



August 30, 2022

Sequoia Ecological--Bourdet Ranch NOV Response to Santa Clara County Comments

Please find our responses to the “PLN-139_Incomplete and Policy Letter_ Pacheco Pass” from the County of Santa Clara (Xue Ling, Associate Planner), dated October 26, 2021. Not all comments in the Incomplete Notice were applicable to the services Sequoia provides. Two documents were provided and are broken down below:

PLN20—139_Incomplete, Grading Abatement Application, Dated October 26, 2021

Biological Report

5. Please provide an enlarged Valley Habitat Plan Land Cover Map (Figure 6). The violation areas shall include the entirety of the gravel driveway as the driveway was significantly widened as part of the violation record (VIO-9270).

Sequoia Response: The map book to accompany Figure 6 is provided as Appendix K.

6. Please provide enlarged maps to illustrate the location of potential habitats of the special-status plants and animal species.

Sequoia Response: Figures 9 and 11 and for special-status plants and animals were added, which is a one-mile buffer around the project area.

Arborist Report

7. Appendix E identifies the trees located within or adjacent to the grading abatement areas. Please provide the boundaries where new grading is proposed on all maps of Appendix E to illustrate the potential impacts to the trees to remain.

8. Please locate the 39 trees being removed on the maps, based on aerial and foot survey.

Sequoia Response: No additional trees are proposed to be removed. Removed trees were mapped in 2021 and are presented in Appendix E.

9. Please provide tree protection measures and plans for all trees to retain that might be impacted by the project.

Sequoia Response: The tree removal document (Appendix F) has been updated with tree protection measures.



Santa Clara Valley Habitat Plan Review

11. Updated HCP Screening Form signed by the property owner. Can you please confirm that all permanent impact areas equate to the 1,370 sq. ft. impervious surface listed on the form? If it is incorrect, please update it.

Sequoia Response:

12. Please update Figure 6 land cover verification map of the biological report. The report described the total acreage for all the land covers for the impacted areas - this needs to be put onto a map on the legend of Figure 6 included with the report.

Sequoia Response: This map was attached as Appendix K in the BRR. An updated map reflecting new grading areas is included as Appendix K in this newest submittal as well.

13. Update biological report as sightings or potential for American Badger and Burrowing Owl are documented on the property per documentation in the biology report. Staff disagrees with the assessment the surveys are not required for these species which is inconsistent with the biology report conclusions that there is potential habitat for these species.

Sequoia Response: We will conduct surveys ahead of abatement as required by the SCVHP. A map was created for this report that shows SCVHP layers with the Project bounds (Appendix K).

14. Plans should be updated as the following information was not provided as previously required. Both top of bank and center line of creek must be labeled on plans. The top bank of creeks were provided in the plan set - but center line was not identified. Please label creek setback from top bank of Pacheco Creek – 200 ft. setback (Category 1 HCP stream), and all other tributaries and swales setbacks of 35 ft. from top of bank of waterway (Category 2 HCP stream), including but not limited to tributaries of Pacheco Creek and Harper Canyon.

Sequoia Response: We will update our mapset where relevant as well (Appendix K2-K3).

15. Tree removal plan - Where is the attachment of the tree removal plan itself? A report by an arborist was provided that described all the trees removed. A plan is required to show all the areas on the plan where trees were removed.

Sequoia Response: The map that accompanies the arborist report (Appendix F) showing locations of tree removals was inadvertently left out of the original submission; it will be included in the resubmittal. *No trees are currently slated for removal during abatement.*



21. Biological Resources Report, Table 1 and Section 3.1.2, engineering designs: Double culvert replacement and restoration of grade is discussed, but there is not discussion regarding the poured concrete at the downstream end of the culvert. This concrete should be removed. Rock rip rap may be needed to prevent further bank and bed erosion. The engineering/restoration designs should include the concrete removal and, if needed, rip rap. The Biological Resources Report should include this information as well.

Sequoia Response: The BRR was updated accordingly.

