# **Appendix B**

**Biological Resources Memo** 



November 10, 2017

Mr. Scott A. Johnson, AICP
Planning Manager
City of Folsom
Community Development Department
50 Natoma Street
Folsom, California 95630

RE: Biological Resources Assessment to Support an Amendment to the Folsom Plan Area Specific Plan for the Russell Ranch Phase 2 Project

Dear Mr. Johnson,

The City of Folsom (City) is currently reviewing a request from The New Home Company (Applicant/Permittee) to amend the Folsom Plan Area Specific Plan (FPASP) to accommodate land use changes associated with the Russell Ranch Phase 2 project (Project). Included in the City's review is an assessment of the impacts to biological resources, as defined by the California Environmental Quality Act (CEQA). To assist the City in making appropriate findings pursuant to CEQA, ECORP Consulting, Inc. prepared the following biological resources assessment summary. Additional information, including regulatory context, detailed biological surveys, and other relevant information is provided in the various confidential technical studies prepared to date for the Project, and are hereby incorporated by reference.

#### 1.0 PROJECT LOCATION

The Project is located at the eastern end of the FPASP, as shown in Figure 1 in Attachment A. The Project site is located south of U.S. Highway 50, east of Placerville Road, and north of White Rock Road, in Sacramento County, California.

#### 2.0 REGULATORY CONTEXT AND OVERVIEW

This biological resources assessment summary for the Project is driven by a combination of compliance needs for the FPASP programmatic Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (approved on June 28, 2011), Section 7 of the federal Endangered Species Act (ESA), and Section 1602 of the California Fish and Game Code, as they pertain to Clean Water Act (CWA) permits for authorized fill of Waters of the United States (U.S.) from the Sacramento District U.S. Army Corps of Engineers (USACE). Thus, the studies carried out to date had to take into consideration CEQA, the National Environmental Policy Act (NEPA), Sections 404 and 401 of the CWA, Section 7 of the ESA, Section 1602 of the California Fish and Game Code, and the fact that development will occur over an extended period through collaboration with adjacent developments in the FPASP.

There are multiple applicants that are part of the FPASP, composed of private developers and the City, each seeking Section 404 CWA permits from USACE. The applicants, one of which is The New Home

Company, own specific properties (projects) within the FPASP. The City will have jurisdiction over the portions of the projects that will be occupied by roadways, water and sewer lines, open space, and other infrastructure, collectively referred to as the Backbone Infrastructure (Backbone). The Backbone, which forms a web-like configuration across the  $\pm 3,500$ -acre FPASP, is composed of portions of all the individual properties within the FPASP and is subject to separate permitting through the abovementioned regulations.

Applicants will all proceed with development under the guidelines of the FPASP and its supporting EIR/EIS, but on their own schedules and under separate individual Section 404 CWA permits from the USACE. Build-out of the entire FPASP is anticipated to occur over a period of approximately 20 years. Because the individual projects within the FPASP (including, but not limited to Russell Ranch) would affect Waters of the U.S., the applicants must meet the requirements of Section 404 of the CWA, and therefore are seeking, or have obtained, permits from the USACE.

Therefore, in accordance with 36 Code of Federal Regulations 800.14, and in consideration of the uncertainty of final Project development plans (to be finalized during the course of the 20-year buildout) and the fact that there are multiple applicants with projects on different schedules, the USACE, in consultation with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW), concluded that a Programmatic Agreement (PA) was the appropriate method for satisfying its responsibilities under Section 7 of the ESA and Section 1602 of the California Fish and Game Code. Based on initial information generated by numerous consultants over the past 30 years, the USACE concluded biological resources are located within the Area of Potential Effects (APE) for the FPASP. The USACE further concluded that, based on development plans submitted to the USACE, biological resources will be affected by these projects and additional consultation will be required to assess and resolve effects. Likewise, the EIR/EIS relied on the execution of the PA to meet the requirements of NEPA and CEQA; Mitigation Measure 3A.5-1a specifically required compliance with the PA. The PA was executed on July 6, 2011, thereby allowing certification of the EIR and issuance of a Record of Decision on the EIS. In 2013, the PA was amended by the signatories and the First Amended Programmatic Agreement (FAPA) is currently in force. Accordingly, the Project is subject to the requirements of the FAPA to meet obligations under all applicable state and federal requirements that were in place at the time of its execution.

