RECOMMENDED ACTION AND JUSTIFICATION:

Adopt the Negative Declaration and supporting environmental documentation that was completed for the proposed street extensions for 2nd, 3rd, 4th, and 5th streets in Mariposa.

The project involves the construction of an access road and installation of utilities to Mariposa Town Blocks 8, 12, 16, and 20 in Mariposa County California. All work will be performed within existing road easements. Currently there is no access to these lots within the Town of Mariposa. This project will provide access and utilities to existing parcels within the Town of Mariposa. Specifically, 2nd, 3rd, 4th and 5th streets are to be extended to provide access to these parcels. The project will result in the construction of 1,880 lineal feet of roadway, 2,116 feet of water line, 3,155 feet of sewer line and approximately 2,116 feet of electrical and telephone utilities.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

There is no history for this particular proposal.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Construction would not be able to begin for these street extensions.
TO: DANA HERTFELDER, Public Works Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Adopt a Negative Declaration for the Proposed Extension of 2nd, 3rd, 4th and 5th Streets in the Town of Mariposa; Applicant: Manzanita Estates, LLC
(Continued from October 2, 2007)

RESOLUTION 07-486

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on October 16, 2007

ACTION AND VOTE:

10:02 a.m. Dana Hertfelder, Public Works Director;
PUBLIC HEARING to Adopt a Negative Declaration for the Proposed Extension of 2nd, 3rd, 4th and 5th Streets in the Town of Mariposa; Applicant: Manzanita Estates, LLC (Continued from October 2, 2007)

BOARD ACTION: Dana Hertfelder presented the staff report, including the environmental review; and he advised that this also involves the construction of another street that connects these streets. He advised that the only comments received on this project were from Fish and Game and from the Planning Department; and he provided input on the encroachment permit process. He responded to questions from the Board relative to the requirement for a botanical study; costs for the project being born by the applicant; relative to the encroachment permit process; whether drainage concerns were addressed; whether these are existing road easements; and relative to the utility easements and impacts on existing roads. Dana Hertfelder noted that the extension of these roads have not been accepted by the County for maintenance.

The public portion of the hearing was opened and input was provided by the following:

Dieter Dubberke, applicant, commented on the processing of this project and the additional costs incurred because of the timeframes in trying to comply with all of the requirements. He stated he feels good about his experience in working with the County departments.

Eleanor Keuning stated she is not opposed to the project, but has questions. As a member of the Historic Sites and Records Preservation Commission, she asked if the Native American group was consulted; and she asked about a previous proposal to connect Jones Street to Highway 49 South.

Paul Chapman stated he thought that 2nd Street was supposed to connect to Highway 49 South and it never occurred. He does not remember these right-of-ways and they have not been used for over fifty years; and he feels that the State considers them to be abandoned after eighteen years of non-use. He expressed concern with addressing construction impacts and compliance with County Code Section 12.12; and he questioned whether the applicant has deposited funds with the County to cover project processing costs.
Ruth Catalan questioned how many units will be constructed and whether impacts on fire, police, water and sewage have been addressed.

Ruth Sellers stated she does not oppose the project, but has questions. She asked whether the easements were recorded as County property; she asked why County personnel and equipment is being used for this project; questioned whether previous mining activity impacts have been evaluated; and she questioned whether all of the environmental concerns have been addressed. She feels this project should require a full CEQA review.

Dana Hertfelder responded to the questions – a cultural resources study was done for this project; there are no plans to connect the roads questioned with Highway 40 South; a title search of the easements show that they are existing County road easements; the County is not doing the construction – it will be performed by a private contract with the developer; the Mariposa Mine is located on another parcel; and he noted that these are existing lots and that is why this is not a subdivision project. He advised that Public Works did not collect a deposit for processing this application – it is being handled through their normal process where costs are billed after the processing is completed. Supervisor Bibby asked for clarification of involvement of MPUD. Thomas P. Guarino, County Counsel, advised that he supports the Public Works Director’s statements relative to the easements.

Ruth Sellers asked again whether these easements were recorded as County property. Dana Hertfelder responded that he does not know. County Counsel advised that this would be a question for the Assessor.

