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**BIOLOGICAL RESOURCES**

The Biological Resources chapter of the Environmental Impact Report (EIR) evaluates the biological resources known to occur or potentially occur within the Bohemia Retail project (proposed project) site. This chapter describes potential impacts to those resources, and identifies measures to eliminate or substantially reduce those impacts to less-than-significant levels. Existing plant communities, wetlands, wildlife habitats, and potential for special-status species and communities are discussed for the project area. The information contained in this analysis is primarily based on the *Updated Biological Resources Chapter for the Bohemia Subdivision Project* and *Updated Arborist Survey* prepared by Bruce D. Barnett, Ph.D. (See Appendix D),<sup>1</sup> the *Updated Delineation of Waters of the U.S.*, prepared by Gibson & Skordal, LLC (See Appendix E),<sup>2</sup> the *Placer County General Plan (PCGP)*,<sup>3</sup> the *PCGP EIR*,<sup>4</sup> the *Auburn/Bowman Community Plan (ABCP)*,<sup>5</sup> and the California Natural Diversity Database (CNDDB).<sup>6</sup>

All impacts in the Bohemia Retail Initial Study were identified as *potentially significant* and are therefore addressed within this chapter (See Appendix C).

## **5.1 ENVIRONMENTAL SETTING**

The following sections describe the existing environmental setting and biological resources occurring in the proposed project area.

### **Regional Setting**

The proposed project site is located approximately one and a half miles north of the City of Auburn's city limits, in unincorporated Placer County, California. The area of the project site is under the jurisdiction of the ABCP. The ABCP area includes 40-square miles of developing countryside at the base of the Sierra Nevada foothills. The general terrain features vary from nearly flat, gently rolling foothills with some steep areas located along the American and Bear River Canyons. Elevations range from 680 feet to 2,100 feet above sea level (asl). The majority of the Plan area ranges in elevation between 1,200 and 1,400 feet asl. The dominant watercourses traversing the Plan area include the Auburn Ravine, North Ravine, Orr Creek, Dry Creek, and Rock Creek.

### **Project Setting**

The project site is located on the former Bohemia Lumber Company property and totals approximately 18.62 acres on four adjacent parcels. On-site structures and buildings from the former lumber operations have been previously removed from the project site, although former gravel roads and concrete building foundations still remain on-site. The western side of the project site contains cut and fill slopes and associated banks, asphalt pads, and concrete foundations. The project vicinity includes two canals: Wise Canal and Fiddler Green Canal.

Wise Canal forms the western boundary of the project site, while Fiddler Green Canal bisects the project site in a north-south orientation, until the canal flows eastward and forms part of the southern boundary of the project site. The site vicinity includes three bridges, two of which cross over Wise Canal, while the third crosses over Fiddler Green Canal. It should be noted that the Wise Canal, including both bridges over the canal, are not located on-site. The project site is generally of a level topography that has been overgrown by non-native, annual grasses with intermittent stands of interior and blue oaks, plus blackberry thickets. A small seasonal wetland is also located on-site along the eastern edge of the Wise Canal in the southeast corner of the project site.

### On-Site Vegetation Communities

The vegetation community of the project site could be described as oak trees with associated non-native grasslands. The dominant vegetation is comprised of non-native grasses that have overgrown much of the 18.62-acre project site.

The non-native grasses located on-site include, but are not limited to, slender wild oaks (*Avena sativa*), wild barley (*Hordeum sp.*), soft chess (*Bromus sp.*), and rip-gut brome (*Bromus diandrus*). Areas to the southeastern area of the project site, adjacent to Fiddler Green Canal include thickets of invasive Himalaya blackberry (*Rubus procerus*). Throughout the project site are various species of oak including the large interior live oak (*Quercus wislizenii*), blue oak (*Quercus douglasii*), and valley oak (*Quercus lobata*). The predominant tree species found on-site are the blue oak and live oak. The majority of these tree species are localized towards the southeastern boundary of the project site, along the Fiddler Green Canal.

The dominant vegetation associated with the on-site seasonal wetland seep included the Fremont's cottonwood (*Populus fremontii*) and both the red and black willow species (*Salix laevigata* and *Salix gooddingii*, respectively). Other species observed within and in the immediate vicinity of the seasonal wetland seep included dallies grass (*Paspalum dilatatum*), Baltic rush (*Juncus balticus*), broad-leaf cattail (*Typha latifolia*), and cut-leaf geranium (*Geranium dissectum*), tall flatsedge (*Cyperus eragrostis*), annual rabbit-foot grass (*Polypogon monspeliensis*), curly dock (*Rumex crispus*), perennial rye grass (*Folium preened*), and sweet clover (*Mellitus alba*).

### On-Site Wildlife Species

The project site is adjacent to residential, commercial, retail, and open space areas within the ABCP area. Animal species likely to be found on-site include those species that have adapted to human activity and an urban environment. Blue oak trees and non-native grasslands provide food, shelter, and nesting habitat for cavity nesters, which include the acorn woodpeckers (*Melanerpes formicivorus*), Northern flicker (*Colaptes auratus*), oak titmouse (*Baeolophus wollweberi*), ash-throated flycatcher (*Myiarchus sagrae*), and violet-green swallow (*Tachycineta thalassina*). Other bird species associated with the on-site habitats include the following: mourning dove (*Zenaida macroura*), black phoebe (*Sayornis nigricans*) house wren (*Troglodytes aedon*), American robin (*Turdus migratorius*), and the European starling (*Sturnis vulgaris*). Fish species are not associated with either of the two canals.

The biotic communities associated with the project site may be suitable habitat for multiple mammal species. Mammal species likely to be found on-site may include, but not be limited to, the Audubon cottontail (*Sylvilagus audubonii*), Virginia opossum (*Didelphis virginianus*), deer mouse (*Peromyscus maniculatus*), raccoon (*Procyon lotor*), California ground squirrel (*Spermophilus beecheyi*), and the striped skunk (*Mephitis mephitis*).

The project site may also provide suitable habitat for various amphibian species including, but not limited to, the following: California giant salamander (*Dicamptodon ensatus*), western toad (*Bufo boreas*), western yellow-bellied racer (*Coluber constrictor mormon*), common garter snake (*Thamnophis sirtalis*), California whipsnake (*Masticophis sp.*), gopher snake (*Pituophis melonoleucus*), western skink (*Emeces skiltonianus*), Gilbert's skink (*Eumeces gilbertii*), southern alligator lizard (*Elgaria coerulea*), and the western fence lizard (*Sceloporus occidentalis*).

### Jurisdictional Waters of the United States

Waters of the United States (U.S.), including wetlands, are broadly defined under 33 Code of Federal Regulations (CFR) 328 to include navigable waterways, tributaries of navigable waterways, and adjacent wetlands. State and federal agencies regulate these habitats, and Section 404 of the Clean Water Act (CWA) requires that a permit be secured prior to the discharge of dredged or fill materials into any waters of the U.S., including wetlands. Both CDFG and the U.S. Army Corps of Engineers (USACE) have jurisdiction over modifications to riverbanks, lakes, stream channels, and other wetland features. In addition, jurisdictional waters of the U.S. can be defined by exhibiting a defined bed and bank and ordinary high water mark (OHWM). The OHWM is defined by the USACE as “[...] that line on shore established by the fluctuations of water and indicated by physical character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.” (33 C.F.R. §328.3[e])

Although definitions vary to some degree, wetlands are generally considered to be areas that are periodically or permanently inundated by surface water or groundwater, supporting vegetation adapted to life in saturated soil. Jurisdictional wetlands are vegetated areas that meet specific vegetation, soil, and hydrologic criteria defined by the USACE Wetlands Delineation Manual (USACE, 1987). Waters of the U.S. are drainage features or water bodies as described in 33 CFR 328.4. The USACE holds sole authority to determine the jurisdictional status of waters of the U.S., including wetlands. Jurisdictional wetlands and waters of the U.S. include, but are not limited to, perennial and intermittent creeks and drainages, lakes, seeps, and springs; emergent marshes; riparian wetlands; and seasonal wetlands. Wetlands and waters of the U.S. provide critical habitat components, such as nest sites and a reliable source of water for a wide variety of wildlife species.

