2021
Patricia Ravitz	June 29, 2021
Sam Roth	June 22, 2021
Sally Scotto	June 29, 2021

Commenter	Comment Date
Mark and Liz Silowitz	June 29, 2021
Peter Spoerl	June 23, 2021
Carolyn Thompson	June 28, 2021
Charles and Diane Thompson	June 28, 2021
Elaine Thornton	June 29, 2021
Eric and Claire Tyler	June 29, 2021
Chrisandra Fox Walker	June 29, 2021
Jordan Ward	June 29, 2021

Comments received during the public review period for the IS/MND were focused on the following IS/MND topics and subtopics:

Aesthetics
Compliance with the Hillside and Ridgeline Protection Ordinance
Obstruction of views

Biological Resources
Impacts to wildlife and wildlife corridors
Native trees and woodland impacts

Transportation
Traffic hazards
Pedestrian safety

Wildfire
Wildfire risks
Evacuation routes

Utilities
Water Supply

To reduce redundancy in this Response to Comments memorandum, Master Responses (MR) have been prepared, by topic, to address the common themes and issues raised by commenters. MR-1 addresses comments related to aesthetics, MR- 2 addresses comments regarding biological resources, MR-3 addresses comments about to transportation, and MR- 4 addresses comments related to wildfire.

Master Responses to Comments

MR-1: Aesthetics

Several comments on the IS/MND focus on aesthetics/visual impacts associated with the project. Aesthetic and visual concerns that were frequently repeated in comment letters relate to the project's purported incompatibility with the Division 19.26 - Hillside and Ridgeline Protection (Hillside Ordinance) of the NMC and lack of compliance

with the applicable design criteria and development standards. The obstruction of views associated with future development of the project site was another common theme raised by several commenters.

Compliance with Hillside and Ridgeline Protection Ordinance

The project site has average slopes over 10% and is therefore subject to compliance with the City's Hillside Ordinance. All development subject to the Hillside Ordinance requires Design Review and must comply with the design criteria and development standards outlined in Section 19.26.040 (Hillside Development Design Criteria) and Section 19.26.050 (Hillside Project Development Standards). Design Review for hillside development is also subject to the findings required under Section 19.42.030.F (Design Review) of the NMC, and the supplemental hillside development findings listed in Section 19.26.060 of the Hillside Ordinance.

As noted in the IS/MND, although specific development proposals for the five lots proposed by the project are unknown at this time, it is anticipated that future onsite development would include single-family residential dwellings (i.e., one residence per lot), landscaping, and site improvements, including hardscape and water quality features. Design Review pursuant to the Hillside Ordinance is required for the proposed subdivision of the project site and will also be required for future final designs of structures and improvements on individual lots.

Several comment letters received in response to the IS/MND discussed the ways in which the project would not comply with the Hillside design criteria and development standards. Specific comments related to this topic include concerns about lot configurations, slope stability, the potential projection of structures within a ridgeline, placement of structures silhouetted against the sky, and compliance with maximum allowable building heights. To address commonly repeated comments and concerns, the following discussion summarizes the project's compliance with the Hillside Ordinance design criteria and development standards. As noted in the IS/MND, approval of the project and all future onsite residential development proposals would be conditioned to comply with the NMC and the Hillside Ordinance.

Hillside Development Design Criteria

Terrain Alteration. As noted in Section 3.1 Aesthetics of the IS/MND, future development of the project site would be subject to comply with Hillside Development Design Criteria requiring that the project "fit" the terrain rather than altering the terrain to fit the project (NMC Section 19.26.040.A). As noted in the IS/MND, the project site has been subject to past disturbances related to the grading of the nine pads. Future development of the project site would require minor to moderate grading to accommodate future residences. Upon approval of the project, subsequent Design Review would be required as individual residences are proposed. Conformance with this criterion would be confirmed at that time.