Dave Lawson, applicant, provided input on the Title Company’s research and their location of a grant deed from 1951 with a specific grant to the County from Mariposa Mining.

Staff responded to a question from the Board and clarified that all of staff’s time on this project will be billed to the applicant. The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to additional questions from the Board relative to the recommended action and request for direction on processing the encroachment permit. Supervisor Pickard suggested that direction be given to Public Works to process the encroachment permit without bringing it back to the Board, contingent on County Counsel’s approval. Chair Bibby questioned whether the Board could include this direction in its action since it was not listed in the agenda item. County Counsel stated he feels that Public Works is looking for a sense of direction from the Board and the Board’s comments could be taken into account in the processing. The action should be on the Negative Declaration. (M)Fritz, (S)Pickard, Res. 07-486 was adopted adopting a Negative Declaration and supporting environmental documentation as recommended/ Ayes: Turpin, Bibby, Fritz, Pickard; Excused: Aborn.

Cc: Thomas P. Guarino, County Counsel
Kris Schenk, Planning Director
File
MARIPOSA COUNTY
NEGATIVE DECLARATION

(Pursuant to California Administrative Code, Section 15070)

APPLICANT/APPLICATION: Mariposa County
4639 Ben Hur Road
Mariposa, California 95338
(209) 966-5356

PROJECT DESCRIPTION: The project involves the construction of access road and installation of utilities to Mariposa Town Blocks 8, 12, 16, and 20 in Mariposa County California. All work will be performed within existing road easements. Currently there is no access to these lots within the town of Mariposa. This project will provide access and utilities to existing parcels within the town of Mariposa. Specifically, 2nd, 3rd, 4th and 5th streets are to be extended to provide access to these parcels. The project will result in the construction of 1880 lineal feet of roadway, 2116 feet of water line, 3155 feet of sewer line and approximately 2116 feet of electrical and telephone utilities.

No significant effect is based on the following findings:

Based on the Initial Study two Environmental Factors were found to be Potentially Affected. They are the Biological Resources and Cultural Resources; Mitigation Measures were already incorporated into the project so no significant effect has been found.

No significant effect is based on review procedures of the following County Departments or Divisions:

□ Building Division  □ County Health Department
☒ Planning Department  □ Public Works Department

Other: (list if applicable)
State Clearinghouse

Initial Study was prepared by Matt Freeman, Associate Engineer, and is on file at Public Works, 4639 Ben Hur Road, Mariposa, California 95338

Dana S. Hertfelder, P.E., Director
Mariposa County Public Works Department

8-16-07
Date

ATTACHMENT #1
Initial Study
Mariposa County Department of Public Works

1. Project Title: Proposed Street Extensions for 2nd, 3rd, 4th, and 5th Street

2. Lead Agency: Mariposa County
   4639 Ben Hur Road
   Mariposa, CA 95338
   (209) 966-5356

3. Initial Study Prepared by: Matt Freeman, Associate Engineer
   Mariposa County Department of Public Works
   4639 Ben Hur Road
   Mariposa, CA 95338
   (209) 966-5356

4. Project Sponsor: Mariposa County
   4639 Ben Hur Road
   Mariposa, CA 95338
   (209) 966-5356

5. Project Location: Off Jones Street on State Highway 49 South in the Town of Mariposa, see enclosed site plan.

6. General Plan Designation: Town Planning Area

7. Zoning: Town Planning Area

8. Description of Project:

   The project involves the construction of access road and installation of utilities to Mariposa Town Blocks 8, 12, 16, and 20 in Mariposa County California. All work will be performed within existing road easements. Currently there is no access to these lots within the town of Mariposa. This project will provide access and utilities to existing parcels within the town of Mariposa. Specifically, 2nd, 3rd, 4th and 5th streets are to be extended to provide access to these parcels. The project will result in the construction of 1880 lineal feet of roadway, 2116 feet of water line, 3155 feet of sewer line and approximately 2116 feet of electrical and telephone utilities.

9. Description of Environmental Setting:

   The project site is located within the Mariposa Town Planning Area. Mariposa is located at an elevation of approximately 2,000 feet in the western foothills of the central Sierra Nevada. The average yearly precipitation in the project area is 29.5 inches with 85-90% of the precipitation falling between November and April.

