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May 29, 2026

Via Email

Mayor Christina Fugazi
Vice Mayor Lee
Councilmember Padilla
Councilmember Ponce
Councilmember Blower
Councilmember Enriquez
Councilmember Villapudua
City Council
City of Stockton
425 N El Dorado Street, 2nd
Floor
Stockton, CA 95202

Katherine Roland, City Clerk
City Clerk's Office
City of Stockton
425 N El Dorado St, 1st Floor
Stockton, CA 95202
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Nicole D. Moore, Contract Planner
City of Stockton
345 N. El Dorado Street
Stockton, CA 95202
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Nicole.Moore.CTR@stocktonca.gov

Re: Request for Extension of Hearing for the Bear Creek South Residential Project

Dear Mayor Fugazi, Vice Mayor Lee, Honorable Councilmembers, Ms. Roland, and Ms. Moore:

I am writing on behalf of Laborers International Union of North America, Local No. 73 ("LIUNA") and its members living and working in and around the City of Stockton to request that the City not hold a public hearing for the Bear Creek Residential Project ("Project") until thirty days from the date all supporting documents are made available for review. This request is made pursuant to the California Public Records Act, Government Code Section 6250 et seq. and the California Environmental Quality Act ("CEQA"), Section 21092(b)(1) which requires that "all documents referenced in the [CEQA document]" be available for review during the entire comment period.

The biological resources section of the 15183 Checklist for the Project references a field survey conducted to establish existing conditions of the site and verify information obtained in the pre-field investigation. However, the referenced survey results are not publicly available. On behalf of our clients, we requested a copy of this field survey on May 28, 2026. On May 29, 2026, the City Clerk confirmed that our request was being processed pursuant to the Public Records Act, but we have not yet received those documents.

CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c) require that a CEQA notice must include "the address where copies of the [CEQA document], and *all documents*

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referenced in the [CEQA document], are available for review.” As noted by leading CEQA commentators, Remy and Thomas:

The above-referenced section [21092(b)(1)] requires the agency to notify the public of the address at which “all documents referenced in [the CEQA document]” can be found (and presumably read) . . . seems to require agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing the [CEQA document]. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevel. Agency*, 195 Cal.App.3d 491, 502-503 (1987)), agencies should ensure that they comply literally with this requirement.

Remy, Thomas and Moose, *Guide to the California Environmental Quality Act*, p. 293 (Solano Press, 1999). The courts have held that “material not contained in the [CEQA document] cannot be expected to be considered, and therefore, cannot be relied upon to support an adequate [CEQA document].” *People ex rel. Bonta v. Cnty. of Lake*, 105 Cal. App. 5th 1222, 1232 (2024). In fact, the courts have also held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process. *Ultramar v. South Coast Air Quality Man. Dist.*, 17 Cal.App.4th 689 (1993).

By failing to provide “all documents referenced” in the 15183 Checklist for public review, the City is violating the procedural mandates of CEQA. Therefore, we request that the City not schedule a hearing for this Project until at least thirty days from the date the documents are made available. Please contact me as soon as possible with your response to this request.

Sincerely,



Aleja Cretcher
Lozeau Drury LLP

From: [Aleja Cretcher](#)
To: [CC - City Clerk](#)
Subject: Document Request: 15183 Checklist Bear Creek South Project
Date: Thursday, May 28, 2026 10:57:00 AM

CAUTION: This email originated from outside the City of Stockton. Do not click any links or open attachments if this is unsolicited email.

Good morning,

I hope this email finds you well! I am reaching out about the 15183 Consistency Checklist for the Bear Creek South Residential Project. On page 63, the Checklist says “The Project site was subject to a field survey by De Novo Principal Biologist Steve McMurtry on April 18, and again on May 9, 2022.” However, there is no available report and no summary of species detected during the surveys.

Could you please send me this report? If you also have the qualifications of the biologist, that would be greatly appreciated. Thank you very much.