The FAPA provides the framework for compliance and requires that each individual project (including Russell Ranch Phase 2), must comply with specific terms that include, but are not limited to the following:

- Development of a project-specific APE,
- Good-faith identification efforts including wetland delineations, threatened and endangered species surveys, and rare plant surveys, and
- mitigation for any impacts to such resources.

As an Applicant for a permit within the FPASP and an approved Specific Plan Amendment (Notice of Determination May 13, 2015), The New Home Company must meet the requirements outlined in the EIR/EIS specific to the Project (Russell Ranch EIR).

#### 3.0 BIOLOGICAL RESOURCES

The steps taken to identify biological resources are outlined in the FAPA. These steps include wetland delineations, threatened and endangered species surveys, and rare plant surveys. The methods and results of these studies are detailed in separate technical reports, hereby incorporated by reference. Special-status species have been reviewed as of September 2017 to ensure no additions have been made to the list of species located within the Project.

Biological resources identified within the Project area (not including on- and off-site infrastructure) include 0.494 acre of purple needlegrass, 115.026 acres of Swainson's Hawk foraging habitat, and 3.278 acres of Waters of the U.S. Specifically, Waters of the U.S. include the following: 1.525 acres of seasonal wetland swales, 1.705 acres of seep, and 0.049 acre of intermittent drainage. On-and off-site infrastructure-associated biological resources were also identified and assessed in a separate analysis.

#### 4.0 IMPACTS TO BIOLOGICAL RESOURCES

As per Figure 4.3.1 of the Russell Ranch Draft EIR, impacts to biological resources associated with development of the Project would include the following: 0.146 acre of purple needlegrass, 104.957 acres of Swainson's hawk foraging habitat, and 0.477 acre of Waters of the U.S. Specifically, Waters of the U.S. include the following: 0.244 acre of seasonal wetland swales, 0.185 acre of seeps, and 0.049 acre of intermittent drainage (Table 1; Attachment B). These impacts do not include on- or off-site infrastructure development.

Since completion of the Russell Ranch Draft and Final EIR, more specific project plans and additional construction details have been developed for the Russell Ranch project, and specifically this Project (Russell Ranch Phase 2). Therefore, impacts associated with development of the Project have changed. Current impacts associated with development of the Project include the following: 0.090 acre of purple needlegrass, 106.757 acres of Swainson's hawk foraging habitat, and 0.489 acre of Waters of the U.S. Specifically, Waters of the U.S. include the following: 0.207 acre of seasonal wetland swales, 0.233 acre of seeps, and 0.049 acre of intermittent drainage (Table 1; Attachment C).

Impacts to purple needlegrass have been reduced by 0.056 acre, compared with impacts outlined in the Russell Ranch EIR. Impacts to Swainson's hawk foraging habitat have increased by 1.800 acres. Impacts to Waters of the U.S. have increased by 0.011 acre. Specifically, impacts have decreased by 0.037 acre for seasonal wetland swales and increased by 0.048 acre for seeps (Table 1).

	(Acres)					
Resource	Total EIR Impacts	Total Current Impacts	Impact Change			
Needlegrass Grassland	0.146	0.090	-0.056			
SWHA Foraging Habitat	104.957	106.757	1.800			
Seasonal Wetland Swale	0.244	0.207	-0.037			
Seep	0.185	0.233	0.048			
Intermittent Drainage	0.049	0.049	0.000			
Waters Total:	0.477	0.489	0.011			

On- and off-site infrastructure impacts have been previously analyzed as part of the Backbone Infrastructure Initial Study and Mitigated Negative Declaration (Backbone IS-MND). Impacts have not changed since this analysis.

