

A Review of the City of Rancho Cordova Swainson's Hawk CEQA Mitigation Program

The purpose of this project was to assess the City of Rancho Cordova program that implements mitigation for development impacts on Swainson's Hawks. A review was conducted of CEQA documents, mitigation strategies and their implementation.

A Review of the City of Rancho Cordova Swainson's Hawk CEQA Mitigation Program

January 4, 2012

Prepared By
Melinda Dorin Bradbury
Environmental Consulting
2367 Marina Glen Way
Sacramento California 95833

Prepared for
Friends of the Swainson's Hawk
915 L Street, C-425
Sacramento, Ca. 95814

This project made possible with a grant from the California Wildlands Grassroots Fund

Purpose

The purpose of this project was to assess the practices of the City of Rancho Cordova (Rancho Cordova or City) in mitigating for the impacts of development on Swainson's Hawks. Five primary questions guided this research:

1. What policies guide the City during California Environmental Quality Act (CEQA) required environmental review?
2. How well is an assessment of impacts on Swainson's Hawks conducted in a Rancho Cordova environmental review?
3. How clear are the mitigation requirements adopted by the City?
4. Was mitigation provided as promised?
5. Was the selected mitigation land suitable to offset impacts to Swainson's Hawks from Rancho Cordova development?

I examined City policies, studies of Swainson's hawk habitat in the City planning area, CEQA documents, and mitigation land easements. I also reviewed information that I received from Rancho Cordova staff to determine how mitigation was implemented.

History of Project

Friends of the Swainson's Hawk (FOSH), a California 501(c)(3) organization, was incorporated in 1994. It incorporated in response to the need to protect the Swainson's Hawk, a Threatened species under California law. Swainson's Hawks became listed as Threatened under the California Endangered Species Act (CESA) in 1983. FOSH has historically focused their conservation efforts in the Sacramento region as the Swainson's hawk breeding population in California is concentrated in Yolo, Sacramento, Solano, and San Joaquin counties making its survival a responsibility of this region.

FOSH has received several grants to undertake reviews of local CEQA mitigation programs for Swainson's Hawks. The reviews have already been conducted for the City of Elk Grove and Sacramento County using the best information available. As part of the reviews conservation easements have been assembled and reviewed, mitigation program implementation assessed and findings and recommendations made on how to improve the mitigation programs. Findings and recommendations on the mitigation programs for the City of Elk Grove and Sacramento County are available through FOSH.

Expanding the project to other local jurisdictions supports the organization's adopted conservation strategy for the species and furthers FOSH's mission to see the California population of the species flourish for generations to come. One of FOSH's conservation objectives is to work with the resources agencies, partner organizations, and the public to preserve agriculture and promote quality mitigation for loss of farmland within the Swainson's Hawk's range. Conducting these reviews has informed the discussion that FOSH is continuing to have with agencies and local governments and organizations about providing the best mitigation for development. It will also help FOSH evaluate the Habitat Conservation Plan being developed for South Sacramento County. By reviewing the mitigation programs and

identifying weak and strong areas the programs can be improved with FOSH's input and it can lead to better conservation and mitigation programs.

FOSH plans to use the materials developed to carry on an informed dialog about local government's open space conservation programs and how they can be improved. FOSH will determine how to use the project findings to inform the public, the media and interested groups and use them as a tool and an example when looking into other jurisdictions' implementation of CEQA.

Funding was received in 2011 from the California Wildlands Grassroots Fund to complete additional work and FOSH determined that a review of the Rancho Cordova program was part of the next phase. This report contains the findings and recommendations of that review.

Background

The City of Rancho Cordova was incorporated in 2003. Prior to that, the area was included in the Sacramento County CEQA mitigation program for Swainson's Hawks. At the time Sacramento County primarily took in-lieu fees for acres impacted with the intent of purchasing conservation easements out of the Swainson's Hawk Mitigation Fund. When the City of Rancho Cordova incorporated they adopted the Sacramento County code section 16.130 Swainson's Hawk Impact Mitigation Fees and collected fees under the program until 2004. In 2004 the code section expired and the option of in-lieu fees was not continued. The City of Rancho Cordova continued to hold fees until 2006, when a resolution was passed to transfer \$628,741.40 out of the impact mitigation fees account to the Sacramento Valley Conservancy for purchase of a conservation easement for 52.4 acres.