ATTACHMENT #2
10. **Environmental Factors Potentially Affected:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” or “Potentially Significant Unless Mitigated,” as indicated by the checklist on the following pages.

- [ ] Land Use and Planning
- [ ] Population and Housing
- [ ] Geophysical
- [ ] Water
- [ ] Air Quality
- [ ] Transportation/Circulation
- [x] Biological Resources
- [ ] Energy and Mineral Resources
- [ ] Hazards
- [ ] Noise
- [ ] Mandatory Findings of Significance
- [ ] Public Services
- [ ] Utilities and Service Systems
- [ ] Aesthetics
- [x] Cultural Resources
- [ ] Recreation

11. **Evaluation of Environmental Impacts:**

**A. Land Use and Planning. Would the proposal:**

1) Conflict with general plan designation or zoning?
2) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?
3) Be incompatible or substantially alter the existing and planned land uses in the vicinity?
4) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)?
5) Disrupt or divide the physical arrangement of an established community?

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**DISCUSSION:** This project does not change or alter the existing land use on or around the project site. This project will provide access to existing parcels within the town of Mariposa.

**B. Population and Housing. Would the proposal:**

1) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?
2) Displace existing housing, especially affordable housing?
3) Alter the location, distribution, density, or growth rate of the human population of an area?

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**DISCUSSION:** No long term growth or displacement is expected due to the completion of this project at the location.

**C. Earth/Geologic. Would the proposal result in or expose people to potential impacts involving:**

1) Fault rupture or seismic ground shaking or failure including liquefaction?
2) Landslides or mudflows?
3) Change in topography or ground surface relief features?

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DISCUSSION: The Mariposa County General Plan designates the Mariposa TPA as an area with a “High Risk of Seismic Hazard”, due to the steep slopes of the surrounding ridges and the layered formation of the underlying metamorphic rocks. The project will not increase the seismic hazard within the area or expose additional people to seismic hazard. The design will take reasonable precaution against seismic induced forces. In addition all earth moving will require permitting from the Mariposa County Building Department under the Mariposa County Grading Ordinance 15.28. Hence slope stabilities, erosion control, and revegetation will be in accordance with code requirements, which would significantly reduce any impacts.

D. Water. Would the proposal result in:

1) Changes in absorption rates, drainage patterns, or the rate and amount of surface run-off?
2) Alterations to the course or flow of floodwaters?
3) Exposure of people or property to water related hazards such as flooding?
4) Discharge into surface waters or other alteration of surface water quality (e.g. temperature, dissolved oxygen, or turbidity)?
5) Changes in the amount of surface water in any water body?
6) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?
7) Alteration of the direction or rate of flow of ground waters?
8) Impacts to groundwater quality?
9) Substantial reduction in the amount of groundwater otherwise available for public water supplies?

DISCUSSION: The location of the site has a natural run-off course that will not be altered by the construction of this project. Culverts will catch the amount of water that falls within its surface area and direct it back to its natural course. The project will not affect the water in any other manner.

E. Air Quality. Would the proposal result in:

1) Substantial air emissions or deterioration of ambient air quality?
2) Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally?
3) The creation of objectionable odors?
DISCUSSION: This project does not involve any aspects relating to the discharge or use of anything that would affect the quality of the air. During construction, strict guidelines will be incorporated into the project to insure proper dust mitigation.

**F. Transportation/Circulation. Would the proposal result in:**

1) Generation of substantial additional vehicular movement?  
   - Potentially Significant Impact
   - Potentially Significant Unless Mitigated
   - Less Than Significant Impact
   - No Impact

2) Traffic hazards to motor vehicles, bicyclists, or pedestrians?  
   - Potentially Significant Impact
   - Potentially Significant Unless Mitigated
   - Less Than Significant Impact
   - No Impact

3) Inadequate emergency access or access to nearby uses?  
   - Potentially Significant Impact
   - Potentially Significant Unless Mitigated
   - Less Than Significant Impact
   - No Impact

4) Insufficient parking capacity on-site or off-site?  
   - Potentially Significant Impact
   - Potentially Significant Unless Mitigated
   - Less Than Significant Impact
   - No Impact

5) Alterations to present patterns of circulation or movement of people and/or good?  
   - Potentially Significant Impact
   - Potentially Significant Unless Mitigated
   - Less Than Significant Impact
   - No Impact

6) Alterations to air traffic?  
   - Potentially Significant Impact
   - Potentially Significant Unless Mitigated
   - Less Than Significant Impact
   - No Impact

DISCUSSION: Additional vehicular and pedestrian traffic is expected, but it will not create a significant impact to the area. The project will not alter air traffic, circulation of people or goods, or emergency vehicle access.

