

Central Valley Bird Club

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Valley Flood Protection Board
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Subject: Comments on the Draft American River Common Features, 2016 Flood Risk Management Project, Sacramento, California Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report

The Bird Club represents 460 members who are birders, conservationists, natural resource managers, and researchers from the Central Valley and elsewhere in California. Many of our members are from the Sacramento region and birdwatch extensively along the American River. Our data, as incorporated into eBird, but underutilized in the SEIS/SEIR, could have contributed as a basis for recognizing and managing bird and habitat conservation values and priorities for this region.

We are deeply concerned about the habitat and bird population impacts of recently completed flood control work along the American River and what is proposed in these project contracts. We are also gravely concerned about the inadequate public involvement process employed by the project applicants and the many deficiencies in the environmental analysis incorporated into the project Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR)

The comments we provide here are incomplete, as a result of the inadequate process offered for public involvement and the deficient presentation of material in the SEIS/SEIR. The timing of the document's release, short duration provided for public comment (including a short, late-announced extension), and the difficult-to-navigate from of the SEIS/SEIR has significantly hampered us in commenting meaningfully. Therefore, we ask that the proponents take the following procedural actions:

- Further extend the public comment period by at least 30 days beyond the extension granted, to allow the public time to understand and comment meaningfully on a project of such substantial magnitude;
- Add additional public meetings, including in-person and on-the-ground meetings where experts can engage in dialog with the public regarding the project need and the potential to apply alternative proposed flood control designs to those identified in the document;
- Re-release the existing version of Appendix B with a Table for Contents that can be used in navigating the document; and
- Considering the many deficiencies in the environmental process and documents, fully consider our comments, and those of other concerned groups, and reissue a substantially revised supplemental draft EIR/EIS so that we can meaningfully comment on the project and on an environmental document that adequately addresses public concerns, adequately considers a full range of alternatives, fully discloses environmental impacts, and meets legal requirements.

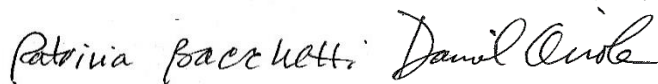
We have mostly focused our attention on the analysis of impacts to birds, their habitats, and to a lesser degree wildlife-related recreation. We endorse the concerns expressed by other entities regarding the environmental process, conflicts with adopted plans, legal compliance, and impacts on other resource values, including other wildlife (especially the western pond turtle), vegetation communities, rare plants, general dispersed recreation, and visual quality impacts.

As emphasized in our comments, we are concerned that the conversion of Urrutia Pond would result in a significant impact to a variety of waterbirds that currently use the pond for feeding and especially for night-roosting. Despite these issues being clearly communicated during the scoping process, the SEIS/SEIR does not acknowledge the impacts, nor their significance, that would result to this habitat and its constituent species from the conversion of this site to a seasonally flooded riparian area. Avoidance or mitigation for this significant impact is required.

While we support protection of the citizens of Sacramento from flood risks, the project proponents have not demonstrated that they have proposed a project that achieves this objective while also avoiding, minimizing, or successfully mitigating substantial impacts to environmental resource values and resource-based recreation. We believe that more careful environmental designs, including some that have been installed in the past and that appear to be operating successfully, are feasible to apply in this project.

In short, we encourage the project proponents to engage meaningfully with the public and natural resource management agencies to find flood control solutions that maximally protect natural resources and public uses.

We thank you for your consideration of our comments. Please keep us informed regarding project status.



Patricia Bacchetti
President

Daniel Airola
Certified Wildlife Biologist
Conservation Chair

General Comments
<p>Complexity and Overly Technical Presentation. The SEIS/SEIR is full of detail and jargon that appears to be intended to obscure what the project(s) consists of and what its impacts will be. This complexity requires an extensive public outreach effort to allow the public to understand what is likely to happen and time for public review and response. The structure of the document appears to be designed to discourage rather than encourage public review.</p>
<p>Inadequate Public Involvement. The responsible agencies’ public involvement and outreach process is minimal and inadequate for a project with impacts of this magnitude. The timing of release of the document (3 days before Christmas) and the short review period afforded are convincing evidence of an intent by the proponents to actively hamper the public’s ability to meaningfully comment on project, its impacts, and the findings. A substantial extension to the public comment period should be granted to meet the spirit and specific requirements of NEPA and CEQA.</p>
<p>The Document is Extremely Difficult to Navigate. The document is nearly impossible to navigate. It refers to Appendix B as the location of the detailed Biological Resources Analysis, but there are two Appendix Bs, one that is an impact analysis and another that is the Public Meeting Scoping Notice. Such confusion makes thorough public review extremely difficult. The lack of an indexed Table of Contents for Appendix B, which details the environmental analysis, makes it virtually impossible to navigate it to conduct a review. I have literally spent hours over several weeks just trying to find sections dealing with biological resources and am often unsuccessful. Thus, my comments are incomplete. The proponents need to reissue a document with an indexed Table of Contents so the public can conduct a meaningful review.</p>
<p>Incomplete and Inadequate Environmental Analysis. In many areas, many of which we have outlined in our specific comments below, potential impacts are not recognized or analyzed. The analysis of the ARMS is particularly deficient. The SEIS/SEIR acknowledges the inadequacy of its analysis in the note included with Tables (4.3-2 and 4.3-3) on p. 872 and 873: "<i>Current programmatic level designs for ARMS and SRMS cannot provide quantitative data for species impacts. Detailed impacts to habitat will be disclosed in the Final SEIS/SEIR.</i>" Deferring impact analysis to the Final SEIS/SEIR does not allow the public to comment on the results of the analyses, the findings of significance, or the adequacy of any proposed mitigation measures and is contrary to the requirements of NEPA and CEQA. This acknowledges inadequate treatment of potential impacts necessitates a recirculation of the Draft SEIS/SEIR with the appropriate analyses and conclusions for public review and comment.</p>
<p>Inadequate Consideration of Alternatives to Urrutia Pond Site as Mitigation. The SEIS/SEIR does not include alternatives to the Urrutia Pond for mitigation. There clearly are alternatives to the use of this site, as SAFCA had GEI prepare a report identifying multiple potential mitigation sites in the report “American River Common Feathers Mitigation Site Concept and Evaluation Report (GEI 2020). Given that multiple alternative locations were identified for use in mitigating project impacts, the project proponents should have included an analysis of mitigation alternatives in the SEIS/SEIR. The absence of alternatives prevents the public from determining if the selected alternative is the least environmentally damaging alternative that could have been selected. The lack of alternatives is thus a key deficiency that requires new analysis in a reissued SEIS/SEIR so that the public can evaluate and comment on the analysis of impacts at alternative sites.</p>
<p>Characterization of the Impacts of the Use of Urrutia Pond for Mitigation Use is Inadequate. We highlight this component of the project because of its likely significant impacts on many waterbirds that use the Lower American River. These impacts were not recognized and (in places) incorrectly characterized in the SEIS/SEIR, despite the demonstrated fact that they were identified during project scoping (see D. Airola and C. Conard comments in Appendix D). The proposed project would eliminate one of the few open-water habitat areas along the river as mitigation for riparian birds and</p>