The City of Rancho Cordova has not adopted another Swainson's Hawk Ordinance, or policy. Instead they address Swainson's Hawk impacts on a project-by-project basis through the CEQA process. The City is a party to the Sacramento County Habitat Conservation Plan (SCHCP) that is being developed and if and when the SCHCP is adopted plan to mitigate according to the terms outlined in the plan.

Rancho Cordova General Plan Goals, Policies, and Actions (2006)

The Rancho Cordova General Plan was adopted in 2006 and includes several Natural Resource Elements that provide protection for Swainson's Hawks foraging and nesting habitat. The following is cited directly from their General Plan available at www.cityofranhocordova.org.

GOAL NR.1 – Protect and preserve diverse wildlife and plant habitats including habitat for special status species.

Policy NR.1.1 - Protect rare, threatened, and endangered species and their habitats in accordance with State and federal law.

Action NR.1.1.1 - Incorporate large habitat preserves and interconnected wildlife corridors in new development areas to provide ample space for animal movement.

Action NR.1.1.2 – Review projects through the entitlement process and CEQA analysis to ensure that they comply with this policy if the site contains unique habitat, creeks, and/or wooded corridors.

Action NR.1.1.3 - As part of the consideration of development applications for individual Planning Areas containing habitats that support special-status plant and animal species that are planned to be preserved, the City shall require that these preserved habitats have interconnections with other habitat areas in order to maintain the viability of the preserved habitat to support the special-status species identified. The determination of the design and size of the "interconnections" shall be made by the City,

as recommended by a qualified professional, and will include consultation with the California Department of Fish and Game and U.S. Fish and Wildlife Service.

Action NR.1.1.4 - Prior to the approval of any public or private development project in areas containing trees, the City shall require that a determinate survey be conducted during the nesting season (March 1 and August 31) to identify if active nesting by birds protected under the Migratory Bird Treaty Act (MBTA) is taking place. If all site disturbances are to occur outside this time, the actions described in this mitigation measure are not required. If nesting activity is observed, consultation with the City of Rancho Cordova Planning Department shall be conducted in order to determine the appropriate mitigation, if any, required to minimize impacts to nesting birds. No activity may occur within 100 feet of any nesting activity or as otherwise required following consultation with the California Department of Fish and Game.

Policy NR.1.2 - Conserve Swainson's hawk habitat consistent with State policies and Department of Fish and Game guidelines.

Action NR.1.2.1 – Establish a Swainson's Hawk Ordinance in coordination with the California Department of Fish and Game to establish the process of mitigating for the loss of Swainson's hawk foraging habitat based on habitat value lost to development. The ordinance will set forth a process where habitat lost to development will be mitigated through the permanent protection of equivalent or better existing habitat conditions (referred to hereafter as "mitigation lands"). The specific required mitigation ratios (habitat acreage lost versus mitigation lands) and any other provisions to mitigation process shall be established through technical studies as part of the development of the ordinance and will take into account value of habitat to be converted in relation to habitat value of the mitigation lands (e.g., relation to nesting sites), proximity of the mitigation lands to adjacent conditions affecting habitat (e.g., nearby land uses and already permanently protected lands), and other relevant factors. The ordinance will also establish standards ensuring that mitigation land will be adequately protected and managed in perpetuity (e.g., via conservation easement, deed restriction or other appropriate method), and setting forth the timing of the required provision of mitigation lands in relation with the timing of the loss of habitat in the City (as its boundaries may be changed through subsequent annexations), such that mitigation lands shall be provided no later than prior to ground disturbance.

In support of the above General Plan Goals, Policies and Actions the General Plan FEIR/EIR describes Swainson's Hawk habitat needs as follows:

Swainson's hawk nest in large, native trees such as oaks and willows and in nonnative trees as well, primarily in riparian and other wet cover types. Swainson's hawks utilize several cover types found within the Planning Area, both for shelter and nesting sites as well as foraging. Swainson's hawk is listed as threatened by the CDFG and is found in 29 locations within many different cover types in the Planning Area...

Also determined as part of the cumulative impacts:

The contribution to these impacts by development of the General Plan would be cumulatively considerable as many special status species rely on specific cover types found in the Planning Area for movement and forage, while not necessarily using cover types in the Planning Area on a permanent basis. Migrating birds fall within this category, as well as Swainson's hawk and other raptors that have been known to use the southern portions of the Planning Area as foraging habitat while nesting and breeding in areas south of the Planning Area such as within the City of Elk Grove and along the Consumnes River (Page 61).

