



Audubon CALIFORNIA

January 19, 2007

Mr. Daniel Fierros
Los Angeles County
Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Dear Mr. Fierros:

We submit these comments to the Draft Environmental Impact Report for the Landmark Village phase of the proposed Newhall Ranch development west of Santa Clarita (**Project No. 00-196 / Tract Map No. 53108 / Landmark Village; hereafter "DEIR"**). Our analysis indicates that Newhall Land and the County of Los Angeles have not conducted proper environmental review of this project, despite the issuance of the DEIR, and detail our objections below.

These comments are submitted on behalf of Audubon California and the following Audubon chapters: Los Angeles Audubon Society, San Fernando Valley Audubon Society, and Ventura Audubon Society. These are all non-profit, public interest organizations devoted to the conservation of wildlife and other natural resources. National Audubon Society and its chapters have an estimated 50,000 members in California, many of whom birdwatch and enjoy the natural habitats of the Los Angeles area. Since 2003, Audubon has held a Christmas Bird Count centered on Santa Clarita, which attracts participants from throughout Los Angeles County, and in 2004, Audubon identified the Santa Clara River Valley as one of 150 Important Bird Areas of California¹.

BACKGROUND

Ecological Setting of Project Area

When complete, the development of Newhall Ranch in northwestern Los Angeles County will impact more than 10,000 acres, making it one of the largest developments ever proposed in the county². Roughly half of the land within the ranch will be kept as open space, but this will be mainly restricted to the steep upper slopes in the southwest corner of the ranch, and along a

¹ Cooper, D.S. 2004. *Important Bird Areas of California*. Audubon California. 286 pp.

² Conservation Biology Institute (CBI) 2005. *Ecological Impact Assessment of Urban Development on the Santa Clara River Watershed, California* (unpublished report). Prepared August 2005.

narrow corridor (less than a half-mile wide) following and including the Santa Clara River³. Aside from these two areas, just over 1,500 acres of existing open space will be permanently protected within the Salt Creek watershed in adjacent Ventura County, contiguous to the ranch. Still, more than 5,000 acres, mainly coastal scrub and grassland are slated for conversion through residential and commercial development.

Landmark Village, the first in a series of three large residential and commercial developments proposed for Newhall Ranch, is proposed for undeveloped land along the Santa Clara River. Undammed its entire 80-mile length from the Mojave Desert to the Pacific Ocean, the Santa Clara River watershed remains one of the most ecologically significant natural systems left in southern California, and projects like Newhall Ranch make it one of the most threatened. In 2005, the Santa Clara was named one of the nation's ten most endangered rivers by American Rivers, a national conservation group, which cited the proposed Newhall Ranch as a primary threat⁴. Unlike beaches and mountains in the region, over 95% of land immediately surrounding the river is in private ownership, which means that conservation of its steelhead run, willow and cottonwood forest will rest on the efforts to work with private landowners to secure and restore the river and its associated habitat at a time that numerous development projects are being proposed along the river.

Indeed, within the stretch between Castaic Junction and Santa Clarita, fully 51% of the remaining open space within five miles of the river either is impacted by current projects or is proposed for development⁵. Thus in order to protect the Santa Clara River and reverse a number of the current or impending threats such as channelization, down-cutting, and exotic species infestations that have seriously degraded so many other rivers in the region, necessarily involves identifying key remaining areas for conservation and then working closely with public agencies and private landowners to protect them. This effort depends on reliable, up-to-date ecological information from which sound scientific conclusions may be drawn.

Because Newhall Land requires confidentiality agreements for all wildlife surveys conducted on the project area, and because the site has been closed to public visitation for decades, the biota of the proposed Landmark Village - and of Newhall Ranch as a whole - is virtually unknown to all but a handful of people, none of whom are free to share their findings with the scientific community except through publications released by the landowners. Because these publications represent the only primary sources of ecological information that is made available to the public before the proposed Newhall Ranch development, it is imperative that these landowner-sponsored reports present a complete and accurate accounting of the biological resources present on Newhall Ranch. Only in this way can the County of Los Angeles allow the public and decision-makers to consider the effects of the proposed project in the "full environmental context," as specified in Section 15125 (c) of the California Environmental Quality Act (CEQA). One way for members of the public to assess the adequacy of a CEQA document is to extrapolate which species and other natural resources *should* be present on the project site by examining known records of species distributions on public lands surrounding the site (e.g., at Castaic Lagoon and Placerita Canyon). Based on previous surveys of adjoining lands, we have serious concerns that the landowner's reports and the County's DEIR appear to represent something less than the "full environmental context" mandated under CEQA.

³ Impact Sciences, Inc. 2006. Landmark Village Draft EIR. November 2006. Section 4.4 "Biota".

⁴ CBI 2005, p. 21.

⁵ CBI 2005, p. 28.

Description of Proposed Development

Slated to impact nearly 1,000 acres of natural open space along the Santa Clara River just west of Interstate 5 (DEIR; 4.4-59), Landmark Village proposes nearly 1,500 dwelling units, over a million square feet of commercial space, and a major new bridge over the Santa Clara River through currently undeveloped wildlands. Of the 17 miles of tributary streams that Newhall Ranch proposes to eliminate⁶, many are found at the Landmark Village site.