anadromous fish. Recent peer-reviewed published research has documented the extensive use of this pond by a large number and high diversity of waterbirds. Of particular concern, the pond serves as night roosting habitat for a high proportion of the population of diving duck (Common Goldeneye, Bufflehead, and Common Goldeneye) that use the Lower American River. Loss of this key open-water habitat would disrupt the daily movement of birds from roosting to foraging habitats, which is a significant impact under CEQA. The loss of open-water habitat could result in substantial declines in the populations of these night roosting species, as well as birds that make substantial use of the site during daylight hours. The SEIS/SEIR also does not recognize that potential value of the pond as a hunting area for the nesting pair of Bald Eagles onsite, and the potential for open-water habitat loss to cause abandonment of the nest site.

Incorporation of a Permanent Pond into the Urrutia Mitigation Plan. The SEIS/SEIR should address whether it is feasible to incorporate a deep permanent pond into the mitigation design. Could the existing pond serve as a rearing area for salmonids with enhancement of shoreline cover for high water periods? This would allow retention of an open water area for use by diving ducks, cormorants, and other waterbirds that depend on open water conditions.

Inconsistency with the County's Natural Resource Management Plan Regarding Treatment of Urrutia Pond. Retention of Urrutia Pond, as shown in the Parkway Plan (County of Sacramento 2008), was based in part on a robust planning process known as the American River Parkway Plan Integrated Area Plan Concept for the Reaches of Discovery Park, Woodlake, and Cal Expo (February 2006). This plan was prepared under the direction of the Joint Agency Project Management Team (PMT) and the American River Parkway Plan Update Citizens Advisory Committee (UCAC). This plan supported retention of the Urrutia Pond as a central feature for purposes of nature study, recreation, and cultural interpretation, and contained specific recommendations to improve human safety and to increase biodiversity of the pond and the surrounding land. The proposed mitigation use is clearly in conflict with this plan.

Lack of Bank Protection/Erosion Control Alternatives. The designs of the proposed erosion control measures, and thus the impacts of their application, are unclear. Designs of existing older protection on the north bank between Watt and Howe and downstream of Paradise beach on the south bank appear to be functioning adequately and provide considerable habitat value. Are these same designs going to be used in sections without protection in Contracts 3B North and South and 4B? Or will the design look like those applied last year between the H St. Bridge and Paradise Beach, and longer ago above Discovery Park, which appear to have considerably less value and are unlikely to develop as much value in the long-term. Is the existing protection going to be torn out and replaced with the new design?

The design of the previously installed erosion control features in the project area appears to have substantially less environmental impact than the proposed design (if it is the same as used at H St). If the existing design provides adequate protection, why is it not being used in Contracts 3B North and South and 4B? Why isn't the previous design being evaluated as an alternative in the SEIR/SEIS? Under CEQA, the lead agency is required to adopt the least environmentally damaging alternative that meets project objectives. It cannot use economic efficiency to justify selection of a less damaging design if the cost is feasible to incur. If the existing design meets flood control objectives, it must be analyzed in the Draft SEIS/SEIR and adopted. Because it is not there (or at least not clearly depicted), it appears that it must be added to the analysis and a subsequent Draft SEIS/SEIR and reissued for public review.

Inadequacy of the Mitigation Plan to Replace Lost Habitats. Based on the designs depicted in the SEIS/SEIR, we are concerned as to whether lost valley oak habitat will be adequately replaced. It appears that the frequency of inundation by winter floodwaters will be greater than oaks can tolerate. We ask that a better depiction of flooding frequencies and elevations be presented and analyzed and

the designs be modified if our concerns are valid.

Destruction of the Double-crested Cormorant Roost is Not Recognized or Mitigated – A cormorant roost was first recognized in 2019 along the north bank of the American River several hundred yards upstream of the Oak Meadows Park access within Project Area 3B North Side (eBird.org). Many cormorants and several Great Egrets roost nightly in dead and dying black locust trees that lean out over the river (i.e., shaded aquatic habitat) from September through March. The overhanging character of the vegetation appears to be important by creating safe, accessible roosting sites. As documented in eBird, numbers of roosting birds have been increasing annually from an average of 23 birds in 2019-2020 to an average of 69 birds in 2023-2024, and a high count of 105 birds in November 2022. Based on observations of flight paths of birds at dusk toward the roost, it is likely that this roost serves most of the cormorants that use the middle section of the Lower American River during the daytime.

Removal of the cormorant roost trees would disrupt a movement corridor used by the cormorants, and thus is a significant impact under CEQA. The needs of roosting cormorants may be met by the mitigation habitat created at the Urrutia Pond, but not until after a period of 3-5 decades, so this would not reduce impacts to a less-than-significant level. Efforts should be made to avoid treating this section of the river or preserve these trees (and their overhang of the water) during bank protection work. Other roosting sites should be explored along the American River, and opportunities to create additional roosting habitat (i.e., installation of poles with roosting arms) should be explored as mitigation for temporal or permanent loss of this important habitat.

Lack of Recognition of Impacts and Proposed Mitigation to Vertical-Bank-Nesting Species. The project would eliminate known occupied habitat for species that require or prefer vertical banks for nesting, including the Belted Kingfisher and Northern Rough-winged Swallow. The comprehensive nature of bank elimination would result in significant losses to the populations of these species. Mitigation, although challenging, could involve bank retention, creation of banks as a part of mitigation habitats, and experimental creation of artificial burrows for the swallow.