Swainson's Hawk Survey Results

The City commissioned a Swainson's Hawk survey in 2006 to determine where Swainson's Hawks are nesting within Rancho Cordova's planning area (Estep Environmental Consulting, 2007). The survey was also conducted to assess nesting and foraging habitat associations and provide information on suitability for conservation. Sixty one thousand, three hundred and eighty three (61,383) acres were surveyed that border the City of Sacramento on the north and west, the city of Folsom on northeast, and Sacramento County on the east and south. The American River forms the majority of the northern boundary of the study area; the eastern boundary is formed by Prairie City Road on the north, and generally extends south to Deer Creek, which forms a portion of the southeast boundary. The western boundary is formed by Watt Avenue, and the southern boundary is formed primarily by Elder Creek Road and Florin Road.

In a one year survey, (2006) a total of 13 active Swainson's Hawk territories were located within the boundary of the study area. Of these, 9 (69.2%) were confirmed to have nested (i.e., active nest), and of the active nests, 8 (88.9%) successfully reared young to fledging. Four (30.8%) of the 13 active territories did not nest (Estep Environmental Consulting, 2007).

Five additional active Swainson's Hawk territories were located within 1 to 2 miles of the study area boundary. Suitable habitat types within the area include annual grassland, mine tailings (consisting of annual grassland and cottonwood savannah), irrigated cropland, and irrigated pasture. Estep found suitable habitats constituted a total of 37,037 acres within the study area. Estep gives several scenarios of how mitigation and habitat compensation could be calculated based on habitat type, and proximity to nests, although it results in a relatively complex matrix with different calculation ratios. Estep discusses various conservation strategies in his report including additional mitigation to account for loss of nesting habitat and impacts to Swainson's Hawk nest trees and nesting areas.

Planning Areas

The City of Rancho Cordova staff identified 7 projects within their boundaries that impacted Swainson's Hawk foraging habitat and have included mitigation measures to reduce impacts. The projects were all in varying stages of approval when Rancho Cordova became incorporated; in some cases the projects were approved by Sacramento County prior to incorporation and in other cases the projects were approved by the City of Rancho Cordova. See Table 1 for a list of projects and summary information.

Although there are only seven projects it has not been clear how Swainson's Hawk mitigation was determined, or obligations have been fulfilled on all of the projects. Sunridge Park and Sunridge Lot J were combined in one Mitigated Negative Declaration and information on all of the Anatolia phases has not been made available. See Table 2 for a summary of how Swainson's Hawk impacts were determined according to CEQA documents.

A brief summary of each project is also provided to aid the information in the tables. The summaries are based on information provided in the CEQA documents, from City of Rancho Cordova staff and from conversations with mitigation bankers. In some cases wetland and Swainson's Hawk mitigation is integrated. Table 3 includes all the information that could be found on all types of mitigation so a complete picture could be detailed.

Table 1: Projects within the boundaries of the City of Rancho Cordova that have identified impacts to Swainson’s Hawks in their CEQA documents

Project Name	Total Project Acres	SWHA Acres Impacted	Acres Mitigated for SWHA/Location	Approving Entity	Year Approved
Rio Del Oro	3828	1950	Not finalized	Rancho Cordova	2010
Sunridge Park/ Sunridge Lot J	244 81.1	Not determined in MND	52.4 Westerberg 60.9 Gill Ranch	Rancho Cordova	2003
North Douglas	130.2	Not determined in MND	113.872 Gill Ranch	Rancho Cordova	2004
Montelena	251.9	Not determined in MND	15.61 Gill Ranch 201.5 Laguna Terrace <54.5* onsite	Rancho Cordova	2005
Anatolia I, II and III Anatolia IV	I-III 1225** IV – 25.1	I-III CEQA document not available IV – Not determined in MND	Was not able to determine based on available information	I – III Sacramento County IV – Rancho Cordova	I-III 2003 IV - 2005
TOTAL	5321.2				

*The onsite preserve includes upland and wetland. No information about how many of the 50 acres are upland was found

**Estimated based on information found online about project

Table 2: Swainson’s Hawk Mitigation calculation information

Project Name	CEQA document prepared*	SWHA Habitat Calculation Method	SWHA protocol level surveys done for CEQA document	Planning Area**	Acreage amount included in CEQA document?***
Rio Del Oro	EIR/EIS	Distance to Nest	No	Rio Del Oro	No
Sunridge Park/ Sunridge Lot J	MND	Distance to Nest	No	SDCP/SRSP	No
North Douglas	MND	Distance to Nest	No	SDCP/SRSP	No
Montelena	MND	Distance to Nest	No	SDCP/SRSP	No
Anatolia I, II, III and IV	MND	I – III Not made available IV – Distance to nest	I – III Undetermined IV - No	SDCP/SRSP	I – III Undetermined IV - No

