catastrophic landslide hazards in charred areas throughout Southern California *-- especially in San Bernardino County, where as many as 50 catch basins built to block falling boulders, mud and trees may not be adequate.*

Debris flows, as the deadliest form of the slides are known, can be ferocious, crashing down mountain slopes, overwhelming barricades and dropping tons of rubble on unsuspecting communities during heavy rains.

The San Gabriel and San Bernardino mountains are dotted with catch basins -- government's response to a long and violent history of sudden ***landslides.*** ***The basins are typically engineered to capture the muddy fallout from a 100-year flood -- a heavy rainstorm whose likelihood of happening in any given year is only 1%.***

But in areas damaged by wildfires, the volume and velocity of material washing down can be 10 times greater than usual -- and exceptionally heavy even four to five years after a blaze.

As a result, many basins in ***fire****-ravaged San Bernardino County could now be strained by a major storm, putting thousands of homes, schools and other buildings in harm's way, according to county flood control officials and other hydrologists.*

"Most of these basins, if they get hit within a year or two of a good ***fire,*** *they will not be big enough," said Pat Mead, an assistant public works director for San Bernardino County.*

"In a normal ***fire*** *year, we get maybe one or two canyons with watersheds in them burning. By the looks of things, these* ***fires*** *have burned every watershed in the north part of our county."*

Last week, San Bernardino County officials said they would seek federal money to clear out and expand the basins, warn nearby residents about ***landslide*** *dangers and erect walls of sandbags to minimize the threat.*

Meanwhile, the U.S. Forest Service, which controls many of the wilderness areas hit hardest by the ***fires,*** *has begun assembling a team to determine damage and look for ways to diminish erosion.*

"We don't want to scare people because we don't think a disaster is about to happen, but they need to know that this is not normal," said Ted Golondzinier, another assistant county public works director. "We do think there are areas that are going to be getting some mud flows, and we're trying to figure out where those are most likely to happen."

Fire*-scarred parts of Los Angeles, Ventura and San Diego counties -- including areas not typically prone to* ***landslides*** *-- also may face an increased chance of* ***landslides*** *because of the scope of this year's* ***fires,*** *among the worst in modern California history.*

"Regionally, this is one of the worst potential flooding situations since this became a civilized place," said Douglas Hamilton, a flood control expert with Exponent Inc., an environmental consulting firm. *"Everybody knows the San Gabriel and San Bernardino mountains have problems with debris flows. But even in San Diego, where debris has not been as big of a problem, you could now have a problem because of these* ***fires.****"*

Debris flows have caused dozens of disasters in Southern California over the last century, including a 20-foot-high avalanche of rocks and mud that swept over La Crescenta and Montrose just after midnight on New Year's Day in 1934, killing 49 people. *A wildfire preceded the disaster. No debris dams were there at the time.*

The dangers of debris flows were highlighted in the 1989 book "The Control of Nature" by John McPhee. ***One passage recounts the horrifying experience of the Genofile family, which nearly perished when a 6-foot wall of muck suddenly struck their home in Shields Canyon above Glendale in 1978 after a particularly intense rain****.*

"The house became buried to the eaves. Boulders sat on the roof. Thirteen automobiles were packed around the building, including five in the pool. A din of rock kept banging against them. The stuck horn of a buried car was blaring," McPhee wrote. "The family in the darkness in their fixed tableaux watched one another by the light of a directional signal, endlessly blinking. The house had filled up in six minutes, and the mud stopped rising near the children's chins."

If wildfires precede heavy rains, the threat of debris flows is exponentially greater, experts say. The fires consume the vegetation that coats hillsides and binds soils together, greatly exposing the areas to erosion. That erosion can deposit huge amounts of sediment downstream from burned areas during rainstorms in a matter of minutes.