Loss of Nesting Sites for Cavity-nesting Species is Not Acknowledged or Mitigated. The removal of numerous large trees will eliminate nesting habitat for primary and secondary cavity nesting bird species, including Wood Duck; Common Merganser; Western Screech Owl; Ash-throated Flycatcher; Nuttall's, Downy, and Acorn Woodpeckers; Northern Flicker; Tree Swallow; White-breasted Nuthatch; Oak Titmouse; Bewick's Wren; House Wren; and Western Bluebird, as well as raccoons, western gray squirrels, and other species. Mitigation areas will not become suitable for excavation of nest cavities for 20-40 years. Therefore, mitigation areas should include provision of nest boxes for cavity-nesting waterfowl and songbirds to provide nesting habitat to offset losses of forest removal. Nest boxes are a proven technique to attract and increase cavity-nesting bird populations, if they are properly designed, installed, managed, and monitored (Airola and Stine 2022).

Evaluate Use the American River Dr. Detention Basin for Riparian Mitigation. The 12-ac detention basin between Watt and Estates Dr. currently provides minimal habitat value, but could be enhanced through deepening, creating more varied topography, and using urban runoff or pumping to maintain wet conditions. This habitat could replace some of the riparian mitigation habitat lost by protecting a portion of the Urrutia Pond. Alternatively, this area could be converted to an open-water aquatic habitat to provide resting habitat for displaced night-roosting diving duck, although its size and configuration makes it less suitable for this purpose. Because the existing habitat value of this site is lower than that of Urrutia Pond, it should be considered as part of the least-damaging practicable alternative. We suspect that there are other opportunities such as this, that could be used for riparian mitigation without destroying key habitat for other species.

Specific Comments		
Page	Section	Comment
3-70	3.5.5	<p>The proposed modifications at the American River Mitigation Site (ARMS) are intended to address mitigation needs for impacts occurring outside of the American River Parkway. Use of Parkway lands for outside mitigation violates the County’s American River Parkway Plan.</p> <p>The impacts associated with river construction are only temporary, while the loss of open water pond habitat is permanent. Also, impacts of providing fill and recontouring land will produce air quality impacts similar to those of excavating elsewhere.</p>
3-72	3.5.5.1	<p>The deferral of studies that may affect “project level analysis and planning” demonstrates that the impacts of the project are not fully known. A supplemental draft SEIS/SEIR with studies that allow complete impact assessment and full public involvement is needed to ensure that impacts are properly analyzed and mitigated.</p> <p>The application of a blanket 600-ft construction buffer to the Bald Eagle nest is inappropriate, given the known variation of individual eagle pairs to disturbance (e.g., Airola 2007) and the rarity of nesting Bald Eagles (only one pair) on the Lower American River. Given the isolated nature of this site and low level of current human disturbance there, these birds may be more sensitive to human disturbance than is typical of the species. The buffer should be established on a site-specific basis prior to construction through observation of eagle responses to construction equipment operated experimentally at various distances from the nest.</p>
3-95	3.7.3	<p>Please explain why use of this site would result in a reduction in impacts to air quality, traffic, and noise as a result of a reduced need for fill. The characterization of benefits as a justification to select the Urrutia Pond area as a mitigation site, as described in 3.5.3, is misleading or incorrect. Filling the Urrutia site will require excavation elsewhere and transport of fill material, and so is no more beneficial than excavating a riparian mitigation site elsewhere in the Lower American River floodplain.</p> <p>Rejection of the proposed alternative to retain a portion of the Urrutia pond based on the need for the site for elderberry mitigation is inappropriate, as there are many alternative sites between Highway 160 and Paradise Beach that could be used to mitigate for the purported impact of elderberry removal on the valley elderberry long-horn beetle. Selecting one of these other available sites would not result in significant impacts to waterbirds of the Lower American River. Similarly, if impacts to salmonids could be mitigated elsewhere, such as by excavating side channels in the floodplain that were raised by deposition of historic hydraulic mining deposition, so that impacts to waterbirds could be avoided or reduced, this must be evaluated in the Draft SEIS/SEIR. To suggest that only this site can mitigate for</p>

		<p>these impacts is undemonstrated and unsupported, particularly in light of the study funded by the proponents that identifies a number of other potential alternative mitigation sites (GEI 2020).</p> <p>The description shows that the County’s proposed option to retain a 30-ac pond would result in less need for fill, and thus less impact to air quality, noise, and transportation, as well as less impact to existing waterbird use of the site (Airola et al. 2023). CEQA requires that the lead agencies select the least damaging environmental alternative that meets project objectives unless there are overriding considerations. Those have not been identified.</p> <p>The depiction of alternative sites to meet mitigation needs in this SEIS/SEIR and in GEI’s (2020) mitigation alternatives evaluation demonstrates that mitigation could be achieved without destroying the entire Urrutia Pond and causing the resulting impacts to CEQA. Again, the selection of the least damaging practicable alternative is required under CEQA</p> <p>The presence of the Bald Eagle nest was known by the County and the proponents well prior to the release of the SEIR/SEIS. We contend that a sizable pond area remnant can be designed to include the central portion of the existing pond, thereby extending the buffer around the nest, while allowing mitigation construction to occur on the east and west sides (via two separate entrances to the American River and possibly a connection around the north side of the remnant pond). While this design would increase the amount of construction and fill required (to separate the pond from mitigation areas) it would better protect the eagles from construction disturbance. More importantly, it would retain an open water pond area that is highly attractive to the eagles’ avian prey and would retain suitable open water habitat in which eagles could hunt for fish and the remaining waterbirds. Absent any other evidence, it is reasonable to conclude that the presence of this open water foraging habitat was a key inducement for the eagle pair to locate there in 2022, and that elimination of the pond could result in abandonment of the nest territory.</p>
<p>3-98</p>	<p>3.7.2</p>	<p>The first paragraph correctly describes the substantial environmental benefits of pond retention of the County’s proposed alternative. Again, this narrative demonstrates that alternatives are available to meet project mitigation needs.</p> <p>The characterization of mitigation shortfalls described here needs further documentation and correct depiction of a feasible alternative. The deficiency for VELB mitigation would be only one acre. It seems illogical that retention of approximately one-third of the existing pond would reduce salmon mitigation by a roughly equal amount, while it would reduce cuckoo habitat to only one-third of what would have been produced under the proposed project (29 acres).</p> <p>Arden Pond has been demonstrated to have high value to waterbirds,</p>

