

ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



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RE: San Diego County Climate Action Plan (SCH# 2016101055), Newland Sierra Project (SCH# 2015021036), and the CARB 2017 Climate Change Scoping Plan

Dear Ms. Soffel and Ms. Smith:

Endangered Habitats League (EHL) wishes to supplement its comments on the draft Climate Action Plan (CAP) due to new and previously unavailable information released from the California Air Resources Board (CARB). That agency's revised October 27, 2017 Climate Change Scoping Plan (2017 Climate Change Scoping Plan) is highly pertinent to the County's own efforts. See: <<https://www.arb.ca.gov/cc/scopingplan/revised2017spu.pdf>>. As this new information also affects the proposed Newland Sierra project and its draft environmental impact report (DEIR), please submit this letter into the administrative record for that project.

Please note that these comments are also submitted on behalf of California Native Plant Society San Diego Chapter, Environmental Center of San Diego, Escondido Neighbors United, Southwest Wetlands Interpretive Association, San Diego Audubon Society, Preserve Wild Santee, Buena Vista Audubon Society, and San Pasqual Valley Preservation Alliance. All our organizations respectfully request your consideration.

The 2017 Climate Change Scoping Plan identifies how the State may reach its 2030 climate change target to reduce GHG emissions by 40 percent below 1990 levels, and substantially advance towards the State's 2050 climate goal to reduce GHG emissions by 80 percent below 1990 levels. The 2017 Climate Change Scoping Plan seeks to integrate efforts already underway to reduce the State's GHG emissions. Given the importance of the 2017 Climate Change Scoping Plan's guidance in reaching the State's GHG emissions reductions goals, it is critical that the County analyzes its recommendations within the County's environmental review for the County's CAP and the Newland Sierra Project.

It is expected that this 2017 Climate Change Scoping Plan will be adopted in final form by CARB within the next few months, perhaps at CARB's December meetings.¹ Assembly Bill 398 directs CARB to update the Scoping Plan no later than January 1, 2018. Therefore, the new Climate Change Scoping Plan will be in effect before the County considers the proposed CAP and proposed Newland Sierra Project. Rather than simply waiting until after the County finalizes the EIRs for both projects, we submit this letter now to make sure that County staff is aware of all of the information regarding the Scoping Plan that must be included in the County's two EIRs. The relevant information is summarized below.

I. VEHICLE MILES TRAVELED IS AN ESSENTIAL COMPONENT OF REDUCING GHG EMISSIONS

A. CARB Policy

The 2017 Climate Change Scoping Plan states that VMT reduction serves as an essential part of GHG emissions reductions, enabling the State to meet its climate change goals:

Stronger SB 375 GHG reduction targets will enable the State to make significant progress toward the goal of reducing total light-duty VMT by 15 percent from expected levels in 2050, but alone will not provide all of the VMT reductions that will be needed. The gap between what SB 375 can provide and what is needed to meet the State's 2030 and 2050 goals needs to be addressed through additional VMT reduction measures.

(2017 Climate Change Scoping Plan at p. 116.)

The 2017 Climate Change Scoping Plan repeatedly emphasizes the importance of VMT reductions. (2017 Climate Change Scoping Plan at pp. 74 [VMT reductions result in important health benefits]; 113 [transportation sector reduction goals include: "Promote all feasible policies to reduce VMT, including: Land use and community design that reduce VMT; Transit oriented development"].)

With regard to local actions, the 2017 Climate Change Scoping Plan recognizes that local decisions to reduce VMT are necessary to achieve the 2030 target under SB 32:

While the State can do more to accelerate and incentivize these local decisions, local actions that reduce VMT are also necessary to meet transportation sector-specific goals and achieve the 2030 target under SB 32. *Through developing the Scoping Plan, CARB staff is more convinced than ever that, in addition to achieving GHG reductions from cleaner fuels and vehicles, California must also reduce VMT.* Stronger SB 375 GHG reduction targets will enable the State to make significant progress toward needed reductions, but alone will not provide the VMT