Best,
Aleja Cretcher

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STEVE MCMURTRY

PRINCIPAL/BIOLOGIST

Mr. McMurtry is a Principal and Biologist with De Novo Planning Group and is responsible for project management, preparation of biological assessments, natural environmental studies, wetland delineations, special status species surveys, botanical surveys, water quality reports, federal Incidental Take Permits (Section 7/Section 10), California Incidental Take Permits (Section 2800), Section 404 Permits, Section 401 Water Quality Certifications, Section 1600 Stream Bed Alteration Agreements, Biological Monitoring, and Construction Worker Education. Mr. McMurtry has extensive experience working for local, state, and federal agencies, and currently serves as an on-call Biologist for various governmental agencies in California. Mr. McMurtry also has experience providing litigation support and expert witness testimony for biological topics in court. Mr. McMurtry graduated from Cal Poly San Luis Obispo with a bachelor's degree in Natural Resource Management with graduate studies in Biological Sciences at San Jose State University. His college coursework includes plant taxonomy, dendrology, wildlife biology, conservation biology, ecology, evolutionary biology, genetics, soil science, hydrology, forest sciences, and natural resource management. He has received the appropriate education and certificates to qualify as a wetland delineator. The CDFW has issued Mr. McMurtry a Plant Collecting Permit under the California Endangered Species Act.

REGULATORY PERMITS/QUALIFICATION DESIGNATIONS

CDFW Plant Voucher Collecting Permit (2081(s)-21-004-V)

SJCOG SJMSCP Qualified Biologist (USFWS/CDFW approved HCP/NCCP)

- Have processed numerous coverage surveys, precon-surveys, and bio reports for SJCOG serving as administrator of the HCP/NCCP. Also been involved in authorized burrowing owl evictions.

Yolo HCP/NCCP Qualified Biologist Certification (USFWS/CDFW approved HCP/NCCP)

- Planning-level habitat surveys (includes land cover mapping and identification of species habitat)
- Palmate-bracted bird's beak planning-level species surveys
- Valley elderberry longhorn beetle planning-level species surveys
- Swainson's hawk and white-tailed kite pre-construction surveys and construction monitoring
- Western burrowing owl planning-level surveys for occupied habitat and preconstruction surveys

RELEVANT TRAINING AND EXPERIENCE

- **Plant/Vegetation Qualifying Training:** Botanical training has been received through university classwork and field work over the past approximately 25 years. Plant taxonomy classwork involved training in the taxonomic relations and classification of ferns, conifers and flowering plants, with practice in their collection and identification. Techniques included cytotaxonomy, chemotaxonomy, palynology and numerical taxonomy. I Received classroom and field instruction in the use and application of *The Jepson Manual, Higher Plants of California* (Hickman 1993), which is still the authoritative plant key used in botanical surveys today in California. Taxonomy training also involved work in the Carl W. Sharsmith Herbarium at San Jose State University. Other classroom work involved studying plant ecology, species composition and vegetation structure of California plant communities. Classwork included the origins, history and changes brought about by natural succession and human impact. Rodney Myatt, PhD, was graduate professor at San Jose State University and provided both classroom training, as well as field training at various locations throughout California, including various Central Valley wetland complexes (Jepson prairie, Mather wetland preserve, Colusa NWR). Has significant undergraduate classroom training at CalPoly San Luis Obispo, with field training at CalPoly's outdoor laboratory at Swanton Pacific Ranch located in Davenport. Has classwork in dendrology which focused on the identification, classification, silvical characteristics, distribution, environmental requirements and economic importance of woody plants in shrub, woodland, and forest ecosystems of the United States. The training

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A Land Use Planning, Design, and Environmental Firm

emphasized species located in the Pacific Coastal, Sierran, and Cascade ecosystems. Doug Piirto, PhD, was professor at CalPoly and provided both classroom training, as well as field training at various locations throughout the coast of California (San Luis Obispo and Santa Cruz counties).