		<p>similar to Urrutia Pond (Airola et al. 2023). The use of this site, and the impacts of previously proposed mitigation clearly were inadequately analyzed in previous environmental documents, especially in light of new information (Airola et al. 2023), which verifies concerns previously expressed during scoping regarding mitigation use of this site. An additional supplemental SEIS/SEIR would be required to fully address the waterbird impacts that were inadequately addressed previously. We oppose use of both the Urrutia Pond and Arden Pond for mitigation purposes but recognize that there are more options to retain some habitat value at the larger Urrutia Pond. Because Arden Pond is smaller, its use (such as under previous mitigation proposals) would leave a remnant too small to serve the key waterbird roosting needs that it currently serves (Airola et al. 2023).</p> <p>Due to impacts to wildlife and recreation, Arden Pond should not be considered for mitigation need. There is ample area of high terrace habitat, created artificially by hydraulic mining debris deposition, that currently has low habitat value. Excavation of channels and ponds in this area or elsewhere could provide the mitigation needs of the project while enhancing habitat for waterbird species, rather than degrading it.</p> <p>This characterization of effects ignores that the loss of waterbird habitat at Urrutia or Arden Ponds would be a significant impact under CEQA and thus would require its own mitigation (i.e., creating an open water body in some other location). Selecting a mitigation site with lower habitat value, such as near Cal Expo would avoid these impacts and mitigation need.</p> <p>The impacts to waterbirds resulting from selection of the Urrutia site were highly predictable based on similar concerns expressed regarding Arden Pond and scoping comments. The decision to proceed to select Urrutia Pond as a mitigation site, and the potential threats that this poses not just to wildlife but to the project schedule, is thus largely attributable to poor planning and unwillingness to incorporate public concerns. It is not too late to correct this error by fully analyzing the impacts of using the available alternative mitigation sites and shifting the mitigation program to another site with fewer impacts.</p>
<p>3-99</p>	<p>Figure 3.7.2-1</p>	<p>This figure depicts only one potential configuration of the pond that would avoid construction near the eagles’ nest. The linear nature of this pond reduces its potential for use by night-roosting waterfowl, which is a key resource for the Lower American River (Airola et al. 2023). An alternate, more circular configuration (with a generally rounded shape, as shown in Figure 3.7.1-1) could be developed to the north of the Bald Eagle nest, which would avoid the need for construction access near the Bald Eagle nest and would retain as</p>

		much waterbird use as possible.
3-107	3.10	The range of alternatives considered is wholly inadequate. All alternatives considered would result in significant impacts to waterbird populations that travel daily between the river and Urrutia Ponds for night roosting. Disrupting this movement corridor is a significant impact under CEQA. The alternatives analysis does not explain why the less damaging alternative of constructing mitigation habitats in the degraded floodplain area near Cal Expo or other identified mitigation sites along the Lower American River (GEI 2020), entirely or in part, were not considered, much less selected. Some of these alternatives are highly likely to be environmentally superior. Absent any documentation, it appears that the alternative were not considered because they may have been considered more expensive to construct. Under CEQS, expense is not an adequate basis for ignoring an environmentally superior alternative unless it is determined to be physically or economically infeasible.
4-115	Table 4.2.2-1	Impact Number 2.2-c. The characterization of impacts is illogical and incorrect. Birdwatching, hiking, and nature appreciation are major uses of Contract 3B and 4A and 4B that serve a large population of adjacent residents and others from throughout the region. As noted, the proposed project will cause substantial long-term disruption in the use. Specifically, this impact will last for years after completion of project construction due to permanent habitat loss, wildlife population loss, and creation of areas with lower visual quality and reduced solitude character. None of the proposed mitigation measures reduces these impacts to less-than-significant. The impacts can be reduced, although not to a less-than-significant level by adopting modified designs that retain existing large trees and other vegetation wherever feasible and allowing riparian vegetation to grow on affected reaches.
4-115	Table 4.2.2.2	Impact 2.2a, 2.2-b, 2.2-c Erosion Contracts. The definition of short-term and medium-term are not clearly stated, so we cannot properly evaluate claims of impact magnitude or significance. The characterization of short- to-medium-term impacts as moderate to major and less-than-significant is illogical and incorrect. The characterization that erosion control projects will have “no impacts with mitigation incorporated” is utterly incorrect, given the loss of many 50- to 200-year-old trees and the intent to manage erosion control areas to preclude establishment of woody vegetation. These impacts are clearly significant, regardless of what offsite mitigation is implemented. Therefore, the effects should be minimized by implementing feasible designs that retain as many existing trees and as much other natural vegetation as possible and by allowing establishment of woody vegetation on protected areas. The omission of any discussion of long-term impacts renders the

		<p>document incomplete, thereby contributing to the need for document revision and recirculation as a SEIS/SEIR.</p> <p>Impact 2.2-c. ARMS. The County’s American River Parkway Plan specifies intentions to acquire the Urrutia Pond in part to increase recreation opportunity. The foreclosure of this opportunity to acquire and incorporate an open water pond area is a conflict with the adopted plan and thus a significant impact under CEQA that must be mitigated. The best mitigation would be to retain a portion of the existing pond as described in the Alternative provided by the County or by one that places the pond area north of the eagle’s nest with mitigation connections to the river east and west of the nest.</p>
4-119	4.3.1.2.2	<p>American River Mitigation Site. The statement that birds will simply be “scared away” is not supportable. Bird populations and use levels are largely determined by the amount of suitable habitat present in an area. Basic wildlife science supports the conclusion that at least some if not most of the birds that are displaced from construction areas will be displaced to habitats that are already supporting individuals at levels at or near their carrying capacity. Therefore, population reductions will likely result from the permanent removal of open water habitat by construction.</p> <p>The gradual increase in channel and riparian habitat will ultimately benefit those bird species that depend on these habitats. The change in habitat from a large open waterbody to narrow channels and seasonally flooded riparian habitat will not support many of the species that prefer using open water areas for foraging and resting, including wintering diving ducks, geese, gulls, and cormorants. Of special concern is the effects of loss of night-roosting habitat on the populations of diving ducks, including the Bufflehead, Common Goldeneye, and Common Merganser. A substantial proportion of the populations of these species along the Lower American River use the Urrutia Pond (and at Arden Pond) for night roosting (Airola et al. 2023). Loss or reduction of this habitat has a strong likelihood to reduce populations of these species as they are forced to seek out less suitable roosting habitat</p>
4-184	4.5.1.1	<p>American River Mitigation Site. The high level of use of this site by waterbirds should be acknowledged.</p>
4-186	4.4.1.1.2	<p>The Urrutia Pond should be recognized as a sensitive natural habitat because of its subsurface connection to the American River and Steelhead Creek, its surface connection during high-water events, rarity as a habitat type locally, and especially because of its regional importance to waterbird populations along the Lower American River (Airola et al. 2023).</p>
4-188	Table 4.4.1-2	<p>Impact 4.1a. The elimination of Urrutia Pond would interfere with the daily movements of numerous waterbirds from daily foraging areas on the river to the pond for night-roosting, including Bufflehead, Common Goldeneye, and Common Merganser. This permanent</p>