¹ The first draft of the Plan was released on January 20, 2017.
https://www.arb.ca.gov/cc/scopingplan/2030sp_pp_final.pdf

growth reductions needed; there is a gap between what SB 375 can provide and what is needed to meet the State’s 2030 and 2050 goals. In its evaluation of the role of the transportation system in meeting the statewide emissions targets, CARB determined that *VMT reductions of 7 percent below projected VMT levels in 2030 (which includes currently adopted SB 375 SCSs) are necessary. In 2050, reductions of 15 percent below projected VMT levels are needed. A 7 percent VMT reduction translates to a reduction, on average, of 1.5 miles/person/day from projected levels in 2030.* It is recommended that local governments consider policies to reduce VMT to help achieve these reductions, including: land use and community design that reduces VMT; transit oriented development; street design policies that prioritize transit, biking, and walking; and increasing low carbon mobility choices, including improved access to viable and affordable public transportation and active transportation opportunities. It is important that VMT reducing strategies are implemented early because more time is necessary to achieve the full climate, health, social, equity, and economic benefits from these strategies

(2017 Climate Change Scoping Plan at p. 150 [emphasis added].)

The 2017 Climate Change Scoping Plan makes clear that VMT reduction stands alone as separate and distinct from any plan for mitigating project GHG emissions impacts or other land use policies, including the potential for allowing the purchase of GHG emissions offsets and “offshore offsets.” Because CARB is “more convinced than ever” that VMT reduction is necessary to achieve State GHG reduction targets, local land use decisions may not mitigate increased GHG emissions resulting from VMT generated by new development projects merely by implementing GHG reduction policies that do not also reduce projects’ VMT. The 2017 Climate Change Scoping Plan does not allow for VMT mitigation through measures, such as purchasing offsets, that do not reduce projects’ VMT.

B. Climate Action Plan

The CAP draft supplemental environmental impact report (DSEIR) fails to describe how the proposed action will affect San Diego County’s overall VMT either by total miles or per person miles. Further, the DSEIR does not provide separate metrics for measuring VMT, nor does it describe how the CAP will impact the region as a whole. While the CAP analyzes GHG emissions impacts sector-by-sector within the County, it should provide an overall consideration of the impacts as a whole to accurately ascertain consistency with the 2017 Climate Change Scoping Plan, and compliance with Assembly Bill (AB) 32, Senate Bill (SB) 32, and other GHG reduction requirements. The DSEIR must provide this information.

For General Plan Amendments (GPAs) approved after the adoption of the CAP, the CAP proposes mitigating GHG impacts through the reliance on offsets that do not result in VMT reductions. GPAs would inherently produce GHG emissions over and above those considered in the General Plan and mitigated in the CAP. Similarly, any VMT from GPAs approved

subsequent to the CAP would be additive and must be appropriately mitigated. This cannot be achieved through the use of offsets alone.

C. Newland Sierra Project

The Newland Sierra Project's DEIR does not describe how the development will affect San Diego County's overall VMT either by total miles or per person miles. Although the Newland Sierra DEIR argues that a VMT analysis is not required, it provides a cursory analysis of the Newland Sierra Project's VMT: it states that the Newland Sierra Project's per capita VMT would be greater than the threshold for the County as a whole but less than the threshold for its rural subregion. Here, the appropriate metric would be the Countywide comparison, which corresponds to SANDAG's jurisdiction and the area to which the RTP/SCS applies. Also, the higher VMT in the subregion than the County as a whole is indicative that the Newland Sierra Project is proposed in a rural area requiring long car trips, which is contrary to smart planning.

Similar to the CAP, the Newland Sierra Project mitigates approximately 82% of its GHG emissions through the use of offsets. The offset program will not result in VMT reduction, and therefore is inconsistent with the 2017 Climate Change Scoping Plan. Moreover, the Newland Sierra Project only proposes Project Design Features, not mitigation measures, aimed at reducing VMT, and is therefore inconsistent with the 2017 Climate Change Scoping Plan.