Over a dozen major habitat types will be impacted by Landmark Village, including the removal or disturbance of nearly all the existing grassland, oak woodland, pastureland and coastal sage scrub within the development footprint (DEIR; Table 4.4-8). The County acknowledges that project implementation will cause "significant unavoidable impacts...due to the loss of many sensitive animal species, coastal sage scrub, and wildlife habitat, and the increase in human and domestic animal presence [and] contribute to a significant unavoidable cumulative impact related to the ongoing loss of biological resources in the project region" (DEIR; 4.4-1).

From the DEIR for Landmark Village, we know that the project will eliminate essentially all of the remaining agricultural land in the coastal slope of Los Angeles County, now restricted to the northeastern corner of the ranch along Hwy. 126. Though this habitat is not recognized as wildlife habitat in the DEIR, the State recognizes several types of cropland present on the ranch as wildlife habitat⁷, and many of the rarest and most threatened birds in the region are dependent on these grasslands and grassland-like areas for their survival. In addition, the project will place over a thousand homes immediately adjacent to what is still one of the most ecologically intact riparian forests left in southern California (DEIR; 4.4-53). And, it ushers in what is poised to become a major new city directly between two major roosting areas of the endangered California Condor.

OVERVIEW OF COMMENTS

Based on our review of the DEIR, we find the environmental review performed by the applicant (Newhall Land) to be inadequate which therefore precludes a meaningful evaluation of the ecological impacts of the Landmark Village project.

We divide the deficiencies into several parts:

1. The DEIR fails to identify the complete suite of sensitive bird species expected from the project area.
2. The DEIR relies on bird surveys that were inadequate to credibly assess the range of projected impacts to sensitive species that *were* treated.
3. The DEIR mischaracterizes the actual status of sensitive bird species reported from the site.
4. The DEIR mischaracterizes projected and potential impacts to sensitive bird species and their habitats.

⁶ CBI 2005, p. 22.

⁷ This list would include Cropland (CRP), Dryland Grain Crops (DGR), Irrigated Grain Crops (IGR), Irrigated Hayfield (IRH), and Irrigated Row and Field Crops (IRF), per Mayer, K.E. and W.F. Laudenslayer, Jr. 1988. *A Guide to Wildlife Habitats of California*. State of Calif., Resources Agency, DFG. Sacramento.

5. The DEIR does not describe specific measures that must be undertaken in order to provide the maximum feasible mitigation for impacts that are deemed significant, relying instead upon general recommendations that in no way address the ecological needs of species to be impacted.
6. The DEIR fails to provide the "full environmental context" mandated under CEQA Section 12125 (c).

Because of these deficiencies, we conclude that the construction of Landmark Village, as proposed, presents an unacceptable level of impact, and promises irreversible ecological degradation to one of the last large and unprotected expanses of wildlands that exist on the coastal slope of southern California. Our specific comments are presented below.

1. Failure to identify all sensitive species present or potentially present on the project site.

From a pool of at least 25 sensitive bird species with the potential to occur in the project area, the DEIR considers just nine as occurring on the site. The DEIR preparer apparently bases these findings on just two sources of information, the California Natural Diversity Database (CNDDDB) and a handful of bird surveys conducted by a single observer in 2002, 2003 and 2004. Maintained by the California Department of Fish and Game, the CNDDDB is a database of sensitive species locations, but is entirely dependent on voluntary submissions by a small number of biologists and consultants; indeed the vast majority of records of sensitive species are never captured in this database.

Three sensitive bird species were totally omitted in the Biota section of the report, despite their being present in and around Newhall Ranch:

- California Condor (*Gymnogyps californianus*)
- Short-eared Owl (*Asio flammeus*)
- California Spotted Owl (*Strix occidentalis occidentalis*)

The federally endangered California Condor - the rarest and arguably one of the best-studied birds in the United States - famously resumed breeding a few years ago in the Sespe Wilderness just northwest of the project area, near a historical release/feeding site that has long been the focus of an intensive (and expensive) recovery effort. Around 2001, small numbers of condors began to be seen over the hills above Sylmar, Los Angeles Co., just southeast of the project area, and even roosted here (through 2006)^{8,9}. Because the project area lies directly between these two areas, condors are known to fly directly over Newhall Ranch, even if they don't stop to forage here¹⁰. However, no raptor surveys have ever been conducted that would confirm the species' actual status on the project site, and no satellite telemetry data (e.g., from US Fish and Wildlife Service) were obtained for this DEIR.

⁸ *vide* K.L. Garrett, Los Angeles County Museum of Natural History; Condor sightings in the area are concentrated in spring (Mar. -June); see also Los Angeles Times B1, Mar. 27, 2002, and LACoBirds (Yahoo Group).

⁹ see: <http://www.birdsofwestwood.com/condors/Condors.html>; <http://www.habitatwork.org/condor.htm>

¹⁰ J. Grantham, USFWS, pers. comm., Jan. 2007.