- **Ornithological Qualifying Training:** Training with raptors is a combination of classroom training and field work under a variety of biologists while employed with the United States Forest Service, EMC Planning Group, and Quad Knopf. Training involved classification and identification of birds, with emphasis on California species. The focus involved the functional morphology, physiology, ecology, behavior and census methods. The most extensive field work was spent with Cara Galloway, MA Biologist EMC Planning Group, Janet Walther, MS Senior Biologist EMC Planning Group, and Wes Rhodehamel, MA VP Biological Resources Quad Knopf on projects in the Monterey Bay Region, Salinas Valley, Central Valley, and Sierra Nevada range. Has extensive observations of Swainson's hawk, burrowing owl, bald eagle, osprey, peregrine falcon, Cooper's hawk, northern goshawk, northern spotted owl, great grey owl, and many other more common raptor species. Has extensive observations of yellow warbler, tri-colored black bird, least Bell's vireo, willow flycatcher, and other special status birds.
- **Herpetology Qualifying Experience:** Herpetology training has been received through mostly field work over the past approximately 25 years. The most extensive field work was spent performing habitat assessments and visual encounter surveys for California red legged frog under Cara Galloway, MA Biologist EMC Planning Group, Janet Walther, MS Senior Biologist EMC Planning Group, on projects in the Coastal range. These included observations of egg masses, tadpoles, juveniles, and adults of CRLF. Has observed California tiger salamander egg masses and adults under Cara Galloway, MA in Gilroy, Ca, and CTS egg masses at a documented CTS site in Manteca. In a non-working environment, has experience observing adult Sierra Nevada yellow-legged frog at Highland lakes in Desolation Wilderness, and in small mountain ponds south of Donahue Pass in the Inyo National Forest. Has observed foothill yellow-legged frog in several drainage locations proximate to Union Valley Reservoir and Ice House Reservoir in the El Dorado National Forest. Has a significant number of observations of reptiles native to the Mojave Desert of southern California and western Nevada, including the desert tortoise.
- **Bat Qualifying Experience:** Bat experience is through non-contact field work over the past approximately 25 years. The early field work was spent performing habitat assessments and non-contact surveys for bats under Cara Galloway, MA Biologist EMC Planning Group, Janet Walther, MS Senior Biologist EMC Planning Group, on projects in the Coastal range. These included observations utilization both non-acoustical and acoustical methods. Non-acoustical surveying relied on spotlight, "peeper" mirrors, borescopes to look for indications of use such as guano, staining, bat smells for an visual confirmation of active occupancy. Acoustical methods relied on the use of bat detectors for acoustical confirmations of presence. More current field work has been limited to habitat assessments and visual detection techniques.
- **Legal Expert Witness Qualifications**
 - **Qualified as a Biological Expert Witness in Fresno County Superior Court:** *Rio Mesa Holdings, LLC v. Fidelity National Title*
 - **Qualified as a Biological Expert Witness in Sonoma County Superior Court:** *Adobe Investments, LLC v. Chicago Title Company*

- Stockton - BCS 5/9/22

- Site Visit - SM

- Recen - 2nd visit

- Weather 9:00 am 60°/10 mph / Partly Cloudy
12:00 pm 65°/10 mph / Partly Cloudy

- All farm roads were driven. Spot checks in higher sensitivity areas were walked: Oak tree cluster, Bear Creek levee, irrigation facility, ground squirrel burrow areas. Purpose is to validate prior observations and look for wildlife not previously observed.

- Assessment

- Ag fields - similar to previous, developed walnut orchard, hay fields disced w/ small sprouts. Farming activity/workers in area.

- road edge has minimal veg: ripgut, oat, thistle, vetch, brassica.

- No nests. limited bird activity.

- Ground squirrel burrows had limited/less activity than previous survey. Still assumed foraging habitat for raptors

- No DWPT observed in irrigation, but habitat is appropriate and is expected

- Debris piles still exist near oaks

- farm equipment/tractors appear to be more prevalent. Assumed to be for the beginning of intensive egg season.
- Bear Creek still flowing. NWPT habitat. Flows too low for Steelhead or salmon.
- Overall, limited change from previous months

Bear Creek South

- Field Survey - 4-18-22

- Steve McMurtry

- Weather start: 9:00am 60°F / No wind / Clear

- Weather end 3:00pm 75°F / 10 mph / Clear

- NW Quadrant

- Walnut rows, developed/mature orchard

- Bear Creek levee along north boundary, levee top is elevated approx 20' above farm soil surface. South slope of levee in barren/annual grassland.