Structure Siting and Design. Structure siting and design associated with future development of the site would be required to incorporate varying setbacks and structure height to blend structures into the natural terrain in compliance with the Hillside Development Design Criteria (NMC Section 19.26.040.B). As noted in Section 3.1 Aesthetics of the IS/MND, future onsite structures would be required to comply with the applicable Hillside Ordinance Height Limit of 25 feet at any given point and a maximum of 35 feet from lowest grade along any perimeter building elevation to the peak height of the highest roof element. While future structures on Lots 3, 4, and 5 (i.e., the easternmost lots) would likely be constructed within the footprint of the existing graded building pads, future structures on Lots 1 and 2 may "step down" from the

upper and low pads. If stepping down, developers would be required to comply with the Hillside Ordinance Height Limit, which is measured from below the top of the adjacent ridge and would avoid additional grading or filling of the lots. The IS/MND concluded that the construction of two-story residences no greater than 25 feet in height would be comparable to or lower than the height of the nearest existing two-story residences constructed on Topaz Drive.

Location of Structures. The Hillside Design Criteria requires that structures are located in the most accessible, least visually prominent, and most geologically stable portion of the project site; structures are screened by existing vegetation, rock outcroppings, or depressions in topography; retaining walls are divided into terraces to reduce the individual heights of walls where practicable; and steeply cut slopes are avoided (NMC Sections 19.26.040.A and 19.26.040.C). All grading and construction associated with future development of the site would be completed in accordance with the California Building Code; City Engineering and Services, Project Design and Construction Management section requirements; and NMC Hillside Ordinance. To further ensure that the site is developed safely and structures are situated in geologically stable locations, the IS/MND includes Mitigation Measure MM-GEO-1, which requires the developer to submit design level geotechnical investigations for individual lots prior to issuance of construction or grading permits and requires that the project be designed to comply with the recommendations provided in the Geologic and Geotechnical Feasibility Study prepared for the project.

Exterior Lighting, Colors and Materials. The Hillside Development Design Criteria requires that exterior lighting associated with the project be low intensity and designed to eliminate direct and off-site glare and the spill of light to surrounding areas (NMC Section 19.26.040.E). As noted in the IS/MND, all residential developments on the five lots would be required to install shielded or otherwise modified exterior lighting and all lighting and glare generated by project lighting must be contained on site to the maximum extent feasible. The project would also be required to utilize a harmonious mixture of materials, and colors to blend structures and site improvements with the natural hillside (NMC Section 19.26.040.F). As stated in Section 3.1 Aesthetics of the IS/MND, future development at the project site would include a harmonious mixture of building materials to blend with natural hillsides. Materials deemed acceptable by the Municipal Code for Hillside Development (e.g., stucco, wood, brick, and coarse block) would be incorporated into the design of future residential development and are not generally considered to have particularly reflective properties. Lastly, lighting and building materials associated with site improvements and building materials of individual properties would be subject to review and approval of the Design Review Commission, which would reduce the potential for substantial skyglow and light trespass and conflicts with relevant requirements of the Municipal Code.

Hillside Project Development Standards

Residential Density. The Hillside Project Development Standards include density reductions based on the average slopes of the existing undeveloped lot. Several comments received on the IS/MND state that the project proponent is proposing to rezone of the property to increase the development potential at the site. However, the proposed rezone from Planned District (PD) to Low Density Residential, 10,000 square-foot minimum lot size (R1-10) would not result in an increased development potential at the project site. The low density residential (R1) General Plan Land Use designation establishes the permissible density range at the site, which is 1.1-5 units per acre. Applying the density reduction factors codified in NMC Section

19.26.050 to the Project, the proposed 5 lots are consistent with the net allowable density after factoring for the Hillside Ordinance.

Lot Configuration. The Hillside Project Development Standards prohibit the creation of lots which are impractical for improvement, due to steepness of terrain, geologic hazards, or location of watercourses or drainage. As discussed in the IS/MND, the proposed lots are configured to include the existing level pad areas, which are considered to be sufficiently sized to support a single-family residence and accompanying landscaped outdoor spaces. This observation is based on the net land areas within the padded areas of each lot. These areas are consistent in size to a standard single-family residential parcel, which range from approximately 5,000 to 10,000 sq. ft.

The Development Standards also stipulate that lot layout shall be designed to avoid grading or building within 25-vertical feet of the top 5-foot contour of a ridgeline or knoll. As noted in the IS/MND, Lot 1 includes a ridgeline (toward Cerro Crest Drive). Future construction of a residence on Lot 1 would be required to conform to the 25-foot vertical separation required by the Hillside Ordinance.