Remarkably, a second missing species, the Short-eared Owl (California Bird Species of Special Concern), was actually documented on recent surveys of the ranch^{11,12}. It would be expected in agricultural and grassland habitat throughout the site, at least in migration and winter. Since much of the best agricultural habitat on Newhall Ranch is located within the Landmark Village project area, it would seem that Short-eared Owl would be directly and seriously impacted by the construction of Landmark Village. However, no surveys of these agricultural lands were conducted. Short-eared Owls are most easily detected at dusk and may therefore be routinely overlooked in typical morning bird surveys.

The California Spotted Owl (California Bird Species of Special Concern) breeds in oak and conifer forest in canyons both north¹³ and east¹⁴ of the site, and is resident at low elevations in several shady canyons elsewhere in the region. It is not generally encountered by casual observation, nor by California Gnatcatcher surveys such as those performed on the project area. No nocturnal surveys were conducted that might have discovered this species here (or other nocturnal species).

Additional sensitive species identified in the most recent version of the California Bird Species of Special Concern list¹⁵ were not addressed by the preparers of the DEIR, despite the information being easily accessible online for several years. These additional species that could occur within the study area include:

- Ferruginous Hawk (*Buteo regalis*)
- Long-billed Curlew (*Numenius americanus*)
- Purple Martin (*Progne subis*)
- Swainson's Thrush (*Catharus ustulatus*)
- Clark's Marsh Wren (*Cistothorus palustris clarkae*)
- Grasshopper Sparrow (*Ammodramus savannarum*)
- Black-chinned Sparrow (*Spizella atrogularis*)
- Yellow-headed Blackbird (*Xanthocephalus xanthocephalus*)

None of these species were treated in the DEIR, and no specific surveys were conducted that would detect them. We recommended that further surveys be conducted to determine presence and potential impacts to these species. Several of these species are already known to occur within the vicinity. For example, the Long-billed Curlew winters in agricultural habitat throughout Ventura and Los Angeles Counties (e.g. on the Oxnard Plain and in the Antelope Valley) and could winter within the project area. Up to 25% of the state's population of Purple Martins breeds in oak savannah in nearby Tehachapi Mountains,¹⁶ and nesting pairs may be present in similar habitat on Newhall Ranch (which was unsurveyed). Grasshopper Sparrow breeds in grassland throughout coastal southern California, but the upland surveys conducted for this DEIR focused on coastal sage scrub, which does not support this species.

¹¹ Dudek & Associates, Inc. 2006. *Draft Biological Resources Technical Report: Newhall Ranch High Country Specific Management and Salt Creek Area*. Prepared for The Newhall Land and Farming Company, October 2006. p. 36.

¹² A freshly-dead individual was found at the edge of a cultivated field just west of I-5 during the Santa Clarita Christmas Bird Count on 27 Dec. 2006 (specimen to Los Angeles County Museum of Natural History).

¹³ Known sites incl. Warm Springs, Fish, Shake and Lion Canyons; upper Piru Cr.; per The Nature Conservancy 2006. *Santa Clara River: Upper Watershed Conservation Plan*. Fall 2006; p. D19, D22.

¹⁴ Resident in oak woodland at Walker Ranch; per Ian Swift, Placerita Canyon County Park, Dec. 2006.

¹⁵ Point Reyes Bird Observatory, *unpubl. data*.

¹⁶ Cooper, D.S. 2004. *Important Bird Areas of California*. Audubon California, 286 pp.

2. Bird surveys are inadequate to accurately portray the ecological impact of proposed development.

Typically, environmental documentation for development projects involves the identification of sensitive species potentially impacted by the project, a description of surveys conducted that confirm or refute the presence of these species, and a list of proposed remedies to offset any impacts deemed to be significant or potentially significant. The Landmark Village DEIR appears to take a different approach, conducting targeted surveys for a small number of species within a limited portion of the site, and conducting no surveys over large areas of the ranch that almost certainly would have yielded sightings of several species that could be impacted by the project. This lack of data seriously hinders the formulation of appropriate analysis and development of appropriate mitigation measures.

Major deficiencies of the bird surveys conducted for the DEIR include:

1. Inappropriate surveys for federally threatened California Gnatcatcher (*Poliioptila californica californica*).
2. No surveys or reference to research (e.g., telemetry data) for the California Condor, which is known to occur on either side of the property.
3. No winter bird surveys, necessary to detect such sensitive species as the Ferruginous Hawk and Long-billed Curlew.
4. No nocturnal bird surveys necessary to detect sensitive owl species such as Long-eared Owl (*Asio otus*) and Spotted Owl.
5. No bird surveys of agricultural fields and extensive grassland habitat that might have detected sensitive grassland birds such as Ferruginous Hawk, Northern Harrier (*Circus cyaneus*), Long-billed Curlew, Burrowing Owl (*Athene cunicularia*), Short-eared Owl, Horned Lark (*Actia alpenstris*), Loggerhead Shrike (*Lanius ludovicianus*) and Grasshopper Sparrow.
6. No raptor surveys that might have detected locations of nesting and foraging Cooper's Hawk (*Accipiter cooperii*), Golden Eagle (*Aquila chrysaetos*), White-tailed Kite (*Elanus leucurus*) and Prairie Falcon (*Falco mexicanus*).
7. No bird surveys of alkali marsh/wet meadow habitat for Northern Harrier, Clark's Marsh Wren, Yellow-headed Blackbird and Tricolored Blackbird (*Agelaius tricolor*).
8. Few bird surveys of coastal sage scrub (those conducted were for a single species, Coastal California Gnatcatcher).

