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May 18, 2012

Eugene D. & Dolores Fortner
Family Trust
23315 8th Street
Newhall, CA 91321

**RE: Vallecito Project, Mariposa County, CA
Supplemental Report to the Biological Assessment Report
Dated January 31, 2012**

This supplement to the above referenced Biological Assessment Report for the Vallecito Project in Mariposa County, CA was prepared to address the additional sensitive species surveys conducted during the wet season and the spring blooming season as well as biological report related comments received from the County. As described in the Biological Assessment Report, the project site encompasses approximately 98.94 acres on State Highway 140 near Catheys Valley in an unincorporated area of southern Mariposa County.

The Biological Assessment Report stated on page 9 that "...The final reconnaissance level work including an amphibian survey, a fairy shrimp survey of the vernal pools and selected botanicals will be conducted once the pools meet sampling requirements. The first winter storm of 2012 that dropped measureable amounts of rain commenced on January 20, 2012. Should the results of those surveys identify sensitive species then an addendum to this report will be prepared..."

"...Messrs. Scott Larson (senior biologist) and William Stolp (senior biologist) with ESR, Inc., in Oakhurst, California conducted a reconnaissance level field survey on December 12, 13 and 15, 2011. This included habitat mapping, inventorying of species, and conducting an oak tree community survey. Additional reconnaissance level work was conducted on January 9, 10, 16, and 25, 2012..."

On page 47 the report states "...None of the species identified by the database searches are believed to be at risk from project implementation because their required habitat is either not present on the project site, or, if present, it will not incur significant impact; the project site is out of their known range; they were not detected during site surveys; or they were otherwise considered unlikely to occur at the project site based on the disturbed or altered habitats present at the site or the confirmed presence of multiple predatory species occurring in the required habitat for the species to exist. All water retaining features were sampled on November 23, 2011 and January 25, 2012 following measurable rainfall events. None of the listed sensitive species with standing water features were found. Additional sampling events are planned and, if species are located, an addendum to this report will be prepared..."

Following the submittal of the report, ESR continued to survey and sampled the site according to protocol requirements¹. Additional surveys were conducted within protocol timelines following precipitation events that meet rainfall requirements for the selected sensitive species. Surveys were conducted on February 8, 14, and 16, 2012; March 1, 7, 15, 19 and 29, 2012; and, April 2, and 15, 2012. During each of these field activity events, additional floristic surveys were conducted in blooming periods of the sensitive species referenced in the Biological Assessment. **No** sensitive floral or faunal species were observed during any of the sampling and surveying episodes.

During the course of the documentation review process, the County of Mariposa Planning Department and the Agricultural Commission submitted biological referenced comments regarding the site. The following information is provided to address those comments. The format will be presented in a form that provides the Agency comment followed by the ESR response.

Mariposa County Agricultural Commission

Comment: On April 18, 2012 Mariposa county Agricultural Commission asked the following "...Table 3- Fortner Botanical Species List, you list Brownie thistle (*Cirsium Quercetorum*) as being present on the Fortner property...please let me know where it is present ..."

Response

On April 19, 2012 ESR sent the following: "...the surveyor who entered the Brownie Thistle said he must have incorrectly entered the species name and that he is of the opinion that he should

¹ USFWS Sensitive Species Survey Protocols located at http://www.fws.gov/sacramento/ES/Survey-Protocols-Guidelines/es_survey.htm;

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have entered Bull Thistle (*Cirsium vulgare*) which was found near the entrance to the site from Highway 140...”

Comment: On April 18, 2012 Mariposa county Agricultural Commission asked the following ‘...how much Italian thistle (*Carduus pycnocephalus*) was found on the property and in what areas...”

Response: On April 19, 2012 ESR sent the following: “...the surveyor found one Italian Thistle plant within the roadside ditch along Highway 140 approximately 400 yards from the northwest corner of the property. As this is a noxious weed, the plant was “boot” extracted by the surveyor and disposed of back at our offices. I have prepared the attached map to give you a general location of the plant location. According to the surveyor, it was his opinion that this was a “pioneering vagrant” that was possibly introduced from seed carried along Highway 140 by some vehicle...”

Comment: On April 18, 2012 Mariposa county Agricultural Commission asked the following “...no Medusahead (*Taeniatherum caputmedusae*) was noted as found...”