II. THE CAP EIR AND THE NEWLAND EIR EACH MUST ANALYZE HOW THEY COMPLY WITH THE STATEWIDE METRIC FOR GHG EMISSIONS

A. CARB Policy

As mentioned above: "CARB determined that VMT reductions of 7 percent below projected VMT levels in 2030 (which includes currently adopted SB 375 SCSs) are necessary. In 2050, reductions of 15 percent below projected VMT levels are needed. A 7 percent VMT reduction translates to a reduction, on average, of 1.5 miles/person/day from projected levels in 2030." (2017 Climate Change Scoping Plan at p. 150.) CARB "also recognized that GHG determinations in CEQA should be consistent with the statewide Scoping Plan goals, and that CEQA documents taking a goal-consistency approach may soon need to consider a project's effects on meeting the State's longer term post-2020 goals." (*Id.* at p. 151) As such, CARB has established that local decisions impacting VMT and GHG are key to meeting the State's climate change goals.

B. Climate Action Plan DEIR Deficiencies

The CAP's DSEIR does not provide information which compares how the CAP will result in GHG emission metrics that compare to the GHG metrics in the 2017 Climate Change Scoping Plan. In addition, the DSEIR does not indicate whether the CAP's assumptions are consistent with the projected San Diego County population figures and projections used by CARB to derive the statewide metrics for per person GHG emissions.

The need for this information to be made available to the public is underscored by the fact that the CAP is a mitigation measure for the County's General Plan Update from 2011,

which assumed the amount of growth planned for within the General Plan. By contrast, the current proposed version of the County’s CAP contemplates additional GPAs, which would add population and associated GHG emissions on top of the amounts planned for in the 2011 General Plan as adopted. The CAP’s DSEIR must fully analyze the additional population and GHG emissions that are now going to be authorized by the latest proposed CAP. In addition, the CAP DSEIR must analyze whether GPAs that exceed the metric set forth in CARB’s 2017 Climate Change Scoping Plan may nonetheless be “cured” by the purchase of offsets without separate VMT mitigation.

C. Newland Sierra Project DEIR Deficiencies

The Newland DEIR does not provide information which compares how the development will result in GHG emissions that compare to the GHG metrics in the 2017 Climate Change Scoping Plan. Also, the DEIR does not indicate whether the DEIR’s assumptions are consistent with the projected San Diego County population figures and projections used by CARB to derive the Statewide metrics for per person GHG emissions. The Newland Sierra Project is unplanned growth that was not accounted for in the County’s General Plan. Because SANDAG’s RTP/SCS is based on the County’s General Plan land uses, new emissions and VMT from the Newland Sierra Project were not considered therein, and additional analysis is required. It is unclear whether Newland’s approximately 6,000 new residents will meet the RTP/SCS metric, or if there will be greater emissions. The DEIR must state whether or not the metric may be exceeded but “cured” by the purchase of offsets without separate VMT mitigation. It must also analyze whether the Project’s VMT will comply new Statewide metrics and allow SANDAG to comply with them.

III. THE CAP DSEIR AND NEWLAND DEIR MUST ANALYZE HOW THEY COMPLY WITH SENATE BILL 375 COMPLIANCE EFFORTS

A. CARB Policy

The 2017 Climate Change Scoping Plan describes the compliance efforts and GHG reductions from SB 375 and CARB’s recently released targets² for Metropolitan Planning Organizations (MPOs) such as SANDAG:

Local land use decisions play a particularly critical role in reducing GHG emissions associated with the transportation sector, both at the project level, and in long-term plans, including general plans, local and regional climate action plans, specific plans, transportation plans, and supporting sustainable community strategies developed under SB 375.

(2017 Climate Change Scoping Plan at p. 150.)