A permit compliance letter will be submitted to USACE for approval of these acreage changes to the CWA Section 404 individual permits. Notifications will also be submitted to the Regional Water Quality Control Board for approval of CWA Section 401 certifications, and to the CDFW for Section 1602 Sub-Notification.

#### 5.0 RUSSELL RANCH OVERALL PERMIT IMPACT UTILIZATION

Throughout development of the FPASP, more specific plans and additional construction details have been designed and implemented, resulting in minor changes to project boundaries and therefore impact areas for proposed projects. However, all impact changes have been cross-referenced to the original permits authorizing work in those areas to ensure no additional impacts are incurred, or that additional impacts are properly approved and mitigated through USACE permit modification. Total impacts within Russell Ranch Phases 1 and 2 do not exceed the total impacts authorized by the Russell Ranch EIR.

The Russell Ranch EIR authorized impacts to a total of 1.621 acres of Waters of the U.S., specifically, 0.015 acre of vernal pool, 0.271 acre of seasonal wetland swale, 0.335 acre of seep, 0.913 acre of intermittent drainage, and 0.087 acre of ditch/canal. Combined impacts from Russell Ranch Phase 1 and 2 include 1.381 acres of Waters of the U.S., including 0.014 acre of vernal pool, 0.252 acre of seasonal wetland swale, 0.235 acre of seep, and 0.880 acre of intermittent drainage. Therefore, a total of 0.240 acre of Waters of the U.S. proposed to be impacted in the EIR remain to be impacted after Phase 1 and Phase 2 are completed. These impacts include 0.001 acre of vernal pool, 0.019 acre of seasonal wetland swale, 0.100 acre of seep, 0.033 acre of intermittent drainage, and 0.087 acre of ditch/canal (Table 2).

Table 2. Russell Ranch Phase 1 and 2 Impact Utilization							
	Impacts (Acres)						
Waters of the U.S.	Covered by Russell Ranch EIR	Phase 1 Impacts	Phase 2 Impacts	Total Combined Impacts	Remaining Impacts in EIR		
Vernal Pool	0.015	0.014	0.000	0.014	0.001		
Seasonal Wetland Swale	0.271	0.045	0.207	0.252	0.019		
Seep	0.335	0.002	0.233	0.235	0.100		
Intermittent Drainage	0.913	0.831	0.049	0.880	0.033		
Ditch/Canal	0.087	0.000	0.000	0.000	0.087		
Total:	1.621	0.892	0.489	1.381	0.240		

#### 6.0 FINDING OF IMPACTS

The Russell Ranch Project will have a significant impact on biological resources as defined by CEQA. Compliance with the mitigation measures specified in the Russell Ranch EIR and FAPA will reduce that level to less than significant.

#### 7.0 MITIGATION MEASURES

As part of the FPASP, the Project is subject to compliance with mitigation measures in the EIR/EIS. However, the Project is also subject to compliance with the project-specific mitigation measures outlined in the Russell Ranch EIR to resolve adverse effects to biological resources. These project-specific mitigation measures incorporate measures from the FPASP that are applicable to this Project. The required mitigation measures for biological resources identified for this Project, as outlined in the Russell Ranch EIR, are summarized below. Full descriptions of these mitigation measures can be found in Table 2-1 of the Russell Ranch EIR.

#### Mitigation Measure 4.3-1: Special-status plant species.

Prior to initiation of construction activities, a qualified biologist/botanist shall consult with the appropriate regulatory agencies (CDFW and USFWS) to determine if additional plant surveys are required. If additional surveys are required, protocol-level preconstruction special-status plant surveys will be conducted for all potentially occurring species in areas that have not previously been surveyed. If special-status plant populations are found, the Project Applicant shall consult with CDFW and USFWS, as appropriate, to determine appropriate mitigation measures. If impacts are likely, a mitigation and monitoring plan shall be developed before approval of grading plans or ground-breaking activity within 250 feet of special-status plant populations.

