



COMMITTEE FOR
GREEN FOOTHILLS

July 24, 2002

Wayne White, Field Supervisor
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Rob Floerke, Regional Manager
Central Coast Region
CA Department of Fish and Game
P.O. Box 47
Yountville, CA 94599

Dear Mr. White and Mr. Floerke,

I am writing on behalf of the Committee for Green Foothills, a membership organization of approximately 1200 families in San Mateo and Santa Clara Counties, to call to your attention an apparent violation of the Federal and State Endangered Species Acts and State Fish and Game laws on the property owned by the Phillips Brooks School, on Lawler Ranch Road, Woodside. The site is adjacent to Highway 280, between Sand Hill Road and Woodside Road.

A proposed private school for 290 students and 40 staff on the subject property is currently under consideration by the Town of Woodside. The Final EIR for the project (SCH# 1999-022057) was certified by the Town Planning Commission on May 15, and was subsequently appealed to the Town Council by neighbors Roger and Jody Lawler, and Susan Crocker, on behalf of Keep Woodside Rural Residential. The Planning Commission will not be acting on the permits for the school until September. The Town Council is expected to consider the project and the EIR appeal in October.

The project site contains two ponds and associated jurisdictional wetlands, which support a breeding population of the California red-legged frog (*Rana aurora draytonii*), a Federally Threatened Species (FT), and a State Species of Special Concern (SSC2). The southwestern pond turtle (*Clemmys marmorata pallida*), a State Species of Special Concern (SSC2) has also been observed on numerous occasions by the EIR biologist, as well as by neighbors and other interested parties. Turtles have frequently been observed along the banks and in the ponds, as well as crossing the existing gravel-surfaced one-lane entrance road which is only 25 feet from the outer limit of wetland vegetation surrounding the lower pond.

The FEIR, page 7.46, acknowledges the need to protect from any disturbances any CRLF habitat by providing a 100 foot buffer zone around any wetland site on the property. The FEIR identifies as a potentially significant adverse impact any mowing for fire protection purposes any grasslands or other vegetation within the 100 foot buffer area, stating in relevant part: "...the proposed mowing between the entrance road and lower pond would directly conflict with this buffering objective, disturbing frog foraging habitat, and therefore, resulting in a *significant adverse impact*." (emphasis added)

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GREEN FOOTHILLS

3921 E. Bayshore Road
Palo Alto, CA 94303

650.968.7243 PHONE
650.962.8234 FAX

info@GreenFoothills.org
www.GreenFoothills.org

The FEIR, page 7.47, recognizes that the proposed permanent (and enlarged) access road to the school would separate the lower and middle pond. The FEIR, corroborated by the USFWS, confirms that frogs move between these ponds, but the FEIR fails to mention what are likely to be significant traffic impacts to the frogs. We note that documented turtle movement across the road presents an additional significant impact which was not included in the FEIR.

The FEIR's Mitigation Measure 7.10 states in relevant part: **"Provide and maintain a buffer around the middle and lower ponds to the satisfaction of the USFWS and CDFG, which shall be ... left unmowed and otherwise undisturbed (including the grassy area between the entrance road and the edge of the lower pond. If necessary, revise the proposed entrance road alignment ... to maintain the USFWS- and CDFG-required buffer. Also revise the mowing provisions of the project's Proposed Fire Protection Plan to the satisfaction of both the USFWS and the Woodside Fire Protection District."** (emphasis added) In the section regarding hazards, the FEIR's Mitigation Measure 11.1 requires the applicant to modify the Proposed Fire Management Plan to incorporate the mowing limitations specified in the above-referenced Mitigation Measure 7.10.

We note that these mitigation measures may not be adequate to fully protect the CRLF or the SWPT. As stated above, the entrance road is currently located only 25 feet from the outer edge of the lower pond's wetland vegetation. There is not adequate room on the property to relocate the road the full 100 feet away from the lower pond as the FEIR proposes. The project would generate an estimated 780 vehicle trips per day on this road, where now there are only perhaps ten trips per day generated by the one residence served by the road. This increased traffic would pose a significant threat to frogs and turtles as they forage or seek refuge away from the ponds. In addition to the increased traffic, the project would place an unspecified amount of fill in delineated jurisdictional wetlands and waters of the United States.

Although a representative of USFWS (Curt McCasland) was on the site in October 1998 to comment on an earlier proposal by the school, his comments have not been made part of the public record; we note that the California Department of Fish and Game in their comment letter dated October 19, 2001 asks that appropriate avoidance and/or mitigation strategies be implemented, and that authorization under the Federal Endangered Species Act to "take" CRLF may be required. Notwithstanding these points, the purpose of this letter is to call to your attention the applicant's recent activity which demonstrate a complete disregard for the FEIR's mitigation measures and for the site's protected species.

Beginning on or about June 14, the Phillips Brooks School, apparently at the specific request of the Woodside Fire Protection District, mowed a 100 foot wide swath through the grasslands along the edges of the property and along the entrance road. This mowing, in direct violation of the FEIR Mitigation Measures and the Endangered Species Act, invaded the 100 foot habitat protection buffer area and in fact went right to the edge of the wetland vegetation surrounding the lower and middle pond, possibly removing wetland vegetation as well as the adjacent grassland, and potentially causing harm to or take of the California red-legged frog. I am enclosing photos of the mowing that I took on July 12. Mr. Sam Bronfman, Chair, Phillips Brooks School, took credit for the mowing in his presentation to the Town Planning Commission at their meeting of June 19, stressing how the school had implemented the mowing as a fire management measure. His lack of awareness of the requirements for protection of these species of concern is especially troubling since the school has stated on numerous occasions that they intend to be good stewards of this land.

We believe that this irresponsible mowing of the frog foraging/buffer area does not bode well for the important natural resources of this site. There has been a tremendous amount of written and oral public testimony concerning the need for adequate protection of the ponds, wetlands, riparian and other habitats and open space values of this property.

We know from experience that applicants will profess an interest and even a commitment to complying with mitigation measures while a project is under review, but all too often we have seen that over time, these critical mitigation measures and conditions of approval are forgotten or ignored.

Please investigate this complaint and let us know what actions you will be taking to enforce compliance with the Federal and State Endangered Species Acts and other relevant laws. I can be contacted directly at the address and phone below.

Sincerely,

<signed>

Lennie Roberts, Legislative Advocate
Committee for Green Foothills
339 La Cuesta
Portola Valley, CA 94028

Phone: 650-854-0449

cc: Town of Woodside
Woodside Fire Protection District
Calvin Fong, Chief, Regulatory Branch, Army Corps of Engineers
Loretta Barsamian, Executive Officer, RWQCB, Region 2
Phillips Brooks School
Susan Crocker, Keep Woodside Rural Residential
Roger and Jody Lawler
Ellen Garber, Shute, Mihaly and Weinberger
Trent Orr, Esq.
Diane Renshaw, Consulting Ecologist
Gary Deghi, Huffman and Associates

Encls: Location Map
Wetland Delineation Map, Harvey & Associates
Photographs