- western boundary has powerlines on east side of West Lane. No nests observed.

Nominal roadside ditch on West Lane.

No standing water

- access road off West Lane has irrigation ditch on south side of dirt road. Dry/no water. Annual grasses, milk thistle most common plants.

- 9 Valley oaks at end/east access road.

- Trash piles in this area

- No nests observed in oaks, large enough for large raptor nesting, but none observed. Known Swainson's hawk nest approx 2 mi to the east.

- East boundary is dirt road and larger irrigation ditch w/ irrigation water flowing

- several weirs. Appears mostly earthen bottom except at weirs/gates

- SW Quadrant

- hay field / disced / surface visible
- Foraging habitat for raptors.
- Appears to be flood irrigated, likely from main irrigation ditch on the east side of field.
- No visible sign of burrows in field.
- Some ground squirrels observed in NE area near oak tree cluster. No sign of burrowing owl pellets/feathers in debris/trash piles. Small ground burrows too small for use by BO.
- Powerlines along southern boundary on N. side of Merada Ln.
- Small fenced yard at SW corner of field near West Ln/Merada intersection
 - a couple tractors/farm equipment stored. No observed wildlife or burrow activity. Small ornaments along north face, not native or heritage.
- Small dirt rd. splits the field into two.
 - road is mostly barren soil separating the hay fields.
- small ag ditch on south side of field.

- E Half

- hay fields / disced / visible surface
- dirt road separates E & W halves of site / area. Dirt rd. barrier
- Irrigation ditch (flowing) on west boundary of field. (Noted on other area descriptions.)
- RR located on E. Boundary of site.
- Sign indicating Retro Pipeline on east side of site
- RR slightly elevated from hay field approx 5' elev. gain.
- Powerlines on south side along Marada
- Cluster of small black walnut near SE field boundary / RR.
- Irrigation ditch turns from N/S to E/W at the northern part of area near Bear Creek. Chem tanks in this area. Field north of ditch is also disced by field.
- Irrigation ditch could be habitat for NWPT. Clustered of ground squirrel burrows along ~~with~~ ditch on south side
- Black walnut clustered along NE area boundary. (small) appears to be sucker shoots, possibly from old orchard.

Assessment

- Ag lands
 - orchard
 - crop/hay field
 - misc. small ag field drainage ditches.
 - Irrigation conveyance facility.
 - Farm roads
- Plants observed
 - non-farm plants
 - brassica nigra, wild oat, ripgut brome, red stem filaree, milk thistle, star thistle, vetch, shepards purse, horse weed, russian thistle, italian thistle, barley, cheese weed.
- Soils observed
 - mostly loams
- Wildlife observed
 - very limited activity
 - potential for NWPT in flowing irrigation ditch, given earthen bottom. None observed. limited basking location except on top of banks.
 - fields ^(hay) are quality foraging habitat for raptors. Common in area. None observed.
 - Oak tree cluster. Heritage oaks, ideal size for nesting raptor. None present
 - Debris piles could be upland refuge area or burrow opportunity. None observed.

- Walnut orchard
 - not foraging for raptors
 - limited habitat
- Bear Creek and levee.
 - flowing water at survey date, known to go dry in late season. Silt/Sand bottom. levee banks are typical annuals or barren. No riparian or tree habitat
 - Not quality for anadromous fish or other listed species known downstream in lower reaches of Bear Creek + Delta area.
- Overall
 - Ag operations limit plant or wildlife presence on site
 - Discing of hay makes raptor foraging better in early season, but expect taller hay fields at times limit foraging ability, except along edges.
 - Rd edges and dry ditch has some natural/non-ag plants, but all ruderal or annual grassland species.
 - Aquatic areas provide the highest quality habitat on site, w/ flowing water providing potential for NWPT. Project does not encroach into BC, except for storm outfall













