### *Seasonal Wetland*

A single seasonal wetland seep is located along the eastern bank of Wise Canal, in the southwestern portion of the project site. The seasonal wetland seep sustains long-term periods of saturation/inundation resulting from groundwater seepage at the base of the cut bank. Seasonal

wetlands are similar to vernal pools, but lack the distinctive flora and fauna that characterize vernal pools. Seasonal wetlands, defined by isolated wetlands and swales that pool water, support a lower diversity of plant species than vernal pools and usually include a larger proportion of non-native plant species. The persistence of inundation/saturation into the warm season permits the growth of primarily perennial herbaceous plant species capable of withstanding extended periods of inundated and saturated soils.

A total of 0.05-acre (approximately 2,100 square feet) of a jurisdictional seasonal wetland was delineated by Gibson & Skordal Wetland Consultants in November of 2000. On a subsequent site visit, conducted on January 20, 2009, Gibson & Skordal Wetland Consultants confirmed that the wetland feature still remained on-site. During the 2000 field survey, saturation was present at a depth of six inches below the surface. The USACE began a five-year verification period for the seasonal wetland seep, which began on February 10, 2006 (ending in February 2011).

Observations made during the 2009 field survey noted that the seasonal wetland seep was approximately half the original size delineated in 2000 (and verified again during 2006 by the USACE). The diminished acreage of the seasonal wetland was attributed to abnormally dry periods of weather (lack of precipitation) during the years 2007, 2008, and 2009 and not the result of altered site conditions. However, the original size of the seasonal wetland seep was determined to remain accurate, as depicted in the 2000 jurisdictional delineation map (confirmed during 2006).

The proposed project would include re-routing Fiddler Green Canal within the project site, into a submerged, underground pipe. The approximate total area to be impacted from the re-routing of the Fiddler Green Canal would be 0.13 acres. The subterranean pipe would traverse the site in a north-south direction and be aligned around southern side of the proposed retail building, and finally exit into the existing culvert under Canal Street. After consultation between Gibson & Skordal, LLC and the USACE, the approximate 0.13 acres of impacted canal was determined to be exempt and therefore not qualify as jurisdictional waters of the U.S.<sup>7</sup>

Observed on-site vegetation associated with the seasonal wetland included a mix of both riparian wetland and seasonal wetland habitats that were characterized by a canopy and shrub layer. The wetland habitats included the following species: arroyo willow (*Salix lasiolepis*), dallies grass (*Paspalum dilatatum*), Baltic rush (*Juncus balticus*), broad-leafed cattail (*Typha latifolia*), and cut-leaf geranium (*Geranium dissectum*). The area around the seep also contained other common species including: tall flatsedge (*Cyperus eragrostis*), annual rabbit-foot grass (*Polypogon monspeliensis*), curly dock (*Runex cripus*), perennial rye grass (Folium preened), and sweet clover (*Mellitus alba*).

### Special-Status Species

Special-status species are species that have been listed as “threatened” or “endangered” under the federal Endangered Species Act (FESA), California Endangered Species Act (CESA), or are of special concern to federal resource agencies, the State, or private conservation organizations. A species may be considered special-status due to declining populations, vulnerable to habitat

change, or restricted distributions. A full description of the criteria and laws pertaining to special-status classifications is described below.

Special-status plant species may meet one or more of the following criteria:

- Plants listed or proposed for listing as threatened or endangered under the FESA (50 CFR 17.12 for listed plants and various notices in the Federal Register for proposed species);
- Plants that are candidates for possible future listing as threatened or endangered under the FESA (64 FR 205, October 25, 1999; 57533-57547);
- Plants that meet the definitions of rare or endangered species under the California Environmental Quality Act (CEQA) (CEQA Guidelines, Section 15380);
- Plants considered by the California Native Plant Society (CNPS) to be “rare, threatened, or endangered” in California (Lists 1A, 1B, and 2 species in CNPS [2001]);
- Locally important occurrences of plants listed by CNPS as plants for which more information is needed and plants of limited distribution (Lists 3 and 4, respectively, species in CNPS [2001]);
- Plants listed or proposed for listing by the State of California as threatened or endangered under the CESA (14 CCR 670.5);
- Plants listed under the California Native Plant Protection Act (California Fish and Game Code 1900 et seq.). Plants considered sensitive by other federal agencies (i.e., U.S. Forest Service, Bureau of Land Management) or state and local agencies or jurisdictions; and/or
- Plants considered sensitive or unique by the scientific community or occurring at the limits of their natural range (*CEQA Guidelines*, Appendix G).

Special-status wildlife species may meet one or more of the following criteria:

- Wildlife listed or proposed for listing as threatened or endangered under the FESA (50 CFR 17.11 for listed wildlife and various notices in the Federal Register for proposed species);
- Wildlife that are candidates for possible future listing as threatened or endangered under the FESA (54 CFR 554);
- Wildlife that meet the definitions of rare or endangered species under the California Environmental Quality Act (CEQA Guidelines, Section 15380);
- Wildlife listed or proposed for listing by the State of California as threatened and endangered under the CESA (14 CCR 670.5);
- Wildlife species of special concern to the California Department of Fish and Game (CDFG) (Remsen [1978] for birds; Williams [1986] for mammals); and/or
- Wildlife species that are fully protected in California (California Fish and Game Code, Section 3511 [birds], 4700 [mammals], and 5050 [reptiles and amphibians]).

Several species of plants and animals within the State of California have low populations, limited distributions, or both. Such species may be considered “rare” and are vulnerable to extirpation as the State’s human population grows and the habitats these species occupy are converted to agricultural and urban uses. As described below, State and federal laws have provided the CDFG and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and

protecting the diversity of plant and animal species native to the State. A number of native plants and animals have been formally designated as threatened or endangered under state and federal endangered species legislation. Others have been designated as “candidates” for such listing. Still others have been designated as “species of special concern” by the CDFG. In addition, the CNPS has developed a set of lists of native plants considered rare, threatened, or endangered (CNPS 2001). Collectively, these plants and animals are referred to as “special-status species.”

Sensitive plants are those which are designated rare, threatened, or endangered and candidate species for listing by the USFWS. Sensitive plants also include species considered rare or endangered under the conditions of Section 15380 of the CEQA Guidelines, such as those plant species identified on Lists 1A, 1B, and 2 in the Inventory of Rare and Endangered Vascular Plants of California by the CNPS. Finally, sensitive plants may include other species that are considered sensitive or of special concern due to limited distribution or lack of adequate information to permit listing or rejection for state or federal status, such as those included on List 3 in the CNPS Inventory.

A summary of all wildlife species observed and/or expected to be present on-site is included in Appendix D of the DEIR.