*EIR/EIS – Environmental Impact Report/Statement; MND – Mitigated Negative Declaration

**SDCP: Sunrise Douglas Community Plan; SRSP: Sunridge Specific Plan

***No - If the method used to calculate impacts and mitigation was included, but the actual acreage was not included in the CEQA document. Yes - If the acreage amount appears in the document.

Table 3: Best Information on Impacted Areas and Mitigation Types

Project Name	Total Project Acres	Preserved Acres	Preserve Type	Acres Mitigated Onsite or Offsite	Best Estimate of SWHA acres preserved
Rio Del Oro	3828	513	Vernal pool grassland	Onsite	Not determined yet
		Offsite mitigation not determined yet			
Sunridge Park	244	52.4	Uplands	Westerberg Ranch	52.4
		0.19	Wetlands	Onsite	
		10.4	Vernal pool	Bryte ranch	
Sunridge Lot J	81.1	60.9	Upland	Gill Ranch	60.9
		3.380	Vernal pool	Gill Ranch	
North Douglas	130.2	113.872	Vernal pool grassland (upland portion)	Gill Ranch	113.872
		11.675	Waters of the US	Gill Ranch	
		6.863	Created wetlands	Gill Ranch	
		44.89	Wetlands (unconfirmed)	Klotz Property (unconfirmed)	
Montelena	251.9	54.5 (includes 19.3 wet acres)	Wetland/ Upland	Onsite	252.31
		9.119	Vernal Pool Wetlands	Bryte Ranch	
		201.5	Uplands	Laguna Terrace	
		15.61	Uplands	Gill Ranch	
Anatolia I - III	1225	44	Wetlands	Onsite	Not determined
		482	Vernal pool grassland	Onsite (includes the 44 wetland acres)	
Anatolia IV	25.1	8.16	Vernal pool/wetland	Laguna Terrace	Not determined

Montelena

A MND was approved for the 251.9 acre Montelena project by the City of Rancho Cordova in 2005 within the Sunridge Specific Plan Area (SRSP). The Swainson’s Hawk mitigation requirement included the same standard language used by the City of Rancho Cordova in other projects; a calculation based on distance to nest. Because the mitigation measure simply identifies how to calculate the mitigation requirement, there is no acreage amount identified in the MND. The standard language which is originally from a CDFG document is the following:

For projects within a one-mile radius of an active nest site, the project proponent shall preserve 1.0 acre of similar habitat for each acre lost within a ten-mile radius of the project site. For projects within a one to five mile radius of an active nest site, the project proponent shall preserve 0.75 acre of similar habitat for each acre lost within a ten-mile radius of the project site. For projects within a five to ten mile radius of an active nest site, the project proponent

shall preserve 0.5 acre of similar habitat for each acre lost within a ten-mile radius of the project site. This land shall be protected through fee title or conservation easement (acceptable to the Department of Fish and Game).

It is not possible to tell from this language in the MND how many acres are required to fulfill the Swainson's Hawk foraging habitat mitigation obligation. However, it appears that the requirement is at a 1:1 ratio for the whole site because mitigation credits purchased total the project acreage. In the MND there is also no biological resources background and no disclosure of the types of habitats and their acre amounts.

In addition to the standard language for habitat compensation preconstruction surveys were to be done between April 1 and July 31 for nest protection measures.

The Montelena project does include a 50 acre wetland preserve onsite. The drawback to the preserve design is that it will be surrounded by houses when the area is fully developed (Figure 3 in the Montelena MND). The site's uplands may not be as useful to foraging Swainson's Hawk as larger parcels would be that are adjacent to other open space areas.

Gill Ranch is owned by Conservation Resources and has approval to provide wetland mitigation for vernal pool fairy shrimp and vernal pool tadpole shrimp. According to City of Rancho Cordova staff 15.61 acres of mitigation land was obtained by recorded easement at Gill Ranch for Swainson's Hawk. The CDFG conservation banking website does not include Gill Ranch as a mitigation bank for Swainson's Hawks.