The Development Standards further prohibit the creation of lots where the average slope within the building envelopes would exceed 25 percent for residential sites and 20 percent for non-residential sites. Building envelopes depicted on the proposed tentative map have an average slope of less than 25 percent. However, the depicted building envelopes do not necessarily represent the definite location or extents of a future home or improvements on a given parcel. Conformance with this standard would be confirmed with future development of individual residences.

Lot configurations are required to be designed to minimize grading and preserve topographic and geologic features. As previously noted, the applicant is not proposing any grading with the requested land division. As noted in the IS/MND, future development of the project site would require minor to moderate grading to accommodate future residences. Upon approval of the project, subsequent Design Review would be required as individual residences are proposed. Conformance with these standards would be confirmed at that time.

Finally, lots are required to be designed to avoid lot-to-lot drainage. As proposed, the lot configuration conforms with this standard. Design Review will be required of future residences and would include consideration of drainage improvements.

Structure Placement. Structures shall not be placed on average slopes exceeding 25 percent for residential development and 20 percent for non-residential development, to the extent feasible. Encroachment of building envelopes on slopes exceeding these percentages may be permitted by the review authority only where specific findings can be made.

As noted in the IS/MND, approximately 4.8 acres, or 70%, of the site contain slopes over 25% and 1.5 acres contain slopes of up to 10%. Future residences would be subject to demonstrating compliance with the placement requirements noted above at the time of Design Review and through the subsequent building permit review process.

Siting and Height Limitations. As previously mentioned, several comments related to siting and height limitations associated with future development of the project site. As noted in the IS/MND, the Hillside

Project Development Standards, includes regulations regarding the siting of structures and height of structures adjacent to ridgelines. The project site includes a ridgeline, identified as the 150-foot contour line near the westerly edge of proposed Lot 1. As noted in the IS/MND, future development on Lot 1 would be limited to a maximum building height (roof peak) of 125 feet above mean sea level due to its location adjacent to the identified 150-foot ridgeline contour. Lot 1 building height would be limited to said height (approx. 12 feet above upper pad) since the Hillside Ordinance limits development within 25 feet of a ridgeline or knoll (NMC Section 19.26.050.G.3). A project condition of approval would reflect this limitation regarding the building height for Lot 1. Additionally, the siting of a future residence on Lot 1 would be prohibited to silhouette the sky against the backdrop of the ridgeline.

As discussed in the IS/MND, compliance with the NMC and the Hillside Ordinance would ensure that aesthetics/visual and land use impacts associated with the project and associated future onsite development remain less than significant.

Obstruction of Views

Another common and repeated topic included in comment letters on the IS/MND relates to the obstruction of existing long-range views from Bahia Drive that commenters claim would occur upon future development of residences at the project site. Several commenters stated that development of the vacant project site would result in the destruction of a scenic vista.

As discussed in Section 3.1 Aesthetics of the IS/MND, the frontage of future residences constructed on the project site would be located along Bahia Drive, with improvements made to the street including driveways, sidewalks, and landscaping. The residences and site improvements would be visible (to varying degrees) from Bahia Drive, Topaz Drive, Night Heron Park, and the Bahia Ridge Fire Road trailhead. To illustrate the project's potential effects to scenic vistas/views and existing visual character, representative viewpoints of the project site from public locations in the surrounding area were established (refer to IS/MND Figure 5). Visual simulations were then prepared to illustrate potential view blockage and interruption and massing/scale contrasts with existing residential development in the surrounding area (refer to IS/MND Figures 6, 7 and 8). As noted in the IS/MND, the visual simulations show that future residential structures and associated improvements on the project site may be in the immediate foreground of views experienced by motorists on Bahia Drive and would momentarily block a portion of the Bay Plain landscape to the southeast from view. On the approach to Topaz Drive, the IS/MND determined that future structures on the three easternmost lots could momentarily block the faint silhouette of distant hills from view. In these instances, it was determined that the duration of view blockage would be brief (lasting for seconds).