#### *Special-Status Plant Species*

Based on a records search of the CNDDDB and the USFWS lists, field observations, and a five-mile radius map, two special-status plant species have the potential to occur on the site or in the vicinity. The results of the search did not identify any State or federally threatened or endangered plant species to occur in the project site vicinity; however, two special-status plant species were identified in the literature search as having the potential to occur in the project region. Brandegee’s clarkia (*Clarkia biloba* ssp. *brandegeae*) and Boggs Lake hedge-hyssop (*Gratiola heterosepala*) are both listed as 1B plant species. According to the California Native Plant Society (CNPS), both species are considered to be rare, threatened, or endangered in California. The project site does contain suitable habitat for Brandegee’s clarkia, which is often found in roadcuts and is known to be associated with non-native annual grasslands, interior live oak, and foothill pine habitats. The project site does not contain suitable habitat for the Boggs Lake hedge-hyssop, as this plant species is generally associated with marshes, freshwater swamps, clay soils, and vernal pools or around the edges of lakes.

#### Brandegee’s clarkia

Brandegee’s clarkia is an erect annual member of the evening primrose family (*Onagraceae*). Brandegee’s clarkia does not have State status, but is a federal species of local concern and is on the CNPS List 1B. Brandegee’s clarkia may be found in oak woodland habitat in the Sierra foothills, between Butte and El Dorado Counties. This species typically exhibits a late bloom period between May and July.

### Bogg's Lake Hedge-Hyssop

Bogg's Lake hedge-hyssop is an annual herb that is typically found on the margins of vernal pools or shallow ponds. The typical identification period for this species is May through June. The Boggs Lake hedge-hyssop was not observed on-site during any of the previous field surveys, which was expected as the project site does not contain suitable habitat for this species.

### *Special-Status Wildlife Species*

Based on a records search of the CNDDDB and the USFWS lists, field observations, and the five-mile radius map, no State or federally-listed animal species are expected to occur on site. However, the project site does contain potential habitat (blue oaks and non-native annual grasslands) that could provide foraging and/or nesting habitat for several specials of concern. Species of concern that are considered to have the potential to occur on the project site include the: California horned lizard (*Phrynosoma coronatum frontale*) and western pond turtle (*Clemmys marmorata*). Potential on-site foraging and nesting habitat for special-status bird species and raptors include: Cooper's hawk (*Accipiter cooperii*), red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), white-tailed kite (*Elanus leucurus*), American kestrel (*Falco sparverius*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularis*), purple martin (*Progne subis*), horned lark (*Eremophila alpestris actia*), and the yellow warbler (*Dendroica petechia*). All bird species, except the red-tailed hawk, are recognized by the State as species of special concern.

### California Horned Lizard

The California horned lizard is found in a variety of grassland and woodland habitats. The horned lizard forages in open areas between shrubs primarily on ants and other insects. Horned lizards typically breed during April and hatchlings first appear during July and August. Records do not identify any California horned lizard occurrences within five miles of the project site. The closest occurrences of the California horned lizard to the project site are approximately 14 miles to the northeast and 17 miles to the north. However, the oak species and annual grassland habitat on-site provide potential habitat for this species, the species was not observed during the field surveys.

### Western Pond Turtle

The western pond turtle is found in lakes, ponds, marshes, and slow moving portions of creeks and rivers that typically have a rocky or muddy substrate. The two on-site canals offer marginally suitable habitat for this species. The database searches and field observations did not identify any occurrences of this species within the boundaries of the project site and nearby vicinity. The closest occurrence of the western pond turtle to the project site is approximately eight miles to the southwest.

### Cooper's Hawk

The Cooper's hawk listed under the State as a species of concern. This species occurs in wooded areas throughout California. Cooper's hawks are typically found nesting and wintering in riparian woodland habitat, dense oak woodland, and mixed woodlands near water sources. The breeding season for this species generally occurs between early April and late August, with a peak between the months of June and August. The Cooper's hawk is a predatory species, usually focusing on small prey species (birds, amphibians, reptiles, and mammals). Although none were observed during the field surveys, the project site does offer suitable habitat.

### Red-Tailed Hawk

The red-tailed hawk is found throughout North America and often inhabits open fields and deserts that are interspersed with wooded or urban areas and mountain forests. Breeding season for this species typically occurs in tall trees or man-made structures, beginning in later winter, early spring. The red-tailed hawk primarily preys on small mammals, including squirrels, mice, rabbits, birds, and reptiles. The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

### Red-Shouldered Hawk

The red-shouldered hawks are found throughout North America and are typically found in mixed woodland habitat near open water and open space. The breeding season, as with most raptor species, begins in late winter and early spring, with nests built high up in trees. The common prey species for the red-shouldered hawk are small animals, including small mammals, reptiles, amphibians, birds, and insects. The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

### White-Tailed Kite

The white-tailed kite is a medium-sized raptor that is a yearlong resident in coastal and valley lowlands in California. This species is fully protected species under the CDFG. White-tailed kites are monogamous and breed from February to October, peaking from May to August. This species nests near the top of dense oak, willow, or other large trees. The oak species and annual grassland habitat on-site provide suitable nesting and foraging habitat, respectively, for this species, although active nests were not observed.

### American Kestrel

The American kestrel is a small falcon species often found in a variety of habitats including parks, urban areas, open-altered lands (agricultural fields), grasslands, and forest edges. The breeding season of this species is from late spring to late summer. The species is a cavity nester, and occurs in holes in trees, rock cavities, or other small spaces.

The primary diets of the American kestrels are insect species (crickets, grasshoppers) and small prey animals (mice, voles, lizards, and snakes). The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

### Golden Eagle

The golden eagle belongs to the *Accipitridae* family and is found throughout the Northern Hemisphere. The Golden eagle is fully protected under the CDFG Game Code and is also a species of special concern. The breeding season of this species ranges from late winter to late summer, depending on local climate conditions. This species commonly nests on cliffs or in tall trees, usually away from human development. Prey species include a wide variety of species including, but not limited to, marmots, rabbits, mice, birds, foxes, turtles, and young deer. The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

### Western Burrowing Owl

The western burrowing owl is a small ground-dwelling owl that occurs in western North America from Canada to Mexico, and east to Texas and Louisiana. The western burrowing owl is predominantly non-migratory in California. The breeding season for western burrowing owls occurs from February to August, peaking in April and May. This species nests in burrows in the ground, often in old ground squirrel burrows. In addition, this species is known to nest in artificial burrows including pipes, culverts, and nest boxes. This species was not observed during the field surveys. However, the project site may offer marginal suitable habitat in the open area grassland. Therefore, the potential for the western burrowing owl to occur on the site is low.

### Purple Martin

The purple martin is the largest of the North American swallow species. This species often breeds in colonies closely located to human activity and housing. The purple martin is an aerial insectivore and catches insects while in flight. The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

### Horned Lark

The horned lark is a species of special concern that forages and nests in open grasslands and barren fields. The horned lark, also referred to as a shore lark, nests on the ground and consumes mostly insects and seeds. The breeding season of the horned lark is from between spring and early summer. The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

Yellow Warbler

The yellow warbler is a species of special concern that is commonly found in coastal and valley riparian forests and woodlands. The nesting habitat is usually within a natural fork in a tree or shrub between the months of April and August. The yellow warbler feeds primarily on caterpillars and other insects. The project site does offer suitable habitat for this species, although none were observed on-site during the field surveys.

Raptor Species

Raptor species forage and nest in a variety of habitats throughout Placer County. Raptor nests are protected under the Migratory Bird Treaty Act and Section 3503.5 of the California Fish and Game Code, which makes destroying any active raptor nest illegal. Although active nests were not observed during the field surveys, the oaks on-site provide suitable nesting habitat for various raptor species.

*Trees*

As mentioned above, the three oak species found on-site include the interior live oak, blue oak, and the valley oak. The most abundant of the three species found on-site is the blue oak. All of the oak trees found on-site are of a medium to large size, with none to few young oak trees.