"Wildfires remove the canopy that intercepts rainfall, the leaves and needles that are on the ground. And once you've removed that, the water is just going to run downhill, taking a lot of other things with it," said Susan H. Cannon, a researcher with the U.S. Geological Survey's landslide hazards program, which has been studying the link between fire and debris flows for years.

Furthermore, in chaparral-coated Southern California, burning of the brush has been shown to harden surface soils, making the ground more water repellent than usual. That significantly increases the speed with which rainfall rushes down slopes, increasing its destructive power.

"It's an amazing amount of water that can come out of those mountains when it rains," said Chris Wills, a supervising geologist with the California Geological Survey, who vividly remembers his father taking him to see raging mountain waters that filled

the Los Angeles River during floods in 1969.

One potential flashpoint is Deer Creek near Rancho Cucamonga. There, the capacity of a large debris basin below mountains that rise to nearly 9,000 feet was the subject of bitter controversy, long before last week's wildfires. The stadium-sized basin lies in the mouth of a canyon at the foot of the San Gabriel Mountains in an alluvial fan molded over time by thousands of floods. Before the area was developed, the rushing mountain waters that spewed from the canyon during the short but strong seasonal rains traveled along a wide swath of the San Bernardino Valley and into the Santa Ana River.

Now that thousands of people live on the valley floor, the waters are corralled by a network of flood channels, and urbanization has been creeping ever closer to the foot of the mountains. The basin, built in 1983, was augmented by a levee that had long existed in the area, but a developer secured approval several years ago to breach the levee to build more homes above it, despite neighbors' concerns that the debris basin alone could not withstand the torrent of muck the creek was capable of discharging.

John Cassidy, an engineering expert working for nearby Ontario International Airport, and Hamilton, of Exponent, who was hired by a citizens group, concluded that the basin, built by the U.S. Army Corps of Engineers, was too small to handle a 100-year flood.

"As constructed, the Army Corps' debris basin would hold only a fraction of the debris that would come out of the watershed during a 100-year flood," Cassidy, a former engineer for Bechtel Corp., said in a deposition. "Required storage would be deficient by 500 acre-feet or more. Five hundred acre-feet would be equivalent ... to some 20,000 truckloads of debris."

Despite the experts' criticisms, the Corps of Engineers has stood by the Deer Creek basin, and public elementary and high schools have since been built below it.

Joseph Evelyn, the supervisory hydraulic engineer for the corps' Southern California office, said the basin had been built to withstand the largest debris flows the corps expects, and took into account that the flows could be made much worse by ***fires.***

But last week, he stopped short of saying it could withstand anything rainwater could wash down. The reality of such structures, he said, is that they are built to reasonably minimize the risk of damage, within economic and even aesthetic constraints.

"It can happen, and has happened," he said when asked if similar debris basins have been known to fail. "But the degree of damage has been within acceptable tolerance. We haven't had an outcry from people asking for fewer teachers and police officers to build bigger debris basins.

"If you are going to assume the worst -- a huge storm situation after a huge fire -- you would have to build huge structures that would cost a tremendous

amount and would not be very good to look at."

Malissa McKeith, an attorney who lives just below the old levee and has spent tens of thousands of dollars of her own money in fighting to shore up the protections at Deer Creek, said she hoped the ***fires*** *would lead local officials to reassess the flooding dangers.*

"Everyone has known there was a problem; they just hoped it did not occur on their watch," McKeith said. "Well, now the problem's here. At this point, I'm just hoping that someone will take a look at these schools. It's not too late to do something to protect them."

The flood control planning on the project is for a 50 year storm. These have a 2% chance of occurring in any year. These are more common and less in severity than a 100 year storm that has only a 1% chance of occurring in any year. Yet, the Los Angeles Times article indicates that even drainage systems designed to handle the flows of a normal 100 year storm will not be able to handle the flows of a 100 year storm with fire damage to the area. As the article indicates this debris flow danger could exist several years after the wildfire. **The 50 or 100 year storm does not have to immediately succeed the wildfire.**

So, even with the project designed to handle flows of a 50 year storm, the design is inadequate and represents an unmitigable significant impact if the drains and culverts are not designed to handle debris flow after a fire devastates the area in a 50 year or 100 year storm. Either the project will have to be redesigned to incorporate changes to handle such a situation or the EIR must state the unmitigable significant impact that the development poses to the area.