As noted in the IS/MND, future development on Lot 1 would be limited to a maximum building height (roof peak) of 125 feet above mean sea level due to its location adjacent to the identified 150-foot ridgeline contour. Lot 1 building height would be limited to said height (approx. 12 feet above upper pad) since the Hillside Ordinance limits development within 25 feet of a ridgeline or knoll (NMC Section 19.26.050.G.3). A project condition of approval would reflect this limitation regarding the building height for Lot 1. As further noted in the IS/MND, as experienced from eastbound Bahia Drive, the stepping down of development on Lots 1 and 2 would result in the exposure of more Bay Plain landscape, as opposed to filling of the lower pad and building construction on the hypothetically level Lot 1 and Lot 2 pads. Overall, the future residences on the project site would generally be compatible in height with the nearest residential structures on Topaz Drive. In addition to the analysis based on the visual simulations discussed above, the IS/MND also looked at the potential for taller buildings on Lots 2 through 5. This analysis determined that,

given the site characteristics and viewsheds, single-family homes of up to 25 feet would not increase the level of impact more than the homes considered in the visual simulations.

The IS/MND concluded that, due to the brief duration of view blockage and the required compliance with the Hillside Ordinance design criteria and development standards, the project and future onsite residential development would not substantially block or interrupt views of the Bay Plain landscape from public viewpoints. The development of future residences would be subject to Design Review and assessed with respect to preserving views to the extent feasible.

MR-2: Biological Resources

Several commenters expressed concern about the project's potential to adversely impact wildlife. Commenters discussed wildlife sightings in the project vicinity and stated that future development associated with the project would adversely impact wildlife that traverses the site. Additional comments expressed concern regarding potential impacts to native trees and blue oak woodlands.

Impacts to Wildlife and Wildlife Corridors

Section 3.4 Biological Resources of the IS/MND considers potential impacts to biological resources associated with the project and associated future development. The analysis is based on a biological resources assessment conducted by Dudek in September 2020. As noted in the IS/MND, several wildlife species were observed or detected during the reconnaissance-level survey of the biological study area, including 22 bird, 6 mammal, 1 amphibian, and 1 reptile species. No wildlife species listed or proposed for listing as rare, sensitive, threatened, or endangered by the California Department of Fish and Wildlife (CDFW) or US Fish and Wildlife Service (USFWS) were detected during biological surveys. Based on the results of the literature review and database searches, 37 special-status wildlife species were identified as occurring within the region. Of those, five special-status wildlife species were determined to have at least a moderate potential to occur within the project site: white-tailed kite, grasshopper sparrow, western burrowing owl, pallid bat, and Townsend's big-eared bat. Future onsite development associated with the project could have potentially significant impacts to these identified species. However, implementation of Mitigation Measure (MM) BIO-1 and MM-BIO-2, requiring pre-construction surveys for nesting birds and roosting bats, would ensure that impacts remain less than significant.

The IS/MND concluded that the proposed project would result in no direct or indirect impacts to wildlife movement or migratory wildlife corridors. The project site is located within an existing residential development tract and is surrounded by existing housing to the south and east off Topaz and Malobar Drive, and to the north and west off Cerro Crest and Laguna Vista Drive. The project site has limited connectivity to surrounding habitat due to existing developed areas and existing roads. The proposed project would result in an intensification of use at the project site, but would not result in the development of significant quantities of undeveloped land that could serve as an important corridor or linkage for any migratory or resident species, with the exception of possible nesting birds. As previously discussed, impacts to nesting birds would remain less than significant with implementation of MM-BIO-1.

Native Trees and Woodland Impacts

The City's Municipal Code contains policies related to the preservation and protection of woodlands and forest resources (Chapter 19, Division 39) and heritage trees (Chapter 17). Chapter 19.39.040 of the NMC provides

guidelines for tree and forest retention and mitigation, including requiring retention of a minimum of 75% of existing native trees on a development site. The City requires a tree permit for the removal or alteration of any heritage tree or the removal of any tree that measures 6 inches or more in diameter on vacant land.

As discussed in the IS/MND, a total of 78 trees, consisting of 3 California bays, 39 blue oaks, 32 coast live oaks, 1 Italian stone pine, and 3 madrone, were inventoried in the northern portion of the project site. Of the 78 inventoried trees, a total of 8 trees met the definition of a heritage tree. Although the tree inventory was not comprehensive of the entire parcel, the proposed project is expected to remove less than 75% of the trees located on the entire parcel. The removal of heritage trees and other protected trees would require acquisition of a tree permit.