The surveys that were conducted for the California Gnatcatcher on the site were not completed according to protocol set by the U.S. Fish and Wildlife Service, which stipulates that a single observer should cover no more than c. 80 acres of potentially suitable habitat per survey day, and which requires six visits to each area during the breeding season in order to confirm the gnatcatcher's presence or absence during that breeding season¹⁷. According to the project DEIR, Landmark Village will remove 1,820 acres of coastal sage scrub¹⁸ (the only habitat of the California Gnatcatcher), which suggests that more than 20 surveys would have been required to reliably confirm the presence or absence of gnatcatchers. Yet, just *five* surveys were conducted,

¹⁷ Coastal California Gnatcatcher (*Poliioptila californica californica*) Presence/Absence Survey Guidelines. February 28, 1997. Available on the World Wide Web: http://www.fws.gov/ventura/sppinfo/protocols/coastal-gnatcatcher_survey-guidelines.pdf.

¹⁸ DEIR; section 4.4-3

in several cases at multiple locations on a single survey day¹⁹. The areas to be impacted are far too large to cover in just five surveys. This inadequate survey design casts doubt on the purported absence of California Gnatcatcher at the site, and it could help explain why common scrubland bird species known to occur in the region (e.g., Sage Sparrow) went unrecorded on these gnatcatcher surveys.

Inadequate bird surveys for a variety of important habitats seriously undermine the validity of the environmental impact analysis conducted for the Landmark Village project. Most troubling, those habitats that were *best*-surveyed, such as the riparian woodland along the Santa Clara River, will be relatively safe from development, whereas those that were essentially *unsurveyed*, agricultural and grassland areas, are the ones to be mostly destroyed by proposed development. The ramifications of the project's incomplete surveys and inadequate analyses are discussed below.

3. Status of sensitive bird species portrayed inaccurately

Information about the status of sensitive species in the project area is scattered throughout the Biota section and in the Appendices, making it difficult to locate and interpret. A careful reading of the document reveals more than 30 sensitive bird species known or believed to occur on or in the vicinity of the Landmark Village project site. Of course, not all of these birds are present throughout the year, and some may be only marginal in occurrence in the area (i.e., they may visit the site only occasionally).

Even the species that are listed as occurring on the site are accompanied by virtually no specific information on their local status and distribution that would allow members of the public or decision-makers to judge the impact of the development on their survival. For example, one species formerly common throughout California, the Loggerhead Shrike, is now nearing extinction as a nesting species on the coastal slope of southern California and adjacent Baja California, mostly as a result of urbanization²⁰. Fewer than five birds have been recorded on the Santa Clarita Christmas Bird Count each year since its inception in 2002, and it is possible that Newhall Ranch may have one of the largest resident populations in coastal southern California - three individual birds were observed during a brief tour of a small portion of the project area in December 2006, and suitable habitat exists virtually throughout the project area. Although shrikes were occasionally reported on the 2002-2004 bird surveys, the preferred habitat for this species - agricultural fields such as those along Hwy. 126 - went unsurveyed during the preparation of this DEIR, and are now slated for conversion to residential development, which is incompatible with breeding shrikes.

An almost identical situation exists for the California Horned Lark; indeed, the development of Newhall Ranch could nearly eliminate remaining suitable breeding habitat for this species on the coastal slope of Los Angeles and Orange counties. Yet, virtually no information on this species on the Landmark Village site is presented in the DEIR or in previous environmental documentation for the project area.

¹⁹ DEIR; Appendix 4.4j-o.

²⁰ See, e.g., Unitt, P. 2004. *Birds of San Diego County*. San Diego County Museum of Natural History.

Bird species that the DEIR preparer reports as having the *potential* to occur on the site (Table 4.4-6 Special-Status Wildlife Species with Potential to Occur on the Project Site) were given equally uneven and vague treatment in the document. These include:

- Merlin (*Falco columbarius*)
- Yellow-billed Cuckoo (*Coccyzus americanus*)
- Long-eared Owl
- Western Burrowing Owl
- Southwestern Willow Flycatcher (*Empidonax traillii extimus*)
- Coastal California Gnatcatcher
- Summer Tanager (*Piranga rubra*)
- Bell's Sage Sparrow (*Amphispiza belli belli*)
- Tricolored Blackbird

Some of these species are probably simply not present, such as the riparian obligates (cuckoo, flycatcher and tanager), all of which were probably adequately surveyed for during the preparation of the DEIR. The Merlin is fairly common throughout southern California, including in urban areas, and is no longer considered to be a California Bird Species of Special Concern²¹.

