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April 15, 2016

Mr. Steve Rodriguez  
Contract Planner  
County of Santa Barbara  
Planning and Development Department  
Development Review - North  
624 W. Foster Road, Suite C  
Santa Maria, CA 93455

Reference: Oak Hills Estate Project – Peer Review of Biology Resources Assessment, Including Attachments (RECON Number 8147)

Dear Mr. Rodriguez:

RECON has reviewed the Biological Resources Assessment Report (BRA), including the attached Jurisdictional Waters and Wetlands Delineation Report (JWD) and Native Tree Inventory and Health Assessment Report (NTHA), all prepared by Rincon Consultants, Inc., dated May 2015, for the Oak Hills Estate Project (project) located in Vandenburg Village, Santa Barbara County, California. RECON reviewed the reports to determine the adequacy of the baseline information, impact analysis, recommended mitigation, as well as their compliance with federal, state, and local regulations and the California Environmental Quality Act (CEQA).

In general, the BRA, JWD, and NTHA reports contain sufficient information on biological resources within the project survey area to evaluate the project's potential effect on these resources. The BRA requires some revisions, particularly to the impact/mitigation section, in order to clearly support the conclusions and compliance with County of Santa Barbara Environmental Thresholds and Guidelines Manual (July 2015) and the Guidelines for Implementation of the California Environmental Quality Act (CEQA Guidelines).

## **BRA COMMENTS**

The BRA requires a number of editorial revisions and some more substantial revisions to the impacts/mitigation section, in order to clearly support the conclusions and compliance with the County of Santa Barbara, regarding the impact and mitigation analysis. These revisions are outlined below.

### **Editorial Revisions**

A few minor editorial revisions are required to address missing citations, misspelled words, and correct inconsistencies with terminology. The majority of these edits have been highlighted in a copy of the BRA provided with this review letter. The remaining editorial items reoccur throughout the report and are discussed in greater detail below.

On page 15, the report introduces the location of the two ephemeral drainages as “one (drainage) near the center of the site and a second feature near the eastern boundary of the BSA”. However throughout the remainder of the report the central drainage is referred to as the “western drainage”, which is inconsistent with the introductory text, and the location as shown on Figures 3 and 6 on pages 17 and 31, respectively. For consistency, change “western” and “main” to “central” to describe this feature throughout the BRA.

The report identifies coyote bush scrub as one of the vegetation communities occurring on-site, but refers to this vegetation type as “coastal scrub” in other sections of the BRA (e.g. pages 24 and 28). Although Section 3.2 describes, under the Coyote Bush Scrub heading, that this vegetation community is the same as a type of coastal scrub according to the Holland system, the use of “coastal scrub” in other places in the report is inconsistent with the primary description of the vegetation and as depicted on Figures 3 and 9. For consistency, change references to “coastal scrub” (where appropriate) to “coyote bush scrub” throughout the BRA.

### **Analysis Revisions**

#### **Proposed Trail**

1. The BRA currently contains a disclaimer statement on page 3 regarding the trail that states the lack of a detailed trail description or plans as a reason for which a future analysis of impacts would need to occur. This disclaimer is repeated in many places of the BRA. However, Figures 8, 9, and 10 show a proposed trail alignment that is partially inconsistent with the disclaimer statement. Thus, one of the following options is recommended to address the proposed trail:
  - The trail is eliminated from the project and discussion removed from the BRA. This would be consistent with the recommendation made by the County Planning Commission during the preliminary project review held in 2015.
  - The details of the trail (i.e., alignment, width, type, etc.) need to be decided on and these details must be included in the revised BRA. The impact analysis and mitigation sections, and associated figures, would need to be updated to reflect the revised trail analysis. Remove the repeated disclaimer statement from the report.

#### **Significance Statements**

2. Definitive statements of the significance of impacts are not clear in all cases and the locations of where significance statements should be clarified are highlighted in a copy of the BRA provided with this review letter.

#### **Special Status Plant Species**

3. The special status plant surveys were conducted during March and April of 2014 and are now two years old. The resource agencies may request that updated surveys be conducted.
4. A discussion should be added to the BRA that addresses the potential for each special status species with a moderate potential to occur, but not observed, and information should be provided on the likelihood of any impacts to these species.
5. It is unclear how the project intends to meet the 12.44 acres of mitigation required shown on Table 6 page 37 to mitigate impacts to mesa horkelia, as this acreage exceeds the acreage of habitat mitigation for maritime chaparral. Revise the report to address how mesa horkelia mitigation will be achieved.
6. The mitigation measure on page 37 for special status plants recommends that areas where these plants are to be avoided be demarcated with orange construction fence. However, the installation of orange construction fence could result in additional impacts to habitat and/or species from trampling while putting the fence up. It is recommended that a method of demarcation other than orange construction fence (e.g., pin flags, bright colored flagging, or other less invasive markers) be used to identify the location of special status plants being preserved to avoid any additional incidental impacts to species.