Status:

Upon approval of final proposed development plans by the USACE, a qualified biologist/botanist will consult with CDFW and USFWS to determine if additional surveys are required.

#### Mitigation Measure 4.3-2: Federally-listed vernal pool invertebrates.

No mitigation measures are required, as federally-listed vernal pool invertebrates were not observed in the Project area and have low potential to occur onsite.

Status: No action needed.

#### Mitigation Measure 4.3-3: Western spadefoot toad.

#### 4.3-3(a) Conduct environmental awareness training for construction employees.

A qualified biologist shall conduct environmental awareness training for construction employees prior to construction activity. The training will describe the importance of onsite biological resources, including special-status wildlife habitats; potential nests of special-status birds; and roosting habitat for special-status bats. The biologist will also explain the importance of other responsibilities related to the protection of wildlife during construction, such as inspecting open trenches and looking under vehicles and machinery prior to moving them to ensure there are no lizards, snakes, small mammals, or other wildlife that could become trapped, injured, or killed in construction areas or under equipment.

Status: Environmental awareness training will be conducted prior to construction activity.

#### 4.3-3(b) Conduct preconstruction western spadefoot toad survey.

A qualified biologist shall conduct a preconstruction survey for western spadefoot toad within 48 hours of initiation of construction activities for each phase of development. If western spadefoot toad individuals are found, the qualified biologist shall consult with CDFW to determine appropriate avoidance measures.

Status: Preconstruction surveys will be conducted within 48 hours of initiation of construction.

#### Mitigation Measure 4.3-4 Northwestern Pond Turtle.

A qualified biologist shall conduct a preconstruction survey for northern western pond turtle within 48 hours of the initiation of construction activities for each phase of development. If northwestern pond turtles are found, the qualified biologist shall capture and relocate the turtles to a suitable preserved location in the vicinity of the project.

Status: Preconstruction surveys will be conducted within 48 hours before initiation of construction.

#### Mitigation Measure 4.3-5 Swainson's hawk foraging and nesting habitat

#### 4.3-5(a) Swainson's hawk nesting habitat.

A qualified biologist shall conduct a preconstruction survey to identify active nests on and within 0.5 mile of the Project area 14 to 30 days before the beginning of construction. If active nests are found, impacts on nesting Swainson's hawks shall be avoided by establishing 0.25 - 0.5-mile buffers around the nests, in which no Project activity shall commence until the young have fledged, the nest is no longer active, or until a qualified biologist has determined in coordination with CDFW that reducing the buffer would not result in nest abandonment.

Status: Preconstruction surveys will be conducted 14-30 days before initiation of construction.

#### 4.3-5(b) Swainson's hawk foraging habitat.

The Project Applicant shall identify permanent impacts to foraging habitat and prepare and implement a Swainson's hawk mitigation plan, including 1:1 mitigation of habitat value.

Status: A Swainson's hawk mitigation plan has been prepared, including 1:1 mitigation of habitat value. Swainson's hawk foraging habitat has been mitigated by placing 94.24 acres of off-site suitable foraging habitat under a conservation easement.

#### Mitigation Measure 4.3-6 Burrowing owl.

#### 4.3-6(a) Preconstruction survey.

A qualified biologist shall conduct a preconstruction survey to identify active burrows within the Project area 14-30 days before the beginning of construction activities for each phase of development.

Status: Preconstruction surveys will be conducted 14-30 days before initiation of construction.

#### 4.3-6(b) Active burrows.

If active burrows are found, a mitigation plan shall be submitted to the City for review and approval before any ground-disturbing activities commence. The City shall consult with CDFW. If active burrows contain eggs and/or young, no construction shall occur within 50 feet of the burrow until young have fledged.