However, the Long-eared Owl was simply not surveyed within the project area, as it is only detected through nocturnal surveys (which were not conducted). Interestingly, this owl was recorded from upland portions of the ranch²², and there is a very high probability of its occurring within the development footprint given its preferred habitat - dense groves of trees surrounded by grassland or agriculture lands.

The Burrowing Owl is almost definitely present on the ranch; Dudek & Associates (2006:36) refers to Newhall Ranch employees mentioning "groundowls" (*sic*), which are almost certainly this species. Unfortunately, the preferred habitat of the Burrowing Owl, level, non-native grassland and cultivated fields/pastureland, went unsurveyed during the preparation of the DEIR. This owl is essentially extirpated on the coastal slope southern California, and large, private ranches such as Newhall Ranch may be its last hope of survival in the region. Had grassland been surveyed on the site, we might know the locations of their colonies and would have a chance to plan around them.

Unlike the Burrowing Owl, the Bell's Sage Sparrow is locally common throughout the Santa Clarita area (D.S. Cooper, unpubl. data), being resident in coastal sage scrub and chamise chaparral. For example, since 2002 participants on the Santa Clarita Christmas Bird Count have found this sparrow in Newhall, Castaic, Sand Canyon and along the north side of Hwy. 126 vic. Castaic Creek. This species' purported absence from the whole of Newhall Ranch is simply not credible; it is possible that the single bird surveyor employed by Newhall Land may not have been familiar with its vocalizations, which resembles those of other sparrow species.

As for the Tricolored Blackbird, the lack of observations during the surveys for the project raises concern - dozens of these distinctive birds winter in the agricultural fields of Newhall Ranch that are proposed for conversion to houses as part of the Landmark Village, with birds easily seen

²¹ Point Reyes Bird Observatory, *unpubl. data*.

²² Dudek & Associates 2006.

and heard from pull-outs along The Old Road (D.S. Cooper, unpubl. data). Nesting Tricolored Blackbirds were found recently just west of the project area along Salt Creek²³ and the species is known to breed in marshes along the entire northern flank of the San Gabriel Mountains. (D.S. Cooper, unpubl. data). Since potential nesting habitat was apparently unsurveyed on the Landmark Village site, it is possible that additional breeding sites are located here.

Given these obvious errors and omissions, it is unsurprising that several of the species categorized as Special-Status Wildlife Species *Not Expected* on the Project Site (italics mine; Table 4.4-7) include two birds that are, in actuality, very much expected on the project site. One of these, the Prairie Falcon, was recorded by Dudek & Associates on Newhall Ranch²⁴, and has been recorded annually in the Santa Clara River Valley in winter (D.S. Cooper, unpubl. data). Oddly, the Prairie Falcon was listed in Table 4.4-6 as likely to suffer significant impact due to project implementation. How could a bird suffer a significant impact if it is not expected on the project site?

An almost identical situation exists for the Ferruginous Hawk, listed in Table 4.4-7 as being not expected on the project site. An adult Ferruginous Hawk was well seen by Newhall Land employees and local conservationists on a brief site tour on 11 December 2006 (*pers. obs.*), and in the same area during the 2006 Christmas Bird Count later in the month, in typical habitat (dry, barren cultivated field).

Regardless of these contradictions and omissions, the fact that neither Prairie Falcon nor Ferruginous Hawk was listed in recent bird surveys in no way suggests (a) that they don't occur on the site, nor (b) that they would not be impacted by project implementation. Winter bird surveys are required to detect Ferruginous Hawks, which are present in southern California only from November to March; Prairie Falcons would *not* be expected to occur along a forested river where most of the bird surveys took place, but would be seen foraging over dry scrub and grassland - the very habitat slated for development. Nesting falcons require isolated rock and sandstone outcrops, and only through a systematic search of these features in the region would one detect nesting Prairie Falcon, a species nearly extirpated (if not entirely so) as a breeder in coastal southern California.

4. The DEIR mischaracterizes impacts to sensitive bird species.

Numerous sensitive species known or suspected to occur in the project area are listed as being poised to suffer a Not Significant impact from the development, which implies that either they are not regularly present, or that mitigation measures will offset the loss of habitat, human disturbance, and other threats associated with build-out of the project. While some of these sensitive species (e.g., the Vermilion Flycatcher) are unlikely to be affected simply by virtue of their marginal occurrence here, others almost definitely reside within the footprint of the proposed development, including the numerous small tributaries of the Santa Clara River slated for cement channelization and in the extensive agricultural lands to be replaced by houses. For example, two common riparian woodland nesters, Cooper's Hawk and Yellow Warbler, were recorded on several of the 2002-04 bird surveys, but the DEIR omits location data on where they occur within the project area, much less information on nest locations that would be necessary

²³ F. Hovore, Frank Hovore & Associates, Inc., *pers. comm.* May 2003.

²⁴ Dudek & Associates 2006, p. 21.

for their management on the site. Therefore, it is difficult to determine that project implementation will entail less than significant impacts to these species.