Response: On April 19, 2012 ESR sent the following: “...I discussed the three species with the team. We all agree that, indeed, Medusahead is a fairly common species that we see and have seen in various places in Mariposa County during other surveys; however, at the time of the surveys [conducted for the Biological Assessment Report dated January 31, 2012] the species was not readily identified by the team members. It is our opinion that this common species is likely at the location and during our subsequent surveys, that are still being conducted at the site, this species will likely be found. If not found it will be duly noted...” Additionally, following the comment response field surveys indicate that indeed Medusahead is indeed located in most locations at the site in varying densities. Concentration of the species is prominent in the wet meadow areas with diminishing density apparent in the sloping upland habitat.

Comment: On April 26, 2012, the Mariposa County Agricultural Commissioner asked for information for Madera leptosiphon and Beaked Clarkia should be included in the report and ongoing surveys should look for the species...”

Response: The following sections regarding the two species has been extracted from the report. In addition, numerous floristic surveys conducted during prime blooming periods **did not** identify the species on site.

On page 2 of the report it is stated that "...The communities on the project site can provide valuable habitat for a variety of plant and wildlife species. However, the database searches listed no special-status plant and wildlife species as potentially occurring on the project site. One vegetative species (*Leptosiphon serrulatus*, CNPS ranking 1B.2) was recorded on April 21, 1957 approximately 1,100 feet to the north of property across Highway 140 near the residential/commercial development. No other species was identified within one mile of the project perimeter. The CNDDDB did identify occurrences of one other special status plant species within five miles of the project site perimeter. The complete database search listed 59 special-status species as occurring, or potentially occurring, or having critical habitat within the area encompassed by the Catheys Valley U.S. Geological Survey 7 ½ minute quadrangle and the other eight surrounding quads... Almost all of the species are expected to be absent due to lack of suitable habitat. No special status species were identified on the project site. Marginal habitat was identified for the California tiger salamander, and vernal pool fairy shrimp, but these species were not observed and the ubiquitous predatory bullfrogs observed likely preclude them from occurring.

The report states on page 30 that the "...The California Department of Fish and Game's Natural Diversity Database (CNDDDB), California Native Plant Society (CNPS) database, and Sacramento Fish & Wildlife Endangered and Threatened Species List were reviewed to assess whether special-status species may be affected by projects within the Catheys Valley and surrounding U.S. Geological Survey 7 ½ minute quadrangles including Hornitos, Bear Valley, Feliciana Mtn., Indian Gulch, Mariposa, Owens Reservoir, Illinois Hill, and Ben Hur. No occurrences of special-status species were identified on the project site with one species *Leptosiphon serrulatus*, CNPS 1.B.2 ranking, recorded in 1957 located approximately 1,100 feet to the northwest and one species *Clarkia rostrata*, CNPS ranking 1B.3, located approximately 3 miles west of the site perimeter, by the CNDDDB.

The CNDDDB did identify any other occurrences of special-status species within five miles of the project site. The complete database search listed 59 special-status species as occurring, or potentially occurring, or having Critical Habitat somewhere within the entire area encompassed by the nine quadrangles. The following tables provide the listing and ranking of the recorded species (Table 1) and the habitat requirements and occurrence potential (Table 2)..."

The following descriptions and tables are extracted from the biological report for the referenced species. Furthermore, during the subsequent sequence of field surveys neither species was located on the site.

The report states starting on page 46 that "... The CNDDDB search identified Madera leptosiphon (*Leptosiphon serrulatus*) and beaked clarkia (*Clarkia rostrata*) as occurring within five miles of

the project site. These species are only tracked by the CNPS, and do not have Federal or State status...

Madera leptosiphon

Madera leptosiphon is a CNPS List 1B.2 plant, and is therefore classified as “fairly endangered” in California. It typically inhabits dry slopes on decomposed granite in cismontane woodlands, approximately 300-1,300 meters in elevation above sea level. Thus, marginal habitat for this species exists on the project site. However, it was not observed during the survey which was conducted during the appropriate blooming period (April – May).

Beaked clarkia

Beaked clarkia is a CNPS List 1B.3 plant, and is therefore classified as “not very endangered” in California. It typically inhabits cismontane woodlands and valley/foothill grasslands, approximately 60-500 meters in elevation above sea level. Thus, marginal habitat for this species exists on the project site. However, it was not observed during the survey which was conducted during the appropriate blooming period (April – May).