**G. Biological Resources. Would the proposal result in impacts to:**

1) Endangered, threatened, or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

2) Locally designated species (e.g. heritage trees) or natural communities (e.g. oak forest, coastal habitat, etc.)?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

3) Wetland habitat (e.g. marsh, riparian, and vernal pool)?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

4) Wildlife dispersal or migration corridors?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

DISCUSSION: Oak trees were observed on the subject site during a site survey by Technicon Engineering Services, Inc. The trees will be marked by a surveyor using Global Positioning System equipment and should be identified on a site plan for the purpose of preserving them during and after site development, or for the purpose of planning for appropriate mitigation measures.

**H. Energy and Mineral Resources. Would the proposal:**

1) Conflict with adopted energy conservation plans?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

2) Use non-renewable resources in a wasteful and inefficient manner?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

3) Result in the loss of availability of a known mineral resource that would be of future value to the region residents of the State?  
   - Potentially Significant Impact
   - Less Than Significant Impact
   - No Impact

DISCUSSION: The proposed will not conflict with energy conservation plan. There will not be any loss of known mineral resource.
I. Hazards. Would the proposal involve:

1) A risk of accidental explosion or release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation?)
2) Possible interference with an emergency response plan or emergency evacuation plan?
3) The creation of any health hazard or potential health hazards?
4) Increased fire hazard in areas with flammable brush, grass, or trees?

DISCUSSION: The project will not create any additional risk of explosion or release of hazardous waste, interference with emergency response or evacuation, potential to create any health hazard, creation of any additional fire hazard. The site is currently un-maintained creating more of a fire hazard than if the site was developed, landscaped, and maintained.

J. Noise. Would the proposal result in:

1) Increases in existing noise levels?
2) Exposure of people to severe noise levels?

DISCUSSION: Existing noise levels will not increase. Construct noise will be controlled by restricting work hours to 8:00 a.m. to 5 p.m. Monday through Friday.

K. Public Services. Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:

1) Fire protection?
2) Police protection?
3) Schools?
4) Maintenance of public facilities, including roads?
5) Other governmental services?

DISCUSSION: The proposed project will not impact any governmental services. The proposed extensions of the County Maintained roads will have Less than significant impact.

L. Utilities and Service Systems. Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities?

1) Power or natural gas?
2) Communications systems?
Proposed Street Extensions for 2nd, 3rd, 4th, and 5th Street

3) Local or regional water treatment or distribution facilities?
4) Sewer or septic tanks?
5) Storm water drainage?
6) Solid waste disposal?
7) Local or regional water supplies?

DISCUSSION: The project involves the extension of existing roadway and utilities within the town of Mariposa and the Mariposa Public Utility District and will not significantly increase the use of existing facilities and therefore will not result in a need for new water, sewer, or solid waste facilities.

M. Aesthetics. Would the proposal:

1) Affect a scenic vista or scenic highway?
2) Have a demonstrable negative aesthetic effect?
3) Create light or glare?

DISCUSSION: The project will not affect any scenic vista or scenic highway and will not have a demonstrable negative aesthetic effect.

N. Cultural Resources. Would the proposal:

1) Disturb paleontological or archaeological resources?
2) Affect historical resources?
3) Have the potential to cause a physical change which would affect unique ethnic cultural values?
4) Restrict existing religious or sacred uses within the potential impact area?

DISCUSSION: This project will not be disturbing any soil that has not already been disturbed by previous work, monitoring of the site during construction will be incorporated into the project to mitigate the loss of any potential cultural resources.

O. Recreation. Would the proposal:

1) Increase the demand for neighborhood or regional parks or other recreational facilities?
2) Affect existing recreational opportunities?