Further, CARB recently proposed new GHG emissions reduction targets for MPOs in order to reach the Statewide SB 375 GHG emission reduction targets. The targets are currently

² Available at:

https://www.arb.ca.gov/cc/sb375/final_staff_proposal_sb375_target_update_october_2017.pdf.

slated to take effect in 2018. SANDAG originally recommended a seven percent GHG emissions reduction in 2020 and a thirteen percent GHG emissions reduction in 2035 relative to 2005 emissions. SANDAG now proposes an 18 percent reduction target in 2035 relative to 2005 emissions. SANDAG's current RTP/SCS anticipates cities will continue to grow within existing urban boundaries, bringing people and destinations closer in mixed-use, compact communities that facilitate walking and transit use. SANDAG anticipated the additional GHG reductions would need to come from increasing the cost of driving and the number of zero-emission passenger vehicles, which CARB noted are outside the control of SANDAG and SB 375. CARB recommended a SB 375 target of 15 percent in 2020 and 21 percent in 2035, three percentage points higher than SANDAG's target recommendation due to CARB's quantification of the potential for additional land use and transportation strategies. Of note, CARB's targets for SANDAG (which has jurisdiction that is coterminous with County boundaries) are higher than other regional MPO targets, which indicates SANDAG's GHG emissions reduction efforts must go over and above efforts in other parts of the State. VMT reduction within the unincorporated County, therefore, takes on particular importance. Because of the unincorporated County's rural nature, new development there is likely to add more VMT than new development in the incorporated cities. Allowing unplanned sprawl development in the unincorporated County would thwart efforts throughout the County (SANDAG's jurisdiction) to reduce VMT consistent with SB 375 and CARB's new targets.

B. Climate Action Plan

The CAP must take into account how its adoption may affect SANDAG's ability to adopt a new RTP/SCS that complies with CARB's new targets. Given the increase in reductions from San Diego County under the new SB 375 targets, CARB has indicated that it believes San Diego County has additional work to do to reduce GHG emissions in order to ensure the State reaches its climate change goals. The CAP DSEIR should analyze how the CAP helps or hinders reaching SANDAG's targets, as it cannot merely assume that SANDAG will meet them.

The CAP DSEIR must identify how the CAP and its various alternative strategies and mitigation measures will affect regional compliance with CARB's updated targets, as well as regional VMT. The County's DSEIR fails to do so. Therefore, the public has not been given crucial information as to how the mitigation measures and alternatives in the proposed CAP will affect the SB 375 regulatory regime. The California Supreme Court recently overturned a local agency's project approval for similarly failing to identify potential environmentally sensitive habitat areas (ESHA) under the California Coastal Act, and account for those areas in their analysis of the project's mitigation. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918.) The Court concluded the absence of ESHA information failed to provide decision makers with the necessary information on a proposed project, although ESHA impacts were outside of the city's purview. Consistent with the new *Banning Ranch* decision, the CAP DSEIR must identify and analyze how it complies with State regulations which inform the CAP DSEIR's implementation of GHG mitigation measures.

Under *Banning Ranch*, it is crucial that an EIR on a project present information on how "related regulatory regimes" may apply to the proposed project, such as how the various mitigation measures and alternatives may help the County reach compliance with other related regulatory requirements such as SB 375 and CARB's updated GHG emission reduction targets

for SANDAG. In *Banning Ranch*, the Supreme Court stated that “[a]n EIR project description must include ‘[a] list of related environmental review and consultation requirements [found in] federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.’” Failure to present this information results in an information deficiency in the DSEIR, and the County should be able to provide such information regarding VMTs to accurately disclose how the CAP will affect SANDAG’s RTP/SCS process given the proposed land uses under the CAP.

Further, the County’s General Plan itself requires collaboration with local and State agencies, including SANDAG. General Plan Policy COS-20.3 states that the County must “[c]oordinate air quality planning efforts with federal and State agencies, SANDAG, and other jurisdictions.” Therefore, the County should collaborate with SANDAG to analyze consistency with the updated targets in the DSEIR.

C. Newland Sierra Project

The Newland Sierra Project fails to meet SANDAG’s current per capita VMT threshold and will generate new VMT that was not included in SANDAG’s adopted 2015 RTP/SCS, which was based on the assumption that the County would not approve a new urban level of development on the Newland site. In the new 2017 Updated Scoping Plan, CARB has indicated that VMT in San Diego County must be further reduced to comply with SB 375. As a result, if the County were to approve the Newland Sierra Project with its unplanned additional VMTs and the amount of VMT’s per person, the County’s action would cause the San Diego County region to fall short of SANDAG’s updated total VMT and per capita VMT reduction goals set forth in the adopted 2015 RTP/SCS and likely as well the upcoming 2020 RTP/SCS now be being prepared by SANDAG.