An arborist survey was conducted in 2009 to update the previously recorded arborist survey conducted by Yamasaki Landscape Architecture Planning and Construction (June 2000). The updated tree survey was completed by Bruce D. Barnett Ph.D. to verify if the previously recorded oak trees remained on-site. The 2000 arborist survey recorded the trunk diameter at breast height (dbh), drip line, and health of all on-site oak trees that met the Placer County Tree Preservation Ordinance requirements (discussed under Regulatory Setting below). Each tree that met the requirements of the Ordinance was identified by a specific tag number (see Appendix D). A summary of the inventoried oak trees is presented in Table 5-1. A total of 54 trees met the County's Tree Ordinance requirements for oak trees. A complete list and aerial photograph depicting the location and species of all trees identified during the 2009 updated arborist survey is included in Appendix D.

<b>Tag #</b>	<b>Species</b>	<b>Dbh</b>	<b>Drip Line</b>	<b>Overall Health</b>
713	Interior Live Oak	10	15	Good to Fair
714	Interior Live Oak	8	10	Good to Fair
715	Blue Oak	9	12	Good
716	Interior Live Oak	6,8	12	Good
717	Blue Oak	14	18	Good
718	Blue Oak	6	8	Good
719	Blue Oak	16,16	15	Good
720	Blue Oak	10	12	Good
721	Blue Oak	8	10	Fair
723	Interior Live Oak	8	15	Good

**Table 5-1  
Inventoried On-Site Oak Trees**

<b>Tag #</b>	<b>Species</b>	<b>Dbh</b>	<b>Drip Line</b>	<b>Overall Health</b>
724	Interior Live Oak	6	10	Fair to Poor
725	Interior Live Oak	15	17	Good
727	Interior Live Oak	15	18	Fair
728	Interior Live Oak	30	20	Good
729	Blue Oak	10	10	Good
730	Blue Oak	8	10	Good
731	Blue Oak	8	8	Good to Fair
732	Blue Oak	10	15	Good
733	Interior Live Oak	17	15	Good
734	Interior Live Oak	10	12	Poor
735	Interior Live Oak	10,8	12	Fair to Poor
736	Blue Oak	22	20	Good
1021	Blue Oak	27	25	Fair
1022	Blue Oak	19	18	Fair
1023	Blue Oak	27	21	Good
1024	Blue Oak	37	33	Good to Fair
1025	Blue Oak	34	32	Fair to Poor
1026	Interior Live Oak	6,6,5,4	10	Good
1028	Interior Live Oak	20	25	Good
1029	Valley Oak	13	18	Poor
1032	Interior Live Oak	9,6	12	Good
1033	Interior Live Oak	7	10	Good
1034	Valley Oak	12	15	Good
1035	Interior Live Oak	7,5	12	Good
1036	Valley Oak	7	10	Good
1049	Interior Live Oak	4,4,3	12	Good
1067	Interior Live Oak	8,8,5	18	Good
1068	Interior Live Oak	9	15	Good
1069	Interior Live Oak	7,7,3	12	Good
1070	Interior Live Oak	7,6,6,5,4	15	Good
1076	Valley Oak	5,4	10	Good
1077	Blue Oak	17	15	Good
1078	Blue Oak	8	15	Poor
1079	Blue Oak	10	8	Good
1080	Blue Oak	15	18	Good
1081	Interior Live Oak	6	13	Fair
1082	Blue Oak	6	6	Good to Fair
1083	Blue Oak	6	6	Fair to Poor
1084	Interior Live Oak	18	15	Fair to Poor
1085	Interior Live Oak	4,3	15	Fair to Poor
1086	Interior Live Oak	19	18	Poor
1087	Interior Live Oak	6	12	Fair to Poor
1088	Blue Oak	10	12	Good
1089	Interior Live Oak	10	12	Fair

Source: Yamasaki Landscape Architecture, 2000.

## 5.2 REGULATORY SETTING

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The following is a description of federal, State, and local environmental laws and policies that are relevant to the CEQA review process.

### **Federal**

#### Federal Endangered Species Act

The United States Congress passed FESA in 1973 to protect endangered species or species that are threatened with extinction. The FESA is intended to operate in conjunction with the National Environmental Policy Act (NEPA) to help protect the ecosystems upon which endangered and threatened species depend.

The FESA prohibits the “take” of endangered or threatened wildlife species. “Take” is defined as harassing, harming (including significantly modifying or degrading habitat), pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting wildlife species, or any attempt to engage in such conduct (16 USC 1532, 50 CFR 17.3). Taking can result in civil or criminal penalties.

The FESA and NEPA Section 404 guidelines prohibit the issuance of wetland permits for projects that would jeopardize the existence of threatened or endangered wildlife or plant species. The USACE must consult with the USFWS and National Oceanic Atmospheric Administration (NOAA) when threatened or endangered species may be affected by a proposed project to determine whether issuance of a Section 404 permit would jeopardize the species.

#### Migratory Bird Treaty Act

Raptors (birds of prey), migratory birds, and other avian species are protected by a number of State and federal laws. The federal Migratory Bird Treaty Act (MBTA) prohibits the killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Section 3503.5 of the California Fish and Game Code states, “it is unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.”

#### Clean Water Act

The USACE regulates discharge of dredged or fill material into waters of the U.S. under Section 404 of the CWA. “Discharge of fill material” is defined as the addition of fill material into waters of the U.S. including, but not limited to, the following: placement of fill that is necessary for the construction of any structure or impoundment requiring rock, sand, dirt, or other material for the structure’s construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; and fill for intake and outfall pipes and subaqueous utility lines (33 C.F.R. §328.2[f]). In addition, Section 401 of the CWA (33 U.S.C. 1341) requires any applicant for a federal license or permit to conduct any activity that may

result in a discharge of a pollutant into waters of the U.S. to obtain a certification that the discharge will comply with the applicable effluent limitations and water quality standards.

Waters of the U.S. include a range of wet environments such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, and wet meadows. Wetlands are defined as “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” (33 C.F.R. §328.3[b])

Furthermore, jurisdictional waters of the U.S. can be defined by exhibiting a defined bed and bank and the OHWM. The OHWM is defined by the USACE as “that line on shore established by the fluctuations of water and indicated by physical character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.” (33 C.F.R. §328.3[e])

## **State**

### California Endangered Species Act

In 1984, the State of California enacted CESA, which is similar to the FESA but pertains to State-listed endangered and threatened species. CESA requires State agencies to consult with the CDFG when preparing CEQA documents to ensure that the actions of the lead agency do not jeopardize the existence of listed species. Lead agencies are directed by CESA to consult with CDFG on projects or actions that could affect listed species. In addition, CESA directs CDFG to determine whether jeopardy would occur, and allows CDFG to identify “reasonable and prudent alternatives” to the project consistent with conserving the species. Agencies can approve a project that affects a listed species if they determine that “overriding considerations” exist; however, the agencies are prohibited from approving projects that would result in the extinction of a listed species.

CESA prohibits the taking of State-listed endangered or threatened plant and wildlife species. The CDFG exercises authority over mitigation projects involving State-listed species, including those resulting from CEQA mitigation requirements. Taking may be authorized by CDFG if an approved habitat management plan or management agreement that avoids or compensates for possible jeopardy is implemented. In addition, CDFG requires preparation of mitigation plans in accordance with published guidelines.

### California Department of Fish and Game

The CDFG exercises jurisdiction over wetland and riparian resources associated with rivers, streams, and lakes under CDFG Code Section 1600 to 1607. The CDFG has the authority to regulate work that will do any one or more of the following:

- 1) Divert, obstruct, or change the natural flow of a river, stream, or lake;
- 2) Change the bed, channel, or bank of a river, stream, or lake; or
- 3) Use material from a streambed.