The debris flow problem after a fire and heavy storm is not an isolated event that happens rarely in Southern California. If you search local news papers for records of floods or debris flow problems after wildfires, you will have a large number of documented occurrences that have occurred in Southern California in the last century, even after flood control measures have been implemented.

When Interstate 210 was designed, it was probably not foreseen that a development would someday be above and below it. As such, the drains that go under the Interstate Freeway may not have been designed to handle the debris flow of a developed area that has been graded and denuded of its natural vegetation.

The drains may not have been especially designed for the situation where the area was developed and surrounding areas were additionally denuded from wildfires. The EIR must discuss these scenarios because it is not a question that these events will occur, it is a question when such as catastrophe will occur. As we have previously discussed in the geology and soils section, flooding after a wildfire can be worse than would normally be expected because resins in the burned vegetation melt into the soil, forming a waxy layer that impedes water absorption.

Also, not enough discussion on the adequacy of catch basins was discussed in the EIR. With the

great potential for flooding in this area, especially after a major wildfire, catch basins must also be designed to handle the runoff from the burned areas and the developed areas where the water will no longer be absorbed into the soil. The location and size of these basins must be discussed in the EIR.

All drains, channels or other modifications made for the project area drainage must be non-erosive. They must not create new problems of soil erosion and other issues that might impact the stability of the project soil or lands.

There is a great potential for severe water flow in the project area with the presence of 8 blue-line streams and 23 drainage courses as reported in the EIR.

Both Development Areas A & B as parts of the 8 blue-line streams and 23 drainage courses transect these areas help in the recharge of a substantial amount groundwater. The development will result in a substantial amount of the area that may collect and rainwater and recharge it in natural watercourses. The development would result in diverting some of the rain water and other ground water into concrete drains which will no longer flow into any fresh water aquifers. The city of Los Angeles receives an important amount of its water supplies from San Fernando Valley aquifers.

The EIR does not even discuss the impact of the development on the San Fernando Valley aquifers. The EIR must discuss this and indicate whether there is a significant unmitigable impact on the watershed of this area. Also, as there are many projects in the region that also may impact the area watershed in this way, the cumulative impacts of this project and the others must be discussed for levels of significance. Otherwise, we might conclude that there is a significant impact.

The report does not discuss that amount of groundwater that may be found in the project area. The seeps and springs that exist on the project site were not found by the consultants or even looked for in fieldwork. The consultant must discuss groundwater recharge potential. The impact on ground water recharge remains a significant impact.

Additionally, this section of the EIR must discuss how this project meets or does not meet the goals and objectives set forth in the City of Los Angeles General Plan Regarding Stormwater. We have including these goals and objectives of the City of Los Angeles General Plan and a discussion of the issue from it.

Stormwater

The 1994 Los Angeles Regional Water Quality Control Board's Basin Plan is the document that outlines the regulatory process for the protection of the beneficial uses of all regional waters. According to the Basin Plan, the City is located within three of the four major watersheds that make up the Los Angeles-San Gabriel Hydrologic Unit: the Ballona Creek, Dominguez Channel and the Los Angeles River. The revised Basin Plan also recognized the Santa Monica Bay Watershed Management Area which is comprised of the Ballona Creek and Malibu Creek

watersheds (consistent with the Santa Monica Bay Restoration Project boundary). Storm drains within the City are constructed by both the City and the Los Angeles County Flood Control District (LACFCD), managed by the Los Angeles County Department of Public Works. The LACFCD constructs the major storm drains and open flood control channels, and the City constructs local interconnecting tributary drains. The City designs the storm drain system so that flows from a 10-year event will not exceed the curb height, and flows from a 50-year event will be within the street right-of-way, while the County designs for a 50-year storm event and the Federal government (Army Corps of Engineers) designs for a 100-year event.

