



Dry Creek Greenway East Trail Project

A Multi-Use Trail Along Dry, Cirby, and Linda Creeks From Riverside Avenue to Old Auburn Road

Final Environmental Impact Report
September 2018



311 Vernon Street
Roseville, CA 95678
Contact: Mark Morse
(916) 774-5334

**Final Environmental Impact Report
for the
Dry Creek Greenway East Trail Project
State Clearinghouse #2013112042**

PREPARED FOR

City of Roseville
311 Vernon Street
Roseville, CA 95678

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September 2018

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1 INTRODUCTION AND LIST OF COMMENTERS

1.1 PURPOSE OF THIS DOCUMENT

This document includes all agency and public comments received on the draft environmental impact report (Draft EIR, SCH # 2013112042) for the Dry Creek Greenway East Trail Project (proposed project). Written comments were received by the City of Roseville during the public comment period held from April 13, 2018 to May 29, 2018. This document includes written responses to each comment received on the Draft EIR. The responses clarify, amplify, and/or correct information presented in the Draft EIR, as appropriate. These changes do not alter the environmental impact or significance conclusions of the Draft EIR.

This document (hereafter called the Final EIR), the Draft EIR, and Appendices constitute the full EIR for the proposed project that will be considered by the decision-makers during project review and hearings. The EIR has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Sections 21000-21177) and the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, Division 6, Chapter 3, Sections 15000-15387).

1.2 BACKGROUND

1.2.1 Summary Description of the Proposed Project

The project analyzed in the Draft EIR proposes a 4.25-mile multi-use trail that would extend from the existing Saugstad/Royer Park trail near the intersection of Riverside Avenue and Darling Way eastward to the City limits, just past the Old Auburn Road/South Cirby Way intersection. The trail would follow creek corridors along portions of Dry, Cirby, and Linda Creeks. These corridors currently contain segments of existing unimproved natural surface paths and paved multi-use paths, some of which do not meet current City design standards. Much of the corridor has been used historically for recreation and for access and transportation of infrastructure maintenance vehicles and equipment. The corridor continues to be used for these purposes along both improved and unimproved segments.

The proposed project would be a paved, multi-use trail that would conform to the City of Roseville Design Standards (Section 13 Bikeways) and other provisions of the City of Roseville Construction Standards. A typical cross-section for the proposed trail would consist of a 10-foot wide paved trail with two-foot shoulders on each side (one composed of decomposed granite and one of aggregate base), for a total width of 14 feet. The trail may also include drainage swales on one or both shoulders, as needed. The proposed trail may be narrowed to an eight-foot wide paved section with one- or two-foot wide shoulders for access spurs and in “pinch-point” locations that have severe physical or environmental constraints. The narrower cross section would still support safe, two-way travel but would limit physical disturbance where design constraints prevent construction of the standard cross-section. The proposed trail may also be widened in areas where additional shoulder or trail width is desired to enhance comfort and safety of the various user types. In these instances, the shoulder width may be increased to between 5 and 10 feet on one side of the trail.

As a result of existing topography, retaining walls would be required at several locations along the proposed alignment. The proposed walls would include gravity walls (reinforced concrete) and anchored walls.

The proposed project would include several roadway and creek crossings. Undercrossings are proposed to pass beneath existing roadways, including Darling Way, Interstate 80, Sunrise Avenue, Rocky Ridge Drive, and Old Auburn Road. The project would also include the construction or modification of up to eight bridges to provide creek crossings throughout the alignment. Finally, the project could include elements, such as benches, lighting on lengthy portions of the undercrossings, utility relocations, and regulatory and wayfinding signs.

The proposed trail would, to the extent feasible, be designed to provide maintenance and emergency access for the City Environmental Utilities Department, open space and storm water maintenance crews, and the Roseville Fire Department. It would provide a safe route for walkers, joggers, cyclists, wheelchair users, and others traveling on non-motorized vehicles to access parks and other trails.

1.2.2 Project Review Process

Before the City can approve the proposed project, the City Council must certify that the EIR was completed in compliance with the requirements of CEQA, that the decision-making body has reviewed and considered the information in the EIR, and that the EIR reflects the independent judgment and analysis of the City of Roseville. Approval of the project also requires adoption of a Mitigation Monitoring Plan (MMP), which specifies the methods for monitoring mitigation measures required to eliminate or reduce the project's significant effects on the environment (see Chapter 4 of this Final EIR). The City would also adopt CEQA Findings of Fact regarding any significant effects on the environment and, for any effects determined to be significant and unavoidable, a Statement of Overriding Considerations, as part of project approval. Action by the City Council would follow a recommendation from the City of Roseville Transportation Commission.

After certification of the EIR, the City will consider approval of a trail alignment from the choices between the proposed alignment and its options. If the City approves a trail alignment, the City will also authorize staff to pursue final design, permitting, right-of-way acquisition, and construction funding for phased construction. Also, if the City approves a project, it would file a Notice of Determination with the County Clerk and State Clearinghouse to conclude the CEQA process.

Several agencies would be involved in the consideration and approval of proposed project elements. Federal, state, and regional agency approvals and permits that would be considered for the proposed project would include wetlands verification, encroachment, water quality, and streambed alteration permits. State and regional responsible agencies and federal agencies with approval authority would include:

- ▲ Regional and State Responsible Agencies:
 - California Department of Fish and Wildlife
 - Central Valley Regional Water Quality Control Board
 - Central Valley Flood Protection Board
 - California Department of Transportation (Caltrans)
- ▲ Federal Agencies:
 - U.S. Army Corps of Engineers
 - U.S. Fish and Wildlife Service
 - National Oceanic and Atmospheric Administration Fisheries
 - Federal Highway Administration (NEPA authority delegated to Caltrans)

In accordance with PRC Section 21092 and CCR Section 15082, the City issued a Notice of Preparation (NOP) on November 18, 2013 to inform agencies and the general public that an EIR was being prepared and to invite comments on the scope and content of the document. The NOP was

submitted to the State Clearinghouse, posted on the City of Roseville website (http://www.roseville.ca.us/transportation/bikeways/dc_study.asp), made available at the City clerk's office and the City of Roseville Permit Center, and distributed directly to potential responsible and trustee agencies. The NOP was circulated for 30 days, from November 18, 2013 through December 19, 2013. In accordance with PRC Section 21083.9 and CCR Section 15082(c), a noticed scoping meeting for the EIR occurred on December 3, 2013 at 6:00 p.m. at the Maidu Community Center, 1550 Maidu Drive, Roseville, California, 95661. The NOP and comment letters received on the NOP are included in Appendix A and Appendix B of the Draft EIR, respectively.

A Notice of Completion and copies of the Draft EIR were filed with the State Clearinghouse on April 13, 2018 and the Clearinghouse distributed the Draft EIR to all state CEQA Trustee and Responsible Agencies. A 45-day public review period for the Draft EIR was provided, ending on May 29, 2018. The Notice of Availability and the Draft EIR are posted on the City's website (<http://www.roseville.ca.us/EnvironmentalDocs>). A public hearing during the public comment period was held at the City of Roseville Transportation Commission meeting on May 21, 2018. The public had the opportunity to provide comments on the Draft EIR at that Commission hearing. The City also invited the public to submit written comments during the review period.

Copies of the Draft and Final EIR are available for review at the following locations:

City of Roseville Permit Center
311 Vernon Street
Roseville, CA 95678
(Open to the public Monday – Friday from 8:00 am to 5:00 pm)

Maidu Library
1530 Maidu Drive
Roseville, CA 95661 (Open to the public: Monday - Wednesday 10:00 am - 7:00 pm;
Thursday / Saturday 10:00 am - 5:00 pm)

1.3 ORGANIZATION OF THE FINAL EIR

The Final EIR is organized as follows:

Chapter 1 – Introduction and List of Commenters: This chapter summarizes the project under consideration and describes the contents of the Final EIR. This chapter also contains a list of the agencies, organizations, or persons who submitted comments on the Draft EIR during the public review period, presented in order by agency, organization, individual and date received.

Chapter 2 – Comments and Responses: This chapter contains the comment letters received on the Draft EIR followed by responses to individual comments. Each comment letter is presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the letter number appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. Immediately following the letter are responses, each with binomials that correspond to the bracketed comments.

If the subject matter of one letter overlaps that of another letter, the reader may be referred to more than one group of comments and responses to review all information on a given subject. Where this occurs, cross-references to other comments are provided.

Some comments on the Draft EIR do not pertain to CEQA environmental issues or address the adequacy of the analysis contained in the Draft EIR. Although CEQA requires responses to comments on environmental issues, responses to non-environmental comments are also included to provide

additional information. When a comment does not directly pertain to environmental issues analyzed in the Draft EIR, does not ask a question about the adequacy of the analysis contained in the Draft EIR, expresses an opinion related to the merits of the project, or does not challenge an element of or conclusion of the Draft EIR, the response will note the comment and provide additional information, where appropriate. The intent is to recognize the comment and refer it to decision-makers. Many comments express opinions about aspects of the proposed project and these are included in the Final EIR for consideration by the City.

Chapter 3 – Revisions to the Draft EIR: This chapter summarizes text changes made to the Draft EIR in response to comments made on the Draft EIR and/or staff- initiated text changes. Changes to the text of the Draft EIR are shown by either a strikethrough line through the text that has been deleted or a double underline where new text has been inserted. The revisions contain clarification, amplification, and corrections that have been identified since publication of the Draft EIR. The text revisions do not result in a change in the environmental analysis, conclusions, or significance determinations presented in the Draft EIR.

Chapter 4 – Mitigation Monitoring Plan: This chapter contains the MMP to aid the City in its implementation and monitoring of measures adopted in the EIR.

1.4 LIST OF COMMENTERS

The City of Roseville received 22 comment letters during the public review period on the Draft EIR for the proposed project. In addition, five people provided public comments during the Draft EIR hearing at the City of Roseville Transportation Commission meeting on May 21, 2018. Table 1-1 below indicates the numerical designation for each comment letter, the author of the comment letter or hearing statement, and the date of the comment.

Table 1-1 Comment Letters Received on the Draft EIR

Letter #	Agency, Tribal Government, or Organization	Author(s)/Speaker	Date on Correspondence (date received, if different)	Comment Type (email, letter)
Agencies – Federal and State				
1	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit	Scott Morgan, Director	April 16, 2018	Letter
2	California Department of Transportation	Kevin Yount, Branch Chief	May 22, 2018	Letter
3	California Department of Transportation	David Smith, Associate Transportation Planner	May 22, 2018	Email
Agencies – Local				
4	Placer County Flood Control and Water Conservation District	Brad Brewer	May 29, 2018	Letter
Tribal Government				
5	United Auburn Indian Community of the Auburn Rancheria	Melodi McAdams, Cultural Resources Supervisor	May 31, 2018	Email
Individuals				
6	N/A	Stacy Jastram	April 17, 2018	Email
7	N/A	Donna Wilson	April 20, 2018	Email
8	N/A	Ron Evans	May 10, 2018	Email

Table 1-1 Comment Letters Received on the Draft EIR

Letter #	Agency, Tribal Government, or Organization	Author(s)/Speaker	Date on Correspondence (date received, if different)	Comment Type (email, letter)
9	N/A	Scott Larson	May 10, 2018	Email
10	N/A	Mary Whitney	May 14, 2018	Email
11	N/A	William and Kathy Connell	May 25, 2018	Email
12	N/A	Rick and Andrea Walker (+ 12 additional signers)	May 25, 2018 (May 29, 2018)	Letter
13	N/A	John Zisk	May 27, 2018	Emails
14	N/A	Carrie Butler and Rafael Cruz	May 28, 2018	Email
15	N/A	Kyoung Melanie Mo	May 28, 2018	Email
16	N/A	Audra Owens	May 28, 2018	Email
17	N/A	Ken White	May 28, 2018	Email
18	N/A	Todd Beasley	May 29, 2018	Email
19	N/A	Rosalyn Clement	May 29, 2018	Letter
20	N/A	Kenneth and Teresa Gregory	May 29, 2018	Email
21	N/A	Young Hwan Kim	May 29, 2018	Email
22	N/A	Jim Trumbly	May 29, 2018	Letter
May 21, 2018 Public Hearing (Speakers)				
PH-1	N/A	Robert MacNicholl	May 21, 2018	Hearing
PH-2	N/A	Doug Owens	May 21, 2018	Hearing
PH-3	N/A	Mary MacNicholl	May 21, 2018	Hearing
PH-4	N/A	Jennifer Allen	May 21, 2018	Hearing
PH-5	N/A	Robert MacNicholl	May 21, 2018	Hearing
PH-6	N/A	Phil Kister	May 21, 2018	Hearing

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2 COMMENTS AND RESPONSES

2.1 INTRODUCTION

This section contains the comment letters that were received on the draft environmental impact report (Draft EIR). Following each comment letter is a response intended to either amplify, clarify, or correct information provided in the Draft EIR or refer the reader to the appropriate place in the document where the requested information can be found. Comments that are not directly related to environmental issues may be discussed or noted for the record. Where text changes in the Draft EIR are warranted based upon comments on the Draft EIR, those changes are presented following the response to comment and in Chapter 3.

2.2 MASTER RESPONSES

Numerous comments raised similar and/or related issues or questions that are answered or clarified in one comprehensive or “master” response. For this Final EIR, Master Response 1 was prepared to address several commenter’s concerns regarding safety and security related to future operation of the proposed multi-use trail. A cross-reference to the master response is provided, where relevant, in responses to individual comments.

2.2.1 Master Response 1 – Safety and Security

Safety and security have been long-standing issues of concern regarding the proposed trail. While safety and security does not fall within the purview of the California Environmental Quality Act (CEQA), the City recognizes that it is an important concern to the community, has evaluated it extensively, and included it in design strategies for the proposed project. For instance, the 2010 Dry Creek Greenway Trail Planning and Feasibility Study (City of Roseville 2010) included a discussion addressing “Safety and Security.” The study included the results of a public opinion survey as well as comments received during public workshops and Stakeholder Representative Group meetings. Safety and security concerns were raised regarding potential transient activity and the use of the open space around the trail by homeless people; nuisance activity related to noise, loss of privacy and trail user parking; property owner security related to potential vandalism, graffiti, theft, and crimes against persons; risk of wildfire; trail user safety; and conflicts with vehicles. Throughout the feasibility and planning portions of the project, City representatives, including Police and Fire Department representatives have discussed these concerns with the public. The 2010 Planning and Feasibility Study states that paths are like any other facility in the City and are not immune from safety concerns; however, the Roseville Police Department (PD) and Fire Department (FD) had not identified any trends in crime or major safety or security concerns along Roseville’s existing paths or trails.

As noted in several comments received on the Draft EIR, these continue to be concerns of nearby residents. While safety related to trail user conflicts and security from crime are not environmental issues within the purview of CEQA, the Draft EIR discusses the potential environmental effects from an increased need for police or fire protection because of project implementation. Potential impacts related to police protection are discussed under Impact 4.11-1 in the Draft EIR. As discussed in the Draft EIR, the proposed project would not result in the construction of new housing or other project elements that would increase the permanent resident population in the City. Therefore, the project would not generate an increased demand for police protection services related to an increase in permanent population in Roseville. Property owners and residents commonly express concern regarding the potential for

increased vandalism and illegal activities in areas where trails are constructed. Public access exists for much of the proposed project corridor through public streets and cul-de-sacs, as well as segments of existing paths and trails that are not built to current City and California Department of Transportation (Caltrans) design standards. Community members have reported people being present in the creek corridors under existing conditions. Bike trails are patrolled by police officers on an as-needed basis, and police personnel state that graffiti is commonly seen along bike trails. However, in accordance with the City's graffiti abatement program, graffiti on public property is abated within 10 days of notifications to the City.

The Draft EIR also noted that, during the feasibility study phase of this project, public outreach was conducted and residents of adjacent neighborhoods expressed concern related to safety issues. The Roseville PD and Roseville FD have not identified any trends in crime or significant safety or security concerns along Roseville's existing paths or trails. While no studies have been conducted to explore the potential safety effects that could occur from construction and use of the trail, studies and surveys completed in multiple contexts found that multi-use trails can benefit communities by providing exercise and recreation opportunities, transportation choices, a sense of community, increased property values, and lower crime. For instance, a 1998 study of 372 trails found that crimes rates are lower in trail networks than the overall crime rate for the region in which they are located (i.e., urban, suburban, or rural) (Tracy and Morris 1998). Similar results were found for studies that evaluated trail systems in the Seattle metropolitan area (Zarker and Bourey 1987) and Santa Rosa, California (Murphy 1992). Generally, these studies reflect the observation made by the Roseville PD and FD that open space trails do not result in increased safety and security problems, and that trails are safe to use and live near. The proposed project would provide a safe route for walkers, joggers, cyclists, wheelchair users, and others traveling on non-motorized vehicles to access parks and other trails.

In a review of the Miners Ravine Trail, the Roseville PD has found that having more responsible trail users present in the open space has helped provide observers that deter illegal activities. Also, the Roseville PD has indicated that the trail users and enhanced patrol access provided by multi-use trails assist police efforts to reduce loitering or illegal camping in the open space (City of Roseville 2010:106-108). A trail designed to current City and Caltrans standards would improve public safety conditions, compared to the existing conditions, because it would provide enhanced police access to open space areas. The public is allowed to access and pass through City-owned open space. Without trails and the added surveillance that comes with the presence of trail users, City maintenance vehicles, and Roseville Police Department patrols, public safety risks would be greater in unimproved and isolated areas. The Draft EIR concluded that construction of the proposed project would not generate a significant increase in service calls leading to the need for new facilities to accommodate additional police protection services, and therefore there would be no associated environmental effects, and this was identified as a less-than-significant impact.

2.3 LETTERS AND RESPONSES

The following pages contain the comment letters received on the Draft EIR followed by responses to individual comments. Each comment letter is presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the letter number appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. Immediately following the letter are responses, each with binomials that correspond to the bracketed comments.



Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

Memorandum

Date: April 16, 2018
To: All Reviewing Agencies
From: Scott Morgan, Director
Re: SCH # 2014032087

City of Roseville Dry Creek Greenway East Trail Project

RECEIVED BY
APR 23 2018
CITY MANAGER'S OFFICE

The State Clearinghouse distributed the above-referenced **Draft EIR** on **April 13, 2018** to your agency for review and comment. It has come to our attention that the document was issued a State Clearinghouse Number in error. For all future correspondence regarding this project, please use the original State Clearinghouse Number **2013112042**. We apologize for any inconvenience this may have caused. All other project information remains the same.

1-1

cc: Mark Morse
City of Roseville
311 Vernon Street
Roseville, CA 95678

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL 1-916-445-0613 FAX 1-916-558-3164 www.opr.ca.gov

Print Form

Appendix C

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

2013112042

SCH # 2014032007

Project Title: City of Roseville Dry Creek Greenway East Trail Project

Lead Agency: City of Roseville Contact Person: Mark Morse
 Mailing Address: 311 Vernon Street Phone: (916) 774-5499
 City: Roseville Zip: 95678 County: Placer

Project Location: County: Placer City/Nearest Community: Roseville
 Cross Streets: Multiple between Riverside Ave/Darling Way and Old Auburn Rd/South Cirby Way Zip Code: Multiple

Longitude/Latitude (degrees, minutes and seconds): "N "W Total Acres:
 Assessor's Parcel No.: Multiple Section: Twp.: Range: Base:
 Within 2 Miles: State Hwy #: 80 Waterways: Dry Creek, Cirby Creek, Linda Creek
 Airports: Sierra Gdn, Eich, Oakmont, Cirby, Sargeant, Crestmont

Document Type:

CEQA: ☐ NOP ☒ Draft EIR ☐ NEPA: ☐ NOI ☐ EA ☐ FONSI
☐ Early Cons ☐ Supplement/Subsequent EIR (Prior SCH No.)
☐ Neg Dec ☐ Other:
☐ Mit Neg Dec ☐ Other:

Local Action Type:

☐ General Plan Update ☐ Specific Plan ☐ Rezone ☐ Annexation
☐ General Plan Amendment ☐ Master Plan ☐ Prezone ☐ Redevelopment
☐ General Plan Element ☐ Planned Unit Development ☐ Use Permit ☐ Coastal Permit
☐ Community Plan ☐ Site Plan ☐ Land Division (Subdivision, etc.) ☒ Other: Project Approval

Development Type:

☐ Residential: Units Acres ☐ Office: Sq. ft. Acres ☐ Commercial: Sq. ft. Acres ☐ Industrial: Sq. ft. Acres ☐ Educational: Acres ☐ Water Facilities: Type
☒ Transportation: Type multi-use trail
☐ Mining: Mineral
☐ Power: Type MW
☐ Waste Treatment: Type MGD
☐ Hazardous Waste: Type
☐ Other:

Project Issues Discussed in Document:

☒ Aesthetic/Visual ☐ Fiscal ☒ Recreation/Parks ☒ Vegetation
☐ Agricultural Land ☒ Flood Plain/Flooding ☒ Schools/Universities ☒ Water Quality
☒ Air Quality ☐ Forest Land/Fire Hazard ☐ Septic Systems ☒ Water Supply/Groundwater
☒ Archeological/Historical ☒ Geologic/Seismic ☒ Sewer Capacity ☒ Wetland/Riparian
☒ Biological Resources ☒ Minerals ☒ Soil Erosion/Compaction/Grading ☒ Growth Inducement
☐ Coastal Zone ☒ Noise ☒ Solid Waste ☒ Land Use
☐ Drainage/Absorption ☒ Population/Housing Balance ☒ Toxic/Hazardous ☒ Cumulative Effects
☐ Economic/Job ☒ Public Services/Facilities ☒ Traffic/Circulation ☐ Other:

Present Land Use/Zoning/General Plan Designation:

Open Space w/Floodway or Floodway Fringe Overlay. Some residen., commerc., park & rec w/Floodway or Floodway Fringe Overlay

Project Description: (please use a separate page if necessary)

The Dry Creek Greenway East Trail Project is a proposed 4.25 mile paved multi-use trail in the City of Roseville. The proposed project would be a shared-use trail for pedestrians, bicyclists and other non-motorized vehicle users that would connect neighborhoods, parks, schools, businesses, natural areas, and the on-street bikeway system across the south side of the City. The proposed trail would extend from the existing Saugstad/Royer Park trail near the intersection of Riverside Avenue and Darling Way eastward to the City limits, just past the Old Auburn Road/South Cirby Way intersection. The trail would follow creek corridors along portions of Dry, Cirby, and Linda Creeks. These corridors currently contain segments of existing unimproved natural surface paths and paved multi-use paths, some of which do not meet current City design standards.

State Clearinghouse Contact:

(916) 445-0613

State Review Began: 4-13-2018

SCH COMPLIANCE 5-29-2018

Project Sent to the following State Agencies

☒ Resources ☒ Cal EPA
 Boating & Waterways ARB: Airport & Freight
 Central Valley Flood Prot. ARB: Transportation Projects
 Coastal Comm ARB: Major Industrial/Energy
 Colorado Rvr Bd Resources, Recycl. & Recovery
☒ Conservation SWRCB: Div. of Drinking Water
☒ CDFW # 2 SWRCB: Div. Drinking Wtr #
☒ Cal Fire SWRCB: Div. Financial Assist.
 Historic Preservation SWRCB: Wtr Quality
☒ Parks & Rec SWRCB: Wtr Rights
 Bay Cons & Dev Comm. ☒ Reg. WQCB # 05
☒ DWR Toxic Sub Ctl-CTC
 Yth/Adlt Corrections
 Corrections
 Independent Comm
 CalSTA
 Aeronautics
 CHP
☒ Caltrans # 3
 Trans Planning
 Other
☒ Education
☒ OES
☒ Food & Agriculture
☒ HCD
 State/Consumer Svcs
 General Services
 Santa Monica Bay Restoration
 State Lands Comm
☒ Tahoe Rgl Plan Agency
 Conservancy
 Other:

Please note State Clearinghouse Number (SCH#) on all Comments

2014032007

SCH#: 2013112042

Please forward late comments directly to the Lead Agency

AQMD/APCD 24

(Resources: 4/14)

Letter 1 Response	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit Scott Morgan, Director April 16, 2018
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- | | |
|-----|---|
| 1-1 | <p>The comment states that the State Clearinghouse number for the project should be 2013112042.</p> <p>The comment is noted, and the cover and title page of the EIR have been corrected. Please see Chapter 2, "Revisions to the Draft EIR," of this Final EIR for the correction to the Draft EIR title page. Future notices will include the correct Clearinghouse number.</p> |
|-----|---|

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 3
 703 B STREET
 MARYSVILLE, CA 95901
 PHONE (530) 741-4286
 FAX (530) 741-5346
 TTY 711
 www.dot.ca.gov

**Letter
2**

*Serious drought.
Help save water!*

May 22, 2018

GTS# 03-PLA-2018-00196
 03-PLA-80 PM Var
 SCH# 2013112042

Mark Morse
 City of Roseville
 311 Vernon Street
 Roseville, CA 95678

City of Roseville Dry Creek Greenway East Trail Project

Dear Mark Morse:

Thank you for including the California Department of Transportation (Caltrans) in the environmental/application review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans through the lenses of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network.

The project proposal is for a paved 4.25-mile multi-use trail (Dry Creek Greenway East Trail Project) in the City of Roseville. The new trail would be for shared-use of pedestrians, bicyclists, and other non-motorized vehicle users. The project would connect neighborhoods, parks, schools, businesses, nature areas, and the on-street bikeway stem across the south side of the city. The project site is located on Saugstad/Royer Park trail near the intersection of Riverside Avenue and Darling Way eastward to the city limits, just past the Old Auburn Road/South Cirby Way intersection in Roseville, California. These comments are based on the Draft Environmental Impact Report (DEIR) received.

Right of Way

Caltrans owns the Right of Way (ROW) portion crossing underneath I-80 located approximately at postmile 0.82. This is an access controlled freeway. However, there is a grade separation between this project and the operating State ROW. In order, to accommodate the construction and maintenance of this project, an agreement and/or permit would be required. Please see attached ROW maps pertaining to the project location.

"Provide a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability"

2-1

Mark Morse, City of Roseville
May 22, 2018
Page 2

To apply for the encroachment permit, please submit the application, environmental documentation, and five sets of plans clearly indicating State ROW must be submitted to:

Moe Azar
California Department of Transportation
District 3, Office of Permits
703 B Street
Marysville, CA 95901

2-1
cont

Please provide our office with copies of any further actions regarding this project. We would appreciate the opportunity to review and comment on any changes related to this development. If you have any question regarding these comments or require additional information, please contact David J Smith, Intergovernmental Review Coordinator for Placer County, by phone (530) 634-7799 or via email to david.j.smith@dot.ca.gov.

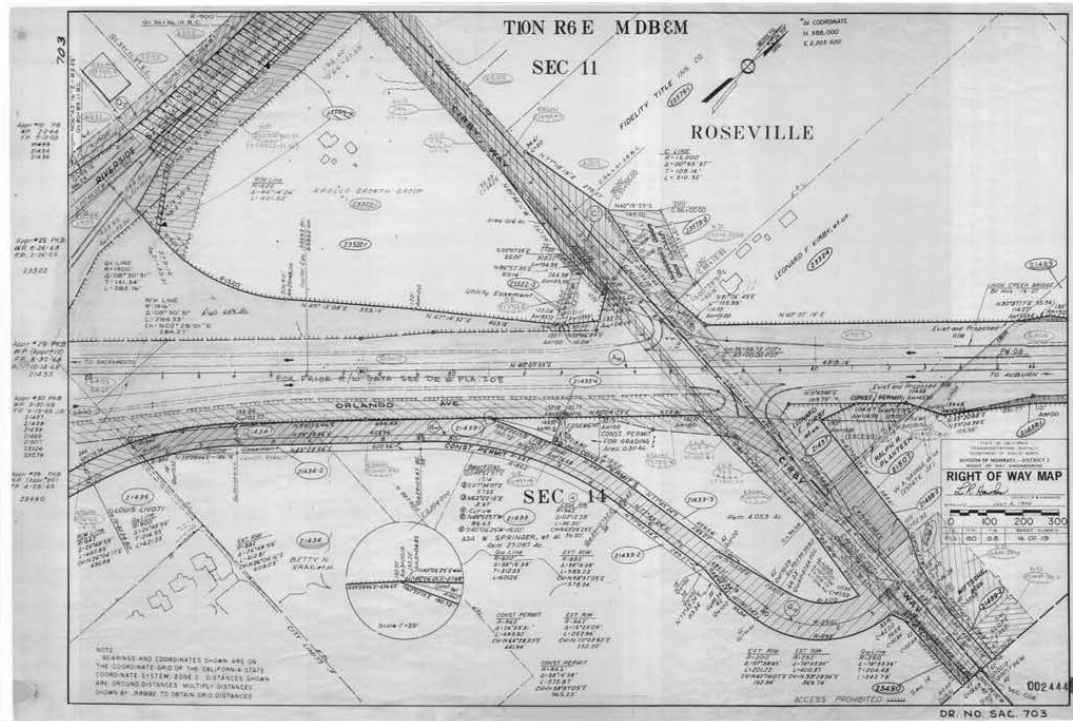
2-2

Sincerely,

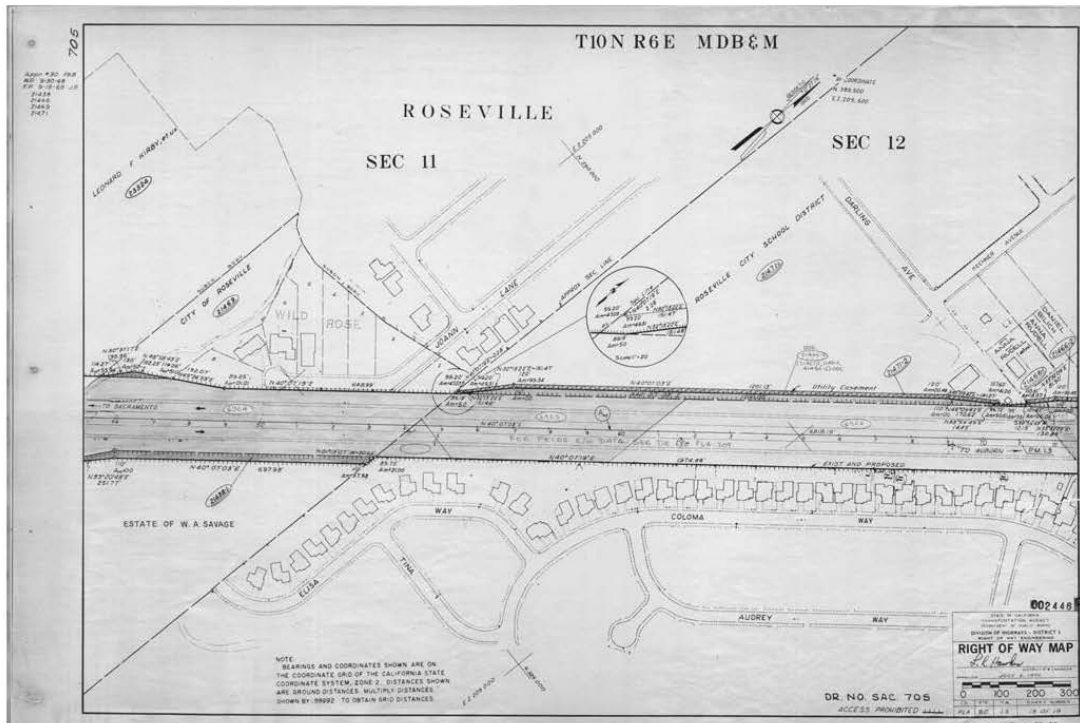


KEVIN YOUNT, Branch Chief
Office of Transportation Planning
Regional Planning Branch - North

"Provide a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability"



2-3



[illegible]

2-3
cont

**Letter 2
Response****California Department of Transportation**

Kevin Yount, Branch Chief

May 22, 2018

- 2-1 The comments summarize the proposed project and state that Caltrans owns the right of way (ROW) portion crossing underneath I-80 located approximately at postmile 0.82. It states that, to accommodate the construction and maintenance of this project, an agreement and/or permit would be required.
- The comment is noted. The City of Roseville will coordinate future construction and ROW with Caltrans staff.
- 2-2 The comment requests that the Caltrans office be provided with copies of any further actions regarding the project.
- The comment is noted. The City of Roseville will continue to coordinate with Caltrans during final design and construction.
- 2-3 The comment refers to attached ROW maps.
- The comment is noted. Please see response to comment 2-1.

Letter 3

From: Smith, David J@DOT
To: Morse, Mark
Cc: State.Clearinghouse@opr.ca.gov
Subject: City of Roseville Dry Creek Greenway East Trail Project 03-PLA-2018-00196 SCH#2013112042
Date: Tuesday, May 22, 2018 8:48:54 AM
Attachments: [01_Comment Letter.pdf](#)

Dear Mark Morse:

Thank you for including the California Department of Transportation (Caltrans) in the environmental/application review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans through the lenses of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network.

3-1

Please provide our office with copies of any further actions regarding this project. We would appreciate the opportunity to review and comment on any changes related to this development.

Sincerely,

DAVID SMITH
ASSOCIATE TRANSPORTATION PLANNER
TRANSPORTATION PLANNING - NORTH
CALTRANS - DISTRICT 3
703 B STREET
MARYSVILLE, CA 95901
(530) 634-7799

**Letter 3
Response**

California Department of Transportation
David Smith, Associate Transportation Planner
May 22, 2018

3-1

The comment is a partial reprint of comment 2-1, along with a request for copies of further actions regarding the project.

Please see response to comment 2-1. The City of Roseville will continue to coordinate with Caltrans during final design and construction of the project.



PLACER COUNTY
FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Letter
4

Ken Grehm, Executive Director
Brian Keating, District Manager
Brad Brewer, Development Coordinator

May 29, 2018

Mark Morse
City of Roseville
City Manager's Office
311 Vernon St
Roseville, CA 95678

RE: Dry Creek Greenway East Trail Project, Notice of Availability of Draft Environmental Impact Report (DEIR)

Mark:

We have reviewed the DEIR for the subject project and have the following comments:

- a) We have determined that a new Preliminary FEMA Flood Insurance Study (FIS) and revised floodplain mapping dated 11/15/17 for Dry Creek, Cirby Creek and Linda Creek, which flow within this site, should be considered as the most current best available information as this development moves forward. This new FEMA FIS and mapping is scheduled to become effective (final) November 2, 2018, prior to construction of the proposed project. Both a 100-year floodplain and regulatory floodway for the referenced streams exist at the site. Any proposed increases to the established 100-year base flood elevations due to proposed development totally or partially within the regulatory floodway will require the applicant process a Conditional Letter of Map Revision (CLOMR) through FEMA per the National Flood Insurance Program (NFIP).
- b) It is the District's understanding that the City of Roseville has an agreement with the Central Valley Flood Protection Board (CVFPB) that allows the CVFPB to comment on all applicable City projects (i.e., including both those that do and do not need a variance) prior to issuance of a permit.

4-1

4-2

Please call me at (530) 745-7541 if you have any questions regarding these comments.

A handwritten signature in black ink, appearing to read "Brad Brewer".

Brad Brewer, M.S., P.E., CFM, QSD/P
Development Coordinator

t:\dpw\fd\development review\letters\roseville\cn 18-56 dry creek greenway east trail proj.docx

3091 County Center Drive, Suite 220 / Auburn, CA 95603 / Tel: (530) 745-7541 / Fax: (530) 745-3531

**Letter 4
Response****Placer County Flood Control and Water Conservation District
Brad Brewer
May 29, 2018**

- 4-1 The comment identifies a newly published preliminary floodplain map for the project area that is expected to become effective before construction of the proposed project.
- This comment is correct and is noted for future reference. The floodplain analysis in the Draft EIR is based on the best data available at the time of writing. The revised map does not provide information that changes the environmental conclusions or significance determinations. Project engineering and design will continue after selection of a final trail alignment and will incorporate updated floodplain mapping.
- 4-2 This comment states the Placer County Flood Control and Water Conservation District (District) understands that an agreement exists between the City of Roseville and the Central Valley Flood Protection Board (CVFPB or Board) that allows the Board to comment on all applicable City Projects prior to issuance of a permit.
- An agreement between the City of Roseville and the State Reclamation Board does exist in the form of a Memorandum of Understanding (MOU) dated December 10, 1976. This MOU recognizes City authority to issue Flood Encroachment Permits within City limits and provides the Board with a 90-day review and comment period on all City issued draft permits. MOU Section 4. Board Approval states: *No permit issued by City of Roseville for bridges, dams, utility crossings, excavations, levees, dikes, pipe, fills or other structures or facilities so designed as to obstruct or divert flood waters shall be effective until the expiration of ninety (90) days after such permit has been mailed to the Board for approval. Such submittal to Board will be accomplished by proper environmental documentation and by such supporting data as necessary to permit proper appraisal of the application. If Board takes no action on the permit draft within ninety (90) days, the permit shall be deemed approved.*
- In 2007, the State Reclamation Board was restructured and renamed the Central Valley Flood Protection Board (CVFPB). As such, the CVFPB maintains the same authority and rights afforded to the State Reclamation Board under the 1976 MOU. Therefore the District's understanding that an agreement exists that allows the CVFPB to comment on City Projects prior to permit issuance is correct. In fact, more recently the CVFPB and City have agreed that the Board take the lead role in the review and processing of "Floodway District Encroachment Permits" (an MOU term) for City Projects (i.e., those proposed by the City of Roseville – as opposed to private development projects) and it is expected that the CVFPB would similarly process said permits for the proposed project as well.
- Per the California Water Code and California Code of Regulations Title 23 (Title 23), the CVFPB has permit authority for the components of the Dry Creek Greenway East Trail Project within the floodplain. The permit requirements of Title 23 are in addition to the provisions of the above described MOU. The CVFPB's role as a permitting agency, and therefore a Responsible Agency under CEQA, is recognized in Section 3.4.1 of the EIR.

<p>Letter</p> <p>5</p>

From: Melodi McAdams
To: Morse, Mark
Cc: Marcos Guerrero; Matthew Moore; Cheryl Nelder; Charles Hutcheson
Subject: Dry Creek Greenway East Multi-Use Trail Draft EIR Comments
Date: Thursday, May 31, 2018 4:05:04 PM
Attachments: 3_Mitigation_Measures_CEOA_NativeAmericanMonitors.docx

Hello Mark,

Thank you for your recent phone call for this project. We did look over the EIR and had concerns with respect to Tribal Monitoring and with respect to Mitigation Measure 4.4-2 (similar to the concerns that we had sent for the same mitigation measure for the Community Solar Project on 5/17/2018).

While the EIR did identify that UAIC had requested tribal monitoring, it did not include a tribal monitoring mitigation measure. I have attached our standard Native American monitoring mitigation measure. In our correspondence with ECORPS, we had requested tribal monitors at the following three sensitive locations (P-31-194 , P-31-32, and the confluence of Linda Creek & Cirby Creek). I would be happy to prepare a map that depicts the boundaries for these three areas where we are requesting tribal monitoring.

5-1

Is it possible to revise the Native American Burials mitigation measure so that it follows the language of the State Law more closely, and does not incorrectly give the archaeologist authority that the State Law placed with the MLD? Please see the proposed changes below:

- Mitigation Measures Mitigation Measure 4.4-2: Stop work if human remains are discovered. This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A

If human remains are discovered during any construction activities, potentially damaging grounddisturbing activities in the area of the remains shall be halted immediately, and the project applicant shall notify the Placer County coroner and the NAHC immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. If the remains are determined by the NAHC to be Native American, the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The City shall also retain a professional archaeologist with Native American burial experience to assist the City of Roseville and the MLD with any management steps prescribed in California Health and Safety Code Section 7050.5 and California PRC Section 5097.98. ~~conduct a field investigation of the specific site and consult with the MLD, if any, identified by the NAHC.~~ Following the coroner's and NAHC's findings, ~~the archaeologist, and the~~ NAHC-designated MLD shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.

5-2

The EIR also states that implementation of mitigation measure 4.4-2 would reduce impacts to a less-than-significant level. It is UAIC's belief that disturbances to Native American human remains can never be reduced to a less-than-significant level.

Thank you for your follow-up, please let me know if these requested changes to the mitigation measures will be implemented, and if you would like a map depicting the boundaries for the three culturally sensitive areas?

5-3

Sincerely,
Melodi McAdams
Cultural Resources Supervisor
Tribal Historic Preservation Department
United Auburn Indian Community of the Auburn Rancheria
10720 Indian Hill Road
Auburn, CA 95603
(530) 328-1109 - office
(530) 401-7470 - cell

Nothing in this e-mail is intended to constitute an electronic signature for purposes of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15, U.S.C. §§ 7001 to 7006 or the Uniform Electronic Transactions Act of any state or the federal government unless a specific statement to the contrary is included in this e-mail.

Native American Monitoring Mitigation Measure

To minimize the potential for destruction of or damage to existing or previously undiscovered archaeological and Cultural resources and to identify any such resources at the earliest possible time during project-related earthmoving activities, THE PROJECT PROPONENT and its construction contractor(s) will implement the following measures:

1. Paid Native American Monitors from culturally affiliated Native American Tribes will be invited to monitor the vegetation grubbing, stripping, grading, or other ground-disturbing activities in or near cultural sites to determine the presence or absence of any cultural resources. Native American Representatives from cultural affiliated Native American Tribes act as a representative of their Tribal government and shall be consulted before any cultural studies or ground-disturbing activities begin.
2. Native American Representatives and Native American Monitors have the authority to identify sites or objects of significance to Native Americans and to request that work be stopped, diverted, or slowed if such sites or objects are identified within the direct impact area; however, only a Native American Representative can recommend appropriate treatment of such sites or objects.

5-4

**Letter 5
Response**

United Auburn Indian Community of the Auburn Rancheria
Melodi McAdams, Cultural Resources Supervisor
May 31, 2018

5-1

The comment states that United Auburn Indian Community of the Auburn Rancheria (UAIC) has requested tribal monitoring and has expressed concerns regarding sites P-31-194, P-31-32, and the confluence of Linda Creek and Cirby Creek. Previous communication with UAIC addressed concerns related to these locations.

Because of concerns related to these sites and to confirm the level of cultural sensitivity for the project area, an Extended Phase 1 (XP1), which consists of subsurface auger testing, was conducted on locations of the project where deep excavation would occur. Field work for the XP1 was performed by qualified archaeologists in March 2016 and the City of Roseville arranged for UAIC to monitor this field work. No cultural material was found in any of the 53 auger holes. Please see page 4.4-6 of the Draft EIR for additional discussion.

As stated in an email from ECORP Consulting to Melodi McAdams, Cultural Resources Supervisor for UAIC, dated November 23, 2016, the site record and tribal oral history had different boundaries for site P-31-194; UAIC expressed a need for a site visit at this location. As detailed in the XP1 Report that was emailed to UAIC on September 30, 2016, one of the locations tested was in the vicinity of P-31-194; no cultural materials were found. Testing was monitored by a tribal monitor assigned by UAIC who inspected both sides of the creek on the same day.

The email also addressed site P-31-32, stating that after reviewing the records, ECORP believes UAIC was referring to P-31-332, which was recorded in 1975 on the terrace above Linda Creek; this site is not located within the project site. Additionally, based on site records/notes, field reconnaissance conducted in 1983 suggested that the site was likely located under the homes built in the 1970s and destroyed by the construction of the neighborhood on the terrace.

Concerning the confluence of Linda Creek and Cirby Creek, the November 2016 email states that the North Central Information Center had no record of a site at that location, though the UAIC database did. Project components are located south of the confluence of these two creeks. The entire project area was subjected to an intensive pedestrian survey in July 2014; no cultural resources were identified in this location. At the confluence of Linda Creek and Cirby Creek four auger samples were taken; no cultural materials were found.

Because the XP1 determined that the level of sensitivity for the project site is low because UAIC already monitored the subsurface archaeological testing, and the concerns related to the three sites have been adequately addressed (and communicated to UAIC in November 2016), construction monitoring is not warranted. Nevertheless, Mitigation Measure 4.4-1, "Proper handling of archaeological resources," includes the notification of UAIC seven days before beginning earthwork or other soil disturbance activities. As part of this notification, a UAIC tribal representative shall be invited to inspect the project site, including any soil piles, trenches, or other disturbed areas, within the first five days of groundbreaking activity. Please see Draft EIR page 4.4-13 for additional information.

- 5-2 The comment requests a revision to Mitigation Measure 4.4-2, “Stop work if human remains are discovered.” The text on page 4.4-15 of the Draft EIR is revised as follows: (deleted text shown in strikethrough and new text shown in double underline):
- If human remains are discovered during any construction activities, potentially damaging ground-disturbing activities in the area of the remains shall be halted immediately, and the project applicant shall notify the Placer County coroner and the NAHC immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California’s Health and Safety Code. If the remains are determined by the NAHC to be Native American, the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The City shall also retain a professional archaeologist with Native American burial experience to assist the City of Roseville, the landowner, and the MLD with any management steps prescribed in California Health and Safety Code Section 7050.5 and California PRC Section 5097.98 ~~conduct a field investigation of the specific site and consult with the MLD, if any, identified by the NAHC.~~ Following the coroner’s and NAHC’s findings, ~~the archaeologist, and the NAHC-designated MLD~~ and the landowner shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.
- 5-3 The comment expresses the opinion that UAIC does not believe that disturbances to Native American human remains can be mitigated to a less-than-significant level.
- As stated on page 4.4-14 of the Draft EIR, no evidence suggests that any prehistoric or historic-era marked or un-marked human interments are present within or in the immediate vicinity of the project site. As discussed above in Response to Comment 5-1 the XP1 was conducted to gain a better understanding for the potential sensitivity of the area; no cultural material was revealed, further lowering the likelihood of discovery of human remains. Additionally, Mitigation Measure 4.4-2 requires that any remains found are treated appropriately, in accordance with pertinent laws and regulations, which results in a less-than-significant impact.
- 5-4 The comment presents a suggested mitigation measure for Native American construction monitoring.
- Please see Response to Comment 5-1.

From: [REDACTED]
To: [Morse, Mark](#)
Subject: East - Dry Creek Greenway Project
Date: Tuesday, April 17, 2018 1:51:09 PM

Letter
6

Written comments regarding this project:

I live in the Cirby Hills Condo subdivision. We are SWAMPED by "projects" that the city or county has approved that are negatively affecting our area.

First: the expansion of the Placer County Mental Health facility. Allowing the Yolo Continuum of Care to locate in that building has left us with zero street parking, huge traffic backups, increased crime and pollution- everything from used needles, medications, medical waste, and medical records dumped into the fields.

Second: the Kaiser expansion. What little parking that is not clogging our streets by the mental health facility, has now been taken over by Kaiser employees. I challenge anyone from Roseville City to PLEASE come view the state of Cirby Hills Drive. Our school children are dumped off IN TRAFFIC because there are no areas left for a school bus stop.

Third: Homelessness is becoming a huge problem in the area. The homeless camp out on the banks of dry creek directly behind the condos to the north of us. They camp out under the overpass of Cirby to the east of us. They are all over Cirby businesses. Some of these people are very mentally ill. I encounter them several times a week while taking my dogs out for walks.

Why do we need to provide them with an unsupervised highway through Roseville? Crime, homelessness, and traffic issues need to be addressed before we spend more money on glorified bike trails, that are really just avenues for the homeless to travel around the city- hidden from view.

Stacy Jastram

6-1

6-2

**Letter 6
Response****Stacy Jastram**
April 17, 2018

- 6-1 The comment lists recent projects that the City or county have approved, including the expansion of the Placer County Mental Health Facility and the Kaiser expansion.
- The comment refers to increasing traffic related to the cited projects. The comment does not address the proposed project or the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.
- 6-2 The comments states that homelessness is becoming a huge problem in the area and states that crime, homelessness, and traffic issues need to be addressed before money is spent on bike trails.
- Please see Master Response 1, which addresses this issue.

From: Donna Wilson
To: [Doug, Mike](#)
Subject: Re: Update on Bike Trail
Date: Friday, April 20, 2018 1:26:21 PM

Letter
7

Mike,

Thank you for responding to my email so quickly with the information requested and the references. As discussed much before and during the meetings, the two feet is not adequate, as this ends up being an eroded gutter for the bike trail. It is not maintained. This is **a safety hazard and liability for the City**, especially in light of the fact that this has been pointed out several times and will be again. The City needs to commit to that.

7-1

Thanks again,

Donna

**Letter 7
Response****Donna Wilson**
April 20, 2018

7-1

The comment states that the two feet [of proposed shoulder] is not adequate, and states it ends up being an eroded gutter for the bike trail and is a safety hazard and liability for the City.

As noted in the Project Description in Chapter 3 of the Draft EIR (see Draft EIR Exhibits 3-9 and 3-10), a typical cross-section for the proposed trail would consist of a 10-foot wide paved trail with two-foot shoulders on each side. The proposed trail may also be widened in areas where additional shoulder or trail width is desired to enhance user comfort and safety. In these instances, the shoulder width may be increased to between 5 and 10 feet on one side of the trail. For example, the project proposes a 5-foot wide shoulder in the segment running parallel to Mallard Lane, where the trail and the existing path are on the same alignment and where space allows. In the area west of Mallard Lane, where sufficient space exists, an 8- to 10-foot wide shoulder is proposed. The shoulders would be composed of aggregate base and decomposed granite. The City would be responsible for maintaining the integrity of the path and shoulders. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

From: Ron Evans
To: [Morse, Mark](#)
Subject: Roseville Dry Creek Greenway Planning and Feasibility study
Date: Thursday, May 10, 2018 2:37:31 PM

Letter
8

Dear Mark

I live at [REDACTED]. As proposed the greenway will go through the back of our homes along Linda Creek. When this plan was developed Roseville owned the property on which my and my neighbors houses occupy. Since that time Tim Lewis purchased and developed homes along the Linda Creek preserve – at a substantial lot premium for some given that there was a preserve behind our homes. We were unaware of the plans when we purchased our homes. I appreciate the need for the greenway but question why the greenway needs to be on the side of the creek that borders our residential property. Wouldn't it be better on the other side of the creek where our homes would not be so affected?

8-1

I understand its late in the game but if this change were made I'm sure the residents here would be appreciative.

Thank you.

Ron Evans
[REDACTED]

**Letter 8
Response****Ron Evans**
May 10, 2018

8-1

The comment questions why the trail needs to be on the side of the creek that borders new residential property.

The 2010 Dry Creek Greenway Trail Planning and Feasibility Study (City of Roseville 2010) identified a key issue along this portion of the potential alignment related to steep slopes along the southerly leg of Old Auburn Road along what was identified in the Study as "Alignment 12-2," which would have crossed under Old Auburn Road using the west span of the existing Old Auburn Road Bridge over Linda Creek. In addition, the Biological Resources Study Report prepared for the Planning and Feasibility Study identified a mitigation/restoration site on the west side of the creek. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

From: Scott Larson
To: Morse, Mark
Subject: East- Dry Creek Greenway Project
Date: Thursday, May 10, 2018 7:29:03 AM


Letter
9

Dear Mr. Morse:

I support the project as proposed.