A similar situation involves species that the DEIR claims will suffer a significant impact with the completion of Newhall Ranch [see Table 4.4-1 Significant Biological Impacts - Newhall Ranch Specific Plan and WRP (= Valencia water reclamation plant)]. As with the non-significant impacts, the data presented are implausible, and in some cases, are contradicted outright later in the Biota section. For example, we learn from Table 4.4-1 that the (State threatened) Swainson's Hawk a) occurs on the site and b) would suffer a significant impact from the development, even after mitigation measures are undertaken. However, the document provides no description of the species' usage of the site elsewhere in the document, and this hawk apparently went undetected during surveys conducted here in 2002, 2003 and 2004. Of course, the mitigation guidelines do not discuss what might be done to reduce the project's significant impacts to Swainson's Hawks, which require groves of tall trees surrounded by grassland or agricultural lands for breeding. In reality, the Swainson's Hawk neither breeds nor winters on or near the site; the only known nesting sites in southern California are located within a handful of ranchyards in the northeastern Antelope Valley²⁵.

Another sensitive bird species listed in Table 4.4-1 as likely to suffer significant impacts and yet discussed nowhere in the report is the Mountain Plover (*Charadrius montanus*), a California Bird Species of Special Concern. Its inclusion is perplexing - it is known to occur in just four parts of southern California, the eastern Antelope Valley, the San Jacinto and Lower Colorado River valleys in Riverside County, and the Imperial Valley in Imperial County; all far from the project area. Because its preferred habitat, extensive cultivated fields, persists along Highway 126 in Newhall Ranch, the potential exists that Mountain Plover *could* occur here, but only in winter. However, since no winter bird surveys were conducted on or around the site, it is impossible to assess whether or they do occur. Once again, the DEIR provides no way for a reader to evaluate the conclusions reached therein.

Other sensitive/protected species listed as poised to suffer significant impacts include the Golden Eagle, Northern Harrier, White-tailed Kite, Ferruginous Hawk, Sharp-shinned Hawk and Burrowing Owl. Though some of these raptors (e.g., Sharp-shinned Hawk) are still common in the region, others are not. The Golden Eagle, for example, has declined so severely in southern California that only a few pairs nest regularly in Los Angeles County in remote hills and mountains far from urban development. Yet, no information is revealed about Golden Eagle in the region, other than that a note that it will suffer a significant impact following build-out. Because no raptor surveys were conducted that might have located nesting and foraging sites, we may never know whether this project will extirpate the Golden Eagle from Los Angeles County. Another rare raptor, the White-tailed Kite, may be nowhere more common in Los Angeles County than along the Santa Clara River - 2006 saw a half-dozen breeding pairs²⁶ which may be a majority of the total number nesting in the entire county.

5. Mitigation measures are insufficient to benefit impacted species.

²⁵ K.L. Garrett, Los Angeles County Museum of Natural History, *pers. comm.* Dec. 2006.

²⁶ I. Swift, Placerita Canyon County Park, *pers. comm.*, Dec. 2006.

The Landmark Village DEIR appears to rely on three main conservation strategies to minimize and mitigate impacts to sensitive species:

1. Preservation of a "Santa Clara River Corridor" (section 4.4-93)
2. Preservation of a "large block of relatively undisturbed habitats on higher elevations into the Santa Susana Mountains", which extends down to the Santa Clara River west of the site (section 4.4-93)
3. Avoiding disturbance to nesting birds during construction (described below)

Mitigation for narrowing the riparian corridor in the project area should include the establishment of a large riparian reserve that includes a broad section of the intact riparian corridor from the channel to upland habitat. The reserve should contain existing mature cottonwood and willow forests that have been nearly extirpated from most of the river. The developer currently owns the last large area of this type downstream of the proposed project.

The DEIR includes almost no detail on proposed actions that would actually mitigate permanent and significant impacts to sensitive species that are known or suspected to occur on the site. Rather, it suggests that these impacts would be reduced because of proposed preservation of habitat along a corridor along the mainstem of the Santa Clara River and in the rugged hills on the southwestern corner of the site (the "High Country" and the off-site Salt Creek drainage). The Santa Clara River has been reasonably well-surveyed, but virtually nothing is known about the wildlife elsewhere on the ranch, in particular the High Country/Salt Creek area, which has apparently never been visited by an ornithologist.²⁷ This is especially troubling because very few sensitive bird species known to occur in areas proposed for development are also present in the High Country or Salt Creek areas²⁸. Recent surveys turned up just five such species (compared with the 17 sensitive bird species known or likely to occur within proposed grading areas), and the DEIR provides no distributional or abundance information on these five. Since the DEIR fails to demonstrate that preservation of the High Country and Salt Creek areas is likely to benefit many of the species to be impacted by Landmark Village, the DEIR should not identify preservation of these areas as providing mitigation for significant impacts to these species.

Rather than suggesting meaningful mitigation that preserves sensitive species and habitats *where they occur*, the DEIR instead offers only vague guidelines to be followed should such mitigation projects be initiated, and proposes no specific remedies to offset what it acknowledges would be significant impacts to a variety of species and habitats. In fact, the DEIR relies on a single guideline, LV 4.4-8²⁹ as the sole mitigation action to be taken to reduce impact levels below significance for the majority of the affected sensitive bird species. Rather than setting aside habitat for these species or directing development away from sensitive habitats (aside from the flood-prone riverbed and court-mandated rare plant reserves), LV 4.4-8 suggests simply delaying development activities (e.g., grading, landscaping) if nests are located during construction. Given that the federal Migratory Bird Treaty Act requires the exact same course of action, LV

²⁷ The DEIR relies upon a seriously flawed biological report by Dudek & Associates (2006) which included no bird surveys, only incidental sightings; many of the most common birds of the region (e.g., Greater Roadrunner, California Thrasher) are not listed as having been observed by Dudek biologists.