While a comprehensive list of local storm drain deficiencies has not been compiled for the Framework Element, the current list of capital improvements provides some understanding as to where problems exist. Most significantly, two large district-proposed drainage projects would reduce existing flood hazard areas. The Army Corps of Engineers/County "LACDA" project would provide flood reduction benefits along the Los Angeles River, largely outside of the City limits. The County's Hollyhills drain project would reduce/eliminate existing flood hazards in the West Los Angeles area from the Ballona Creek northwards into West Los Angeles and the City of Beverly Hills. The County's Project 9250 would reduce the large 100-year flood plain area that lies north of Wentworth Street and south of Foothill Boulevard.

Stormwater Management Options

Onsite capture of stormwater runoff through improved management of the urban forest offers still another source reduction within one infrastructure system (stormwater) that results in a transfer of

a usable volume of material to another infrastructure system (water supply).

In urban areas barren of trees, rainfall runoff builds up more quickly, requiring more expensive drainage systems, to prevent local flooding and soil erosion. In neighborhoods where trees are well established, this process can be slowed, thereby allowing the stormwater a greater chance to soak into the soil, replenishing both surface moisture levels and underground water tables, and potentially reducing the flood hazard caused by the rapid flow of runoff into the stormwater catch basins and channels.

STORMWATER

GOAL 9B

A stormwater management program that minimizes flood hazards and protects water quality by employing watershed-based approaches that balance environmental, economic and engineering considerations.

Objective 9.5

Ensure that all properties are protected from flood hazards in accordance with applicable standards and that existing drainage systems are adequately maintained.

Policies

9.5.1 Develop a stormwater management system that has adequate capacity to protect its citizens and property from flooding which results from a 10-year storm (or a 50-year storm in sump areas). (P8)

9.5.2 Assign the cost of stormwater system improvements proportionately to reflect the level of runoff generated and benefits. (P8, P66)

9.5.3 Implement programs to correct any existing deficiencies in the stormwater collection system. (P8)

9.5.4 Ensure that the City's drainage system is adequately maintained. (P8, P42)

Objective 9.6

Pursue effective and efficient approaches to reducing stormwater runoff and protecting water quality.

Policies

9.6.1 Pursue funding strategies which link the sources of revenues for stormwater system improvement to relevant factors including sources of runoff and project beneficiaries. (P9)

9.6.2 Establish standards and/or incentives for the use of structural and non-structural techniques which mitigate flood-hazards and manage stormwater pollution. (P8)

9.6.3

The City's watershed-based approach to stormwater management will consider a range of strategies designed to reduce flood hazards and manage stormwater pollution. The strategies considered will include, but not necessarily be limited to: (P8)

a. Support regional and City programs which intercept runoff for beneficial uses including groundwater recharge;

b. Protect and enhance the environmental quality of natural drainage features;

c. Create stormwater detention and/or retention facilities which incorporate multiple-uses such as recreation and/or habitat;

d. On-site detention/retention and reuse of runoff;

e. Mitigate existing flood hazards through structural modifications (floodproofing) or property by-out;

f. Incorporate site design features which enhance the quality of offsite runoff; and

g. Use land use authority and redevelopment to free floodways and sumps of inappropriate structures which are threatened by flooding and establish appropriate land uses which benefit or experience minimal damages from flooding.

9.6.4 Proactively participate in inter-agency efforts to manage regional water resources, such as the Santa Monica Bay Restoration Project, the Los Angeles River Master Plan, the Los Angeles River Parkway Project and the Los Angeles County Drainage Area Water Conservation and Supply Feasibility Study. (P8, P65)

Objective 9.7

Continue to develop and implement a management practices based stormwater program which maintains and improves water quality.