My property borders the project Adamson Court. I use the existing trail daily to walk my dogs, run/walk to Maidu Park, and look forward to using the new trail to ride my bike to downtown and access the Miner's Ravine trail system. I believe the Miners Revise trail system is a good example of the potential for Dry Creek. The proposed Dry Creek system will improve public safety access, provide recreation for bikes, runners, walkers, and quite retreats for nature observation in a busy city.

9-1

Sincerely
Scott Larson

Roseville

**Letter 9
Response**

Scott Larson
May 10, 2018

9-1

The comment expresses support for the project as proposed.

The comment expresses an opinion that the trail will improve public safety access, provide recreation for bikers, runners, walkers, and quiet retreats for nature observation. The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.

**Letter
10**

From: mary whitney
To: Morse, Mark
Subject: Dry Creek Greenway East Project
Date: Monday, May 14, 2018 6:54:57 PM

Dear Mr. Morse:

I have lived at [REDACTED] since 1978. My property backs up to the Linda Creek flood plain. I have followed the development of this project since at least 1997. I expressed my opinion at town meetings, by phone calls to the various agencies involved, and at community meetings regarding the project. Once again, I am against the portion of project that is in the flood plain between Rocky Ridge and Old Auburn Rd.

10-1

When I moved to Roseville the creek was dry in the summer. Now it flows year around due to run-off from irrigation.

This area is a unique riparian habitat, a special place within our city limits. Over the years I've watched the bank erode. I've watched heritage oaks fall into the creek, then be removed. The creek is now close to encroaching on my property. If/when the creek fells the oaks on my property, huge chunks of my land will go with them. This leads to property value issues. It threatens my peace of mind.

10-2

A paved path along the creek will inhibit water absorption. This will send more water rushing along the banks and cause further erosion. The construction itself will disturb the banks.

I'm concerned about unknown persons passing so close to my property. I've already had one residential burglary at my home. I don't want another.

10-3

At the very least, locate the path on the south side of the bypass channel, as far away from the creek as possible.

10-4

Sincerely,

Mary M Whitney
[REDACTED]
[REDACTED]
[REDACTED]

**Letter 10
Response****Mary Whitney**
May 14, 2018

-
- 10-1 The comment expresses opposition to the portion of the project that is in the floodplain between Rocky Ridge and Old Auburn Road.
- The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA. The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. Please see response to comment 10-2.
- 10-2 The comment discusses Linda Creek and states that the creek used to be dry in the summer, the area is a unique riparian habitat, and that the bank has eroded over the years. The comment states that a paved path along the creek will inhibit water absorption causing further erosion and that construction will disturb the banks.
- The potential impact on riparian habitat is discussed in Impact 4.3-1 (Disturbance and loss of waters of the United States, waters of the state and riparian habitat) of the Draft EIR. The EIR addresses existing stream conditions and erosion extensively in Chapter 4.5, "Geology and Soils," and Chapter 4.8, "Hydrology and Water Quality." Potential effects related to erosion area addressed in Impacts 4.5-2, 4.8-1, and 4.8-2. As discussed under Impact 4.5-2, the Dry Creek Greenway East Trail project would have a less-than-significant impact on soil erosion. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.
- 10-3 The comment expresses concern about unknown persons passing close to the commenter's property.
- Please see Master Response 1.
- 10-4 The comment states a preference for the location of the path on the south side of the bypass channel, as far away from the creek as possible.
- The comments express an opinion on the trail alignment and does not address the adequacy of the Draft EIR environmental analysis. The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. For information purposes in this document, the path is proposed at the edge of and on the south side of the bypass channel.

<p>Letter 11</p>

From: William Connell
 To: Morse, Mark
 Cc: City Council Mail; Mrs. Kathy Connell
 Subject: Bike Path
 Date: Friday, May 25, 2018 10:38:20 AM

Mark Morse, Environmental Coordinator
 Roseville City Manager's Office
 311 Vernon Street
 Roseville, CA. 95678

Dear Mr. Morse,

The paragraphs below are a letter, from April of 2013, my wife and I had written to the Roseville City Council. Our opinions have not changed, in fact they have solidified after yet another few close calls with speeding bikers. Additionally after reviewing the recent literature on the project we're quite concerned about the loss of habitat, especially the old oak trees. They are impossible to replace. In any event see our prior letter to the City Council and thank you for your consideration.

11-1

The proposed bike trail is a major safety hazard to the residents of both Meadow Oaks and Sierra Gardens. Both of our neighborhoods share the open space along the Linda Creek Salmon Habitat. We all enjoy the area, walking, running, playing soccer, or walking our dogs. As residents, we are people in all phases of life: mothers with strollers, children walking to school and back, and senior citizens getting exercise from a leisurely walk. If the proposed bike trail is built all of this will change.

This new extended bike trail will put everyone on the outlook for bicyclists speeding down the trail and hitting one of us. When this happens, and it will, serious injuries will occur. Many of us have already experienced "close calls" by speeding and rude road hog bike riders who we narrowly miss colliding with, forcing us off the trail. They often times shout profanity at us for being in their way. THIS IS A FACT!

11-2

It doesn't take much to imagine what will happen when these same bicyclists, multiplied a hundred fold, have a "presumed" dedicated path right through our open space. The City of Roseville believes unsightly signs will prevent any injuries. I dare say they are wrong. Who can read a sign traveling at 30 MPH?

Please prevent the extension of this path. Not only is it a safety hazard, it ruins the relaxed and beautiful environment of our Linda Creek open space. Ours is not the same environment as other bike trails in Roseville. Our neighborhoods are older were established when only children rode bicycles.

The bike trail will demolish the charm and the beauty of an established Roseville neighborhood. It will destroy Majestic Oak Trees, the Wetlands and Riparian areas. The old oaks are impossible to replace. The Wetlands have served their purpose well by draining the excess rain fall into its sponge-like essence. Once there is pavement above the Wetlands they no longer function. The Riparian areas are loaded with all sorts of wildlife, including many protected migratory species.

11-3

Please protect the environment! Save our trees! Save our Wetlands!

Please do not unleash hordes of entitled arrogant belligerent bicyclists into our neighborhoods!

Thank You,
 William and Kathy Connell

**Letter 11
Response****William and Kathy Connell**
May 25, 2018

- 11-1 The comment addresses potential loss of oak trees and associated habitat.
- The loss of oak trees is addressed in Impact 4.3-8 (Disturbance of City protected trees, Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations) in the Draft EIR. The potential impact on riparian habitat is discussed in Impact 4.3-1 (Disturbance and loss of waters of the United States, waters of the state and riparian habitat), Impact 4.3-4 (Disturbance or loss of Swainson's hawk, white-tailed kite, and other nesting raptors), and Impact 4.3-5 (Disturbances to special-status song birds). With the implementation of mitigation measures identified in the Draft EIR, these impacts would be reduced to less-than-significant levels.
- 11-2 The comment discusses potential safety hazards to trail users due to speeding bicyclists. While safety related to trail user conflicts is an important issue for consideration by the City when evaluating the merits of the proposed project, the topic is not within the purview of CEQA analysis. This comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.
- 11-3 The comment addresses oak trees, wetlands, and riparian areas.
- See response to comment 11-1.

Letter
12

May 25, 2018

Mark Morse
Environmental Coordinator
Roseville City Manager's Office
311 Vernon Street
Roseville, CA 95678
mmorse@roseville.ca.us

RECEIVED BY
MAY 29 2018
CITY MANAGER'S OFFICE

Regarding: Public Review and Comments on Dry Creek Greenway East Trail Project
DRAFT EIR

Dear Mr Morse;

We have reviewed the EIR and have the following concerns regarding the stretch of the bikepath and multi-use trail that runs behind twelve homes on West Colonial Parkway (Index Map Section 7):

Pages 3-31 & 4.1-11; West Colonial Parkway east of Linda Creek. The staging area will obliterate a large portion of the frequently used decomposed granite looped walking trail. We urge the city to have the existing decomposed granite trails restored throughout the open area, including the north most section that was washed out and raked back, uncompacted, several years ago and specifically the staging area be restored and kept star-thistle free as it is now.

12-1

Page 4.1-9, Last ¶ Regarding Impact Analysis; In addition to the locations listed it is imperative to give design consideration to screening the trail from the existing twelve homes on West Colonial Parkway.... Exhibit 4.3-2g clearly shows the narrow setbacks from residences along West Colonial Parkway. The EIR must address current ground level and proposed finish grade elevation in regard to the eye level of adult cyclists vs the top of the Corp of Engineers floodwall that runs the length of the stretch of the bikepath and multi-use trail that runs behind twelve homes on West Colonial Parkway.

12-2

Page 4.1-12 states "Once complete, the amount of visual change because of project implementation would be relatively low" **We contest this statement as it relates to stretch behind our homes.** "The trail has been designed in consideration of visual resources, including: setbacks from native oaks, riparian areas, and wetlands; topography; setbacks from residences; and compliance with adopted design standards. Where there is an

12-3

Page 1 of 3

existing trail, the type of use on the project site would remain the same. **The existing trail is a minimally used foot trodden path.** “although the pathway may appear more prominent” **That is an understatement as it relates to stretch behind our homes.**

Page 4.1-14 Use Related Impact 4.1-1 Aesthetics Conclusion states “Therefore, although the visual quality of the site would be temporarily degraded during construction, implementation of the Dry Creek Gateway East Trail would have a less-than-significant impact on the visual character or quality of the site and its surroundings” **We vigorously disagree that the impact to our section could be less than significant aesthetic impact to the homes on West Colonial that back up to Linda Creek. We will strongly contest for mitigation of the primary impact of having strangers peer into our backyards and living spaces as they pass by. In addition we request a City serviced doggie waste station at both ends of the constricted section behind the homes on West Colonial Parkway and a dog waste litter pick up program be implemented.**

12-3
cont

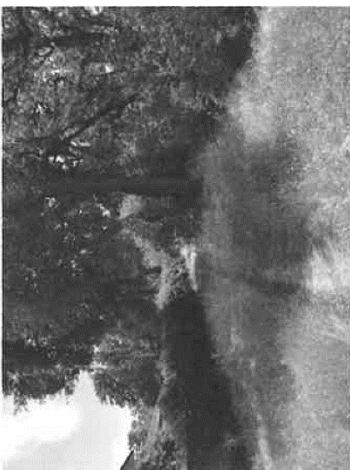
Impact 4.10-2 Long Term Increases in Use Related Noise; Page 4.10-11 “ The proposed project would introduce new pedestrian and bicycle activities on a new paved multi-use trail. These are non-motorized activities that would not result in a substantial increase in noise levels above ambient noise conditions.” **We strongly disagree; cyclists converse at significantly higher levels than people just walking and talking.** “The sound of people talking while using the trail could be audible at nearby residential uses or other sensitive receptors; however, such activities would be consistent with the level of noise typically experienced in residential neighborhoods where children may be playing or where neighbors may converse with one another.”

12-4

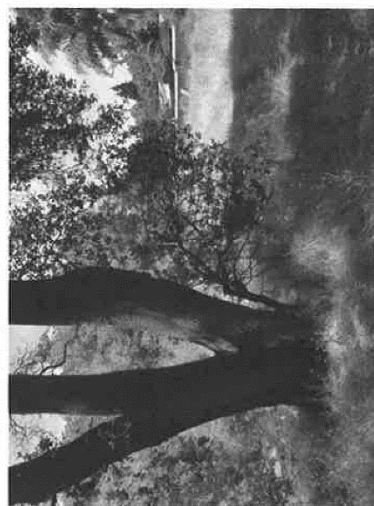
The proposed project will result in a significant noise impact to the homes along West Colonial Parkway because it will definitely result in a *substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.* The trail will have significant impact to the homes on West Colonial that back up to Linda Creek as a result of the noise of pedestrians’ barking dogs and cyclists yelling to to be heard by each other which will alert our dogs to natural protective barking.

Appendix B Friends of Linda Creek say “support work could be done to help prevent old oaks from falling into the creek.” We are in agreement that the oaks between the creek and the new trail need to be saved, by whatever means, from falling into the creek and we make reference to Sheet 4.1-11: “In fact, as described in Chapter 3, Project Description, bank stabilization elements would be constructed in this vicinity because the bank of the creek adjacent to these trees is currently eroding.” Therefore, the project could

12-5



3 Views of proximity of proposed project to residences



View of proximity of creek to proposed project.



Current eye level view.



Oak trees leaning into creek.

have a beneficial effect on the scenic value of these trees because the gabion baskets could serve to protect the trees in the future.

12-5
cont

In conclusion we feel that that the proposed project will result in a significant aesthetic and noise impact to the homes along West Colonial Parkway and that the EIR Report does not adequately consider the unique considerations of West Colonial Parkway community due to the close proximity to Linda Creek.

12-6

Sincerely;

Rick & Andrea Walker

Rick and Andrea Walker

Additional Signers

Name	Address	Signature
Renee BOODIE DAVIS	[REDACTED]	Renee Davis
ERIN FOSTER	[REDACTED]	Erin Foster
Jim Miller	[REDACTED]	Jim Miller
Johanna Griffiths	[REDACTED]	Johanna Griffiths
Cheryl Tisa	[REDACTED]	Cheryl Tisa
Barbara A. Knight	[REDACTED]	Barbara A. Knight
Nathan Reams	[REDACTED]	Nathan Reams
Branton Evans	[REDACTED]	Branton Evans
Kaira Stuppert	[REDACTED]	Kaira Stuppert
J. RAND OLSON	[REDACTED]	J. Rand Olson
Thelma Olson	[REDACTED]	Thelma Olson
Annalee TenBrink	[REDACTED]	Annalee TenBrink

Attachment: 6 photos

**Letter 12
Response**

Rick and Andrea Walker (+ 12 additional signers)
May 25, 2018 (May 29, 2018)

12-1

The comment states that the temporary construction staging area to be located along West Colonial Parkway, as described on page 3-31 and depicted on Exhibit 3-11 of the Draft EIR, will destroy a large portion of an existing decomposed granite walking trail. The comment requests that when construction is complete, the City restore the trail through the open area, including the north-most section that was washed out and raked back, uncompacted, several years ago.

The comments have been forwarded to the City's Parks and Recreation Department to review the existing trails for any maintenance that is needed at this time. When this phase of the project is constructed, any existing decomposed granite trails affected by the project would be restored to the same or similar condition. Further, as identified under Impact 4.8-1, any disturbed areas, including the staging areas, would be revegetated with approved native seed mixes per the City of Roseville design standards. The native seed mixes would not include star thistle, and the use of native seeds to revegetate the area would discourage the growth of non-native plants. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

12-2

The comment expresses the opinion that the residences along West Colonial Parkway need to be added to the list of locations for consideration of screening the trail from existing residential and urban development.

It should be noted that Class 1 trails in Roseville are often built in neighborhoods with open fencing (such as wrought iron) and, therefore, it is not unusual for trail users to have views into private rear yards. While it is recognized that the proposed trail is closer to the property lines in this location than in some newer development areas where a minimum 10-foot setback is typically maintained, views would be mostly blocked by the solid floodwall with only partial views over the wall available to taller trail users and/or bicyclists. The comment addresses the proposed project and is not a comment on the adequacy of the EIR analysis. Loss of privacy or change in circumstances that may result in more viewers onto a private property is an important social consideration for the community and adjacent residents, but it is not an environmental issue within the purview of CEQA. The CEQA Guidelines state that economic and social changes resulting from a project shall not be treated as significant effects on the environment (section 15064(e)). Nonetheless, the fifth bullet on page 4.1-9 of the Draft EIR is revised as follows (new text shown in double underline):

In addition, where appropriate, consideration would be given to screening the trail from existing residential and urban development, such as at the intersection of Sunrise Avenue south of Coloma Way, Oak Ridge Drive north of Rampart Drive, Rocky Ridge Drive north of Cirby Way, and Old Auburn Road north of South Cirby Way, and West Colonial Parkway south of the decomposed granite loop to Old Auburn Road.

It should be noted that any proposed physical modification to the existing floodwall, such as planting screening vegetation or adding a panel to the floodwall top to screen views from the proposed trail, would be subject to review and approval by FEMA consistent with the Code of Federal Regulations (44 CFR 59.1). Should FEMA

approve a “screening” modification to the existing floodwall, it could potentially include conditions that make implementation infeasible. For example, if “approval” would also trigger other substantial improvements (such as modifying structural elements “to comply with current code”), adding a screening element could be found infeasible.

12-3

The comment disagrees with the Draft EIR statement on page 4.1-12 related to the amount of visual change related to project implementation. The comment states that the project has not been designed in consideration of setbacks for the stretch of 12 homes along West Colonial parkway and that implementation of the proposed project would be a substantial change.

Setbacks were used as much as possible during project design, however, the topography of some portions of the trail does not allow for much separation between the trail and the property lines. In general, the most “visual” elements of the project (bridges and retaining walls) would be set back a bit from residences. Behind these particular houses on West Colonial, the project elements will be low profile, with no bridges or retaining walls being constructed.

With respect to the existing trail and type of use, the third sentence of the second paragraph on page 4.1-12 of the Draft EIR is revised as follows (new text shown in double underline):

Where there is an existing paved trail, the type of use on the project site would remain the same, although the pathway may appear more prominent.

The comment also disagrees with the conclusion for Impact 4.1-1, that implementation of the Dry Creek Greenway East Trail would have a less-than-significant impact on the visual character or quality of the site and its surroundings. The comment expresses the opinion that mitigation is needed for the impact of having strangers peer into backyards and living spaces, resulting in loss of privacy. As discussed above in Response 12-2, while privacy is an important issue for consideration by the City when evaluating the merits of the proposed project, the topic is not within the purview of CEQA analysis. Therefore this comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. Please also see Master Response 1.

Additionally, the comment requests a City-serviced doggie waste station at both ends of the constricted section behind the homes on West Colonial Parkway and that a dog-waste litter pick-up program be implemented. The City of Roseville has installed dog “waste stations” at key locations in parks and open space areas in the past. This comment is acknowledged and will be forwarded to the decision-makers for consideration and implementation as part of final design.

12-4

The comment expresses the opinion that cyclists converse at significantly higher levels than people just walking and talking, therefore the proposed project will result in a substantial increase in the existing ambient noise level.

Page 4.10-11 of Section 4.10, “Noise,” of the Draft EIR acknowledges that sound of people talking while using the trail could be audible at nearby residential uses or other sensitive receptors; however, such activities would be consistent with the level of noise typically experienced in residential neighborhoods where children may be playing or where neighbors may converse with one another. A project must be considered against established thresholds to determine a level of significance, in this case, the related threshold on page 4.10-6 of the Draft EIR, states “a substantial

temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.” While cyclists may converse louder than people just walking and talking, this would not be substantially higher than typical residential neighborhood noise, therefore it is not a significant impact. Further, it should be noted that the existing flood wall located at the rear property line of West Colonial Parkway homes could also function as a sound wall to reduce rear yard trail user noise.

- 12-5 The comment states that the proposed project could have a beneficial effect on the scenic value of the trees near Rocky Ridge Drive because the gabion baskets could serve to protect the trees.
- This comment expresses support for the project and does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.
- 12-6 The comment expresses the opinion that the proposed project will result in significant aesthetic and noise impacts to the homes along West Colonial Parkway and that the EIR does not adequately consider the unique considerations of West Colonial Parkway community.
- Please see Responses to Comments 12-1 through 12-4.

Letter
13

[REDACTED]

From: [REDACTED]
Sent: Sunday, May 27, 2018 4:13 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Comments/Responses to East Draft EIR
Attachments: Zisk History 4-20-2004 EIR Bikeway Project.pdf

Mark Morse, Environmental Coordinator
Roseville City Manager's Office
311 Vernon Street
Roseville, CA. 95678

[REDACTED]

Could you please get back to me to assure me the information I am submitting to you will be displayed? [REDACTED] Cell

Please leave a message if I do not answer. I want to know I have met all deadlines. I can meet with you, and anyone, at any time, including weekends and evenings. You need to see all this in person. Council refuses to witness what is occurring.

Please open the attached Zisk History... .pdf file and display every page, so the public may easily view. If you prefer, I can send each individual page.

This email is only one of many. There will be at least 4 to 5 emails with attachments also. There will be additional files and comments sent, I also wish the public to view.

All of this information relates to this East - Draft EIR and the entire trail system.

This Trail System should not continue nor should this Draft EIR until there is an unbiased investigation. Federal, Grand Jury, FBI, and/or other.

John Zisk

[REDACTED]

[REDACTED]

From: John Zisk [REDACTED]
Sent: Sunday, May 27, 2018 5:14 PM
To: Morse, Mark
Cc: [REDACTED]
Subject: Comments/Responses to East - Draft EIR
Attachments: Dec-19-1973-Res-73-122-PubNecessity.pdf; Meeting Minutes Feb 9 1967 B&W 200.pdf

This is possibly the largest Crime in Placer County. It is also Criminal since it has taken my families lives. I (John Zisk) was 9 years old and present at this Planning Commission Meeting Feb. 9, 1967 as shown below in the meeting Minutes. Also notice, Keith Sparks was the Roseville City Attorney present at this meeting giving my family approvals so we may build our home on our beautiful R1 buildable creek front property. After we used our trucking business and did 7 years of work, required by the City of Roseville... there was a resolution of necessity, as shown below, on Dec, 19,1973 for eminent domain to take most of my property. There was no plan, no purpose, no public necessity, no EIR, no feasibility study, no offer, no negotiations, no appraisal, no public meeting,.... All of this needs to be done prior to eminent domain. It has now been over 44 years. The city did not follow Due Process required by law or our constitution, and to the present date, still have not. There are dozens of other issues I would love to illustrate, however I do not have the time for this public comment time period. The city has recently put asphalt on my property that has nothing to do with the land they said they needed 44 years ago. This is another crime I need to illustrate. The City is not using the land they said they needed for the past 44 years. Here is a taste of how our local Gov. works. My family and I have maintained and held possession of all of this property our entire lives. It has been fenced, locked and posted my entire life. The City of Roseville has never owned Zisk land. Many council and managers have conceded to that fact and have told me so. In 1973 Keith Sparks (city attorney) was in extreme conflict when he Presided over the Zisk family in Superior Court 7 years after Keith was involved giving our approvals in 1967. Then after Superior court, Keith Sparks furthering his extreme conflict, Presides over the Zisk Family AGAIN in the Appellate Court when he was appointed to the court by Gov. Brown whom was Governor I believe 1976-81. These kinds of things are not supposed to occur in this country. The Roseville officials do not have enough integrity to object to their friends and co-workers being the Judge. Keith Sparks even authored the opinion and stated that the Zisk family did not apply for a permit to build their home until 1973, which is not true; because Keith Sparks was at the meeting in 1967 and my family was there getting this permit with Keith present. These are lies and the City of Roseville knows of these dirty activities. The citizens of this city need to know the truth. Gavin Newsom's father, Judge William Newsom was also the Judge. Sparks and Newsom are both buddies and I hear they live next to each other. This is all after the city require my family to invest millions into our property. In

13-3

Federal court, the city hires the Judges daughters law firm to represent the city of Roseville when her father is the Judge. Where can that happen in the United States of America? I keep asking the city simple questions and they refuse to answer. They state they answered them. That is not true. If they did then just give me a copy. I would like to explain to the people why all of this occurs. I know the answers. I now want the people to know before they go through what I have been through. Most of the previous upstream property people are walking on belongs to my family and is everything we own. We completed what the City of Roseville asked of us so we may build a home. We got approvals, however it has not yet happened. Also, the city if filling, and filling Dry Creek. What happened to ethics, morals, our local government, and our court system? Judges here who's wife was the Mayor of Roseville, presided as judge over my property in Connecticut. That is 3 times this local issue. I have only pointed out 2% of what has occurred. I also have tens of thousands of photos. And, thousands of other documents. Visit [REDACTED]

It all began at my home, [REDACTED] For over 40 years the City of Roseville never stepped foot on this property (my property, Zisk land). There never was a trail in the City of Roseville. The city did not even want the land adjoining/next to mine until about 3 decades later. My family and I have lived this torture for 51+ years. This said "trail" is still not complete, and is built on Non-Condemed property that me and my family have owned throughout my lifetime. The city is not using what they said they needed. More and more laws are broken every day. I want to know "why" my father did not get a vacation the last 32 years of his life, and the last 24 years for my mother. Please contact me at [REDACTED] and I will show you more including maps, videos, photos, Transcripts, meetings, etc..... In Court the City Experts stated my parcel of land has a total value of \$225. I have told and shown thousands of residents. They all laugh. It is so ridiculous, they laugh. Anyone whom has walked the Miners Ravine Trail knows my property is worth more than two hundred twenty five dollars. This story takes an entire day to explain. Many people cry. Many city officials and employees have admitted to these facts.

Since this trail was placed on my property, I have been burglarized and vandalized over a dozen times. The trail goes right through my property next to my home. The city took out my fence. Residents should know what they are doing when they let the city get away with these crimes. There have been hundreds of crimes just at my property. All the trucking equipment is bashed in, cars are destroyed, theft, theft, theft, house windows busted.... Can anyone imagine how much crime will occur on another 4 mile section of trail. Most of the windows busted out of my home and all of my vehicles and all of my trucking equipment. These crimes have been committed numerous times; not just once. I spend each day picking up what the city allows people to destroy. Homeless camp under my home, light fires, Defecate everywhere, are violent, people shoot all fish and animal life in the area, spear fish, throw rocks and throw rocks at me, take all the fruit from my trees then break them off, steal from my garden, I do not talk to them but they threaten me, people urinate right in front of

13-3
cont.

me. They walk next to my home to defecate, have stolen most of my families belongings, motorcycle, \$4000.00 lawn mower, disassembled my tractor, etc. etc. etc..... It would take an entire book of writing to illustrate all the crimes that this trail has created. There was never any plan to police it. 44 years ago? Police tell me they will not patrol and do not have the time unless it is an emergency. There are fires every other year. I have seen days on end of countless Drug Deals. I can show anyone the thousands of photos. There is so much that the police much of the time do not even respond. I would like for council, managers, employees, and residents to see what this trail has created. The city is responsible for what has taken place. At my home I grew up with quail, fox, coyotes, deer, muskrats, geese, peacocks, beavers, chickens (off leash dogs rip apart now), cats, swans, ducks, squires, some varmints, and a lot of other life. Most of this life is no longer present at my home due to people intentionally killing everything they see. Almost nothing but destruction. Council members state they want to preserve the creek and wildlife. These are politicians for you. This is so untrue, I just shake my head in disgust. Some residents do not understand, as council does not understand that animal life leaves when people walk through. People come to the creek with their CO2 guns and shoot all the fish. Police have told me it is ok that people Spear the fish (salmon, steelhead, trout, etc.) Please let me show you. [REDACTED]

13-3
cont.

My father has been illustrating extensive Fraud with water levels and water studies. I now want the people to view these maps and studies. I have collected this data for the past 50 years. It is impossible to go through what is inside this current EIR. The city is only following procedures now because they have not yet followed them from the past. The city of Roseville changes flood levels by illegally filling. Please let me show you.

13-4

The first thing the city did was to remove endangered species of plants. The city did not even tell me they were bulldozing through my property. They tore out Elderberry trees (endangered Elderberry Beatles) exactly where the asphalt was set. They pushed the dirt into the creek filling more and more. I would like for the people to learn about the deception and lies portrayed. Grandfathered oak trees are ripped out. They blocked the roads to the back of my property. I have saved a homeless persons life that fell into hi-water when he was drunk and urinating in the creek, and actually saved all of dry creek from fire also (many times). This is what I do most every day. There are so many camps that people are frightened to use the trail. Eight year old children sometimes play after dark in the water and in the brush with the after dark bad people around. I walk them home to their parents. This subject will also take a book of writing also.

13-5

The city has removed the water banks protecting my home. City officials refuse to visit me to see what they have done. The city has illegally filled thousands and thousands of yards of fill into the middle of dry creek. It was strategically place is certain section of the creek to erode and block the channel to lower the flooding in downtown Roseville. The city used outdated 1956 maps for flood studies values. FEMA and Army Corp. of Engineers and other agencies

need to visit to see this. Tree and creek flood Maintenance only occurred sometimes until my father died. Now the city will not speak with me and vegetation is out of control. The city intentionally blocked and dammed the water at my property with thousands of yards of illegal fill/rocks to lower the flood elevations of downtown Roseville and to hide the fraudulent flood studies of the past. Please let me illustrate how much danger the residents are in. I have more photos of flooding and can illustrate where and how much water goes in each part of Roseville. There needs to be a Federal Investigation. Please help me inform Congress and federal agencies. I will show you these studies and maps. I can only imagine the number of schemes the city is planning on a new 4.25 mile section.

13-5
cont.

This land is beautiful because my father and I made it that way. We did it for a home. On a beautiful day or sometimes parts of a weekend people see the beauty. I want citizens to see what I am living the other 99% of the time they don't. I also want people to see the History of my property, from the railroad tracks, to water, to business, to location, to historic monuments, and much more.... I am trying to put some closure to this. The city is destroying this land, my home, my belongings, my business, my family, my life, and now my children's lives. It is mind blowing what the council and some officials have told me. Please demand the city answer my questions. Large law firms tell me I am right and the city is wrong. They all want \$1,000,000.00 to start another law suit. I will not live that long.

Now this issue is being complicated by the East – Bike Trail.

I own about 1500 feet of Dry Creek. The only parcel of land the city ever wanted is my 3.72 acre parcel located in the "Heart" of Roseville that just happened to have held the Water and Electric Franchise to the City of Roseville. It's all about WATER. Not a trail.

I love bike riding. I love trails. I love all the people whom have walked the trails. I care for the homeless. I love all animals. Most all City police and employees are great. There is a proper way to do a trail system, and it is not the way the City of Roseville has done it. I have many ideas and suggestions. Please help.

13-6

Please remember, this is only 3 percent of what is occurring. It is not what the city tells you; it is what they do not tell you. Omission is the same as lying.

Please require the City of Roseville to clean up their mess before they start another one.

John Zisk


1967

My family and I got a use permit, grading permit, fish and game

permit, purchased a dragline to dredge the creek doubling the flow capacity, and for the next 7 years completed what the city requested we do.

Advisory: P. Hollick, City Planner; Kei
Staff: Elsie Schimpf, Recordi

Mr. & Mrs. Bill Zisk & sons,

**ROSEVILLE PLANNING
February**

A regular meeting of the Roseville
Chambers of the City Hall with Chair

**ROLL CALL: Members Present: Victor
Bert Ze**

Members Absent: Dr. P.

**Advisory: P. Holl
Staff:**

**Audience: Mrs. G.
Mr. & M
Morris.**

MINUTES.

Motion by Zannon, seconded by Ca
mailed out. Motion carried-unanimous

Mr. Zerbo brought up that since Mr.
for the Commission. Motion by Nevil
as Secretary and that nominations to
was elected as Secretary.

1973

Please refer to [REDACTED] to see how many laws

are being broken. Where is the integrity of our City?

ATTEST: PAULINE BROCKMAN, CITY CLERK.

RESOLUTION NO. 73-122

RESOLUTION OF PUBLIC NECESSITY AND CONVENIENCE FOR CONDEMNATION OF REAL PROPERTY FOR BICYCLE PATH PURPOSES

BE IT RESOLVED that the City Council of the City of Roseville, State of California, determine that the public interest and necessity require the acquisition of the property hereinafter described for a public use; namely, for public park and for other public uses as may be authorized by law. That the said property is necessary for the purpose and is a use authorized by law, and that such proposed public improvement which will be most compatible with the greatest public good and the least private

BE IT FURTHER RESOLVED that the City Attorney of the City of Roseville is to institute eminent domain proceedings in the Superior Court of the State of California for the purpose of acquiring the fee simple title in and to the said property Exhibit "A", attached hereto and made a part hereof, for said public use.

The foregoing resolution was adopted by a 4/5th vote of the City Council of California, this 19th day of December, 1973, as indicated below on roll call.

Ayes Councilmen: Gilbert A. Duran, Owen R. Waltrip, Jr., Kenneth F. Royer,
Noes Councilmen: George A. Buljan
Absent Councilmen: None

Signed and approved after its passage this 19th day of December, 1973.

GE

ATTEST: PAULINE BROCKMAN, CITY CLERK.

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SUMMONS ISSUED

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

CITY OF ROSEVILLE, a municipal
corporation,

Plaintiff,

v.

WILLIAM J. ZISK, LOIS E. ZISK,
WILLIAM W. ZISK, trustor; MARY A.
ZISK, trustor; TITLE INSURANCE
AND TRUST COMPANY, a corporation,
trustee; MARJORIE ARNETT, as trustee
under the Last Will and Testament of
Mabel M. Phillips, deceased, bene-
ficiary; DOE ONE to DOE TWENTY,
inclusive; ALL PERSONS UNKNOWN CLAIM-
ING ANY TITLE OR INTEREST IN OR TO
THE PROPERTY SOUGHT TO BE CONDEMNED
HEREIN,

Defendants.

NO. 41104
COMPLAINT IN EMINENT
DOMAIN

APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT

OF THE STATE OF CALIFORNIA IN AND FOR

THE COUNTY OF PLACER

---o0o---

KEITH F. SPARKS, JUDGE

1977

1 IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
 2 IN AND FOR THE THIRD APPELLATE DISTRICT

3 ---oOo---

4 CITY OF ROSEVILLE et al

5 Plaintiffs, Respon-
 6 dents and Cross-Appell-
 7 ants

VOLUME I

8 vs

9 WILLIAM ZISK AND LOIS ZISK et al

10 Defendants, Appellants,
 11 and Cross-Respondents

12 -----
 13 ---oOo---

14 CLERK'S TRANSCRIPT ON APPEAL

15 ---oOo---

16 APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT

17 OF THE STATE OF CALIFORNIA IN AND FOR

18 THE COUNTY OF PLACER

19 ---oOo---

20 KEITH F. SPARKS, JUDGE

21 ---oOo---

22 DENNIS W. DE CUIR

316 Vernon Street

Roseville, CA 95678

Tel: 916-783-9151--EXT. 272

TURNER & MULCARE

1650 S. Amphlett Blvd., #225

San Mateo, CA 94402

Tel: 415-573-7677

DESMOND, MILLER, DESMOND &

BARTHOLOMEW

1006 9th Street, #900

Sacramento, CA 95814

Tel: 916-443-2051

TURNER & SULLIVAN

520 Capitol Mall, #700

Sacramento, CA 95814

Tel: 916-441-1116

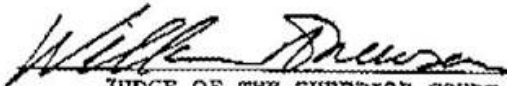
Counsel for Plaintiffs, Res-
 dents and Cross-Appella

Counsel for Plaintiffs, Res-
 dents and Cross-Appella

Counsel for Defendants, App-
 lants and Cross-Respond

Counsel for Defendants, App-
 lants and Cross-Respond

1978

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendants
 20 WILLIAM J. ZISK, LOIS E. ZISK and the COUNTY OF PLACER, have and
 21 do recover of and from plaintiff their costs of suit incurred
 22 herein, if any.
 23 DATED: MAR 21 1978
 24
 25 
 26 JUDGE OF THE SUPERIOR COURT

- 4 -

ATTEST: PAULINE BROCKMAN, CITY CLERK.

RESOLUTION NO. 73-122

RESOLUTION OF PUBLIC NECESSITY AND CONVENIENCE FOR CONDEMNATION OF REAL PROPERTY FOR PUBLIC PARK AND BICYCLE PATH PURPOSES

BE IT RESOLVED that the City Council of the City of Roseville, State of California, does hereby find and determine that the public interest and necessity require the acquisition of the fee simple title in and to the property hereinafter described for a public use; namely, for public park and bicycle path purposes, and for such other public uses as may be authorized by law. That the said property is necessary for such public use and purpose and is a use authorized by law, and that such proposed public improvement and use are located in a manner which will be most compatible with the greatest public good and the least private injury; and

BE IT FURTHER RESOLVED that the City Attorney of the City of Roseville is hereby authorized and directed to institute eminent domain proceedings in the Superior Court of the State of California, for the County of Placer, for the purpose of acquiring the fee simple title in and to the said property, as more particularly described in Exhibit "A", attached hereto and made a part hereof, for said public use.

The foregoing resolution was adopted by a 4/5th vote of the City Council of the City of Roseville, State of California, this 19th day of December, 1973, as indicated below on roll call:

Ayes Councilmen: Gilbert A. Duran, Owen R. Waltrip, Jr., Kenneth F. Royer, Baron Reed
 Noes Councilmen: George A. Buljan
 Absent Councilmen: None

Signed and approved after its passage this 19th day of December, 1973.

GEORGE A. BULJAN, MAYOR

ATTEST: PAULINE BROCKMAN, CITY CLERK.

ROSEVILLE PLANNING COMMISSION MEETING MINUTES
February 9, 1967

ATTEST
City Clerk of the City of Roseville, California
File n. [Signature]
DEPUTY CLERK

A regular meeting of the Roseville Planning Commission was held at 8:00 P.M. in the Council Chambers of the City Hall with Chairman Bert Zerbe presiding on February 9, 1967.

ROLL CALL: Members Present: Victor Schulman, George Campbell, Elmer Nevis, John Zannon, Bert Zerbe.

Members Absent: Dr. P. Dugan, D. E. Vittetoe.

Advisory: P. Hollick, City Planner; Keith Sparks, Asst. City Attorney.
Staff: Elsie Schimpf, Recording Secretary.

Audience: Mrs. G. Campbell, V. Harrigan, J. Woodworth, G. Chivert,
Mr. & Mrs. Bill Zisk & sons, N. Nichols, S. Gellingski, Miles Morris.

MINUTES.

Motion by Zannon, seconded by Campbell, that minutes of January 26, 1967 be approved as mailed out. Motion carried-unanimously.

Mr. Zerbe brought up that since Mr. Chilton's resignation there is no official Secretary for the Commission. Motion by Nevis, seconded by Schulman, that Mr. Zannon be nominated as Secretary and that nominations be closed. Motion carried-unanimously and Mr. Zannon was elected as Secretary.

CORRESPONDENCE AND OTHER ACTIONS:

Information on service station criteria was submitted to Commission with agenda for their information.

Letter from Hospital Planning Council was submitted by Planner on hospital facilities and will be studied by Commissioners and discussed at next meeting.

USE PERMIT (CONTINUED), EASTWOOD PARK REALTY:

Held over pending removal of sign on freeway. Action on the sign at the southwest corner of Coloma Way and Sunrise Avenue has been held over for the last two meetings pending the removal of the tract advertising sign deteriorating along Interstate 80 at the lower end of the subdivision. This sign has been removed by Eastwood Park Realty and, therefore, the use permit for the new sign at Coloma Way and Sunrise Avenue can be granted, as indicated earlier by the Commission.

Motion by Campbell, seconded by Zannon, that use permit for new sign as per plan submitted be approved at Coloma Way and Sunrise Avenue for Eastwood Park Realty for one year. Motion carried-unanimously.

Mr. Zerbe asked that since plan shows lighting would this still be installed and Mr. Harrigan advised there is no place to get electricity from at present but this would be considered later when such is available.

FLOOD PLAIN REGULATIONS:

Discussion and recommendation if proposed ordinance is available. It was the Planning Commission's indication at the meeting of January 26th with the Park & Recreation Commission, that we review the proposed flood plain regulation ordinance and make our recommendations to the Council at this meeting of February 9th. The Director of Public Works has met with the City Attorney and discussed the proposed ordinance. However, some changes were suggested by the City Attorney and he is now in the process of drawing up a revised ordinance, which has not been received by this office as of the date of this agenda. If it is available by the 6th or 7th from the Attorney's office, I will distribute it to you immediately so that we can still possibly take action on the 9th. However, if we don't receive it in time for review for the meeting of the 9th, I suggest then that we hold it over until an opportunity for review can be had. In the meantime, I suggest that if any of you still have questions that you contact Mr. Atteberry's office and discuss with him any problems.

Since ordinance was not ready this matter was held over until it is available. Public Works Department has finished flood plain maps and they are available in the Engineering office.

MATTERS NOT ON THE AGENDA:

Members Absent: Dr. P. Dugan, D. H. Vittetoe.

Advisory: P. Hollick, City Planner; Keith Sparks, Asst. City Attorney.
Staff: Elsie Schimpf, Recording Secretary.

Audience: Mrs. G. Campbell, V. Harrigan, J. Woodworth, G. Chilton,
Mr. & Mrs. Bill Zisk & sons, M. Nichols, B. Golligorski, Miles Morris.

FILED
FEB 11 1967

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CITY OF ROSEVILLE

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MATTERS NOT ON THE AGENDA:

Mr. Miles Morris submitted a fence sketch plan in order to get approval to he can get a business license for an auto dismantling yard on Berry Street. The plan was studied and the matter of burning discussed with Mr. Morris. According to new ordinance businesses could burn for two years if permit was obtained to do so from City. Mr. Morris wants to get permission to open his business whether he is allowed to burn or not. Mr. Schulman discussed the plan submitted and Mr. Hollick advised the trouble with the zoning ordinance is that there is no criteria listed for construction of fences for this type of business. Mr. Zerbo gave oral report on requirements listed for fence put in on Berry Street.

2/9/67 Commission Minutes.

Motion by Schulman, seconded by Campbell, based on sketch plan submitted and on fence standards-to be vertical board fence, raw timber, no clear around property, 30' gap, fence painted or stained, solid redwood fence, at least 6' high, no signs or auto parts to be hung on outside of fence-that fence be approved. Motion carried-unanimously.

The Zink use permit application had not been reviewed by Public Works Department as yet so will be considered at next meeting.

REPORTS FROM PLANNER:

Joint meeting February 16, 1967-streambeds and park system report from Consultant. As indicated at our last joint meeting, we were looking towards this date of the 16th to consider in more detail the work being done by EBS on the park system as well as the streambed details. (It appears now that this date will be definite and, therefore, we will plan to meet February 16th with the Park & Recreation Commission at 8:00 P.M. in the Council Chambers.

Mr. Hollick pointed out that flood plain ordinance and map is for flood control and does not refer to how much land will be wanted for greenbelt although the City will want to use portion of flood plain in greenbelt system.

STATUS REPORT OF PROPOSED PLANNING PROJECTS AND ORDINANCES:

Sign Committee-progress report. Mr. Zannon gave a brief oral report advising the Committee had received ordinances from four other cities. He feels worst problem is with A-frame signs at service stations and used example of one at Douglas Blvd. and Keehner Avenue which blocks view of traffic. He believes Commission should check with Council on any proposed amendments to see that they do not exceed authority and provisions can be enforced. Mr. Nevis advised of the new signs up on business on Douglas Blvd. that are built back and no higher than buildings which look very nice. Mr. Hollick feels areas to be covered should be decided upon such as billboard signs, political signs, etc.

Mr. Zerbe brought up problem that ordinance is not enforced on illegal signs as the station on Douglas Blvd. and Keehner Avenue has permission for only one free standing sign on use permit. Mr. Zannon feels Commission should take a trip around town at approximately 4:30 P.M. to observe signs and how they affect traffic. General discussion was held on sign provisions in other cities and how they are enforced. Mr. Zerbe asked if Service Station Assn. had been contacted on this matter as they will help to enforce rules. Mr. Hollick will go through ordinances received and pick out sections that may help Roseville and then after these have been studied by Commission they can be put into ordinance form for incorporation into law. Mr. Zerbe suggested setting up of front set-back with no parking or placement of any objects in such. Problem of S.P. property where sign locations are leased was discussed and signs along State freeway. There should be ordinance provisions for such signs so that when they leave State control the City can regulate them.

Mr. Zannon suggested the Sign Committee might appear at next Chamber of Commerce meeting and advise them of the Commission's intentions in this matter and also will contact Service Station Assn. and possibly sign construction people for their help. Mr. Hauser, Secretary-Manager of Chamber will be invited to next sign ordinance discussion.

Working Yard Committee-progress report. Mr. Schulman advised he found very little on standards for such businesses and submitted a written report in two parts for study of Commissioners and comment at next meeting. He stated report is not quite complete and he will have suggested list of trees and shrubs for landscaping and also sketches of types of fences, etc.

ADJOURNMENT:

Motion by Zannon, seconded by Schulman, that meeting be adjourned at 9:15 P.M. Motion carried-unanimously.

Meeting adjourned.

Respectfully submitted,

Elsie Schimpf
Elsie Schimpf,
Recording Secretary.

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ADJOURNMENT:

Motion by Zannon, seconded by Schulman, that meeting be adjourned at 9:15 P.M. Motion carried-unanimously.

Meeting adjourned.

E. Davis
Recording Secretary.

February 23, 1967

A joint Planning Commission-Park and Recreation Commission meeting was held at 6:15 P.M. in the Council Chambers of the City Hall on February 23, 1967 for the purpose of reviewing streambed policy and maps as developed by EBS Management Consultants, Inc.

Roll Call: Planning Commissioners Present: D.E. Vittetoe, Victor Schulman, George Campbell, John Zannon, Dr. P. Dugan, Bert Zerbe. Park & Recreation Commissioners: Fred Wittsche, A. Anderson, Ed Alexander, Frank Lopez, Robert Pullen, N. Fratis, Jr. Advisory Staff Present: P. Hollick, City Planner; E. Mahany, Director of Parks & Recreation; S. Markus, Park Supt.; M. Ucovich, Recreation Supervisor; Recording Secretary-Elsie Schimpf. Del Davis of EBS Management. Audience: J. Woodworth, Mr. & Mrs. Wm. Zisk & sons, N. Nichols, B. Goligoski.

Mr. Hollick introduced Mr. Davis of EBS Management to present further details on park system study and streambed plan. Mr. Davis first presented proposed overall objectives: 1. Meet the present and projected recreation needs of the community by providing those facilities which the local residents now, or in the near future, will deem desirable. 2. Accommodate and further stimulate a varied recreation program. 3. Stimulate diversity in the patterns of land use development. 4. Encourage private development which will complement and extend the public park and recreation system. 5. Encourage quality in development by setting outstanding examples.

Mr. Davis then gave a brief explanation for each objective and asked for suggestions or ideas on same. When approved the objectives will become the overall goals of the park system development. On map submitted Mr. Davis pointed out planned pedestrian, biking and equestrian pathways and scenic vista area and discussed impact adjacent communities would have on their use. He pointed out available recreation area under power lines in 500' wide swath. If landscape freeway system is planned this could possibly be tied into the greenbelt system, tying together the natural areas which can be a problem. Development of parkway is dependent on Council action as this is land above the area provided for cars. Suggested for roadways are Sierra College Blvd., Kirby Way, Auburn-Folsom Road, Baseline Road which would make nice landscaped areas. Streambed areas were pointed out on map and distances between major areas. City streets to use to tie areas together will have to be checked.

To do study EBS broke total community into reasonable geographic areas and established population projections for same. They then studied each area and where it was felt population would have greatest growth and projected park needs for same. Then community areas were broken down into neighborhood park areas that children could get to without crossing a major street. Scenic overlook type locations were suggested for Sierra College Blvd. and possibility of public golf course in this area. Policy decisions will have to be made on whether to serve only Roseville area instead of Sacramento Metropolitan Area.

Mr. Davis advised of meeting between he, Mr. Hollick and Mr. Ucovich to correlate plan and they will have further meetings to develop final report and they will have definite recommendations in this report as to facilities needed, sizes and lengths of areas, etc. Mr. Schulman stated lines can be marked on map but developers may be building in crosspurposes to plan and City needs guide to establish restrictions to keep areas needed open. Mr. Davis stated plan will be submitted in detail so decision can be made as to definite areas desired for development and will specify crucial areas for immediate action. Mr. Zerbe asked how map ties into General Plan and with County planning and Mr. Davis advised it is drawn to fit into General Plan of City but County is not doing any planning at present. They are mostly interested in park areas to serve larger sections. There has been no planning to the

west. Mr. Hollick feels County is looking to City to provide impetus as they have a limited staff and are not in a position to do much in this line. They are in the process of developing a General Plan for County and City should watch recreation element to see if it conforms to our General Plan but he feels they will be well integrated. County has set up a County Coordinating Committee to deal with recreation and parks and this will create exchange of information in joint meetings. Mr. Zannon expressed his doubt at the projected 110,000 ultimate population. Mr. Davis explained that Roseville is in prime area to attract major industries which creates population growth. 78

Mr. Schulman stated it is not necessary to take whole plan at once but do crucial work before land is not available. Mr. Markus feels land should be acquired while cheap and still open, and mentioned possibility of revenue bonds to purchase land so that those using land at present would pay their share and those using it in the future would also pay their share. Mr. Davis brought up possible option method for land and Mr. Hollick advised such a plan is being devised for City and large land holders are very much interested in plan as it would help pay taxes. Mr. Pullen advised of AB1150 on setting up of ordinance requiring if lands are developed City can request certain portions to be set aside for park and recreation or require moneys to be deposited in lieu for service of people in certain area that is developed. Dr. Dugan asked if flood plain is to be integrated into greenbelt and Mr. Davis stated greenbelt is complimentary to flood plain but is not to be basis for lands required for greenbelt area. Mr. Vittetoe feels population influx depends on how City plans to handle same. Mr. Markus believes City should have a Master Plan for park and recreation system same as it has a General Plan and this way land can be acquired and be available when needed. Mr. Hollick pointed out one of troubles in past was individual subdivisions coming in and City not knowing how much land was going to be needed for parks. Mr. Davis advised final park and recreation plan will be keyed for priority. Mr. Sparks asked if there will be any estimate of how much land will need to be acquired by purchase and how much will be available by dedication. Mr. Davis stated they will give estimate of how much should be considered for acquisition and will list source of funds available for assistance in developing park system and natural areas.

Mr. Hollick advised that City has received patent for 40 acre parcel near Johnson Ranch for park purposes from government. Mr. Davis stated that when final plan is accepted layout and architectural design will be needed and discussed possible homeowner's association for maintenance and policing as used in other cities.

Meeting was adjourned at 7:55 P.M.

A study session meeting of the Roseville Planning Commission was held at 8:00 P.M. in the Council Chambers of the City Hall on February 23, 1967 with Chairman Bert Zerbe presiding.

Present: Planning Commissioners: John Zannon, D.E. Vittetoe, Dr. P. Dugan, G. Campbell, V. Schulman, Bert Zerbe. Advisory: K. Sparks, P. Hollick; Del Davis, EBS Management. Staff-Elsie Schimpf. Audience: N. Nichols, M. Ucovich, D. Osborn, J. Woodworth, B. Goligoski, Mr. & Mrs. Wm. Zisk & sons, members of Service Station Assn.; Mr. Arcuri, Mr. Atwood, Mr. Harris, Mr. Sachs, Mr. Emerton, Mr. D. Harris and 3 other members.