²⁸ Dudek & Associates 2006, p. 81-84.

²⁹ "Within 30 days of ground disturbance activities associated with construction or grading...the applicant shall have weekly surveys conducted by a qualified biologist...to determine if active nests...are present in the disturbance zone..."

4.4-8 has no practical effect. Once birds are finished nesting in the late summer or fall, construction and resultant habitat elimination would be permitted under this mitigation measure.

By failing to identify feasible measures to mitigate this project's many significant impacts to sensitive species, the DEIR clearly violates the requirements of CEQA. Mitigation recommendation LV 4.4-8 - delaying construction only where nests are found - is listed as the primary mitigation measure for nearly 20 bird species that occur or potentially occur on the site. Because LV 4.4-8 is insufficient as mitigation, we consider the following species to be especially vulnerable to significant impacts here:

- Known to occur on Landmark Village site
 - Cooper's Hawk
 - Southern California Rufous-crowned Sparrow (*Aimophila ruficeps canescens*)
 - Lawrence's Goldfinch (*Carduelis lawrencei*)
 - Yellow Warbler (*Dendroica petechia*)
 - White-tailed Kite
 - Horned Lark
 - Yellow-breasted Chat (*Icteria virens*)
 - Least Bell's Vireo (*Vireo bellii pusillus*)
 - Loggerhead Shrike

- Potentially occurring³⁰
 - Tricolored Blackbird
 - Bell's Sage Sparrow
 - Long-eared Owl
 - Western Burrowing Owl
 - Western Yellow-billed Cuckoo
 - Southwestern Willow Flycatcher
 - Summer Tanager
 - Coastal California Gnatcatcher

Even addressing only those species *known* (to the DEIR preparers) from the site, it seems highly unlikely that grassland-dependent species such as Loggerhead Shrike and Horned Lark would not suffer a significant impact following the destruction of their preferred habitat (grassland, cultivated fields, pastureland) on the site, as proposed by the project. While these birds might get a "reprieve" during construction (assuming their nests can be found and left undisturbed), once the project is built, they would have no place to return to nest in the future.

Unfortunately, because so many species were so poorly surveyed (see above), we have no information on where their nests or consistent populations occur on the site, much less how to suggest mitigation to benefit them.

5. The DEIR proposes an unacceptable magnitude of impact to sensitive bird species and their habitats.

³⁰ Evidence for Tricolored Blackbird, Bell's Sage Sparrow and Western Burrowing Owl occurring on the site is discussed above.

The Landmark Village DEIR actually presents two categories of impact; first, those to resources within the *entire* 10,000-acre Newhall Ranch development (including the Landmark Village) as addressed in the original Newhall Ranch Specific Plan. Impacts associated *only* with Landmark Village (the first phase of Newhall Ranch), are discussed later in the document³¹.

Even after mitigation, the impacts from implementing Landmark Village would apparently still be significant, and include the outright elimination of over 3,000 acres of wildlife habitat, including two sensitive habitat types (coastal sage scrub and Valley Oak woodland); substantial impacts to 10 sensitive bird species (in the report); plus indirect and cumulative impacts that the preparers admit cannot be mitigated (Table 4.4-1)³².

Even without appropriate surveys for grassland species, nesting raptors, owls, or wintering birds the DEIR still predicts that many unavoidable, significant impacts will occur with the construction of Landmark Village. These admitted unavoidable impacts of only the Landmark Village site include:

1. "Permanent conversion" (i.e., elimination) of 267.27 acres of coastal sage scrub, a sensitive plant community.
2. "Permanent net loss" of 918.84 acres of wildlife habitat.
3. Loss of oak woodland and protected oak trees.
4. "Unavoidably significant" impacts to three bird species:
 - a. Southern California Rufous-crowned Sparrow
 - b. Northern Harrier
 - c. White-tailed Kite

Even assuming that these effects represent the only significant impacts of implementing the Landmark Village project, two of these bird species, the Northern Harrier and White-tailed Kite, are sufficiently imperiled in the region to request more thorough surveys be conducted in appropriate habitat to determine their locations and/if they are nesting, and then possibly require a re-evaluation of the project design and its proposed mitigation.

The Northern Harrier is a grassland-dependent raptor that was historically common throughout southern California. It nests in extensive grassland, on the ground or in matted reeds, and requires short herbaceous vegetation (e.g., grass, short reeds, barren/cultivated land) for foraging. In Los Angeles County, is most numerous in the Antelope Valley, where it breeds locally (e.g., at the Piute Ponds). On the coastal slope of the county, recent (non-historical) breeding has been suspected only in the Puente Hills³³. Birds are more widespread in winter, occurring in grasslands near Santa Clarita and in the Santa Monica Mountains, but are still highly localized and nearing extirpation in much of the Los Angeles Basin. The total breeding population of Northern Harrier in Los Angeles County is certainly fewer than 5 pairs, and breeding may not even occur every year. The discovery of nesting Northern Harrier on Newhall Ranch would be a significant discovery, and a "significant impact" to the population here should be avoided or mitigated.