DISCUSSION: It does not appear there will be an increase demand neighborhood or regional parks or other recreational facilities.

12. Mandatory Findings of Significance:
A. **Potential to Degrade:** Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

B. **Short-term:** Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?

C. **Cumulative:** Does the project have impacts which are individually limited, but cumulatively considerable?

D. **Substantial Adverse:** Does the project have environmental effects, which will cause adverse effects on human beings, either directly or indirectly?

13. **Determination:**

On the basis of this initial study:

___ It is found that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** has been prepared and adopted.

X It is found that although the proposed project **COULD** have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in this initial study have been added to the project. A **NEGATIVE DECLARATION** has been prepared and adopted.

___ It is found that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

Prepared by,  
Matt Freeman  
Associate Engineer

Reviewed by,  
Dana S. Hertfelder, P.E.  
Director
NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

The Mariposa County Public Works Department has completed an Initial Study for the Proposed Street Extensions for 2nd, 3rd, 4th, and 5th Street, and is proposing a Negative Declaration be adopted. The Mariposa County Board of Supervisors will consider the adoption of a Negative Declaration on **TUESDAY, OCTOBER 2, 2007 AT 10:00 a.m.** or as soon thereafter as possible, in the Board of Supervisors Chambers in the Government Center, 5100 Bullion Street, Mariposa, California, Mariposa County Public Works Department, applicant. The project involves the construction of access road and installation of utilities to Mariposa Town Blocks 8, 12, 16, and 20 in Mariposa County California. All work will be performed within existing road easements. Currently there is no access to these lots within the town of Mariposa. This project will provide access and utilities to existing parcels within the town of Mariposa. Specifically, 2nd, 3rd, 4th and 5th streets are to be extended to provide access to these parcels. The project will result in the construction of 1880 lineal feet of roadway, 2116 feet of water line, 3155 feet of sewer line and approximately 2116 feet of electrical and telephone utilities.

The general public is invited to make written comments regarding this proposal. The public review process will begin on August 29, 2007, and ends on September 28, 2007. Information on the project is available for review at the Mariposa County Public Works Department, 4639 Ben Hur Road, Mariposa, California. Comments must be received by September 28, 2007, if you have any questions regarding this notice or the project, please contact Matt Freeman at (209) 966-5356.
September 17, 2007

Matt Freeman
County of Mariposa
4639 Ben Hur Road
Mariposa, California 95338

Dear Mr. Freeman:

Mitigated Negative Declaration,
Proposed Street Extensions for 2nd, 3rd, 4th, and 5th Streets,
SCH No. 2007081120, Mariposa County

The Department of Fish and Game (Department) has reviewed the information submitted by the County of Mariposa for the above Negative Declaration (Project), approval of which would allow construction of 1,880 linear feet of roadway by extending 2nd, 3rd, 4th, and 5th streets to allow access to Town Blocks 8, 12, 16, and 20. Approval would also allow installation of 2,116 feet of water line, 3,155 feet of sewer line, and 2,116 feet of electrical and telephone lines to provide utilities for Town Blocks 8, 12, 16, and 20. The Negative Declaration documents state that all work will be performed within existing road easements.

The Department is concerned with potential Project-related impacts to nearby drainages, due to erosion and sedimentation as a result of road construction activities and installation of utilities (e.g., trenching, dewatering, etc.). These same activities also have the potential to negatively impact existing oak trees and other sensitive plant species. The Department recommends that the County require focused botanical surveys be conducted prior to approval of any ground-disturbing activities.

Department Jurisdiction

Trustee Agency Authority: The Department is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

Conserving California’s Wildlife Since 1870
ATTACHMENT #4
Responsible Agency Authority:

Listed Species: The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered, pursuant to Fish and Game Code Section 2081. If the Project could result in the "take" of any species listed as threatened or endangered under the California Endangered Species Act (CESA), the Department may need to issue an Incidental Take Permit for the Project. CEQA requires a Mandatory Finding of Significance, if a project is likely to substantially impact threatened or endangered species (Sections 21001(c), 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels, unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2080. The State threatened Mariposa lupine (Lupinus citrinus var. deflexus) is known to occur at two locations, approximately 5 miles south and southeast of the Project property. Mariposa lupine has been found in chaparral and cismontane woodlands and in granitic or sandy soils at elevations ranging from 1,312 to 2,000 feet and blooms generally in April and May. The Department recommends that the County require focused botanical surveys to determine presence of Mariposa lupine on the Project property prior to approval of any ground-disturbing activities. If Mariposa lupine or any other State-listed plant is found, consultation with the Department is warranted to discuss issuance of a "take" permit.