MINUTES:

Motion by Zannon, seconded by Campbell, that minutes of 2/9/67 be approved as mailed out. Motion carried-unanimously.

CORRESPONDENCE AND OTHER ACTIONS:

Letter-Hospital Planning Council (continued from last meeting). This letter is from the Hospital Planning Council requesting we set up a policy and procedure for referring use permits on convalescent hospitals and related uses for review by the Hospital Planning Advisory Council. As a matter of procedure, if this is acceptable to the Commission, when a use permit is submitted to the Planning Department I would immediately refer it to the Hospital Planning Council for review. This would be prior to an applicant formally and officially submitting the application for Planning Commission procedure and before he has paid his fee. Once I have received the report from the Hospital Planning Council I would then set an appointment with the applicant and we would go over the report. At that time, pending the results of the report from the Hospital Planning Council, he could then either withdraw his tentative application or go ahead and submit to the Planning Commission for action. The Commission could set this in the form of a policy that would be adopted as part of the Rules and Regulations procedure.

Procedure was discussed. Motion by Zannon, seconded by Schulman, that Commissioners are in agreement with procedure proposed above for use permits on convalescent hospitals and Planner is authorized to follow such procedure. Motion carried-unanimously.

Letter-California Roadside Council, referral from City Council. Letter from Roadside Council has to do with the Federal Highway Beautification Act of 1965 and requests that local jurisdictions pass a resolution opposing certain sections of the Act, specifically the compensation requirement for the removal of billboards. If after the review of the letter the Planning Commission feels a resolution justified it can then be referred to the City Council for appropriate action. Mr. Hollick advised the Roadside Council feels the section questioned is apt to prove expensive for cities and is not needed. Proposed resolution was studied and discussed and Commissioners feel it has merit.

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Motion by Campbell, seconded by Zannon, that Commission approves proposed resolution as requested by the California Roadside Council and refers same to Council for action with recommendation for adoption. Roll call vote: Ayes-Zannon, Vittetoe, Dugan, Campbell, Zerbe, Noes-Schulman. Motion carried.

Sketch-Troy Sanders, re: street name changes. Troy Sanders has requested some street name changes on Main and Lincoln Streets. Inasmuch as the diagram and some explanation of the recommendation is required I think it would be better if we took this up at the Commission meeting together.

Recommendation was discussed by Mr. Hollick who pointed out proposed change of Lincoln Street to Church Street and Church Street to Lincoln Street which involves a number of business addresses and since there is definite turn in street does not feel change is beneficial here. Chairman ordered letter filed and reply sent to Mr. Sanders explaining feelings of Commission that change as proposed is not justified but if Mr. Sanders wishes to pursue the matter further he should submit an official request for change and state reasons for such changes as he feels needed.

MATTERS NOT ON THE AGENDA:

Chairman requested Secretary to send letter of appreciation to Mr. Nevis for his services to the Commission.

Mr. Hollick brought up matter of policy on Cirby Way Assessment District in regard to streets to be developed and Commission is by law to find whether streets will be constructed to standards set up in General Plan. Cirby Way will be constructed as a major street and Coloma Way as a minor street. Standards in feet as required by Subdivision Ordinance were reviewed and Mr. Schulman asked how this assessment district will tie into parkway as planned for Cirby Way in recreation system study. Mr. Hollick advised parkway would be area beyond what is planned for street.

Motion by Schulman, seconded by Campbell, that Commission finds that after review of street plans for Cirby Way Assessment District and finds that streets will be built and plan for construction shows that they will meet standards as set in City General Plan with Cirby Way planned for a major street and Coloma Way as a minor street. Motion carried-unanimously.

HEARING, USE PERMIT, W. ZISK APPLICANT:

Mr. Zisk requests to construct two dwellings in R-1 FP (Residential Flood Plain) Dry Creek near Thomas Street. Mr. Zisk requests that he be allowed to build two dwelling units in the floodplain area on Dry Creek south of the extension of Thomas Street. The Engineering Division has this proposal under consideration and will submit a report for Planning Commission review at the meeting. Since I have not received a report yet from them, it is impossible for me to make any recommendations at this time. In addition to the application for use permit, Mr. Zisk will also have to file with the Planning Commission a lot split map inasmuch as he is wanting more than one dwelling unit on a parcel. The two that he proposes, plus the one existing, constitutes a total of three dwelling units, therefore he will have to split the property into at least three pieces under the R-1 zoning.

Public Works memo: "In our original review of this project with Mr. Zisk, it was stated that he requested permission to build up a small area shown in brown cross hatching on the attached map, for purposes of constructing a single family residence. It is the opinion of the Public Works Department that this could be accomplished with a minimum of disturbance to the flood plain and in exchange for this permission to raise this area, Mr. Zisk had agreed to do certain cleaning of the existing channel. The Public Works Department would recommend approval of this portion of the plan, contingent upon a written agreement between the City and Mr. Zisk for cleaning of the channel through his property. In addition to this original request, Mr. Zisk is now requesting permission to construct a levy, (the brown line shown on the attached map) which would remove approximately 12 acres from flood plain. The Public Works Department has not had sufficient time to analyze this request and makes no recommendations concerning the matter at this time."

Mr. Zisk advised joint tenancy of property is reason for requesting two home sites. There are two existing houses on the property at present. Flood plain area affecting property was studied and Engineering Division feels area proposed for new homes is almost all out of the flood plain. Mr. Zisk advised of process he would use in dredging to fill pad and would clear sand bars out of stream and not disturb spawning area or natural habitat. He plans to landscape the area and terrace creek side for beautification. He would like to salvage existing pond if possible but it is now a mosquito problem. He does not wish to split the property but leave as a large parcel. Mr. Zerbe explained that lot splits were necessary in order to construct two homes requested and access to such lots should be delineated on lot split map. He would be required to put in street to City standards as a condition of the lot split. This is an R-1 Zone and since it is only one parcel lot splits are needed (at least into three lots) to construct two new homes on the property. Two existing homes are non-conforming use. Mr. Zerbe asked if existing homes are connected to sewer line and Mr. Zisk advised he did not know but there is City sewer easement along property and City has granted three hook ups in return for easement. Mr. Zerbe believes lot split map should be filed so definite lots and where houses sit on lots will be shown so that Building Department will know where setbacks are and can see lot lines. Possibility of allowing clearing of channel and building of pad was discussed but it is felt lot split map must be submitted before this can be allowed. Mr. Zisk questioned if rezoning would help and leave property in one piece but Commission does not feel area should be rezoned. Chairman ordered hearing continued until Mr. Zisk can submit further information as required.

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REPORTS FROM PLANNER:

"A" frame sign control. The Association representing the gasoline stations within the City will be present to discuss this general problem with us. I will develop some criteria which I think they can apply on their own and will present it at the meeting. If it is acceptable to them we can then incorporate it into our own sign control ordinance which we are developing.

Mr. Hollick submitted a projectile showing proposed setbacks for service stations and pointed out area of concern re: A frame signs; this would set back 35' on corners and 15' on sides and eliminate signs in this area. Mr. Atwood advised that local and Auburn Service Station Assn. are willing to cooperate to eliminate such signs and also feel work should be done toward beautification as well as traffic hazard elimination such as building types, tenancy instead of ownership. Mr. Harris advised they have 20 members in their Assn. and this does not include all Roseville stations, approximately 14 of their members are in the City and the rest outside. They feel all signs could be eliminated except one brand identification sign. Mr. Schulman discussed the special sale signs which could be put on windows of stations instead of on A frames. Association would also like elimination of banners and streamers included in ordinance. Mr. Sparks asked if City passed an ordinance prohibiting A frame signs if this would hurt their business and those present felt it would not. Promotional product advertising was discussed and Mr. Atwood advised advertisement is done for other than car accessory and use articles. Mr. Zerbe asked about state and national associations and was advised there are such organizations which could supply information upon request and was supplied with an address for such contact. Commissioners feel it will be best to get ordinance into effect as soon as possible and in the meantime to request local stations to cooperate and remove A frame signs.

Mr. Sachs asked if it would be any help to pass a petition around to stations asking for removal of signs and see what percent would cooperate. Commissioners feel this is a good idea. Mr. Hollick advised that he should be able to put an ordinance together in the near future and incorporate requirements wanted. Mr. Zerbe asked for written opinion from Service Station Assn. on restrictions wanted and ways for removal of signs and clean up of stations and Mr. Atwood advised he would get a letter on same from their Board of Directors. Mr. Zannon stated he would take proposed ordinance around to all stations when it is drawn up to get opinions on same. Mr. Emerton advised if all stations in the City were cleaned up it would be to benefit of City but if some will not cooperate it ruins the efforts of all the rest. Mr. Atwood discussed the new ordinances limiting stations to two corners of streets and if this applies in City and Mr. Zerbe advised the City does not have such an ordinance as yet. Mr. Emerton advised the City of Auburn has adopted such an ordinance and it is quite effective. Matter will be brought up again when ordinance has been made up.

TENTATIVE MAP, WESTWOOD TERRACE UNITS 5, 6 AND 7:

South of Darling Way and west of Garcia Avenue, 18.2 acres, 66 lots, Zoning R-1. Subdivider: Frank A. Garcia & Gabrielli Construction Co.; Engineer: Murray & McCormick, Inc. This map has been submitted to us approximately one year ago and was approved at that time. However the one year time limit is running out and therefore they have to resubmit the map for renewal. Since the time of prior submission the Engineering Division has completed their flood plain studies and several problems exist which we will have to clarify at this time. Several of the lots are in the flood plain which we knew previously, but did not have the technical data to back it up. It appears the Planning Commission has several alternatives in reviewing this particular map at this time. One is to approve the map subject to the conditions of the Engineering Division for fill and channel work; to deny the map and have the subdivider resubmit, taking those lots which would be in the flood plain out of the new design completely. Here again, the Engineering Division has this problem under advisement and will be in a position to give a specific recommendation at the meeting date.

Public Works memo: "The Subdivision Committee met on Friday, February 10, 1967, to review the proposed tentative map for Westwood Terrace Units 5, 6 and 7. The following comments are offered for consideration: 1. The Fire Department has recommended that a fire hydrant be placed at the end of Jesse Court. 2. The Water Department has recommended that a 6" water line be required to serve Jesse Court and the proposed fire hydrant. 3. Subsequent to the original approval of this tentative map, the Engineering Division has completed the Dry Creek/Linda Creek Flood Plain Study. This study has put the flood plain elevation at 131 feet. This puts all or portions of the six lots on Clara Court within the flood plain. It is the recommendation of the Public Works Department and the Subdivision Committee that these lots be removed from this tentative map."

Mr. Davis brought out that map could be denied on grounds of public safety, health and welfare in flood plain area now that map is completed. Commissioners questioned that creek would back up and cause flooding in other places if filled. Mr. Schulman feels the fact that filling would be inimical to recreation plan in area as well as cause flooding should be pointed out. Commission feels this matter should be held over for further information from the Public Works Department. Mr. Barnett advised time on map will be checked to see when action is required and Chairman ordered matter held over until the next regular meeting or special meeting if needed.

Counsel brought out that flood plain ordinance would be further strengthened by adoption of a conservation element for the General Plan. Most of information needed for this element is available and could be put into writing and adopted as a City policy. Mr. Hollick advised money is available for professional services to have this document drawn up and put together. Commission is in favor of such action that will strengthen the flood plain

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ordinance, and feels element on conservation to be added to General Plan should be done if the Public Works Director is in favor of the action and if it will not delay the passage of the ordinance in any way.

STATUS REPORT OF PROPOSED PLANNING PROJECTS AND ORDINANCES:

Auto dismantling yards and their control-Committee report. If you have had the opportunity to read the report on this matter it can be discussed at this meeting.

Chairman ordered this matter held over until the next meeting for further study of the report. Mr. Schulman advised he would have additional information available by that time.

Land use report. Enclosed with this report will be a copy of the land use report that was done as part of the 701 Program. This is a land use survey of the existing uses in the City as related to zoning. There is considerable data in this report that we can use in later studies for land use control. Copies were studied by Commissioners and will be kept in their individual files for ready access.

ADJOURNMENT:

Motion by Vittetoe, seconded by Schulman, that meeting be adjourned at 10:25 P.M. Motion carried-unanimously.

Meeting adjourned.

Elaine Schulman
Recording Secretary.

March 9, 1967

A regular meeting of the Roseville Planning Commission was held at 8:00 P.M. on March 9, 1967 in the Council Chambers of the City Hall with Chairman Bert Zerbe presiding.

ROLL CALL: MEMBERS PRESENT: M.J. Royer, Jr., George Campbell, Victor Schulman, Bert Zerbe. MEMBERS ABSENT: D.E. Vittetoe, Dr. P. Dugan, John Zannon. ADVISORY: P. Holtick, City Planner; K. Sparks, Asst. City Attorney. Staff: Elsie Schimpf, Recording Secretary. AUDIENCE: J. Woodworth, B. Goligoski, G. Chimenti, N. Nichols, M. Harmon.

Chairman Zerbe welcomed new member Mr. Royer to the Commission.

MINUTES:

Motion by Campbell, seconded by Royer, that minutes of February 23rd be approved as mailed out. Motion carried-unanimously.

CORRESPONDENCE AND OTHER ACTIONS:

Appointment to Hospital Planning Advisory Council. Due to the resignation of Elmer Nevis from the Planning Commission, it is necessary that the Chairman appoint someone to take his place on the Hospital Planning Council Advisory Committee. This is not a very time consuming appointment inasmuch as the Advisory Committee meets probably only once every three months. The primary purpose of this appointment is to designate someone to receive the Hospital Planning Advisory Council correspondence and brochures.

Chairman Zerbe appointed M.J. Royer, Jr. to this post and Hospital Planning Advisory Council will be contacted to advise of this appointment and that Mr. Royer is a member of the Roseville Hospital Board of Directors.

TENTATIVE MAP (HELD OVER FROM FEBRUARY 23RD MEETING):

Westwood Terrace 5, 6 and 7. This map was held over from the Feb. 23rd meeting to further clarify the eventual use of those lots which the Engineering Division considers in the flood plain and to apply the criteria developed by EBS relating to greenbelts in the Dry Creek area which traverses the proposed tentative map on the west side. Meeting with the engineers of the tentative map will be held and it is hoped that a satisfactory solution can be worked out prior to the meeting.

Letter from Murray & McCormick advising the developers of Westwood Terrace 5, 6 and 7 wish to withdraw the subdivision at this time was read. Commission approves the withdrawal.

PUBLIC HEARING ZONING AMENDMENT:

R-1 to R-4, Applicant: O. Spencer; Location-north side Cirby Way, 350 feet west of Sunrise Ave, 2.4 acres. After Study of the General Plan which indicates commercial at the northwest corner of Sunrise Avenue and Cirby Way, it appears that the R-4 zoning would be appropriate in that it would provide a transition area between the proposed commercial and the residential development, which would take place to the west.

Utilizing our land use report which we have just recently completed and which you have a copy of, it indicates that we have approximately 83 acres zoned R-4 within the City at this time. A majority of this acreage, or 51 acres, is classified with residential uses meaning either single family, duplexes or multiple family uses. 14.6 acres is in the services classification which indicates a professional office building use or some related retail uses. Approximately 17 acres therefore remain undeveloped. This 17 acres of undeveloped land represents approximately 20% of the total zone for R-4 uses. This would

2MUD)

DEPUTY CLERK

The foregoing instrument is a correct copy of the original on file in the office of the Planning Dept. City Clerk of the City of Roseville, California
ATTEST:
Constance J. Judson
City Clerk

William J. Zisk
205 Thomas Street
Roseville, California 95678

Telephone: (916) 782-2233
FAX: (916) 783-3408

April 2, 2004

Mr. Mark Morse, Environmental Coordinator City of Roseville,
Community Development Department
311 Vernon Street
Roseville, CA 95678

**RE: RESPONSE TO DRAFT ENVIRONMENTAL IMPACT REPORT FOR HARDING
BOULEVARD TO ROYER PARK BIKEWAY PROJECT DATED FEBRUARY 2004**

State Clearing House No. 2000122078
Lead Agency: City of Roseville
Environmental Consultant: Jones & Stokes
Review Period: February 18, 2004 to April 20, 2004

Mr. Mark Morse:

Thank you for the opportunity to respond to the Draft Environmental Impact Report for the proposed phase two portion of the proposed Harding Boulevard to Royer Park bikeway project, which is dated February, 2004, State Clearinghouse No. 2000122078.

The City of Roseville proposes to construct a bikeway from Harding Boulevard to Royer Park. The proposed project site is located in the City of Roseville in southwestern placer county. The proposed project area encompasses the riparian corridor along Dry Creek and various existing surface streets between Lincoln Estates Park and Royer Park. The proposed project area is generally bounded by Atlantic street on the north, Harding Boulevard on the south and east, and Douglas Boulevard on the west. The City, as the state lead agency undertaking the proposed project, is required to prepare an appropriate environmental document, in this case an environmental impact report (EIR), under the California Environmental Quality Act (CEQA). This EIR alleges to disclose the environmental effects associated within the proposed alignment, and construction and operation of the proposed bikeway to the satisfaction of CEQA requirements. Compliance with NEPA is also required because funds for preliminary engineering and environmental assessment for the proposed project were provided in part under the federal Intermodal Surface Transportation Efficiency Act (ISTEA).

This response to the draft environmental impact report will focus on the inadequacy and errors and omissions of the DEIR as it relates to the CEQA/NEPA requirements, as well as the alleged claims of ownership of Zisk property by the City of Roseville, and the wrongful death of my spouse, Lois E. Zisk resulting from the thirty (30) years of extended ongoing willful and reckless disregard for her health and safety. This response to the DEIR will also focus on the prior thirty (30) years of conspiracy to violate and violation of civil rights; deprivation of the constitutional requirements of equal treatment and application of the law; damages in inverse condemnation; negligence; intentional tortious conduct; personal injury and property damage, intentional infliction of emotional distress; constructive fraud; search and seizure; invasion of privacy; malicious prosecution, discrimination, duress and obstruction of justice.

On March 9, 2004, a public hearing was held before the City of Roseville transportation commission to hear testimony on the DEIR. During the public hearing William J. Zisk testified to his claim of purchase and ownership of the 205 Thomas Street, Roseville, CA property, consisting of twelve and two tenths (12.2) acres (parcel(s) No.(s) 013-040-003, 013-040-004, and 013-040-005). I briefly referenced our application to the Roseville planning commission for a lot split and use permit to section off a half (1/2) acre portion at the southeast corner of our privately owned property to construct our new single family residence on the secluded passive surroundings adjacent to Dry Creek, and the thirty (30) year history of interference that followed by the City of Roseville into our private residential and business affairs and the ability to use and enjoy "OUR" private property.

William J. Zisk requested a continuance of the March 9, 2004 public hearing before the transportation commission and an extension of time of the comment period to enable the submittal of the prior thirty (30) year history of the property of William J. Zisk and Lois E. Zisk, 205 Thomas Street, Roseville, CA into the DEIR for the proposed phase two of the Harding Boulevard to Royer Park bike trail. The commission granted the continuance of the public hearing and extension of the public comment period to April 20, 2004. The submittal of the prior thirty (30) year history of the Zisk property into the DEIR follows:

**VERIFIED STATEMENT OF THE HISTORY OF THE PROPERTY OF WILLIAM J. ZISK
AND LOIS E. ZISK, 205 THOMAS STREET, ROSEVILLE, CALIFORNIA, 95678**

Petitioners William J. Zisk and Lois E. Zisk purchased the 12.2 acre parcel of land in central Roseville in 1966, located at 205 Thomas Street, Roseville, California (hereafter subject property). The parcel contains two (2) single family residences and two (2) assessor buildings and fifteen hundred feet of Dry Creek traverses the subject property.

At the time of purchase, the zoning and land use designation was R1 and R1-FP, medium density, single family residences. The majority of the entire parcel was designated above and outside of the established 100-year floodplain elevations. The site has been the basis of sand and gravel and trucking operations since the turn of the century. Petitioners are self employed and have resided and conducted their sole livelihood in the sand and gravel and trucking business on the subject property since 1966.

On February 23, 1967 petitioners presented an application to respondents City of Roseville planning department to construct a new single family residence on petitioners private property. Present in an advisory capacity during the public hearing was then Roseville city attorney, Keith F. Sparks. As a condition of approval, respondents required petitioners must first clean and straighten the portion of Dry Creek and adjacent that traverses the subject property and obtain a lot split. No time constraints were placed on the conditional use permit application as granted. Petitioners immediately obtained the necessary stream alteration permits from the California Department of Fish and Game, purchased the necessary heavy duty dragline equipment for dredging the stream, utilized petitioners dump truck and rubber tired front end loader and commenced to fulfill respondents conditional requirements precedent to construction of petitioners new residential dwelling, while continuing to maintain the sand and gravel and trucking business operations on site.

On March 20, 1968 by Resolution Number 68-21, respondents adopted a Park and Streambed Plan as an element of the General Plan showing petitioners' entire 12.2 acre parcel as a "future" proposed public park site.

Upon petitioners nearing completion of the monumental herculean task commenced on February 23, 1967 as required by respondents, on December 8, 1971, respondents then required of petitioners by Interim "Emergency" Ordinance Number 1158, that in order to complete the permit application, an additional grading permit and renewal of the California Department of Fish and Game stream alteration permit would now be required. Petitioners immediately applied for the "additional" grading permit which was subsequently granted on January 24, 1972.

On August 30, 1972, by Resolution Number 72-75, respondents adopted an "Interim" Open Space Plan as an element of the General Plan. Petitioners R-1 zoned property was now designated as open space.

On November 29, 1972, respondents adopted Ordinance Number 1190 relating to environmental review of permits issued by the City of Roseville, and declaring the same to be an "emergency measure" to take effect immediately.

On March 1, 1973 petitioners requested the parcel map and lot split to create a parcel to build their new home on the subject property in compliance with the original conditional use permit application granted on February 23, 1967. On March 14, 1973, respondents now determined that the construction of petitioners new single family residence on their R-1 zoned parcel would now have a "non-trivial" effect on the environment and an environmental impact report was now required before any further processing of petitioners permit application would be allowed even though no such E.I.R. was required back on February 23, 1967. Petitioners appealed such determination to the Roseville City Council, pursuant to Ordinance No. 1190, which was subsequently denied on April 25, 1973.

On April 25, 1973 respondent public works director, Frederick L. Barnett, revoked his previous granted January 24, 1972 grading permit and directed that all work within seventy-five feet of Dry Creek on petitioners' property shall cease.

Petitioners immediately retained the services of a local engineering firm, Atteberry and Associates, at substantial cost to petitioners, to fulfill the requirements of respondents, as set forth in Resolution 72-94. Petitioners submitted the environmental study entitled - ENVIRONMENTAL IMPACT STATEMENT FOR BILL ZISK RESIDENCE, THOMAS STREET, ROSEVILLE, CALIFORNIA 95678, dated June 1973.

The purpose of the E.I.S. was to identify, assess and quantify the impact of the development of a single-family residential structure adjacent to Dry Creek on the physical, biological and socio-economic aspects of the Roseville community. The purpose of the project is to provide a home for the Zisk family adjacent to and overlooking Dry Creek in an area of outstanding beauty. The proposed home site is located above and outside the Intermediate Floodplain (146.00 feet above mean sea level) as determined by a study of the United States Army Corps of Engineers, dated May 1973.

The work performed by Mr. Zisk on cleaning and straightening the channel of Dry Creek has changed the channel's coefficient of roughness and has consequently increased the channel's flood carrying capacity approximately 200%. The E.I.S. concluded with:

"The proposed project is the culmination of a seven year program undertaken by the Zisk family in 1967 to clean up and improve a piece of creek side property that has been exploited for many years and allowed to deteriorate into an eyesore and community health problem. It is in compliance with existing zoning and has no long-range unavoidable adverse impact. The work accomplished to date by the Zisk family indicates the quality of their goals and the ultimate benefit to the community in improved health conditions and scenic qualities".

By Ordinance Number 1190, adopted by respondents on November 29, 1972, the E.I.S. would be approved if respondent registered no objection within fifty (50) days of submittal. Over one hundred (100) days later, without prior objection to the E.I.S., the Planning Commission refused to issue the lot split and use permit on September 13, 1973.

On June 20, 1973, by resolution Number 73-56, respondent adopted an Open-Space and Conservation Element of the City of Roseville General Plan. Petitioners property was thereby designated open space for park purposes.

On July 13, 1973, in responding to the draft environmental impact report for the Bill Zisk residence in Roseville, California, the United States Army Corps of Engineers stated that since in the case in point the house itself would be outside of the intermediate regional flood zone, the project itself would not have a significant effect on water surface elevations on Dry Creek during the occurrence of the intermediate regional flood.

On July 24, 1973, respondent planning director wrote to the Sacramento District Corps of Engineers requesting a "re-study" of the proposed parcel map of the Zisk property and would therefore withhold further processing of the proposed parcel map.

On August 29, 1973 respondent City Council adopted a "tentative" plan for a "future" proposed bicycle trail through the middle of petitioners proposed residential home site location.

On August 31, 1973, respondent public works director, Frederick L. Barnett, wrote to the Sacramento District Corps of Engineers requesting transposition of floodplain mapping, based upon outdated "1956" topographic maps, which did not reflect any of the Zisk family seven year reclamation project on Dry Creek on petitioners property.

On September 5, 1973, respondent public works director, Frederick L. Barnett wrote to respondent Planning Director Leo Cespedes, recommending denial of a parcel map for petitioners' property, based upon the adverse impacts of a "tentative" plan for a "future" proposed bicycle trail through the middle of petitioners proposed home site.

On or about September 13, 1973, the respondent Planning Commission in furtherance of a total and conjunctive plan, purpose, scheme and design of the Park, Streambed and Recreation Element, and the various Floodplain Ordinances heretofore mentioned, the Open Space and Conservation Element of the General Plan and the Open Space Zoning Ordinance and in ignoring the Environmental Impact Report of June 1, 1973 which states that plaintiffs' development would have no adverse impact on the environment, and for no valid or lawful cause and without any evidence to the contrary, did summarily deny petitioners' February 23, 1967 application for a land use permit and lot split. Said denial was in furtherance of the aforementioned plan, purpose, scheme and design of respondents.

Petitioners appealed said decision to respondent City Council and on or about October 3, 1973, said City Council, pursuant to and in furtherance of the plan, purpose, scheme and design of the Park, Streambed and Recreation Element and the Open Space and Conservation Element, and in spite of the June 1, 1973 Environmental Impact Report, and for no valid or lawful cause, and with no evidence to the contrary, and in violation of law did summarily deny petitioners' said appeal for the following reasons as specified by the October 3, 1973, Council Meeting Minutes:

"Motion by Reed, seconded by Waltrip, that the Planning Commission's decision to deny the use permit for property at 205 Thomas Street be affirmed on the basis of evaluation of City of the Environmental Impact Report, the conflict with the bike and pedestrian trail as "tentatively" approved by the City Council and conflict with its development, and further that the plan is in conflict with the Park and Streambed Plan, an Element of the General Plan, and that council give notice that City intends to purchase a bike and pedestrian trail system along the streambed".

Said denial without a hearing or other procedure as required by the Fifth and Fourteenth Amendments to the United States Constitution did constitute a denial of substantive and/or procedural due process of law as guaranteed by said amendments to the United States Constitution.

All of respondents hereinbefore stated acts, conduct and statements were initiated and consummated with the sole motive and intent being to deny petitioners there due Constitutional rights, by deliberately and fraudulently preventing William J. Zisk and Lois E. Zisk from developing either the portion of the subject property subsequently condemned or its remainder for any lawful use, other than parks and recreation use, and hence in furtherance of the respondent express and/or implied purpose, plan, scheme and design to depress the fair market value of the subject property and/or prevent an increase in the fair market value of the subject property so as to economically benefit the respondents to acquire the subject property.

The adoption of the aforesaid Park, Streambed and Recreation Element, the various Floodplain Ordinances, the Open Space and Conservation Element to the General Plan and the aforementioned Open Space Ordinance by respondents, was designed to and did in fact depreciate the full market value of all of petitioners' subject property; did constitute a de facto taking of all of the subject property; did prevent any development for its highest and best use; did deprive petitioners of any practical, beneficial or economical use of the subject property; and was confiscatory in nature as applied to the subject property and therefore in violation of the Fifth and Fourteenth Amendment to the United States Constitution and Article 1, Section 19 of the California State Constitution.

As a direct and proximate result of all of respondents' acts, conduct and statements, petitioners' subject property has been rendered without any practical, beneficial or economical use and petitioners have further been required to hold said property solely for the use and benefit of respondents' public use, without just compensation in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Section 19 of the California State Constitution.

Respondents' acts, conduct and statements in denying petitioners' application for use permit and lot split as herein alleged, are unreasonable, oppressive discriminatory confiscatory as applied and a prelude to a direct condemnation action in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Section 19 of the California State Constitution, that as a direct and proximate consequence and result of respondents' acts, conduct and statements, petitioners have been prevented from using or developing said property for any lawful private purpose and have been unable to derive value, rents, revenues or profits from the subject property, all the while being required to spend money for taxes and other holding costs in maintaining the subject property.

All of respondents' acts and conduct herein alleged and otherwise were and are illegal, oppressive and unreasonable, and constitute a de facto taking and damaging of the subject property, for and in connection with a public use and purposes, to-wit: park, recreational and open space uses, without just compensation and in violation of the Constitution and laws of the

State of California including, but not limited to Article I, Section 13, and Article 1, Section 19, of the Constitution of the State of California, and all in derogation of the Constitution and laws of the United States, including, but not limited to, the Fourth, Fifth and Fourteenth Amendments of the Constitution of the United States.

Petitioners believe and therefore allege that their administrative remedies, pursuant to respondents' ordinances and state law, were effectively exhausted on October 3, 1973, the date of taking, that to apply to respondent, city, or any of its agents or departments would constitute an idle act.

Thereafter, in furtherance of the plan, purpose, scheme and design as alleged herein, and to further accomplish a depreciation in the fair market value of the subject property taken by respondents for a public use, so as to avoid payment of just compensation, respondents' Floodplain Committee and Planning Commission, both agents of said respondents and while acting within their respective scope of employment, determined to further restrict use of the subject property by including all of said property within a permanent floodplain area. Petitioners attended public hearings precedent and relative to respondents' final adoption of permanent Floodplain Ordinance. On such occasions, objected to said Floodplain Ordinance and the proposed floodplain zone area as being vague, arbitrary, and in furtherance of respondents' plan, purpose, scheme and design to acquire the subject property for a public use, after depreciating its fair market value. Petitioners related to respondents that a Petition for Writ of Mandate relative to Respondents' October 3, 1973, denial of petitioners' request for use permit and lot split, had been filed against respondent on November 1, 1973, and that a claim, pursuant to the provisions of Title 1, Division 3.6 of the Government Code of the State of California, had been filed against respondent on November 12, 1973, for damages in inverse condemnation.

Respondent City Council thereafter, in spite of petitioners' Petition for Writ of Mandate and claim for damages, on or about November 28, 1973, and in furtherance of respondents' plan, purpose, scheme and design to acquire the subject property for public use after depreciating its fair market value, did adopt Ordinance No 1224 relative to permanent regulations of land uses within possible flood areas and Ordinances No. 1227, adding Subsections 161 and 162 to Section 30.01A of Article 3 of respondents' Ordinance No 802, designating certain property in and along Dry, Linda, Cirby, and Antelope Creeks as within the permanent FW (Floodway) and FF (Floodway Fringe) combining zones, all in furtherance of the plan, purpose, scheme and design as herein alleged.

Petitioners are informed and believe and thereon allege that in adopting Ordinance No. 1224 and Ordinance No. 1227 the respondents relied in part on a study specially prepared for respondents by the Sacramento District Corps of Engineers, Department of Army, when the Roseville City Council adopted the aforementioned Floodplain Ordinances. Petitioners are informed and believe and thereon allege that, in fact, this report by the Corps of Engineers was conducted in May, 1973 for the benefit of respondents and does not reflect the actual boundaries of previous floods or determinative flood histories or studies, and were fraudulently applied to antedated "1956" topographic maps, which were allegedly furnished to the Corps by

the Roseville Public Works Department and did not reflect the current topography of the subject property in 1973 and therefore cannot properly be relied upon by the respondents.

All of the subject property is now included within the boundaries of said Floodplain Ordinances and said boundaries coincide, in furtherance of respondents plan, purpose, scheme and design as mentioned above, with the Open Space and Conservation Element, the aforementioned Open Space Ordinance, and the aforementioned Park, Streambed and Recreation Element of the General Plan.

All of the subject property referred to immediately above has been discriminated against by respondents, its agents and various departments. Only the subject property is covered by the Floodplain Ordinances and the Park, Streambed and Recreation Element of the General Plan hereby imposing a double restraint upon petitioners' property. No other property in the area is covered with such a "double restraint."

The placing of a "double restraint" on petitioners' property was done in furtherance of respondents aforementioned plan, purpose, scheme and design.

The adoption of said permanent Floodplain Ordinances, are vague and arbitrary in terms of boundaries was in fact a gross misexercise of police power and a further de facto taking and further devaluation by direct legal restraint of petitioners property, all in furtherance of the plan, purpose scheme and design as alleged herein.

Pursuant to the provisions of Title I, Division 3.6 of the Government Code of the State of California relative to claims for damages against local public entities petitioners could not file the complaint in inverse condemnation until their pending claim against respondents was approved or denied, or upon the expiration of forty-five days from the date of filing said claim.

On or about November 12, 1973, petitioners did file a claim for damages, and that on December 19, 1973, respondent did approve petitioners' claim in part and did deny the claim in part.

Thereafter, and in furtherance of and pursuant to the total plan, purpose, scheme and design herein alleged, and in an attempt to deny to petitioners their legal remedies secured by an action in inverse condemnation, respondents' City Council, did also on December 19, 1973, adopt Condemnation Resolution No. 73-122 relative to a portion of the subject property for public park and "future" bicycle path purposes, and on December 20, 1973, respondent filed a complaint in eminent domain in Placer County Superior Court Action No. 41104 to acquire a portion of the subject property for said proposed public use, without complying with all of the legal conditions precedent to filing an action in eminent domain and contrary to the express intent of the Legislature.

Respondents herein alleged conduct and cursory acts were in furtherance of the aforementioned plan, purpose, scheme and design of respondent city, and was consummated in defiance of such conditions precedent relative to the institution of an eminent domain action by a

public entity as are specified in Government Code Section 7267 requiring an appraisal of the property to be taken and good faith negotiations with the property owner, and respondent also failed to demonstrate whether sufficient public funds are available to acquire said portion of the subject property and whether the "proposed" public park and bicycle path are so compatible with the subject property environment as to comply with State and Federal environmental regulations.

Respondents herein alleged conduct was in derogation of State and Federal statutes mentioned above, but not limited thereto; the Constitution of the State of California; and the Constitution of the United States of America in that, among other things respondents had, as evidenced by their unprecedented immediate filing of an eminent domain suit in violation of the aforementioned statutes and constitutional provisions, decided before hearing all the evidence in the case that respondents plan was to be taken in part rather than in the whole and thus depriving petitioners of their right to a hearing under the due process clause of the United States Constitution and in denial of the aforementioned statutes and constitutional provisions.

Petitioners, on or about November 1, 1973, did file an action in Administrative Mandate against respondent city and its councilmen to comply with all requirements for exhaustion of administrative remedies. All of the actions of respondents herein referred to were null and void because not enacted in the manner provided by law, that said acts were unreasonable, arbitrary, discriminatory, fraudulent, and an abuse of legislative discretion vested in the City Council and all agencies and commissions of the City and that said acts would and did constitute a taking and/or damaging of petitioners' property without payment of just compensation contrary to the provisions of the Constitutions as hereinabove alleged, and such acts were done in furtherance of respondents aforementioned plan, purpose, scheme and design.

Respondents commenced the eminent domain proceeding on December 20, 1973, Placer County Superior Court No. 41104, to take over one-half of petitioners' subject property as described herein above. In furtherance of and pursuant to the total plan, purpose, scheme and design as herein alleged, and in further attempt to deprive petitioners of due process, just compensation and equal protection of the law, respondents failed or refused to timely deposit the "total sum" of the judgment into court. As a direct and proximate result and consequence of the wrongful, illegal, and oppressive activities and conduct of respondents, petitioners have not received one cent in any form of compensation to the present date, in violation of the Constitution and laws of the State of California including, but not limited to Article I, Section 13, and Article 1, Section 19, of the Constitution of the State of California, and all in derogation of the Constitution and laws of the United States, including, but not limited to, the Fourth, Fifth and Fourteenth Amendments of the Constitutions of the United States.

On November 6, 1973 a petition for writ of mandate was filed to compel issuance of the use permit prior to the adoption of the floodplain zoning ordinance. A claim was also presented to the City for damages on November 12, 1973. On November 28, 1973, the City Council adopted permanent floodplain zoning ordinances numbers 1224 and 1227, to take effect in thirty days.

On December 19, 1973 respondent City Council adopted a Resolution of Intent to Condemn (No. 73-122), pertaining only to Petitioners new home site and only with respect to the portion adjacent and parallel to the stream, which had been the subject of the seven year reclamation effort. The condemnation resolution was passed even though the City did not, and had not adopted any specific bicycle trail project or plan, and prior thereto, did not conduct a feasibility study, did not demonstrate that sufficient funds were available for acquisition, did not have any part of the Zisk property appraised to establish the fair market value or severance damages, did not make an offer to purchase, did not enter into any negotiations for acquisition, did not certify an E.I.R. for a proposed project, and to this very day have not done so for any other adjoining property in the City.

A race to the courthouse occurred the very next day, December 20, 1973. The City filed an instant action in eminent domain, Placer Superior No. 41104, and petitioners filed their inverse condemnation and civil rights complaint just minutes apart on the "same date" (Placer County Superior Court No. 41105). The trial court entered a judgment dismissing the civil rights action, and abating by interlocutory judgment the inverse condemnation cause of action due to the pendency of the city's condemnation action and to retain jurisdiction over the subsequent action. Petitioners were now being required to proceed within the confines of the city's eminent domain action.

Petitioners property was thus condemned for a "speculative, future purpose" contrary to the express requirements for the exercise of eminent domain powers which thirty years after its exercise, remains as unfulfilled as it did in 1973. In that period of time, petitioners' property is the only parcel ever interfered from private ownership in the entire city. The abuse of the eminent domain power was clear then and is even more compelling now.

On November 6, 1974, without "any" knowledge, whatsoever, or participation of petitioners, petitioners attorney, Richard F. Desmond and respondent city attorney, G. Richard Brown mutually agreed to enter into a "secret" stipulation, purporting to waive petitioners' right to recover their litigation expenses and attorney fees in the condemnation proceedings. Attorney Desmond did not divulge the existence of the secret stipulation to petitioners until November 23, 1977, at the conclusion of the six (6) week eminent domain trial, while William J. Zisk was on the witness stand.

The trial court, per Judge Harold P. Wolters, then dismissed petitioners' civil rights cause of action in Placer County Superior Court No. 41105, *Zisk v. City of Roseville*, 56 C.A. 3d 41; 127 Cal. Rptr. 896, thereby generating appeal Civil No. 15121 in the Third District Court of Appeals on February 20, 1976, "prior" to commencement of the eminent domain proceeding (No. 41104) on November 1, 1977.

Six appeals have been generated throughout the condemnation proceeding. The only opinion that has been published is contained in *Zisk v. City of Roseville* 56 Cal. App. 3d at 41-51. The opinion itself contains an important error in the introductory portion, which purports to review the factual and procedural history of the case. The error remains significant because

every subsequent appeal considered this opinion to be an impeccable source of information regarding the earliest history of the case. The erroneous portion relates to the timing of petitioners' original application for the building permit, and the adoption by respondent of a Park and Streambed Element to the General Plan. The opinion correctly recites that respondents adoption of the Park and Streambed Plan occurred in March 1968, while incorrectly reciting that the application for petitioners building permit did not occur until March, 1973. The appellate court relied upon this chronology to conclude, "the plan was adopted five years 'before' petitioners applied for the land use permit" (56 Cal. App 3d at p 51). In fact, petitioners applied for the first and only land use permit on "February 23, 1967", which is recorded in the hearing minutes and was granted upon petitioners satisfaction of the seven (7) year reclamation project on the subject property and obtaining a lot split. The condemnation trial was delayed and set to commence on November 1, 1977. On June 15, 1977, by Resolution No. 77-54, approximately four (4) months "before" the condemnation trial was set to begin, respondents adopted Resolution of the Council of the City of Roseville adopting the General Plan and repealing "former" General Plans and Plan Elements. In so doing, respondents "repealed" the Park and Streambed Plan Element of the General Plan (Resolution No. 68-21); the Interim Open Space Plan (Resolution No. 72-75); and the Open Space and Conservation Element of the General Plan (Resolution No. 73-56). The repealed elements were the basis of commencing the eminent domain proceeding in the first instance.

At this point, petitioners again encountered Keith F. Sparks who had been elevated to the Placer County Superior Court since his participation as respondent city attorney in the original permit application process. This time his role was to preside over the pre-trial conference for the eminent domain action, Placer Superior Court No. 41104. The circumstances mandated recusal upon his own initiative. Judge Sparks presided over the conference and issued a ruling, which aggrieved petitioners to this day. He ruled that evidence of bad faith and prejudicial pre-condemnation activities by the respondents would be excluded from jury consideration in the eminent domain trial.

The effect of this ruling cannot be overstated. The appellate decision on the demurrer stated that the abatement of the inverse condemnation action would be permanent "if the eminent domain proceeding is carried through to a dispositive conclusion", 56 Cal App 3d p. 48. "If for any reason the eminent domain action aborts, the first cause of action will become viable", 56 Cal App 3d p. 48.

Therefore, the City only had to survive the condemnation action to escape liability for its pre-condemnation activities. It was the obvious intention and understanding of the appellate court that all issues related to the taking of petitioners' property to be resolved in one action. Now the trial court, through Judge Sparks (former city attorney for City of Roseville), was effectively granting immunity for pre-condemnation activities by precluding their discussion altogether. Further, the land was down-zoned to floodplain "after" the time of the taking, which meant that valuation would be determined on that basis as opposed to R-I, which it had been prior to the zoning changes improperly implemented and only against petitioners property.

Armed with this devastating ruling, the city proceeded to offer \$13,110.00 for the six acres of now improved, lush, level streamside property into which petitioners had poured over \$200,000.00 of personal funds and seven years of continuous daily efforts to meet the city's conditions for the issuance of the building permit for their new home.

Faced with Judge Sparks evidentiary ruling excluding valuations based upon anything other than floodplain zoning, the jury verdict awarded \$96,381.00, or approximately one-quarter of its R-1 zoning value.

At this point petitioners first became aware that they not only needed to be concerned about actions taken by respondents but those taken by petitioners' own attorneys. Law in effect at that time, C.C.P. 1249.3 specified, if the final offer of the public agency for the condemned property was unreasonable, the property owner could recover litigation expenses including attorneys fees, for defending the condemnation action. The disparity between the final offer of the City and petitioners final demand, when considered in light of the jury verdict clearly indicated litigation expenses would be appropriately awarded. On the motion to award litigation expenses, however, the court ruled that litigation expenses would not be awarded because petitioners' attorney, Richard F. Desmond and respondent attorney G. Richard Brown had executed a written stipulation on November 6, 1974, which purported to waive petitioners' rights to receive such litigation expenses. The existence of the "secret" stipulation came as a complete surprise and shock to petitioners especially since Desmonds' attorney's fees approximated the entire award and various trial strategies had been reluctantly agreed to, solely to improve petitioners' ability to recover all litigation expenses.

Desmond admitted to petitioners on November 23, 1977, that he had committed malpractice by entering into stipulation with respondent city attorney and that, as a consequence, he had a conflict of interest. The fact that the stipulation had been in existence for three years previously without disclosure to petitioners indicates that a conflict existed during most of the course of his representation. Nonetheless, Desmond agreed to pursue reversal of the denied expenses and exclusion of evidence regarding the pre-condemnation actions taken by the respondent to down zone the subject property. Desmond later filed a notice of appeal specifying only a "portion" of the judgment to be appealed and then withdrew from representation. Petitioners then hired attorney William Sherwood, to pursue the litigation expenses when Desmond reversed by surprise and withdrew from representation during appeal before the Third District Court of Appeals.

Sherwood was successful in obtaining a reversal of denial of litigation expenses on appeal and the matter was remanded to the trial court for further proceedings consistent with its ruling. The condemnation judgment specified deposit of the "total sum", including accruing interest at 7%, as a condition of entry of a final order of condemnation. However, the respondent was granted the final order of condemnation without paying the total sum of the judgment into court. Respondent waited the full 30 days after the remittitur issued from the appellate court before making any deposit whatsoever. Said deposit occurred on May 15, 1981, and consisted of the principal amount of the judgment only, with no interest whatsoever. The respondent argued that it was entitled to offset interest because of petitioners' possession of the property

after judgment and filed a motion to have the right to offset interest. Sherwood filed a concurrent motion for award of litigation expenses, and both motions were heard on June 12, 1981. Justice William Newsom, who had presided over the eminent domain trial, considered the issue of offset against the accrued interest and ruled that the value of the possession under the circumstances was nominal and that \$750.00 per year could be offset against interest.

With respect to the question of litigation expenses, the purpose and scope of the hearing was to determine "entitlement" to expenses in accordance with the statutory prerequisites for such an award, not the amount to be awarded if such entitlement were found. The court set a later date for a determination based upon evidence to be submitted at that time, when it ruled that petitioners were to be awarded litigation expenses. The subsequent hearing on the appropriate amount of litigation expenses was never held. It was obscured by the issue that had arisen between petitioners and respondent regarding the deposit of the correct amount of interest and whether its earlier deposit of the principal amount of the judgment stopped the running of interest. This matter was argued to the court and submitted for ruling on the correct calculation of interest at the same time as the litigation entitlement issue and interest offset issue. The minute order granting litigation expenses however failed to address the interest calculation issue.

Thereafter, on September 28, 1981, petitioners' attorney Sherwood filed a motion for implied abandonment and dismissal of the condemnation proceedings, based upon former Code of Civil Procedure Section 1255a. The respondent responded by filing a motion to reconsider the award of litigation expenses. On October 9, 1981 or four days prior to the hearing on the pending motion to dismiss, the respondent deposited interest accrued to the date of deposit (May 15, 1981) of the principal amount, less the annual interest offset, in the amount of \$20,748.77. This amount had been withheld by the respondent based upon the claim of offset for petitioners' post-judgment possession of the subject property. The deposit occurred five months "after" deposit of the principal amount of the judgment. It was the respondents' position that interest on the latter funds was not required.

The motion to dismiss based upon C.C.P. Section 1255a and the respondents' motion to reconsider the litigation expense award were submitted on October 13, 1981. No ruling was forthcoming from Justice Newsom until March 16, 1982. The ruling did not address either motion, but ruled instead on a matter never argued or requested, namely, the amount of litigation expenses that petitioners would recover.

Justice Newsom awarded \$20,000.00 for trial counsel Desmond, \$20,000.00 for Sherwood, and \$2,500.00 in miscellaneous costs. The order was subsequently amended to include \$18,500.00 for appraisal and engineering fees incurred in the condemnation.

The arbitrary nature of the award is evident from the fact that counsels' fees were equal when in fact petitioners were billed \$69,556.72 by petitioners' trial counsel Desmond and \$21,200.52 by counsel Sherwood up to the time of the court's award. To equal the value of counsels is patently arbitrary and capricious given the evidence of actual cost incurred. This is especially true when such an award does not relieve a party of the responsibility of paying more

than the court believes is reasonable. Petitioners moved to set aside this ruling on the grounds that petitioners had not been afforded a hearing, had not requested the order in the first instance and that it was patently insufficient. The motion was denied.

It was at this point that attorney Sherwood declined to represent petitioners further with respect to appeal of the litigation expenses and denial of the motion to dismiss and also with respect to an independent malpractice action against attorney Desmond. After exhaustive search, petitioners retained the third attorney J. Collinsworth Henderson. The difficulty in locating substitute counsel arose from several factors, the complexity of condemnation actions generally, the relatively small number of attorneys who practice condemnation law, and most importantly, the reluctance of many area attorneys to pursue a malpractice action against a prominent and powerful local attorney such as Desmond. Attorney Henderson affirmatively misrepresented petitioners. Contrary to what petitioners were told, attorney Henderson had no experience whatsoever either in condemnation practice or in malpractice litigation and had no jury trial experience.

Appeal was filed asserting the impropriety of entry of a final order in condemnation, when the conditions of payment specified in the judgment had not been satisfied. Such failures resulted in an implied abandonment of the judgment and further that the litigation expenses were insufficient and fixed without an opportunity to be heard on the amount to be awarded.

Henderson prepared and filed briefs, indicating petitioners were proceeding "in propria persona". The Court of Appeal disagreed with each contention purporting that an implied abandonment required some subjective intent on the part of the public entity to abandon the proceedings before the judgment would be nullified.

The statute in question, former CCP Section 1255a, stated: "Failure to comply with Section 1251 of this code shall constitute an implied abandonment of the proceeding." Former Section 1251 stated in relevant part: "The plaintiff must within thirty days after final judgment pay the sum of money assessed . . ."

The court reasoned that the legislature intended to "protect the public entity" by enacting this section, relying upon secondary commentary of a C.E.B. author and disregarding the observations of its brethren on the bench who agreed with *County of Los Angeles v. Bartlett* (1963) 223 Cal App. 2d 353, 358 that . . . "every requirement of the statute giving the least semblance of benefit to the owner must be complied with . . ." it was the legislative intention to require dismissal when the award has not been paid as provided by Section 1251 . . . "30 days".

The litigation expense issue was dispensed with summarily as well. The court held the trial judge was sufficiently aware of the value of trial and appellate counsel's services to make a determination, even in the absence of any presentation of evidence or argument directly upon the matter at issue.

Petitioners did not obtain an abandonment of the condemnation judgment or a reversal of the order awarding litigation expenses. Attorney Desmond then filed a lien against the

condemnation judgment for attorneys fees in the full amount charged, which meant that approximately \$69,000.00 of the \$96,000.00 judgment was claimed as attorneys fees in a case where petitioners had been awarded attorneys fees. In addition, Sherwood placed a lien on the judgment for an additional \$13,231.65 in fees, disallowed by Justice Newsom because they related to the abandonment and dismissal motion which he refused to grant.

The evidence was uncontroverted that respondent failed to deposit "any" interest until four days before the hearing on the motion to dismiss, by which time all of Sherwood's fees had been incurred, although petitioners had never been billed. The exclusion of the fees from the litigation expense award eroded the compensatory portion of the judgment and in fact deprived petitioners of just compensation as required by both State and Federal Constitutions.