The CDFG asserts that the jurisdictional area along a river, stream, or creek is usually bounded by the top-of-bank or the outermost edges of riparian vegetation. Typical activities regulated by CDFG under Section 1600-1607 authority include installing outfalls, stabilization of banks, creek restoration, implementing flood control projects, constructing river and stream crossings, diverting water, damming streams, gravel mining, logging operations, and jack-and-boring.

Careful project design, including the minimization of impacts and reduction of hard structure surface area (i.e., minimal amounts of cement or rip-rap), is critical for CDFG approval. The CDFG emphasizes the use of biotechnical or bioengineered creek-related components (emphasis on natural materials, sometimes in conjunction with hard materials) that minimize the need for hard structures in creeks.

#### *CDFG Species of Special Concern*

In addition to a formal listing under FESA and CESA, plant and wildlife species receive additional consideration during the CEQA process. Species that may be considered for review are included on a list of “Species of Special Concern” developed by the CDFG. Species whose numbers, reproductive success, or habitat may be threatened are tracked by CDFG in California.

#### *CDFG Birds of Prey Protection*

Birds of prey are also protected in California under provisions of the State Fish and Game Code, Section 3503.5, (1992), which states, “it is unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFG.

#### *Waters of the State*

Waters of the State, including wetlands, are considered sensitive biological resources and fall under the jurisdiction of the CDFG and California’s Regional Water Quality Control Boards (RWQCBs).

The CDFG exercises jurisdiction over wetland and riparian resources associated with rivers, streams, and lakes under California Fish and Game Code Section 1600 to 1616. The CDFG has the authority to regulate work that will substantially divert, obstruct, or change the natural flow of a river, stream, or lake; substantially change the bed, channel, or bank of a river, stream, or lake; or use material from a streambed. CDFG’s jurisdictional area along a river, stream or creek is usually bounded by the top-of-bank or the outermost edges of riparian vegetation. Typical activities regulated by CDFG under Section 1600-1616 authority include installing outfalls, stabilizing banks, implementing flood control projects, constructing river and stream crossings, diverting water, damming streams, gravel mining, and logging.

### Regional Water Quality Control Board

Pursuant to Section 401 of the CWA and EPA 404(b)(1) guidelines, in order for a USACE federal permit applicant to conduct any activity which may result in discharge into navigable waters, they must provide a certification from the RWQCB that such discharge will comply with the State water quality standards. The RWQCB has a policy of no-net-loss of wetlands in effect and typically requires mitigation for all impacts to wetlands before the RWQCB will issue water quality certification.

Under the Porter-Cologne Water Quality Control Act (Cal. Water Code Section 13000-14920), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the State's waters. Therefore, even if a project does not require a federal permit (i.e., a Nationwide Permit from the USACE), the project may still require review and approval of the RWQCB, in light of the approval of new NWP's on March 9, 2000 and the Supreme Court's decision in the case of the Solid Waste Agency of Northern Cook County (SWANCC) vs. USACE. The RWQCB in response to this, issued guidance for regulation of discharges to "isolated" water on June 25, 2004. The guidance states:

Discharges subject to Clean Water Act section 404 receive a level of regulatory review and protection by the USACE and are also subject to streambed alteration agreements issued by the CDFG; whereas discharges to waters of the State subject to SWANCC receive no federal oversight and usually fall out of CDFG jurisdiction. Absent of RWQCB attention, such discharges will generally go entirely unregulated. Therefore, to the extent that staffing constraints require the RWQCB to regulate some dredge and fill discharges of similar extent, severity, and permanence to federally-protected waters of similar value. Dredging, filling, or excavation of "isolated" waters constitutes a discharge of waste to waters of the State, and prospective dischargers are required to submit a report of waste discharge to the RWQCB and comply with other requirements of Porter-Cologne.

When reviewing applications, the RWQCB focuses on ensuring that projects do not adversely affect the "beneficial uses" associated with waters of the State. Generally, the RWQCB defines beneficial uses to include all of the resources, services and qualities of aquatic ecosystems and underground aquifers that benefit the State. In most cases, the RWQCB seeks to protect these beneficial uses by requiring the integration of water quality control measures into projects that will result in discharge into waters of the State. For most construction projects, RWQCB requires the use of construction and post-construction Best Management Practices (BMPs). In many cases, proper use of BMPs, including bioengineering detention ponds, grassy swales, sand filters, modified roof techniques, drains, and other features, will speed project approval from RWQCB. Development setbacks from creeks are also requested by RWQCB as they often lead to less creek-related impacts in the future.

### California Native Plant Society

CNPS maintains a list of plant species native to California that has low numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Plants of California. Potential impacts to populations of

CNPS-listed plants receive consideration under CEQA review. The following identifies the definitions of the CNPS listings:

- List 1A: Plants believed extinct.
- List 1B: Plants rare, threatened, or endangered in California and elsewhere.
- List 2: Plants rare, threatened, or endangered in California, but more numerous elsewhere.
- List 3: Plants about which we need more information - a review list.
- List 4: Plants of limited distribution - a watch list.

### Natural Community Conservation Program

The Natural Community Conservation Program (NCCP) is an unprecedented effort by the State of California, as well as numerous private and public partners, which takes a broad-based ecosystem approach to planning for the protection and perpetuation of biological diversity. The NCCP, which began in 1991 under the California Natural Community Conservation Planning Act, is broader in orientation and objectives than CESA and FESA; these laws are designed to identify and protect individual species that are already listed as threatened or endangered. The primary objective of the NCCP is to conserve natural communities at the ecosystem scale, while accommodating compatible land uses.

Beginning in June 2000, Placer County began the preparation of a NCCP and a Habitat Conservation Plan (HCP) to comply with both FESA and CESA, as well as CWA for wetland protection. The effort is referred to as the Placer County Conservation Program (PCCP) and is intended to address the impacts associated with unincorporated growth throughout the County. An Administrative Draft of the PCCP was released on February 22, 2005 and is currently being revised before a final PCCP is completed.

### Senate Bill 1334

Effective January 1, 2005, Senate Bill 1334 established Public Resources Code Section 21083.4, the State's first oak woodlands conservation standards under CEQA. This new law creates the following two requirements for counties: 1) Counties must determine whether or not a project that results in the conversion of oak woodlands will have a significant effect; and 2) If there may be a significant effect, counties must employ one or more of the following mitigation measures:

- Conserving oaks through the use of conservation easements;
- Planting and maintaining an appropriate number of trees either on-site or in restoration of a former oak woodlands (tree planting is limited to half the mitigation requirement);
- Contributing funds to the Oak Woodlands Conservation Fund for the purpose of purchasing conservation easements; or
- Other mitigation measures developed by the County.