Policy

9.7.1 Continue the City's active involvement in the regional NPDES municipal stormwater permit. (P8, P65)

9.7.2 Continue to aggressively develop and implement educational outreach programs designed to foster an environmentally-aware citizenry. (P8)

9.7.3 Investigate management practices which reduce stormwater pollution to identify technically feasible and cost effective-approaches, through: (P8)

a. Investigation of sources of pollution using monitoring, modeling and special studies;

b. Prioritization of pollutants and sources;

c. Conducting research and pilot projects to study specific management practices for the development of standards; and

d. Developing requirements which establish implementation standards for effective management practices.

Water Supply

The Department of Water and Power manages the water supply for Los Angeles. Its goal is to insure that the City's water quality and demand are met by available water supplies. The City obtains its water from the Los Angeles Aqueduct, local wells, purchases from the Metropolitan Water District, and use of reclaimed wastewater. The quantities of water obtained from these sources vary from year to year and are dependent on weather conditions and water demand.

In recent years, the long-term water supply available from the Los Angeles Aqueduct has become uncertain, and the City has committed itself to increasing the reliability of its water supply. Future increases in the use of reclaimed wastewater will help make the total water supply more reliable. The Los Angeles City Council has established a goal for the reuse of 40 percent of its wastewater by the year 2010. Reclaimed wastewater will be used for groundwater recharge, agriculture, recreation, landscaping, industry, sea water intrusion barriers, and environmental enhancement. The use of reclaimed wastewater will displace or supplement potable water supplies and therefore increase the reliability of the City's water supply.

Through a combination of continued demand side management and increased use of reclaimed wastewater, Los Angeles' future water demands can be reliably met with available water supplies.

WATER SUPPLY

GOAL 9C

Adequate water supply, storage facilities, and delivery system to serve the needs of existing and future residents and businesses.

Objective 9.8

Monitor and forecast water demand based upon actual and predicted growth.

Policy

9.8.1 Monitor water usage and population and job forecast to project future water needs. (P42, P43)

Objective 9.9

Manage and expand the City's water resources, storage facilities, and water lines to accommodate projected population increases and new or expanded industries and businesses.

Policies

9.9.1 Pursue all economically efficient water conservation measures at the local and statewide level. (P9, P63)

9.9.2 Develop reliable and cost-effective sources of alternative water supplies, including water reclamation and exchanges and transfers. (P9)

9.9.3 Protect existing water supplies from contamination, and clean up groundwater supplies so those resources can be more fully utilized. (P9)

9.9.4 Work to improve water quality and reliability of supply from the State Water Project and other sources. (P9)

9.9.5 Maintain existing rights to groundwater and ensure continued groundwater pumping availability. (P9)

9.9.6 Identify the needs for land and facilities necessary to provide an adequate and reliable water supply and develop those facilities in an environmentally and socially sensitive way. (P9)

9.9.7 Incorporate water conservation practices in the design of new projects so as not to impede the City's ability to supply water to its other users or overdraft its groundwater basins. (P7, P63)

9.9.8 Design projects located in hillside areas so as to maintain the City's ability to suppress wildfires. (P18, P24)

9.9.9 Clean or replace where necessary, deficient water distribution lines in the City. (P9)

Objective 9.10

Ensure that water supply, storage, and delivery systems are adequate to support planned development.

Policies

9.10.1 Evaluate the water system's capability to meet water demand resulting from the Framework Element's land use patterns. (P9)

9.10.2 Solicit public involvement, when appropriate, in evaluating options for the construction of new and/or expansion of existing water facilities. (P9)

Objective 9.11

Ensure, to the extent possible, the continued provision of water capacity, quality and delivery after an earthquake or other emergency.