		<p>disruption is a significant impact, as defined under CEQA Appendix G. As such it must be mitigated to a less-than-significant level. The mitigation should include moving all mitigation to other sites (as identified by GEI (2020), implementing pond protection as defined in Alternative 4a or the alternative configuration we have proposed elsewhere in this comment letter, along with creation of additional ponded habitat to fully offset pond habitat losses.</p> <p>Impact 4.1b. The proposed action, by removing Urrutia Pond has potential to cause substantially reduced winter night roosting and daily foraging habitat for waterbirds that use the Lower American River. Therefore, this impact is significant and requires mitigation to a less-than-significant level.</p> <p>Impact 4.1-d. Because of its subsurface connection to navigable streams, and surface connection during high-flow events, the Urrutia Pond should qualify as a water of the U.S. and its loss as a significant impact that should be mitigated.</p> <p>Impact 4.1-e. Elimination of Urrutia Pond conflicts with the adopted American River Natural Resources Management Plan and thus is a significant impact.</p>
4-194	4.2.1.2.2	<p>American River Mitigation Site. The significant impact of the loss of pond habitat should be acknowledged here.</p>
4-215		<p>Purple Martin. This account demonstrates a lack of basic knowledge of the preparers. Purple Martins has been extensively studied since the 1990s with over 30 articles and a book published (e.g., Airola and Grantham 2003, Airola and Williams 2008, Airola 2020, Airola and Kopp 2021, 2023). The Sacramento Purple Martin population is the last remnant of the species’ once widespread population in the Central Valley, now nesting in only 5 elevated freeway and overpass sites in Sacramento (Airola 2020, Airola and Kopp 2021, 2023). The species has not been documented to have nested in trees in the Central Valley for at least 40 years. In this case the SEIS/SEIR has overstated the potential impacts of the project. There should be no effects of the project on Purple Martins and no mitigation should be required.</p>
4-216		<p>Other Breeding and Migratory Birds. Recent published research provides a more detailed understanding of the role of Urrutia and Arden Ponds as resting habitat for diving ducks, including not only the Canvasback but also the Bufflehead, Common Goldeneye, and Common Merganser, as well as their importance as foraging habitat to Wood Ducks, Mallards, Double-crested Cormorants, American Coots, and other waterbirds (Airola et al. 2023). This research demonstrates that high proportions of the populations of these species that use the American River in winter also use the ponds either for night roosting or daytime foraging. The birds choose these open water areas presumably because they allow birds to forage, conserve energy, and avoid predation. Narrow flooded open water areas and flooded riparian habitat will not serve these needs for these species because they rely on open areas to detect predators. Thus, the proposed</p>

		<p>mitigation could reasonably be expected to lead to a substantial decline in populations of these species along much of the Lower American River. Such a loss would be significant under CEQA, and no mitigation has been proposed to mitigate this impact.</p>
<p>5-24</p>	<p>5.1.15</p>	<p>Cumulative Impacts, Vegetation and Wildlife. The cumulative effects analysis in the SEIS/SEIR is superficial and misleading. The proposed projects do not just “have potential” to contribute to the loss and degradation of sensitive and other habitats, they will clearly do so.</p> <p>The impacts of this and other projects are not quantified, and thus are not evaluated for their effects in the SEIS/SEIR or available for public review and comment. These impacts should be quantified to the maximum extent possible. In particular, what proportion of the bank area along the American River will be denuded by project actions in various reaches by proposed and past flood protection actions and how will that affect dependent wildlife species, vegetation, and human uses?</p> <p>The document also does not address the indirect cumulative effect of all projects shifting public use to the remaining lands that retain wildland character in the American River Parkway. Increase use of remnant areas with wilder character will lead to increased creation of unauthorized foot trails, erosion, vegetation damage, and wildlife disturbance.</p> <p>As noted elsewhere in this comment letter, the adopted mitigation measures are incomplete and ineffective in meeting a standard of causing the least amount of environmental impact. The acknowledgement that mitigation measures would not be able to reduce effects to a less-than-significant level requires that the project proponents explore design modifications and additional mitigation measures that would further reduce impacts, including retention of large trees along riverbanks within contract reaches.</p> <p>Given that the temporal impacts associated with vegetation removal will not be offset for a period of 50 years, it is incumbent on the project proponents to minimize vegetation removal within project reaches to the maximum extent possible.</p> <p>Cumulative impacts of the project are either significant or they are not. It is improper to characterize the impacts as significant for 50 years and then declare them no longer significant. No amount of “overshoot” in ultimate conditions changes the fact that habitat values will be reduced substantially, and thus significantly, over a 50-year period.</p> <p>The cumulative impacts analysis does not consider the effects of climate change and resulting changes in hydrology and reservoir</p>