In accordance with the City's tree replacement standards, the project design provides for on-site tree retention and restoration to ensure there would be no net loss of trees following project completion. A mitigation/replacement ratio no less than 3:1 shall be determined through analysis of the likelihood of successful replanting as evidenced by soil, hydrologic, irrigation, and other physical and land use conditions. As a Condition of Approval, the applicant shall be required to submit a final landscaping plan that specifies the exact number, type, size, and location of trees proposed for removal and replacement trees to be planted in conformance with the City's Tree Protection Ordinance. A comprehensive arborist report would be required prior to the issuance of a Grading Permit to identify specific tree protection measures. Additionally, submittal of a long-term management and maintenance plan that includes annual inspections, replacement provisions, and other protective measures along with a specified funding mechanism would be required.

Woodlands and forest resource areas are determined at the discretion of the Director of Community Development. The project site is designated as "Grassland/Agriculture" by the City of Novato Existing Conditions Report Figure 9-1, Vegetation. No part of the project site has been designated by the City as woodland or forest resource land. Regardless, avoidance of the blue oak woodland alliance on the project site and retention of the majority of native trees on the project site have been incorporated into the project design.

MR-3: Transportation

Several comments received during the public review period for the IS/MND expressed concern regarding traffic safety and hazards associated with the proposed project. Concerns were raised related to vehicle movements to/from the new lots and driveways on Bahia Drive and the potential for increased hazardous conditions involving speeding drivers, bicyclists, and pedestrians.

Traffic Hazards

Section 3.17 Transportation of the IS/MND discusses potential transportation related impacts, including potential traffic hazards, associated with the proposed project. As noted in the IS/MND, a collision history was included as part of the Traffic Study completed for the proposed lot subdivision (Appendix E of the IS/MND). The collision history, analyzed from June 1, 2006, to May 31, 2016, found 3 collisions at the Atherton Avenue/Bugeia Lane Intersection and 4 collisions in the Bugeia Lane to Bahia Drive segment. The Traffic Study compared the collision rate on the Atherton Avenue/Bugeia Lane Intersection and the Bugeia Lane to Bahia Drive segment to the statewide average rate. The collision history of the study intersection and segment were significantly less than the statewide average. As discussed in Appendix E of the IS/MND, the proposed project would have an adequate sight distance of 315 feet, which exceeds the minimum requirement of 280 feet. As detailed in Chapter 2, Project Description, the existing

12-foot-wide striped center median on Bahia Drive would be restriped as a two-way left-turn lane to allow for safe ingress and egress to project residential dwellings. The IS/MND concluded that neither access to nor operation of the proposed project would result in vehicle hazards due to geometric design.

Pedestrian Safety

Consistent with City of Novato Municipal Code Chapter 5-34, Pedestrian Circulation, the project would build a sidewalk a minimum of 4 feet in width along Bahia Drive. However, the project includes a request to extend the sidewalk only from the intersection of Topaz Drive southwest along Bahia Drive to the western edge of Lot 1, instead of the entirety of Bahia Drive. The farthest point of buildable area is identified as the 120-foot grade elevation on Lot 1, a linear feet length reduction of approximately 260 feet. While the sidewalk would provide access from the lower surrounding neighborhood to the project site, it would not provide pedestrian access to the City-owned undeveloped property to the southwest. Approval of the applicant's exception request would require City Council approval.

MR-4: Wildfire

Several commenters express concern regarding wildfire risks associated with the proposed project and adequacy of evacuation routes.

Wildfire Risks

Section 3.20 Wildfire of the IS/MND includes an analysis of wildfire hazards associated with the project. As discussed in the IS/MND, the project site is located within a wildland urban interface area, as mapped by the Novato Fire Protection District and thus construction in this area is subject to Fire Resistive Construction Standards established by Ordinance 2005-1 and 2007-1 of the Novato Fire Protection District. Within the 6.8-acre project site, approximately 4.8 acres, or 70%, of the site contain slopes over 25% and 1.5 acres contain slopes of up to 10%. As previously noted, the project would be required to comply with the City's Hillside Ordinance. This would require that structures are located in the most accessible, least visually prominent, and most geologically stable portion; structures are screened by existing vegetation, rock outcroppings, or depressions in topography; retaining walls are divided into terraces to reduce the individual heights of walls where practicable; and steeply cut slopes are avoided.