22. Design Basis Report and Designs: There was not discussion regarding road crumbled asphalt leaching or potential dislodging by channel water (see CDFW NOV for details). If there is a potential for leaching into groundwater or for crumbled asphalt material to be deposited into the creek during flooding, there may need to be grading to remove this material. The Design Basis Report (or other document) can explain the analysis and results. The designs should show any grading that would need to be done.

Sequoia Response: A short research memo was produced that reviewed the potential for toxic leachate from crumpled asphalt into the adjacent waterway was provided.

23. Design Basis Report, biological resources report, designs: These reports do not address the stock ponds to be legalized. The hydroperiod and pond water depths must be sufficient to support all life stages of target native amphibians and reptiles. These documents should include:

- a. Discussion of the target species for which each pond to be legalized
- b. Analysis of hydrology, including location and size of spillways and water control structures to achieve the needed hydroperiod and pond water depth for the target species.

Sequoia Response: The pond at V-10 (Area 6, HB Plans) is slated for removal due to the instability of the area caused by continued upland erosion from the impoundment. The pond at V-14 (Area #5, HB Plans) is not slated for improvements, as it's a historical pond that was increased in size to extend the hydroperiod for cattle. The biological resources report was updated accordingly.

24. Designs and Design Basis Report: Analysis should be conducted to determine the appropriate Harper Canyon Creek impoundment upper spillway elevation that will provide appropriate flows downstream habitats (e.g. Central California sycamore alluvial woodland) and for special-status species potentially present (e.g. California red-legged frog and western pond turtle). If additional grading may be needed, this grading should be included in the designs.

Sequoia Response: As the area is supporting riparian woodland currently, there is enough seepage/hydrology to support current ecological system absent removing dam. The area is wetted during the rainy season and shortly thereafter, but also dries down during the warmest months and in times of extensive drought, similar to the hydrology of the nearby unaltered habitat. This info was added in the biological report.



25. Restoration designs and engineering designs, Basis of Design: The restoration designs should include a planting plan that includes revegetation of trees removed (see CDFW NOV and Biological Resources Report Appendix F. Tree Removal Memorandum). The Basis of Design, or other document, should explain the trees removed and the ratios of replacement. The restoration designs should show where trees are to be planted.

26. Restoration and engineering designs: Both designs should include reseeding of bare soil areas with native grass (or native grass/wildflower mix).

Sequoia response: A restoration and planting plan will be provided when the project is in permitting phase that will detail replacement ratios, species to be replaced, and replanting design for the whole project site based on the County's suggested replanting ratios provided in the NOV response letter (dated October 26, 2021); we are anticipating CDFW to also provide ratios as well for replacement. The replanting area is highlighted in the Walls Land and Water design plans within the grading area, which was calculated based on the County mitigation requirements and the general sycamore alluvial woodland techniques that will be used on the interim basis.

CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD

27. The restoration of existing dirt roads that are being removed should be included with any restoration and monitoring plan that is developed to ensure the areas are stabilized and the vegetation is adequately established.

Sequoia Response: A restoration plan will be provided that addresses all portions of the project's onsite revegetation and monitoring during the permitting phase of the project. The upland areas will be included in this plan, with the planting plan and monitoring for the riparian areas.

28. On Table 1 of the Biological Resources Report, please add a column to show the plant communities/habitats that were impacted.

Sequoia Response: This was updated.

30. Section 6.4.1 refers to "Sycamore Alluvial Wetland" habitat. I think this should Change this to be woodland, not wetland. It also refers to 4.24 acres of temporary impacts and 5.39 acres of permanent impacts. Please confirm these impact calculations as they seem high and they are different from what is presented in the HCP fee calculator worksheet.

Sequoia Response: This was updated. We recalculated all impacts and have updated the report accordingly.

31. Section 6.4.6, Pond. As noted above, the restoration of the eroded gully at pond V-10 needs to be included with the plans to add a sluice gate and outfall. In addition to the permanent impacts to the



stream from construction of the stock pond, impact calculations must also take into consideration the length and area of the stream that was cut off from flow. This would be the distance from the face of the impoundment to where the erosion gully re-enters the stream. Finally, what assurances are there that this pond will be adequately maintained in order to preclude bullfrogs?