		operations on habitats along the Lower American River. Will these changes result in additional impacts to existing riparian vegetation? Will they make proposed mitigation less effective? This impact needs to be incorporated into the cumulative effects analysis.
4.2-11		The project clearly is inconsistent with the following General Plan policies: CO-58, CO-59: violated by the destruction of Urrutia Pond CO-88: Violated by removal of the cormorant roosting site within Area 3B North has not been recognized as an impact and for which no mitigation has been proposed. CO-89: The project clearly will not protect, enhance, or maintain riparian habitat. CO-105: The minimal and inadequate public involvement process is a violation of this policy. CO105a: This policy is violated by altering natural topography and vegetation along waterways. CO-111, 121, 122: Violated by extensive vegetation removal and channel bank reshaping. CO-123. Violated by planting of unnatural elderberry orchards that remove much of the herbaceous vegetation in mitigation areas.
4.3-1	4.3.1	4.3.1. The omission of the extensive information available in eBird and the Sacramento Breeding Bird Atlas (Pandolfino et al. 2021) from the list of resources consulted for the impact analysis renders any evaluation to be inadequate.
4.3-3	Table 4.3-1	The descriptions in this table illustrate a lack of basic biological information affecting the soundness of the impact analysis. Some corrections: American Badger. Very unlikely to occur anywhere within or near American River sites due to limited amount of grassland, but VELB mitigation will cause a significant impact if any occur, due to loss of potentially suitable herbaceous habitat. Peregrine Falcon. Peregrines nest on the UC Davis Medical Center building (Pandolfino et al. 2021) and likely use the Parkway year-round. They are common in winter along the Parkway and may be affected by reduction in avian prey, including diving ducks and other waterbirds, that are likely to occur due to the loss of Urrutia Pond. Bank Swallow. The last nesting site of Bank Swallows near River Bend Park was destroyed during the nesting season by flood control efforts in the 1980s (D. Airola pers. obs.). The species now occurs only infrequently, if at all, during migration. Purple Martin. Has not nested in trees since the 1970s (Airola 2020). Would not breed in any project areas. Western Burrowing Owl. No longer nests along the American River due to development of herbaceous open space lands, removal of hay production and grazing following park establishment, and possibly due to planting use of herbaceous habitat for elderberry mitigation and its invasion by star thistle. Yellow-breasted Chat. Recent migratory occurrences exist. The

		<p>project area is not outside the species range. The elimination of low terrace habitat has reduced habitat quality. The creation of riparian habitat at Urrutia Pond might attract this species.</p> <p>Yellow Warbler. The characterization does not make sense (describing habitat as what occurs at the Parkway areas and then saying that suitable habitat doesn't exist). Yellow Warblers are sensitive to cowbird parasitism and so are absent from most areas where suitable habitat otherwise exists in the project area and throughout the Central Valley.</p>
4-186	4.5.1.1.1	Non-native Invasive Species. This section should note that major infestations of non-native and undesirable star thistle occur in previous mitigation areas developed for bank protection work by the Corps and SAFCA, which has reduced habitat value.
	4.5.1.1.2	Calm-water areas, including Urrutia pond, Arden Pond, and backwater areas are especially diverse, regionally uncommon, and of special concern to local agencies, including Sacramento County Parks, and to non-profit conservation organizations. Thus, they qualify as sensitive natural habitats.
4-187	4.5.1.2.2	The idea that animals disturbed by loss of habitat resulting from construction of the proposed action can simply “move away from construction activities to unaffected areas” is contrary to the findings of more than a century of wildlife science, which shows that habitat loss generally results in reduction in populations. Evaluation of the degree to which displacement and elimination of habitat would affect current wildlife populations is needed, in particular because of evidence of substantial use of Urrutia Pond by night-roosting waterbirds (Airola et al. 2023) and roosting by substantial numbers of cormorants in trees slated for removal in Area 3B North
4-188		Maintenance plans for mitigation areas should be made available for review by County Parks and citizen groups, given the proponent's failure at adequately maintaining and protecting existing mitigation areas from weed invasions and fire.
Table 4.4.1-2	4.1-a	Removal of Urrutia pond and the trees supporting the cormorant roost in Area 3B North would eliminate movements of waterbirds from foraging to roosting areas, which has the potential to reduce regional populations. The mitigation measures do not address these impacts, and they are therefore significant under CEQA
	4.1-b	The proposed project will eliminate the largest pond area along the entire Lower American River and thus has the potential to cause the local populations of several waterbird species to be greatly reduced. No adopted mitigation addresses this impact. Therefore, it is significant.
	4.1-3	The American River Parkway Plan identifies Urrutia Pond as an important and sensitive natural community. Its elimination is a substantial adverse effect that is not mitigated, and therefore is significant.
	4.1-d	Although artificially constructed, Urrutia Pond is fed by subsurface

		and surface flows, and thereby is federally protected. Its filling is a violation of the Clean Water Act, and no actions are proposed to mitigate the effects in-kind.
	4.1-e	Removal of Urrutia Pond violates Sacramento County Park’s American River Parkway Plan
Table 4.4.1-3	4.1-c	The removal of 50-150 year-old cottonwoods and valley oaks cannot be considered a temporary impact, regardless of how much new mitigation is planted. This is a significant impact that requires maximum effort to design the project to avoid mature tree removal. This comment applies to all affected areas supporting mature trees. No mitigation is proposed here to protect the Bald Eagle nesting tree
4.1-16		Riverine/Open Water. The Osprey is not common in project areas. The species has been recently studied in the region (Airola and Pandolfino 2021; Airola and Estep 2022, 2023), and am not aware of any nests on the Lower American River. The species is increasing, however, and so could become more common and could nest in the future, thereby requiring protection at nest sites. The unique side-channel and off-channel pond habitats, which are used differently than riverine habitats, should be acknowledged here.
4.1-17		Non-native Invasive Species. The document should note that a major undesirable invasive species is star thistle, which has invaded numerous past mitigation sites, creating fuel loads that has resulted in repeated fires and loss of planted mitigation stock, such as at River Bend Park.
4.1-25	4.1.3	Scoping Comments. Contrary to the assertion here, the proposed mitigation would not comply with the American River Parkway Natural Resources Plan. It also will eliminate nearly all open water in at the Urrutia Pond, and so will not “include...utilizing the open water or a portion thereof for fishing and non-motorized boating.” Since the amount of open water area retained is so small and narrow, it will provide a significantly reduced area of off-channel foraging habitat and will not provide suitable roosting habitat for most of the night-roosting species that use this area now.
4.3-14		Yellow-billed Cuckoo. The description of this species’ status in the project areas is correct. Given this, the document should explain and justify why the mitigation was focused on this species instead of the many riparian species that are known to occur and that will be heavily impacted by removal of riparian vegetation and especially large oaks and cottonwoods. For example, if a guild of riparian birds had been used in the assessment, the impacts of