Status: Preconstruction surveys will be conducted 14-30 days before initiation of construction. A mitigation plan will be prepared only if active burrows are found.

#### Mitigation Measure 4.3-7: Tricolored blackbird.

A qualified biologist shall conduct a preconstruction survey for any Project activity that would occur during the tricolored blackbird's nesting season (March 1 - August 31) and within 500 feet of suitable nesting habitat. The survey shall be conducted within 14 days before Project activity begins. If a colony is found, the qualified biologist shall establish a 100-500-foot buffer around the nesting colony, in which no Project activity shall commence until the colony is no longer active.

Status: Preconstruction surveys will be conducted within 14 days before initiation of construction.

#### Mitigation Measure 4.3-8 Other raptors and migratory birds.

#### 4.3-8(a) Nesting raptors.

A qualified biologist shall conduct a preconstruction survey to identify active nests on and within 0.5 mile of the Project area. The surveys shall be conducted 14-30 days before the beginning of construction activities for each phase of development. If active nests are found, impacts on nesting raptors shall be avoided by establishing appropriate buffers around the nests, in which no Project activity shall commence until the young have fledged, the nest is no longer active, or until a qualified biologist has determined in coordination with CDFW that reducing the buffer would not result in nest abandonment.

Status: Preconstruction surveys will be conducted 14-30 days before initiation of construction.

#### 4.3-8(b) Other nesting special-status and migratory birds.

A qualified biologist shall conduct a preconstruction survey for any activity that would occur in suitable nesting habitat during the avian nesting season (approximately March 1 - August 31). The preconstruction survey shall be conducted within 14 days before any activity occurring within 100 feet of suitable nesting habitat. If an active nest is found, a qualified biologist shall establish a 50- to 100-foot buffer around the nest, in which no Project activity shall commence until a qualified biologist confirms that the nest is no longer active.

Status: Preconstruction surveys will be conducted within 14 days before initiation of construction.

#### Mitigation Measure 4.3-9 Special-status bats.

No mitigation measures are required, as special-status bats and their roosting habitat were not observed in the Project area. Though foraging habitat is present, special-status bats have low potential to occur onsite.

Status: No action needed.

#### Mitigation Measure 4.3-10 American badger.

A qualified biologist shall conduct preconstruction American badger burrow surveys within 48 hours of initiation of construction activity. If potential American badger burrows are found, the qualified biologist shall consult with CDFW to determine appropriate measures.

Status: Preconstruction surveys will be conducted within 48 hours before initiation of construction.

#### Mitigation Measure 4.3-11 Riparian habitat or other sensitive natural community.

#### 4.3-11(a) Clean Water Act Sections 401 and 404.

Before the approval of grading and improvement plans and before any groundbreaking activity associated with each distinct Project phase, the Project Applicant shall secure all necessary permits obtained under Sections 401 and 404 of the CWA or the State's Porter-Cologne Act and implement all permit conditions for the proposed project.

Status: A CWA Section 401 permit was issued on June 3, 2015. A CWA Section 404 permit was issued on October 30, 2015, and modified on April 13, 2017. A permit compliance letter will be submitted to USACE for approval of final development plans of Russell Ranch Phase 2.

#### 4.3-11(b) Master Streambed Alteration Agreement.

The Project Applicant shall amend, if necessary, and implement the original Section 1602 Master Streambed Alteration Agreement received from CDFW for all construction activities that would occur in the bed and bank of CDFW jurisdictional features within the Project site. The Project Applicant shall submit an SNF to CDFW 60 days prior to the commencement of construction to notify CDFW of the Project.

Status: A SNF will be submitted to CDFW for approval of the final development plans of

Russell Ranch Phase 2 at least 60 days prior to commencement of construction.