Stream Alteration Agreement (SAA): The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code Section 1600 et seq. If construction activities are proposed that will involve work within the bed, bank or channel of any drainage, an SAA may be necessary. The Project proponent should submit a Stream Alteration Notification to the Department for the Project. The Department is now required to comply with CEQA in the issuance or the renewal of an SAA. Therefore, for efficiency in environmental compliance, we recommend that the stream disturbance be described and mitigation for the disturbance be developed as part of the environmental review process. This will reduce the need for the Department to require extensive additional environmental review for an SAA for this Project in the future. For additional information on notification requirements, please contact our staff for the Stream Alteration Program at (559) 243-4593. There is a blue line stream shown on the United States Geological Survey topographic map for the Project area, flowing along the west side of the town of Mariposa. Since no maps of the Project area were provided with the Negative Declaration documents, it is not possible for the Department to determine whether or not a stream alteration notification is required.
Issuance of either an Incidental Take Permit or an SAA is subject to CEQA review. The CEQA document prepared for this Project should identify the Department as a potential Responsible Agency and should describe and address the potential impacts to listed species and riparian and stream resources.

*Unclassified Species*: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, and Section 15380), it should be fully considered in the environmental analysis for the Project. A review of the California Natural Diversity Database (CNDDB) for the Project property indicates that the California Native Plant Society (CNPS) 1B-listed slender-stalked monkeyflower (*Mimulus gracilipes*), pansy monkeyflower (*Mimulus pulchellus*), Mariposa clarkia (*Clarkia bicoba ssp. australis*), Mariposa cryptantha (*Cryptantha mariposae*), Congdon's lomatium (*Lomatium congdonii*), Madera leptosiphon (*Leptosiphon serrulatus*), and Mariposa daisy (*Erigeron mariposanus*) and the CNPS 3-listed Bisbee peak rush-rose (*Helianthemum suffrutescens*) are all known to occur or have historically occurred in the Project property vicinity.

Additionally, the Federally threatened valley elderberry longhorn beetle (VELB) (*Desmocerus californicus dimorphus*) and Mariposa pusselspaws (*Calyptidium pullchelum*) are known to occur in the Project property vicinity. Prior to conducting surveys for these species, the United States Fish and Wildlife Service (USFWS) should be contacted to discuss their requirements for surveys and potential mitigation measures.

The Department recommends that prior to approval of any ground-disturbing activities, Mariposa County require focused botanical/biological surveys be conducted by a qualified individual at the appropriate times of year to determine if any of the above State- or Federally listed or other special status species will be impacted by implementation of the Project. If any of the above mentioned species or other special status species are found, consultation with the Department is warranted to discuss protection, avoidance, and minimization mitigation measures. Surveys should be submitted to the Department in advance of commencing ground-disturbing activities. Potential Project-related impacts to the above mentioned plants and VELB species should be evaluated in the final Negative Declaration.

*Nesting Birds*: If the Project will require the removal or pruning of mature trees, the applicant should be made aware that the removal of active bird nests could be considered a violation of Fish and Game Code Sections 3503 (regarding unlawful
“take”, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding “take”, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful “take” or possession of any migratory bird). If trees are going to be pruned or removed, the work should be done outside the normal bird breeding season (April through June for songbirds and February through August for raptors) or the trees should be surveyed for nests no more than 30 days prior to disturbance activities. If nests are found during the critical nesting period, an appropriate no-operation buffer should be implemented around the nest tree until the young have fledged and are no longer dependent on parental care, as determined by a qualified biologist. Some raptor nest trees, replacement trees, screen trees, and shade trees may need to be retained even after the critical nesting period.

