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September 26, 2006

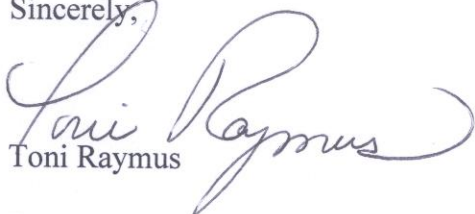
Erin Sickler
SJCOG, Inc.
555 E. Weber Ave.
Stockton, CA 95202

RE: Oleander Estates, Manteca

Dear Erin,

Enclosed please find the signed Incidental Take Minimization Measures for Oleander Estates. It is marked received on September 15, 2006 by the City of Manteca.

Sincerely,


Toni Raymus

Enc.



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S J C O G, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 468-3913 • FAX (209) 468-1084

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

City of Manteca

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Community Development Department

Jaci Gryff

Oleander Estates

**APN: 226-170-03; 04; 05; 13; 226-180-01; 02; 03; 07; 08.
SJMSCP Incidental Take Minimization Measures**

Date: August 29, 2006

Findings: Potential habitat for Burrowing Owl and Swainson's hawks

Total Disturbed Acres Anticipated: 112.36 acres

Habitat Types to be Disturbed: Agricultural (C34) Row and Field Crop

Project Jurisdiction: City of Manteca

Conditions

Prior to Issuance of a Building Permit:

1. Pay the City of Manteca SJMSCP fee for the disturbance of 112.36 acres of C34 - Row and Field Crop.

Between 14 and 30 calendar days before ground disturbance:

2. Notify SJCOG, Inc. of plans to commence ground disturbance to allow for preconstruction surveys for the burrowing owl. If burrowing owls are found,

During the non-breeding season (September 1 through January 31) burrowing owls occupying the project site shall be evicted from the project site by passive relocation as described in the California Department of Fish and Game's Staff Report on Burrowing Owls (Oct., 1995)

During the breeding season (February 1 through August 31) occupied burrows shall not be disturbed and shall be provided with a 75 meter protective buffer until and unless the TAC, with the concurrence of the Permitting Agencies' representatives on the TAC; or unless a qualified biologist approved by the Permitting Agencies verifies through non-invasive means that either: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Once the fledglings are capable of independent survival, the burrow can be destroyed.

3. Notify SJCOG, Inc. of plans to commence ground disturbance to allow for preconstruction surveys for potential nesting Swainson's hawks. If potential nest sites are found,

During the non-breeding season (August 1 through March 19) and potential nest tree is retained, tree should be monitored throughout breeding season to assess if Swainson's hawks occupy the nest, if nest becomes active during the breeding season then *During the breeding season conditions* must be met.

During the breeding season (March 20 through July 31) nest shall be verified as a Swainson's hawk nest by a qualified biologist. Once nest is verified by non-invasive means, it shall not be disturbed and construction activities must occur outside of a buffer of two times the dripline of the tree, measured from the nest.

Prior to commencing ground disturbance:

4. The construction team shall meet with SJCOG, Inc. to discuss minimization measures designed to avoid impacts to burrowing owls. SJCOG Inc.'s biologist shall be present at the meeting to conduct burrowing owl education.
5. The construction team shall meet with SJCOG, Inc. to discuss minimization measures designed to avoid impacts to Swainson's hawks. SJCOG Inc.'s biologist shall be present at the meeting to conduct Swainson's hawk education.

"In reliance on the Section 10(a)(1)(B) Permit issued by the United States Fish and Wildlife Service and the Section 2081(b) Incidental Take Permit issued by the California Department of Fish and Game, San Joaquin County has consulted with and agreed to allow coverage pursuant to the SJMSCP for the *Oleander Estates*, its successors, agents and assigns pursuant to the "Implementation Agreement for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan" which will allow the *Oleander Estates*, its successors, agents and assigns to construct, operate and maintain the Project commonly known as the *Oleander Estates* and located on Assessor Parcel Numbers 226-170-03; 04; 05; 13; 226-180-01; 02; 03; 07 and 08 which could result in a legally permitted Incidental Take of the SJMSCP Covered Species in accordance with and subject to the terms and conditions of the *Oleander Estates* approved by San Joaquin County (Attached). This Certification applies only to activities on the subject parcel(s) which are carried out in full compliance with the approved plans for the *Oleander Estates*, Section 10(a)(1)(B) Permit, and Section 2081(b) Incidental Take Permit conditions."

I have read, acknowledge, and agree to the preceding conditions:

Loni Raymus
Oleander Estates by

9-13-06
 Date

Toni Raymus
 Please Print Name Here

Attachment

Incidental Take Minimization Measures Swainson's Hawks and Burrowing Owls

Incidental take minimization measures for Swainson's hawks and burrowing owls are required, because they are known to occur in the vicinity of the project site, and the project site could become suitable for these species if current habitat conditions are not maintained.

5.2.4.11 Swainson's Hawk

The Project Proponent has the option of retaining known or potential Swainson's hawk nest trees (i.e., trees that hawks are known to have nested in within the past three years or trees, such as large oaks, which the hawks prefer for nesting) or removing the nest trees.

If the Project Proponent elects to retain a nest tree, and in order to encourage tree retention, the following

Incidental Take Minimization Measure shall be implemented during construction activities:

If a nest tree becomes occupied during construction activities, then all construction activities shall

remain a distance of two times the dripline of the tree, measured from the nest.

If the Project Proponent elects to remove a nest tree, then nest trees may be removed between September 1 and February 15, when the nests are unoccupied.

These Incidental Take Minimization Measures are consistent with the provisions of the Migratory Bird Treaty Act as described in Section 5.2.3.1(G).

5.2.4.15 Burrowing owls

The presence of ground squirrels and squirrel burrows are attractive to burrowing owls. Burrowing owls may therefore be discouraged from entering or occupying construction areas by discouraging the presence of ground squirrels. To accomplish this, the Project Proponent should prevent ground squirrels from occupying the project site early in the planning process by employing one of the following practices:

- A. The Project Proponent may plant new vegetation or retain existing vegetation entirely covering the site at a height of approximately 36" above the ground. Vegetation should be retained until construction begins. Vegetation will discourage both ground squirrel and owl use of the site.
- B. Alternatively, if burrowing owls are not known or suspected on a project site and the area is an unlikely occupation site for red-legged frogs, San Joaquin kit fox, or tiger salamanders:

The Project Proponent may disc or plow the entire project site to destroy any ground squirrel burrows. At the same time burrows are destroyed, ground squirrels should be removed through one of the following approved methods to prevent reoccupation of the project site. Detailed descriptions of these methods are included in Appendix A, *Protecting Endangered Species, Interim Measures for Use of Pesticides in San Joaquin County*, dated March, 2000:

1. **Anticoagulants.** Establish bait stations using the approved rodenticide anticoagulants Chlorophacinone or Diphacinone. Rodenticides shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.
2. **Zinc Phosphide.** Establish bait stations with non-treated grain 5-7 calendar days in advance of rodenticide application, then apply Zinc Phosphide to bait stations. Rodenticides shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.
3. **Fumigants.** Use below-ground gas cartridges or pellets and seal burrows. Approved fumigants include Aluminum Phosphide (Fumitoxin, Phostoxin) and gas cartridges sold by the local Agricultural Commissioner's office. NOTE: Crumpled newspaper covered with soil is often an effective seal for burrows when fumigants are used. Fumigants shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.
4. **Traps.** For areas with minimal rodent populations, traps may be effective for eliminating rodents. If trapping activities are required, the use of, shall be consistent with all applicable laws and regulations.