Montelena also provided a conservation easement at Laguna Terrace, held by Sacramento Valley Conservancy and managed by Wildlands Inc. Wildlands has told us that the entire 201.5 acres of upland (of the total 293 acre parcel) are dedicated to Swainson's Hawk for the Montelena project, and that the wetted acres at Laguna Terrace were sold for multiple other projects. The conservation easement deed names the projects that mitigated there using the wetlands and vernal pools.

Paragraph B of the conservation easement states that the Deed is being executed and delivered to satisfy certain habitat conservation requirements under the Kiefer Landfill Expansion Biological Opinion (BO), and 404 Permit, the College Marketplace BO, the Sunridge Park BO and 404 permits, CP Sunridge – Montelena BO and 404 permit, Anatolia Roads BO and 404 and Anatolia IV BO and 404. All of those permits would require wetland and vernal pool mitigation. It appears that the wetted acres are being attributed to certain projects, and the uplands surrounding the wetlands are being sold separately. Since Laguna Terrace is not an approved DFG mitigation bank for Swainson's Hawk foraging habitat and does not appear on CDFG's website, it is difficult to clearly account for the mitigation acreages. Since the parcel is 293 acres and the upland component is 201.5 acres the assumption is the wetted acres consists of 91.5 acres.

Based on information gathered from the Wildlands Inc. website, CDFG website, Google Earth and the project site summary it appears that the mitigation land is similar to the impacted lands. The mitigation site is approximately 8 miles away from the impact. No information was found on whether there are Swainson's hawk territories at the mitigation site, and what their density is.

Rio del Oro

The Rio del Oro Specific plan area, approved in 2010, includes approximately 3,828 acres located south of White Rock Road, north of Douglas Road, and east of Sunrise Boulevard with the City of Rancho

Cordova. The EIR, prepared for the City of Rancho Cordova, identifies 1950 acres of Swainson's Hawk foraging habitat (page 3.10-57 of DEIR). No protocol level surveys were conducted for Swainson's Hawk presence as part of preparing the EIR. Page 3.10-56 of the EIR states "The Swainson's hawk is a migratory species that can be found in the project area during the nesting season. It has not been documented nesting on the project site, but suitable nesting habitat is present." In fact, the Estep survey conducted for the City of Rancho Cordova in 2006 found that there are nesting birds on the south side of Douglas Road and on the north side of the project area.

Mitigation measures for the project includes the creation of a 507-acre wetland preserve in the southern portion of the project site and the establishment of two open-space preserves that would be used for elderberry mitigation (Exhibit 3.10-3 in the EIR). Preconstruction surveys are to be conducted for nesting raptors to establish buffers for active nests and a Swainson's Hawk mitigation plan is to be prepared and implemented.

Part of the 507 acre preserve is on the grasslands on the site which would provide some in-kind preservation. Wetlands would be created on the site, resulting in additional incremental loss of upland foraging habitat. No ground disturbing activities have been conducted, so a mitigation site has not been identified or mitigation provided yet. Although 1950 (page 3.10-57 of DEIR) acres of Swainson's Hawk grassland foraging habitat have been identified it is unclear whether part of that mitigation will be satisfied by the 507 acre wetland preserve onsite. The document later states close to 1500 acres (page 3.10-71 DEIR) of foraging habitat will be lost.

The mitigation measure describes what the applicant must do to fulfill the mitigation requirement and requires consultation with California Department of Fish and Game. Final approval of amount, location and quality of mitigation habitat is solely at the City's discretion. The measure has some positive detail, but it also lacks assurances about where and how much mitigation land will be provided.

Sunridge Park and Sunridge Lot J

A MND was prepared by the City of Rancho Cordova for both projects jointly and certified in 2003. The Sunridge Park and Sunridge Park Lot J project sites are located within the Sunridge Specific Plan (SRSP) area, which is part of the larger Sunrise Douglas Community Plan (SDCP). Sunridge Park is bounded by Douglas Road to the north, agricultural lands to the east and south and by Lot J to the west. Lot J is bounded by Douglas Road to the north, SP to the east, agricultural land to the south and Jaeger Road to the west. Grant Line Road is located approximately $\frac{3}{4}$ of a mile to the east of the project sites. The Sunridge Park project is on 244 acres and the Lot J project is on 81.1 acres.