Sequoia Response: This pond will be restored to original condition (pond will be removed).

PLN210-139 Policy Issue Letter-R1 (Additional Information/Issues of Concerns for Grading Abatement Application) (October 26, 2021):

HCP Agency Review.

4. The applicant proposed a creek restoration plan by creating flood basins with additional cut to accommodate overflow. Although the proposed creek restoration deviates from the pre-violation condition, the submitted Design Basis Report concludes that “more frequently inundated floodplain surface along both banks allow recruitment of SAW (Sycamore Alluvial Wildlife) species.” The submitted biological report did not evaluate the biological benefit of the proposed scheme. Staff recommends providing biological evaluation of the proposed scheme, taking into consideration of the proposed tree replacement in this area (also see Comment #5).

Sequoia: We will incorporate this comment into the Biological Resources Report (BRR) with the next submittal.

Tree Replacement.

5. The biological report identifies 39 trees being removed when the grading violation occurred. Staff recommends providing a tree replacement plan as a CEQA mitigation measure to restore the lost habitats. The project biologist shall review the plan and provide an assessment to evaluate whether the restoration plan and tree replacement would be sufficient to mitigate the environmental impact to less than significant level. The replacement trees shall be like-to-like, following the replacement ratios identified in the County Tree Protection Guidelines as below:

For the removal of one small tree (5- 18 inches): (3) 15-gallon trees, or (2) 24-inch box trees.

For the removal of one medium tree (18 – 24 inches): (4) 15-gallon trees or (3) 24-inch box trees.

For the removal of a tree larger than 24 inches (5) 15-gallon trees or (4) 24-inch box trees.

Sequoia response: No tree replacement ratio has yet been provided by CDFW. They referenced a RRMP (Riparian Revegetation and Monitoring Plan) in the CDFW NOV (dated 10-15-2020) needing to be sent with the LSA notification but did not provide ratios for replacement of native trees. No other violation documentation has yet provided mitigation ratios for removed trees, so we will use the one provided here unless CDFW or other regulatory agencies chip in at a later date. We will provide a tree replacement (restoration) plan once this project is in CEQA and regulatory permits are being submitted



to restore lost habitats and to mitigate the environmental impact to a less than significant level. We amended language in the BRR (under impact BIO-4) to address this as well.

Additionally, only 38 trees were removed; one tree identified previously as having been removed was documented as still present during the field visit.

Santa Clara County Habitat Plan Review

1. The subject property is located in the Santa Clara Valley Habitat Plan area and the Private Development Area is designed Area 1: Private Development Covered. According to the submitted biological report, land cover appears to include Blue Oak Woodland, California Annual Grassland, Coast Live Oak Forest and Woodland, Developed/Ruderal, Diablan Sage Scrub, Freshwater Wetland, Mixed Oak Woodland and Forest, Pond, Sycamore Alluvial Woodland and Valley Oak Woodland.

2. Wildlife and Plant surveys for grassland species, riparian species and serpentine species are required. The site is located in CA Red Legged Frog Critical Habitat of US Fish and Wildlife Service, and CA Natural Diversity Database shows recent sightings of CA Tiger Salamander, CA Red Legged Frog and CA Foothill yellow legged frog on the subject property and adjacent properties. Burrowing Owl and a number of other species have been sighted on the property.

Note: Habitat Plan coverage will be required. Any future development that affects any wildlife and/or plant species covered by the Habitat Plan, or any unmapped burrowing owl occupied nesting habitat, riparian, stream, pond, wetland, oak woodland, and serpentine habitat requires coverage under the Habitat Plan. See Fees & Conditions Worksheet and Fee Schedule for reference.

HCP documents including the HCP screening form, Habitat Plan Application, and Fees information are at the below weblink: <https://scv-habitatagency.org/250/Private-Applicant>

Sequoia response: The FLYF observation was an ID error that we chased down and verified with stream surveys and coordinated through CDFW. No FYLF were found on the property, and it's very likely the site no longer provides suitable habitat for FYLF since bullfrogs moved in and the most suitable habitat dries down in summer.