At this point the condemnation action was splintered into a malpractice action against Desmond and a conflict with Sherwood over the claimed balance of his fees. Sherwood had agreed to handle oral argument on the implied abandonment and litigation expense issue if petitioners agreed to give him a specific lien on any "additional" litigation expenses to be awarded by the Court of Appeal. Petitioners agreed and attorney Henderson prepared a document, which appeared to express this agreement in plain terms. When the Appellate Court refused to increase the litigation award to cover the additional fees claimed by Sherwood, he filed a motion in the original condemnation action to be paid out of the original judgment, contrary to the clear language of the agreement that such a lien would arise upon, and be solely payable out of any supplementary award by the Court of Appeal or by the trial Court on remand.

Prior to hearing on Sherwoods' motion for payment out of the condemnation fund, Henderson had been concurrently handling the malpractice against Desmond. Henderson was given summons and complaint for amendment and service on Desmond, and appeared to have the matter under control. The history of that action reveals the inadequacy of his representation.

Desmond filed his own action for payment of attorneys fees, and, in what was then described as "an abundance of caution" by Henderson, a cross-complaint in malpractice was filed in Desmonds' fee action.

Shortly thereafter and at a point in which Henderson had been handling the Desmond malpractice action, Desmond successfully obtained a dismissal for Hendersons' failure to timely return the original summons and proof of service. Petitioners were then forced to rely solely upon the cross-complaint. This put petitioners in the procedural posture of having filed malpractice of Desmond only after he had filed against petitioners for his attorney fees, a terrible disadvantage.

Petitioners continued to receive regular and extensive billings from Henderson for work allegedly performed in preparing for trial with Desmond. Henderson had the case for 3 years without even taking Desmonds' deposition or engaging in any substantial discovery whatsoever. Sherwood filed the motion for payment of his fees out of the condemnation judgment, which remained intact pending appeal of petitioners' motion to dismiss the condemnation for implied abandonment. Henderson declared a conflict based upon his preparation of the Sherwood

agreement and filed a motion to withdraw as petitioners' attorney of record. Both Hendersons' motion and Sherwoods' motion were scheduled for hearing the same day. Prior to the hearing of both motions, but while both were pending, Henderson appeared at a trial setting conference and committed petitioners to a trial date on the Desmond attorneys fee and malpractice case. Henderson then appeared at the motion to withdraw hearing and over petitioners' objections, was allowed to withdraw. The moment the order was out of Judge Wayne Wylies' mouth, Henderson was taking the witness stand to testify that he understood the Sherwood agreement he prepared to specify the conditions of payment to Sherwood to require payment immediately in full, out of the condemnation fund, and contrary to petitioners understanding, payment was not conditional upon recovery of additional amounts and even though he was petitioners attorney and used the term "lien", what he really meant was an assignment of a portion of the funds such that no separate action or trial was necessary for Sherwood to establish his right to the fees and payment out of the condemnation fund. Judge Wylie, incredibly granted the motion and Sherwood, was allowed to withdraw the sum of \$13,231.65 immediately from the condemnation fund.

Now petitioners had to face a trial against Desmond, in pro per, to a complex malpractice case and were not prepared. Petitioners began a virtually statewide search to obtain counsel. Again, several factors consistently militated against any attorney becoming involved. The best petitioners could do was to obtain a conditional agreement to petition the trial court for a continuance of the trial date to allow discovery to be conducted by substitute counsel. Judge Wylie was not receptive to such a continuance and repeatedly berated petitioners for not having obtained counsel sooner, despite testimony that petitioners had contacted dozens of attorneys in the several months since Hendersons' withdrawal. At the continuance motion hearing, before Judge Richard Couzens, the attorneys for Desmond countered that they had discussed the case at length with the prospective attorney and his response was non-committal. Judge Couzens phoned the attorney and was not personally satisfied that he would accept the case if a continuance were granted. Judge Couzens denied the continuance request and petitioners were required to appear in propria persona at Desmonds' trial.

In petitioners' cross-examination of Desmond at trial, Desmond admitted the stipulation was a mistake, but he qualified his testimony by saying that he informed petitioners that "maybe" he had committed malpractice. Petitioners testified that his words were direct and unqualified, that he admitted he had committed malpractice by execution of the secret stipulation.

The trial Judge, Charles T. Fogerty, non-suited Petitioners on the cross-complaint, stating on the record that petitioners needed to have an expert witness testify that it was malpractice and that Desmonds' testimony and prior admission was not sufficient. Case law indicates an admission of negligence by a professional is sufficient to take the case to jury.

The jury verdict reduced Desmonds' fees from \$69,556.72 to \$48,000.00. Judge Couzens increased the amount by granting prejudgment interest to Desmond of \$19,918.36. The prejudgment interest was absolutely unjustified because Desmonds' demand was always more than he was entitled to. Petitioners could not have avoided the accrual of interest except

by paying more than was owed. Petitioners were entitled to an offset which was unliquidated and had not been determined by a court or jury and was not therefore subject to calculation.

The failure to grant a continuance, the non-suit and the prejudgment interest award were all appealed. During the pendency of the appeal Desmonds' attorneys applied ex parte, for a writ of execution against the condemnation funds on deposit and obtained possession of the entire amount claimed, including the prejudgment interest, before petitioners were aware of the action.

Again, petitioners encountered Justice Keith F. Sparks, sitting on the panel at the state Court of Appeal, stating the denial of the continuance was not an abuse of discretion because of warning by the trial judge on several occasions to obtain new counsel and petitioners allegedly neglected or refused to do so. That the non-suit was also proper because petitioners needed an expert witness to establish damage as a result of the secret stipulation.

The trial court focused on the necessity of an expert to establish negligence, not damage, resulting there from. Damage was subject to proof, because Sherwood had to be employed to prosecute the appeal, to have the effect of the stipulation voided. The trial Court would have awarded fees in the first instance. The stipulation was secret, collusive and a fraud. Petitioners testified to the mental and emotional anguish it caused. Such is cognizable legal damage, which must come from the victim, not from the lawyer.

At this point petitioners turned to the actions and abuses of Henderson to provide some form of relief for the morass of actions taken and purportedly committed for petitioners' benefit over the prior three years.

Petitioners finally procured the services of yet another attorney, George Mandich, to pursue the malpractice action against Henderson. Mandich gave petitioners every indication of capability and desire to handle the malpractice action to conclusion. He was aware of petitioners' prior history of misfortune and he was particularly aware of petitioners' susceptibility to severe emotional distress and breakdown if we were once again abandoned or deceived by counsel. He assured us that he was a man of integrity.

As should be apparent by the course of things past, such was not to occur. Henderson complained for \$15,000.00 "additional" fees, but quickly dismissed the action at the commencement of trial upon advice of counsel. However, Henderson did persuade the trial judge, George Yonehiro, to rule that any actions taken by Henderson after the order granting withdrawal was issued, was irrelevant and would not be discussed before the jury. This ruling was issued in response to a motion in limine to exclude evidence of any post-withdrawal conduct. The order could not have been more erroneous or contrary to statute, rules of ethics and existing case law.

Attorney Mandich asked Judge Yonehiro if he could conduct voir dire of petitioner William Zisk as an offer of proof to test the evidentiary limits of the court's ruling. This was allowed, but when Mandich inquired as to Henderson's conduct, the court stated that he was violating the

terms of the in limine order by inquiring into such matters. At this time, Henderson's counsel moved for a non-suit on the basis of insufficiency of the offer of proof.

While petitioner William J. Zisk was still on the stand with wife Lois E. Zisk in the audience, Mandich, our attorney, "left the courtroom". Everyone present assumed that the departure was temporary, but after a few minutes of silence, the court ordered the bailiff to summon Mr. Mandich back to the courtroom. Mandich was located at his car in the parking lot and stated that he would not be returning because of the court ruling.

The bailiff returned to court and reported Mandich's response, which was a tremendous blow to petitioners. The fact that the nightmare could continue and even intensify in such a manner was and is beyond comprehension, beyond mere coincidence, misfortune, and literal belief. Judge Yonehiros' response was to question whether Henderson's counsel wanted to renew his non-suit motion. The motion was renewed. The court asked petitioners for any response, acknowledging that petitioners were operating under a "vast handicap". When no coherent response was forthcoming, the motion was granted and judgment entered for Henderson.

Petitioners filed Notice of Appeal in propria persona on August 4, 1986, discharging Mandich from representation in the process. When the members of the panel in the Third District Court of Appeal was announced to include Justice Keith F. Sparks, "again", petitioners requested recusal based upon prior involvement in the case to the point where he could not be impartial. This recusal motion was denied by written order dated March 22, 1988. A decision written by Justice Keith F. Sparks was issued April 13, 1988 which purports to grant a new trial against Henderson.

Respondents continued to purposefully and fraudulently increase the floodplain elevations on petitioners subject property from 146.0 feet to 151.0 feet above mean sea level.

On October 16, 1991, petitioners filed a complaint in Placer County Superior Court (No. S-1495) seeking (1) declaratory relief to determine validity of ordinance, Code of Civil Procedure § 1060 (2) damages for negligence and intentional tortuous conduct causing personal injury and property damage (3) intentional infliction of emotional distress.

The complaint was amended and served on respondents on October 14, 1994. On November 19, 1994 respondent moved to dismiss for lack of prosecution and in the alternative, demurrer to the verified complaint.

On December 27, 1994 pursuant to California Code of Civil Procedure § 170.3 (C), (1), petitioners filed objection to selection of Judge[s] James L. Roeder, J. Richard Couzens and James D. Garbolino. On the same date, pursuant to Code of Civil procedure § 170.1, petitioners filed statements of disqualification's for named judges to hear or participate in this matter. Respondents failed to respond within ten (10) days and were disqualified "as a matter of law". Respondents proceeded to "whiteout and back-date" court documents to avoid

disqualification and then Judge Roeder summarily dismissed petitioners complaint on January 30, 1995.

On February 14, 1995, petitioners filed in the Supreme Court of the State of California, a verified petition for review of the denial of writ of mandate by the Third District Court of Appeal. The California Supreme Court denied petitioners' petition for review on April 12, 1995.

On November 24, 1995 petitioners filed No. Civ.-S-95 2134 EJG/GGH in Federal District Court for violations of the Fifth and Fourteenth Amendments to the Constitution of the United States and conspiracy to violate and violation of petitioners civil rights.

The complaint was amended and served on respondents on February 6, 7, and 8, 1996. Absolutely "no written response", whatsoever, was received by petitioners from respondents, or the district court during the twenty (20) days that followed.

Judge Garcia voluntarily recused himself on February 29, 1996, due to his prior affiliation as a partner in respondent counsels' law firm of Porter, Scott, Weiberg & Delehant. Judge Garcia was replaced with Judge William A. Shubb, whom petitioners learned had his daughter, Carrisa A. Shubb, employed as an attorney with the very same respondent counsels' law firm, Porter Scott, Weiberg & Delehant.

Before Judge Shubb made "any" rulings in the case, petitioners requested his "immediate" recusal pursuant to title 28 U.S.C.A. § 455(a). Judge Shubb refused to recuse, refused to enter default and proceeded to summarily dismiss all but one (1) cause of action in petitioners' verified civil complaint, then recused.

Judge Shubb was replaced with Judge Garland E. Burrell Jr., who refused to vacate Judge Shubbs' orders, refused to enter default and then summarily dismissed petitioners last remaining cause of action.

The record in this proceeding is uncontroverted. Respondents are in default, have never been relieved of default and are still in default.

The history of this litigation has been spawned by respondents' deceptive and fraudulent actions so long ago. Petitioners have been the victims of a continuous stream of tortuous conduct engaged from 1967 forward and implemented and perpetuated by every attorney, trial judge and appellate justice who has participated thereafter. Laws designed to protect citizens and property owners from the tyrannous abuse of authority and power have been disregarded at every stage of litigation resulting from condemnation. The courts have refused to correct the abuse and lawlessness upon the fallacious and destructive justification that the end justifies the means. The abuses and injustices have continued with the participants undoubtedly encouraged by court inaction.

It is clear that something more than misfortune or coincidence is at work in these cases. Could such a tale be the product of our legal system operating within ordinary tolerances for error and occasional injustice? The legal system to this point has utterly failed because all participants' without petitioners' knowledge have combined to make it so. As a consequence, petitioners have improved their property by their own hands at tremendous expense of time and effort, forcibly removed from petitioners by fraudulent means, upon purported compensation that was itself preyed upon by voracious and unethical attorneys. Is this the true character of our constitutional rights and justice under our legal system?

Is it nothing more than a dangerous and foul back alley, populated by thugs who are free to gang up on all who enter seeking only what is promised at the entrance, impartial justice and the right to redress for wrongs committed? If it is not so characterized, how has it become so, for petitioners?

Petitioners pray for investigation that is not only necessary but appropriate to redress the wrongs obviously and demonstrable committed, to correct and punish the abuses chronicled herein. Petitioners have never had an opportunity to present to an impartial tribunal, the fraud and deceit and deprivation of constitutional rights practiced upon petitioners, which has taken petitioners' private property, years of petitioners lives, petitioners entire life savings, retirement securities, emotional tranquility, and petitioners right in pursuit of happiness to build the home of our dreams on our private property.

Issue orders to annul the eminent domain action Nunc Pro Tunc, based upon the extrinsic frauds perpetrated, including violations of due process, equal treatment and deprivation of just compensation allowed to pass uncorrected by the interested state and federal courts. Order the City of Roseville, California, and the attorneys and judges involved to show cause why the matters transpired have been allowed to mock our system of justice. Order each to show cause that any matter stated herein is not the absolute demonstrable truth, that there are definite unclean hands.

The present status of matters is a travesty of justice, and every moment it continues is a continuing infliction of pain upon petitioners and a decay of democracy. Windows have been broken out of our vehicles and home, the cabin trashed, outbuildings set on fire, strange people and vehicles on our property, crank calls and we fear daily for our lives. The recent deaths of my spouse Lois E. Zisk on November 22, 2000, and my son William Zisk Jr. on February 17, 2002 are very suspect. Petitioners pray this madness and abuse stops and that those perpetrating the terrorism be brought to justice, as the result to petitioners simply seeking to keep property that is rightfully ours, and not that of the City of Roseville.

The only resolution and relief that remains is complete investigation and prosecution by Federal and State Jurisdictional Authority.

Petitioners hereby respectfully request a full scale investigation to correct and vacate the massive continuous stream of controlling errors of law and abuses chronicled above.

"Thirty-five years ago", petitioners embarked on a project to build a home of our dreams on "our private property". The application as submitted to respondents was in full compliance with all land use zoning regulations and general plans at that time. Today, not only does petitioners not have the home of our dreams on our private property, but our property itself has been forcibly and fraudulently removed from our possession, for no lawful reason, whatsoever, after tremendous expenditures in preparation of our home site as required by respondents. Petitioners have been forced to expend vast amounts of litigation expenses and attorney fees defending respondents abusive and unwarranted actions, while respondents systematically and fraudulently down-zoned petitioners' entire 12.2 acre parcel to a public use as noted above.

During the course of this entire thirty-five (35) year ordeal, petitioners have never received one cent in any form of compensation, while being required to expend hundreds of thousands of dollars of our personal funds to defend the massive continuous stream of controlling errors of law and abuses chronicled above. Is this the true character of our constitutional civil rights?

I, William J. Zisk, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verified statement was executed on April 2, 2004 at Roseville, California.

William J. Zisk

VERIFICATION

I, William J. Zisk, am the spouse of the deceased Lois E. Zisk in the above captioned matter. I have read the foregoing VERIFIED STATEMENT OF THE HISTORY OF THE PROPERTY OF WILLIAM J. ZISK AND LOIS E. ZISK, 205 THOMAS STREET, ROSEVILLE, CALIFORNIA 95678, and am familiar with its content. The matters stated herein based on personal knowledge and information are true and correct. If called to testify as a witness in this matter I can competently testify as to matters of fact.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this April 2, 2004 at Roseville, California, 95678.

William J. Zisk
205 Thomas Street
Roseville, California 95678-1858
Telephone: (916) 782-2233

As to the alleged claim of ownership of Zisk property, Assessors Parcels No.(s) 013-040-003 and 013-040-005 by the City of Roseville, on March 23, 2004 William J. Zisk hand carried a written request under the public information act to Roseville city attorney, Mark Doane to provide me with an immediate written response to twelve (12) direct questions relating to the City of Roseville's alleged claim to legal title ownership of parcel(s) 013-040-003 and 013-040-005. The March 23, 2004 letter to Mr. Doane was as follows:

William J. Zisk
205 Thomas Street
Roseville, California 95678

Telephone: 916-782-2233
FAX: 916-783-3408

March 20, 2004

Mark J. Doane
City Attorney
City of Roseville
311 Vernon Street
Roseville, CA 95678

RECEIVED
MAR 23 2004
CITY ATTORNEY

RE: Parcels: 013-040-003-000
 013-040-004-000
 013-040-005-000

Subject: LEGAL TITLE OWNERSHIP

Mr. Mark J. Doane:

As the city attorney for the City of Roseville, you have publicly stated City fee simple title ownership of all or portions of parcels 013-040-003, 013-040-004, and/or 013-040-005. Pursuant to the Public Information Act, provide me with an immediate written response to the following:

1. THE EXACT DATE(S) OF PURPORTED ACQUISITION.

2. THE EXACT APPRAISED VALUE(S) OF EACH OF THE PURPORTED ACQUISITION(S).

3. THE ZONING AND LAND USE DESIGNATION OF EACH OF THE PURPORTED ACQUISITION(S) ON THE DATE(S) OF PURPORTED ACQUISITION(S).

4. THE EXACT DATES OF NEGOTIATIONS FOR THE PURPORTED ACQUISITION(S).
5. THE EXACT REASON(S) OR PURPOSE(S) THAT REQUIRED THE PURPORTED ACQUISITION(S).
6. THE SPECIFIC PROJECT(S) THAT REQUIRED THE PURPORTED ACQUISITION.
7. THE SPECIFIC PUBLIC NECESSITY THAT REQUIRED THE PURPORTED ACQUISITION(S).
8. THE EXACT DATE(S) IN WHICH THE PAYMENT OF THE TOTAL SUM OF THE ACQUISITION(S) WAS PURPORTEDLY PAID TO WILLIAM J. ZISK AND LOIS E. ZISK.
9. THE EXACT DATE(S) IN WHICH THE CITY PURPORTEDLY TOOK POSSESSION OF THE PURPORTED ACQUISITION(S).
10. THE EXACT DATE(S) IN WHICH THE CITY FULFILLED THE CEQA REQUIREMENT FOR THE PURPORTED ACQUISITION(S).

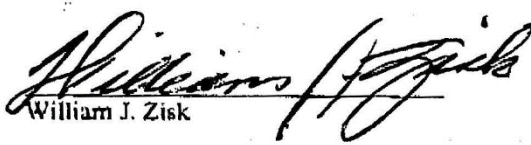
11. THE EXACT DATE(S) IN WHICH THE CITY PROVIDED A PUBLIC HEARING FOR THE BENEFIT OF WILLIAM J. ZISK AND LOIS E. ZISK REGARDING THE PURPORTED PUBLIC NECESSITY FOR THE PURPORTED ACQUISITION(S).

12. THE EXACT DATE(S) IN WHICH THE CITY ACQUIRED ANY AND ALL ADJOINING PARCEL(S), INCLUDING EXACT TOTAL ACREAGE, TOTAL APPRAISAL VALUE, AND TOTAL ACQUISITION PRICE, THE PURPOSE OR PUBLIC NECESSITY OF THE ACQUISITION(S), THE DESIGNATED ZONING AND LAND USE FOR EACH PARCEL, AND THE DATE(S) IN WHICH THE CITY TOOK POSSESSION.

If you have any question(s) on the foregoing, please do not hesitate to contact me immediately at the above.

Thank you for your courtesy.

Sincerely,



William J. Zisk

On March 24, 2004, at approximately 5:15 p.m., city attorney Mark Doane hand carried a large brown envelope to me at my residence at 205 Thomas Street. The envelope contained nine (9) pages, purportedly in response to the twelve questions that William J. Zisk had hand carried to him at his office at 311 Vernon Street the day before, regarding his claim of ownership by the City of Roseville of Parcel(s) No.(s) 013-040-003 and 013-040-005 of the Zisk property. The brown envelope contained a two page letter dated March 24, 2004 addressed to William J. Zisk from city attorney Mark Doane, summarizing a small isolated "portion" of thirty-one (31) years of litigation between the City of Roseville and William J. Zisk and Lois E. Zisk; a three page document entitled final order of condemnation, dated April 19, 1982 and August 30, 1983; a copy of a one page document entitled order re trust funds on deposit, dated April 9, 1982; a copy of a document entitled accounts payable document in the amount of \$99,329.57 to William J. Zisk and Lois E. Zisk, dated April 9, 1992; a copy of a one page document entitled County of Placer office of auditor-controller admittance advice with a copy of a check in the amount of \$99,329.57 to William J. Zisk and Lois E. Zisk, dated April 17, 1992; a one page copy of an envelope postmarked April 20, 1992, purportedly addressed to William J. Zisk and Lois E. Zisk. The nine page contents of the brown envelope clearly does not support any claim of ownership by the City of Roseville of Parcel(s) No.(s) 013-040-003 and 013-040-005 of the Zisk property, nor does it respond to the twelve questions regarding claim of ownership posed to city attorney Mark Doane by William J. Zisk on March 23, 2004.

Review of the above twenty (20) page VERIFIED STATEMENT OF THE HISTORY OF THE PROPERTY OF WILLIAM J. ZISK AND LOIS E. ZISK, 205 THOMAS STREET, ROSEVILLE, CALIFORNIA 95678, will controvert any and all claims of ownership by the City of Roseville.

Mr. Doane did not respond to any and all of the twelve questions regarding ownership.

There is no valid response to any of the questions which are simple requirements to obtaining ownership. The City of Roseville does not hold ownership of any part of the Zisk property. A thorough investigation is needed to resolve this matter.

For clarification purposes the nine page contents of the brown envelope hand delivered by Mr. Doane on March 24, 2004 to William J. Zisk at his residence on the subject property at 205 Thomas Street, Roseville, California 95678 is as follows:



City Attorney
311 Vernon Street
Roseville, California 95678-2649

March 24, 2004

Mr. William J. Zisk
205 Thomas Street
Roseville, CA 95678

Dear Mr. Zisk:

This responds to the letter you hand delivered to me yesterday, March 23rd, regarding the City of Roseville's acquisition of a portion of your property for public purposes. Preliminarily, I need to note that on a number of past occasions you and I have reviewed the same information and questions contained in your latest letter. The matters referenced in your letter stretch back over a thirty-one year period and involve no less than six state or federal lawsuits¹ including appeals, not to mention numerous related lawsuits between you and the lawyers who represented you in those actions. Since you were the primary litigant in all of those cases, and since I only arrived on the scene in 1994, your memory and files are undoubtedly more extensive than mine. Accordingly, this letter will not attempt to exhaustively list every milepost in your lengthy dispute with the City. Rather, I intend to concentrate on the core issues: the City's ownership of the property in question; the amount and location of the funding for the acquisition; and the public necessity for the acquisition.

The City's acquisition of the property referenced in your letter dates back to a Final Order of Condemnation issued by the Placer County Superior Court on April 19, 1982 (copy attached). That Final Order condemned a fee simple ownership interest in the property to the City of Roseville for "public park, recreational, bicycle, hiking and maintenance purposes". The Order further notes that the City had deposited with the Court the correct amount of money to pay for the property, including interest and costs.

Following the entry and recording of that Final Order of Condemnation, you filed several appeals, and lawsuits were exchanged between you and your lawyers² that resulted in adjustments being made to the amount that the City had deposited with the Court. For example, attorney Sherwood succeeded in obtaining a court order permitting him to withdraw \$13,231 from the condemnation deposit to satisfy unpaid legal billings. At any rate, once the dust from all that litigation settled the Placer County Superior Court

¹ City vs. Zisks (1973) Placer Superior Court No. 41104 (Condemnation); Zisk vs. Roseville (1984) Placer Superior Court No. 69081 (Flood Ordinance); Zisk vs. Roseville (1986) Placer Superior Court No. 77050 (Flood Damage); City vs. Zisk (1989) Placer Superior Court No. 84527 (Nuisance); Zisk vs. City (1994) Placer Superior Court No. S-1495 (Zoning Ordinance); Zisk vs. City (1995) Federal District Court No. CIV-S-95-2134 EJC (Civil Rights)

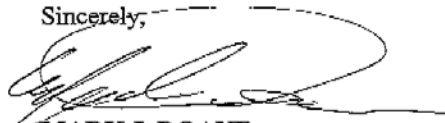
² For example: Desmond vs. Zisk, Superior Court No. 54839; Sherwood vs. Zisk, Municipal Court No. CV 2-93; Zisk vs. Henderson – case citation unknown.

issued an Order on April 9, 1992 which noted that the remaining monies on deposit in the (now 19 year old) condemnation action had not been claimed by the Zisks, even though the case had been "fully litigated and final judgment...entered" in the case. The Order therefore, ordered the court clerk to pay over the remaining funds in the account over to you and your wife (a copy of the Order is attached).

The court clerk and the County Auditor complied almost immediately. A check in the amount of \$99,329.57 and payable to you and your wife was issued on April 17, 1992. The check was mailed on April 20, 1992 (copies of the accounts payable warrant, the check and the postmarked envelope are attached). For reasons unknown to me, you never cashed that check. Later, due to a change in the law the account holding the deposited condemnation proceeds was transferred from Placer County to the State Treasurer's Office, where it remains to this day. The account contained \$71,210.55 in June, 1994. The City has had no power or control over the account since at least the April 9, 1992 court order. I am informed that you may withdraw the remaining funds on account at any time you choose.

Finally, I draw your attention to the last two lawsuits listed in footnote 1. Recall that in those lawsuits you challenged a variety of City zoning, floodway and bike trail project activities under a variety of legal theories, including inverse condemnation, conspiracy to violate civil rights, intentional infliction of emotional distress and declaratory relief. Those lawsuits (and appeals) were decided against you and the cases were ultimately dismissed with prejudice. That means that you are legally barred from relitigating those issues or facts.

Sincerely,



MARK J. DOANE
City Attorney

Enclosures

cc: Transportation Commission Members
Mike Wixon
Mark Morse
Rob Jensen

13702
ORIGINAL RECORDS
REQUESTED BY
City of Roseville
APR 19 11 27 AM '82
GAY-TROMBLEY
PLACER COUNTY RECORDER
13702 NO FEE REQUIRED APR 19 1982
GAY-TROMBLEY
COUNTY CLERK OF PLACER COUNTY
BY DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

CITY OF ROSEVILLE, a municipal corporation,)	NO. 41104
Plaintiff)	
v.)	FINAL ORDER OF CONDEMNATION
WILLIAM J. ZISK and LOIS E. ZISK, et al.,)	
Defendants)	

It appearing to the Court that Plaintiff City of Roseville
has deposited into Court for the Defendants entitled thereto the
sum of money assessed by the Judgment in Condemnation entered in
this proceeding in Book 35 at Page 177, plus interest and costs
in compliance with such judgment;

NOW, THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND
DECREED that the real property situated in the County of Placer,
State of California, known as Parcel and Parcel 8, and more
particularly described in Exhibit "A", attached hereto and made
a part hereof, be condemned to Plaintiff City of Roseville for

Date Entered APR 19 1982
Book 49 Page 496

VOL 2493 FILE 174

1 public park, recreational, bicycle, hiking and maintenance pur-
 2 poses, in fee simple absolute.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a
 4 certified copy of this order be recorded in the Office of the
 5 County Recorder of the County of Placer, State of California, and
 6 thereupon title to said property described in Exhibit "A" shall
 7 vest in Plaintiff and all interests of Defendants William J. Zisk,
 8 Lois E. Zisk, the County of Placer, Mary A. Zisk, trustor,
 9 Title Insurance and Trust Company, a corporation, trustee, and
 10 Marjorie Arnett, as Trustee under the Last Will and Testament of
 11 Mabel M. Phillips, deceased, beneficiary, in and to said real
 12 property shall be terminated.

13
 14 DATED: April 4, 1982
 15 William J. Zisk
 16 Lois E. Zisk
 17 Mary A. Zisk
 18 Marjorie Arnett

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 28
 JUDGE OF THE SUPERIOR COURT

THE FOREGOING INSTRUMENT IS A CORRECT COPY
 OF THE ORIGINAL INSTRUMENT ON FILE IN THE OFFICE

ATTACHED

APR 19 1982

at Placerville
 County of Placer, State of California

RECORDED
 COUNTY CLERK

via 2493 int 175

55

Vol. 2493
Page 176

All that portion of the South half of Section 35, Township 11 North, Range 6 East, N. D. S. & M., described as follows:

Parcel A Beginning at the South One-Quarter corner of said Section 35, thence toward point of beginning along the South line of said Section 35, South $89^{\circ} 16' 53''$ West, 638.32 feet to the most southerly corner of that certain parcel of land described in the Deed recorded in Book 428, Page 319, Official Records of Placer County; thence along the easterly line of said parcel, North $01^{\circ} 02' 38''$ West, 95.38 feet; thence leaving said easterly line, North $85^{\circ} 41' 09''$ East, 186.00 feet; thence North $69^{\circ} 42' 02''$ East, 208.96 feet; thence South $87^{\circ} 34' 57''$ East, 237.35 feet to a point located on the east line of the Southwest One-Quarter of said Section 35; thence along said east line South $00^{\circ} 30' 32''$ East, 163.00 feet to the point of beginning.

Parcel B Beginning at the South One-Quarter corner of said Section 35, thence along the east line of the Southwest One-Quarter of said Section 35, North $00^{\circ} 30' 32''$ West, 202.00 feet; thence North $89^{\circ} 16' 53''$ East, 804.00 feet; thence South $00^{\circ} 30' 32''$ East, 202.00 feet to the south line of said Section 35; thence along said South line South $89^{\circ} 16' 53''$ West, 804.00 feet to the point of beginning.

EXHIBIT "A" OF FINAL ORDER
OF CONDEMNATION CITY OF
ROSEVILLE V. ZISK PLACER
COUNTY No. 41104

13702

Vol. 2493 Page 176
When embossed and printed in purple, this is certified to be a true copy of the records of the Placer County Records Office.
Date Aug 30 1983 Gay Trombley, Recorder
By Elmer Malone Deputy

FILED
 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF PLACER

APR 9 1992
Carl DePietro
 CARL DEPIETRO
 CLERK OF THE SUPERIOR COURT

CITY OF ROSEVILLE,
 a municipal corporation,

Plaintiff,

vs

WILLIAM J. ZISK, LOIS E. ZISK,
 et al.,

Defendants.

No. 41104

ORDER RE TRUST FUNDS ON
 DEPOSIT

It appearing to the court that monies placed on deposit with the clerk of this court remain unclaimed by defendants and further finds that this case has been fully litigated and final judgment has been entered.

Good cause appearing therefore, it is ordered that the clerk pay over such funds remaining on deposit to the defendants and close out such trust account.

Dated: April 9, 1992

James L. Roeder
 James L. Roeder
 Assistant Presiding Judge

PLEASE FORWARD WITH WARRANT

MUST BE PAID BY

PLACER COUNTY

ACCOUNTS PAYABLE DOCUMENT
(Circle Transaction Type)

33 MEMO EXPENDITURE 50 ACCOUNTS PAYABLE SET UP
16

VENUE NO. 8 PAY TYPE SK

ZISK, WILLIAM J. and LOIS E.

LAST NAME (40 Characters)
205 Thomas Street

DISTRIBUTION CODE 22 ADDRESS (25 Characters)
Roseville, CA 95678

ADDRESS (25 Characters)
~~XXXXXXXXXXXXXXXXXXXX~~

CITY (25 Characters) STATE (2 Characters) ZIP (9 Characters)

SHADED AREA FOR AUDITOR'S USE ONLY

No 17496

PURCHASE REQ. P.O./CONTRACT/ ENC. PAYMENT DUE DATE

MEMO EXPEND ☐

TAX CODE	FUND/ORG.	ACCOUNT	TASK	OPTION	COST ACCOUNT	AGT. REF.	AMOUNT	PIC	INVOICE (10 Characters)	DESCRIPTION/ PA # (25 Characters)
	35980	0554				01	83,154.35		41104	DP #5670 5/18/81 679-R
	↓	↓				02	16,175.22		↓	#1778 10/13/81 757-C
						03				Dispersement of fund that
						04				remain in trust per Court
						05				Order 4-9-92
						06				
						07				
						08				
						09				
						10				
						11				
						12				
						13				
						14				
						15				
						16				
TOTAL						99,329.57	SOCIAL SECURITY NO. OR FED. ID			
EXPENDITURES AUTHORIZED AND APPROVED						DATE 4-9-92				

58-00150 REVISED 1-19-90 DISTRIBUTION: ACCOUNTS PAYABLE WHITE-Auditor CANARY-Auditor Remittance (Optional) PINK-Dept.

VENDOR 888888888

COUNTY OF PLACER

OFFICE OF THE AUDITOR-CONTROLLER
REMITTANCE ADVICE

A959534

ZISK, WILLIAM J AND LOIS E

APR 17, 1992

FUND/ORG.	ACCOUNT	TASK	OPTION	COST ACCOUNT	PO/CONTRACT	A/P NUMBER	INVOICE	AMOUNT
035980	0554					R6452901	41104	83,154.35
035980	0554					R6452902	41104	16,175.22
LEGAL TRUST								99,329.57
WARRANT TOTAL								99,329.57

COUNTY OF PLACER

WARRANT NUMBER

VOID AND CANCELLED IF NOT PRESENTED FOR PAYMENT
WITHIN SIX MONTHS AFTER DATE OF ISSUEAUBURN, CALIFORNIA
9560311-4
1210A 959534
A959534

APR 17, 1992

AMOUNT
***99,329.57PAY
EXACTLYNINETY-NINE THOUSAND THREE HUNDRED TWENTY-NINE DOLLARS FIFTY
SEVEN CENTSSECURITY PACIFIC NATIONAL BANK
Auburn, California 95603PAY TO THE ORDER OF ZISK, WILLIAM J AND LOIS E
205 THOMAS ST
ROSEVILLE CA

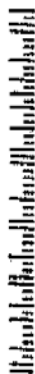
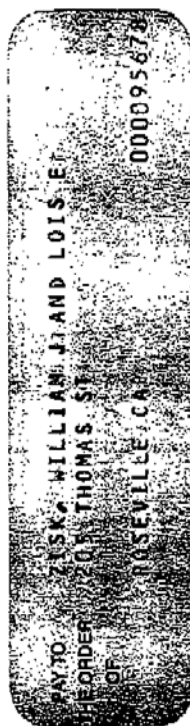
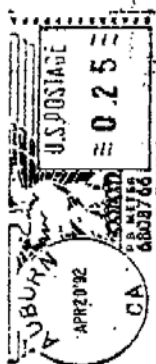
000095678


 KIMBUCK WILLIAMS, JR.
PLACER COUNTY AUDITOR - CONTROLLER

⑈1959534⑈ ⑆121000044⑆928⑈971327⑈

After 5 Days Return To
KIMBUCK WILLIAMS, JR.
 AUDITOR-CONTROLLER
 OF PLACER COUNTY
 135 FULWEILER AVENUE
 AUBURN, CALIFORNIA 95603

**PRESORTED
 FIRST-CLASS**



The purpose of the DEIR is to identify, assess and quantify the impacts associated with the proposed development of a proposed bicycle trail within the Dry Creek corridor between Harding Boulevard and Royer Park on the physical, biological and socio-economic aspects of the Roseville community.

William J. Zisk and my deceased spouse, Lois E. Zisk have been resident property owners within the City of Roseville during the course of the past fifty (50) years and currently the owners, since 1966, of the 12.2 acre parcels located at 205 Thomas Street, commonly identified as assessor parcel(s) number(s) 013-040-003, 013-040-004 and 013-040-005, which includes approximately 1500 feet of Dry Creek. I/We have been consistently responding to a multitude of "proposed" bicycle trail environmental impact reports, which would directly impact our property located at 205 Thomas Street. We have consistently expressed our extreme opposition to any such proposal which has and would continue to significantly impact our property. CEQA requires the EIR to address the cumulative impacts in a unified and effective way and provide an individual project-level analysis.

For the record in this DEIR, I wish to continue to express my objection and extreme opposition to any consideration of a proposed bicycle trail on the north side of Dry Creek for the following reasons:

In order to understand the magnitude of impacts of such a proposal, it is necessary to summarize the thirty-five (35) year history of significant impacts endured by the Zisk family at 205 Thomas Street, which predate the suspect premature wrongful deaths of my spouse, Lois E. Zisk, on November 22, 2000 and my son William Zisk Jr. on February 17, 2002.

In 1966, William J. Zisk and Lois E. Zisk (Zisks') purchased the property at 205 Thomas Street (subject property), which consists of 12.2 acres geographically located in the center of Roseville and contiguous to a section of Dry Creek. The zoning and land use at that time was R1 and R1-FP, single family dwellings, medium density, and was in full compliance with the General Plan of the City of Roseville.

The Zisks have conducted a Sand and Gravel and Trucking business in Roseville since 1952, and have operated that business at 205 Thomas Street, Roseville, CA since 1966, in the same non-conforming use as did the prior owner of the subject property, and the one prior, dating back to the turn of the century.

In 1966 the Zisks embarked on a massive project to clean and restore the subject property, which had been allowed to deteriorate into an eyesore and community health problem. The primary intent of the Zisks was to construct a new home on a portion of the subject property situated adjacent to the secluded peaceful and beautiful natural setting of Dry Creek.

In the beginning of 1967, the Zisks applied to the Roseville Planning Commission for a use permit to construct a new home on the subject property. At the use permit application public hearing of **February 23, 1967**, the city attorney, who was in attendance in an advisory capacity was Keith F. Sparks. The commission conditionally approved the application of the

Zisks and continued the hearing to allow the Zisks to fulfill the requirements of the permit application. No time constraints were placed on the Zisks at the hearing, in which to complete the conditional requirements for the permit. The Zisks did in fact immediately commence the required massive streambed improvement project on Dry Creek through the subject property, which was completed on October 1, 1973.

On **March 30, 1967** the Zisks, received Streambed Alterations Notification No. 976 from the California Department of Fish and Game, purchased a dragline (dredger), and did in fact commence the major improvements to the portion of Dry Creek that traverses the subject property, as required by the Roseville Planning Commission as a condition of issuance of the use permit to construct a new home on the subject property.

Beginning in early 1968, the City of Roseville, through the City Council members, city attorneys, city commission members, agents, and City employees purposefully embarked on a vexatious, conspiratorial and collusive scheme to intentionally seize, damage and deprive the Zisks of any and all economic use and enjoyment of the subject property, in violation of the Fourth, Fifth, and Fourteenth Amendment of the Constitution of the United States, and Article I, Section 1, Section 3, Section 6, Section 7(a) & (b), Section 9, Section 13, Section 15, Section 16, Section 17, Section 19, Section 24 and Section 26 of the Constitution of the State of California.

The scheme was initiated by the City Council on **March 20, 1968** by adoption of a Park, Streambed and Recreation Element of the General Plan of the City of Roseville. The only property which has been effected by the adoption of this plan is the subject Zisk property. The plan envisioned the use of open space and floodplain zoning as a means of preserving future park sites. All of the subject Zisk property was shown on the plan for future use as a public park for the City.

Thereafter, the members of the Roseville City Councils, commissions, and city employees proceeded to adopt a series of Open Space and Floodplain Zoning Regulations which were calculated to fraudulently prevent the Zisks from any use, return or enjoyment of the subject property at 205 Thomas Street, Roseville, California 95678.

While other similarly situated properties within the City were permitted to use and enjoy their property, the Zisks were held in a falsified restraint, and the council members, commissions, and city employees proceeded with a policy of "selective enforcement" of the adopted Ordinances and Regulations

On **March 20, 1968**, by Resolution No. 68-21, the Roseville City Council adopted a Park, Streambed and Recreation Element of the General Plan of the City of Roseville, showing the entire subject Zisk property, to be planned for future use as a public park.

On **December 8, 1971**, the Roseville City Council adopted Emergency Ordinance No. 1158, AN INTERIM ORDINANCE PROHIBITING CONSTRUCTION UPON OR GRADING OF PROPERTY WITHIN CERTAIN AREAS SUBJECT TO FLOODING ADJACENT TO DRY, LINDA, CIRBY AND ANTELOPE CREEKS AND STRAP RAVINE, UNLESS A PERMIT HAS BEEN ISSUED. The Zisks applied for the required permit and on March 3, 1972 the Public Works Director,

Frederick L. Barnett, issued a grading permit to Bill Zisk to excavate the vicinity of Dry Creek, and to place excavated material adjacent to Dry Creek on the subject property, as shown on the submitted plan dated 1-24-72. The permit was issued pursuant to Chapter 70 of the Uniform Building Code and the requirements of the Department of Fish and Game of State of California. This permit was granted pursuant to Ordinance No. 1158, adopted by the City Council on 12-8-71, and was for the purpose of completing the channel improvements to Dry Creek as required by the use permit application submitted by the Zisks on February 23, 1967.

On **March 23, 1972**, the Zisks received a letter of approval from Public Works Director, Fredrick L. Barnett to place a barbwire type fence on the property boundaries in order to discourage trespassers and control livestock.

On **August 30, 1972** the City Council, by Resolution No. 72-75 approved AN INTERIM OPEN SPACE PLAN - GENERAL GOALS AND POLICIES AND ACTION PROGRAM. The plan envisioned the Zisk property be designated as open space.

On **November 29, 1972** the City Council adopted Ordinance No. 1190 - ENACTING ARTICLE 8A OF THE CODE OF THE CITY OF ROSEVILLE RELATING TO ENVIRONMENTAL REVIEW OF PERMITS ISSUED BY THE CITY OF ROSEVILLE AND DECLARING THE SAME TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY.

On **March 1, 1973** the Zisks submitted a request to the City Planning Department for a parcel map and lot split to create a parcel for the purpose of obtaining a loan to build a new home for the owners.

On **March 14, 1973**, the City Planning Department made a determination that an environmental Impact Report was now required in connection with the Zisk permit application, despite the fact that the use permit application was submitted on February 23, 1967 and the project was commenced long before the California Environmental Quality Act (CEQA) of 1970 was enacted, and the request was in full compliance with all existing city ordinances and land use regulations, and the property was properly zoned for the intended use. The Roseville planning department made the following findings:

It is expected that the proposed parcel map and ultimate single family development of Parcel "A" will have a non-trivial effect on the environment because:

1. *Parcel ' A ' is located within the floodplain of Dry Creek*
2. *Parcel "A " is included in the Park and Streambed Plan for public use and development.*

On **March 22, 1973** the Zisks appealed the denial of the request for a parcel map and lot split.

On **April 25, 1973** the City Council upheld the Planning Departments denial of the request for a parcel map and lot split, and further directed that an Environmental Impact Report be required before any further processing of the Zisk's February 23, 1967 permit application.

On **April 25, 1973** the Public Works Director, Fredrick L. Barnett sent a letter to the Zisks, advising them to cease all work within 75 feet of the waters' edge of Dry Creek on their property and re-apply for a new permit to complete the 2-23-67 use permit application requirements.

In **May, 1973** the City received the results of their requested study conducted by the U.S. Army Corps of Engineers in Sacramento entitled, FLOODPLAIN INFORMATION, DRY CREEK AND TRIBUTARIES, ROSEVILLE, CALIFORNIA, **MAY 1973**. It showed that a small portion of the Zisk property adjacent to Dry Creek was within the limits of a projected 100year flood. However, the maps submitted to the Corps by the City in making this determination were flown on **February 4, 1956 and April 18, 1956** and in no way reflected the physical topography of the streambed on the Zisk property in **May 1973** especially taking into consideration the improvements to the channel of Dry Creek the Zisks had made, which improved the flow capacity by 200%. This fact was brought to the attention of the City who then requested the Corps of Engineers conduct a special study of the Zisk property. This new study revealed that the Zisk property was above and outside the projected 100-year floodplain elevations and that the Corps did not object to the building of a new home at the designated location. The City has never accepted this revised position.

Between **May 11 and June 8, 1973** the Zisks did in fact re-apply to various agencies within the City and the State of California Fish and Game for renewal of the permits, which were subsequently granted on **June 8, 1973**.

On **June 1, 1973**, the Zisks, through their engineer, Atteberry & Associates of Roseville CA., filed an Environmental Impact Report with the City, examining the effect on the environment of the construction of a single family home on a half acre portion at the westerly boundary of the Zisk property. The EIR summarized the following at page 14:

"The proposed project is the culmination of a seven year program undertaken by the Zisk family in 1967 to clean up and improve a portion of creek side property that had been exploited for many years and allowed to deteriorate into an eyesore and community health problem. It is in compliance with existing zoning and has no longrange unavoidable adverse impacts. The work accomplished to date by the Zisk family indicates the quality of their goals and the ultimate benefit to the community in improved health conditions and scenic qualities "

On **June 20, 1973** the City Council adopted an Open Space and Conservation Element to the General Plan by Resolution No. 73-56, which changed the land use designation of the Zisk property from R-1 and R-I-FP, single family dwellings, to open space for park purposes.

On **July 13, 1973** the Corps of Engineers reported to the City Planning Department that the proposed lot split and construction by the Zisks would not have a significant effect on water surface elevations in the floodplain and the Corps did not object to the construction of the Zisk family new home.

On July 24, 1973 the City Planning Director, Leo Cespedes, wrote to the Corps of Engineers asking them to restudy their determinations and further stating that the planning Department would withhold further processing the Zisk application for a Lot Split and Use Permit until a reply was received from the Corps of Engineers.

On August 29, 1973 the City Council adopted a "tentative" plan for a "proposed trail system" on Dry Creek, but only through the Zisk property, and directed staff to send notification to Mr. Zisk. No other upstream or downstream property owners were notified or effected.

On August 31, 1973, the Director of Public works for the City of Roseville Frederick L. Barnett wrote to the Corps of Engineers, summarizing a determination of the Roseville Floodplain Committee that no development be allowed within the designated primary floodway, and the secondary zone of floodway fringe be utilized for greenbelt, agricultural, parks and recreation uses.

On September 5, 1973 the Public Works Director Frederick L. Barnett in commenting on the June 1, 1973 Environmental Impact Report submitted by the Zisks, wrote to the Planning Director and advised that although his determination of the work of excavating and grading done by the Zisks on the subject property showed a rise in the floodplain on the property, the decisive fact in evaluating the Environmental Impact Report was that construction of the home by the Zisks on the proposed lot would interfere with the "tentative" proposed bicycle path and streambed acquisition, and that, therefore the Zisk project would have an adverse impact on the environment.

On September 7 1973 the Roseville City Manager, Robert Hutchison, wrote to the Zisks and officially notified them that the City intended to acquire portions of the subject property for a "tentative" plan for a bicycle trail and that the City's project was in conflict with the Zisk's February 23, 1967 plan to build a home on a half acre portion of the subject property.

On September 10, 1973 the City Planning Director wrote a memorandum to the Planning Commission recommending denial of the Zisks permit because no final Corps of Engineers report had been received as of yet and because the Zisks' development of their property interfered with and was in conflict with the "tentative" proposed bicycle path.

On September 13, 1973 the Roseville Planning Commission denied the Zisks' application. Evidence submitted at the hearing in opposition to the Zisk application, was the proposal to build a home on the subject property conflicted with the Park and Streambed Plan, the Open Space Element of the General Plan, and the plan for proposed acquisition of a bicycle trail across the *subject* property. No adjacent property upstream or downstream was affected.

Pursuant to Notice of Appeal by the Zisks of the Planning Commission denial of the Zisk application for a permit, the Roseville City Council did on October 3, 1973, deny the appeal by the Zisks, ***"on the basis of evaluation by the City of the Environmental Impact Report, the conflict with the bike and pedestrian trail as tentatively approved by the City Council and conflict with its development, and further, that the plan is in conflict with the Park and Streambed Element of the General Plan, and the Council give notice that City intends to purchase a bike and pedestrian trail system along the streambed "***. During the public

hearing the Public Works Director, Frederick L. Barnett, stated that the Zisks home site was above and outside of the 100-year floodplain. Since October 3, 1973 the Zisks did no further physical development on their property.

On **October 5, 1973**, there was a joint meeting between the Roseville Planning Commission and the City Floodplain Commission for a public hearing on Ordinance No. 1224 which was the Floodplain Ordinance to preserve everything within the boundaries as natural area for park and recreation and that the application to buy the Zisk property was consistent with the Park and Recreation element of the General Plan. No other property was affected.

On **October 25, 1973** the Roseville Planning Commission passed Floodplain Ordinance No. 1224, finding the ordinance consistent with the Open Space and Conservation element and the Park and Streambed Plan.

On **November 1, 1973**, the attorney for the Zisks, Richard F. Desmond, filed a Writ Of Mandamus in Placer County Superior Court (No. 40862) to require issuance of the qualified permit application. Within 30 days, Roseville City Attorney, William Owens, answered the Writ Of Mandamus filed by defense attorney Desmond. In furtherance of this collusive conspiratorial scheme, all further proceedings on the Writ Of Mandamus, Placer Superior Court No. 40862, were abandoned by both attorneys.

On **November 12, 1973**, the Zisks attorney, Richard Desmond filed with the City of Roseville, a claim for damages for Inverse Condemnation of their property.

On **November 26, 1973**, the City Attorney, William Owen, wrote a letter to the Mayor and City Council stating that one of the purposes of the Floodplain Ordinance is to protect Open Space and Parks and Recreation.

On **November 27, 1973** a special meeting of the Roseville Planning Commission was held to discuss acquisition of the Zisk property.

On **November 28, 1973** the City Council adopted Floodplain Ordinance No. 1224, and Floodplain Zoning Ordinance No 1227. The Zisk Property was rezoned from R-1 and R1-FP to permanent Floodway and Floodway Fringe (FW & FF).

In furtherance of the plan and scheme, on **November 28, 1973** the City Council down zoned virtually the entire Zisk property to permanent floodplain (FF & FW). Prior to the down zoning, both the U. S. Army Corps of engineers and the Director of Public Works for the City of Roseville, Frederick L. Barnett, publicly acknowledged during the hearings, that the majority of the Zisk property was above and outside the limits of the 100-year floodplain. Numerous other properties throughout the city, including City property, that had been designated by the U. S. Army Corps of Engineers as being within the 100-year floodplain, were completely excluded from the boundaries of the 100-year floodplain on the Official Floodplain Zoning Map of the City of Roseville, and were allowed to be completely developed. The Zisk property is the only property that is above the 100-year floodplain that has been placed within the boundaries of the 100-year floodplain.

