

2. REVISIONS TO DEIR BIOLOGICAL RESOURCES ANALYSIS

This chapter of REIR No. 2 includes a revised DEIR summary table and Biological Resources section that show the text changes related to new work. New text added as part of this REIR No. 2 is shown with underlining, and deleted text is shown with ~~strikeout~~. Changes that were previously made as a part of the FEIR published in November 2015 are shown with double underlining.

2.1 CHANGES TO DEIR SUMMARY TABLE

An excerpt from **Table 2-2** (Summary of Impacts and Mitigation Measures) of the DEIR begins on the next page. The excerpt shows only the portion of Table 2-2 that addresses biological resources. The table summarizes project impacts and mitigation measures and identifies the level of impact both before and after mitigation.

2.2 CHANGES TO DEIR BIOLOGICAL RESOURCES SECTION

Following the Table 2-2 excerpt, this chapter provides a complete copy of Section 4.3, Biological Resources, of the DEIR, showing changes to the original DEIR text.

TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact	Level of Significance Without Mitigation	Mitigation Measure	Level of Significance After Mitigation
Biological Resources			
<u>BIO-1</u> : Special-Status Species. Tree removal, landscape grubbing, and building demolition associated with the project could result in the loss of bird nests in active use, which would be a violation of the federal Migratory Bird Treaty Act (MBTA).	PS	<p><u>BIO-1</u>: Tree removal, landscape grubbing, building demolition, and off-site sewer line replacement shall be performed in compliance with the Migratory Bird Treaty Act and relevant sections of the California Fish and Wildlife Code to avoid loss of nests in active use. This shall be accomplished by scheduling tree removal, building demolition, and off-site sewer line replacement outside of the bird nesting season (which occurs from February 1 to August 31) to avoid possible impacts on nesting birds if new nests are established in the future. Alternatively, if tree removal, building demolition, and off-site sewer line replacement cannot be scheduled during the non-nesting season (September 1 to January 31), a pre-construction nesting survey shall be conducted. The pre-construction nesting survey shall include the following:</p> <ul style="list-style-type: none"> ▪ A qualified biologist (Biologist) shall conduct a pre-construction nesting bird (both passerine and raptor) survey within 7 days prior to tree removal, landscape grubbing, building demolition, and/or off-site sewer line replacement. ▪ If no nesting birds are observed, no further action is required and tree removal, landscape grubbing, and building demolition shall occur within 7 days of the survey to prevent take of individual birds that could begin nesting after the survey. ▪ Another nest survey shall be conducted if more than 7 days elapse between the initial nest search and the beginning of tree removal, landscape grubbing and building demolition. ▪ If any active nests are encountered, the Biologist shall determine an appropriate disturbance-free buffer zone to be established around the nest location(s) until the young have fledged. Buffer zones vary depending on the species (i.e., typically 75 to 100 feet for passerines and 300 feet for raptors) and other factors such as ongoing disturbance in the vicinity of the nest location. If necessary, the dimensions of the buffer zone shall be determined in consultation with the California Department of Fish and Wildlife. ▪ Orange construction fencing, flagging, or other marking system shall be installed to delineate the buffer zone around the nest location(s) within which no construction-related equipment or operations shall be permitted. Continued use of existing facilities such as surface parking and site maintenance may continue within this buffer zone. ▪ No restrictions on grading or construction activities outside the prescribed buffer zone are required once the zone has been identified and delineated in the field and workers have been properly trained to avoid the buffer zone area. 	LTS

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TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact	Level of Significance Without Mitigation	Mitigation Measure	Level of Significance After Mitigation
<p><u>BIO-2</u>: Special-Status Species. Building demolition could result in loss of special-status bats if roosting in existing buildings or mature trees.</p>	PS	<ul style="list-style-type: none"> ■ Construction activities shall be restricted from the buffer zone until the Biologist has determined that young birds have fledged and the buffer zone is no longer needed. ■ A survey report of findings verifying that any young have fledged shall be submitted by the Biologist for review and approval by the Town of Corte Madera prior to initiation of any tree removal, landscape grubbing, building demolition, and other construction activities within the buffer zone. Following written approval by the Town, tree removal and construction within the nest-buffer zone may proceed. 	LTS
		<p><u>BIO-2</u>: Tree removal and building demolition shall be coordinated to ensure no loss of any bat roosts in active use. This shall be accomplished in the following way:</p> <ul style="list-style-type: none"> ■ A qualified bat biologist (Biologist) shall conduct a focused survey prior to building demolition and/or tree removal to determine whether any bat roosting activity is present on the site, including any location used for either winter hibernation or maternity roosts . The survey shall focus on attic and roof spaces of existing structures, cavities and exfoliating bark of mature trees, and other locations with a potential for use by bats. The focused survey shall remain valid for a period of 1 year, given the potential for establishing a new roost(s), and preconstruction surveys may be required depending on the timing of the focused survey in relation to building demolition and/or tree removal, as specified below. ■ If any evidence of active bat roost(s)are encountered during the focused survey, building demolition and/or tree removal shall not take place until a Bat Monitoring and Exclusion Plan (BMEP) has been prepared by the Biologist. The BMEP shall define method(s) for bat exclusion, any required construction restrictions and monitoring activities to ensure no loss of bats and any appropriate buffer zone around the roost location, if necessary. The BMEP shall be prepared in coordination with the California Department of Fish and Wildlife (CDFW) and reviewed and approved by the Town prior to implementation, and the Biologist shall monitor all exclusion activities and ensure any required exclusion has been successful. ■ Any required exclusion actions defined in the BMEP shall occur either prior to or after the hibernation season for hibernacula (November 1 through March 31) or after the nursery season for maternity roosting colonies (April 1 through August 31), and following confirmation by Biologist that the hibernacula and/or maternity roost(s) are no longer essential for survival. ■ If any active roost(s) is encountered, the Biologist shall specify in the BMEP an appropriate disturbance-free buffer zone to be established until the required exclusion has been accomplished. Buffer zones vary depending on location, species, and other 	