For burrowing owl, we conducted surveys already on the property, and the only suitable habitat was identified in the upper reaches of the property near Pacheco Peak where the habitat is primarily California annual grassland and there are abundant ground squirrel burrows. Only wintering BUOW have been observed on the property, including during camera trapping. Presumably, the only suitable breeding habitat is in the same area as the winter habitat, but BUOW have not been documented breeding on the site at all.



CTS and CRLF have been observed on the property. CRLF have been documented breeding in V-10 and have been observed at V-14 (but not breeding). Both of those ponds now are inundated with bullfrogs and its unlikely that CRLF persist in those locations.

CTS have been observed on the far eastern portion of the property, over ½ mile away from the nearest abatement area (V-10). The pond is within dispersal distance of the species but again, bullfrogs are found in large numbers at that site and its unlikely that CTS are able to utilize the pond.

The area is mapped as serpentine habitat according to the SCVHP, but during multiple field outings and the botanical survey (2018), no serpentine areas were identified on the property, and none were found at the abatement areas; therefore, no special-status species plants are anticipated to be found in the NOV areas.

Other special-status species covered under the SCVHP are addressed; for work at abatement areas, its unlikely that most will be affected. No future development is proposed at the site, only abatement activities to address the grading violations. ***Surveys for relevant SCVHP-covered species will occur prior to the implementation of restoration activities at abatement sites.***

Sequoia Ecological Action Items from meeting with County on 10/21/2021:

- Add the entire driveway as a permanent impact area. We discussed at the meeting that this would be additional permanent impact. Prelim mapping in Google Earth adds 120 LF of roadway, not including impacts to the habitat.
- Biological Resources Report: American badger—documented in vicinity on CNDDDB but not proposed for surveys. (No suitable habitat for badger in violation areas)
- Burrowing Owl: Documented onsite and Collen says surveys needed because they have been documented. The only suitable habitat for BUOW can be found in the north/east portion of the property in the vicinity of Pacheco Peak, the NOV areas generally do not have habitat and the property in its entirety is not SCVHP-modelled habitat for the species nor is it in a designated survey area.
 - Comment/discussion from Collen: Onsite observations of special-status species supersede following the HCP strictly—so surveys of special status species will be required if they’ve been documented onsite despite the area not being mapped as suitable habitat.
 - **Sequoia Response:** We will conduct surveys for species as required by the SCVHP.
- Two-year duration on temporary effects—Guidance Document from “GradingViolationFeeInterpretationFINAL” downloaded from the HCP website. Fees capped at 2 years because site will be returned to pre-violation conditions.



- Land Plans: Need TOB and centerline on all Plan maps, plus the setbacks for temporary and permanent impacts.
 - **Sequoia Response**: This will be added to applicable maps.
- Tree Removal Plans: Need to include map of trees removed.
 - **Sequoia Response**: This was inadvertently left out of the appendices in our removed tree report; it is included in the resubmittal as Appendix E
- A Tree Protection Plan also needs to be provided that details how remaining trees within the NOV areas will be avoided during abatement work.
 - This will be something we can slot in to the “existing trees” memo (Arborist Report)
 - Grading areas in relation to existing trees needs to be added to impact maps for tree protection areas.
- CNDDDB Maps: Need to zoom in on the site locale so specific occurrences are clear. Do this for both plant and wildlife occurrence maps.
 - **Sequoia Response: We have included zoomed-in (1-mile buffer) CNDDDB maps as Figures 7b for plants 8b for wildlife.**
- Potential habitat maps for SSS, though this type of information is more typical for a biological assessment. (Translate species tables into the maps)
 - Additionally, the HCP plan application will have more detailed maps based on the precon surveys for plants and wildlife that will be conducted ahead of abatement work.
- Archaeological Review: We are waiting on tribal input as the last step before submitting this report.
 - **Sequoia Update**: Archaeological report received+ submitted. Will resubmit with package.

Sincerely,

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