Mitigation Measure 4.1a requires updated surveys for special status species. Mitigation measure 4.1b requires several Swainson's Hawk mitigations including a Swainson's Hawk mitigation plan and habitat compensation. The habitat compensation measure includes the distance to nest calculation and does not identify the amount of acres impacted. In the Rio del Oro EIR it states there were 2.99 acres of wetlands on the Sunridge Park site. Based on the amount of money collected by Rancho Cordova for the project it should have been mitigated at a 1:1 ratio. They collected \$628,741.40, and at the time the fee was \$2,500 per acre so mitigation for the vernal pool grasslands likely should have been close to 244 acres.

The projects did not include any habitat compensation on site. All wetlands were supposed to be avoided, so no wetland permits or special status wetland species take permits were applied for. There is

no indication that the avoided wetlands were going to be preserved. The MND says they can be developed at a later time if the appropriate permits are sought and received.

Fees were taken for Sunridge Park, but this is the first and last project for which the City of Rancho Cordova accepted fees. The City learned early on that fees make it too complicated to provide habitat compensation lands in a manner that mitigates appropriately. The funds provided by the fees were sufficient to purchase easement for only 52.4 acres of mitigation lands. The acres were acquired under a Conservation Easement at the Westerberg Ranch. The Westerberg Ranch site is managed by the Sacramento Valley Conservancy and was purchased using funds from both the City of Rancho Cordova and the County of Sacramento. FOSH has already conducted a review of the Westerberg Ranch easement as part of phase I of this evaluation research project – Sacramento County.

According to the Gill Ranch database that was provided by City of Rancho Cordova staff 60.9 acres of Swainson's Hawk habitat were provided at Gill Ranch for Lot J. A copy of the easement was also provided by staff, although on the copy received there is no stamp showing that it was recorded.

Gill Ranch is probably appropriate mitigation from the perspective that the habitat types are similar to those disturbed, but it is far enough away that it doesn't likely provide foraging habitat for the Swainson's Hawks impacted by the loss of habitat at the Sunridge Lot J project. Based on CDFG's website, Gill Ranch is not a preapproved mitigation bank for Swainson's Hawks so there is no preapproved service area for Swainson's Hawk mitigation.

North Douglas

The North Douglas project is bounded by Americanos Boulevard to the west, agricultural land to the north and east, and by Douglas Road to the south. The 130 acre site is located within the SDCP/SRSP planning area. The project included a General Plan Amendment, Specific Plan Amendment, and Rezone to remove commercial mixed use designations and change it to residential. It was determined in the MND that the impacts were similar to those disclosed in the master EIR for the planning area so a MND was feasible.

The MND does have a mitigation measure requiring a 2081 permit from CDFG if take of a state listed species is included in project impacts. The mitigation measure identifying habitat compensation is the standard mitigation measure in use by the City of Rancho Cordova which is based on the calculation of distance to nest.

City of Rancho Cordova staff provided a copy of the conservation easement boundaries for the conservation easement purchased at Gill Ranch and the Klotz property for impacts from the North Douglas project. They also provided a copy of the tracking database from Gill Ranch that shows 113.872 acres of Swainson's Hawk habitat were provided for the North Douglas property.

Section D of the Gill Ranch easement language includes reference that the conserved property contains 113.872 acres of Swainson's hawk upland foraging habitat to satisfy requirements for the loss of Swainson's Hawk foraging habitat at the North Douglas project. Gill ranch is not on DFG's website for approved Swainson's hawk mitigation. It is difficult to account for all mitigation lands assigned to projects if they are used piecemeal with no centralized tracking system.

The project also mitigated wetland at Gill Ranch and at the Klotz property. Mitigation totaled more than 130 acres because of the higher compensation ratios for vernal pool and waters of the U.S.

Anatolia I, II, III and IV

The Anatolia project was completed in four phases with subsequent amendments for roads and other infrastructure. Phases I-III was permitted and mitigated by Sacramento County although Rancho Cordova has taken a series of subsequent actions on the projects including fee structures and releasing bonds so the project could be constructed (see Rancho Cordova website).

Environmental documents for Phases I-III of the Anatolia project have not been located at either Sacramento County or the City of Rancho Cordova. The City of Rancho Cordova staff provided information that mitigation measure 4.1c of the MND for Phase III has been fully satisfied by existing credits at the Mahon Ranch. There is no easement recorded on the Mahon Ranch and the Mahon Ranch principal has told FOSH that no mitigation was provided to Anatolia by the Ranch. No information on the amount of acreage mitigated or the method used to determine the mitigation amount has been provided even after numerous attempts to contact Sacramento County staff.