An actual controversy has arisen and now exists in that the floodplain zoning ordinances are tortuously false, discriminatory, invalid, illegal and unenforceable, both on their face and as construed, because they placed the subject Zisk property under floodplain zone restrictions, when the property is above the 100 year floodplain elevation, thus decreases value and prohibits the full use and enjoyment of the subject Zisk property, all of which is in violation of the Fourth, Fifth, Thirteenth and Fourteenth Amendments of the Constitution of the United States, the deprivation of Civil Rights under Title 42 of the U.S. Code, Sections 1983 and 1985, and Article I, Sections 1, 3, 6, 7, (a) (b), 9, 13, 15, 16, 17, 19, 24, and 26 of the Constitution of the State of California.

On **December 6, 1973** the Roseville Planning Commission met again to consider acquisition of the Zisk property and ended up in a tie vote.

On **December 19, 1973** the Roseville City Council acted on the Zisk claim for damages. The claim was partially approved by the Council, but the amount of damages was denied.

On the same date and time, **December 19, 1973** the City Council duly adopted Condemnation Resolution No 73-122, authorizing acquisition of over half of the Zisk Property. The Zisks were not given an opportunity to be heard before or during adoption of the Resolution to condemn.

Prior to filing of the eminent domain action in Placer County Superior Court (No. 41104), the Zisks were never made an offer of settlement for their property, nor had their property been appraised by the City, nor had the City complied with the California Environmental Quality Act of 1970, nor did the City have an officially adopted "project", nor did the City make any attempt to acquire any adjoining property upstream or downstream of the Zisk property.

On **December 20, 1973**, the City Council voted to institute an action in eminent domain (Placer County Superior Court No. 41104), to take over one half (1/2) of the Zisk property for the "tentative" plan for a bicycle trail across the Zisk property. Prior to the filing of the eminent domain proceeding:

1. The Zisks were not given an opportunity to be heard at a public hearing before the adoption of a Resolution of Intent to Condemn (NO. 73-122).
2. There was no adopted "project" to necessitate condemnation.
3. There was no compliance with the California Environmental Quality Act (CEQA) of 1970.
4. There was no compliance with the requirements of Government Code Sections 7267.1 to 7267.7 inclusive.
 - (a) No negotiations to acquire the Zisk property.
 - (b) No appraisal of the Zisk property.
 - (c) No offer of just compensation for the taking and damaging of the Zisk property.

The eminent domain proceeding (No. 41104) was filed on **December 20, 1973**, but the actual trial was delayed until **November 1, 1977**. During the four-year delay in furtherance of this collusive conspiratorial scheme, Plaintiff City Attorney, G. Richard Brown, and defense attorney, Richard F.

Desmond, "secretly" waived the statutory rights of William and Lois Zisk to recover their litigation costs in the eminent domain proceeding. And, in furtherance of this scheme, during the pleading stage and before the eminent domain action went to trial, the Third District Court of Appeal rendered a published opinion (ZISK v. CITY OF ROSEVILLE: 56C.A.3d41:127 Cal.Rptr.896), which was based on a complete reversal of the timing of the factual chronology of the merits of this action (Placer Superior Court No. 41104). The record in these proceedings verifies that fact.

Since the filing of the eminent domain proceeding (No. 41104) on the Zisk property on **December 20, 1973**, no other property within the entire City of Roseville has ever been condemned for a "tentative" plan for a bicycle trail.

On **December 20, 1973** the City of Roseville filed eminent domain action No. 41104 in Placer County Superior Court. Five (5) minutes later on the same date, Inverse Condemnation Action No. 41105 was filed by the Zisks attorney, Richard F. Desmond. The proceedings in the Inverse Condemnation Action No. 41105 were abated and were subsequently raised in the Eminent Domain Action No. 41104 by answer and cross-complaint. The inverse condemnation issues raised by the cross-complaint were abated by order of the trial court, and have not been heard by any court to the present date.

In furtherance of this collusive conspiracy, the former City Attorney, Keith F. Sparks, had extensive prior involvement with circumstances of this proceeding. First, as an attorney representing the City of Roseville, second, as a superior court judge presiding over aspects of the original eminent domain proceeding (No. 41104), and third as an associate Justice of the Third District Court Of Appeals. As attorney for the City of Roseville, Keith F. Sparks advocated then on behalf of the passage of a Floodplain Ordinance, which ultimately provided a vehicle for the City of Roseville to seize the Zisk property. As a superior court judge, he presided over the pretrial conferences in the Eminent Domain Action No. 41104, and made rulings excluding from the jury's consideration, important issues regarding the City's fraudulent use of open space and floodplain zoning to freeze development of the Zisk property.

Moreover, given the prior, personal participation of Keith F. Sparks (former City of Roseville attorney) in the decision-making process that underlies every piece of litigation generated at a time prior to his appointment as a Superior Court Judge, and Justice of the Third District Court of Appeal, it would appear that all contact with the case in a judicial role was and remains objectionable.

Keith F. Sparks (former City of Roseville attorney) presided as an appellate justice of the panel considering an appeal in a related case, attorney Richard F. Desmond v. William and Lois Zisk, 3 Civil 24543, which involved a cross-complaint for legal malpractice against the attorney representing the Zisk interests in the Eminent Domain Action No. 41104. In fact, Justice Sparks personally authored the opinion, which upheld the granting of a non-suit in favor of attorney Desmond, despite sufficient legal evidentiary support for a contrary ruling.

Keith F. Sparks (former City of Roseville attorney) presided as an Appellate Justice of the panel considering an appeal in another related case, Henderson v. Zisk and related cross-actions, 3 Civil 0000651 (26512), (Placer Superior Court No. 70229), which involved a cross-complaint for legal

malpractice against the Zisks attorney Henderson for his representation in the legal malpractice against Attorney Richard Desmond, in the Citys' Eminent Domain Action No. 41104. Keith F. Sparks (former City of Roseville attorney) also authored the Appellate opinion in that Appeal.

The City of Roseville filed the Eminent Domain proceedings, Placer Superior Court No. 41104, against the Zisks on **December 20, 1973**. The action was delayed, and did not proceed to trial until **November 1, 1977**, and was concluded on **December 15, 1977**. At the concluding portion of the Jury trial, on **November 23, 1977** the Zisks were informed by their defense counsel Desmond, of the "secret" waiver of the Zisks statutory rights to recover their litigation cost. The "secret" waiver had been signed by Attorney Desmond and City of Roseville Attorney, G. Richard Brown, on **November 6, 1974**. The Zisks were completely unaware of the "secret" waiver during the entire 3 years of representation by Attorney Richard F. Desmond.

In furtherance of this collusive conspiratorial scheme, on **March 21, 1978** the Interlocutory Judgment was entered in the City of Rosevilles' eminent domain proceedings, Placer County Superior Court No. 41104. The relevant pertinent portion of the judgment reads as follows:

"It is hereby ordered, adjudged and decreed that the just compensation to be paid for the taking of Parcels A and B - - is the amount of \$96,381, which is the amount assessed by the verdict herein, together with interest thereon at the rate of seven percent (7%) per annum from the date of entry of Judgment herein to the date of payment of said total sum into court."

The final date that the City of Roseville was to pay the "total sum" of the judgment into court was **May 15, 1981**. The City made late partial token payments into the court on **May 18, 1981**; **October 13, 1981**; **June 14, 1983**; **August 22, 1983**; and **December 19, 1983**. However, the City of Roseville has never paid the "total sum" of the judgment into Court, and consequently, the Zisks have never received one cent in any form of compensation to the present date.

In furtherance of the collusive plan and scheme, commencing in 1970, the City Councils, Planning Commissions, and city employees have purposefully embarked on a program to allow the streambeds and floodways within the City to be overgrown and congested, so as to obstruct and impede the free flow of floodwaters. In addition, chain link fences, footbridges, pipelines, and structures were placed across and within the floodway to further impede the passage of floodwaters. In addition, floatable materials and debris was allowed to be stored in the floodway during the winter rain season. In addition, City landfill dumpsites were maintained within the floodway, raising the land elevations within the floodway to further impede the flow of floodwaters and create uncontrolled detention facilities. In addition, fill materials, roadbeds and bridge structures were placed across the floodway, to further impede the passage of floodwaters.

In 1983 the City entered the Federal Emergency Management Agency (FEMA) flood insurance program. FEMA had conducted a study of the Dry Creek Drainage Basin within the City of Roseville, based on information and data obtained from the U.S. Army Corps of Engineers. The results of the FEMA/Corps of Engineers study placed the majority of the Zisks property above and

outside of the limits of the 100-year floodplain. The 1983 FEMA 100-year Flood Boundary Map places the Zisk property in Zone "**B**", above the 100-year floodplain.

On **November 30, 1983** the Roseville City Council adopted floodplain ORDINANCE NO. 1751, ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE REPEALING AND REENACTING ARTICLE 23 OF ORDINANCE 802, THE ZONING ORDINANCE OF THE CITY OF ROSEVILLE, RELATING TO REGULATION OF LAND USE IN FLOOD PRONE AREAS. In adopting Ordinance No. 1751, the City Council merely changed the text of the Ordinance to qualify for participation in the FEMA flood Insurance program. However, the boundaries of the 100-year floodplain were not changed to coincide with the 100-year floodplain boundaries as depicted on the 1983 FEMA Flood Boundary Map, which places the *subject* Zisk property in Zone "B", above the 100-year floodplain. In furtherance of the collusive plan and scheme, the subject Zisk property is the only property above the established 100-year floodplain boundary elevations on the 1983 FEMA Flood Boundary Map, that remained in the fraudulent 100-year floodplain zoning designation on the Official Floodplain Zoning Map of the City of Roseville, dated **October, 1973**. Numerous other parcels of land, including City parcels, that were designated within the 100-year floodplain boundaries on the 1983 FEMA Flood Boundary Map, were excluded from the 100-year floodplain map as depicted on the Official Floodplain Zoning Map of the City of Roseville, dated **October 1973**, and were allowed to be filled and fully developed.

During 1983, the city attorney for the City of Roseville, Michael Dean, filed a criminal misdemeanor action in Municipal Court of Placer County at Roseville, Case No. 8062, falsely charging William J. Zisk with an alleged violation of the Zoning Ordinance of the City of Roseville. No evidentiary support was ever submitted to support the alleged zoning violation and the cause of action, Placer Municipal Court No. 8062, was dismissed in October, 1984.

In furtherance of the conspiratorial collusive plan and scheme, commencing in 1984, the members of the City Councils, City Planning Commissions, and city employees expanded the land use zoning to 4 new Specific Plan areas throughout the City, the Southeast, Northeast, North-Central and Northwest. Each specific plan was given approval on an independent "piecemeal" basis without addressing the overall "cumulative impacts" on drainage capabilities throughout the City, as required by the California Environmental Quality Act (CEQA) of 1970.

Thereafter, in **January, 1984**, in furtherance of the overall collusive, conspiratorial plan and scheme, the City of Roseville embarked on a new flood study by employing the services of Nolte and Associates of Stockton/Sacramento.

The information and data used to compile the Nolte study was as follows:

1. The resistant "n" factor of the streams within the City of Roseville were calculated and estimated from aerial photography flown on December 13, 1984, when the streams were in the most congested and overgrown condition since 1970.

2. The stream gage flow data from the gages within the Dry Creek Basin were discarded, and stream flow gage data from a drainage basin outside of the Dry Creek Drainage Basin was used to convolute estimated discharge flows.
3. The *peak* discharge flow estimates were grossly exaggerated to incorporate a "worst case scenario" for a "future" full build-out of all of South Placer County. FEMA does not recognize or except "future conditions," in a Flood Insurance Study.
4. The City of Roseville forwarded the fraudulent convoluted "future condition" study to FEMA with a request for revision of the 100-year flood boundaries within the City. The Corps of Engineers peak discharge flow on Dry Creek through the Zisk property was determined to be 7300 CFS for a 100-year flood event. The Nolte Study was commenced 60 *days after* the FEMA floodplain Maps were adopted on **December 15, 1983** and increased the fraudulent peak discharge flow on Dry Creek through the Zisk property to 16,140 CFS for a 100-year flood event. This would constitute a falsified rise of the flood elevation on the Zisk property by 4 to 5 feet.

A duplicate verified copy of the computer runs and work product maps used in the 1984 Nolte Study have confirmed the fact that the study represents "future conditions" and not the "present conditions" as required by FEMA Flood Insurance Studies.

In **February 1986**, the City of Roseville was subjected to the most severe and prolonged concentration of rainfall on record, which resulted in the most severe flooding in Roseville of record. As a result of the foregoing negligent acts and omissions of the members of the City Councils Planning Commissions, and city employees, in furtherance of the conspiratorial collusive plan and scheme, the Zisks have been subjected to continued intentional infliction of pain and suffering, and physical and emotional damage to their health, welfare and safety, and the use and enjoyment of their property and livelihood.

On **February 17, 1988** the Roseville City Council adopted ORDINANCE NO. 2091, ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE REPEALING AND REENACTING ARTICLE 23 OF ORDINANCE OF THE CITY OF ROSEVILLE, RELATING TO FLOOD PRONE AREAS.

In adopting Ordinance No. 2091, the following Finding of Fact is stated in relevant part under Article 23, Section 23.01 (a): --- these flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities ---

Under Section 23.01 (b): Regulation of areas of special flood hazard is necessary because of the compelling need to insure safety and the availability of flood insurance to the residents of the City of Roseville, in that the Government of the United States, through the Federal Emergency Management Agency and the Federal Insurance Agency, requires that these regulations be adopted before flood insurance can be obtained by residents.

Article 23, Section 23.14 reads:

23.14 Maintenance of Pre-existing uses. Nothing in this Article shall be construed to prohibit the normal, ordinary, or necessary maintenance or repair of a pre-existing, nonconforming use or structure in accordance with Article 29 of this Zoning Ordinance. It is the intent of this section that current lawful uses of flood prone lands shall be grandfathered and permitted.

As stated earlier, the Zisks have maintained the same residence and business operation on the subject property since 1966, the same as the prior owners, dating back to the turn of the century.

On **March 2, 1989** Roseville City Attorney, Michael F. Dean, and Deputy City Attorney, Steven Bruckman filed another lawsuit against William J. Zisk and Lois E. Zisk, Placer County Superior Court No. 84527. The false allegations in Placer County Superior Court No. 84527 are virtually the same as the false allegations City Attorney Michael F. Dean filed during 1983, in the criminal misdemeanor action against William J. Zisk in Placer County Municipal Court No. 8062, which was dismissed by that court in October, 1984. As was the case in Placer Municipal Court No. 8062, no factual evidence was presented to support the allegations in Placer Superior Court No. 84527. The City of Roseville has forced the Zisks to "defend" constant litigation in the Courts for over 30 years.

On **June 29, 1988**, City Attorney, Michael F. Dean and former City Attorney G. Richard Brown filed another complaint in Eminent domain on the subject Zisk property, Placer County Superior Court No. 82206, for the purpose of removing a "live" 15 inch sewer line on the subject Zisk property, and installing a 63 inch sewer line in its place. The contractor employed by the City of Roseville to accomplish this task, purposefully and maliciously destroyed every single living fruit and nut tree and domestic landscaping on the Zisk property in a swath 100 feet wide and 750 feet long. In the course of construction, the Zisks were severed from access to their home and business, their domestic water supply was severed 4 times, and raw untreated sewerage was spilled on the ground and stored in cesspools on the Zisk property, creating a health problem. William Zisk sustained sores over his body and required medical attention.

On **April 17, 1989** William J. Zisk was publicly slandered in the local newspaper with false allegations of illegal activity on the subject property. A substantial character impact on the Zisk sole business and livelihood has occurred.

On **May 12, 1989** deputy City Attorney, Steve Brockman, Public Works director, Fredrick L. Barnett, City employees, agents and City excavating equipment entered onto the subject Zisk property without a writ or warrant and trenched 7 excavations to depths of 15 feet, and surveyed and photographed the entire Zisk property. Shortly thereafter, Deputy City Attorney, Steve Bruckman later seized and searched the Zisk private business records without a writ or warrant.

On **November 7, 1990**, in furtherance of the conspiratorial collusive plan and scheme, the Roseville City Council adopted ORDINANCE NO. 2374, ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE ADDING CHAPTER 9.80 TO TITLE 9 OF THE ROSEVILLE MUNICIPAL CODE RELATING TO FLOOD DAMAGE PREVENTION. This Ordinance was adopted under

TITLE 9 of the HEALTH AND SAFETY CODE of the City of Roseville, and incorporated the Federal Emergency Management Agency (FEMA) Flood Insurance Study of September 28, 1990. The **September 28, 1990** Flood Insurance Study contains and applies the falsified fraudulent "future conditions," study of the City of Roseville's 1984 NOLTE STUDY, which raised the flood elevations on the Zisk property by 4 to 5 feet over the previous 1983 FEMA Flood Insurance Study.

On **March 20, 1991** the Roseville City Council adopted Ordinance No. 2408, ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE ADDING SECTION 23.23 TO ARTICLE 23 OF ORDINANCE 802, THE ZONING ORDINANCE, RELATING TO FLOOD PRONE AREAS. The fraudulent "future conditions" of the 1984 Nolte Study were fraudulently applied to the Official Floodplain Zoning Map of the City of Roseville. The flood elevations on the subject Zisk property have been fraudulently raised by 4 to 5 feet. The entire subject Zisk property has been systematically, purposefully and fraudulently down-zoned to "permanent floodplain." Irreparable harm, damage, and injury has been done and will further follow, unless the acts and conduct of the members of the City Councils, City Commissions, City agents, and City employees, as heretofore complained of are enjoined, because the acts and conduct have the effect of altering the course of waters traveling through the City of Roseville and purposefully redirecting and increasing the flow of waters onto property owned by William J. Zisk and Lois E. Zisk.

William J. Zisk and Lois E. Zisk seek a determination as to the validity of the Ordinances, both on their face and as applied to their property, and a judicial declaration is necessary and appropriate so that the Zisks may ascertain their rights and duties.

The members of the City Councils, City Commissions, City agents and City employees and each of them, exhibited conduct which was intentional and malicious and done for the purpose of causing the Zisks to suffer and continue to suffer humiliation, mental anguish, and emotional and physical distress, and confirmed and ratified the conduct of each of the other members of the City Councils, City commissions, City agents, City employees and each of them, and such confirmation and ratification was done with knowledge that emotional distress would be and was hereby increased.

The Zisk's have been deprived of due process and equal treatment during the ongoing proceedings in which by law, a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the decision making body. William J. Zisk has been deprived of his inalienable right to speak freely on all subjects during the public hearings and he was restrained and abridged of his constitutional right to submit testimony on all subjects during the public hearings which related to the applications by the City of Roseville for flood encroachment permits, repugnant to the Declaration of Rights, Article 1, Section 1 of the State of California and Title 42 U.S.C.A. Sections 1983 and 1985 and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The Zisks have been deprived of the fact that the Roseville City Councils and the Roseville Planning Commissions did not consider the fact that the hydraulic analysis for the applications of flood encroachment permits of past, present and future proposed projects on Dry Creek, Miners Ravine Creek, Antelope Creek, Cirby Creek and Linda Creek in Roseville, has been compared to the 1984

Nolte Flood Plain Study (*future conditions*). The Nolte Study measured channel widths, depths and "n" factors of the creeks in Roseville as they existed on December 13, 1984. The 1984 channel widths and depths were of the most congestive, restrictive and impeding conditions that existed during the course of the prior twenty-five (25) years. These 1984 congestive channel widths and depths have been considered the baseline by the City for assessing encroachments into the floodplain of the creeks within the City of Roseville. Any requests for encroachment into the floodplain are measured against the channel widths and depths as they existed in December 1984, without any considerations for the significant adverse increased Peak discharge flows that have been and continue to be injected into the streams in Roseville since December 1984, and the overall cumulative effects of obstructions in areas of special flood hazards which increases flood heights and velocities. For hydraulic modeling purposes, a significant impact has occurred, effecting significant changes in geometry, hydraulic conditions, significant increases in Manning Roughness factors ("n" values), higher floodwater surface elevations and backwater effects. The foregoing amounts to the seizure and taking and damaging of property without due process and the payment of just compensation as required by the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

The Zisks have been deprived of the fact that the Roseville City Council and the Roseville Planning Commission have not considered the incremental cumulative impacts of past, present and future proposed projects, obstructing the free flow of floodwaters within the floodplain of Dry Creek, Antelope Creek, Cirby Creek, Linda Creek, and Miners Ravine Creek, which include but are not limited to:

The encroachment of approximately twenty thousand (20,000) cubic yards of fill into the designated floodplain on the west bank of Dry Creek adjacent to Royer Park where the public safety building currently sits; the encroachment of the basement of the main Taylor Street library into the floodway on the west bank of Dry Creek adjacent to Royer Park; the encroachment within the floodway of the concrete floodwall and gabion structures on the west bank of Dry Creek adjacent to Royer Park; the placement of a sixty-six (66) inch diameter sewer line across and adjacent to Dry Creek within Royer Park; the encroachment of gabion structures and limestone rip-rap within the east bank of the 'floodway channel' of Dry Creek in Royer Park; the encroachment of three (3) footbridges within the 'floodway channel' of Dry Creek in Royer Park (two have been swept away during past floods and lodged within the 'floodway channel' during peak flows); the huge trees which have eroded away within the 'floodway channel' and lodged within the channel and against all of the bridges; chain link fences have been anchored across the "floodway channel" with cables, collecting floating debris (torn loose during peak flows of past floods); the Veterans Memorial Building within the floodplain, immediately adjacent to the east bank of Dry Creek in Royer Park; the twenty-four (24) inch diameter sewer line placed immediately adjacent to the foundation of the Veterans Memorial Building on the east bank of Dry Creek in Royer Park, coupled with the gabion structures and rip-rap later placed in the "floodway channel" of Dry Creek, in an attempt to protect the sewer line; the placement of Roseville's first landfill "dump site" within the seventeen (17) acre portion of the floodplain of Dry Creek in what is now Saugstad Park; the fifty (50) thousand cubic yards of fill dirt imported to the Saugstad Park site to cap the raised filled "dump site"; the sewer lines running parallel and perpendicular to the flow of Dry Creek in Saugstad Park; the Darling way bridge; the gabion structures on the east bank of Dry Creek in Saugstad Park; at the confluence of

Cirby Creek, with the raised surface exposed sewer line running perpendicular to the flow of Dry Creek; the Riverside Avenue Bridge; the BMX bicycle facility; the Vernon Street bridge; the Southern Pacific Subway Railroad Bridge; the Atkinson Road and parallel Southern Pacific Railroad Bridges and Regional Wastewater Treatment Plant settling ponds off of Booth Road.

The Lincoln Street Bridge; the sixty-six (66) inch sewer line upstream on the west bank of Dry Creek; the encroachment of an additional two hundred (200) cubic yards of rip-rap extending *into the floodway channel* of Dry Creek at 140 Folsom Road (McCurry dental facility); the six (6) inch sewer line placed perpendicular to the flow, two (2) feet above the ground level of Dry Creek (since destroyed by prior floods); the Folsom Road Bridge; the sixty-six (66) inch and twenty-four (24) inch sewer lines, again just upstream of the Folsom Road Bridge, encroaching into the *floodway channel* of Dry Creek with fill material, gabion structures, rip-rap structures and steel wall structures on the west bank of Dry Creek, and solid wooden and chain link fences on the east bank perpendicular to the flow of floodwaters on the east designated *"floodway"* of Dry Creek; the encroachment of five hundred (500) cubic yards of limestone rip-rap into the *' floodway channel'* on the west bank of Dry Creek at the terminus of Columbia Avenue; the gabion structure placed on the east bank of Dry Creek at the terminus of Marilyn Avenue (since failed and eroded, sliding directly into and obstructing the *floodway channel* of Dry Creek; the placement of an eighteen (18) inch sewer line on the northwest bank of Dry Creek (at rear of Adelante School facility), which eroded during high waters and collapsed into Dry Creek, discharging raw untreated sewerage into Dry Creek; the placement of two hundred (200) cubic yards of broken concrete, cement dust and debris encroaching into the east bank of Dry Creek at the rear of 339 Evelyn Avenue (Marion Residence); the six hundred (600) cubic yards of concrete rubble and dust and debris currently dumped on the southeast bank of Dry Creek forming a *"wine-dam"* at the rear of 318 Maciel Avenue (Roberta Bechtel residence) and encroaching, without permission, onto property owned by William J. Zisk and Lois E. Zisk; the filling of a historical natural *"drainage swale"* and *"wetlands"* at the rear of 706 Atlantic Street and the placing of a three (3) story sanctuary on top of the filled drainage swale (Abundant Life Church); the encroachment into the entire width of the Dry Creek *"floodway"* and *"wetlands"* at the confluence of Antelope Creek, Secret Ravine and Miners Ravine in 1984, with the continuous solid raised filling of a four (4) lane roadbed structure at what is currently Harding Boulevard, and the placement of floatable massive bundles of wooden trusses which were stored on the upstream side (Latham lumber) of the filled Harding Boulevard structure, which floated over the top of the filled structure during the 1986 flood and lodged within the *' floodway channel'* and against the downstream bridges. A human fatality occurred at this location during the 1986 flood.

Traveling further upstream on the Antelope Creek tributary of Dry Creek; the encroachment into the floodplain and *"wetlands"* of Antelope Creek, of the placement of over twenty thousand (20,000) cubic yards of fill dirt to raise the approach to the Harding Blvd. overcrossing structure over Atlantic Street at the Southern Pacific railroad track; the filling of the Harding Blvd. on-ramp bridge over Antelope Creek at Wills Road; the encroachment into the *'floodplain and wetlands'* during the widening of Atlantic Street over Antelope Creek; the narrow Southern Pacific railroad bridge over Antelope Creek; the narrow culvert bridge crossing over Antelope Creek to the City of Roseville raised Berry Street land fill *"dump site"*, and the encroachment into the *"floodplain and wetlands"* of Antelope Creek, of the City of Roseville Berry Street raised land fill *"dump site."* itself.

Neither, the Berry Street land fill "dump site" (within the floodplain of Antelope Creek), nor the Saugstad Park land fill "dump site" (within the floodplain of Dry Creek) incorporated any barrier protection to the underground water table and neither "dump site" incorporated any restrictions as to the quality and contents of the disposal buried on site, nor was there conducted any environmental assessments of the proposed projects prior to commencement of the "landfill dump sites". Currently, erosion at the Saugstad Park dump site on Dry Creek has exposed buried "blacktop" and landfill debris within the "floodway channel" of Dry Creek.

Traveling further upstream on the Miner's Ravine tributary of Dry Creek: the encroachment into the "wetland and floodplain" of the pristine Miners Ravine Creek with the placement of sewer lines and five (5) restrictive and obstructive "low lever" concrete bicycle trail bridges crossing the streambed (1994), all five (5) of the obstructive "low level" bicycle trail bridges failed and were heavily damaged and eroded during the peak discharge flows of the 1995 flood. All five (5) of the obstructive "low level" bicycle trail bridges were repaired and replaced in 1998 (using federal FEMA funding) in the identical same locations and elevations as was the original obstructive "low level" bridge structures.

The forgoing statements and facts relating to the incremental cumulative impacts are verified and supported by a study prepared especially for the City of Roseville by the United States Army Corps of Engineers, entitled: FLOOD PLAIN INFORMATION, DRY CREEK AND TRIBUTARIES, ROSEVILLE, CALIFORNIA, DATED, MAY 1973.

The hydrology analysis of these projects has been assessed on the basis of a "multiple choice" of hydrology studies, some of which have been fraudulently applied to achieve the purpose intended, especially on the Zisk twelve (12) acre parcel located at 205 Thomas Street.

The first and most accurate hydrology study was performed for the City of Roseville by the Sacramento Branch of Corps of Engineers in 1973. The peak discharge flows for a one hundred (100) year event on Zisk property were calculated to be 7,300 cfs.

A second hydrology study was performed by Gill & Pulver in 1983 for FEMA for flood insurance purposes. The peak discharge flows for a 100 year event on Zisk property were calculated to remain approximately the same at 7,300 cfs.

A third hydrology study was performed for the City of Roseville by Nolte and Associates in 1984. The peak discharge flows for a 100 year event on Zisk property were calculated by Nolte to be 16,140 cfs, fraudulently raising the 100 year flood elevations by approximately 5 feet on the Zisk property.

A fourth hydrology study was performed by Montgomery for Placer County in 1992. The peak discharge flows for a 100 year event on the Zisk property was calculated to be 10,360.

Currently, the City of Roseville is utilizing a Swanson Hydrology Study which does not appear to calculate peak discharge flows for a 100 year event but rather simply states that the current proposed project will not change the water surface elevations on Dry Creek. The same

Swanson Study also states that the planting of thousands of trees in the "floodway" of Dry Creek will not effect the "n" factor, backwater or water surface elevations!!

It does not take a rocket scientist to determine that the placement of thousands of trees in the "floodway", coupled with the placement of gabion structures, boulder revetments, weirs, concrete walls and sewer lines, narrowing the "floodway" width and raising the bottom of the streambeds, as well as the increases in peak discharge flows from 7,300 cfs to 16,140 cfs will obviously result in environmental consequences and significant "cumulative impacts", as well as significant impacts on human beings, either directly or indirectly.

The foregoing verified statement of the history of the property of William J. Zisk and Lois E. Zisk, 205 Thomas Street, Roseville, CA 95678 is by no means adequate and complete. It is only the tip of the iceberg.

The City of Roseville, as lead agency, in preparing this environmental document has an absolute conflict of interest in completing the preparation of CEQA/NEPA requirements.

The City of Roseville, as lead agency, is utilizing federal and state financial assistance and grants to cover-up and conceal the prior thirty (30) years of extended ongoing willful and reckless disregard for health and safety; the conspiracy to violate and violations of civil rights; deprivation of the constitutional requirements of equal treatment and application of the law; damages in inverse condemnation; negligence; intentional tortuous conduct; personal injury and property damage; intentional infliction of emotional distress; constructive fraud; search and seizure; invasion of privacy; malicious prosecution; discrimination; duress and obstruction of justice that has been incurred on the 12.2 acre Zisk parcel as a result of the Zisk familys' simple request to pursue the "American Dream" to build the home of our dreams on "OUR" privately owned property, located within the quiet, peaceful, passive surroundings adjacent to Dry Creek. The quiet peaceful passive surroundings were the result of the Zisk familys' seven (7) year reclamation project "so long ago" as well as the blood and sweat and financial burdens the Zisk family endured to achieve their goals. The DEIR remains silent on all of these issues and significant impacts.

The City of Roseville, as lead agency in the preparation of the DEIR remains silent on the issue of the history of the Citys' attempts to reposition the physical boundaries between the Zisk Property and the former Taylor property and the Citys' ownership uncertainties that exist at that location. (Parcel No. 013-040-003 and 013-040-004)

The photographic mapping used in the DEIR to illustrate a proposed alignment of a proposed bike trail on the north side of Dry Creek does not depict an accurate current topography of the centerline of Dry Creek and the adjacent land conditions as they currently exist in relation to a proposed bike trail alignment (Parcel(s) No.(s) 013-040-003 and 013-040-005).

The City of Roseville, as lead agency in the preparation of the DEIR remains silent as to the presence and existence of the historical natural drainage swale that originates at Atlantic Street and the Enwood District, travels through the Zisk property and exits into Dry Creek (Parcel(s) No.(s) 013-040-003, 013-040-004 and 013-040-005).

The City of Roseville, as lead agency in the preparation of the DEIR remains silent as to the presence and existence of the Zisk family historical, established water rights, both domestic and riparian on Assessors Parcels Numbers 013-040-003, 013-040-004 and 013-040-005.

The City of Roseville, as lead agency in the preparation of the DEIR remains silent as to a proposed bicycle trail alignment on the north side of Dry Creek at the west end of Parcel No. 013-040-005 and 013-040-004 that would require cutting, grading and filling of the steep embankment adjacent to the narrow section of Dry Creek at that location that has protected the Zisk property from hazards of flooding since 1966. The opposite bank of this narrow section of Dry Creek has already had the placement of over six hundred (600) yards of rip-rap placed into the channel of Dry Creek by Roberta Bechtel of 318 Maciel Drive, forming a wing dam and diverting floodwaters and currently eroding the north bank. At this same location, at the top of the north bank of Dry Creek, a proposed bike trail alignment would meet directly with a large oak tree and a large growth of elderberry bushes which provides habitat and nourishment for the protected and endangered elderberry beetle.

The City of Roseville, as lead agency in the preparation of the DEIR remains silent in desperation to attempt to overcome and conceal the thirty (30) years of conspiracy and tortuous conduct as described above, by falsely claiming ownership of assessors parcels 013-040-003 and 013-040-005 of the Zisk property. By taking this position in the DEIR the city is purposefully concealing the CEQA/NEPA requirements to respond to the past, present and future "significant cumulative impacts" of a proposed alignment of a proposed bike trail on the north side of Dry Creek through the Zisk property. By taking this position the city is attempting to avoid the liabilities and responsibilities of invasion of privacy, vandalism, break-ins, thefts, trespass, property damage, noise, pollution, wildfires, and the complete destruction of the passive natural surroundings adjacent to Dry Creek that the Zisk family worked so hard to achieve so long ago. The ability of the city to maintain control of any potential trail users to stay within the confines of a proposed alignment on the north side of Dry Creek would be a near impossibility.

The only logical and feasible and safe alternative alignment is to continue from the recently completed alignment of phase one on the south side of Miners Ravine Creek and continue beneath the Harding Boulevard bridge to the south side of Dry Creek and continue on the south side of "city owned" property on through to Lincoln Estates Park, and if so desired continue on through on "city owned" property to Evelyn Avenue. I have personally walked the portion of "city owned" property from Evelyn Avenue to Harding Boulevard on the south side of Dry Creek on several occasions and found that a narrow pathway currently exists in that area that is currently being used by both bicycles and pedestrians and is perfectly adaptable to expansion and use.

As to the history of the Zisk property and assessors parcels number 013-040-003, 013-040-004, and 013-040-005, I believe that a full scale and thorough state and federal investigation is necessary to resolve this matter.

Respectfully submitted,

William J. Zisk

I, William J. Zisk, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verified statement was executed on April 19, 2004 at Roseville, California

William J. Zisk

VERIFICATION

I, William J. Zisk, am the spouse of the deceased Lois E. Zisk in the above captioned matter. I have read the foregoing RESPONSE TO DRAFT ENVIRONMENTAL IMPACT REPORT FOR HARDING BOULEVARD TO ROYER PARK BIKEWAY PROJECT DATED FEBRUARY 2004, and am familiar with its content. The matters stated herein based on personal knowledge and information are true and correct. If called to testify as a witness in this matter I can competently testify as to matters of fact.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

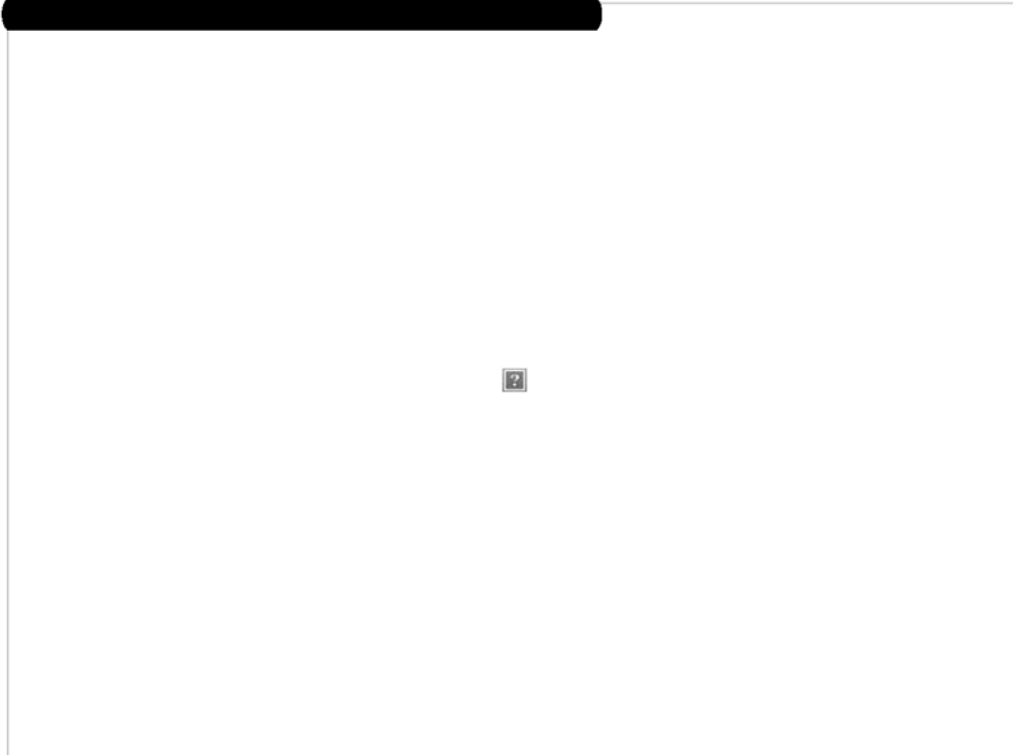
Executed this April 19, 2004 at Roseville, California 95678

William J. Zisk
205 Thomas Street
Roseville, California 95678
Telephone: (916) 782-2233

From: John Zisk
To: [Morse, Mark](#)
Cc: john@ziskproperty.com
Subject: Comments/Responses to East - Draft EIR
Date: Sunday, May 27, 2018 5:17:00 PM

Click on Photo for basic initial understanding

Under Construction 



Please Email: 

Also.. 

Questions Presented for Review

**Refer
to:**

1. Whether the City of Roseville, et al, has conspired to deny the Zisk family a valid qualified building permit to construct a new home on their passive residential zoned private property "**after**" the Zisk family had completed "**ALL**" of the prerequisite requirements as set forth in the use permit application submitted to the City of Roseville Planning Commission on February 23, 1967.

see Reference : February 23, 1967 planning commission meeting minutes and Brief - 1, Brief - 2, Brief - 3.

Brief - 1
Brief - 2
Brief - 3

2. Whether the City of Roseville has any valid claim of ownership to any portion of Placer County assessors parcels Number 013-040-003, 013-040-004, and 013-040-005, of the Zisk family private property commonly known as 205 Thomas Street, Roseville, California 95678, with the unlawful institution of an action in eminent domain, Placer County Superior Court Number 41104, City of Roseville versus William J. Zisk and Lois E. Zisk, dated December 20, 1973, without a public necessity, without a public project, without an appraisal of the Zisk property, without any negotiations, without any offer of just compensation, without prior notice of a public hearing, without the availability of budgeted public funds for acquisition, without any environmental assessment to the impacts to the Zisk family private property, without acquisition of any adjoining property upstream or downstream of the Zisk family private property, without compliance to California Environmental Quality Act (CEQA) and without compliance to California Government Code 7267.1 et seq., and **"over thirty-two (32) years prior to any proposed public use of Zisk family private property."**
see COMPLAINT IN EMINENT DOMAIN (DATED DECEMBER 20, 1973), JUDGMENT IN CONDEMNATION (DATED MARCH 21, 1978), and FINAL ORDER OF CONDEMNATION (DATED APRIL 19, 1982)
3. Whether the Zisk family has been deprived of a constitutionally protectible private property interest by the City of Roseville, et al. for an improper motive and by means that were pretextual, arbitrary and capricious and without any rational basis and without substantive procedural due process, equal treatment, and just compensation. see Placer County Superior Court Number 41104, City of Roseville vs William J. Zisk and Lois E. Zisk dated December 20, 1973
4. Whether the City of Roseville et al conspired to take Zisk family private property for public use by fraudulent land use zoning and abusive eminent domain powers without procedural due process, equal treatment and just compensation.
5. Whether the Zisk family private property has been seized and searched without writ or warrant nor supported by probable cause.
6. Whether City of Roseville former city attorney Keith Sparks has deprived the Zisk family impartial procedural due process, equal treatment and just compensation while acting in triple capacity - first as Roseville city attorney in denial of Zisk family qualified application for a residential building permit on February 23, 1967 - secondly, as Placer County state superior court judge presiding over City of Roseville abusive eminent domain proceedings applied to Zisk family private property on December 20, 1973 - thirdly, as justice of California State Court of Appeals personally deciding related actions.
7. Whether lower Placer County state court judges Roder, Garbolino and Cousins, deemed disqualified as matter of law has jurisdiction to deprive the Zisk family of procedural due process, just compensation and equal treatment with **summary dismissal** of the Zisk family verified civil complaint, Placer County Superior Court Number S 1495 filed on October 16, 1991. (involves court documents being whited out with altered date replacements)
8. Whether Federal District Court Chief Judge William B. Shubb, with daughter employed as attorney in City of Roseville counsels' law firm, violated the mandates of Title 28 U.S.C.A. § 455(a) (b)(1)(5)(ii)(iii) and exceeded jurisdiction with **summary dismissal** of Zisk Family verified amended civil complaint (DC # CV-95-02134-GEB/GGH) **"prior to his recusal"**. see Brief - 1, Brief - 2, Brief - 3
9. Whether Federal District Court Chief Judge William B. Shubb refusal to enter default in DC # CV-95-02134-GEB/GGH for City of Roseville failure to plead or otherwise respond to Zisk family verified complaint **"within required time period"** denied Zisk family equal treatment and due process opportunity to be heard. see declaration of

Brief - 1
Brief - 2
Brief - 3
Objections
Protest
Nov. 28,
2005

Brief - 1
Brief - 2
Brief - 3

Brief - 1
Brief - 2
Brief - 3

Brief - 1
Brief - 2
Brief - 3

Brief - 1
Brief - 2
Brief - 3

Brief - 1
Brief - 2
Brief - 3

Brief - 1
Brief - 2
Brief - 3

Brief - 1
Brief - 2
Brief - 3

William J. Zisk and Lois E. Zisk dated April 18, 1997 in Brief - 1 pages 37 to 40

10. Whether William J. Zisk and Lois E. Zisk have been deprived of a due process hearing before the Supreme Court of the United States by the suspect **removal and/or deletion** of the Supreme Court ordered docket entry of "June 30, 1999 DISTRIBUTED September 27, 1999" in Supreme Court Case Number 98101310 CFX, Petition for Writ of Certiorari, entitled William J. Zisk and Lois E. Zisk versus City of Roseville, et al, filed February 16, 1999.

[Supreme Court Docket Orders Feb. 16, 1999](#)

11. Whether the Zisk family has been deprived of the constitutional requirement of due process, equal treatment and just compensation in reference to the suspect death of Lois E. Zisk on November 22, 2000 and the additional suspect death of William J. Zisk Jr. that followed on February 17, 2002. [see Claim for Damages DATED March 1, 2001](#)

[Brief - 1](#)
[Brief - 2](#)
[Brief - 3](#)

12. Whether the Zisk family objections and protest to City of Roseville's proposed certification of an environmental impact report for a "proposed" Harding Boulevard to Royer Park Bike Trail through the middle of the Zisk family 12.2 acre parcel were given due process consideration and response based upon factual merits. DATED July 7, 2004

[Objections Protest July 7, 2004](#)

13. Whether the Zisk family objections / protest to: City of Roseville 2005/06 congestion mitigation & air quality (CMAC) project "federal grant funding application" for the proposed Harding Boulevard to Royer Park bike trail were given due process consideration based upon factual merits. DATED November 28, 2005

[Objections Protest Nov. 28, 2005](#)

References

[February 23, 1967](#) ^{743KB}

[planning commission meeting minutes](#)

[Zisk Family application for a residential building permit and lot split February 23, 1967.](#)

[March 1967](#) ^{9.20MB}

[City of Roseville Park and Streambed Plan DATED MARCH 1967](#)

[March 20, 1968](#)

[CITY OF ROSEVILLE RESOLUTION NO. 68-21 RESOLUTION ADOPTING A PARK, STREAMBED AND RECREATION ELEMENT OF THE GENERAL PLAN OF THE CITY OF ROSEVILLE DATED MARCH 20, 1968.](#)

[December 8, 1971](#)

[City of Roseville ORDINANCE NO. 1158 AN INTERIM ORDINANCE PROHIBITING CONSTRUCTION UPON OR GRADING OF PROPERTY WITHIN CERTAIN AREAS SUBJECT TO FLOODING ADJACENT TO DRY, LINDA, CIRBY AND ANTELOPE CREEKS AND STRAP RAVINE. UNLESS A PERMIT HAS BEEN ISSUED, DECLARING THE URGENCY THEREOF AND THAT THIS ORDINANCES SHALL TAKE IMMEDIATE EFFECT, AND REPEALING ORDINANCE NO. 1157 - DATED DECEMBER 8, 1971](#)

[March 3, 1972](#)

[City of Roseville Grading Permit WITHIN AND ADJACENT TO DRY CREEK ISSUED TO BILL ZISK, PURSUANT TO ORDINANCE NO. 1158 - DATED MARCH 3, 1972](#)

[March 23, 1972](#)

[Fence Permit](#)

June 1, 1973

City of Roseville required Environmental Impact Statement for Bill Zisk Residence 205 Thomas Street PREPARED BY ATTEBERRY AND ASSOCIATES - DATED JUNE 1, 1973.

June 8, 1973

City of Roseville grading permit renewal re-issued by public works director, Frederick L. Barnett in order to complete the February 23, 1967 planning commission use permit requirements to construct the Zisk single family residence at 205 Thomas Street DATED JUNE 8, 1973

June 19, 1973

Architectural & Environmental impact review advisory committee review of Zisk residence request and parcel map at 205 Thomas Street - DATED JUNE 19, 1973.

June 20, 1973

RESOLUTION NO. 73-56 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSEVILLE ADOPTING AN OPEN-SPACE AND CONSERVATION ELEMENT OF THE CITY OF ROSEVILLE GENERAL PLAN - DATED JUNE 20, 1973.

July 13, 1973

Letter from George C. Weddell, chief engineer of the Sacramento district of the corps of engineers commenting on the draft environmental impact report for the Bill Zisk residence in Roseville - DATED JULY 13, 1973.

July 24, 1973

Letter from Leo S. Cespedes, planning director of the City of Roseville to Mr. Rex Bronson, Sacramento District Corps of Engineers notifying a withholding of the Bill Zisk parcel map and requesting a special study by the corps of engineers regarding the Bill Zisk single family residence at 205 Thomas Street - DATED JULY 24, 1973.

August 17, 1973

Notice of hearing set for September 13, 1973 before the Planning Commission of the City of Roseville for the purpose of considering the application of Bill and Lois Zisk to construct a single family residence at 205 Thomas Street - DATED AUGUST 17, 1973.

August 23, 1973

Letter approved by City Manager Robert Hutchison to Roseville City Council regarding review of Dry Creek streambed policies - DATED AUGUST 23, 1973.

August 29, 1973

Director of parks & recreation Ed O. Mahaney memo to Roseville City Council regarding adoption of "TENATIVE" plan for "TENATIVE" trail system on Dry Creek streambed northerly from Royer Park - DATED AUGUST 29, 1973.

August 31, 1973

Letter from City of Roseville public works director Frederick L. Barnett to Mr. Rex Bronson, chief, flood plain management, Sacramento District Corps of Engineers - RE: Flood Plain Information - Roseville area - with city public works department transposed information onto OUTDATED "1956" aerial topographic photo mapping indicating the

areas of flooding for a 50 and 100 year flood event - DATED AUGUST 31, 1973.

September 5, 1973

Memorandum from the City of Roseville public works director Frederick L. Barnett to the city planning director regarding the public works department falsified cross-section of the incomplete Zisk stream channel improvement project results which were by no means final, showing a steep rise in water surface, rather than a decrease as indicated by the Bill Zisk environmental impact report prepared by Atteberry and Associates, - DATED SEPTEMBER 5, 1973.

September 7, 1973

Letter from Roseville city manager Robert G. Hutchison to Mr. Bill Zisk concerning Zisk property along Dry Creek off Thomas Street notifying officially of the city council's intention to acquire a strip of land along Dry Creek for a "FUTURE" bicycle and pedestrian trail along the creek and the possibility that the city's plans may be in conflict with Zisk development plans in the same area - DATED SEPTEMBER 7, 1973.

September 10, 1973

Memo from City of Roseville planning director, Leo Cespedes to the Roseville planning commission regarding the February 23, 1967 Bill Zisk use permit - parcel map application at 205 Thomas Street and recommending denial of the use permit and parcel map as proposed because of conflict with bicycle and pedestrian trail - DATED SEPTEMBER 10, 1973.

September 13, 1973

Roseville planning commission meeting agenda for Thursday September 13, 1973 at 8:00 P.M. in the council chambers of the city hall with agenda item 5(c) use permit - Wm. Zisk, single family dwelling in R-1 FP zone 205 Thomas Street - DATED SEPTEMBER 13, 1973.

September 13, 1973

City of Roseville planning commission meeting minutes of September 13, 1973 "DENYING" the Zisk family February 23, 1967 application for a parcel map and use permit to construct a single family residence at 205 Thomas Street, since plan is in conflict with bicycle and pedestrian trail and Corps of Engineers report is needed to determine if property is in flood plain as to whether this is proper building site - DATED SEPTEMBER 13, 1973.

September 14, 1973

Letter of "Notice of Appeal" from Atteberry and Associates, civil engineers-land surveyors, 1804 Tanglewood Lane, Roseville, California 95678 to Roseville city council appealing the action and findings of the Roseville planning commission denial of the application of Bill and Lois Zisk for a use permit to construct a home adjacent to Dry Creek at the end of Thomas Street - DATED SEPTEMBER 14, 1973.

September 26, 1973

Letter from Myron McAntyre, an adjacent land owner along Dry Creek to George Buljan, Mayor of the City of Roseville in support of the notice of appeal of the denial of the Bill Zisk application to build a home on his land beside the creek - DATED SEPTEMBER 26, 1973.

September 27, 1973 & September 22, 1972

1972 - 1973 Article in Sacramento Bee "PUBLIC INTEREST V. PRIVATE PROPERTY" RE COURT CASES Kloppe v. City of Whittier - Dated September 22, 1972 Selby v. City of Buena Vista - DATED SEPTEMBER 27, 1973.

September 28, 1973

Letter from attorney J. Lloyd Hinkelman, Kronick, Moskowitz, Tiedemann & Girard, 555 Capitol Mall, Suite 855, Sacramento, California 95814 to Mr. and Mrs. William Zisk, 205 Thomas Street Roseville, California, in reference to a letter dated September 12, 1973 from George C. Weddell, Chief, Engineering Division of the Corps of Engineers to Fred Barnett, Director of Public Works for the City of Roseville noting a correction of the water surface elevation for the intermediate flood at station 82.00, based upon the city's erroneous cross-section profiles sent to the Corps of Engineers - DATED SEPTEMBER 28, 1973.

October 2, 1981

Article in Roseville Press Tribune entitled: "CREEKBED BIKE PATHS HINGE ON RIDER SAFETY" - DATED OCTOBER 2, 1981.