Policy

9.11.1 Provide for the prompt resumption of water service with adequate quantity and quality of water after an emergency. (P64)

The EIR does not discuss use of potentially hazardous materials to the environment such as use of pesticides, fertilizers, and other yard care chemicals. These chemicals may be used in the project landscaping and also in the landscaping of these lots. Hazards such as these must be identified and mitigation measures must be recommended to minimize the impact of these. If there are no adequate mitigation measures that can be recommended, the EIR must make the finding that the project will have a significant impact regarding the project's impact on water quality.

The EIR must recommend mitigation measures to minimize pollutants that may enter the project drainage systems. The EIR may recommend systems or devices that prevent pollutants from entering the drainage systems or trap pollutants in places that can be removed from the project area without them becoming contaminants in our water system.

Either the project will have to be redesigned to incorporate changes to handle debris flows after a wildfire or the EIR must state the unmitigable significant impact that the development poses to the area. The EIR must discuss the impact of the development on the watershed and aquifer areas of the San Fernando Valley and the cumulative impacts of this project and others on it. The EIR must also discuss how the project meets or does not meet the goals and objectives of the Los Angeles General Plan.

Section IV. D.1. BIOLOGICAL RESOURCES-FLORA AND FAUNA

The Biological Surveys were conducted from March 2002 to February 2003. The number of days when observations were made, how long each day's observation was made, and dates were not disclosed in the study. Also, the report notes that observations were made during a significantly low rainfall year which would also impact observations. The study may not be adequate because too few observations were made. However, information valuable to the determination of the adequacy of the Biological Surveys has not been disclosed or discussed.

The observation methods and techniques do not indicate that any night surveys or use of night surveillance equipment was used to determine the presence of animals. The surveys missed a lot of common large mammals that would be expected to be found on site. Many of these animals are nocturnal and would only be expected to be detected from night surveys or use of night surveillance equipment. That may also mean that rare, endangered or threatened amphibians also could have been missed because many of these animals are also nocturnal.

The EIR indicates that the project biologists searching for the California Gnatcatcher conducted 6 surveys on 6 different days between April 29, 2002 and June 5, 2002. The information disclosed indicates that all surveys were completed by 12 pm and each biologist surveyed less than 80 acres each observation day. The EIR needs to disclose the amount of time each biologist spent in the field, dates that the surveys were done, and the actual amount area surveyed each day. It does not seem that for this survey work that was completed by 12 pm that the biologists would have actually covered close to 80 acres of territory especially with the terrain and vegetation conditions that exist on site.

Because not enough information has been given about the survey methodology and amount of observation done, we cannot conclude that the survey is accurate. This information must be disclosed, otherwise, we would have to presume that this survey is inaccurate and must be redone.

The EIR indicates that the project biologists searching for the Least Bell's Vireo conducted 8 surveys on 8 different days between April 10, 2002 and July 31, 2002. The information disclosed indicates that all surveys were about 5 hours in length. The EIR needs to disclose the dates that the surveys were done and the actual amount area surveyed each day. Because not enough information has been given about the survey methodology and amount of observation done, we cannot conclude that the survey is accurate. We do not know if the biologists were even searching for the Least Bell's Vireo in the proper habitat. This information must be disclosed, otherwise, we would have to presume that this survey is inaccurate and must be redone.

The EIR indicates that the project biologists searching for the Sensitive Reptile species conducted surveys in the Spring and Summer of 2002. The EIR does not disclose the dates the surveys were done, the times of observation, and the areas explored. The EIR needs to disclose the amount of time each biologist spent in the field, dates that the surveys were done, and the actual amount area surveyed each day. If the same survey techniques were used for sensitive reptile species as was done with the wildlife corridor survey, this survey would be inadequate for not searching an adequate area within the project site besides other factors that limit the scope of the biologists survey work.

Because not enough information has been given about the survey methodology and amount of observation done, we cannot conclude that the survey is accurate. This information must be disclosed, otherwise, we would have to presume that this survey is inaccurate and must be redone. We will discuss numerous examples of the inadequacy of the biological survey. The inventory of biological resources on the project site has been consistently understated. Inaccurate information

can lead to an incorrect conclusion about this the impacts of this project by decision makers.