As discussed in Appendix D of the IS/MND, the project site is underlain by competent, well-cemented conglomerate bedrock, which is not prone to instability and landsliding. Due to the type of bedrock and lack of highly combustible vegetation, it would not be susceptible to post-fire slope instability or drainage changes. Implementation of MM-GEO-1, which requires the implementation of recommendations presented in the Geotechnical Report prepared for the project and included in Appendix D of the IS/MND, would result in a less-than-significant impact to slope instability and drainage changes. The proposed project would occur on a site designated for residential development and would be adjacent to existing residential development. The project site does not support highly combustible vegetation and the proposed project, during operation, would not introduce highly combustible vegetation. As such, the IS/MND concluded that the project would result in impacts associated with exacerbating wildfire risks or the potential for people to be exposed to pollutant concentrations or uncontrolled spread of wildfire.

Emergency Evacuation

The proposed project would construct five residential dwellings adjacent to existing residential development. As concluded in the IS/MND, the project would not increase traffic in the project area in a way that could impede emergency response and does not include any structures or features that would physically interfere with implementation of emergency response or evacuation plans. The project would rely on access via existing roadways and would not alter any public streets in such a way that would impair emergency response. The proposed project would not substantially increase population so as to have any indirect effects associated with impairing implementation of emergency response or evacuation plans.

The proposed project would result in a zoning amendment that would allow for the development of five future residential dwellings in accordance with the existing General Plan designation. The proposed project would connect to an existing roadway system via Bahia Drive. Access would be maintained to the project site at all times during future construction of the five residential dwellings to provide access in the event of an emergency. Also, as described above, the existing 12-foot-wide striped center median on Bahia Drive would be restriped as a two-way left-turn lane to allow for safe ingress and egress to project residences. Construction traffic would be minimal and temporary and staging would occur on site whenever possible to ensure that Bahia Drive remains unimpeded. As discussed in Section 3.15, Public Services, during operation, the project site would be served adequately by the Novato Fire Protection District and City of Novato Police Department during an emergency.

MR-5 Utilities and Service Systems

Commenters expressed concerns related to domestic water availability and use associated with the project.

Water Supply

As discussed in IS/MND Section 3.19 Utilities and Service Systems, the proposed project would receive treated water from the North Marin Water District (NMWD). Using the City's estimated water consumption rate of 150 gallons per day for person, the project would be expected to require approximately 1,950 gallons of water per day. The project was referred to NMWD for review and comment. NMWD did not identify any capacity issues with serving the proposed project. The NMWD recently adopted Emergency Water Conservation Ordinance No. 41, which placed restrictions on water use, but still allows connections under certain circumstances, including when one agrees to defer potable water irrigated landscape installation until after the suspension period. Ordinance No. 41 is in effect until the NMWD Board of Directors declares that the water shortage emergency condition has ended.

Sufficient water supplies at NMWD are available to serve the development from existing water sources at the present time, and it is expected that the project would have a less-than-significant impact on water supply availability. When residential dwellings are proposed for construction, compliance with NMWD regulations in place at that time would be required.

Revisions to the MND

Mitigation Measure BIO-2 as described in the IS/MND did not include the complete required mitigation. The following would be added to the IS/MND and the Mitigation Monitoring Reporting Program.

MM-BIO-2 No more than 30 days prior to construction (including demolition work and tree trimming/removal activities), a qualified biologist will conduct a visual and acoustic preconstruction survey for roosting special-status bats and/or bat sign (i.e., guano) within 300 feet of suitable tree roosting habitat. A minimum of one day and one evening will be included in the visual preconstruction survey, which should concentrate on the period when roosting bats are most detectable (i.e., when leaving the roosts between one hour before sunset and two hours after sunset).

If bats (individuals or colonies) are detected, the California Department of Fish and Wildlife (CDFW) shall be notified immediately. If a bat roosting or maternity colony cannot be completely avoided, a qualified biologist shall prepare a bat mitigation and monitoring plan for CDFW review and approval. Potential measures to be included in the plan are restrictions of timing of activities, placement of exclusion barriers when bats are foraging away from the roost, and replacement of roosting structures.