October 3, 1973

Roseville City Council upholding the planning commission September 13, 1973 "DENIAL" of the Zisk family February 23, 1967 application for a parcel map and use permit to construct a single family residence at 205 Thomas Street since plan is in conflict with city's "FUTURE PROPOSED" bicycle and pedestrian trail. Public works director, Fred Barnett pointed out that latest calculations from the Corps of Engineers determined the Zisk house site would be above the 100 year flood plain - DATED OCTOBER 3, 1973.

October 8, 1973

Special meeting of the Roseville Parks and Recreation Commission meeting minutes for October 8, 1973 with recommendation to city council that the city acquire property area along Dry Creek from Royer Park to East Street for a future bike trail. - DATED OCTOBER 8, 1973.

October 31, 1973

Legal description of the Bill Zisk Parcel Map and lot split as submitted to the city by Zisk engineer, W.G. Atteberry of Atteberry and Associates, 1807 Tanglewood Lane, Roseville, California - DATED OCTOBER 31, 1973.

November 28, 1973 (A)

Re: - Roseville City Council adoption of floodplain ORDINANCE NO. 1224 - AN ORDINANCE AMENDING SECTION 2.02; REPEALING AND REENACTING ARTICLE 23 OF ORDINANCE 802, THE ZONING ORDINANCE OF THE CITY OF ROSEVILLE, RELATIVE TO THE ENACTMENT OF REGULATIONS OF LAND USES WITHIN FLOOD PRONE AREAS - to take effect in 30 days (December 28, 1973) or 8 days "AFTER" the city filed eminent domain proceedings (Placer Sup. CT. No 41104) on Zisk family private property - the ordinance was falsely applied to outdated "1956" city topo graphic maps that did not reflect the current seven (7) year reclamation project on Zisk property, which increased the floodway channel carrying capacity by 200% - DATED November 28, 1973.

November 28, 1973 (B)

Re: - Roseville City Council adoption of zoning ORDINANCE NO. 1227 - AN

ORDINANCE ADDING SUBSECTIONS 161 AND 162 TO SECTIONS 3.01A OF ARTICLE 3 OF ORDINANCE 802, THE ZONING ORDINANCE OF THE CITY OF ROSEVILLE, ZONING CERTAIN PROPERTY IN AND ALONG DRY, LINDA, CIRBY, AND ANTELOPE CREEKS AS WITHIN THE FW (FLOODWAY FRINGE) COMBINING ZONES - the "Official floodplain maps" of city of roseville "FALSELY" included the majority of the Zisk property which had been determined to be above the 100 year floodplain by both the U.S. Army Corps of Engineers and the Public Works Director of the City of Roseville Fredrick L. Barnett - DATED November 28, 1973.

December 19, 1973

Roseville City Council Resolution No. 73-122 - Resolution of public necessity and convenience for condemnation of real property for public park and bicycle path purposes - DATED DECEMBER 19, 1973.

December 20, 1973

COMPLAINT IN EMINENT DOMAIN, Placer County Superior Court Number 41104, City of Roseville vs. William J. Zisk and Lois E. Zisk, dated December 20, 1973.

October 23, 1974

Letter from George C. Weddell, Chief, Engineering Division, Department of Army, Sacramento District, Corps of Engineers to Kenneth M. James, Assistant City engineer, City of Roseville in response to a request for a flood hazard evaluation for a proposed subdivision site located adjacent to Coloma Way and Oakridge Drive - DATED October 23, 1974.

June 15, 1977

Roseville City Council Resolution No. 77-54 - Resolution of the council of the city of roseville adopting the roseville general plan and "REPEALING FORMER GENERAL PLANS AND PLAN ELEMENTS" - Resolution 68-21 park, streambed and recreation element and resolution 73-56, open-space and conservation element were the basis for instituting the action in condemnation of the Zisk private property in the first instance and was "REPEALED" four and a half (4 1/2) months "PRIOR" to commencement of the eminent domain proceeding on November 1, 1977 and concluded on December 15, 1977 - DATED June 15, 1977.

Sept 1977 8.71MB

CLERKS TRANSCRIPTS ON APPEAL
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA IN AND FOR THE THIRD APPELLATE DISTRICT - CITY OF ROSEVILLE et al Plaintiffs, Respondents and Cross-Appellants vs WILLIAM ZISK AND LOIS ZISK et al Defendants, Appellants and Cross-Respondents - CLERKS TRANSCRIPTS ON APPEAL - APPEAL FROM THE JUDGEMENT OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF PLACER KEITH E. SPARKS, JUDGE - DATED September 1977.

March 21, 1978

Complaint in Eminent Domain, Placer County Superior Court Number 41104, City of Roseville vs. William J. Zisk and Lois E. Zisk, JUDGMENT IN CONDEMNATION, dated March 21, 1978.

April 19, 1982

Complaint in Eminent Domain, Placer County Superior Court Number 41104, City of Roseville vs. William J. Zisk and Lois E. Zisk, FINAL ORDER OF CONDEMNATION, dated April 19, 1982.

April 25, 1984

PACIFIC LEGAL FOUNDATION Letter to William J. Zisk regarding City of Roseville "Denial" of February 23, 1967 Zisk application for a building permit, DUE TO CITY OF ROSEVILLE "PROPOSED TENTATIVE PLAN" FOR A BICYCLE TRAIL THROUGH MIDDLE OF ZISK PROPERTY - DATED April 25, 1984.

September 1986

NOLTE and ASSOCIATES Engineers/Planners/Surveyors ROSEVILLE HYDROLOGY STUDY PREPARED FOR CITY OF ROSEVILLE CALIFORNIA - DATED September 1986.

United States Supreme Court Briefs

February 10, 1999

Brief - 1 PETITION FOR WRIT OF CERTIORARI - February 10, 1999

March 26, 1999

Brief - 2 REPLY TO BRIEF IN OPPOSITION - March 26, 1999

June 11, 1999

Brief - 3 PETITION FOR REHEARING - June 11, 1999

February, 1999

UNITED STATES SUPREME COURT DOCKET ORDERS - February 16, 1999

July 1, 1999 Docket

PROCEEDINGS AND ORDERS DATE: [07/01/99]

~~~~~DATE~~~~~PROCEEDINGS & ORDERS~~~~~

May 5 1999 Application (A98-913) granted by Justice O'Connor extending the time to file until June 13, 1999.

Jun 14 1999 Petition for rehearing filed.

Jun 30 1999 DISTRIBUTED. September 27, 1999

August 3, 1999 Docket

PROCEEDINGS AND ORDERS DATE: [08/03/99]

~~~~~DATE~~~~~PROCEEDINGS & ORDERS~~~~~

May 5 1999 Application (A98-913) granted by Justice O'Connor
extending the time to file until June 13, 1999.

Jun 14 1999 Petition for rehearing filed.

Jul 9 1999 REDISTRIBUTED. *****

March 1, 2001

CLAIM FOR DAMAGES - March 1, 2001

To the City Council of the City of Roseville, CA.

Claim of WILLIAM J. ZISK, JOHN W. ZISK, WILLIAM J. ZISK JR., KYLE M. ZISK, AND RYAN
R. ZISK vs. CITY OF ROSEVILLE; CITY COUNCIL MEMBERS; CITY COMMISSION
MEMBERS; CITY EMPLOYEES AND AGENTS

February 2004

Response to City of Roseville draft environmental impact report for the proposed Harding
Boulevard to Royer Park Bikeway project DATED - February 2004.

July 7, 2004

Objection/Protest to City of Roseville.

Certification of EIR for Proposed Harding Blvd to Royer Park Bike Trail

through middle of Zisk family passive 12.2 acre parcels DATED - JULY 7, 2004.

November 28, 2005

Objection/Protest to City of Roseville applications for state and federal grant funding for
the proposed Harding Boulevard to Royer Park Bike Trail through middle of Zisk family
property DATED - November 28, 2005.

From: John Zisk
To: Morse, Mark
Cc: [REDACTED]
Subject: Comments/Responses to East - Draft EIR
Date: Sunday, May 27, 2018 4:19:14 PM

On the email below, Carl Walker did not respond nor did any of my questions get answered. I also have 100 more questions. The 12 basic questions answered would be a good start. Just Simple Answers will do.

From: John Zisk [REDACTED]
Sent: Monday, July 20, 2009 2:25 AM
To: 'cwalker@rooseville.ca.us'
Cc: 'Bayless, Brita'; 'Jensen, Rob'; 'slumsden@rooseville.ca.us'; 'Dour, Mike'; 'Robinson, Craig'; 'Payne, Kevin'; 'mblair@rooseville.ca.us'
Subject: Harding Boulevard to Royer Park Bikeway Project

July 18, 2009

Subject: Harding Boulevard to Royer Park Bikeway Project

Carl Walker:

I received your letter today, 4 days after the postmarked date of July 14, 2009. Please note that the address to which you sent the letter is incorrect and revise your records per my contact information below. Your letter to me contains notification of preconstruction and construction activities related to bike trail improvements along Dry Creek, and I see it has also been sent to several city officials. By the date of your letter, this work apparently began prior to my receipt of the notification, which I do not at all appreciate. Notifying me after construction activities have commenced is not notifying me.

I would like to have been apprised in a timely manner rather than subjected to what appears as procedural gamesmanship. I ask you to please clarify several points. Are these construction activities the same activities that were said to have commenced 36 years ago? The same activities set in motion by an improper and illegal abuse of eminent domain powers? There is no bike trail on my property nor has there ever been one, so I am exceedingly curious as to when this project actually began?

I would like to clarify my own position as owner of the property. It is not appropriate for you to give notification of work and assume you have the right to pass through my property. I have not, nor do I grant you this permission. You also do not have my permission to remove my 100 year old fence, which has been in place since my family purchased this property in 1966. This fence has existed as the de facto property line for all prior owners and neighbors. It is quite clear the Taylors, who own property adjacent to mine, never owned the land on my side of the fence. Prescriptive easement law applies regarding this fenced boundary as well. To state it as plainly as possible: You do not have my permission to remove any other fences bordering my property. To do this, you must provide me with a court order. My property is fenced, posted, and has been through most of my life. You do not have my permission to pass.

You do not have my permission to build any fences, which modify existing property lines. The city has not gone through any legal process with me to redefine boundaries or to overturn the existing prescriptive easements on property use. It is I and my family who have been maintaining this property for the past 43 years. You do not have the right to trespass and build randomly placed borders which prohibit my access to all my property. What sets our American democracy apart in the world is that we are a society of laws, yet I do not believe the City of Roseville has exercised due process with regard to my property. Instead, it appears that whatever is convenient for the city is what happens, regardless of the harm it may do to the individual citizen in the way. This is not just or fair, and I appeal to you to follow the law you are sworn to uphold, even if it is not convenient. Please protect my private property rights and listen to my words as a property owner: You do not have my permission to pass and I grant you no agreement regarding passage or use of my property. My property has always been well posted as private property. A previous city attorney has already acknowledged my family's ownership and even asked us what we are going to do with our property. As I mentioned, my family and I have maintained possession of this property from 1966 to the present date. This was established when you, Rob Jensen, and Craig Robinson met with me on my property. You, Craig, and Rob did not disagree with this fact.

Since 1966, 43 years has passed. The city has not set foot on this property. I have kept all trespassers from entering. But there has also been no due process for 43 years; only a pervading conflict of interest on the part of the city, and endless legal battles over technicalities. Does the city really wish to continue these methods, forcing me into court as they did my father before me? We all know law too well, and it has not yielded any understanding and fairness thus far. Instead, the situation has become criminal and justice is needed.

Judges would tell my father, privately in their chambers that although my father was correct; they would not go by the law book. Instead they would go by their own personal law... because it was their courtroom. The judges would then proceed to award the city what they wanted. I believe this is not the way justice should occur. I believe there is a need for an unbiased and detailed investigation into the how the city conducted the eminent domain process regarding my property. It is time for understanding and fairness. I believe the public should know the truth about what occurred throughout my life including all that follows.

Long ago I asked you for all information in reference to the city's interest in my property including all legal actions, grants, flood levels, and public information. You said okay to this request, but I have never received any documentation or letters or communications from you, other than this after-the-fact notification today. I am confused. I ask you to please do what you promised. My address is well known. Why send a letter to the wrong address? I would have thought it a secretarial error, if this had not been done to my father so many times. The only time my father would receive city council agendas was when there was not an issue related to his property on the agenda. I have had this same experience, as have many others who have dealt with the city. You should know the reputation the city is developing.

My father had integrity and honor. He was an honest man. He tried to keep up with the devious tactics, always trying to correct the twisted spin on the truth. But this game playing is a waste of time. We both know the truth and so does the city. You and the city know there are hundreds of illegal issues beyond the understanding of

most. I can prove the truth of what has happened to the right authorities if necessary, and hope you are not a party to these activities. As you looked into my eyes, I hoped your handshake held sincerity. Mine did.

Mike Dour forwarded me some internal departmental communications, forwarded throughout the city, about 2 weeks ago. These were filled with lies, misstatements, and omissions. Communicating in partial truths to convince is the same as lying. I offered to discuss this, but the city has not been willing to discuss. The city knew certain items should have not been on the agendas. To make sure you are correctly informed, I can forward you these communications along with others. Please let me know if you want to know the truth. I believe you should know the whole truth before you or others attempt to trespass on my property. I know this is a hard choice for you must decide to either stand behind the city with your job, or provide the whole truth without strategic omission of pertinent facts. I have found people who will support me. Although the city resists giving public information, this can be easily exposed. I have a lot of public support on this.

Powerful people had told my father he would own this city someday. I am beginning to believe this is true. I know the city cannot prove ownership of my property, and have the entire paper trail to prove this. The city has not followed laws, procedures, and orders. I have consulted with large law firms, and they have informed me that I own the property on which the city intends to construct a bike trail. They have said it is a ridiculous notion for the city to proceed.

I have come to you in good faith, looking for clarity. I have asked for simple questions to be answered. My questions referring to ownership have not been answered. I have hundreds of maps from the turn of the century, as well as nearly every newspaper, with videos, thousands of photos, and hundreds of letters all pertaining to my property's title. To illustrate a small portion of the paper trail, please visit RosevillePolitics.com and ConnecticutFraud.com. Please answer the 12 simple questions the city has refused to confront:

1. WHAT IS(ARE) THE EXACT DATE(S) OF PURPORTED ACQUISITION?
2. WHAT IS(ARE) THE EXACT APPRAISED VALUE OF EACH OF THE PURPORTED ACQUISITION(S)?
3. WHAT IS THE ZONING AND LAND USE DESIGNATION OF EACH OF THE PURPORTED ACQUISITION(S) ON THE DATE(S) OF PURPORTED ACQUISITION(S)?
4. WHAT IS THE EXACT DATE(S) OF NEGOTIATIONS FOR THE PURPORTED ACQUISITION(S)?
5. WHAT IS(WAS) THE EXACT REASON(S) OR PURPOSE(S) THAT REQUIRED THE PURPORTED ACQUISITION(S),
6. WHAT IS(WAS) THE SPECIFIC PROJECT(S) THAT REQUIRED THE PURPORTED ACQUISITION?
7. WHAT IS(WAS) THE SPECIFIC PUBLIC NECESSITY THAT REQUIRED THE

PURPORTED ACQUISITION(S)?

8. WHAT WAS THE EXACT DATE(S) IN WHICH THE PAYMENT OF THE TOTAL SUM OF THE ACQUISITION(S) WAS PURPORTEDLY PAID TO WILLIAM J. ZISK AND LOIS E. ZISK?

8.1 WHAT PAPER EVIDENCE EXISTS TO PROVE THIS SUM WAS PAID OUT BY THE CITY OF ROSEVILLE AND THAT THIS SUM WAS RECEIVED AND CASHED BY WILLIAM J. ZISK AND LOIS E. ZISK?

9. WHAT WAS THE EXACT DATE(S) IN WHICH THE CITY PURPORTEDLY TOOK POSSESSION OF THE PURPORTED ACQUISITION(S)?

10. THE EXACT DATE(S) IN WHICH THE CITY FULFILLED THE CEQA REQUIREMENT FOR THE PURPORTED ACQUISITION(S)?

11. THE EXACT DATE(S) IN WHICH THE CITY PROVIDED A PUBLIC HEARING FOR THE BENEFIT OF WILLIAM J. ZISK AND LOIS E. ZISK REGARDING THE PURPORTED PUBLIC NECESSITY FOR THE PURPORTED ACQUISITION(S)?

12. THE EXACT DATE(S) IN WHICH THE CITY ACQUIRED ANY AND ALL ADJOINING PARCEL(S), INCLUDING EXACT TOTAL ACREAGE, TOTAL APPRAISAL VALUE, AND TOTAL ACQUISITION PRICE, THE PURPOSE OR PUBLIC NECESSITY OF THE ACQUISITION(S), THE DESIGNATED ZONING AND LAND USE FOR EACH PARCEL, AND THE DATE(S) IN WHICH THE CITY TOOK POSSESSION.

None of these questions have been answered. Don't you want to know that the answers to these questions exist? Any city worth its salt should be able to put its hands on the documentation necessary to answer these questions before abridging a citizen's property rights. I should think this was a matter of pride for you. Shouldn't it be a city official's job to be able to provide these answers and, if they cannot, are these officials competent to hold these positions? Aren't public servants supposed to serve and protect the public? Don't the taxpayers pay their salaries?

There are also other questions. Should the city attorney preside over our case as a superior court judge when he was previously involved as city attorney? The option to recuse oneself is there for a very good reason. Should the same attorney do it again at the appellate level? Should the city hire the judge's daughter's law firm and then have the judge refuse to let another justice decide? Shouldn't the city allow a public meeting before finalizing condemnation? Why didn't they? Should a judgment stand when argued by an attorney who openly admitted to malpractice with the city attorney and officials, and who conspired to secretly stipulate in the plaintiff's judgment to wave all awarded litigation expenses? Three and a half years after the judgment, my father's attorney admitted to being on the city's payroll when he represented my father. Why would our attorney admit to this conspiracy and admit to malpractice? Why would the city secretly stipulate? Were there payoffs? Should the city require us to invest \$4 million of prerequisite work for 7 years (at current prices), condemn our R1 zoned property, and then lie in court to downzone our 2.73 acre, claiming it had a

value of \$225? Then insult by stating a total value of \$15k as to include another 4 acres? Then 36 years later state they own even more by rewriting deed numbers? Why does the current city council state they do not know why there was a condemnation attempt in 1973 when I asked them personally? If they don't know, then who does? Why is this information being hidden? Isn't this embarrassing for a person interested in integrity in city government? Why would we accept less than what was awarded in our judgment? Why would a huge developer attempt to bribe my father with a new vehicle to receive an interest in a valueless property? Why are council members appointed, then reelected with developer money? Why are the same committee members appointed by the same appointed council members? Why doesn't the council take the next highest vote recipient when there is an opening? Why would the city try to take our property for less than 2 cents on the dollar when a real estate agent was willing to give my family one million dollars for our property in 1973? Why did we spend 7 years improving and straightening the creek, per the city's direction and approval, increasing the flow capacity by 200% if they were going to condemn the property as a worthless flood plain? Why were 1954 maps submitted to FEMA for the Zisk property intentionally not showing any of the current topography and improvements up to 1973? Is this an example of fraud? Was it improper use of internal departments? Are these the methods that have been the basis of how each department will manipulate to get the answers they want? Why did the city give us permits to do the work if that was the general plan? Why couldn't we build our home? Why did "N" factors for water flow double overnight when the city wanted our property? Why did our case docket entries change in the United States Federal Supreme Court at about the same time 2 council members flew to Washington, D.C.?

When did the city take ownership of our land? When were there negotiations? When was there an appraisal? When were the funds acquired for a project that did not exist? When was the adjoining property acquired? 35 years later? I have a lot of why questions in reference to the Taylors' property which I will save for later. When was my property moved into the floodplain? Was it ever in the floodplain? Is it in the floodplain now? Is the flood plain designation by FEMA standards or City standards? Why did a council member come to our land in 1973, after we'd completed city prerequisites for construction of a single family residence, to tell us we did such a beautiful job improving the land that they were just going to have to take our property? Why in 1973, after completing the city's requirements and before the condemnation, would the Mayor, while having his favorite drink with my father, be bold enough to tell my father in his own living room that the city was going to take our property, take us into court, take all our litigation expenses, and drag it all out for years? Why would the Mayor want us to give the city our beautiful property where we were going to build our home after 7 years work and all our money? Did this have something to do with my grandfather Julius Brick Paolini, a Placer County Supervisor? Brown? Newsom? Reagan? Why are we harassed; cited for minor code infractions while others, with worse violations, are not cited? Why are neighbors and city workers allowed to block public roadways to my property? Why are neighbors allowed to remove my fencing? Why do neighbors above us develop without drainage plans? Why do crane operators, doing city work without proper permits or within legal easements, intentionally crush trees my family planted and raised along our fence? Are ordinances directed strictly to the Zisk's for a reason? Why is there selective enforcement of rules? Why does the city decide to route a bike trail through my

property when the McIntyre's had already donated property to the city for this purpose on the other side of the creek? Why are burglaries of our property not prosecuted or sentenced, even when the perpetrators are caught on film? These burglars have been allowed to keep \$30k-\$50k in stolen merchandise. Why are all our vehicles and the windows in our houses destroyed? Why did one of our houses mysteriously catch fire? Why are trespassers allowed to go through my mail, take my antiques, take my sprinklers, look in my windows, climb under my house, destroy my video system, without any consequence; even when I caught them on video doing all of this? Why are they caught and handcuffed by police, then back on my property 1 hour later? Why are trespassers allowed to take my pets and keep them? After catching the same criminals a dozen times, why doesn't the DA's office prosecute? Why are business records taken from our family without subpoenas or warrants? Why are police used to escort people illegally across my property?

Why do contractors show up at my house, park next to "no trespassing" signs, and tell me the city owns my property? Why do other contractors, the homeless, neighbors, police, and teenagers walk freely through my property? Why does the council encourage the public to continue doing this? Why is the current mayor's husband allowed to preside over my father's probate, using a handwritten copy of a small piece of paper as a will, while ignoring his formal will? Why would the current mayor's husband (as judge) not allow my father to speak at his own probate to his own property (3000 miles away, in Connecticut)? Why would the judge say my father owned nothing when his father died intestate placing him as an automatic inherient? Was he in conflict because he was sued by my father? By not allowing my father's will to be executed properly, the city's connections have affected my father's multi-million dollar estate in Connecticut?

Why does a lieutenant governor tell my father and me that judges make their decisions over card games he participates in? Why are court document dates changed with whiteout so thick it can be peeled off, revealing the correct date seen on reverse side? Was it to protect the judges in default? Why was only one piece of property (previously Hemphill, but currently Zisk) pursued through eminent domain in this town, and why was this property tied to the estimated multi-billion dollar water and electric franchise indicated on the original 1906 manuscript? Perhaps I own the water and/or the electric franchise for Roseville? Why do old books of record disappear 12 hours after we have located them? Why are pages torn out of these books, which refer to my property? Why do I have many of Roseville's original, 100 year old fire hydrants right next to my house? There were said to be only 12 to 24 in the entire city by a historian when Roseville began. Is this property where the old railroad steam engines filled? Why does the Main Street/Vernon Street intersect to my property? Why is the history of my property kept from the public? Why is my property being taken from me and planned out for public use? Why was my property zoned open space after illegal condemnation, when it is located in the center of Roseville? Why were there train tracks and pump houses on my property? Why is my property located in the Sawtell district and named after the first mayor Roseville ever had? Why in heavy 100 year flood rains does Dry Creek not overflow its banks onto my property, but floods bridges, new structures, and much of Roseville in other areas? Why are these areas not designated as flood plains? Why were they allowed to build? Why would FEMA say my property is not in a flood plain, while the city claims it is? Why does the city have stricter standards for the Zisk's than for its other

citizens? Why were thousands of yards of fill removed from my property and not replaced after city projects, even when the director admits it is owed to us? Why does the city ignore for over a decade? Why did the city allow our neighbor to fill 600+ yards of huge rocks directly into and halfway across the creek at the bottom end of my property? Were they trying to create a flood zone? This would not be allowed in a real modern city. Why does the city redirect historic drainage from Atlantic Street onto my property without negotiating a water easement with me? Historically, this drainage always passed through the Taylor property. Several pieces of evidence, which I possess, prove this. Why does the city stone wall when these issues are mentioned? What is the city hiding? It is crazy to create such a liability through such inappropriate actions. Why is everything such a mystery? Can't we negotiate a way out of the mess?

Why does the city react by creating more issues for me to fight in court? Why throw frivolous, unproven cases at my family, with no proof? Is this designed to bankrupt my family? How does the city manage to convince itself that securing easements from my neighbor allows them to place their 66" sewer lines through my property? Did the city even have a permit to do so? Why does the city not pay me for the sewer easement even when I proved they had run pipes through our land without an easement? Why does the city ignore our proof of ownership? Don't deeds mean anything to this city?

Why does the 30" Folsom lake water line go through my property without an easement or agreement, and why does the city refuse to pay for that too? Is dishonesty really the best way to do business in this town? Why did water flow to my house through pipes on my property when the water main was turned off? Why did it stop flowing when my father mentioned this to the utilities director? Why did he then say he did nothing? Why didn't the city pay for the electric power line easement through my property? Why does the city refuse to recognize the written water rights to 10k gallons per resident per day? I believe this also stated 7 cents per hundred cubic feet thereafter. Perhaps when every water bill has been protested a larger amount might emerge? Why will the city not permit my entitled 3 sewer hookups? Am I required to go to court to have my proven property rights?

Why was my water pipe broken 5 times and raw sewage allowed to enter our property, filling a field and posing health dangers to my father? Why did the city fill pipes with concrete after agreeing my father could use them? Why does the water meter retrofit installation place our family in phase 1, then restrict us to a ¾" fitting reducer to supply 4" mains for two residents? Once again, a double standard for the Zisk's. Why were we told we were the highest water users of approximately 85,000 gallons of water per day? Through a ¾" fitting... when our water was mostly turned off? Please? This is not even possible? Why do I pay a water bill for my property if I don't own it? Amazing.

Why does the city have a piping network for all residents in town except my 12+ acre property? Why did the city want to fill our 4" mains throughout my property with concrete once they found out we had them? Why do council members tell me they heard it all before when they have never spoken with me? Who else is talking so profusely about our property and why? Why do mayors slander my father at the podium telling him he has been wrong for 29 years when the mayor has only been a resident for 16? Why will other council members refuse to return my phone call when I have never spoken with them? Why do council members constantly ask me if I can

afford to fight all these issues? Is it that easy to just hand money to law firms? Is this all about power and control? Why did my father not have a single vacation in the last 32 years of his life? Why did my mother not have a single vacation the last 24 years of her life? Are you literally joking when you say in your letter you are trying to build a trail with little inconvenience to me??? My family's life has been destroyed by the city, and you believe this to be convenient?

You asked me to give you questions, so I have. Could you or others please answer them? I know the answers to many of these questions. Most have to do with illegal actions taken by the city, which has cynically concluded that individual citizens cannot fight the power of city hall. The city also knows much of the truth, but has chosen to hide it. I have never hurt anyone in my life. I am honest as my dad was. I wonder what has become of morals and ethics? Why are you and the city doing this to me? Why don't you do your job and produce the records that prove the city acted properly?

There are even bigger issues which have been covered up, but I will save these for another time. The truth will out. I know way too much. I have lived this since I was 9 years old and watched it take my family alive. I loved my family. Do you love yours? Do all the city officials love theirs? If so, they should be able to understand how it would feel to have a powerful force take everything from them. As humans we all must possess some understanding and sympathy. But I have not seen any sympathy. Life's enjoyment has been taken from my family? If all this had not happened, my mother, father, and brother would all still be alive today. You, the city, and I all know this all has had nothing to do with a bike trail. It never did, but it has put my family to death.

My family has built a large part of this city. We have always been devoted to hard work and helping people. I have been kind and patient with the city as I have pursued getting answers. I have openly talked with the city since my father has passed. But I have observed it easier for the city to flex their muscles and to use their internal departments to get whatever they want. This wanting and taking has run for 43 years and claimed four lives. Must the last 3 Zisk's be sacrificed too? I will not argue or play procedural games. I know my parents did not die from the causes stated on their death certificates. Although my health is none of your concern, I have ongoing health problems from cancer. I am only asking for a simple life with my children, a small settlement, and to build a house on my land. The city is aware of my proposal, and I need to know if it is possible to negotiate a conclusion to the hell my family has had to endure.

I ask you to cease with any work you are planning on my property until we have discussed my proposal and settled on a solution. The direction of what we both need to do will be defined soon.

Sincerely,

John Zisk

[REDACTED]

[REDACTED]

**Letter 13
Response****John Zisk**
Mary 27, 2018

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- 13-1 The comment references the remainder of the commenter's correspondence and asks if all deadlines have been met.
- The comments were received by the City of Roseville on May 27 before the close of the Draft EIR public comment period on May 29. The commenter's multiple pieces of correspondence, including attachments, are included in this Final EIR as one combined "Comment Letter 13."
- 13-2 The comment states that the comments relate to the "East – Draft EIR" and the entire trail system.
- See responses to comments 13-3 through 13-6.
- 13-3 The comment discusses previous interactions with the City of Roseville in relation to the commenter's property.
- The commenter's property is not located on the proposed Dry Creek Greenway East Trail alignment, but is approximately 1.2 miles northeast of the project proposed trailhead. The western terminus of the proposed project is located at the existing Saugstad/Royer Park trail near the intersection of Riverside Avenue and Darling Way. The comments address history related to the Miners Ravine Trail and the area around the commenter's property and do not address the proposed project or the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.
- 13-4 The comment addresses the procedures for the "current" EIR.
- It is unclear if the comment is addressing the Dry Creek Greenway East Draft EIR or a previous EIR for a separate project. The CEQA procedures that were followed for the Draft and Final EIR for the proposed project are described in Chapter 1, "Introduction" of the Draft EIR and Chapter 1, "Introduction and List of Commenters," of this Final EIR. The EIR has adequately followed the CEQA requirements for preparation of an EIR, as explained in these chapters.
- 13-5 The comment discusses conditions on the commenter's property, which is not located on the proposed Dry Creek Greenway East Trail alignment.
- The comment does not address the proposed project or the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.
- 13-6 The remainder of the commenter's materials include documents related to the commenter's property and previous projects proposed by the City of Roseville. The documents include previous comment letters and previous emails, such as the 2009 email sent to the City regarding the commenter's property that precedes the current planning and environmental process for the proposed project.
- See response to comment 13-3. The materials do not address the proposed project or the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

From: [REDACTED]
To: [Morse, Mark](#)
Subject: Dry Creek Greenway East Trail Project ERI Comments
Date: Monday, May 28, 2018 7:58:50 AM

Letter
14

Hello Mark

We are residents on Spahn Ranch Road off Old Auburn. We are concerned about the trail that will be implemented in our community. Although we understand the significant benefits bike trails bring to the communities, we are concerned about the neighborhood safety, impact to wildlife, noise, etc. We purchased a house in this neighborhood to enjoy the beautiful and quiet scenery the creek offers. By putting a bike trail close to our neighborhood you are taking away our peaceful scenery, increasing the noise and population, and potential crime and transient occupancy. We are asking that the trail not end near Old Auburn near residential housing. We are not opposed to the bike trail, we ask for the trail to end closer to Maidu Park, which is a better location for the public with facilities and parking.

14-1

Best Regards,
Carrie Butler and Rafael Cruz

**Letter 14
Response****Carrie Butler and Rafael Cruz**
May 28, 2018

14-1

The comment expresses concern about neighborhood safety, impacts to wildlife, and noise.

Please see Section 4.10, "Noise" in the Draft EIR for a discussion of the existing noise environment along the proposed trail alignment and the potential impacts related to long-term increases in use-related noise (see Impact 4.10-2). The EIR discussed the potential for an increase in noise from activities related to trail use and maintenance. The EIR concludes that long-term uses associated with the proposed project would be predominantly non-motorized activities and would not expose persons to or generate use-related noise levels in excess of adopted standards, and this would be a less-than-significant impact. Regarding neighborhood safety, please see Impact 4.11-2 (Effects on police protection services) in the Draft EIR and Master Response 1 in this Final EIR. Impacts to wildlife are discussed extensively in Section 4.3, "Biological Resources" of the Draft EIR. The comment also expresses an opinion that the proposed trail should end closer to Maidu Park. This comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.

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| <p>Letter
15</p> |
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From: Kyoung Mo
To: Morse, Mark
Subject: East Roseville bike path
Date: Monday, May 28, 2018 11:48:18 AM

Dear, Mr.Morse

I am currently living in [REDACTED] Roseville in Creekside community.
 I send this email regarding bike path along with Linda Creek which
 my home is wildly open to the open space.
 I was pleased we would have a nice trail nearby, but I did not know the exact bath way.

15-1

You know, my neighbors and I have the same concern that the bike path would go through right behind our home back yard which would invade the privacy.

And also, the beautiful oak trees and lots of trees will be taken out that impact bird habitats and other wild life.

15-2

When I had city notice for Dry Creek Greenway about a month ago, I thought it would go along Linda Creek under Old Auburn Rd bridge ,not right behind our back yard.
 We had some times of flood from Linda Creek in the open space which will block the bike path in rainy season, so that would be much better the bike path would go to the Old Auburn Rd level.

15-3

We had two homeless people living in their tents under the bridge of Old Auburn rd last autumn, so if the bike path is connected right after my back yard, I would really concern my family' safety.
 Please consider my concern about the bike pathway.
 Thank you so much.

15-4

Sincerely,
 Kyoung Melanie Mo
 Email: [REDACTED]
 Phone: [REDACTED]

Sent from my iPad

CONFIDENTIALITY NOTICE: THIS MESSAGE IS CONFIDENTIAL, INTENDED FOR THE NAMED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS (I) PROPRIETARY TO THE SENDER, AND/OR, (II) PRIVILEGED, CONFIDENTIAL, AND/OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE STATE AND FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, PRIVACY STANDARDS IMPOSED PURSUANT TO THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA"). IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE (I) NOTIFY US IMMEDIATELY BY REPLY E-MAIL OR BY TELEPHONE AT (855.472.9822), (II) REMOVE IT FROM YOUR SYSTEM, AND (III) DESTROY THE ORIGINAL TRANSMISSION AND ITS ATTACHMENTS WITHOUT READING OR SAVING THEM. THANK YOU.

DaVita Inc-

**Letter 15
Response****Kyoung Melanie Mo**
May 28, 2018

- 15-1 The comment expresses concern regarding the trail alignment and potential loss of privacy in the Spahn Ranch Neighborhood east of Old Auburn Road.
- Please see Master Response 1.
- 15-2 The comment addresses potential loss of oak trees and the impact to bird habitats.
- The loss of oak trees is addressed in Impact 4.3-8 (Disturbance of City protected trees, Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations) in the Draft EIR. The potential impacts on riparian habitat and bird species are discussed in Impact 4.3-1 (Disturbance and loss of waters of the United States, waters of the state and riparian habitat) and Impact 4.3-4 (Disturbance or loss of Swainson's hawk, white-tailed kite, and other nesting raptors) and Impact 4.3-5 (Disturbances to special-status song birds). With the implementation of mitigation measures identified in the Draft EIR, these impacts would be reduced to less-than-significant levels.
- 15-3 The comment addresses the trail placement and expresses a preference for the path to be placed along Old Auburn Road. The 2010 Dry Creek Greenway Trail Planning and Feasibility Study (City of Roseville 2010) identified a key issue along this portion of the potential alignment. Steep slopes were noted along the southerly leg of Old Auburn Road described in the Study as "Alignment 12-2," which would have crossed under Old Auburn Road using the west span of the existing Old Auburn Road Bridge over Linda Creek. In addition, the Biological Resources Study Report prepared for the Planning and Feasibility Study identified a mitigation/restoration site on the west side of the creek. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA. The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.
- 15-4 The comment expresses concern safety related to homeless people living along the bike path.
- Please see Master Response 1. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

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| <p>Letter
16</p> |
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From: Audra Owens
To: [Morse, Mark](#)
Cc: [doug owens](#)
Subject: Re: OPPOSE Dry Creek Greenway East Trail Project - Creekside Community Roseville
Date: Monday, May 28, 2018 12:20:21 PM

Final picture attached showing our backyard and open green space.

On May 28, 2018 at 12:16 PM Audra Owens <audrao1123@comcast.net> wrote:
 Attaching photo 1 of our backyard and the open green space. next photo sending next.

On May 28, 2018 at 12:15 PM Audra Owens
 <audrao1123@comcast.net> wrote:
 Dear Mark,

I am Audra Owens residing at the new Tim Lewis Creekside Community, [REDACTED]
 [REDACTED] This email serves as my opposition against the Dry Creek Greenway East Trail Project
 as it relates to the impact on the Creekside Community on the corner of Old Auburn Road in East
 Roseville.

This bike trail will negatively impact our beautiful Linda Creek open space behind the homes that we
 enjoy as our backyards. We have the following concerns regarding this proposal:

1. Privacy
2. Neighborhood Safety
3. Crime
4. Transient Occupancy
5. Security
6. Increased traffic
7. Noise
8. Removal of natural trees and greenery
9. Impact to wildlife and bird habitats

I have attached two photos (sent in the next two emails due to size exceedance), which were taken
 today (5/28) that show our backyard and the open green space. We chose this property for the privacy
 and natural beauty that we enjoy and invested in a significant lot premium to have these amenities.

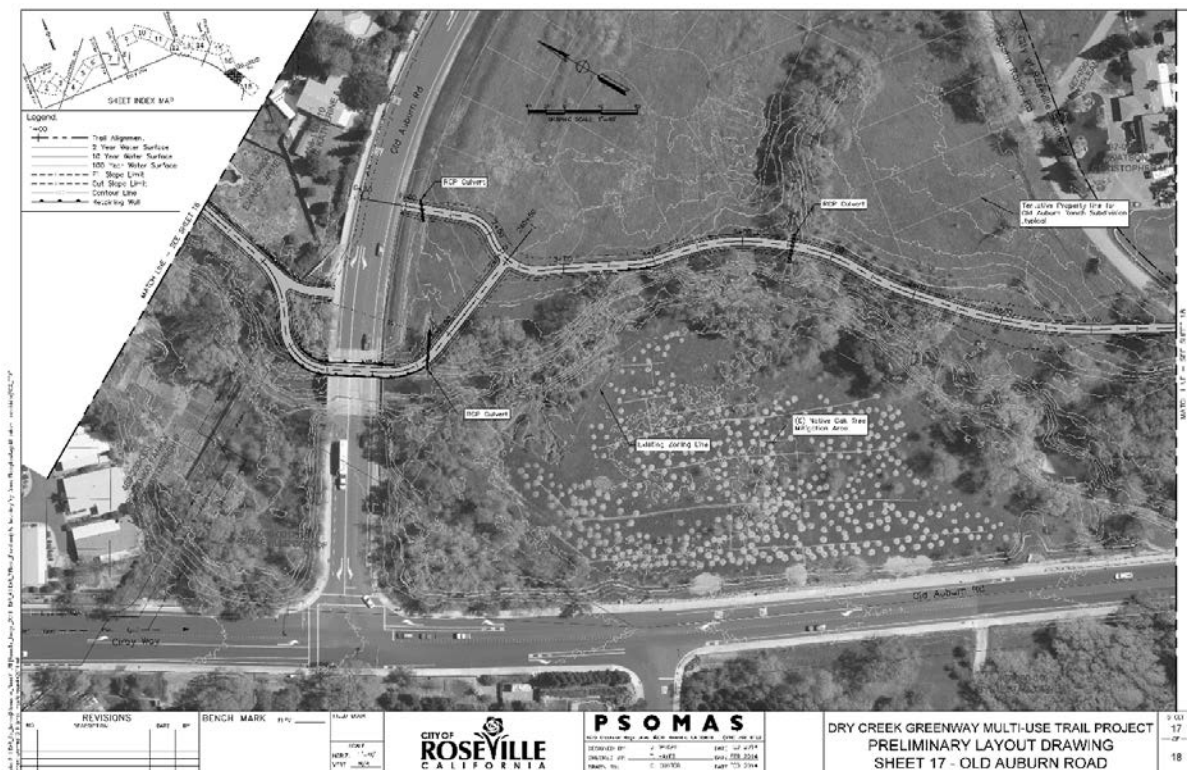
Constructing a 14-foot bike path behind our home where all people going by can see into our private
 backyard is absolutely not acceptable. Also, removing any trees and greenery for such a bike path is
 environmentally wrong.

I 100% oppose this bike path in our beautiful open green space and request the Roseville Transportation
 Commission seek an alternative route that is not in this open green space.

Audra Owens
 [REDACTED]
 [REDACTED]
 [REDACTED]

16-1

16-2



**Letter 16
Response****Audra Owens**
May 28, 2018

- 16-1 The comment expresses opposition to the project and expresses concerns regarding several biological issues as well as safety and security issues.
- The loss of oak trees is addressed in Impact 4.3-8 (Disturbance of City protected trees, Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations) in the Draft EIR. The potential impacts on riparian habitat and bird species are discussed in Impact 4.3-1 (Disturbance and loss of waters of the United States, waters of the state and riparian habitat), Impact 4.3-4 (Disturbance or loss of Swainson's hawk, white-tailed kite, and other nesting raptors), and Impact 4.3-5 (Disturbances to special-status song birds). With the implementation of mitigation measures identified in the Draft EIR, these impacts would be reduced to less-than-significant levels. Regarding neighborhood safety and other security issues, see Master Response 1. The comment also lists noise and increased traffic as topics of concern. These topics are addressed in Chapters 4.10, "Noise" and 4.13, "Transportation and Circulation," of the Draft EIR.
- 16-2 The comment refers to pictures of the commenter's property and expresses opposition to the proposed project.
- The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.

| |
|----------------------------|
| Letter
17 |
|----------------------------|

From: Ken White
To: [Morse, Mark](#)
Subject: Dry Creek Greenway East Trail Project EIR comments
Date: Monday, May 28, 2018 4:13:23 PM

Mark,

I am a homeowner along the proposed Dry Creek Greenway East Trail Project. My address:

[REDACTED]

Although I support extending the paved bikepath, I am concerned about impact to the safety and security of our neighborhood if the path is developed on the east side of Linda Creek near our neighborhood.

17-1

It appears that you will have to construct a bridge to cross Cirby Creek near Eastwood park in order to follow Linda Creek. I suggest that the bridge be placed west of Eastwood park so that the path is West of Cirby Creek and Linda Creek from that point onward. The advantage of this is that the path will be developed in the open space and further away from homes than if the path were on the East side of the creek.

17-2

- Ken White

**Letter 17
Response****Ken White**
May 28, 2018

17-1

The comment expresses support for the trail but concern regarding potential safety and security impacts from development of the trail near the Spahn Ranch Neighborhood east of Old Auburn Road.

Please see Master Response 1. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

17-2

The comment expresses a preference that a bridge to cross Cirby Creek near Eastwood Park be placed west of Eastwood Park so that the path is west of Cirby Creek and Linda Creek. As discussed in Draft EIR Section 2.2.3 Project Objectives, one objective is to maximize opportunities to connect parks. Relocating the trail to the opposite side of Cirby Creek from Eastwood Park would either eliminate the opportunity for this park connection or require an additional bridge, which would increase project costs and could result in additional environmental impacts. Initial investigations on potential trail alignments determined that topographic and property ownership constraints restricted the potential for placing the trail in the location described by the comment.

The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

**Letter
18**

From: Todd Beasley
To: Morse, Mark
Subject: Dry Creek Greenway East Trail Project
Date: Tuesday, May 29, 2018 8:51:33 AM

Mr Morse,

My name is Todd Beasley, and I live at [REDACTED] The neighborhood that would be directly adjacent to the new purposed Dry Creek Greenway East Trail Project.

Although my family and I are avidly outdoors, I have serious reservations about the location of this path as it pertains to our (and other) neighborhood.

For one, If you look locally, The Miners Ravine trail, which is beautiful, but also a super freeway for homeless who have also taken to setting up their camps at the waters edge.

That waters edge of the Dry Creek Greenway East Trail Project would be the backyard of our neighborhood. To be quite frank, I don't really feel like my brand new home which my wife and I have worked so hard for should now be littered with homeless and the crime, drugs, trash, human waste, etc that goes along with it.

I do believe it is the paths proximity to Linda Creek which brings my concerns to light.

Other cities, such as Folsom, have a fantastic trail system with very limited issue, but for the most part, there are no concealed water ways where the homeless can camp out.

I value your input in this mater, and appreciate your time

Todd Beasley

18-1

**Letter 18
Response**

Todd Beasley
May 29, 2018

18-1

The comment expresses concern regarding potential safety and security impacts from development of the trail.

Please see Master Response 1. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

Letter
19

RECEIVED BY

MAY 29 2018

CITY MANAGER'S OFFICE

Rosalyn Clement

May 29, 2018

Mark Morse
Environmental Coordinator
Roseville City Manager's Office
311 Vernon Street
Roseville, CA. 95678

RE: Dry Creek Greenway East Trail Project – Segments 4/5

Dear Mr. Morse:

For the past 26 years I have lived at [REDACTED] just a few yards from Linda Creek. Because of this location, I am very familiar with the Meadow Oaks area between Oak Ridge Drive and Rocky Ridge Drive where multiple segments will be built.

Meadow Oaks is Unique

The existing unpaved path has enabled multiple generations to enjoy personal experiences in this natural habitat tucked away in the middle of a city. The combination of the path's short length, multiple access points to medium density neighborhoods, and proximity to two schools has produced a very popular and esteemed area for recreation.

Local realtors report that several Meadow Oaks home owners are second and third generation residents. They chose to remain in the neighborhood, so their children would have the same outdoor experience they enjoyed when young.

Adults speak fondly of walking to school through "the woods," catching tadpoles after school, building secret hiding places and so much more. A 90-year-old Condor Court resident said she remembers watching cattle driven along the maintenance path when she was a little girl. Her grandmother told her that the trail was originally formed by Maidu Indians traveling back and forth along the creek in search of food.

This area is used seven days a week at all hours of the day. Easter egg hunts and birthday parties are held in the meadow. Children walk to and from school. Eich Junior high PE classes even use it for distance running. After school students gather at the "green bridge" (Woodlake Lane footbridge). On weekends and during the summer children give fishing a try or head to their favorite "beach." People jog, walk, and push baby strollers. After years on the path, people recognize one another, and it is common to see small groups laughing together before heading on in opposite directions. Often the chatter is to discuss what had been spotted by a nature lover.

Photographers and bird watchers visit regularly. Dogs often play off leash and chase their favorite toys into the water. Bird lovers advise dog owners when it is nesting season and owners willingly limit their pets' activity. I have watched stunningly successful self-policing these 25 years.

It truly is an Andy Griffith's Mayberry experience along this stretch.

Concerns to be addressed in the final EIR:

•It is important to note the established uses and significance of the existing path. Users do not want to lose this unique habitat. It is critical to preserve what remains.

19-1

•Pedestrians, particularly those older and physically challenged living in the Oak Ridge assisted living facility, require protection from fast moving cyclists traveling around the blind curves present on the existing paved trail running from Oak Ridge Drive to Sierra Gardens.

•This is a generations old, established path with significant foot traffic. People are creatures of habit. They meander now and will continue to do so. They will not remain on a 2' shoulder. Potential exists for collision injuries on this unique stretch.

•Review historic records to determine the maintenance trail origin and uses. Consider informational trail signage to preserve any history (i.e. cattle drives/Maidu Indian movement).

19-1
cont

Project Objective 2.2.3 – Protect Natural Habitat and Special Wildlife Species.

Construction impact states that loss of riparian vegetation may lead to higher water temperatures that would be detrimental to fish. The report also states that the creek in its current condition is an unlikely habitat for salmon spawning (Table 4.3a). The report indicates that this creek is in decline.

What the researchers did not take into consideration is the actual history of the area.

Overlooked entirely is the fact that this was once a vibrant, lively waterway. Once the source of salmon for the Maidu Indians, my family enjoyed spotting them throughout the 90's and 00's.

Also overlooked is the fact that the reductions in fish and wildlife occurred within the last five years. Up until this time, river otters splashed in the deep water near Condor Court and tadpoles filled the shallow waters. A mink was spotted on numerous occasions. Western pond turtles were so abundant that a popular viewing area was dubbed "turtle cove." Blue herons patrolled the area and a great egret returned yearly to nest behind 1814 Blue Jay Drive. Coyotes trotted along the trail many times a week. Pheasant squawks were frequent and loud. Oak titmouse, turkey and mallard populations were sizeable.

Changes took place slowly over the past 25 years of erosion. During those years the creek lost a significant amount of riparian vegetation. Erosion also triggered the loss of over a dozen 200+ year old live oaks which once regulated water temperatures. The remaining oaks (live, valley and blue) have been severely compromised, and it is only a matter of time before they are also lost. Photo 25A, p. 40 the condition of all the remaining oaks growing on the creek banks.

The most noticeable changes have occurred in the last five years. During the drought, water levels were the lowest they had been in 25 years. Already compromised from losses due to erosion and drought, the area was dealt a serious blow when on multiple occasions a Granite Bay housing development both slowed and shut off entirely the water flow to Linda Creek. A final blow came when this same development released the chemicals used to clean their ponds into the creek. (The state is involved in an investigation.)

Linda Creek became a shadow of its former self. Wildlife vanished. One 23-year Blue Jay Drive homeowner commented on how quiet his back yard had become. At one point it was even difficult to spot a "blue jay" (scrub jay) on Blue Jay Drive.

Due to how recently the losses have been witnessed, there is potential to reverse the damage. People familiar with the creek know this because they are seeing and hearing the recovery. What researchers reported as limited wildlife and a creek in decline, is actually the evidence of a recovery. A great egret has returned. A young otter and a mink were spotted. Several hawks are establishing their territories and song birds are abundant once more. A few mallards are nesting, and a pheasant was spotted.

Because of this delicate recovery in progress, it is critical the area be protected from further destabilization. If the project is going to proceed, it is critical it does not impede upon the remarkable progress currently underway.

19-2

Further loss of shade, riparian habitat, and valley oak woodland has the potential to be the tipping point for this area.

Concerns to be addressed in the final EIR:

- *The remaining oaks growing on the bank should be assessed and erosion protection for those trees included as a part of the bank stabilization element of the proposed project.*
- *Include the next generations of oaks growing several yards off existing bank as they are future shade for the creek and tree canopy for the city.*
- *Trail placement should be around trees as opposed to tree removal.*
- *If adequate right of way cannot be acquired to avoid removal of the trees within the designated "area of scenic quality" west of Rocky Ridge (p.4.1-11), the design should be modified. Protection of current and future creek canopy and beauty of the area should be the design priority, not the city objective for a class I multi-use trail.*
- *Determine if river otters still nest on the bank behind Condor Court and assess what can be done to minimize bank disruption. There is concern for the otters and the "area of scenic quality" as this area will be significantly altered with construction of the trail underpass.*
- *Restore bank impacted by construction to natural condition through bio-engineering.*

19-2
cont

Mitigation Off Site Is Not An Answer to Tree Removal along Linda Creek

As is stated in the preliminary EIR, the Roseville Tree Preservation Ordinance lists scenic beauty as one of the reasons for native oak preservation. The ordinance also provides standards for mitigation when trees are removed.