The surveys also focused on looking for the presence of some species to the exclusion of determining if other important species were present. We believe that important rare animal species were missed as a result of the survey work. Accurate survey work must be done and surveys must be conducted again to make the information in the EIR accurate in order to understand what flora and fauna will be lost and the significance of the project's impact on wildlife.

The survey also missed the presence of mountain lions or cougars. The report doubted that they could exist in this area because they claim that this is a fragmented habitat being cut by an interstate freeway and other obstacles to link this area as part of a wildlife corridor. However, numerous area residents did observe recently a mountain lion or lions. There were multiple observations of a single mountain lion which could be observation of the same individual or multiple observations of different single individuals. Though mountain lions are not endangered or threatened, they are a rare species in the Verdugos and possibly the project site.
The biologists also missed detecting or sighting deer or bobcats which residents claim are common in the project areas. This is another indication that the biology surveys were inadequate. There are many possible reasons why these more common animals were not detected. The biology surveys must be redone with more time spent and other search methods including ones that we have recommended in our response to the EIR.

It is unclear if the project biologist observed any reptiles or amphibians on the project site. The Duke project biologists did observe several different species of reptiles and indications of the San Diego Horned Lizard on that project site. Starting on Page 92 of Appendix G, the Biological Technical Report it lists pages of animals that the report indicates were observed. However, there is no corroborating data indicating any locations that these animals were found. Also, if these animals were found, some are California Species of Special Concern that deserve mentioning in the EIR as found on the project site. These are rare or sensitive species.

The Duke biologists also observed a number of bird species on that project site that were not observed on the Canyon Hills project area. These include the Cooper's Hawk (State Species of Special Concern), acorn woodpecker, and great horned owl.

Residents have also indicated that other rare or sensitive species have been observed in the project area that were not found in the surveys conducted by the project biologists. These include the peregrine falcon, silvery legless lizard and Cooper's hawk. The Peregrine Falcon is a State Endangered species. Though none of these species is federally endangered, it does indicate the biological surveys of the project site were neither thorough nor adequate. The surveys conducted does not adequate assess the inventory of important biological resources that will be lost with this development. We might expect that there are San Diego Coast Horned Lizards and Two Striped Garter Snakes that exist on site. These species have been observed at other sites in the Verdugos that are much more fragmented areas from connections with other wild areas than the project area on this site.

The project biologists did not do adequate raptor surveys looking for Cooper's Hawks and other Raptors and their nest sites. Also, there were not adequate surveys for other Species of Special Concern Found on site.

The project area also does contain potential habitat area for the Least Bell's Vireo and the Coastal California Gnatcatcher as well as other rare, endangered, or threatened animal species that might be expected to live in or near the project area. The EIR under CEQA must fairly and accurately disclose what would be lost with this development and whether these are significant and mitigable.

The project biologists in their wildlife surveys did apparently look for raptors but did not find any. This seems unusual that the project biologists did not find raptors or Cooper's Hawks on the project site as the biologist for the Duke Development did spot this sensitive species. The Duke Development biologist believed that the Cooper's Hawks do breed in the area. The biologists do seem to be aware of California's laws concerning the disturbance of raptors and their nests. We have listed excerpts from California fish and game laws concerning this.

3503.5. It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.

The fine for a violation under California Fish and Game Code Section 3503.5 is listed below:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

(1) Section 1059.

(2) Subdivision (d) of Section 4004.

(3) Section 4600.

(4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

(5) A first violation of Section 8670.

(6) Section 10500.

(7) Section 3005.9.

(8) A violation of commission regulations that is discovered pursuant to Section 3005.91 or 3005.92.

(9) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, *3503.5*, 3513, or 3800 is a fine of not more than five thousand dollars ($5,000), imprisonment in the county jail for not more than six months, or both that fine and that imprisonment.

(d) (1) A license or permit issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended. The license or permit shall not be