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		<p>factors such as ongoing disturbance in the vicinity of the roost location.</p> <ul style="list-style-type: none"> ▪ Orange construction fencing, flagging, or other marking system shall be installed under the supervision of the Biologist to delineate the buffer zone around the roost location(s) within which no construction-related equipment or operations shall be permitted. Continued use of existing facilities such as surface parking and site maintenance may continue within this buffer zone. ▪ No restrictions on grading or construction activities outside the prescribed buffer zone are required once the zone has been identified and delineated in the field and workers have been properly trained to avoid the buffer zone area. ▪ Construction activities shall be restricted from the buffer zone until the Biologist has completed the required exclusion as defined in the BMEP and approval to perform building demolition and/or tree removal within the buffer zone obtained in writing from the Town, as specified below. ▪ If an active maternity roost(s) of a special-status bat species is encountered, the BMEP shall specify that it not be disturbed until vacated and juveniles have fledged, as determined by the Biologist. Once all young have fledged and access has been adequately excluded from the roost location, the building demolition and/or tree removal may proceed. ▪ If an active maternity roost(s) of a special-status bat species is encountered, the Biologist shall consult with the CDFW to determine appropriate compensatory mitigation and any required mitigation defined as part of the BMEP. This may include installation of species-appropriate replacement roosting habitat (e.g., bat boxes) on trees to be retained on the site. ▪ A new focused survey shall be conducted if building demolition and/or tree removal does not occur within 1 year of conducting the field inspection to determine presence or absence of any bat roost(s). ▪ If building demolition and/or tree removal does not occur outside the hibernation and nursery season (from September 1 through September 31), and more than 60 days has passed since the initial focused survey was conducted, a preconstruction survey shall also be conducted by the Biologist no more than 30 days prior to building demolition and/or tree removal to confirm that no new hibernacula or maternity roosting colonies have become established since the initial focused survey was conducted. If a new active roost(s) is encountered during the preconstruction survey, the above provisions and procedures shall apply to the new roost location as well. ▪ A survey report of findings from implementing the BMEP shall be submitted by the 	

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Impact	Level of Significance Without Mitigation	Mitigation Measure	Level of Significance After Mitigation
<p>BIO-3: Regulated Waters. Proposed development would result in filling of the existing pond, eliminating an estimated 0.64-acre of jurisdictional waters on the site.</p>	PS	<p>Biologist for review and approval by the Town of Corte Madera prior to initiation of any tree removal, building demolition or other construction activities within the buffer zone. The survey report shall verify that any roosting bats have been successfully excluded from the roost location, and appropriate alternative roost habitat has been installed, if necessary. Following written approval by the Town, building demolition, tree removal and construction within roost-buffer zone may proceed.</p> <p><u>BIO-3a: If avoidance of jurisdictional wetlands and waters of the US due to filling is not feasible, a A-Wetland Protection and Replacement Program (WPRP) shall be prepared by a qualified wetland specialist and implemented to provide compensatory mitigation for the proposed fill of 0.64 acre of jurisdictional waters on the site, and any other areas of jurisdictional waters affected by the project, and to ensure compliance with Town policies related to wetland protection and mitigation. The WPRP shall contain the following components:</u></p> <ul style="list-style-type: none"> ▪ If on-site avoidance of jurisdictional waters is not feasible, the WPRP shall provide compensatory mitigation at a minimum 2:1 ratio (ratio of mitigation acreage or credits to affected jurisdictional waters), subject to the review and approval by the Town and regulatory agencies. In 2002, the applicant purchased 1.20 acres of wetlands credits from the Burdell Ranch Wetlands Conservation Bank. An additional 1/10th of an acre mitigation credit is needed to achieve the full 2:1 ratio under the Wetlands Protection and Replacement Program. <u>An alternative on-site or off-site method to achieving the full 2:1 ratio may be necessary as part of the WPRP if additional wetland credits are no longer available from Burdell Ranch Wetlands Conservation Bank.</u> ▪ Orange construction fencing shall be installed at the edge of adjacent jurisdictional waters to be preserved, specifically the drainage ditch along the west side of Highway 101, to ensure no disturbance to this feature. An encroachment permit from Caltrans may be required to remove the existing culvert with slide gate that connects the existing on-site pond to the drainage ditch and restore the area to natural conditions. ▪ A qualified biologist/restoration specialist shall be available during construction to provide situation-specific avoidance measures during removal of existing culverts and other facilities that connect hydrologically to adjacent jurisdictional waters, such as the 30-inch pipe that connects to Lagoon #1 and the culvert with slide gate at the northeastern edge of the existing pond that connects to the drainage ditch along the west side of Highway 101. ▪ Any areas disturbed as part of pond filling and culvert removal shall be restored to prevent erosion and contamination of nearby receiving waters. This shall include required revegetation of the adjacent drainage ditch along the west side of Highway 	LTS