However, it is important to take into considering the 2014 Roseville Urban Forest Master Plan (RCRMRP) which provides direction for "stewardship" of Roseville's creek system and for "preserving the benefits of this system to wildlife, flood management, and recreation." It specifically states, "Native trees are critical to the preservation and enhancement of the primary indicator of a healthy creek system (p.22).

It is imperative to face the fact that planting young trees elsewhere does absolutely nothing to mitigate the loss of a mature native oak. It does not protect the scenic beauty of this area, nor does it contribute to the preservation of the creek.

Over the past 25 years there have been numerous mitigation projects throughout the city. Despite the significant loss of tree canopy over the creek, not a single tree has been planted. When the city was asked why, the reply was that trees had to be placed where there was easy access for watering and other upkeep. Mitigations that took place at both Maidu Park and Strap Ravine were mishandled. Too many trees were planted in a single area. Shade critical for the oaks' first few years was not provided. Loss was enormous and significant. At the time of RCRMRP's publication, Roseville's overall tree canopy was 15.7%. Meanwhile, Roseville's Greenprint Initiative goal is 35% canopy coverage in the region.

Concerns to be addressed in the final EIR:

- *Off site mitigation is not an acceptable alternative for losses in this area and should not be considered an alternative.*

19-3

•If tree removal is unavoidable between Oak Ridge and Rocky Ridge Drives, mitigation should occur in the same area. Include both the north and south banks from the Woodlake Lane entrance to Rocky Ridge Drive, as recipients of future mitigation plantings.

•Include both the north and south banks from Woodlake Lane to Rocky Ridge Drive for future mitigation plantings conducted by city.

•Prior to final plans, mark all trees scheduled for removal and hold an on-site public meeting with a neutral arborist to walk the area.

19-3
cont

Bank Stabilization at the City Sewer Line Behind 1810 Blue Jay Drive

Two 150+ year old live oaks once grew in this area. Between dense shrubbery and the oaks, the entire length was shaded. The planned gabion wall would be an eye sore and does nothing to promote the return or retention of wildlife.

Additional redirection of channel flow away from the north bank with a rock or log vane is also a concern. Currently water bounces off the north bank and flows into 1812 and 1814 Blue Jay Drive. A vane will create an even greater redirection of flow to the opposite bank opening it up to similar erosion. Redirection will also impact the rest of the creek as it must reach a new equilibrium. Quick fixes

19-4

Concerns to be addressed in the final EIR:

•Consider allowing natural equilibrium to be reached.

•Add root wads or other bioengineering to the proposed gabion wall to soften the force bouncing off the wall and improve aesthetics.

•Conduct geomorphic engineering on the creek before conducting individual, isolated repairs which will cause problems further downstream.

In closing, please note that most of the Blue Jay Drive residents have lived here for a long time, some as many as 32 years. People chose this street due to the proximity of Linda Creek and have a front row seat to the changes. There are many photos and videos documenting floods and bank changes. Despite our years of knowledge and the Roseville Urban Forest Master Plan instruction that "community participation and support will be needed to reach the Greenprint Initiative goal," no one has ever been contacted. We would be happy to supply any background information that might be useful as further creek assessments are conducted. All you have to do is ask.

19-5

Sincerely,



Rosalyn Clement

Segment 5: Standing at the point where the existing paved trail meets the existing pedestrian trail. The Woodlake entrance is at left. Linda Creek on right. This is all that remains of the valley oaks after losing the 200+ year old trees. Bank erosion has all the young trees to drop several feet. Roots are exposed and many are struggling to remain upright. The only unaffected trees (located several yards from the bank) are directly in the path of the proposed trail.



19-7

Segment 5 – Looking at north bank near Rocky Ridge Drive. This is the condition of the remaining trees currently shading Linda Creek.



19-8

2016

Shot from the south bank looking towards north bank behind Mallard. All 100+ year old live oaks and mature habitat has been lost to erosion. These trees use to sit several feet from the bank's edge and grew under the shade of 100+ year old live oaks. This is all that remains of the live oaks. They will also be lost as erosion continues to undercut them. All existing and future shade will be gone. This is the condition of all the young growth researchers saw during their assessments.

19-8
cont2017
River otter at 1812 Blue Jay Drive19-9
cont

2012
Mink crossing city sewer line behind 1808 Blue Jay Drive.



19-9
cont

**Letter 19
Response****Rosalyn Clement**
May 29, 2018

- 19-1 The comment provides introductory information related to the history and use of the Meadow Oaks neighborhood. The comment also lists concerns that the commenter believes should be addressed in the Final EIR, including: 1) note the established use and significance of the existing path; 2) older and physically challenged pedestrians require protection from fast moving cyclists from Oak Ridge Drive to Sierra Gardens; 3) established users of the existing path will not remain on the 2-foot wide shoulder which creates the potential for collisions; and 4) use informational trail signs to display historic use of established path.
- Items 1 and 4 are comments specific to the proposed project and do not address the adequacy of the analysis of the EIR; however, they will be forwarded to the decision-makers for their consideration. Related to items 2 and 3, while trail user safety is an important issue for consideration by the City when evaluating the merits of the proposed project, the topic is not within the purview of CEQA analysis. Additionally, please see Chapter 3, "Project Description," of the Draft EIR for information related to trail design beginning on page 3-7.
- 19-2 The comment provides background information related to the biological changes that have occurred in the Meadow Oaks neighborhood and lists concerns that the commenter believes should be addressed in the Final EIR. These concerns include the following: "The remaining oaks growing on the bank should be assessed and erosion protection for those trees included as a part of the bank stabilization element of the proposed project" and "Include the next generations of oaks growing several yards off existing bank as they are future shade for the creek and tree canopy for the city." These comments are specific to the proposed project and do not address the adequacy of the analysis of the EIR; however, they will be forwarded to the decision-makers for their consideration.
- The comment states that trail placement should be around trees as opposed to tree removal. Tree removal is discussed in the Draft EIR on page 4.1-11 and under Impact 4.3-8. Design of the proposed trail would, to the extent possible, avoid the larger trees along the creek corridor, especially native oak trees, to minimize impacts to habitat and aesthetic values consistent with requirements of the City's Tree Preservation Ordinance. Mitigation Measure 4.3-8 on page 4.3-79 states that "to the maximum extent feasible, oak and riparian trees shall be avoided where possible and protection measures shall be implemented to protect oak woodlands, riparian areas and associated native trees from project-related impacts." The mitigation measure also includes measures that shall be implemented for oak and riparian trees that would be impacted by project activities to avoid and minimize potential impacts to individual oak and riparian trees.
- The commenter also states that, if adequate right-of-way cannot be acquired to avoid removal of the trees within the designated "area of scenic quality" west of Rocky Ridge, the design should be modified. This comment is specific to the objectives of the proposed project and does not address the adequacy of the EIR; however, it will be forwarded to the decision-makers for their consideration.

“Restore bank impacted by construction to natural condition through bio-engineering.” Construction and post-construction details are included in Chapter 3, “Project Description.” Topsoil would be excavated and stored during construction operations and respread over disturbed soil areas after construction activities in that area are complete. Disturbed soil areas would be revegetated through planting of native grasses, shrubs, and trees. Please see page 3-32 of the Draft EIR for additional details.

19-3

The comment provides background information related to tree preservation activities that have occurred in the City and lists concerns that the commenter believes should be addressed in the Final EIR, including 1) offsite mitigation is not an acceptable alternative for losses in this area; 2) if tree removal is unavoidable between Oak Ridge and Rocky Ridge Drives, mitigation should occur in the same area; 3) include both the north and south banks from the Woodlake Lane entrance to Rocky Ridge Drive for future mitigation plantings; and 4) mark all trees scheduled for removal and hold an on-site public meeting with a neutral arborist to walk the area.

Related to items 1, 2, and 4, as stated under Mitigation Measure 4.3-8 of the Draft EIR, if native oak trees are removed, they would be replaced as outlined in the City’s Tree Preservation Ordinance 19.66.070. According to the Ordinance, the preferred alternative for replanting is on-site replacement. Therefore, a Tree Planting and Maintenance Plan showing species, size, spacing and location of plantings, and the location and species of established vegetation would be prepared. A monitoring program would also be established to ensure compliance with any prescribed mitigation measures established by the project and to monitor the oak woodland restoration area. Please see page 4.3-79 of the Draft EIR for additional details. Item 4 includes a recommendation for an on-site public meeting with a neutral arborist. This is not required by Ordinance; however, the comment will be forwarded to the decision-makers for their consideration. For item 3, this comment includes a recommended location for future mitigation plantings conducted by the City and does not address the adequacy of EIR analysis. Therefore, the comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration and no further response is warranted for compliance with CEQA.

19-4

The comment provides background information related to creek flow and lists concerns that the commenter believes should be addressed in the Final EIR, including 1) consider allowing natural equilibrium to be reached; 2) add root wads or other bioengineering to the proposed gabion wall; and 3) conduct geomorphic engineering on the creek before conducting individual repairs.

Regarding item 1, allowing the creek flow to reach natural equilibrium would result in continued erosion of the banks which would reduce the ability for public safety and maintenance crews to access the open space. Also, this would likely result in the loss of trees and other vegetation.

Regarding item 2, a geomorphic study was conducted for the proposed project and provided as Appendix F to the Draft EIR. As stated on page 4.1-9 of the Draft EIR and based upon the analysis in Appendix F, where feasible, retaining walls would take the form of gabion baskets with timber facing and root wads or willow stalks to provide additional stabilization and to provide a more natural finish. The geomorphic study also included a recommendation for installation of a log or rock vane as proposed behind Blue Jay Drive (see Draft EIR Exhibit 3-9). These recommendations are based upon preliminary design drawings for the project. Final design of the project would include additional hydrologic/hydraulic analysis for this location to determine the exact location, configuration, and design of erosion control structures in this area.

Item 3 requests that the City conduct geomorphic engineering for isolated or separate creek stabilization efforts. Technical studies prepared for the Dry Creek Greenway East Project and EIR included a geomorphic analysis; therefore, it appears this comment is not specific to the proposed project and does not address the adequacy of the EIR analysis and is instead a request regarding the design of other isolated City creek stabilization projects. This comment will be forwarded to the decision-makers for their information and consideration.

- 19-5 The comment provides closing remarks. No response is necessary.
- 19-6 The picture shows a pedestrian using an existing trail. Please see Response to Comment 19-1.
- 19-7 The picture shows oak trees at the Woodlake entrance to the existing trail. Please see Responses to Comments 19-2 and 19-3.
- 19-8 The picture shows trees on the north bank of the creek near Rocky Ridge Drive and Mallard Lane. Please see Responses to Comments 19-2 and 19-3.
- 19-9 The pictures show examples of various wildlife. The comment does not address the adequacy of the analysis of the EIR; however, it will be forwarded to the decision-makers for their consideration.

**Letter
20**

From: Ken Gregory
To: [Morse, Mark](#)
Subject: Draft EIR Comments: Dry Creek Greenway East Trail Project
Date: Tuesday, May 29, 2018 6:48:44 AM
Attachments: Gregory Comments Draft EIR Dry Creek Greenway.pdf

Dear Mr. Morse,
We have the following comments to submit on the Draft EIR for the Dry Creek Greenway East Trail Project.

First, we would like to go on record stating that we were never properly noticed of a Dry Creek Greenway Trail project, much less that a Draft EIR had been prepared. We were out of town on May 21st, but would not have known about the meeting anyway since we knew nothing about the project. Neither Tim Lewis Communities nor the City of Roseville ever disclosed this project to us. On returning from our trip on May 23rd, we found a letter from neighbor Doug Owens stuck in our front door and this was the first we ever heard of a proposed bike path and Greenway project.

20-1

In November 2016 we purchased our home at [REDACTED] Roseville, located in the new Tim Lewis Communities "Creekside" development off Old Auburn Road. We have several concerns since the open space in its natural state was one of the appealing characteristics of the lot adjoining the Linda Creek open space. Given that we were not properly noticed, we have not had sufficient time to review the Draft EIR but chief among our concerns are the following:

- 1) **Diminished Privacy, Increased Traffic & Noise on the Brightside Court Cul-De-Sac** – our lot #12 at [REDACTED] Roseville, is located at the very end of a cul-de-sac which is open to the Linda Creek open space. Our property also adjoins and is contiguous to the Linda Creek open space along its entire length. Adding a trail will destroy the current privacy of the location and diminish property values. Given the proposed trail stub off Old Auburn Rd and route configuration that closely follows the cul-de-sac in front of our home (see PSOMAS Preliminary Layout Drawing, Sheet 17 – Old Auburn Road dated Feb. 2014), the City of Roseville is inviting the public on to a dead end cul-de-sac with minimal parking. **A bike path as configured will become an attractive nuisance**, inviting more people, noise and traffic with people coming and going and parking on the cul-de-sac, possibly for extended periods of time. These are impacts that are not easily mitigated and pose an ongoing cost to our way of life in the Creekside residential neighborhood.
- 2) **Increased Security Concerns & Decreased Property Value** – adding a bike path will invite access by the public with resultant increased security concerns and diminished property values. How does the City of Roseville plan to patrol the bike path when a large portion of it can't be seen from Old Auburn Road? The City of Roseville will be making it easier for persons with criminal intent to access our property from a paved and secluded bike path. How will the City of Roseville keep out the homeless from camping in the Linda Creek open space next to our property and trespassing into our yard and patio area to access our water supply, storage shed and other personal and private items in our side yard and back yard? These are impacts that are not easily mitigated and pose an ongoing law enforcement cost to the City of Roseville.

20-2

20-3

- 3) **Impact to Wildlife** – the oak wetlands area adjoining our lot is home to nesting raptors, herons, wild turkeys, squirrels, skunks, as well as numerous other bird species and wildlife. The open space and Linda Creek water should be preserved as open space and a wildlife habitat. There are plenty of other nearby areas like Maidu Park where people can ride bikes. This section of the Linda Creek greenway should be left in its natural state and not be dedicated for human intrusion, such as riding bikes, disrupting natural habitats, homeless encampments, and the resultant leaving of litter and trash. The likely impacts to wildlife in this section of Linda Creek are severe and without suitable mitigating measures.

20-4

We are strongly opposed to the addition of a bike trail and public access of any kind along Linda Creek with the proposed alignment adjacent to and adjoining our property line of Lot #12. We will take any and all actions necessary to prevent this project from moving forward. We purchased our home at this location for retirement and specifically to be next to the open space. After living far out in the country, we felt the home met our dream of living in an in-town location closer to our family with just the right amount of country feel and privacy. We felt being next to natural open space was worth the extra lot premium. However, had we known about the City's plans to develop the open space it certainly would have affected our decision to purchase the home in Roseville.

20-5

We respectfully urge the City of Roseville Transportation Commission and City Council to consider other options and alternatives.

Kindly acknowledge receipt of this email and letter given that today is the deadline for comments.

Sincerely,

- *Kenneth & Teresa Gregory*

mobile

Confidentiality Notice: This message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.



Dry Creek Greenway East Trail Project

DRAFT ENVIRONMENTAL IMPACT REPORT COMMENTS

Please hand in during the meeting, or mail to the City (address on back) or provide written comments via email to Mark Morse at mmorse@roseville.ca.us, by May 29, 2018 at 5:00 p.m. Please include "Dry Creek Greenway East Trail Project EIR comments" in your email subject line.

Please provide your contact information if you would like to be informed of future meetings for the Dry Creek Greenway East Trail Project. Project information is also available on the City's website: www.roseville.ca.us/DryCreek.

Name: Kenneth & Teresa Gregory

Organization (if any):

Address (optional): [REDACTED]

City, State, Zip: [REDACTED]

Email (optional): [REDACTED]

The City of Roseville invites you to provide specific comments on the Draft Environmental Impact Report for the Dry Creek Greenway East Trail Project. Thank you!

Comments

Major concerns include:

- 1) Diminished Privacy, Increased Traffic & Noise
- 2) Increased security concerns
- 3) Unmitigated Impacts to Wildlife.

see detailed comments in email from Ken Gregory to Mark Morse dated May 29, 2018

20-6

More space on back



**Letter 20
Response****Kenneth and Teresa Gregory**
May 29, 2018

20-1

The comment states that the commenters were not noticed of the Dry Creek Greenway Trail project, or that a draft EIR had been prepared.

A notice of availability was mailed to the address listed in the commenter's letter, as discussed below.

The City has conducted numerous outreach efforts to publicize the project and draft EIR. The City's 2008 Bicycle Master Plan includes a plan for development of over 28 miles of Class I trails in Roseville, including the Dry Creek Greenway East Trail. The currently proposed trail segment has been the focus of community outreach, feasibility studies and community workshops since 2008. Project outreach included formation of a Citizen Advisory Committee that provided formal feedback during the project feasibility stage. During preparation of the original and updated feasibility study, the City used a community-based planning approach with an emphasis on public outreach. The public outreach efforts included establishment of a Stakeholder Representative Group (SRG) that represented a broad array of community interests. The SRG met 10 times between 2008 and 2013. The public outreach efforts also included three community meetings, an online survey and numerous neighborhood meetings. The project has been routinely featured on the City's web site where a dedicated project webpage can also be found at www.roseville.ca.us/DryCreekEast project. Regarding publication of the Draft EIR, the City has publicized the project and release of the draft EIR via various social media outlets including: Facebook, Twitter, and Nextdoor; the City of Roseville's website for the proposed project; the City of Roseville email listing, with a distribution of 10,400; the Dry Creek Greenway East email newsletter, with a distribution of approximately 1,490; the project's alert email newsletters, with a distribution of approximately 4,600; and the Roseville Coalition of Neighborhood Associations. The public release was also shared with local news media.

The state CEQA Guidelines Section 15087 (a) requires that a draft EIR notice of availability be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing, and shall also be given by at least one of the following procedures: 1) publication in a newspaper of general circulation; 2) posting a notice on and off the site where the project is located; and, 3) direct mailing to owners and occupants of property contiguous to the parcel or parcels on which the project is located. The City more than complied with CEQA's draft EIR notification requirements by placing an ad in the Roseville Press Tribune News paper and direct mailing to owners of contiguous properties (and to persons who previously requested such notice). According to the electronic distribution list prepared for this project, the address listed in the commenter's letter was sent a draft EIR Notice of Availability on April 13, 2018.

20-2

The comment expresses concern regarding loss of privacy and nuisance issues from development of the trail, such as vehicle parking by trail users. Please see Master Response 1. As stated on page 4.13-8 of the Draft EIR, it is possible that the proposed project could result in vehicle trips to available public parking areas near the project area such as the proposed trailhead, on-street parking, or Maidu Park. The Draft EIR addresses potential impacts from conflicts with an applicable plan, ordinance, or policy that establishes measures of effectiveness for the performance of

a circulation system. Also, while privacy is an important issue for consideration by the City when evaluating the merits of the proposed project, the topic is not within the purview of CEQA analysis. Therefore, this comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.

20-3

The comment expresses concern regarding potential safety and security issues from development of the trail and diminished property values. The public is allowed to access and pass through City-owned open space. Without paved trails and the added surveillance that comes with the presence of trail users, City maintenance vehicles, and Roseville Police Department patrols, open space can harbor greater opportunities for illegal activities or theft due to the unimproved and isolated nature of the areas.

Property value has been an issue of concern regarding the proposed trail. While property value does not fall within the purview of CEQA, the City recognizes that property value is an important concern to the community, has evaluated it, and included it in design strategies for the proposed project.

Several studies have been conducted to evaluate the effect of trails on property values. The studies suggest that trails are likely to increase property values within a neighborhood and that some trails may act as a catalyst for neighborhood revitalization. For example, a 1994 study by the Maryland Greenways Commission titled Analysis of the Economic Impacts of the Northern Central Rail Trail asked residents near the trail corridor whether they thought value would be added to homes within walking distance of the trail. Sixty-two percent (62%) believed that a trail would add value, 7 percent (7%) believed that a trail would decrease home values, and 31 percent (31%) believed it would have no effect.

The study of Seattle's Burke-Gilman trail also attempted to evaluate the effect of the trail on property values. That study did not conclusively determine if the trail had any effect, negatively or positively, on property values. However, that study did produce some anecdotal information:

- The trail is regarded by real estate companies as an amenity that helps attract buyers and to sell property.
- Homes are regularly advertised as being near or on the trail.
- Some real estate agents claim that property sells for 6 percent more as a result of proximity to the trail.
- Residents who bought their homes after the trail was opened are most likely to view the trail as a positive factor that increases the value of their home.
- Long-time residents who bought their homes prior to the opening of the trail are generally less likely to view the trail as an economic asset.

These views are supported by a 2002 study by the National Association of Realtors and National Association of Home Builders. That study found that, out of 18 choices, trails were the second-most important community amenity people consider when making a decision to buy a home (freeway access was most important).

The studies are less conclusive about the effect of trails on the property value of homes that directly abut the trail corridor. Some studies suggest that the presence of a trail may result in a loss of property value, while others suggest that an adjoining trail would

increase property value. Factors that may influence a particular result include trail design in context with the neighborhood. By creating a trail in context with the neighborhood, City of Roseville staff believe that the Dry Creek Greenway East trail would fall within the ranks of trails that increase property values even for those properties abutting the open space.

Other communities and organizations have studied the community-wide economic impact of trails. These studies find that many trails result in economic benefits from increased tourism. The Dry Creek Greenway Trail would be part of a 70 to 80 mile loop trail around the South Placer/Sacramento region that will be a trail of regional and potentially national importance, with corresponding potential for economic benefits.

20-4 The comment expresses concern regarding existing wildlife and wildlife habitat in the project area.

The loss of oak trees is addressed in Impact 4.3-8 (Disturbance of City protected trees, Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations) in the Draft EIR. The potential impact on riparian habitat is discussed in Impact 4.3-1 (Disturbance and loss of waters of the United States, waters of the state and riparian habitat), Impact 4.3-4 (Disturbance or loss of Swainson's hawk, white-tailed kite, and other nesting raptors), and Impact 4.3-5 (Disturbances to special-status song birds). With the implementation of mitigation measures identified in the Draft EIR, these impacts would be reduced to less-than-significant levels. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

20-5 The comment expresses opposition to the project.

The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA. The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.

20-6 The comment references the topics included in the commenter's letter.

See responses to comments 20-1 through 20-4.

| |
|--------------|
| Letter
21 |
|--------------|

From: Young Hwan Kim
To: [Morse, Mark](#)
Subject: Dry Creek Greenway East Trail Project EIR comments
Date: Tuesday, May 29, 2018 9:31:23 AM
Attachments: 3165 Spahn Ranch Rd.pdf

Name : Young Hwan Kim

Address :

Email

Comments,

Thank you for your hard work in the City of Roseville.

There are some requests related to this project.

First of all, according to this project, the trail will pass through our long backyard fence, so please pass far away to avoid personal life invasion as much as possible.

Second, there are many old trees behind our long backyard. Because of these trees, birds and animals are doing well.

I want you to do not remove as many trees as possible in relation to this project.

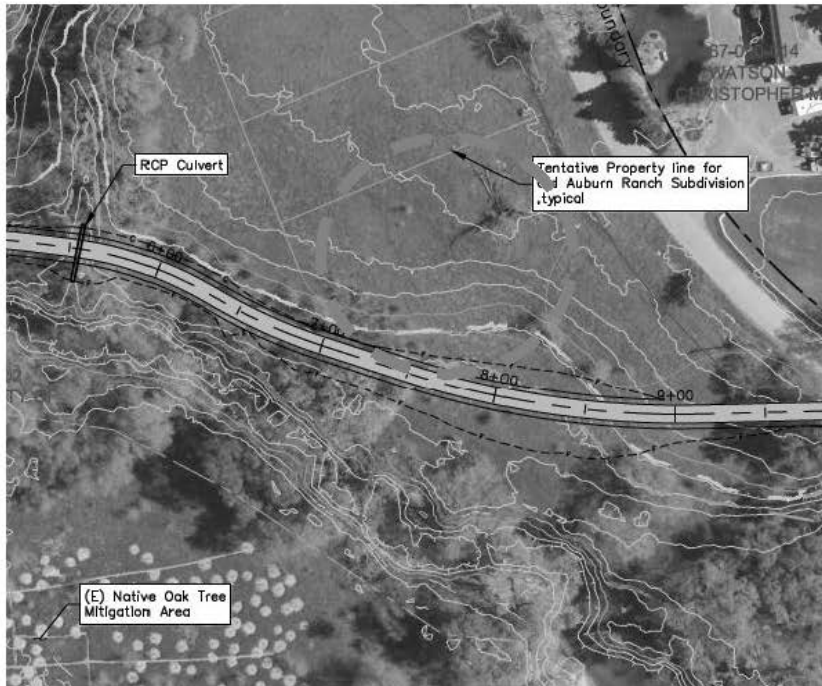
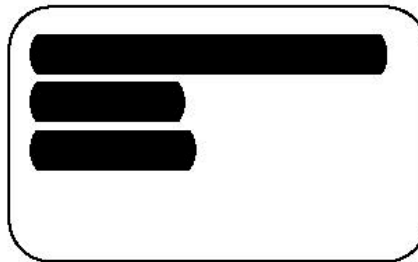
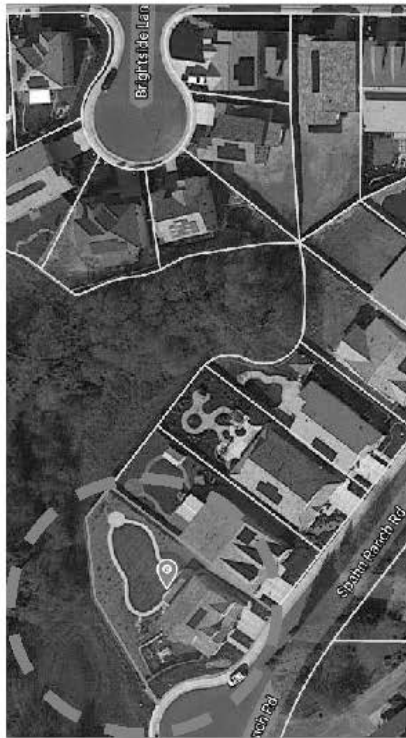
I attached my home map.

Sincerely,

Young Hwan Kim

21-1

21-2



**Letter 21
Response****Young Hwan Kim**
May 29, 2018

21-1

The comment requests that the path alignment be far away from the commenter's property in the Spahn Ranch Neighborhood east of Old Auburn Road.

The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

21-2

The comment requests that the project not remove as many trees as possible.

The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA.

**Letter
22**

May 29, 2018

RECEIVED BY

MAY 29 2018

CITY MANAGER'S OFFICE

Mark Morse
Environmental Coordinator
Roseville City Manager's Office
311 Vernon Street
Roseville, CA. 95678

RE: Dry Creek Greenway East Trail Project –Segments 4/5

Dear Mr. Morse,

I am submitting two comments specifically for the proposed bike trail segment between Oak Ridge Drive and Rocky Ridge Drive.

Comment 1. The only project alternatives considered in the EIR are “alignment” alternatives. There is no discussion or rationale given as to why a separated pedestrian and bike trail alternative was not considered in some areas (two trails). This is particularly significant in the segment between Oak Ridge Drive and Rocky Ridge Drive due to recreational impacts that will occur when a regional bike system with fast moving bicyclists enter this area. Not only will public safety issues arise but there will be impairment of the recreational experiences currently being enjoyed by more passive users. These current recreational activities are well described in the comments you received from Rosalyn Clement. They include families with small children, pets and slow-moving elderly people enjoying the quiet beauty of the natural area. A dual trail alternative needs to be included in the EIR and considered for this segment.

22-1

Conflicts between recreationists have been long recognized and studied. One that applies here was described in a recreational journal as the ISD Syndrome. It showed that more active forms of recreation can often impair, suppress, and even displace (ISD) less active recreationists. In other words there is a hierarchy of recreational pursuits from the most active forms to the most passive, and where a more active form often impacts a less active one while the reverse is not true. “Active” is defined by the sophistication of recreational equipment being used, type of propulsion, speed, and noise. The study looked at recreational facilities where there was an established use and where a change allowing more active recreational forms was to take place. As it applies here fast moving bicyclists will impair and possibly suppress long established uses in the area such as walking and nature observation. These impacts should be recognized and mitigated with a separate bike trail between the pedestrian creek crossing to the schools up to Rocky Ridge Drive. This segment currently includes a

22-2

2

paved section in the down creek portion however the opening to a regional bike system will create adverse impacts to the experience of walkers along this down creek section as well. The bike trail should be located away from the creek with a separate walkers trail nearer to the creek.

From the pedestrian bridge down to Oak Ridge Drive is an existing paved trail that will be used as the bikeway. It has passive use now along with occasional bicyclists. These bicyclists are typically slow-moving and limited to access to homes in the area. Once this segment is included in a throughway of a much larger bicycle trail system bike use and bike speed will increase significantly creating impairment of experiences of slow-moving pedestrians out for a stroll along the creek. The impacts cannot be mitigated by a dual trail in this section as it can up creek from the pedestrian bridge. The trail is narrowly hemmed in by private property and a floodwall. At one point the narrowly confined trail makes a 100 degree (nearly 90 degree) turn, a blind turn for bikes moving faster than 5 mph. It should be an extreme safety concern and mitigations should be considered. Because it is not an area proposed for new paved trail it has not been adequately addressed in the EIR as to safety and the impairment of the current users. Mitigations to reduce this impact should be included in the EIR including physical techniques to reduce bike speed.

22-2
cont

Overall, the natural park along Linda Creek between Oak Ridge and Rocky Ridge Drives has been a popular area for walking and nature observation. The ambiance is quiet and peaceful with people moving slowly through the area. The introduction of a regional bikeway trail will adversely impact recreational experiences of this long-established use. Conversely, bicyclists will not be adversely affected by passive recreationists as they move quickly through the area. The least the City could do is to protect the experience of current users of this area by creating a separate trail for bicyclists to the extent feasible.

Comment 2. The gabion basket wall #4 and log or rock vane #1 will cause stream bank erosion downstream, most likely to the private property at 1812 Blue Jay and possibly elsewhere. I have spoken on site with City engineers about the problem and I don't believe they have the interest or expertise to prevent further impacts to the creek channel. Their approach is a band-aid approach treating the specific site with a "fix" only to find that the fix creates new stream adjustments and further bank problems downstream. The City created the current bank instability when they removed channel vegetation and installed bank armoring up creek just below the Rocky Ridge Bridge. High runoff water passes faster through this section carrying more sediment and energy and this likely led to the current bank instability area. Fluvial hydrologists and geologists understand the dynamics of creek channels and the natural sinuosity that a water

22-3

3

course will establish based on bank full runoff, slope, substrate and other factors. It is certainly not natural that we have lost so many old oaks along the creek in the 32 years I have lived in this area, but the engineer I spoke with held to that belief. The City needs to consult with appropriate experts so that whatever measures are taken the result will be a more stable creek channel.

22-3
cont

Further, hard engineering solutions to this natural park area are not appropriate. Park organizations such as the national and state parks deal with sensitive resources. They bring the best expertise to these types of problems to protect further damage to resources and to ameliorate conspicuous man-made intrusions. There are many techniques that use natural materials such as root wads, boulders and logs to stabilize water courses in a natural sinuosity while preserving the natural aesthetics. Such techniques should be used here to mitigate impacts to the area.

22-4

Thank you.



Jim Trumbly



**Letter 22
Response****Jim Trumbly**
May 29, 2018

22-1

The comment states that the only alternatives are alignment alternatives and questions why a separated pedestrian and bike trail alternative was not considered to maintain the existing recreational experience of users of unpaved dirt trails, particularly for the proposed trail segment between Oak Ridge Drive and Rocky Ridge Drive.

Previous feasibility studies for the trail described the intent of the project, as well as the constraints. The City's Bicycle Master Plan identifies Class I off-street bike paths as preferred by Roseville residents. Class I bikeways are off-street bike paths located in a separate right-of-way, for the exclusive use of bicycles and pedestrians, with minimal cross flow by motor vehicles. In Roseville, the standard path design for Class I bikeways consists of a minimum 10-foot wide paved path for two-way bike paths with 2-foot shoulders on each side, per the City of Roseville Design Standards. Previous feasibility studies for the project also identified several constraints along the alignment, including steep topography and land ownership/right-of-way, that would make a separate path in addition to a Class I bike path infeasible in most areas. In addition, some communities have found that even when separated bicycle and pedestrian paths are provided, some trail users choose to walk on the designated bike path and bicycle on the designated pedestrian path. For these reasons, creating separate pedestrian and bike paths was not identified as a project objective. Further, provision of a separate walking path would increase the project footprint and, therefore would not avoid or lessen the physical environmental effects of the project. As a result, providing a separate walking path was not identified as a project alternative.

As discussed in Chapter 6, "Alternatives," in the Draft EIR, the California Code of Regulations (CCR) Section 15126.6(a) (State CEQA Guidelines) requires EIRs to describe "... a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather, it must consider a range of potentially feasible alternatives that will avoid or substantially lessen the significant adverse impacts of a project, and foster informed decision making and public participation. An EIR is not required to consider alternatives that are infeasible.

Furthermore, the CEQA Guidelines state that the lead agency shall consider direct physical changes in the environment that may be caused by the project, including reasonably foreseeable indirect physical changes. The Guidelines also state that economic and social changes resulting from a project shall not be treated as significant effects on the environment (section 15064(e)). The potential of the proposed project to change to the recreational experience currently enjoyed by residents is not a physical change to the environment and is not subject to review. While providing a separate pedestrian path does not fall within the purview of CEQA, the City recognizes that the recreational experience provided by, or modified by, the project is an important concern to the community. The area between Oak Ridge Drive and Rocky Ridge Drive includes existing well-worn foot paths in the public open space and a gravel road across public and private property intended for utility and private property access that have been used by the public for walking, jogging and biking. Local residents of the area have expressed

concern over future trail user compatibility if the existing paths or access road are merely replaced with the proposed trail.

The project retains most of this area's existing unimproved paths in their current condition. However, for approximately 1/3-mile the proposed project would be located over the existing gravel access road. In this location, the project plans allow for the installation of an enhanced shoulder 4 feet, 10 inches wide to provide additional walking space for pedestrians as discussed in Draft EIR Chapter 3, Project Description, for the Sheet 5 Segment of the trail (Draft EIR page 3-21) and as shown on Draft EIR Exhibit 3-9. This design also retains but re-locates the existing rear yard access road to Mallard Lane and Meadowlark Way residences.

- 22-2 The comment lists concerns related to trail safety and conflicts between potential trail uses and states that a dual trail alternative needs to be included in the EIR. The comment also addresses existing safety concerns along portions of the trail that are not part of the proposed project.

While trail user safety is an important issue for consideration by the City when evaluating the merits of the proposed project, the topic is not within the purview of CEQA analysis. Additionally, please see Chapter 3, "Project Description," of the Draft EIR for information related to trail design beginning on page 3-7. See also response to comment 22-1.

- 22-3 The comment asserts that the gabion basket wall #4 and log or rock vane #1 will cause stream bank erosion downstream. The comment discusses previous and existing creek channel issues and states that the City needs to consult with appropriate experts.

As discussed in the Draft EIR, a Geomorphology Study and Fluvial Audit was completed by cbec in December 2014, and this was one of several technical studies that were prepared to inform project design. Many of the recommendations of these studies and those contained in the *Engineering Design Considerations and Evaluation based on Geomorphology Study* (PSOMAS 2014), such as bank stabilization elements, have been incorporated into the project, as described in Chapter 3, "Project Description," of the Draft EIR. As discussed in the above-referenced geomorphology report, the proposed log or rock vane may help direct erosive energy away from the outside bank to the center of the channel. Final design of the project will include additional hydrologic/hydraulic analysis for this location to determine the exact location, configuration and design of erosion control structures in this area.

- 22-4 The comment states that hard engineering solutions to the natural park area are not appropriate. The comment states that there are many techniques that use natural materials, such as root wads, boulders, and logs.

Bank stabilization and protection measures will be evaluated in more detail during the design phase, including natural materials options, where appropriate based upon further hydrologic/hydraulic analysis. Use of root wads and other natural materials could be used, as depicted in Exhibit 4.8-4 in Chapter 4.8, "Hydrology and Water Quality," in the Draft EIR.

**Public
Hearing
Response**

May 21, 2018 Public Hearing (Speakers)

| | | | |
|-----|-------------------|--------------|---------|
| N/A | Robert MacNicholl | May 21, 2018 | Hearing |
| N/A | Doug Owens | May 21, 2018 | Hearing |
| N/A | Mary MacNicholl | May 21, 2018 | Hearing |
| N/A | Jennifer Allen | May 21, 2018 | Hearing |
| N/A | Phil Kister | May 21, 2018 | Hearing |

The following are comments received during the Draft EIR public hearing during the City Transportation Commission meeting on May 21, 2018.

PH-1 Robert MacNicholl addressed the Commission in support of the project and requested more information on the alignment of the trail Segment 5.

The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration. City staff followed up with the commenter with additional project information.

PH-2 Doug Owens addressed the Commission regarding the new 32 lot subdivision where he purchased his home a little more than a year ago. He mentioned his desire to keep the green space behind his home and expressed concerns with privacy issues and alignment issues because his home has as see through rear yard fence. He suggested that the trail be put on the other side because he feels there is more open space on the other side.

The 2010 Dry Creek Greenway Trail Planning and Feasibility Study (City of Roseville 2010) identified a key issue along this portion of the potential alignment related to steep slopes along the southerly leg of Old Auburn Road along what was identified in the Study as "Alignment 12-2," which would have crossed under Old Auburn Road using the west span of the existing Old Auburn Road Bridge over Linda Creek. In addition, the Biological Resources Study Report prepared for the Planning and Feasibility Study identified a mitigation/restoration site on the west side of the creek. The comment does not address the adequacy of the Draft EIR, and no additional response is warranted for compliance with CEQA. The comment, along with others received on the Draft EIR, will be forwarded to the decision-makers for their consideration.

PH-3 Mary MacNicholl expressed concern with this being a wider trail than normal that could possibly encroach on trees and into the creek area. Her property extends almost to the creek.

The loss of oak trees is addressed in Impact 4.3-8 (Disturbance of City protected trees, Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations) in the Draft EIR. With the implementation of mitigation measures identified in the Draft EIR, this impact would be reduced to a less-than-significant level.

- PH-4 Jennifer Allen expressed concern with the current homeless encampments along the creek. She believes the trail will only increase the homeless population.
- Please see Master Response 1. Ms. Allen requested that her email address be blacked out on any future agendas. Mike Dour, Alternative Transportation Manager, confirmed that email addresses were necessary for noticing of further meetings. However, addresses on comment letters and emails have been redacted from this Final EIR.
- PH-5 Robert MacNicholl requested additional information on how the existing easement behind his home will be dealt with and if there will be a separation between the proposed bike trail and existing easement.
- This comment asks a design question related to an existing easement and does not address the adequacy of the Draft EIR. City staff followed up with the commenter with additional project information.
- PH-6 Phil Kister requested that “restricted area” signs and restricted access be in place so that the trail cannot be accessed from Jo Anne Lane which is a dead end street; suggested that access be given for trimming of trees only. Mr. Kister expressed concern about the current homeless activity and possible increase in homeless activity due to the trail. Mike Dour, Alternative Transportation Manager, confirmed that there would be construction access only and no additional access was proposed as part of the project. Please also see Master Response 1.

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3 REVISIONS TO THE DRAFT EIR

3.1 INTRODUCTION

This section contains changes to the text of the draft environmental impact report (Draft EIR) in response to certain comments or as initiated by city staff. These changes are generally referenced in the responses to comments in Chapter 2, "Comments and Responses," or are provided to be consistent with changes referenced in Chapter 2. The changes are presented in the order in which they appear in the Draft EIR and are identified by Draft EIR page number. Text deletions are shown in ~~strikeout~~ and additions are shown in double underline. The changes identified below do not alter the environmental analysis, conclusions of the EIR, or significance determinations; they do not require recirculation of the Draft EIR.

3.2 TEXT REVISIONS

3.2.1 Cover and Title Page

Per response to comment 1-1, the title page of the Draft EIR is revised as follows (deleted text shown in ~~strikeout~~ and new text shown in double underline):

**Draft Environmental Impact Report
for the
Dry Creek Greenway East Trail Project
State Clearinghouse #~~2014032087~~ 2013112042**

3.2.2 Chapter 4.1, Aesthetics

Per response to comment 12-2, the fifth bullet on page 4.1-9 of the Draft EIR is revised as follows (new text shown in double underline):

In addition, where appropriate, consideration would be given to screening the trail from existing residential and urban development, such as at the intersection of Sunrise Avenue south of Coloma Way, Oak Ridge Drive north of Rampart Drive, Rocky Ridge Drive north of Cirby Way, ~~and Old Auburn Road north of South Cirby Way,~~ and West Colonial Parkway south of the decomposed granite loop to Old Auburn Road.

Per response to comment 12-3, the third sentence of the second paragraph on page 4.1-12 of the Draft EIR is revised as follows (new text shown in double underline):

Where there is an existing paved trail, the type of use on the project site would remain the same, although the pathway may appear more prominent.

3.2.3 Section 4.4, Cultural Resources

Per response to comment 5-2, Mitigation Measure 4.4-2 on page 4.4-15 of the Draft EIR is revised as follows (deleted text shown in strikethrough and new text shown in double underline):

If human remains are discovered during any construction activities, potentially damaging ground-disturbing activities in the area of the remains shall be halted immediately, and the project applicant shall notify the Placer County coroner and the NAHC immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. If the remains are determined by the NAHC to be Native American, the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The City shall also retain a professional archaeologist with Native American burial experience to assist the City of Roseville, the landowner, and the MLD with any management steps prescribed in California Health and Safety Code Section 7050.5 and California PRC Section 5097.98 ~~conduct a field investigation of the specific site and consult with the MLD, if any, identified by the NAHC.~~ Following the coroner's and NAHC's findings, ~~the archaeologist, and the NAHC-~~ designated MLD and the landowner shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.

4 MITIGATION MONITORING PLAN

4.1 INTRODUCTION

Section 15097 of the California Environmental Quality Act (CEQA) Guidelines requires public agencies to adopt monitoring or reporting programs for projects approved by a public agency whenever approval of a project includes environmental findings related to significant or potentially significant environmental impacts where mitigation measures are adopted as part of the project.

The following is the Mitigation Monitoring Plan (MMP) for the Dry Creek Greenway East Trail Project. The intent of the MMP is to prescribe the means for monitoring the implementation of the mitigation measures identified within the Draft EIR for this project.

4.2 MITIGATION MEASURES

The mitigation measures are taken from the Dry Creek Greenway East Trail Project Draft EIR, as modified by this Final EIR, if applicable, and are assigned the same number as in the Draft EIR. The MMP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions.

4.3 ENVIRONMENTAL IMPACTS AND RECOMMENDED MITIGATION MEASURES

The components of the attached table, which contains applicable mitigation measures, are addressed briefly, below.

Impact: This column summarizes the impact stated in the Draft EIR.

Mitigation Measure: All mitigation measures that were identified in the Dry Creek Greenway East Trail Project Draft EIR are presented and numbered accordingly.

Action: For every mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented, and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.

Implementing Party: This item identifies the entity that will undertake the required action.

Timing: Implementation of the action must occur prior to or during some part of project approval, project design or construction or on an ongoing basis. The timing for each measure is identified.

Monitoring Party: The City of Roseville is primarily responsible for ensuring that mitigation measures are successfully implemented. Within the city, a number of departments and divisions would have responsibility for monitoring some aspect of the overall project. Other agencies, such as state and federal resource agencies and the Placer County Air Pollution Control District, may also be responsible for monitoring implementation of certain permit conditions. As a result, more than one monitoring party may be identified.