Table 1 - Fortner Family Trust Nine Quad Search Results

Scientific Name	Common Name	Federal	State	CDF or CNPS
<i>Clarkia rostrata</i>	Beaked clarkia	None	None	1B.3
<i>Leptosiphon serrulatus</i>	Madera leptosiphon	None	None	1B.2

Table 2 - Fortner Family Trust Species Summary					
Scientific Name	Common Name	Status	Habitat Requirement	Occurrence Potential	Comments
<i>Clarkia rostrata</i>	Beaked clarkia	CNPS 1B.3	Occurs in valley and foothill grasslands between 60-500 m; blooms April-May	Moderate	Suitable habitat may be present on site but no observation of the species during any surveys.
<i>Leptosiphon serrulatus</i>	Madera leptosiphon	CNPS 1B.2	An annual herb that blooms from April - May in Cismontane woodlands and Lower montane coniferous forests.	Moderate	No suitable habitat present on site; no observation of the species during any surveys. Species identified near site in 1957.

Comment: On April 26, 2012 Mariposa County Agricultural Commission provided the following comment "...I have observed feral pigs and deer crossing the highway in the area of the barn and outbuildings on a regular basis as well as coyotes and other wildlife species..." but asked for no additional data.

Response: While the site does act as a way for species to traverse across the property to the Owens Creek drainage, the project as proposed should not present a restriction to these movements on a regional basis as the wet meadow will remain undeveloped with a 25 foot buffer to avoid impact to the wet meadow. The access to the Owens Creek drainage should remain relatively the same as before the project on a regional basis. The following section regarding the corridors has been extracted from the report.

As stated in the report on page 55 that "...The importance of continuous habitat corridors and the effects of habitat fragmentation on wildlife populations have been studied extensively and are well understood. Land development and linear structures (e.g., roadways) convert large habitat blocks into noncontiguous patches separated by barriers; individual animals and entire

populations may become isolated in remnant habitat “fragments”. Depending on their size and other characteristics, these fragments may not support viable populations of some animals.

Wildlife movement corridors are linear habitats that function to connect two or more areas of significant wildlife habitat. These corridors may function on a local level as links between small habitat patches (e.g., streams in urban settings) or may provide critical connections between regionally significant habitats (e.g., deer movement corridors). Wildlife corridors typically include vegetation and topography that facilitate the movements of wild animals from one area of suitable habitat to another in order to fulfill foraging, breeding, and territorial needs. These corridors often provide cover and protection from predators that may be lacking in surrounding habitats. Wildlife corridors generally include riparian zones and similar linear expanses of contiguous habitat.

The Property does not include any wildlife movement corridors that would be considered significant on a **regional**² basis. Movements across the Property are somewhat currently hampered by State Highway 140 to the north and west...”

County of Mariposa- Mariposa Planning

Comment: On April 20, 2012, Mariposa Planning stated under the Biological Assessment heading the following “...Project implementation is not expected to impact any of the wetlands due to the proposed development deed restrictions for the wet meadow areas...Additionally, a proposed environmental buffer will preclude construction activities within 250 feet of the two vernal pools and within 25 feet of the ephemeral drainage system...” and asked the following “...No information has been provided regarding development deed restrictions for the wet meadows area. Additionally, because the county isn’t party to deed restrictions, the ability to ensure this mitigation as implemented cannot be guaranteed. Additional information is requested regarding this potential impact, including a proposal to ensure that an enforceable mechanism is in place...” Additionally, on May 9, 2012 Mariposa County Planning submitted the following: “...The maps are very good in showing the important water features on the site. However, exactly which lots the features are located on are not shown since the features are not overlain with a tentative map showing the lots... like to actually have the color-coded map that would show the features overlain with a tentative map... what lots will have no-construction setback/buffer language attached to them...”

² Emphasis added by author

Response: After discussion with the Mariposa Planning Department it was agreed that the buffers to avoid impact would be placed on the Tentative Map with an "Open Space" classification and incorporated into the conditions for finalization of the map by the county. Additionally the attached map has been prepared that depicts the habitat features with the lot layout.

It should be noted that even though GPS equipment with sub-meter accuracy was utilized during the surveys, a dilution of precision is always possible depending on the location of the satellites during the data recordation process. The maps generated from the recorded data should be used for planning purposes and are not intended to be the basis for engineered designs.