	<p>nest site loss to cavity-nesting birds would have been identified as a significant impact and mitigated through a temporary nest box program.</p>
4.1-28	<p>Movement Effects. The statement that “the proposed action would not interfere substantially with the movement of native or migratory wildlife” is clearly erroneous. As documented by Airola et al. (2023), large populations of several diving duck species, including the Common Goldeneye, Bufflehead, and Common Merganser, move each evening to Urrutia Pond to roost overnight and then return to the American River to forage in each morning. Also, the Contract 3B North site currently supports a nighttime winter roost for an average of >60 Double-crested Cormorants in nonnative black locust trees that overhang the river. It appears that these trees would be removed, thereby destroying an existing daily movement pattern. The used night roosting sites are largely unique within the Lower American River, with the exception of Arden Pond’s use by diving ducks. The proposed mitigation will not provide suitable habitat for these purposes. As a result, contrary to the statement “nor would it reduce a population...”, the potential exists for a substantial decline in the populations of these species along the American River. To anticipate the proponents’ response, winter conditions are believed to be limiting, at least to the diving ducks (see Birds of the World references in Airola et al. 2013), and so it cannot be assumed that they will just relocate somewhere else without effects on numbers.</p> <p>O&M Activities. The proposed actions, which are described to include maintenance of “all project sites” to prevent the establishment of woody vegetation, will result in a permanent impact to many wildlife species, as well as wildlife user groups (birders, hikers), and aesthetics. The proponents should allow stabilizing woody vegetation to grow on bank protection sites.</p> <p>Bald Eagle. The construction buffer distance should be set by a biologist based on testing of the response of birds to equipment and human activity as recommended by Airola (2007). The needed buffer may be greater or lesser than the 660 ft guideline arbitrarily identified as a nationwide standard. It is quite possible that due the recent establishment of this nest and the very low level of baseline human activity, the buffer distance may need to be great than 660 ft to avoid disturbance and potential abandonment.</p>
4.1-29	<p>The statement regarding effects of mitigation on migratory birds is inaccurate and overly simplistic. The mitigation areas will, over a long period of time, improve habitat for certain migratory birds, but will eliminate habitat for others. The elimination of migratory birds that use open water habitat is a significant impact and should be mitigated, which is readily feasible. The conclusion on this page regarding effects on animal movements is inaccurate for reasons previously stated.</p>
4.1-30	<p>Similarly, the conclusion at the top of this page regarding effects on wildlife habitat and populations is inaccurate and misleading.</p> <p>MM BIRD-1. Purple Martins will not occur at project sites. No mitigation needed.</p>
4.1-31	<p>Nest Protection. Except for a few species with low densities, such as the Yellow-billed Magpie and raptors, it is wasteful and serves no lasting purpose to spend large amounts of money to protect nesting birds from construction, whose populations will subsequently decline anyway due to habitat loss. The</p>

	<p>proponents should work with agencies to get take migratory bird take permits in exchange for putting the funding that otherwise would be used for avoidance toward some long-lasting conservation measures such as land acquisition or habitat improvement.</p> <p>Bald Eagle. See comments elsewhere regarding customized disturbance buffer determination.</p> <p>Purple Martin. It is completely unnecessary to conduct any surveys for Purple Martins in any construction areas because over 20 years of research and monitoring (Airola 2020) has shown that only a few sites in elevated freeways or road overpasses have supported colonies since the 1970s (Airola and Grantham 2003, Airola 2020, Airola and Kopp 2023).</p>
4.1-32	<p>The statement that only “some waterside trees” will be removed from project areas contradicts previous statements that all woody vegetation will be removed and that sites will be maintained to prevent its establishment. It also contradicts the subsequent paragraph which notes “Riparian woodland and riparian scrub would be removed from the erosion protection footprint”. This inconsistency is so fundamental that it prevents us from understanding the project impacts and providing meaningful comment on the SEIR/SEIS, thereby requiring reissuance of a corrected SEIS/SEIR. We, and CEQA requirements, favor use of erosion protection designs that protect as much existing riparian habitat as possible.</p>
4.1-32	<p>Nest Boxes. A measure should be added to the mitigation plans for erection and ongoing management of 2 waterfowl nest boxes and 5 songbird nest boxes per acre for several decades to offset the multi-decade loss of nesting habitat for riparian cavity-nesting birds that will occur until mitigation plantings achieve a mature condition. Boxes should be erected and managed according to approved designs and management guidelines by individuals with experience doing so.</p> <p>Overall Impact Conclusion. The project will cause significant long-term impacts to species that depend on open water as night roosting habitat.</p>
4.1-33	<p>The commitments to protection and reestablishing vegetation are so vague that they cannot be relied upon as a basis for evaluating impacts. Although short-term effects have been characterized as significant and unavoidable, the proponents should nonetheless commit to a maximum effort to minimize the impacts through the described methods and even other approaches to bank protection and erosion control, if feasible</p>
4.3-14	<p>Yellow-billed Cuckoo. Other than the one unconfirmed sighting on a single day, as acknowledged, this species does not occur on the Lower American River. It is thereby inappropriate to base mitigation on the needs of this species, rather than other riparian species and waterbirds, which depend on habitat in the project area and will be impacted by the project.</p>
4.3-15	<p>Other Breeding and Migratory Birds. This is a very incomplete representation of the diverse and abundant breeding, migratory, and wintering avian community within project areas. Published peer-reviewed studies document breeding by Yellow-billed Magpies in project areas 3B near Oak Meadows Park and in 4a near Larchmont Park and (Airola et al. 2021, Airola 2023). This species has declined by an estimated 85% due to West Nile</p>