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|--|---|-------------------------|--------------------------------------|---------------------------------|
| 4.2 Air Quality | | | | | |
| Impact 4.2-1: Short-term construction-generated emissions of ROG, NO_x, PM₁₀, and PM_{2.5}. | <p>Mitigation Measure 4.2-1: Reduce construction-related NO_x emissions.</p> <p>Before approval of grading permits, the construction contractor shall submit for PCAPCD approval, a written calculation demonstrating that the fleet of heavy-duty (> 50 horsepower) off-road equipment used during the project's construction, including owned, leased, and subcontractor vehicles, will achieve the necessary percent reduction in NO_x emissions during all construction phases, and for any periods during which multiple phases would overlap, as to not exceed 82 lb/day. Acceptable options for reducing emissions may include reduction in the number of segments constructed in a single day, use of late model-year engines, low-emission renewable diesel fuel, engine retrofit technologies, and/or other effective options as recommended by PCAPCD at the time (see Appendix C of the PCAPCD 2017 CEQA Handbook [PCAPCD 2017:75] for additional options). The calculation shall be provided using PCAPCD's Construction Mitigation Calculator.</p> | Construction contractor shall submit for PCAPCD approval a written calculation demonstrating that the heavy-duty off-road equipment used during the project's construction, will achieve the necessary percent reduction in NO _x emissions during all construction phases. | Construction Contractor | Prior to issuance of grading permits | Development Services Department |
| 4.3 Biological Resources | | | | | |
| Impact 4.3-1: Disturbance and loss of waters of the United States, waters of the state and riparian habitat. | <p>Mitigation Measure 4.3-1: Wetlands, Waters of the United States, and Water of the State.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignments Options 1A, 1C, and 5A.</p> <p>The City shall implement the following measures to compensate for the loss of wetlands, waters of the United States, waters of the State, and riparian habitat:</p> <p>a. The City shall submit a wetland delineation report to USACE and request a preliminary jurisdictional determination. Based on the jurisdictional determination, the City shall determine the exact acreage of waters of the United States and waters of the state that would be filled as a result of project implementation.</p> | Submit a wetland delineation report to the United States Army Corps of Engineers (USACE) and request a preliminary jurisdictional determination | City of Roseville | Prior to construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|---|--------------------|--|---------------------------------|
| | b. The City shall replace on a “no net loss” basis (minimum 1:1 ratio) (in accordance with USACE, CDFW, and/or RWQCB) the acreage and function of all wetlands and other waters that would be removed, lost, or degraded as a result of project implementation. Wetland habitat shall be replaced at an acreage and location agreeable to USACE, CDFW, and the Central Valley RWQCB and as determined during the Section 401, Section 404 and Section 1602 permitting processes. The ratio of stream habitat restoration/replacement shall consider value for Central Valley steelhead and Chinook salmon (as discussed under Mitigation Measure 4.3-2). Habitat shall either be restored on the affected stream and within City property, or at an approved mitigation bank. In either instance, compensatory mitigation will be approved by USACE, CDFW, and RWQCB. | Replace the acreage and function of all wetlands and other waters that would be removed, lost, or degraded | City of Roseville | Prior to construction | Development Services Department |
| | c. The City shall obtain a USACE Section 404 Individual Permit, RWQCB Section 401 certification, and a Section 1602 streambed alteration agreement from CDFW before any groundbreaking activity within 50 feet of any wetland or water of the United States. The City shall implement all permit conditions, which may include contributions to an approved wetland mitigation bank or through the development and implementation of a Compensatory Wetland, Stream and Riparian Mitigation and Monitoring Plan for creating or restoring in-kind habitat in the surrounding area. If mitigation credits are not available, stream and riparian habitat compensation shall include establishment of riparian vegetation on currently unvegetated bank portions of streams affected by the project and enhancement of existing riparian habitat through removal of nonnative species, where appropriate, and planting additional native riparian plants to increase cover, continuity, and width of the existing riparian corridor along streams in the project site and surrounding areas. The ratio of riparian restoration/replacement shall consider value for Central Valley steelhead and Chinook salmon (as discussed under Mitigation Measure 4.3-2) as well as City Protected trees and Oak Woodland Habitat (as discussed under Mitigation Measure 4.3-8). Construction activities and compensatory mitigation shall be conducted in accordance with the terms of a streambed alteration agreement as required under Section 1602 of the Fish and Game Code. | Obtain a USACE Section 404 Individual Permit, RWQCB Section 401 certification, and a Section 1602 streambed alteration agreement from the California Department of Fish and Wildlife (CDFW) | City of Roseville | Prior to groundbreaking activity within 50 feet of any wetland or water of the United States | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|---|--|--------------------|--|---------------------------------|
| | <p>d. The Compensatory Wetland, Stream and Riparian Restoration and Mitigation and Monitoring Plan shall include the following:</p> <ol style="list-style-type: none"> 1. identification of compensatory mitigation sites and criteria for selecting these mitigation sites; 2. in kind reference habitats for comparison with compensatory wetland, stream, and riparian habitats (using performance and success criteria) to document success; 3. monitoring protocol, including schedule and annual report requirements (Compensatory habitat shall be monitored for a minimum of three (3) years from completion of mitigation, or human intervention (including recontouring and grading), or until the success criteria identified in the approved mitigation plan have been met, whichever is longer.); 4. ecological performance standards, based on the best available science and including specifications for native riparian plant densities, species composition, amount of dead woody vegetation gaps and bare ground, and survivorship (based on characteristics of the existing impacted habitat); at a minimum, compensatory mitigation planting sites must achieve 80 percent survival of planted riparian trees and shrubs by the end of the three-year maintenance and monitoring period or dead and dying trees shall be replaced and monitoring continued until 80 percent survivorship is achieved; 5. corrective measures if performance standards are not met; 6. responsible parties for monitoring and preparing reports; and 7. responsible parties for receiving and reviewing reports and for verifying success or prescribing implementation or corrective actions. | Prepare Compensatory Wetland, Stream and Riparian Restoration and Mitigation and Monitoring Plan | City of Roseville | Prior to final Compensatory Wetland, Stream and Riparian Restoration and Mitigation and Monitoring Plan approval | Development Services Department |
| Impact 4.3-2: Interfere substantially with the movement of Central Valley steelhead and Central Valley fall-run Chinook salmon. | <p>Mitigation Measure 4.3-2: Central Valley Steelhead and Central Valley fall-run Chinook Salmon</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A.</p> <p>The City shall implement the following measures, developed based on past consultations with NMFS, to avoid, minimize and/or mitigate potential effects on Central Valley steelhead and Central Valley fall-run Chinook salmon.</p> | | | | |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|--|---|--------------------|--|---------------------------------|
| | a. Prior to the onset of work, the qualified biologist shall conduct a mandatory worker environmental awareness training. The training shall educate workers about the importance of avoiding impacts to Central Valley steelhead and Central Valley fall-run Chinook salmon and their habitat. The training shall also cover the relevant permit conditions and avoidance and minimization measures that protect sensitive species and habitats, as well as the penalties for non-compliance with state and federal laws, regulations, and permit requirements. The training shall include information about the life history and habitat requirements of Central Valley steelhead and Central Valley fall-run Chinook salmon and their potential to occur in the project site, as well as the terms and conditions of the Project's Biological Opinions or other authorizing documents (i.e. letter of concurrence). | Hire a qualified biologist to conduct mandatory worker environmental awareness training. | City of Roseville | Prior to construction activities within the creek banks and channel beds | Development Services Department |
| | b. Construction activities occurring within creek banks and channel beds shall be limited to the low-flow period (typically June 15 - October 15), unless earlier or later dates are approved by CDFW and NMFS during consultation. By limiting in-water construction activities to this time period, the Project shall limit construction activities to periods when low flow depths and velocities within the project streams are less likely to support Central Valley steelhead or Central Valley fall-run Chinook salmon life stages including adult migration, spawning, and egg incubation periods. | Limit construction activities within creek banks and channel beds | City of Roseville | During construction activities June 15 – October 15 | Development Services Department |
| | c. Fish screens or temporary stream diversion structures shall be installed to exclude Central Valley steelhead and Central Valley fall-run Chinook salmon from areas where in-water and near-water construction activities would be conducted. Installation of fish screens or temporary diversion structures shall prevent access to affected areas in the unlikely event that Central Valley steelhead or Central Valley fall-run Chinook salmon are present in the project streams during the low-flow period (June 15 - October 15). | Install fish screens or temporary stream diversion structures in areas where in-water and near-water construction activities would be conducted, per Endangered Species Act (ESA) Section 7 consultation. | City of Roseville | During construction activities June 15 – October 15 | Development Services Department |
| | d. The City shall retain a qualified biologist to monitor the installation of fish screens or temporary stream diversion structures, as well as any other near or in-water construction activities (e.g., installation of RSP along | Hire a qualified biologist to monitor installation of fish screens or temporary | City of Roseville | During construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|--|--------------------|--|---------------------------------|
| | creek banks or below the OHWM, installation and removal of low water crossings, placement of new abutments, rock walls, gabions, and water diversions). Prior to the installation of fish screens or temporary stream diversion structures the biologist shall visually survey the in-water work area for Central Valley steelhead and Central Valley fall-run Chinook salmon. | stream diversion structures, as well as any other near or in-water construction activities, per ESA Section 7 consultation | | activities June 15 – October 15 | |
| | e. Once the biologist confirms that no Central Valley steelhead or Central Valley fall-run Chinook salmon are present in the in-water work area, fish screens or temporary diversion devices shall be installed in a downstream direction, installing the upstream fish screen or temporary diversion device. The biologist shall conduct a second visual survey before the downstream portion of the fish screen or temporary stream diversion is installed. If fish are present within the diversion area, the fish shall be guided out of the in-water work area with nets by the qualified biologist. The need for fish salvage is not anticipated because Central Valley steelhead or Central Valley fall-run Chinook salmon are not likely to be present in the project streams during the low-flow period (June 15 - October 15) – primarily because of excessive summer water temperatures that occur during this period in the project area. However, fish salvage (or relocation outside of the in-water work areas) shall be conducted as needed should fish be present. | Qualified biologist shall conduct a second visual survey and guide fish out of the in-water work area with nets, per ESA Section 7 consultation. | City of Roseville | During construction activities June 15 – October 15 | Development Services Department |
| | f. Before the onset of construction activities, high visibility orange construction fencing shall be installed along the perimeter of Environmentally Sensitive Areas under the supervision of the qualified biologist. Fencing shall be installed along the limits of construction in riparian habitat, minimizing the disturbance of or encroachment on sensitive aquatic and riparian habitats. The contractor shall maintain the project's Environmentally Sensitive Area fencing for the duration of the project and remove it when the project is complete. | Install high visibility orange construction fencing along the perimeter of Environmentally Sensitive Areas | City of Roseville | Prior to construction activities within the creek banks and channel beds | Development Services Department |
| | g. Erosion control BMPs shall be implemented during construction to minimize the potential for erosion, and the mobilization of sediments to project waterways and be consistent with the Open Space Preserve Overarching Management Plan (and related USFWS Biological Opinion (81420-2008-F-1958-3). The following erosion and sediment control | Implement erosion and sediment control measures | City of Roseville | During construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|-----------|--------------------|--------|------------------|
| | <p>measures shall be implemented to prevent sedimentation and turbidity, as well as any identified in the SWPPP, 401, 404, or 1602 permits.</p> <ol style="list-style-type: none"> 1. Soil exposure shall be minimized by limiting the area of construction and disturbance and through the use of temporary BMPs, groundcover, and stabilization measures. These measures may include mulches, soil binders and erosion control blankets, silt fencing, fiber rolls, temporary berms, sediment de-silting basins, sediment traps, and check dams. 2. Pursuant to Section 13-4.03C(3) of the Caltrans Standard Specifications, water pollution control practices shall be implemented within 72 hours of stockpiling material or before a forecasted storm event, whichever occurs first. If stockpiles are being used, soil, sediment, or other debris shall not be allowed to enter storm drains, open drainages, and watercourses. Active and inactive soil stockpiles must be covered with soil stabilization. 3. Plastic mono-filament netting (erosion control matting) or similar material that could trap wildlife shall not be used. Acceptable substitutes include, but are not limited to, jute, coconut coir matting, or tackified hydroseeding compounds. 4. Energy dissipaters and erosion control pads shall be provided at the bottom of slope drains as needed. Other flow conveyance control mechanisms may include earth dikes, swales, or ditches. Stream bank stabilization measures shall also be implemented. 5. Existing vegetation shall be protected, to the extent feasible, to reduce erosion and sedimentation. Vegetation shall be preserved by installing temporary fencing, or other protection devices, around areas to be protected. Where complete removal is not necessary, vegetation shall be cut to ground level with the root systems left intact to prevent erosion and facilitate the recovery of riparian vegetation after project activities are complete. 6. Exposed soils shall be covered by loose bulk materials or other materials to reduce erosion and runoff during rainfall events. 7. Exposed soils shall be stabilized, through watering or other measures, to prevent the movement of dust at the project site | | | | |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|---|-------------------------|-----------------------|---------------------------------|
| | <p>caused by wind and construction activities such as traffic and grading activities.</p> <p>8. All construction roadway areas shall be properly protected to prevent excess erosion, sedimentation, and water pollution.</p> <p>9. The contractor shall conduct periodic maintenance of erosion and sediment control measures. All erosion and storm water control measures shall be properly maintained for the duration of the project.</p> | | | | |
| | <p>h. A Spill Prevention and Control Plan shall be developed and implemented by the City, or its contractor, for the duration of the project. Pollution prevention and control BMPs shall be implemented during construction to minimize the risk of hazardous materials being released into waters in the project site. The following pollution and contamination prevention measures shall be implemented to prevent the release of hazardous materials during construction:</p> <p>1. All equipment and materials shall be stored at least 50 feet from wetlands or waters in the project site unless the equipment is on established paved areas. If storage of equipment or materials within 50 feet of wetlands or waters in the project site is necessary, secondary containment shall be utilized to contain the equipment and materials and prevent discharge of any harmful substances into the soil or aquatic resources. Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of the channel and banks of Dry Creek, Cirby Creek, Linda Creek, and Strap Ravine.</p> <p>2. Secondary containment shall be provided for stationary equipment such as motors, pumps, generators, and compressors located within or adjacent to the Dry Creek, Cirby Creek, Linda Creek, and Strap Ravine. Any equipment or vehicles driven or operated within or adjacent to these creeks shall be checked and maintained daily to ensure proper working conditions to avoid potential impacts such as leaks.</p> <p>3. No fueling, cleaning or maintenance of vehicles or equipment, or placement of construction debris, spoils or trash should occur within 50 feet of wetlands or waters in the project site unless it occurs in designated refueling/staging areas on existing paved surfaces with</p> | Develop and implement a Spill Prevention and Control Plan | Construction contractor | Prior to construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|---|--------------------|----------------------------------|---------------------------------|
| | <p>secondary containment in place. Refueling of equipment should occur at approved fuel locations. Contractor shall inspect all equipment/vehicles for leaks prior to use and should be inspected regularly during Project inspection.</p> <p>4. For work that is to occur on existing structures over open flowing portions of Dry Creek, Cirby Creek, Linda Creek, or Strap Ravine, a method of containment such as netting, tarps or similar catchments shall be utilized to catch debris or other potential construction materials and prevent such material from falling into the waters.</p> | | | | |
| | i. Lighting design shall include measures to limit the amount of light “spill” on water surfaces at night that could lead to predation of juvenile salmonids. To minimize the effects of lighting on salmonids, the City shall prevent lighting that directly shines on the water surfaces of Dry Creek, Cirby Creek, and Linda Creek by minimizing the amount of lighting necessary to safely and effectively illuminate pedestrian areas on bridges and trails, and by shielding and focusing lights on the bridge and trail surfaces and away from water surfaces. | Design and install lighting that does not directly shine on the water surfaces of Dry Creek, Cirby Creek, and Linda Creek | City of Roseville | During project construction | Development Services Department |
| | j. The project shall avoid impacts to riparian vegetation where feasible, and shall incorporate restoration and enhancement of the riparian corridor into the final design plans and construction specifications and shall develop a riparian and restoration plan (RRP), as part of the Compensatory Wetland, Stream and Riparian Mitigation and Monitoring Plan discussed in Impact 4.3-1, Disturbance and loss of waters of the United States, and Mitigation Measure 4.3-1 that involves onsite enhancements and purchase of mitigation bank credits to compensate for permanent and temporal loss of riparian and SRA cover. The RRP shall include on-site measures such as enhancing riparian vegetation by the planting of native shrub, tree, and understory species to create a more diverse vegetation structure and thus a higher quality habitat for wildlife. The onsite measures in the RRP may also include the planting of willows and other fast-growing native riparian species, which can quickly compensate for the loss of riparian and SRA cover, and will be planted where erosion control (RSP, slope pavement etc.) is installed along stream banks. Permanent impacts to riparian vegetation can also be mitigated with the purchase of credits (1:1 for riparian and 1.7:1 for | Avoid impacts to riparian vegetation, incorporate restoration and enhancement of the riparian corridor into the final design plans and construction specifications, and develop a riparian and restoration plan | City of Roseville | As required by permit conditions | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|---|---|--------------------|--|---------------------------------|
| | SRA cover), and 0.5:1 for temporal loss of riparian vegetation and SRA cover. Restoration and enhancement of the riparian vegetation in the project site (combined with mitigation bank credits) shall result in no net loss of riparian habitat acreage or function and shall increase the quality of habitat for Central Valley steelhead (including Critical Habitat), Central Valley fall-run Chinook salmon (including EFH), and shall be accomplished through development and implementation of the RRP. Permanent impacts to riparian, including SRA, and waters of the United States shall be further analyzed and determined based on final design for each construction phase during Section 7 consultation as part of USACE Section 404 and CDFW Section 1602 permitting. | | | | |
| | k. Construction techniques shall be implemented to isolate near shore work from waterbodies in the project site. It is anticipated that clear water diversion using a cofferdam or gravel bag berm with impermeable layer would be used. Isolating in-water construction areas behind cofferdams would minimize the potential for turbidity and suspended sediments from reaching levels that could harm Central Valley steelhead, degrade existing Critical Habitat, harm Central Valley fall-run Chinook salmon, or degrade existing EFH. The extent of cofferdam footprints and dewatering shall be kept to the minimum necessary to support construction activities, and creek flow shall not be interrupted or reduced as a result of construction activities. Any fill material used in association with the cofferdams, such as sandbag fill, shall be composed of washed, rounded, spawning-sized gravel between 0.4 and 4 inches in diameter. If authorized by applicable state and federal permits, any of this gravel in contact with flowing water shall be left in place, and distributed manually with hand tools to allow passage for all life stages of fish. Installation and removal of cofferdams and/or gravel bag berms would be restricted to the summer low-flow period. | Isolate near shore work from waterbodies by clear water diversion using a cofferdam or gravel bag berm with impermeable layer | City of Roseville | Prior to construction activities within the creek banks and channel beds | Development Services Department |
| Impact 4.3-3: Disturbance or loss of valley elderberry longhorn beetle or its habitat. | Mitigation Measure 4.3-3a: Avoidance and Minimization Measures
The following measures shall be implemented to avoid or minimize effects to VELB and/or its habitat during construction of the proposed project.
a. A worker awareness training program for construction personnel shall be conducted by a qualified biologist prior to beginning construction activities. The program shall inform all construction personnel about the | A qualified biologist shall conduct a worker awareness training | City of Roseville | Prior to construction activities within | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|--|---|--------------------|--|---------------------------------|
| | life history and status of the beetle, requirements to avoid damaging the elderberry plants, and the possible penalties for not complying with these requirements. Written documentation of the training shall be submitted to the USFWS within 30 days of its completion. | program for construction personnel, per ESA Section 7 consultation | | the creek banks and channel beds | |
| | <p>b. If elderberry shrubs can be retained within the project footprint, the City shall avoid indirect impacts by implementing the following measures, to the extent feasible, or equivalent measures agreed to in consultation with USFWS. Minimization measures include:</p> <ol style="list-style-type: none"> 1. Avoidance Area. An avoidance area shall be established at least 20 feet from the drip-line of an elderberry shrub for any activities that may damage or kill the elderberry shrub (e.g., trenching, paving, etc.). 2. Fencing. All areas to be avoided during construction activities shall be fenced and/or flagged as close to construction limits as feasible. 3. Signage. Signage shall be posted every 50 feet along the buffer area with the following information, "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." The signs shall be clearly readable from a distance of 20 feet and must be maintained for the duration of construction. 4. Timing. To the extent feasible, all activities that could occur within 165 feet of an elderberry shrub, shall be conducted outside of the VELB flight season (March - July). 5. Erosion Control and Revegetation. Erosion control measures will be implemented to restore areas disturbed within 165 feet of elderberry shrubs and the affected area will be re-vegetated with appropriate native plants. 6. Chemical Usage. Herbicides will not be used within the drip-line of the shrub. Insecticides will not be used within 100 feet of an elderberry shrub. All chemicals will be applied using a backpack sprayer or similar direct application method. | Implement minimization measures including, avoidance, fencing, signage, timing, erosion control and revegetation, chemical usage, mowing, surveys, monitoring, protection and management plan, per ESA Section 7 consultation | City of Roseville | Prior to construction activities within the creek banks and channel beds | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|--|--|--------------------|---|---------------------------------|
| | <p>7. Mowing. Mechanical weed removal within the drip-line of the shrub shall be limited to the season when adults are not active (August - February) and shall avoid damaging the elderberry.</p> <p>8. Pre-construction and post-construction surveys. Pre-construction surveys shall document compliance with mitigation measures. The post-construction survey shall confirm that there was no additional damage to any of the elderberry shrubs than as described in this document.</p> <p>9. Construction monitoring. A qualified biologist shall monitor the work area at project-appropriate intervals to assure that all avoidance and minimization measures are implemented. The amount and duration of monitoring will depend on the project specifics and shall be discussed with a USFWS biologist.</p> <p>10. Elderberry Shrub Protection and Management Plan. The City will develop as part of the Section 7 consultation process with USFWS for the Dry Creek Greenway Multi-Use Trail project an elderberry shrub protection and management plan that will include how the buffer areas are to be protected, restored, and maintained after construction is completed and the City will ensure that ground-disturbing activities on the project site do not alter the hydrology for shrubs to be protected or otherwise affect the likelihood of vigor or survival of elderberry shrubs. The Elderberry Shrub Protection and Management Plan shall be consistent with the City's Open Space Preserve Overarching Management Plan.</p> | | | | |
| | <p>Mitigation Measure 4.3-3b: Removing/Transplanting Individual Elderberry Shrubs</p> <p>a. Elderberry shrubs that are in the path of construction activities and cannot be avoided shall be removed and if feasible, transplanted, according to Table 4.3-5. A Biological Opinion from USFWS will be obtained prior to removal or transplanting of elderberry shrubs. Removal of a shrub may either include the roots or just the removal of the above-ground portion of the plant. If feasible, the entire root ball shall be removed, and the shrub transplanted.</p> <p>b. Elderberry shrubs requiring removal shall be transplanted as close as feasible to its original location within City-owned property or as approved</p> | <p>Remove or transplant elderberry shrubs that are in the path of construction activities, per Section 7 consultation.</p> <p>Obtain a Biological Opinion prior to removal or transplanting of elderberry shrubs</p> | City of Roseville | Prior to construction or as required by permit conditions | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party | | | | | | | | | | | | | | | |
|----------|--|------------------------|--------------------------|------------------------|---------------------|---------------------|------|------------------------|------------------------|------------------------|------------------------|------|------------------------|------------------------|------------------------|------------------------|--|--|--|--|
| | <p>by USFWS. Elderberry shrubs may be relocated adjacent to the project footprint if: 1) the planting location is suitable for elderberry growth and reproduction; and 2) the City is able to provide long-term protection to the shrub and ensure that the shrub becomes reestablished.</p> <p>c. If these criteria cannot be met, the shrub may be transplanted to an appropriate USFWS-approved mitigation site.</p> <p>d. Any elderberry shrub that is unlikely to survive transplanting because of poor condition or location, or a shrub that would be extremely difficult to move because of access problems, may not be appropriate for transplanting. The following transplanting guidelines shall be used to guide removal and transplanting of elderberry shrubs on the project site:</p> <ol style="list-style-type: none">1. A qualified biologist shall be on-site for the duration of transplanting activities to assure compliance with avoidance and minimization measures and other conservation measures.2. Exit-hole surveys shall be completed immediately before transplanting. The number of exit holes found, GPS location of the plant to be relocated, and the GPS location of where the plant is transplanted shall be reported to the USFWS and to the California Natural Diversity Database (CNDDDB).3. Elderberry shrubs shall be transplanted when the shrubs are dormant (November through the first two weeks in February) and after they have lost their leaves. Transplanting during the non-growing season will reduce shock to the shrub and increase transplantation success.4. Transplanting shall follow the most current version of the ANSI A300 (Part 6) guidelines for transplanting (http://www.tcia.org/). <p>Table 4.3-5 Mitigation for Loss of Individual Shrubs According to Preliminary Project Design</p> <table><tr><th>Shrub ID</th><th>Proposed Trail Alignment</th><th>Alignment Option 1A</th><th>Alignment Option 1C</th><th>Alignment Option 5A</th></tr><tr><td>ES24</td><td>Transplant if feasible</td><td>Transplant if feasible</td><td>Transplant if feasible</td><td>Transplant if feasible</td></tr><tr><td>ES25</td><td>Transplant if feasible</td><td>Transplant if feasible</td><td>Transplant if feasible</td><td>Transplant if feasible</td></tr></table> | Shrub ID | Proposed Trail Alignment | Alignment Option 1A | Alignment Option 1C | Alignment Option 5A | ES24 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | ES25 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| Shrub ID | Proposed Trail Alignment | Alignment Option 1A | Alignment Option 1C | Alignment Option 5A | | | | | | | | | | | | | | | | |
| ES24 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | | | | | | | | | | | | | |
| ES25 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | | | | | | | | | | | | | |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | | | | | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|------------------------|------------------------|------------------------|------------------------|--|--------------------|---|---------------------------------|
| | ES26 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES31 | Transplant if feasible | No Impact | Transplant if feasible | Transplant if feasible | | | | |
| | ES32 | Transplant if feasible | No Impact | No Impact | Transplant if feasible | | | | |
| | ES33 | Transplant if feasible | No Impact | Transplant if feasible | Transplant if feasible | | | | |
| | ES34 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES35 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES36 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES37 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES38 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES39 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES40 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES41 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | ES42 | Transplant if feasible | Transplant if feasible | Transplant if feasible | Transplant if feasible | | | | |
| | Mitigation Measure 4.3-3c: Compensatory Mitigation for Loss of Riparian Habitat
a. The following compensatory mitigation addresses impacts to VELB habitat through compensating for the permanent loss of riparian habitat within 165 feet of elderberry shrubs. Table 4.3-6 lists the total riparian habitat that is anticipated to be lost, according to the preliminary project design, and the corresponding credits that shall be purchased to replace habitat lost at a 3:1 ratio, as outlined in the VELB framework (USFWS | | | | | Compensate for the permanent loss of riparian habitat within 165 feet of elderberry shrubs at a 3:1 ratio, or similar ratio agreeable to the USFWS, per ESA Section 7 consultation | City of Roseville | Prior to construction or as required by permit conditions | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------------|--|--|--------------------------------|------------------------------------|---------------------------------|------------------------------------|--------------------------|-----|------|------|----|---------------------|-----|------|------|----|---------------------|-----|------|------|-----|---------------------|-----|------|------|----|--|--|--|--|
| | <p>2017b). The exact amount of compensation shall be as agreed to by USFWS, per Section 7 consultation under the Federal Endangered Species Act.</p> <div><p>Table 4.3-6 Potential Valley Elderberry Longhorn Beetle Habitat-Level Compensation</p><table><tr><th>Project Alternative Options</th><th>Compensation Ratio</th><th>Loss of Riparian Habitat (acres)</th><th>Acres of Credit¹</th><th>Total Credit Purchase²</th></tr><tr><td>Proposed Trail Alignment</td><td>3:1</td><td>1.22</td><td>3.66</td><td>89</td></tr><tr><td>Alignment Option 1A</td><td>3:1</td><td>0.89</td><td>2.67</td><td>65</td></tr><tr><td>Alignment Option 1C</td><td>3:1</td><td>1.41</td><td>4.23</td><td>103</td></tr><tr><td>Alignment Option 5A</td><td>3:1</td><td>1.22</td><td>3.66</td><td>89</td></tr></table><p>¹ Acre(s) of credit = Compensation Ratio X Total Acres of Riparian Habitat Permanently Lost within 165 Feet of Elderberry Shrubs</p><p>² Formula for Credit Purchase: 1 credit = 0.041 acres</p></div> <p>b. If the City chooses not to purchase credits at a USFWS-approved bank, they shall follow USFWS requirements for providing a permanent conservation area that meets USFWS criteria and approval, as described in the VELB Framework (USFWS 2017b).</p> | Project Alternative Options | Compensation Ratio | Loss of Riparian Habitat (acres) | Acres of Credit ¹ | Total Credit Purchase ² | Proposed Trail Alignment | 3:1 | 1.22 | 3.66 | 89 | Alignment Option 1A | 3:1 | 0.89 | 2.67 | 65 | Alignment Option 1C | 3:1 | 1.41 | 4.23 | 103 | Alignment Option 5A | 3:1 | 1.22 | 3.66 | 89 | | | | |
| Project Alternative Options | Compensation Ratio | Loss of Riparian Habitat (acres) | Acres of Credit ¹ | Total Credit Purchase ² | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Proposed Trail Alignment | 3:1 | 1.22 | 3.66 | 89 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alignment Option 1A | 3:1 | 0.89 | 2.67 | 65 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alignment Option 1C | 3:1 | 1.41 | 4.23 | 103 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alignment Option 5A | 3:1 | 1.22 | 3.66 | 89 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>Mitigation Measure 4.3-3d: Consultation with USFWS</p> <p>Caltrans, as the federal designated agency, will consult with USFWS under Section 7 of ESA for approval of transplanting and compensatory measures outlined in Mitigation Measures 4.3-3b and 4.3-3c prior to project construction.</p> | Consult with USFWS for approval of transplanting and compensatory measures | Caltrans and City of Roseville | Prior to construction | Development Services Department | | | | | | | | | | | | | | | | | | | | | | | | | |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|---|--|--------------------|---|---------------------------------|
| Impact 4.3-4: Disturbance or loss of Swainson's hawk, white-tailed kite, and other nesting raptors. | Mitigation Measure 4.3-4: Nesting Raptors
This mitigation would apply for the Proposed Trail Alignment, Alternative Alignments 1A, 1C, and 5A.
The following measures shall be implemented to avoid, minimize and fully mitigate impacts to Swainson's hawk, white-tailed kite, as well as other raptors.
a. For project activities, including tree removal, that begin between February 15 and September 15, a qualified biologist shall conduct preconstruction surveys for nesting raptors and to identify active nests on and within 0.25 mile of the project site with direct line of sight from public access areas with the use of binoculars and spotting scopes to the proposed work areas. The surveys shall be conducted before the beginning of any construction activities between February 15 and September 15. | If trees are removed between February 15 and September 15, hire a qualified biologist to conduct preconstruction surveys | City of Roseville | Prior to tree removal or start of construction activities | Development Services Department |
| | b. The City shall attempt to initiate upland construction activities before the nest initiation phase (i.e., before February 15). If breeding raptors establish an active nest site, as evidenced by nest building, egg laying, incubation, or other nesting behavior, near the construction area, they shall not be harassed or deterred from continuing with their normal breeding activities. | Initiate upland construction activities before the nest initiation phase | City of Roseville | During construction | Development Services Department |
| | c. Impacts to nesting raptors shall be avoided by establishing appropriate buffers around active nest sites identified during preconstruction raptor surveys. No project activity shall commence within the buffer areas until a qualified biologist has determined the young have fledged, the nest is no longer active, or reducing the buffer, in coordination with CDFW, would not likely result in nest abandonment. CDFW guidelines recommend implementation of 500 feet for raptors, but the size of the buffer may be adjusted if a qualified biologist and the City, in consultation with CDFW, determine that such an adjustment would not likely adversely affect the nest. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has potential to adversely affect the nest. | Establish appropriate buffers | City of Roseville | Prior to tree removal or start of construction activities | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|--|---|--------------------|---|--|
| | d. Trees shall not be removed during the breeding season for nesting raptors unless a survey by a qualified biologist verifies that there are not active nests within the trees or within 500 feet of the trees proposed to be removed. Loss of trees that provide potential nesting habitat shall be compensated by planting replacement trees according to Mitigation Measure 4.3-1 (wetlands/riparian trees) and Mitigation Measure 4.3-8 (protected oak trees). | Nesting habitat shall be compensated by planting replacement trees according to Mitigation Measure 4.3-1 and Mitigation Measure 4.3-8 | City of Roseville | Post-construction activities as part of Riparian Restoration Plan | Development Services Department |
| Impact 4.3-5: Disturbances to special-status song birds. | <p>Mitigation Measure 4.3-5: Special-status birds</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Option 1A, 1C, and 5A.</p> <p>The following measures shall be implemented and are intended to avoid, minimize, and fully mitigate impacts to nesting special-status birds.</p> <p>a. The City shall ensure that before any ground-disturbing project activities begin for a given proposed trail segment, a qualified biologist shall identify potential habitat for nesting special-status bird species in areas that could be affected during the breeding season by construction.</p> | Hire a qualified biologist to identify habitat for nesting special-status bird species. | City of Roseville | Prior to ground disturbance or tree removal | Development Services Department |
| | b. If vegetation removal or other disturbance related to construction of the trail segment is required during the nesting season, focused surveys for active nests of special-status birds shall be conducted before and within 5 days of initiating construction by a qualified biologist. The appropriate area to be surveyed and timing of the survey may vary depending on the activity and species that could be affected. If no active nests are found during focused surveys, no further action under this measure shall be required. | Focused surveys for active nests of special-status birds shall be conducted. | City of Roseville | Before and within 5 days of initiating construction | Development Services Department |
| | c. If an active special-status bird nest is located during the preconstruction surveys, the biologist shall notify the City and the City shall notify CDFW. Construction shall be prohibited within a minimum of 25 feet of the nest to avoid disturbance until the nest is no longer active. | Notify CDFW; construction shall be prohibited within 25 feet of the nest. | City of Roseville | During preconstruction surveys | Development Services Department and CDFW |
| | d. If construction stops for more than 5 days during the nesting season, a follow up survey shall be conducted to make sure that no birds moved into the area and started nesting. | Conduct follow up survey | City of Roseville | If construction stops for more than 5 days | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|--|--|--------------------|---|---------------------------------|
| Impact 4.3-6: Disturbance or loss of Western pond turtle. | Mitigation Measure 4.3-6: Western Pond Turtle.
This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A.
a. Implement Mitigation Measure 4.3-1. | Submit a wetland delineation report to USACE and request a preliminary jurisdictional determination | City of Roseville | Prior to construction | Development Services Department |
| | b. Before ground disturbance, all onsite construction personnel shall be instructed by a qualified biologist regarding the potential presence of western pond turtle, the importance of avoiding impacts on this species and its habitat, and recognition of western pond turtle and its habitat(s). | Hire a qualified biologist to train construction personnel on western pond turtle | City of Roseville | Prior to construction | Development Services Department |
| | c. Within 24 hours before beginning construction activities within 200 feet of suitable aquatic habitat for western pond turtle, a qualified biologist shall inspect areas of anticipated disturbance for the presence of western pond turtle nests and individuals. If nests are found, a 100-foot no disturbance buffer shall be erected and maintained until the turtles have hatched and no obstructions between the nest and aquatic habitat shall be created. No vegetation clearing will be allowed within the buffer to shelter the turtles from the elements and potential predators. | Hire a qualified biologist to inspect areas of anticipated disturbance for the presence of western pond turtle | City of Roseville | Within 24 hours before beginning construction activities | Development Services Department |
| | d. If adult and juvenile turtles are found during preconstruction, dewatering, or fish rescue operations, the biologist shall relocate the western pond turtle to the nearest suitable habitat outside of the area of disturbance. The construction area shall be re-inspected whenever a lapse in construction activity of two weeks or more has occurred. The biologist shall be available thereafter; if a turtle is encountered during construction activities, the biologist shall relocate the western pond turtle to the nearest suitable aquatic habitat outside the area of disturbance. As suitable habitat is located throughout the area, it is not anticipated that turtles would be relocated far from construction areas and that they would recolonize following construction. | Relocate the western pond turtle to the nearest suitable habitat outside of the area of disturbance | City of Roseville | During preconstruction, dewatering, or fish rescue operations | Development Services Department |
| | e. After completion of project-related construction activities, any temporary fill and construction debris shall be removed, and temporarily disturbed areas shall be restored to pre-project conditions. Restoration of grassland and riparian habitat shall be conducted as applicable under Mitigation Measure 4.3-1 (for riparian vegetation) and Mitigation Measure 4.3-4 (for grassland habitat) in proximity to the stream corridors. | Remove temporary fill and construction debris; restore habitat | City of Roseville | After completion of project-related construction activities | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|---|--|--|--|--|
| Impact 4.3-7: Disturbance or loss of special-status bats – pallid bat and silver-haired bat. | Mitigation Measure 4.3-7: Special-status bats
This mitigation would apply for the Proposed Trail Alignment, Alternative Alignments 1A, 1C, and 5A.
a. Bat surveys shall be conducted by a qualified wildlife biologist within 5 days before removal of trees that have suitable roosting habitat for bats. Specific survey methodologies shall be determined in coordination with CDFW, and may include visual surveys of bats (e.g., observation of bats during foraging period), inspection for suitable habitat, bat sign (e.g., guano), or use of ultrasonic detectors (e.g., Petterson, Anabat, Wildlife Acoustics). Removal of any significant roost sites located shall be avoided to the extent feasible with a non-disturbance buffer of 250-feet. If it is determined that an active roost site cannot be avoided and will be affected, bats shall be excluded from the roost site before the site is removed. The City shall first notify and consult with CDFW on appropriate bat exclusion methods and roost removal procedures. Exclusion methods may include use of one-way doors at roost entrances (bats may leave, but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Once it is confirmed that all bats have left the roost, crews shall be allowed to continue work in the area. The City may have to provide temporary suitable bat roosting habitat (i.e. bat boxes), prior, during, and after exclusion to provide bat roosting habitat. | Hire a qualified biologist to conduct bay surveys | City of Roseville | Within 5 days before removal of trees that have suitable roosting habitat for bats | Development Services Department |
| | b. Exclusion efforts shall be restricted during periods of sensitive activity (e.g., during winter hibernation or while females in maternity colonies are nursing young [generally, April 15 through August 15]). If a hibernation or maternity roosting site is discovered, the project biologist and the City shall consult with CDFW to establish appropriate exclusionary buffers until all young are determined to be able to fly by the project biologist. Once it is determined that all young are able to fly, passive exclusion devices shall be installed and all bats will be allowed to leave voluntarily. Once it is determined by a qualified biologist that all bats have left the roost, crews shall be allowed to work within the buffer zone. | Restrict exclusion activities during period of sensitive activity.

Consult with CDFW to establish exclusionary buffers if a hibernation or maternity roosting site is discovered. | City or Roseville

City of Roseville | During construction April 15 through August 15

During construction April 15 through August 15 | Development Services Department

Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|---|---|--------------------|----------------------------------|---------------------------------|
| Impact 4.3-8: Disturbance or loss of City protected trees, Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations. | <p>Mitigation Measure 4.3-8: Avoid impacts or mitigate for impacts to Valley Oak Woodland, and other Sensitive Vegetation Alliances and Associations (previously known as Sensitive Natural Communities)</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Option 1A, 1C, and 5A.</p> <p>a. To the maximum extent feasible, oak and riparian trees shall be avoided where possible and protection measures shall be implemented to protect oak woodlands, riparian areas and associated native trees from project-related impacts. The following measures shall be implemented for oak and riparian trees that would be impacted by project activities to avoid and minimize potential impacts to individual oak and riparian trees:</p> <ol style="list-style-type: none"> 1. Temporary protective fencing shall be installed at least one foot outside the dripline of the native oak tree before initiating construction to avoid damage to the tree canopy and root system. A circle with a radius measurement from the trunk of the tree to the tip of its longest limb will constitute the dripline protection area for each tree. Limbs must not be cut back to change the dripline. The area beneath the dripline is a critical portion of the root zone and defines the minimum protected area of each tree. Removing limbs that make up the dripline does not change the protected area. 2. No vehicles, construction equipment, mobile home/office, supplies, materials or facilities shall be driven, parked, stockpiled or located within the dripline of the native oak trees. 3. No grading shall be allowed within the dripline of the native oak tree. 4. No trenching shall be allowed within the dripline of the native oak tree. If it is necessary to install underground utilities within the dripline of the native oak tree, the utility line shall be jacked and bored under the supervision of a certified arborist. 5. Drainage patterns onsite shall not be modified so that water collects or stands within, or is diverted across, the dripline of any native oak tree. 6. If ground disturbance must occur within the protected zone of a native oak tree, all work shall occur consistent with the City's Tree Preservation Ordinance requirements. | Implement protection measures to protect oak woodlands, riparian areas and associated native trees from project-related impacts | City of Roseville | Prior to and during construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|--|---|---|---|---|
| | <p>b. For those trees that cannot be avoided, the City shall comply with any riparian habitat conditions to comply with the Compensatory Wetland, Stream and Riparian Mitigation and Monitoring Plan that will be developed during the Section 404, Section 401, and Section 1602 permitting process as described in Mitigation Measure 4.3-1. Additionally, the City shall implement the following:</p> <ol style="list-style-type: none"> 1. An arborist report shall be conducted to identify the species and quantities of trees that will be removed to implement the project. 2. If native oak trees are removed, they shall be replaced as outlined in the City's Tree Preservation Ordinance 19.66.070. A Tree Planting and Maintenance Plan showing species, size, spacing and location of plantings, and the location and species of established vegetation shall be prepared. A monitoring program shall also be established to ensure compliance with any prescribed mitigation measures established by the project and to monitor the oak woodland restoration area. 3. Fully implement Mitigation Measure 4.3-1, which requires the City to secure and comply with a CDFW Streambed Alteration Agreement that would include a riparian restoration component. | Comply with the Compensatory Wetland, Stream and Riparian Mitigation and Monitoring Plan | City of Roseville | As required by permit conditions | Development Services Department |
| Impact 4.3-9: Disturbance or loss of special-status plants – Sanford's arrowhead. | <p>Mitigation Measure 4.3-9: Special-status plants – Sanford's arrowhead.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alternative Alignments 1A, 1C, and 5A.</p> <p>The City shall implement the following measures to reduce potential impacts on Sanford's arrowhead:</p> <ol style="list-style-type: none"> a. Prior to project construction and during the blooming period for Sanford's arrowhead (May – November), a qualified botanist shall conduct floristic-level surveys for Sanford's arrowhead in areas where potentially suitable habitat would be removed or disturbed by project activities. The normal blooming period for Sanford's arrowhead generally indicates the optimal survey period when the species is most identifiable. b. If no Sanford's arrowhead plants are found, the botanist shall document the findings in a letter report to the City of Roseville and CDFW and no further mitigation shall be required. | <p>Qualified botanist shall conduct floristic-level surveys for Sanford's arrowhead</p> <p>Document findings in letter report</p> | <p>City of Roseville</p> <p>City of Roseville</p> | <p>Prior to project construction, between May and November</p> <p>Post survey</p> | <p>Development Services Department</p> <p>Development Services Department</p> |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------|---|--|--------------------|-------------|---------------------------------|
| | <p>c. If Sanford's arrowhead plants are found that cannot be avoided during construction, the City shall consult with CDFW to determine the appropriate mitigation measures for direct and indirect impacts that could occur as a result of project construction and shall implement the agreed-upon mitigation measures to achieve no net loss of occupied habitat or individuals. Mitigation measures may include preserving and enhancing existing populations, creation of offsite (but within the stream reach) populations on project mitigation sites through seed collection or transplantation, and/or restoring or creating suitable habitat in sufficient quantities to achieve no net loss of occupied habitat and/or individuals. Potential mitigation sites could include suitable locations along the stream but outside of the construction areas. A mitigation and monitoring plan shall be developed describing how unavoidable losses of special-status plants will be compensated.</p> <p>d. If relocation efforts are part of the mitigation plan, the plan shall include details on the methods to be used, including collection, storage, propagation, receptor site preparation, installation, long-term protection and management, monitoring and reporting requirements, success criteria, and remedial action responsibilities should the initial effort fail to meet long-term monitoring requirements.</p> <p>e. Success criteria for preserved and compensatory populations shall include:</p> <ol style="list-style-type: none"> 1. The extent of occupied area and plant density (number of plants per unit area) in compensatory populations shall be equal to or greater than the affected occupied habitat. 2. Compensatory and preserved populations shall be self-producing. Populations shall be considered self-producing when: <ol style="list-style-type: none"> I. plants reestablish annually for a minimum of five years with no human intervention such as supplemental seeding; II. reestablished and preserved habitats contain an occupied area and flower density comparable to existing occupied habitat areas in similar habitat types in the project vicinity. 3. If off-site mitigation includes dedication of conservation easements, purchase of mitigation credits, or other off-site conservation measures, the details of these measures shall be included in the | Consult with CDFW to determine the appropriate mitigation measures | City of Roseville | Post survey | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|---|--|--------------------|---|---------------------------------|
| | mitigation plan, including information on responsible parties for long-term management, conservation easement holders, long-term management requirements, success criteria such as those listed above and other details, as appropriate to target the preservation of long term viable populations. | | | | |
| Impact 4.3-10: Impacts on movement of native resident or migratory fish or wildlife species or migratory wildlife corridors or impede the use of native wildlife nursery sites. | <p>Mitigation Measure 4.3-10: Movement of native resident or migratory fish or wildlife species or migratory wildlife corridors or impede the use of native wildlife nursery sites.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alternative Alignments 1A, 1C, and 5A.</p> <p>Implementation of Mitigation Measure 4.3-1 and Mitigation Measure 4.3-2 would ensure that impacted habitats are mitigated for or restored, and work windows would prevent impact to migratory fish species. The work windows would allow the fish to freely use the stream corridors during migration to and from the streams. Impacted habitats (i.e., aquatic, riparian and SRA) would be restored or mitigated for and although affected their long-term function as breeding or nursery site would not be impacted.</p> <p>a. Implement Mitigation Measure 4.3-1 Wetlands, Waters of the United States, waters of the state and riparian habitat.</p> <p>b. Implement Mitigation Measure 4.3-2 Central Valley Steelhead and Central Valley Fall-run Chinook Salmon.</p> | Restore or mitigate for Impacted habitats (i.e., aquatic, riparian and SRA). | City of Roseville | Post-construction activities, as required by permit conditions | Development Services Department |
| 4.4 Cultural Resources | | | | | |
| Impact 4.4-1: Disturb archaeological resources, including tribal cultural resources. | <p>Mitigation Measure 4.4-1: Proper Handling of Archaeological Resources.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A.</p> <p>A minimum of seven days prior to beginning earthwork or other soil disturbance activities, the City shall notify UAIC of the proposed earthwork start-date. As part of this notification, a UAIC tribal representative shall be invited to inspect the project site, including any soil piles, trenches, or other disturbed areas, within the first five days of groundbreaking activity. During this inspection, a site meeting of construction personnel shall also be held to afford the tribal representative the opportunity to provide cultural resources awareness information.</p> | Notify UAIC of the proposed earthwork start-date | City of Roseville | Notify UAIC at least seven days prior to beginning earthwork or other soil disturbance activities; UAIC site inspection to occur within first 5 days of groundbreaking activity | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|--|--|--------------------|--|---------------------------------|
| | If any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains are encountered during this initial inspection or during any subsequent construction activities, work shall be suspended within 100 feet of the find, and the City's Project Manager shall immediately notify the City of Roseville Development Services Director. The City's Project Manager, in consultation with the City's Environmental Coordinator, shall coordinate any necessary investigation of the site with a qualified archaeologist approved by the City, and as part of the site investigation and resource assessment the archeologist shall consult with the UAIC and provide proper management recommendations should potential impacts to the resources be found by the City to be significant. A written report detailing the site assessment, coordination activities, and management recommendations shall be provided to the City by the qualified archaeologist. Possible management recommendations for unique archaeological resources could include resource avoidance or, where avoidance is infeasible in light of project design or layout or is unnecessary to avoid significant effects, preservation in place or other measures. The contractor shall implement any measures deemed by City staff to be necessary and feasible to avoid or minimize significant effects to the cultural resources. | Suspend work within 100 feet of structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains find | City of Roseville | During initial inspection or during any subsequent construction activities | Development Services Department |
| Impact 4.4-2: Accidental discovery of human remains. | <p>Mitigation Measure 4.4-2: Stop work if human remains are discovered.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A.</p> <p>If human remains are discovered during any construction activities, potentially damaging ground-disturbing activities in the area of the remains shall be halted immediately, and the project applicant shall notify the Placer County coroner and the NAHC immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. If the remains are determined by the NAHC to be Native American, the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The City shall also retain a professional archaeologist with Native American burial experience to assist the City of Roseville, the landowner, and the MLD with any management steps prescribed in California Health and Safety Code Section 7050.5 and California PRC Section 5097.98. Following the coroner's and NAHC's findings, the NAHC-designated MLD and the landowner shall determine</p> | Halt ground disturbing activities and notify the Placer County coroner and the NAHC immediately | City of Roseville | During construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|---|---|--|----------------------------------|---|---------------------------------|
| | the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94. | | | | |
| 4.7 Hazards and Hazardous Materials | | | | | |
| Impact 4.7-5: Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are located adjacent to urbanized areas or where residences are intermixed with wildlands during project construction. | <p>Mitigation Measure 4.7-5: Clear flammable materials within the project site prior to construction.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A.</p> <p>If dry vegetation or other fire fuels exist on or near staging areas, welding areas, or any other area on which equipment will be operated, contractors shall clear the immediate area of fire fuel prior to construction. To the extent feasible, areas subject to construction activities will be maintained free of fire fuel and debris during the course of construction. To avoid impacts to natural resources, areas to be cleared and appropriate clearing methods shall be identified with the assistance of a qualified biologist.</p> | Clear staging areas, welding areas, or any other area on which equipment will be operated of fire fuel | City of Roseville | Prior to start of construction activities | Development Services Department |
| 4.10 Noise | | | | | |
| Impact 4.10-1: Short-term construction-related noise. | <p>Mitigation Measure 4.10-1: Employ Noise-Reducing Construction Practices</p> <p>This mitigation will apply to the Proposed Trail Alignment and Alignment Options 1A, 1C, and 5A.</p> <p>Feasible measures that can be used to limit construction noise include the following:</p> <ul style="list-style-type: none"> ▲ Locate stationary noise generating construction equipment as far as feasible from noise-sensitive uses. ▲ Do not idle inactive construction equipment for prolonged periods (i.e., more than 5 minutes). ▲ Prohibit unmuffled engine exhaust systems. All construction equipment powered by gasoline or diesel engines shall have factory-installed sound control devices, or sound control devices | Limit construction noise, per Mitigation Measure 4.10-1 | Contractor and City of Roseville | Prior to and during construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|---|--|---|----------------------------------|---------------------------------|
| | <p>that are at least as effective as those originally provided by the manufacturer, and all equipment shall be operated and maintained in good working order to minimize noise generation pursuant to Section 9.24.030 of the Noise Ordinance.</p> <ul style="list-style-type: none"> ▲ The contractor shall provide advance written notification to owners and renters of buildings located within 50 feet of construction activities. The notice shall explain when construction is expected. The notice shall include contact information for the project manager. ▲ When construction occurs outside of the typical daytime and early evening hours (7:00 a.m. – 7:00 p.m. Monday-Friday and 8:00 a.m. – 8:00 p.m. Saturday and Sunday) or within 50 feet of noise sensitive commercial or office buildings, the use of noise-generating construction equipment will be avoided to the extent feasible. When not feasible, construction contractors will specify proposed noise-reducing construction practices or alternative schedules that will be employed to reduce construction noise. Measures specified by the contractors will be reviewed and approved by the City prior to construction activities. In these situations, feasible noise reduction measures include the following: <ul style="list-style-type: none"> ▼ Alternative construction schedule to minimize disturbance to normal office operations; and/or ▼ Use temporary noise-reducing barriers positioned between noise-generating equipment (including hand operated jack hammers) and the sensitive receptor building. Such barriers may include commercially manufactured noise-insulating blankets/quilts or as equal materials with similar noise reduction performance as approved by the resident engineer. When temporary barrier units are joined together, the mating surfaces shall be flush with each other with no gaps. | | | | |
| Impact 4.10-3:
Exposure to
construction-related | <p>Mitigation Measure 4.10-3: Reduce exposure to construction-generated ground vibration.</p> <p>This mitigation will apply to the Proposed Trail Alignment and Alignment Options 1A, 1C, and 5A.</p> | Specify construction practices that reduce the adverse effects of ground vibration | Construction Contractor and City of Roseville | Prior to and during construction | Development Services Department |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--------------------------------|---|-----------|--------------------|--------|------------------|
| groundborne vibrations. | <p>Construction documents shall specify construction practices that reduce the adverse effects of ground vibration associated with project construction activities. Measures specified by the design engineer will be reviewed and approved by the City prior to approval of the plans and specifications and may include, but are not limited to, the measures listed below.</p> <ul style="list-style-type: none"> ▲ Implement Mitigation Measure 4.10-1. ▲ All construction equipment on construction sites shall be operated as far away from vibration- and noise-sensitive sites as reasonably feasible. ▲ Earthmoving, dozing, and ground-impacting operations shall be phased so as not to occur simultaneously in areas close to offsite sensitive receptors, to the extent feasible. The total vibration level produced could be significantly less when each vibration source is operated at separate times. ▲ As part of final design, project engineers shall identify areas on the project plans where work may be constrained due to proximity of structures. The designs shall specify requirements that during project construction on the trail alignment, no heavy vibratory equipment (i.e., the types of equipment listed in Table 4.10-5), shall be operated within 13 feet of off-site building structures unless otherwise approved in writing by the City Engineer. Non-vibratory equipment, such as hand tools, and handheld vibratory compactors and rollers may be used. Use of different material types including slurry cement and concrete paving approved by the Engineer, may be used to reduce or eliminate the need for vibratory equipment. Those portions of the project site located within 13 feet of an off-site building structure shall be identified on construction documents and demarcated with stakes, flags, rope and/or markings on the ground. ▲ For Option 5A, locate caisson drilling for Bridge 14 forty-three (43) feet or greater from existing occupied structures, if feasible. ▲ Staging areas shall be adjusted and temporary fencing shall be installed to ensure that loaded trucks shall not operate within 13 feet of existing structures. | | | | |

Table 4-1 Dry Creek Greenway East Trail Mitigation Monitoring Plan

| Impact | Mitigation Measures | Action(s) | Implementing Party | Timing | Monitoring Party |
|--|--|---|---|---|----------------------------|
| 4.13 Transportation and Circulation | | | | | |
| 4.13-1: Safety-related traffic impacts. | <p>Mitigation Measure 4.13-1: Prepare Traffic Management Plan.</p> <p>This mitigation would apply for the Proposed Trail Alignment, Alignment Options 1A, 1C, and 5A.</p> <p>The City shall require the construction contractor to prepare for city approval and implement a traffic management plan before construction activities begin.</p> <p>Before the beginning of construction on the project site, the contractor shall prepare a detailed traffic management plan that will be subject to review and approval by the City Department of Public Works. The plan shall ensure maintenance of safe and acceptable operating conditions for local roadways, bicycle and pedestrian facilities, and transit routes. The Traffic Management Plan shall regulate maintenance of traffic during each construction season and comply with agency standards to promote safe and efficient travel for the public and construction workers through the work zones. The plan shall include provisions for regular inspections to assess contractor compliance, signage to direct traffic, and public noticing, as appropriate. Methods in the plan may include (but are not limited to):</p> <ul style="list-style-type: none"> ▲ appropriately sequencing activities (e.g., segment phasing, timing of grading, hours of construction) to minimize conflicts with traffic on affected roadways, ▲ maintaining traffic flow in the project area to the extent feasible, ▲ maintaining bicycle and pedestrian access along Riverside Avenue, and ▲ using flaggers to direct traffic, as needed, for ingress or egress of large trucks and other vehicles. | Construction contractor shall prepare and implement a traffic management plan | Construction Contractor and City of Roseville | Prior to start of construction activities | Department of Public Works |

5 REFERENCES

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Chapter 3, Revisions to the Draft EIR

No references cited in this chapter.

Chapter 4, Mitigation Monitoring Plan

No references cited in this chapter.

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6 ACRONYMS AND ABBREVIATIONS

| | |
|------------------|---|
| Caltrans | California Department of Transportation |
| CCR | California Code of Regulations |
| CDFW | California Department of Fish and Wildlife |
| CEQA | California Environmental Quality Act |
| CNDDDB | California Natural Diversity Database |
| CVFPB or Board | Central Valley Flood Protection Board |
| District | Placer County Flood Control and Water Conservation District |
| Draft EIR | draft environmental impact report |
| ESA | Endangered Species Act |
| FD | Fire Department |
| MMP | Mitigation Monitoring Plan |
| MOU | Memorandum of Understanding |
| NOP | Notice of Preparation |
| PD | Roseville Police Department |
| PRC | Public Resources Code |
| proposed project | Dry Creek Greenway East Trail Project |
| ROW | right of way |
| RRP | riparian and restoration plan |
| SRG | Stakeholder Representative Group |
| UAIC | United Auburn Indian Community of the Auburn Rancheria |
| USACE | United States Army Corps of Engineers |

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