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		<p>101 if the bank is disturbed during removal of the existing culvert (with slide gate) that connects to the on-site pond. If the culvert that connects to the adjacent ditch is to be removed, monitoring shall be provided for a minimum of 3 years to ensure the disturbed area is successfully revegetated. Annual monitoring reports shall be provided to the Town, <u>Caltrans</u>, and resource agencies before December 31 of each monitoring year, summarizing the status of revegetation efforts, and any maintenance activities performed or required. Photographs of the location from either side of the treatment area shall be included. Maintenance and monitoring shall continue until the area is completely revegetated with a minimum of 80 percent absolute cover.</p> <ul style="list-style-type: none"> ▪ Authorization for modifications to jurisdictional waters on the site shall be obtained by the applicant from the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act, the Regional Water Quality Control Board (RWQCB) under Section 401 of the Clean Water Act, and the California Department of Fish and Wildlife (CDFW) under Section 1602 of the State Fish and Game Code, <u>if required</u>. ▪ All legally required permits or other authorizations shall be obtained by the applicant from the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NOAA Fisheries), and CDFW for the potential “take” of protected species under the federal and California Endangered Species Acts, if required. Although considered unlikely given the absence of suitable habitat for state- or federal-listed special-status species, the resource agencies make the determination on the need for any consultation or incidental take permits. ▪ Proof that all appropriate authorizations have been secured from the Corps, RWQCB, and CDFW and that adequate mitigation credits have been purchased shall be furnished to the Town prior to the issuance of a grading permit. 	
		<p><u>BIO-3b</u>: To address potential indirect impacts on water quality and downgradient receiving waters in the vicinity of the site, the applicant shall implement best management practices (BMPs) under the Storm Water Pollution Prevention Plan (SWPPP) called for in Mitigation Measure HYDRO-1a and the Stormwater Control Plan (SCP) called for in Mitigation Measure HYDRO-1b.</p>	LTS
<p><u>BIO-4</u>: Wildlife Movement Opportunities. The project could interfere with bird nests, bat roosts, or the movement of migratory birds.</p>	PS	<p><u>BIO-4</u>: Mitigation Measures BIO-1, BIO-2, and BIO-3a shall be implemented.</p>	LTS
<p><u>BIO-5</u>: Conformance with Local Plans and Policies. Proposed development has the potential to conflict with local regulations related to tree protection and the intent of relevant policies in the Corte Madera General Plan related to wetlands.</p>	PS	<p><u>BIO-5a</u>: The applicant shall comply with the provision of Chapter 15.50 of the Town Municipal Code regarding proposed tree removal and requirements for adequate protection of trees to be preserved and replacement tree plantings. A Tree Protection, Removal and Replacement Plan (TPRRP) shall be prepared by the applicant and submitted for review and approval by the Town. Trees to be removed shall be replaced at</p>	LTS

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		a minimum 2:1 ratio for 15-gallon sized plantings, or as determined by the Town based on size of replacement plantings and other criteria. As part of the TPRRP, a certified arborist shall be responsible for defining appropriate tree avoidance and protection measures to ensure that trees to be preserved are not damaged during construction. Further review shall be provided by the Town to verify adequate replacement tree plantings, refine tree preservation and protection guidelines, and determine whether soil amendment and other requirements are necessary for successful establishment and long-term tree health. This shall occur prior to issuance of grading permits.	
		<u>BIO-5b</u> : Implementation of Mitigation Measures BIO-3a and BIO-3b would ensure adequate mitigation is provided for the loss of 0.64 acre of jurisdictional waters on the site, that protection and restoration of nearby waters is provided by the project, and that required authorizations are secured by regulatory agencies with evidence of compliance provided to the Town prior to issuance of a grading permit. These measures would collectively ensure that the proposed project complies with the relevant provision in the Town’s General Plan and Municipal Code related to jurisdictional waters.	LTS
<u>Impact BIO-6: Sensitive Natural Communities. The project would eliminate the occurrence of a widgeon-grass sensitive natural community associated with the pond from the site.</u>	<u>PS</u>	<u>BIO-6: Mitigation Measure BIO-3a shall be implemented.</u>	<u>LTS</u>

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