	<p>virus so protecting large trees on riverbanks should be a priority, especially where magpies are nesting there.</p>
<p>4-3.39</p>	<p>Bald Eagle. The DSEIS/SEIR does not address the impacts of aquatic habitat loss on the nesting pairs of Bald Eagles at the Urrutia property. Bald eagles feed both on fish and waterbirds. While the specific basis for selection of the site cannot be known specifically, the presence of the nest adjacent to a pond that supports large numbers of waterbirds and calm waters where fish may be more easily seen and captured is consistent with an explanation that the site was selected because of the presence of the pond. As someone who has conducted research and management on Bald Eagle over 40 years (e.g., Airola 2007), I (D. Airola) believe that elimination of the pond and its replacement with riparian habitat that will obstruct hunting access during those limited periods when it is flooded has potential to displace the eagle pair.</p> <p>Acquisition of the property by public agencies, and its development for mitigation has a high likelihood of resulting in increased legal and illegal human activity and disturbance unless commitments are made to vigorous preventative measures. Such disturbance has a high potential to displace this eagle pair because they are not acclimated to human disturbances (see Airola 2007). Such displacement would be a significant impact. The project proponents should identify mitigation measures to prevent legal and illegal human occupation in areas that would disturb nesting eagles.</p> <p>The determination of bald eagle disturbance buffers should be based on the specific current site condition and tolerances of the nesting pair, as I have recommended (Airola 2007) rather than applying blanket buffer guidelines that are likely inadequate under conditions when background disturbance levels are low, as in this case.</p>
<p>4-3.39</p>	<p>Burrowing Owl. The Burrowing Owl is almost certainly not a breeding or wintering resident in any of the American River project areas. Magpie Creek has the possibility of supporting owls.</p> <p>It is not evident that proper surveys were conducted for this species to characterize potential project impacts in suitable habitat around Magpie Creek. Surveys and impact evaluation should be conducted by a professional with experience in dealing with this issue. Chris Conard with Sacramento Regional County Sanitation District is the expert on Burrowing Owl in Sacramento County and should be consulted.</p> <p>The adopted mitigation measures do not address the potential impacts of removing grassland habitat, removing burrows, and displacing owls from their burrows. Continual enactment of mitigation measures as outlined in this document has contributed to the near elimination of the species from Sacramento County (Pandolfino et al. 2021, C. Conard, pers. comm.). If Burrowing Owls are found to occur in project areas, measures should be taken to avoid disturbing their burrows. The effects of habitat disturbance and long-term changes need to be properly evaluated. If the project results in impact to occupied or recently occupied habitat, appropriate mitigation</p>

	<p>measures should be adopted, including purchase of local mitigation credits for Burrowing Owl (which may not be available), establishment of a relocated population (which has been done successfully in San Diego County), and/or acquisition, protection, and enhancement of existing occupied Burrowing Owl habitat that otherwise would likely become unsuitable over time.</p>
<p>4-3-41</p>	<p>Least Bell's Vireo. It is certain that Least Bell's Vireo does not nest currently within project areas, as there have been no records despite widespread birder activity. To my knowledge there are no records of any migrant Bell's Vireos anywhere in Sacramento County, nor would they be expected because there are no nesting populations to the north of the County. There should be no significant impacts and no mitigation is required. There is a small possibility that the species could colonize project areas in the future. At that point potential conflicts might occur with long-term management programs.</p>
<p>4.3-43</p>	<p>Yellow-billed Cuckoo. With the exception of one sighting, there is no evidence that cuckoos use the Lower American River corridor during migration, despite thousands of bird checklists being recorded in eBird during the migration period. The impact of habitat loss to migrating cuckoos is clearly not a significant impact that requires mitigation.</p>
	<p>White-tailed Kite. The expense incurred in surveying for and protecting kite nests from short-term disturbance could be better spent on managing habitat for the species to provide long-term benefits. The main impact of the project to White-tailed Kites is the misguided effort to plant elderberry orchards in a large amount of the remaining available space where herbaceous habitat occurs along the American River, and the resulting invasion of disturbed area by star thistle. This impact should be mitigated by enacting management to reduce star thistle in remaining herbaceous habitat areas through prescribed grazing, burning, mowing, and/or seeding.</p>
	<p>Other Breeding and Migratory Birds. This depiction of impacts is incorrect and misleading. As documented in a peer-reviewed study (Airola et al. 2023), a wide variety of waterbirds use the Urrutia Pond during winter, not just diving birds. To suggest that birds do not use the pond during other seasons is completely unsupported. Although bird use during other seasons has not been well documented due to restricted access, it should be the responsibility of the lead agencies to conduct such studies, not us commenters.</p> <p>The impacts described for other species are limited to the direct effects of disturbance during construction, as if there is an unlimited supply of habitat that individuals can move to and survive. This, of course is an idea contrary to more than a century of wildlife biological science.</p> <p>The created mitigation area will not function as a mature riparian woodland for decades, during which time populations of dependent species will decline. Therefore, the proponents should adopt project design measures that minimize these temporal losses, including protecting all existing habitat to the maximum extent possible. This also will reduce the mitigation need and reduce the impacts of the Urrutia mitigation project itself, which is a significant impact requiring its own mitigation.</p>

	<p>The proponents should also adopt measures to encourage colonization of the mitigation area by cavity-nesting birds, by supporting a nest box program at the mitigation site for a period of not less than 20 years, or until the vegetation matures sufficiently to allow primary cavity nesting birds (i.e., excavators) to colonize the site. Because the impacts to riparian birds, and thus cavity nesting birds, are significant, and the mitigation is highly feasible and effective (Airola and Stine 2023), its implementation is required.</p>
Appendix D	
<p>Comment 5-1</p>	<p>It should be made clear that, while it is difficult in general to comment on project environmental documents, the Corps appears to have gone out of its way to make public comment as difficult as possible. To some degree, it is refreshing that the Corps acknowledgment that it doesn't care to do anything to facilitate public involvement beyond the absolute minimum required by law. It remains to be seen whether, with the obvious impediments that the Corps has erected, it will be determined that it indeed met that minimal standard. Regardless, its approach violates a public agency's basic responsibilities to involve and be responsive to the public.</p>
<p>Comment 5-2</p>	<p>Who has determined what surveys are required? The request was for surveys to be conducted prior to the release of the SEIS/SEIR so that the results could be incorporated into the impact analysis. It appears that the proponents chose not to do the surveys because they wanted to avoid addressing the important issue of waterbird use of the Urrutia pond, of which they had been made aware. As a result, the analysis of impacts is incomplete and inadequate. Conducting bird surveys prior to disturbance makes no sense other than to avoid nesting birds. Why would they be done, unless they influence the subsequent design. Wintering waterbirds fly, so there is no purpose in conducting pre-disturbance surveys for them. Please explain what you are proposing to do and why.</p>

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