7. The mitigation for special status plant species on page 38 relies on the Open Space Management Plan (OSMP) to provide the details required to implement the mitigation requirements for each species. Please refer to our comments on the OSMP with regard to special status plant species.

#### Sensitive Plant Communities

8. The 1:1 mitigation ratio to compensate for impacts to maritime chaparral on the Burton Mesa seems low given the restricted distribution of this plant community type. It is recommended that concurrence with the County of Santa Barbara on the acceptable mitigation ratio for this form of maritime chaparral be obtained.
9. The impact analysis for sensitive plant communities states that the project would only directly (permanently) impact 6.38 acres of maritime chaparral. This impact number does not include the impacts associated with the first 30 feet of the defensible space portion of the fuel management zone, which according to County guidelines requires irrigation and planting with fire-resistant species. This portion of the fuel management zone must be included as a permanent impact and not a temporary impact as noted in Table 7.
10. The BRA lacks a detailed discussion of the technical requirements/regulations of how the two fuel management zones (aka defensible space) are to be treated. The 2006 California Department of Forestry and Fire Protection guidelines stated on page 3 appear to be mischaracterized as these guidelines require the first 30 feet of defensible space be cleared of all flammable vegetation or significantly thinned. As such it could no longer be considered native habitat. This will result in a permanent impact to habitat that must be included in the total permanent impacts for maritime chaparral and added to the mitigation requirement on page 46.
11. The next fuel management zone (30–100 feet of defensible space) must be thinned to reduce fuel loads, but this thinning is usually characterized as “impact neutral”, meaning that the impact is not considered significant but also cannot be counted as mitigation. The BRA refers to all fuel management zone impacts as temporary. The impact/mitigation section for sensitive plant communities should be revised to reflect those portions of the zones that are permanent and the portion that is impact neutral.
12. The proposed on-site portion of the mitigation for maritime chaparral is to be located within the 30–100-foot fuel management zone. It is doubtful that the County or resource agencies would accept this as suitable mitigation for sensitive habitat, as fuel management zones require periodic maintenance that is incompatible with native habitat mitigation goals. The mitigation requirement on page 46 should not rely on on-site mitigation for sensitive habitat (nor for sensitive species), and the BRA should be revised to state that mitigation for sensitive habitat and special status species needs to occur at a suitable off-site location.
13. The BRA does not identify a location or the requirements for suitability of the off-site portion of the mitigation for sensitive habitat and special status species. The BRA should be revised to include a discussion of where off-site mitigation is or may occur.
14. On page 46, the BRA only mentions potential indirect impacts to sensitive plant communities from the introduction of invasive plant species and erosion. The BRA should add a discussion of potential edge effects of the project on the adjacent Burton Mesa Ecological Reserve and how providing a 100-foot setback/buffer would mitigate any potential edge effects on the reserve. On page 3, the BRA only briefly mentions that a buffer is being provided without any explanation of reasons why providing the buffer is important or required. The BRA should be revised to discuss the reason for providing the buffer between the project and Burton Mesa Ecological Reserve as a means of reducing any significant edge effects on the adjacent preserved habitat lands.

#### Special Status Wildlife

15. The special status wildlife surveys were conducted during March and April of 2014 and are now two years old. The resource agencies may request that updated surveys be conducted.

#### Jurisdictional Waters and Wetlands

16. A figure should be added to the BRA that shows the project impacts in relation to the jurisdictional waters.
17. The significance threshold used in the analysis only cover impacts to federally protected wetlands. The CEQA guidelines stated on page 6 state that all “plans, policies, and regulations by the California Department of Fish and Wildlife” must be addressed. These state regulations include Section 1061 and 1603 of the California Fish and Game code.
18. On page 49, the BRA states that no impacts to jurisdictional waters would occur. However, if one overlays the project impact footprint over the jurisdictional waters, there appears to be an impact to state waters along the eastern drainage course. The BRA also mentions on page 49 the potential for impacts to jurisdictional waters from the proposed trail at a location where it likely will cross the central drainage but defers the disclosure of the extent of the impact to a future analysis. All impacts to state jurisdictional waters, including those considered jurisdictional by the County of Santa Barbara, must be identified in the BRA (no matter how small) along with the source of the impact, a determination of significance, proposed mitigation, and permit requirements.
19. The BRA should discuss the potential for a bridge to be used as an impact avoidance measure if a trail crossing of the central jurisdictional water is to occur.