## Local

### Auburn/Bowman Community Plan

The ABCP, Environmental Resources Management Element, identifies the following goals and policies to provide further protection to biological resources:

#### *Vegetation*

- Goals 1 Preserve outstanding areas of native vegetation and trees, natural topographic features, wildlife habitats and corridors, and riparian corridors.
- Goal 2 Conserve significant grassland and wooded areas as essential economic, natural, and aesthetic resources.
- Goal 3 Protect, restore, and enhance threatened and endangered species and the habitat which supports those species.
- Policy 1 Conserve vegetative resources due to their importance for wildlife habitat, watershed protection, climate moderation, erosion control, and for their many other values.
- Policy 2 Conserve the natural landscape, including minimizing disturbance to natural terrain and vegetation, as an important consideration in the design of any subdivision or land development project.
- Policy 3 Require field studies as part of “major” project review or where the habitat of special-status species is known to exist in order to document the possible occurrence of special status plant species and provide a method of protecting, monitoring, replacing or otherwise mitigation the impacts of development in and around these sensitive habitats.
- Policy 4 Support the “no net loss” policy for wetland areas administered by the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the California Department of Fish and Game. Coordination with these agencies at all levels of project review shall continue to be sure that their concerns area adequately addressed. Review the success of this policy every five years and make changes as appropriate.
- Policy 7 Provide mitigation where impacts to stream environment zones or wetland areas are unavoidable. Measures shall include but not be limited to the identification of vegetation impacts; the preparation of re-vegetation plans, and; the specific monitoring of plantings to assure that successful mitigation/re-vegetations have occurred.

- Policy 9 Use native and compatible non-native species, especially drought resistant species, to the extent possible in fulfilling landscaping requirements imposed as conditions of discretionary permits.
- Policy 10 Conserve representative areas of undisturbed oak woodlands and valley grasslands that have significant value as wildlife habitat.
- Policy 11 Preserve and protect landmark trees and major groves of native trees.

*Fish and Wildlife*

- Goal 1 Conserve the quality of habitats which support fish and wildlife species so as to maintain populations at sustainable levels.
- Goal 2 Protect, restore, and enhance habitats for native animals and protect threatened and endangered, and special status species.
- Policy 3 Carefully plan development in areas known to have particular value for wildlife and, where allowed, locate development so that the reasonable value of the habitat for wildlife is maintained.
- Policy 4 Recognize that stream channels, riparian corridors, natural drainages and the high quality of waters therein, are important as regional wildlife and fishery corridors.
- Policy 6 Encourage a program for the control of residual pesticides to prevent potential damage to birds, water quality, vegetation and wildlife.
- Policy 9 Give special consideration to the habitats of rare, threatened, endangered, and/or other special status species in the Plan area. Federal and State agencies, as well as other resource conservation organizations, shall be encouraged to acquire and manage endangered species' habitats.
- Policy 10 Require field studies as part of "major" project review or where the habitat of a special status species has been identified. These studies shall document the possible occurrence of special status wildlife species and provide a method for their protection, monitoring, replacement, or for otherwise mitigating development new their sensitive habitats.

## Placer County Tree Preservation Ordinance

The Placer County Tree Preservation Ordinance regulates the encroachment of construction activities into protected zones of protected trees and the removal of any protected trees. Protected trees are defined as any native tree species with a dbh of six inches or greater (except foothill pine trees, *Pinus sabiniana*) or multiple trunk trees with an aggregate diameter of ten inches or greater. The Ordinance regulates both the removal of trees and the encroachment of construction activities into protected tree zones. In addition, the Ordinance prohibits the removal of landmark trees, trees located in designated Tree Preservation Zones, and trees within riparian areas.

### **5.3 IMPACTS AND MITIGATION MEASURES**

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#### **Standards of Significance**

For the purposes of this Draft EIR, the following standards of significance were adopted from Appendix G of the CEQA Guidelines Thresholds of Significance. Impacts are considered significant if implementation of the proposed project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFG or USFWS;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFG or USFWS;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including, but not limited to marshes, vernal pools, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impeded the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;
- Have a substantial adverse effect on the environment by converting oak woodlands; and/or
- Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other local, regional, or State habitat conservation plan.

An evaluation of whether an impact on biological resources would be substantial must consider both the resource itself and how that resource fits into a local, regional, or statewide context. Substantial impacts would be those that would diminish or result in the loss of an important biological resource, or those that would obviously conflict with local, State, or federal resource conservation plans, goals, or regulations. Impacts are sometimes locally important, but not significant according to CEQA. The reason for this is that although the impacts would result in an adverse alteration of existing conditions, the impacts would not substantially diminish or

result in the permanent loss of a defined important resource on a population-wide or region-wide basis.

## Methods of Analysis

The updated evaluation of the project site, conducted by Bruce Barnett, Ph.D. in 2009, was based on the data presented in the previous Biological Resources chapter within the certified 2007 Bohemia Subdivision Project EIR by P&D Consultants, a review of regional biological resource databases and other biological studies conducted for the vicinity, and reconnaissance-level field surveys conducted on and in the vicinity of the project site between the months of March and July of 2005. Previously, the site was systematically surveyed on foot to ensure total search coverage, with special attention given to identifying those portions of the site with the potential for supporting special-status species and sensitive habitats. During the site survey, plant and animal species observed were recorded and biological communities on the site were categorized. Sources of information and technical reports used for this chapter are included within Appendix D and Appendix E.

As part of this assessment, Gibson & Skordal Wetland Consultants (November 2000) prepared an assessment of jurisdictional waters of the U.S. and of the State. The delineation utilized the USACE's 1987 Manual for Delineating Wetlands and guidelines for CDFG jurisdiction, which includes a three-parameter methodology to delineate potentially jurisdictional waters of the U.S. The methodology required the collection of hydric soils, hydrophytic vegetation, and hydrologic data at several locations to establish the jurisdictional edge of waters of the U.S.

Two tree surveys were performed for the 18.62-acre project site. The first arborist survey was completed during June 2000, which was verified and updated in 2009 by Bruce Barnett. All inventoried trees from the original and updated tree survey met the standards included in the Placer County Tree Preservation Ordinance.

As stated earlier, all impacts in the Bohemia Retail Initial Study were identified as *potentially significant* and are therefore addressed within this chapter.

## Project-Specific Impacts and Mitigation Measures

### 5-1 Impacts to special-status plant species.

According to the literature and databases search, the project site could contain potential habitat for Brandegee's clarkia (*Clarkia biloba* spp. *Brandegeeae*) and Boggs Lake hedge-hyssop (*Gratiola heterosepala*), both identified as List 1B species of CNPS. Due to the lack of suitable on-site habitat (margins of vernal pools or shallow ponds), the project site does not have the potential to support Boggs Lake hedge-hyssop species. However, the project site could contain appropriate habitat (oak trees) for Brandegee's clarkia, although the results of previous field observations did not identify the presence of this species on the project site. However, if present, construction and operational activities associated with the proposed project could impact Brandegee's clarkia species, which is a *potentially significant* impact.

Mitigation Measure(s)

Implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

5-1 *Prior to the issuance of a grading permit, the project applicant shall be responsible for retaining a qualified biologist to conduct a focused spring bloom survey to determine the presence or absence of Brandegee's clarkia (Clarkia biloba spp. Brandegeae). The survey shall be conducted by a qualified biologist during the identification periods for the Brandegee's clarkia. If the species is not found to be present during the focused bloom survey, then no further action is required.*

*However, if Brandegee's clarkia is found, a mitigation plan conceived from consultation with the California Department of Fish & Game shall be prepared and submitted to the County. The plan shall detail the various mitigation approaches to ensure no net loss of the special-status plant. Mitigation could include, but would not be limited to, avoidance of the plant species, salvage of plant materials where possible, acquisition of credits at an approved mitigation bank, or acquisition and preservation of property that supports the plant species.*

**5-2 Impacts to raptors and migratory bird species.**

The literature and database searches did not identify any known occurrences of any State or federally-listed threatened or endangered raptor and/or migratory bird species at the location of the proposed project. However, the blue oaks and non-native annual grasslands located on-site would offer potential foraging and nesting habitat for the following bird species: Cooper's hawk, red-tailed hawk, red-shouldered hawk, white-tailed kite, American kestrel, golden eagle, and other "raptor" species, as well as the purple martin, horned lark, and yellow warbler. If such bird species and their active nests were found to be present, the species would be protected under the CDFG Code Section 3503.5 and by the federal Migratory Bird Treat Act. Field observations conducted during the field surveys did not identify any of these species or active nests of these species. However, due to the suitable habitat being present on the project site for each species, this is considered to be a *potentially significant* impact.