The Newland Sierra Project DEIR falls victim to many of the same errors as the CAP DSEIR. The Newland DEIR has failed to present information on how the Project will impact cumulative County-wide VMT averages. The DEIR merely discusses VMT, and provides information on the unincorporated County and the project’s subregion, without providing information on how the Project will impact the overall averages for the County, and therefore whether or not the Project will help or hinder the County in reaching its VMT reduction goals recommended by CARB. Under *Banning Ranch*, the County cannot simply leave this analysis for SANDAG to figure out how it will meet the required targets. Further, based on the limited analysis provided in the Newland DEIR, it appears that the Project would increase the County’s overall per person VMT because it exceeds the County’s VMT threshold. This would make it more difficult to comply with SB 375 and CARB’s new targets, making it even more important that the DEIR analyze the Project’s impacts on SANDAG’s ability to comply with SB 375. The County should have coordinated with SANDAG to ensure the required analysis took place. It does not appear the County has done so, and instead presents the Newland Sierra Project’s approval as *fait accompli*, whether or not it allows SANDAG to actually meet its regional GHG and VMT reduction requirements.

IV. THE CAP DSEIR AND THE NEWLAND DEIR MUST ANALYZE ENVIRONMENTAL JUSTICE IMPACTS

A. CARB Scoping Plan

CARB's 2017 Climate Change Scoping Plan rejects reliance on "offshore offsets" as a primary means for GHG mitigation. CARB explicitly recommends prioritization of on-site design features to reduce GHG emissions and direct investment in GHG reduction within a project's own region in order to achieve co-benefits. CARB also emphasizes the need for project features that reduce VMT and planning new development with access to affordable transit opportunities:

To the degree a project relies on GHG mitigation measures, *CARB recommends that lead agencies prioritize on-site design features that reduce emissions, especially from VMT, and direct investments in GHG reductions within the project's region that contribute potential air quality, health, and economic co-benefits locally.* For example, on-site design features to be considered at the planning stage include land use and community design options that reduce VMT, promote transit oriented development, promote street design policies that prioritize transit, biking, and walking, and increase low carbon mobility choices, including improved access to viable and affordable public transportation, and active transportation opportunities.

(2017 Climate Change Scoping Plan at p. 152 [emphasis added].)

In addition to its focus on on-site features to reduce GHG emissions and VMT, CARB provides examples of regional investment to reduce VMT that also create jobs and benefit the local economy. These include "local building retrofit programs that can pay for cool roofs, solar panels, solar water heaters, smart meters, energy efficient lighting, energy efficient appliances, energy efficient windows, insulation, and water conservation measures for homes within the geographic area of the project." (2017 Climate Change Scoping Plan at p. 152.) Other examples include "financing installation of regional electric vehicle (EV) charging stations, paying for electrification of public school buses, and investing in local urban forests." (*Ibid.*) Further, the 2017 Climate Change Scoping Plan recognizes that VMT and GHG emissions reductions are an environmental justice issue, as the Environmental Justice Advisory Committee recommended that CARB restrict sprawl and examine regional transportation issues. (*Id.* at p. 25.)

Finally, CARB emphasizes that offset investments cannot merely pay lip service to GHG reduction, but must provide clear evidence of follow through and monitoring to make sure such reductions are achieved: "Local direct investments in actions to reduce GHG emissions should be supported by quantification methodologies that show the reductions are real, verifiable, quantifiable, permanent, and enforceable." (2017 Climate Change Scoping Plan at p. 152.) Only if project design features and regional investments are found "infeasible" should a lead agency consider mitigation through retiring carbon credits. (*Ibid.*) CARB's emphasis on GHG

reductions through on-site features and direct investment within a project's region is an important public policy and environmental justice issue and should not be discarded lightly.