#### Impacts to Native Trees

20. The BRA is not clear on page 50 as to whether the coast live oak trees to be preserved within the proposed development area are considered impacted or not. A statement should be added to the BRA that clarifies how coast live oak trees being preserved within the development footprint are considered in the analysis (i.e., impacted and mitigated for; or not considered an impact).
21. The use of orange construction fencing to demarcate coast live oak trees outside the project impact footprint as stated on page 50 may result in additional habitat/special status species impacts. The BRA should be revised to state an alternate method for identification of coast live oak trees/canopies that are to be avoided (e.g., brightly colored flagging, pin flags, monitoring, etc.).
22. Partial mitigation for impacts to coast live oak trees is identified to occur on-site within the 30–100-foot fuel management zone (see page 52). It is doubtful that the County and resource agencies would accept this location as suitable for oak tree mitigation, as this area requires periodic maintenance that could damage the oak trees planted. The BRA should be revised to identify an off-site location to mitigate oak tree impacts.
23. Update the Executive Summary as appropriate to reflect any changes made to the text of the BRA.

#### **Appendix A – Regulatory Setting: California Department of Fish and Wildlife (CDFW)**

24. The last paragraph on page B-3 of this subsection indicates that only perennial and intermittent streams and associated riparian vegetation fall under the jurisdiction of CDFW. The Fish and Game Code under Section 1600 et al. states that ephemeral streambeds also fall under their jurisdiction. The BRA section referring to CDFW jurisdiction on page B-3 should be revised to include ephemeral streambeds.

Mr. Steve Rodriguez  
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#### **Appendix E – Jurisdictional Waters and Wetlands Delineation (JWD)**

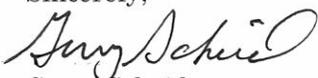
25. The JWD report introduces on page 6 the location of the two ephemeral drainages as “one near the center of the site and a second feature near the eastern boundary of the BSA”. However throughout the remainder of the report the central drainage is referred to as the “western drainage”, which is inconsistent with the introductory text and the location as shown on Figures 4 and 5 on pages 14 and 15. For consistency, change “western” and “main” to “central” to describe this feature throughout the BRA.
26. The JWD provides a Significant Nexus Evaluation on page 16, which concludes that the jurisdictional waters on-site do not have an apparent hydrologic surface connection to a Traditional Navigable Water or Relatively Permanent Water and, therefore, are most likely not jurisdictional pursuant to the Clean Water Act. However, the JWD then adds a statement that the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency must make the final significant nexus determination.
27. The BRA on page 46 concludes that no impacts to waters of the U.S. would occur based on the assumption that there is likely no federal jurisdiction. It is unclear how and when the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency would review this assumption given that no federal permits (i.e., 404 permit) would be required.
28. The determination of federal or no federal jurisdiction based on a review of the significant nexus evaluation should occur prior to the finalization of the BRA, as it could affect the impact analysis and mitigation and permit requirements.
29. Update the Executive Summary as appropriate to reflect any changes made to the text of the JWD.
30. JWD Appendix B: Data Forms. Data sheets for data points 1 and 2 identify the Habitat Type as “coastal sage scrub”, which is inconsistent with the on-site vegetation communities identified in the BRA. The data sheets should be revised to identify the correct vegetation community encountered based on those habitats described in the BRA.
31. The Soil Map Unit should be determined and added to the data sheets for data points 1 and 2.
32. An explanation should be added to data sheets 3 and 4 as to why climatic/hydrologic conditions on-site are not typical for the time of year the delineation occurred as noted on the data sheet when a “no” response is given.

#### **Appendix F – Native Tree Inventory and Health Assessment Report (NTHA)**

33. Only minor editorial corrections are required for the NTHA report and these have been highlighted in a copy of the report provided with this comment letter.

If you have any questions regarding the comments made in the peer review of the BRA, please contact me at 619-308-9333 extension 171 or [gscheid@reconenvironmental.com](mailto:gscheid@reconenvironmental.com).

Sincerely,



Gerry Scheid  
Senior Biologist

cc: Bret McNulty, RECON Environmental, Inc.

Enclosure