Mitigation Measure(s)

It should be noted that Placer County is in the process of finalizing the PCCP, which would serve as a mechanism to mitigate potential impacts to special-status wildlife species, including raptor and migratory bird species, pursuant to Section 10(a)(1)(B) of the FESA, as well as a NCCP under the State's Natural Conservation Community Plan Act of 2001. The draft PCCP would include measures for Cooper's hawks, purple martins, white-tailed kites, and yellow warblers. An incidental "take" or disturbance to raptor and migratory bird species shall be subject to the terms covered under the finalized PCCP and may require permit coverage, easements, and possibly construction monitoring terms if the PCCP is finalized prior to the approval of the proposed project. In the

interim, implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

5-2 *If project development activities occur during the breeding season for any of these species, a pre-construction survey shall be conducted by a qualified biologist no more than 30 days prior to any ground disturbance activity. The CDFG considers the breeding season of protected bird species to be January 1 to August 31 of any given year.*

*The project applicant shall be responsible to coordinate with the CDFG for the pre-construction survey(s) and implementing any measures required to avoid disturbance to the Cooper's hawk, red-tailed hawk, red-shouldered hawk, white-tailed kite, American kestrel, golden eagle, and other "raptor" species, as well as the purple martin, horned lark, and yellow warbler. If any active nests or burrows of such species are found to be on-site, construction activities shall not occur within 500 feet of the nest until the young have fledged. If determined by a qualified biologist, other restrictions may be imposed on construction activities in the vicinity of any active nest(s). If construction activities are scheduled outside of the breeding period, then a pre-construction survey is not required.*

### **5-3 Impacts to western burrowing owl.**

The CDFG prepared the *Staff Report on Burrowing Owl Mitigation* (Staff Report) in 1995. The Staff Report identifies both general habitat and occupied burrow characteristics for the species. In addition, the Staff Report establishes survey timelines for projects that are proposed in winter, nesting or year-round habitat. The proposed project site is located within the easternmost extent of potential burrowing owl range along the Great Central Valley. The project site is within an area that is designated as potential winter habitat for the species. According to the Staff Report, winter surveys should be conducted between early December and the end of January. Consistent with the peak breeding season, nesting season surveys are recommended between mid-April and mid July.

According to the CNDDDB database search, three documented occurrences of the western burrowing owl were recorded within 20 miles of the project site. These occurrences are approximately located 13, 16 and 19 miles west of the proposed project site and at substantially lower elevations. As such, project activities are not expected to result in the destruction of burrows or foraging habitat adjacent to occupied burrows.

The Staff Report identifies impact thresholds, mitigation standards, specific mitigation measures, impact avoidance measures and relocation standards for projects falling under the CDFG's jurisdiction. Therefore, although the potential for the western burrowing owl to occur on the site is low, impacts related to project implementation could be ***potentially significant***.

Mitigation Measure(s)

Implementation of the following mitigation measures would reduce the above impact to a *less-than-significant* level.

- 5-3(a) *Prior to issuance of a grading permit, pre-construction burrowing owl surveys shall be conducted by a qualified biologist, within a 30 day period, preceding the initiation of construction activities on the project site. The pre-construction burrowing owl survey shall be conducted within 250 feet of the project site boundary. Presence or signs of burrowing owls and all potentially occupied burrows shall be recorded and monitored according to CDFG and California Burrowing Owl Consortium guidelines. If burrowing owls are not detected by sign or direct observation, further mitigation is not necessary. If burrowing owls are detected, the project applicant shall implement Mitigation Measure 5-3(b).*
- 5-3(b) *Prior to initiation of any construction activities, during the non-breeding season (September 1 through January 31), a non-disturbance buffer of 160 feet, and during the nesting season (February 1 to August 31), a non-disturbance buffer of 250-feet shall be established around each burrow with an active nest until the young have fledged and are able to exit the burrow, as determined by a qualified biologist. In the case of occupied burrows without active nesting, active burrows after the young have fledged, or if development commences after the breeding season, passive relocation, which involves installing a one-way door at the burrow entrance to encourage the owls to move from the occupied burrow of the owls, shall be performed. The CDFG shall be consulted for current guidelines and methods for passive relocation of any owls found on the site.*

**5-4 Impacts to special-status amphibian and reptile species.**

The literature and databases searches did not identify any known occurrences of any State or federally-listed threatened or endangered amphibian or reptile species within or in the immediate vicinity of the proposed project. The closest occurrence of the western pond turtle is approximately eight miles southeast of the project site, while the two closest occurrences of the California horned lizard are approximately 14 miles to the northeast and 17 miles to the north. However, the on-site habitats (canal and non-native grasslands) provide suitable habitat for a single special-status amphibian species and a single special-status reptile species. The two species, the Western pond turtle and the California horned lizard (respectively), would be semi-restricted to the confines of the project site. Although neither of these two species was observed during site visits, the development of the proposed project would reduce or eliminate the potential habitat for such species. Due to the suitable habitat being present on the project site for each species, a *potentially significant* impact would result.

Mitigation Measure(s)

It should be noted that Placer County is in the process of finalizing the Placer County Conservation Plan (PCCP), which would serve as a mechanism to mitigate potential impacts to special-status amphibian and reptile species, pursuant to Section 10(a)(1)(B) of the FESA, as well as a Natural Community Conservation Plan (NCCP) under the State's NCCP Act of 2001. An incidental "take" of a California horned lizard or western pond turtle shall be subject to the terms covered under the finalized PCCP and may require permit coverage and construction monitoring. In the interim, focused surveys are recommended for each special-status species (western pond turtle and the California horned lizard) prior to the commencement of construction.

Implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

5-4            *The project applicant shall be responsible for retaining a qualified biologist to conduct focused surveys for the western pond turtle and the California horned lizard species prior to the development of the proposed project. The focused surveys shall be conducted during the respective breeding season for each species. If either species is found to be present on the project site, the project applicant shall be responsible to notify and coordinate with the CDFG for expert advice and regulatory guidance for further action.*

**5-5      Impacts to protected trees.**

The development of the Bohemia Retail project would result in the conversion of approximately 2.07 acres of contiguous on-site oak woodland in the northeastern portion of the project site, primarily along the current alignment of the Fiddler Green Canal. Other small clumps of oaks exist elsewhere on-site; these oaks would be removed to enable development of the project. Based upon the plans submitted, a number of the oaks on the project site would be impacted as a result of site development activities within the drip-line (e.g., parking lot grading and paving, undergrounding of Fiddler Green Canal, and the grading and trenching required for the installation of roadways and utilities).

It should be noted that the proposed project would include the construction of the infrastructure that would be necessary to provide sewer service to the project site, which would include the following improvements: remodeling an existing manhole in Canal Street; construction of a sewer line that would run northerly and westerly along the rear and the northerly side of the proposed building to a point in the Union Pacific Railroad (UPRR) right-of-way (ROW), then run parallel to the UPRR across Wise Canal to a point that aligns with a sewer in a newly constructed project at New Airport Road and State Route (SR) 49; and boring of the new sewer under the UPRR and connection to the final leg of the sewer, which would run to New Airport Road. Although the project would include construction of off-site sewer infrastructure, the improvements would be entirely

contained within the UPRR ROW or other paved ROW, both of which are already highly disturbed, and impacts to protected trees or other biological resources would not result.