ESR, Inc. trusts that this supplemental addendum to the Biological Assessment Report dated January 31, 2012 meet the needs of the County for making a final conclusive determination regarding the significance of the impacts to referenced resources. Should you have any questions, comments or need further clarification, please do not hesitate to contact us.

Sincerely,
ESR, Inc.

A handwritten signature in black ink, appearing to read 'W. Stolp', with a stylized flourish at the end.

William Stolp
President

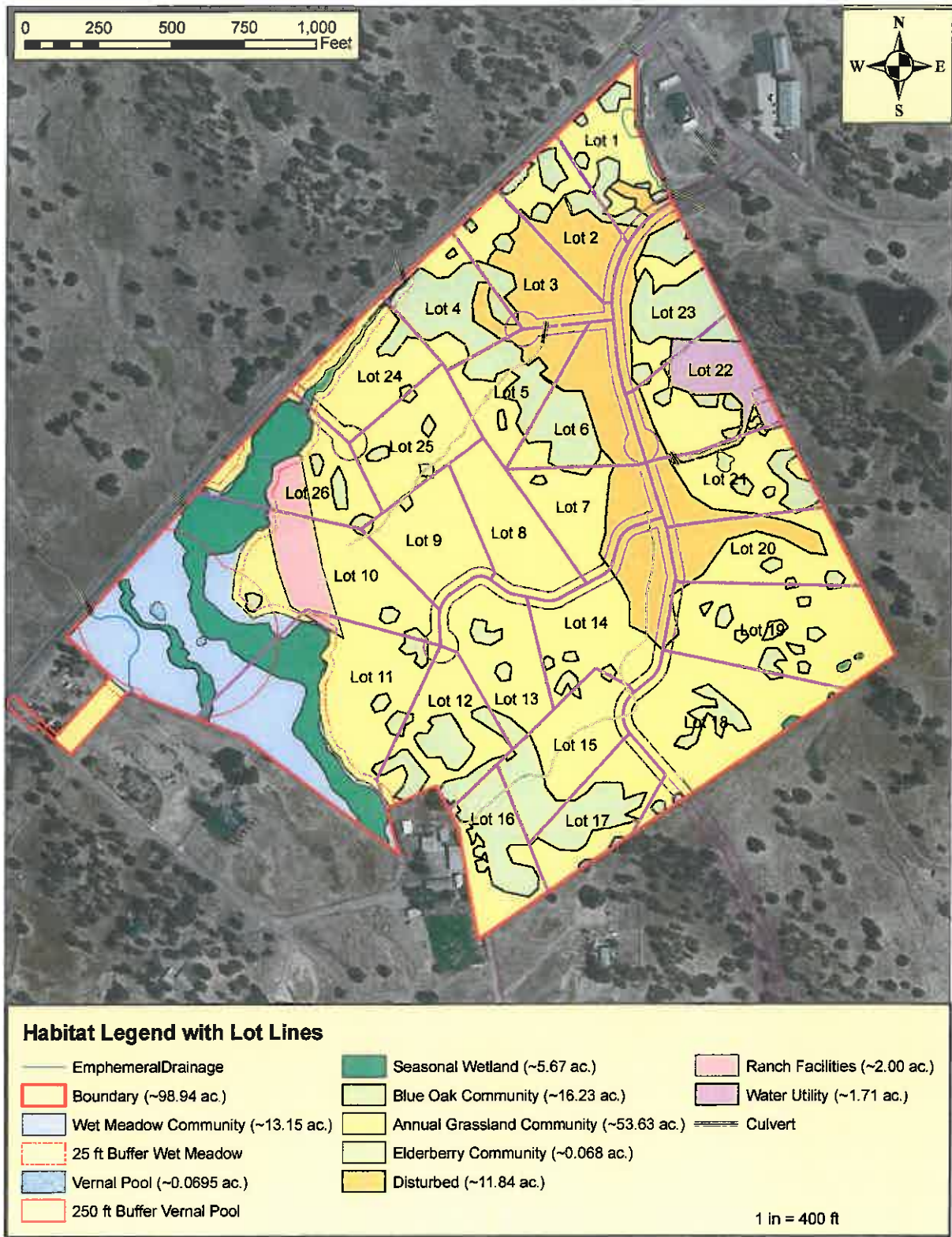


Figure 1 - Fortner Habitat Map with Lot Lines