#### 4.3-11(c) Valley Needlegrass.

Prior to ground-breaking activities, high visibility construction fencing should be placed around all Valley needlegrass grassland to be preserved. All Valley needlegrass grassland areas slated for removal should be replaced at a 1:1 acreage onsite within preserve areas. Needlegrass plants in the areas slated for removal should be salvaged, to the extent feasible, and replanted within the preserve areas. If this is infeasible, seedlings/saplings from a local nursery should be obtained. A mitigation plan outlining methods to be used, success criteria to be met, and adaptive management strategies will be completed prior to Project construction.

Status: A mitigation plan is being developed for needlegrass transplant and/or planting within onsite preserve areas. Construction fencing shall be placed around

avoided/preserved needlegrass prior to construction initiation.

# Mitigation Measure 4.3-12 Movement of native, resident, or migratory fish or wildlife species or with established native resident or migratory wildlife corridors.

No mitigation measures are required. The Alder Creek corridor is not located within the Project site and other drainage features within the project site do not support sufficient riparian vegetation cover to provide valuable movement corridors.

Status: No action needed.

# Mitigation Measure 4.3-13 Conflicts with any local policies or ordinances protecting biological resources.

No mitigation measures are required. The City of Folsom Tree Preservation Ordinance (Chapter 12.16 of the Municipal Code) regulates the removal of street trees and native oak trees and the encroachment of construction activities within their driplines; however, the ordinance only applies to street trees and native oak trees. The project site does not contain native oak trees or street trees.

Status: No action needed.

#### Mitigation Measure 4.3-14 Cumulative loss of biological resources.

No mitigation measures are required, as the Project's incremental contribution to a cumulative impact is less than significant. The several planned Projects within the region, including the FPASP, would contribute to a significant cumulative loss of biological resources. However, the Russell Ranch Project incorporates a combination of habitat preservation and project-specific mitigation to reduce all impacts to biological resources to a less-than-significant level.

Status: No action needed.

#### 8.0 CONCLUSION

Since issuance of the Russell Ranch 404 Individual Permit, more specific plans and additional construction details have been developed for the Russell Ranch Project, and specifically this Project (Russell Ranch Phase 2). As a result, impacts to biological resources have changed from those shown in the Russell Ranch EIR. Acreages of impacts to purple needlegrass, Swainson's hawk foraging habitat, and Waters of the U.S. have changed slightly, but no new special-status species or habitat types are proposed for impact. Therefore, the biological resources mitigation measures outlined in the Russell Ranch EIR are still applicable and will be implemented. Approval of revised impacts to purple needlegrass, Swainson's hawk foraging habitat, and Waters of the U.S. will be coordinated with USACE and CDFW through a CWA Section 404 permit compliance letter and California Fish and Game Code Section 1602 Sub-Notification of Lake or Streambed Alteration.