The County has determined that implementation of the following measures, either singularly or in combination, would provide mitigation consistent with the requirements of the CEQA Guidelines Section 21083.4:

- Submit payment of fees for oak woodland conservation at a 2:1 ratio consistent with Chapter 12.16.080 (C) Placer County Tree Preservation Ordinance–Replacement Programs and Penalties. These fees shall be calculated based upon the current market value for similar oak woodland acreage preservation and an endowment to maintain the land in perpetuity;
- Purchase off-site conservation easements at a location approved by Placer County to mitigate the loss of oak woodlands at a 2:1 ratio;
- Provide for a combination of payment to the Tree Preservation Fund and creation of an off-site Oak Preservation Easement;
- Plant and maintain an appropriate number of trees in restoration of an approved former oak woodland (tree planting is limited to half the mitigation requirement); and/or
- Single trunk trees within the project impact area that are greater than 24 inches dbh shall be mitigated for at an inch for inch basis. Multi-stemmed trees with trunks less than 12 inches dbh shall not be included in this calculation.

The County's Oak Woodland Policy recommends payment of \$24,000 per acre of woodland impacted to be deposited into the Placer County Tree Preservation Fund. The Fund will be used for the purchase of conservation easements within the County where existing oak woodlands that form a contiguous habitat can be permanently set aside. This method of conservation is consistent with the provisions of Senate Bill 1334 and with requirements of the CEQA Guidelines Section 21083.4.

County policy also requires that any protected trees 24 inches or greater dbh that could be impacted by project activity be mitigated above and beyond the standard acreage payment. Oaks of this size are considered "Significant Trees" due to the length of time required for them to reach their size. Mitigation for these trees is set at \$100 per inch dbh. In total, there are five trees on site that meet this standard (See Table 5-1). Combined, they total 155 inches dbh, so mitigation for the loss or impact to these trees would be \$15,500. Therefore, the mitigation figure to offset the impacts to oaks and oak woodlands in conjunction with the proposed project would be \$65,180.

### Conclusion

Because the project would result in the direct conversion of approximately 2.07 acres of oak woodland, and would impact five Significant Trees that are 24 inches or greater dbh, impacts to on-site oak trees would be *potentially significant*.

Mitigation Measure(s)

Implementation of the following mitigation measure would reduce the above impact to a *less-than-significant* level.

- 5-5 *Prior to approval of the Improvement Plans, the applicant shall submit to the Placer County Tree Preservation Fund payment in the amount of \$65,180 for impacts to oak woodlands. If changes in the project are required during the Improvement Plan process, this figure may be altered provided that it is consistent with County policy. This payment must be received prior to any site disturbance.*

**5-6 Impacts to jurisdictional waters of the United States and waters of the State.**

According to the November 2000 assessment of on-site jurisdictional waters of the U.S. conducted by Gibson & Skordal Wetland Consultants and re-confirmed in a subsequent visit (January 2009), the project site contains approximately 0.05-acre of a seasonal wetland seep and approximately 0.13-acre of irrigation ditch (Fiddler Green Canal). Through consultation with the USACE, it was determined that the re-routing of the Fiddler Green Canal into a submerged pipeline would be exempt from regulation under Section 404 of the CWA.<sup>8</sup> Therefore, the development of the proposed project would result in direct impacts to only 0.05 acres of seasonal wetland seep. The seasonal wetland seep was determined to be jurisdictional waters of the U.S. as the area sustains long periods of saturation and inundation, most likely due to groundwater seepage from the Fiddler Green Canal located adjacent to the wetland. The presence of the seasonal wetland seep was re-confirmed again in January 2009 by Gibson & Skordal Wetland Consultants. Development of the proposed project would fill in the on-site seasonal wetland seep, which is a *potentially significant* impact to jurisdictional waters of the U.S.

Mitigation Measure(s)

Implementation of the following mitigation measures would reduce the above impact to a *less-than-significant* level.

- 5-6(a) *To the extent feasible, the project applicant shall be responsible for the preservation of on-site water resources. If on-site preservation is not possible, the project applicant shall be responsible to coordinate with the USACE for an in-lieu fee program, which may include, but not be limited to, a local resource conservation bank, to offset the 0.05 acres of seasonal wetland (jurisdictional Waters of the U.S.) from project implementation. The required ratio for restoration of impacts to the 0.05 acres of seasonal wetland shall be determined by the resource agencies as part of the permitting process.*
- 5-6(b) *The applicant shall apply for a USACE Nationwide 39 Permit. If granted, the project applicant shall be responsible to ensure that all development activities adhere to the permit terms and requirements.*

5-6(c) *Subsequently, the project applicant shall also apply for a USACE pre-construction notification. If granted, the project applicant shall be responsible to ensure that all development activities adhere to the permit terms and requirements.*

**5-7 Impacts related to the movement of native wildlife species.**

As previously discussed, the blue oaks and non-native annual grasslands located on-site would provide valuable habitat for a number of wildlife species. Development of the proposed project would alter the existing habitat, which could result in the loss of habitat for common small mammals, reptiles, amphibians and any other animals found on-site with slow mobility, which are not considered to be sensitive or species of concern. Potential impacts to species considered to be sensitive or of concern have been previously addressed in Impact Statements 5-2 and 5-3, above. Other species that have the potential to occur on-site and with a high mobility (birds, large mammals, etc.) could potentially move into adjacent residential and open space areas in the immediate vicinity of the project site. Bird and certain insect species would be able to travel by flight, while land-based wildlife species would be able to use the UPRR tracks as a movement corridor. Potential impacts related to the non-sensitive species of concern from project implementation are, therefore, considered to be *less-than-significant*.

Mitigation Measure(s)

*None required.*

**5-8 Impacts to local plans and policies from project development.**

The PCGP and the ABCP include adopted goals and policies regarding the protection of natural resources within the County. Potential impacts to sensitive tree species protected under the Placer County Tree Preservation Ordinance are addressed in Impact Statement 5-4, above. Presently, the County does not have any approved HCP or NCCP. However, as discussed under Regulatory Setting and briefly within Impact Statement 5-3, the County is in the process of finalizing a PCCP, which would lay out the framework to avoid or resolve potential conflicts between species conservation and the construction of new urban, suburban and rural infrastructure and development within Placer County.

While limited vegetation and habitats are located on-site, the project site could provide habitat for a number of animal and plant species (discussed and analyzed above), the project would not conflict with the density or intensity of development planned for the site within the PCGP. Furthermore, the project would be required to adhere to the goals, policies, and applicable ordinances found in the PCGP and the ABCP via specific mitigation measures found in this EIR. Therefore, a *less-than-significant* impact would occur.

Mitigation Measure(s)

*None required.*

## Endnotes

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- <sup>1</sup> Barnett, Bruce D. Ph.D. *Updated Biological Resources Chapter for Bohemia Subdivision Project*. March 2009.
- <sup>2</sup> Gibson & Skordal, LLC. *Updated Delineation of Waters of the United States*. January 20, 2009.
- <sup>3</sup> Placer County. *Countywide General Plan Policy Document*. August 16, 1994.
- <sup>4</sup> Placer County. *Countywide General Plan EIR*. October 1993.
- <sup>5</sup> Placer County. *Auburn/Bowman Community Plan*. 1994 (updated 1999).
- <sup>6</sup> California Department of Fish and Game. *CNDDDB Database*. Accessed March 2009.
- <sup>7</sup> Gibson & Skordal, LLC. Correspondence addressed to Erin Hess, Regulatory Division of the U.S. Army Corps of Engineers. June 19, 2008.
- <sup>8</sup> Ibid.