A MND, dated 2005, for the Anatolia IV project is available on the City of Rancho Cordova website. The 25.1 acre project is located within the Sunrise Douglas/Sunridge Planning area on the southwest corner of Chrysanthy Road and Jaeger Road. The MND mitigation measures required surveys for special status species to be conducted as well as the standard mitigation measure for loss of Swainson's Hawk foraging habitat based on a calculation to nearest nest. No information is provided on whether surveys were completed, how mitigation was calculated or where it was provided.

Findings and Recommendations

Summary of key findings

- 1. What policies guide the City during California Environmental Quality Act required environmental review?* The City of Rancho Cordova took positive steps when they rescinded the fee ordinance that was inherited by Sacramento County, but has left a hole in its place. The City lacks detailed policies at the ordinance level to fulfill the General Plan policies established in 2006. FOSH could urge the City of Rancho Cordova to develop an ordinance that would provide guidance to developers and transparency to the public.
- 2. How well is an assessment of impacts on Swainson's Hawks conducted in Rancho Cordova environmental reviews?* The City conducted a baseline survey of Swainson's Hawk habitat and nesting territories in 2006 but most of the projects reviewed for this report occurred prior to that survey. The Rio del Oro project did not mention the Estep report although it was written after the survey was completed. Although the Rio del Oro project was an EIR, still no surveys were conducted for Swainson's Hawk to provide information for the draft. The City in its MND does not typically discuss the biological background in the document with habitat types, nesting territories etc. which would allow for a thorough environmental review of impacts. The City could write documents that disclose more of the biological background, and more complete and easier to track mitigation measures. FOSH can stay active on Rancho Cordova projects and provide comments on draft CEQA documents asking for better disclosure of biological resources at projects, acreage amounts, mitigation ratios and tracking of approvals from CDFG.
- 3. How clear are mitigation requirements adopted by the City?* City staff has reported that all of the projects have mitigated at a 1:1 ratio for projects (after Sunridge Park) so they did not think additional tracking of how mitigation was implemented is necessary. Unfortunately, because there is a lack of discussion of habitat types affected in the MNDs it is unclear what is considered habitat and what isn't.

Based on information provided in Tables 1-3 above it is clear that in most cases mitigation amounts differ from the project acres and are less than 1:1 for the whole projects sites. Also, mitigation measures in environmental documents do not specify the mitigation amount so it is hard for the public to track when a mitigation measure has been implemented adequately. FOSH could comment on any new projects are request that acreage amounts be identified in environmental documents, and request that Rancho Cordova include the ratios and methods of implementation in an updated ordinance.

4. *Was mitigation provided as promised?* For some of the projects, easements appear to be in place and habitat compensation completed, but on other projects it has been harder to track; or not found at all (Anatolia). On site mitigation has the benefit of providing conservation values adjacent to impacts, but in some of the cases the preserves are likely to become isolated and too small to be useful for Swainson's Hawk foraging habitat. On site preserves should have conservation easements which identify the wetland and upland values and that are managed for the species being affected. Since promised mitigation was not identified in environmental documents it is hard to conclude that mitigation was adequately calculated or provided as promised. FOSH could encourage Rancho Cordova to request CDFG provide their mitigation approval in writing so there is written documentation to include with the conservation easements the City already has.

5. *How suitable was the mitigation land selected to offset impacts on Swainson's Hawk of Rancho Cordova development?* It appears that the mitigation land is similar in type (vernal pool grassland) to the habitat impacted by development. Because the places chosen to mitigate are not preapproved CDFG mitigation banks it is unclear who is tracking the amount of acres spoken for, and what is available to ensure that double counting is not occurring. The mitigation locations are being approved on a case by case basis without a preapproved CDFG service area. City staff said that mitigation was verbally approved by CDFG.

Discussion

The City of Rancho Cordova is a young City that has had the opportunity to develop a good Swainson's Hawk mitigation program right from the start. The City of Rancho Cordova learned after taking fees for the Sunridge project that taking fees in lieu of habitat does not make a good habitat compensation program. The City of Rancho Cordova now requires habitat compensation when there are impacts, but its environmental documents are vague. The program should be relatively easy to track since there are so few projects in the City's planning area, but it is not. There are several things that FOSH could encourage the City of Rancho Cordova to do to develop a quality conservation program and improve transparency. Implementing more structure and better tracking could make the program more manageable and easier to implement for the City and provide an upfront standard policy for developers to follow on future projects.