**Oak Impacts:** Large oak trees (greater than 12 inches in diameter as measured at breast height) on the Project property should be retained to the maximum extent possible during any construction activities on the new parcels. Large, acorn-bearing oak trees are a critical source of food for wintering deer and other wildlife. Access roads, utility connections, septic systems, and building sites should be located or routed where they will require the minimum amount of disturbance to large oak tree. The Initial Study indicates that impacts to oak trees are “Potentially Significant Unless Mitigated”, but no mitigation measures are included. CEQA Guidelines Section 15070 states that when a project may result in potentially significant effects and a Negative Declaration has been prepared, proposals or project modifications should be made that would avoid impacts or reduce them to less than significant levels. Unmitigated impacts would preclude the use of a Negative Declaration or Mitigated Negative Declaration for CEQA compliance and would trigger the need for preparation of an Environmental Impact Report (EIR). As a result, since predevelopment surveys identified impacts to oak trees, oak mitigation is warranted. The Department recommends that the County require habitat compensation by protection in perpetuity of an appropriate acreage of comparable habitat.

In addition to the Department’s Hardwood Policy, CEQA was amended to include Public Resources Code (PRC) Section 21083.4 which states that a county determining that a project may result in a conversion of oak woodlands shall require implementation of features to mitigate the impacts. If the County finds this Project to result in a significant impact to oak woodlands either by itself or cumulatively with other known projects in the area, mitigation under PRC Section 21083.4 would be required. This issue should be addressed in the final Negative Declaration document prepared for this Project.

**Stream Impacts:** Pursuant to Fish and Game Code Section 5850, it is unlawful to deposit in, permit to pass into, or place where it can pass into a “Waters of the State” any substance or material deleterious to fish, plant life, or bird life (including excess
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sediment, concrete, or asphalt). Additionally, Fish and Game Code Section 5652 prohibits the deposition of any cans, bottles, garbage, motor vehicle or parts thereof, or rubbish within 150 feet of the high water mark of the “Waters of the State” (or where they can pass in to any “Waters of the State”).

The Regional Water Quality Control Board has jurisdiction over activities that may have surface or ground water quality impacts and should be contacted to determine if National Pollutant Discharge Elimination System (NPDES) permitting is required for construction storm water discharges.

**Federal Endangered Species Act (FESA):** If VELB or its host plant, the elderberry shrub; Mariposa puzspaww; or any other Federally listed species is detected on the Project property, the Project proponent should also contact the USFWS, which regulates activities that may result in “take” of species listed under the FESA. All surveys resulting in detection of Federally listed species should be submitted to the USFWS, well in advance of commencing ground-disturbing activities.

If you have any questions on these issues, please contact Lisa Gymer, Environmental Scientist, at the address provided on this letterhead or by telephone at (559) 243-4014, extension 238.

Sincerely,

[Signature]

W. E. Loudemilk  
Regional Manager

cc: Roberta Gerson  
United States Fish and Wildlife Service  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825

Dale Harvey  
Regional Water Quality Control Board  
1685 E Street  
Fresno, California 93706

State Clearinghouse  
Post Office Box 3044  
Sacramento, California 95812-3044
Mr. W.E. Loudermilk, Regional manager
Department of Fish and Game
Central Region
1234 East Shaw Avenue
Fresno CA, 93710

Dear Mr. Loudermilk:

Thank you for your letter commenting on the proposed street extensions in Mariposa County. This letter is in response to those comments, and is intended to address potential concerns identified by your agency. Projects undertaken by Public Works use strict guidelines concerning construction activities such as erosion and sedimentation. Any plans and specifications used for this project will incorporate the appropriate mitigation into them for the contractor to adhere to.

The reports that were used for the initial study and subsequent negative declaration will be incorporated into the construction documentation as well. Any removal of oak trees will be mitigated through a replacement of a 3 to 1 ratio, which the County has used in the past, and is state law. The Reconnaissance Level Biological Survey, which was done for this project, states that an additional survey during the other season, fall/winter in this case, would be recommended. A more focused botanical study could be accomplished at the same time.

The blue line stream that shows up on the USGS topo map is in fact Mariposa Creek, which is on the west side of town. The project site is approximately 300 yards from the creek, and is separated from it by two highways an at least one local street. That is why we did not pursue a Stream Alteration Agreement.

Thank you,

Matt Freeman
Associate Engineer