³¹ See sections 4.4-70 to 4.4-82.

³² Sensitive bird species to be significantly impacted on Newhall Ranch, even after mitigation, include: Northern Harrier, Southern California Rufous-crowned Sparrow, Tricolored Blackbird, White-tailed Kite, Swainson's Hawk, Mountain Plover, Bell's Sage Sparrow, Ferruginous Hawk, Western Burrowing Owl, Sharp-shinned Hawk, and Golden Eagle; not all of these are considered by the DEIR as present on lands affected by the construction of Landmark Village, but rather are felt to occur on habitats elsewhere on the ranch.

³³ Cooper, D.S. 2000. Breeding landbirds of a highly-threatened open space: the Puente-Chino Hills, California. *Western Birds* 31:213-234.

White-tailed Kite is another grassland-dependent raptor, but unlike the harrier, it selects as nest sites tall, often isolated clumps of trees surrounded by short grassland for foraging. Known breeding areas in Los Angeles County are very few, and are restricted to remote areas of the Santa Monica Mountains, Santa Susanna Mountains, the Santa Clara River, and the Puente Hills. Occasional breeding occurs elsewhere in the Los Angeles area, such as within flood-control basins. The total population of this species in the county is low - well under 100 individuals during winter - with possibly as few as 10 breeding pairs each year. Therefore, we assert that a significant impact to this small population is unacceptable and should be avoided or properly mitigated.

6. The DEIR fails to provide the "full environmental context" mandated under CEQA Section 15125 (c).

All CEQA lead agencies have a responsibility to ensure the competence, thoroughness, and objectivity of the consultants retained to prepare CEQA documentation for a given project. This is a matter of due diligence, since certification of demonstrably inadequate CEQA documentation leaves the lead agency vulnerable to legal challenge by citizens who have no other recourse for achieving impartial, reasonable planning of their communities and natural open spaces. The deficiencies of the biological resources section of the Landmark Village DEIR are so pervasive that the most important points of contention identified herein probably cannot be resolved without preparation of a revised DEIR. The revised document should be circulated for another round of public review.

SUGGESTED REMEDIES

We assert that *all* sensitive species that were not adequately surveyed during the preparation of the Landmark Village DEIR be re-evaluated and, if necessary, re-surveyed. As outlined below, this would specifically apply to the three taxa entirely overlooked in the preparation of the DEIR; nesting and wintering raptors; nocturnal species; and grassland-dependent species. The actual status of each, including nesting sites as applicable, must be addressed in an amended DEIR before any impact analysis is attempted. Specifically, these species include:

1. California Condor (overlooked)
2. Golden Eagle (nesting raptor)
3. Cooper's Hawk (nesting raptor)
4. Ferruginous Hawk (winter-only; grassland obligate)
5. Northern Harrier (grassland obligate)
6. White-tailed Kite (nesting raptor)
7. Prairie Falcon (nesting raptor)
8. Short-eared Owl (overlooked; winter-only; grassland obligate)
9. Long-eared Owl (nocturnal)
10. California Spotted Owl (overlooked)
11. Burrowing Owl (grassland obligate)
12. Loggerhead Shrike (grassland obligate)
13. Horned Lark (grassland obligate)

Following this analysis, we suggest the adoption and implementation of reasonable mitigation to offset the projected impacts - as well as any new impacts discovered after surveys for the above species. Once satisfactory mitigation measures are identified and agreed upon, only then should Newhall Land use the guidelines set forth in the DEIR for implementing them; *the guidelines described in the DEIR, such as LV 4.4-8, do not constitute mitigation measures.*

Examples of appropriate mitigation could include the following actions:

- Permanent protection of a large agricultural reserve along Highway 126 maintained as cultivated fields or irrigated pastureland for grassland birds and other wildlife species.
- Adequate undeveloped buffers along tributaries, including seasonal streams, and a project-wide prohibition on the use of concrete culverts to replace these vital natural riparian systems.
- Establishment of permanent reserves for sensitive coastal sage scrub, grassland and riparian-dependent birds that are *consistent with existing concentrations of these species within the site boundaries* (requires initial and ongoing surveys for Northern Harrier, Loggerhead Shrike, Summer Tanager, Bell's Sage Sparrow, etc.).
- Establishment of ecological reserves or at least passive-recreation parks around raptor nesting and foraging areas, particularly for rare and declining species such as Northern Harrier, Golden Eagle, White-tailed Kite and Short-eared Owl,.

In summary, based on our comments herein, we find that the avian analysis in the Biota section of this DEIR is inadequate and incomplete and request that, based on our specific recommendations above, a new EIR be submitted with additional data on bird species and appropriate mitigation measures.

Respectfully submitted,

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