Sincerely,

Lourdes Gonzalez-Peralta, M.S. Senior Biologist/Project Manager

### LIST OF ATTACHMENTS

Attachment A - Russell Ranch Vicinity & Location Map

Attachment B - Russell Ranch Phase 2 EIR Impact Map

Attachment C – Russell Ranch Phase 2 Current Impact Map

# ATTACHMENT A

Russell Ranch Vicinity & Location Map

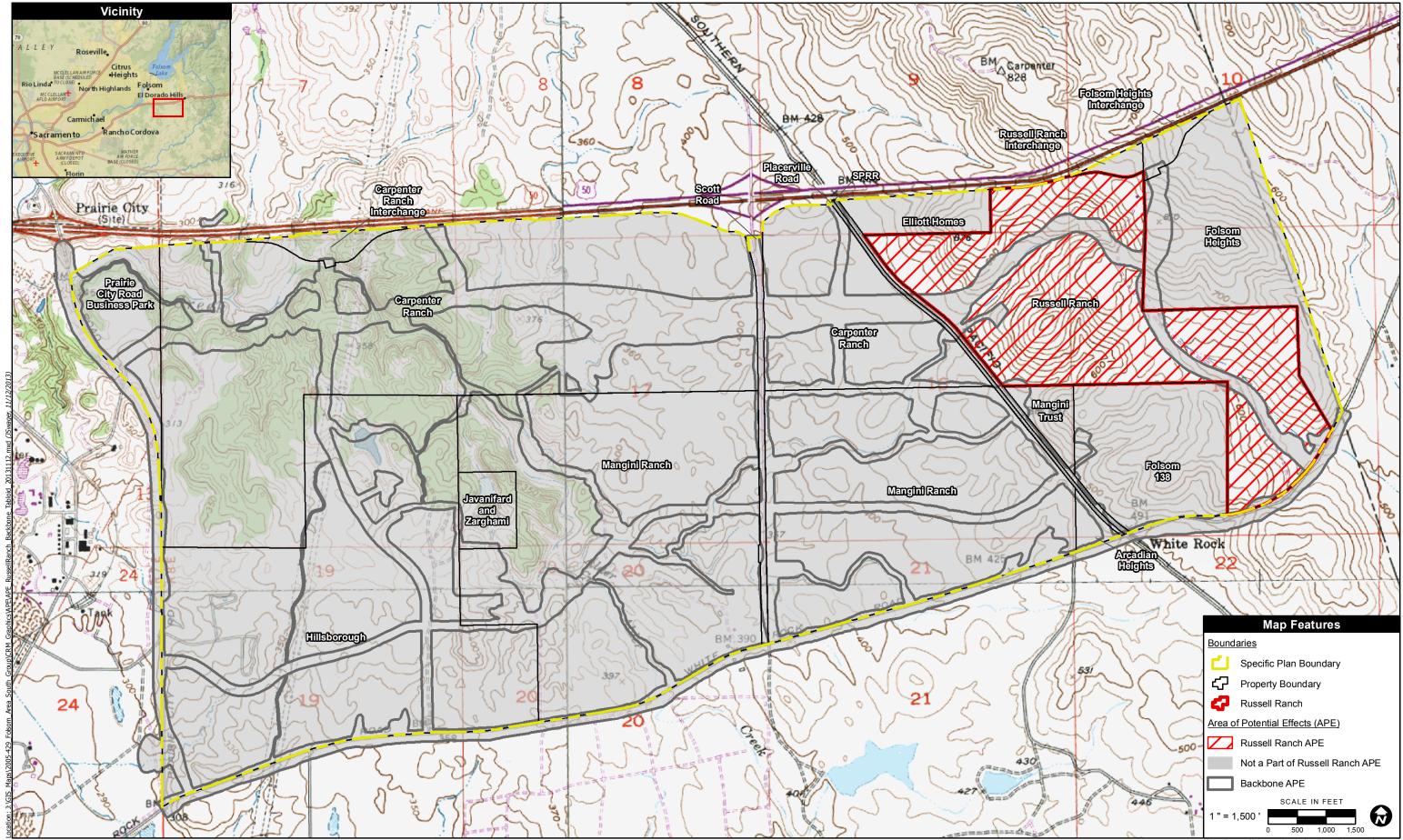


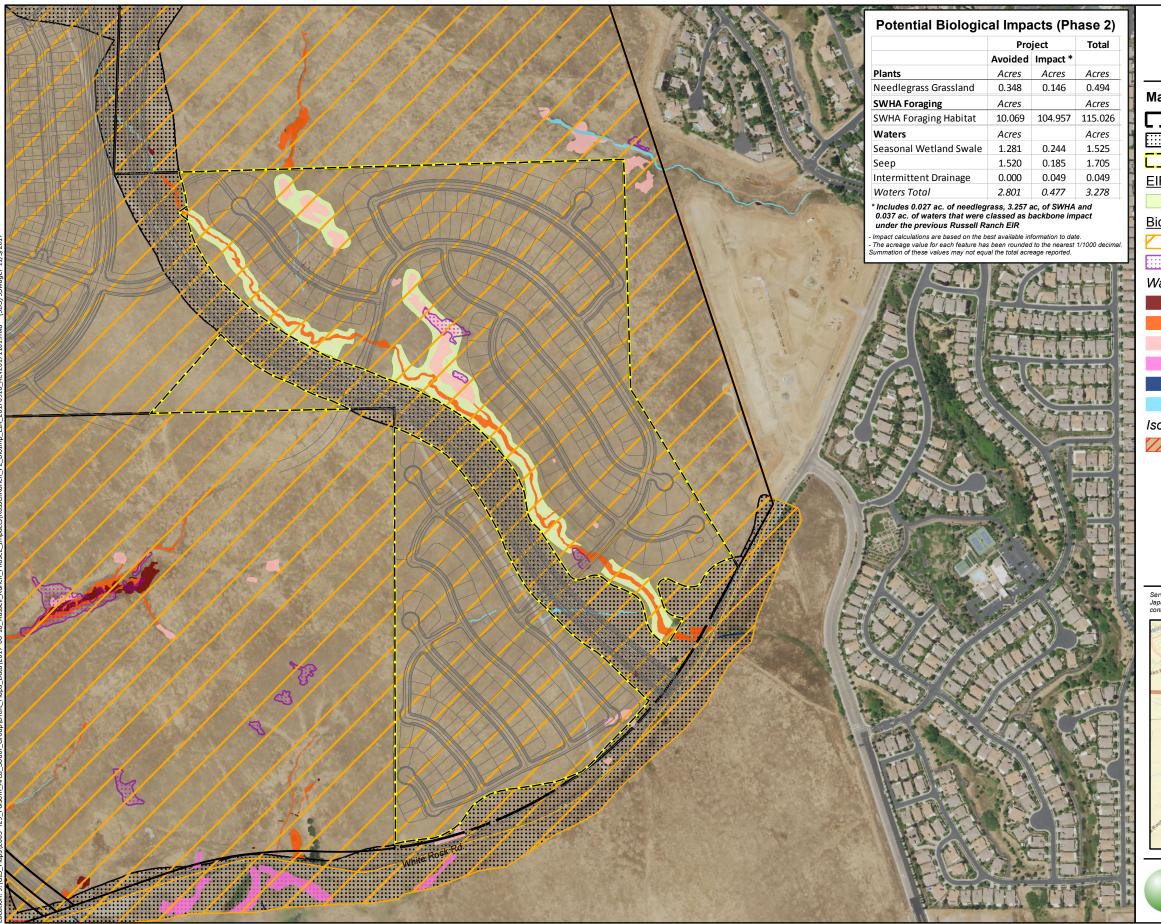
Figure 1. Area of Potential Effects for the Russell Ranch Project (SPK-2013-00488) Within the Folsom South of US Highway 50 Specific Plan Project

USGS 7.5' Quadrangles: Buffalo Creek, Clarksville, Folsom & Folsom SE Vicinity: National Geographic World Basemap (ESRI Online 11/12/2013) Map Date: 11/12/2013



## ATTACHMENT B

Russell Ranch Phase 2 EIR Impact Map



### Figure 2. **Russell Ranch Phase 2 Biological Impacts - EIR**

#### **Map Features**

Permit Property Boundaries

Permit Backbone Infrastructure

Russell Ranch Phase 2 - 115 acres

EIR Project Components 1

Avoidance Area

**Biological Constraints** 

SWHA Foraging Habitat

Valley Needlegass Grassland

#### Waters

Seasonal Wetland

Seasonal Wetland Swale

Seep

Marsh

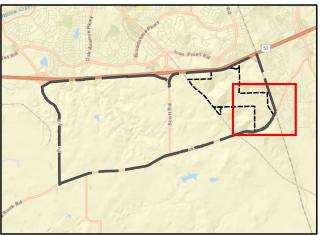
Creek/Channel

Intermittent Drainage

Isolated/Non-Jurisdictional Features

Ditch/Canal (NJ)

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# ATTACHMENT C

Russell Ranch Phase 2 Current Impact Map