B. Climate Action Plan

The CAP fails to meet CARB's criteria for GHG mitigation as described above. As described in EHL's prior comments on the draft CAP, as an *initial* measure, all GPAs should attain a minimum threshold of VMT reduction, for example, at least achieving compliance with regional RTP/SCS VMT reduction targets. While *after* this, offsets might be considered, the CAP provides only a loose priority system for availability of offsets and sets no criteria for a project's analysis of feasibility of on-site reduction activities or regional direct investment. In fact, the CAP does not even disclose whether or to what extent projects exist in San Diego County that would be candidates for local direct investment. As a programmatic document, the County's CAP should provide clear guidance for subsequent project-specific analyses regarding the availability of local direct investment opportunities. The CAP should also require a clear finding of infeasibility, based on up-front standards, for additional on-site measures before a project moves to local direct investment and a clear finding of infeasibility, based on up-front standards, for local direct investment before moving to more distant or "offshore" offsets.

In addition, the CAP does not provide criteria for GPA projects relying on offsets to demonstrate with substantial evidence that reductions are "real, verifiable, quantifiable, permanent, and enforceable." In fact, the CAP lacks provisions requiring that the County as lead agency be a party to any contract relating to offsets or that clarifying the duties of any entity providing such offsets.

The CAP's loose priority structure would allow a project to move forward with 100% "offshore offsets" with little or no certainty that any would ever be achieved. This failure only serves to deprive the citizens of San Diego County of the economic opportunity brought by local direct investment and the health and air quality co-benefits of on-site GHG emissions reductions and local direct investment. This ignores sound public policy and environmental justice. Further, County roadways could become even further clogged with traffic due to greenfield developments that add GHG emissions and VMT while relying on "offshore offset" projects for mitigation.

C. Newland Sierra Project

The Newland Sierra DEIR repeats and builds upon many of the CAP's failings with allowing 100% "offshore offsets" while polluting San Diego County air and adding to San Diego County traffic congestion in exchange for a vague and unenforceable promise to seek GHG reduction activities across the globe. Newland Sierra fails to account for environmental justice in its analysis, and instead proposes a project that would result in greater sprawl rather than more infill development located near transportation hubs. Also, the use of offsets as an apparent replacement for specified on-site mitigation measures to reduce the Project's GHG emissions impacts contradicts the 2017 Climate Change Scoping Plan's emphasis on VMT reductions in order to "contribute potential air quality, health, and economic co-benefits locally." (2017 Climate Change Scoping Plan at p. 152.) The Newland Sierra Project's proposed offset scheme will not reduce the Project's overall VMT, and therefore cannot provide the necessary co-

benefits to the area's health and economy. The DEIR should require real investment in on-site GHG reductions to "generate real demand side benefits and local jobs." (*Ibid.*) Before resorting to the use of offsets, the Newland Sierra DEIR should consider and analyze the options outlined in the 2017 Climate Change Scoping Plan. Further, the Newland Sierra Project is proposed far from any existing or planned transit infrastructure and fails to provide any meaningful proposal to eliminate long automobile trips necessitated by sprawl development.

Newland's proposal is contrary to the public policy and environmental justice principles emphasized in the 2017 Climate Change Scoping Plan. The Newland Sierra Project would set a low bar for efforts in San Diego County and across the State to reduce GHG emissions by opening the floodgates to greenfield development based on vague and unenforceable promises of developers purchasing carbon credits overseas. CARB's emphasis on GHG reduction through VMT reduction followed by on-site measures and local direct investment sets a path forward for responsible balancing of development and GHG emissions reduction. The net zero concept must not become a paper tiger that shirks California's and San Diego County's commitment and responsibility as leaders in the fight to curb the effects of global climate change. The goal should be a carbon efficient economy *in San Diego*.

Thank you for your time and attention to these comments. Please include them in the CAP's administrative record and the Newland Sierra Project's administrative record, and please provide response to the points raised above. While the public comment periods for both the CAP's DSEIR and Newland DEIR have closed, this important development in State and regional GHG emissions and VMT reduction efforts was not available previously and warrants additional comment and response at this time. As always, we would look forward to collaborating with you on solutions. Please do not hesitate to contact me with questions or comments.

Yours truly,



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