Habitat loss and mitigation for Swainson's Hawks could be more clearly identified through the CEQA process:

- Even though there is a master EIR for the planning area and the MND documents are appropriate in many cases, impacts to Swainson's Hawk habitat (acres) should be calculated and disclosed as part of the environmental document. Impacts to habitats and species under jurisdiction of the federal agencies are calculated and outlined in the MND. The same level of detail should be conducted for Swainson's Hawks.
- All upland habitats that are potential Swainson's Hawk foraging habitat should be mitigated at a minimum of 1:1. According to City of Rancho Cordova staff that is already the standard. Having a mitigation measure that states the number of mitigation acres the applicant has to buy adds

transparency to the mitigation program. In the projects reviewed so far, no numbers of acres are disclosed as part of the CEQA process.

A 1:1 mitigation ratio or greater is an important tool to conserve habitats; lower mitigation ratios are not appropriate in Sacramento County given the number of nesting sites:

- If the habitat numbers from the Estep report are used there would still be a significant reduction in conserved upland at a 1:1 ratio. Using ratios that are assigned values based on distance to nests and crop type just reduces mitigation amounts. With a 1:1 ratio 50 percent of all foraging habitat will still be lost.
- Estep's study area was 61,383 acres and he found 37,037 acres to be suitable foraging habitat. If all 37,037 acres are developable with a 1:1 ratio for mitigation 18,518.5 (50%) of foraging habitat would be lost and 18,518.5 would remain. The City could in their policy encourage development in the disturbed areas and leave the vernal pool grasslands as open space or as mitigation areas. Open space adds to the quality of life for residents.
- One of the drawbacks of developing different ratios based on current practices is historically a parcel may have had value but they are changed overtime to reduce the mitigation load. By requiring all projects to mitigate at a 1:1 or higher all projects are providing compensation equally.

Increase the strength of local government by having good biological information available to use and a consistent implementation strategy:

- The FEIR for the general plan states that 29 territories are known (see above for the citation) while the Estep report cites 13 pairs were active within the study area. From year to year active territories can change, and they will likely reduce in areas that get developed but that makes it more important for surveys to be conducted for all projects and to report on trends.
- Conduct regular surveys as part of the program to determine how the local population is doing. The 2006 Estep survey established a baseline of Swainson's Hawk nesting territories in Rancho Cordova and close by. Having relatively current information on where territories are allows better protections for these nests and to protect their foraging habitat values. Surveys allow for information other than just CNDDDB to be used in environmental documents. Using CNDDDB as the sole source is not an appropriate way to use the database.
- Although the City is a party to the HCP they need to follow through on the general plan policy and develop and implement a Swainson's Hawk Ordinance to provide greater clarity and accountability to the mitigation process.
- Although local governments do not necessarily have the expertise, or ability financially to sell their own credits – having a mitigation bank (an example is Elk Grove which has a 750 acre mitigation preserve) or a “stay-ahead clause” where mitigation has to be provided well before impacts allows for compensation to be provided locally, in-kind, and upfront prior to impacts happening. A program could be developed with a land conservation organization to provide a similar scenario in Rancho Cordova.
- The projects that we reviewed relied heavily on mitigation banks for Swainson's Hawk mitigation. Identifying areas for conservation within the City of Rancho Cordova's planning area would provide increased benefits to the local population.

Increase transparency for Swainson's Hawk mitigation and how it is determined and implemented:

- Rancho Cordova should develop a tracking system for projects within their planning area, even if the projects were previously approved by Sacramento County. This adds transparency to the mitigation program. The City should be able to list how much of each habitat types were effected in each project and how much and where the mitigation occurred. For some projects this was available but none of the projects are very clear or easy to track and understand.
- Keeping track of what is purchased and where also adds a cross check to the mitigation bank's own tracking system. They should be compared with tracking databases held by CDFG and USFWS.
- Although CDFG may approve Swainson's Hawk mitigation at wetland mitigation banks on a case by case basis, the program would benefit from using properties that are on CDFG's mitigation banking website and have approval for Swainson's Hawk credits.
- Rancho Cordova already supports development of the HCP so there will be one implementation body instead of different local governments implementing different programs. This can reduce the possibility of mitigation banks or property owners overlapping easements, or selling the same credits to different parties.

Appendices

Conservation Easement for Laguna Terrace

Conservation Easement for Gill Ranch – North Douglas Project

On CD

MND – Montelena

MND – North Douglas

MND – Sunridge Park/Lot J

MND – Anatolia IV