

O-7 California Native Plant Society, San Diego Chapter

Comment Letter O-7

California Native Plant Society

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August 14, 2017

County of San Diego
Planning and Development Services
5510 Overland Avenue
San Diego, California 92123
Contact: Darin Neufeld, Planning Manager

Sent by email to Ashley.Smith2@sdcounty.ca.gov

RE: CNPSSD comments on the Newland Sierra Project, LOG NO. PDS2015-ER-15-08-001; SCH NO. 2015021036. Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDS2015-ER-15-08-001

Dear Ms. Smith,

Thank you for the opportunity to comment on the Newland Sierra (Project) Draft Environmental Impact Report (DEIR). The San Diego Chapter of the California Native Plant Society (CNPSSD) works to protect California's native plant heritage and natural ecology to preserve precious and often threatened resources for future generations. We work closely with decision-makers, scientists, and local planners to advocate for well informed and environmentally friendly policies, regulations and land management practices. Our focus is on California's native plants, the vegetation they form, and climate change as it affects both.

In this project, we support the No Project Alternative and advocate that the proposed General Plan Amendment be rejected. Furthermore, and we believe the DEIR as written is deficient and needs to be revised and recirculated before it and the Project are considered by the San Diego County Planning Commission or the Board of Supervisors. We found serious issues regarding representation of the North County Multiple Species Conservation Program (NCMSCP), with both the data presented for plant species and vegetation and the mitigation of impacts to these two, and with the discussion of greenhouse gases mitigation measures.

These issues are discussed below. In this letter, "we" are CNPSSD, while "I" is the author of this letter, Frank Landis (PhD, Botany). Questions are bold-faced, to make it easier to find and answer them.

North County MSCP issues

To provide context, I am a member of the NCMSCP Steering Committee. Prior to late May 2017, the County did not disclose to the committee that a working draft of the MSCP existed and that it had been circulated to the wildlife agencies. They only disclosed it to us after

O-7-1

O-7-2

O-7-3

O-7-4

O-7-5



Dedicated to the preservation of California native flora

Page 2 of 9

a Public Records Act forced them to disclose the document to Latham and Watkins, after which they provided the steering committee members with copies because it was considered to be "public." As can be seen in Figure 1 below, a screenshot of the document (provided on CDROM), shows that "All Content Is Subject To Change" (emphasis *not* added) in this working draft. It also notes, "[t]his document has not received concurrence from USFWS or CDFW and has not been approved by the County Board of Supervisors," and that substantial changes are anticipated in a wide range of fundamental issues.

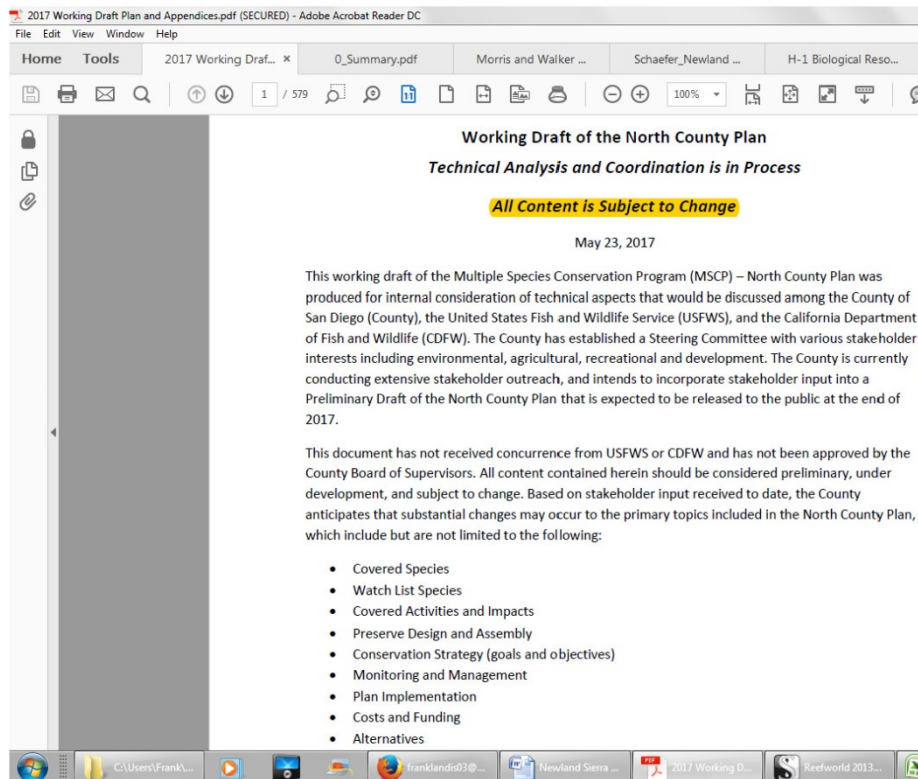


Figure 1. Screen shot of the first page of the May 23, 2017 working draft of the North County MSCP plan.

Within this document, it is noted that "[w]hile the wildlife agencies have not agreed to include this hardline design [Newland Sierra], at the applicant's request, this project is being presented in this chapter..." (Appendix D, p. 483). The basic reasons for including it are that the previous Merriam Mountain proposed development for the site, *which was rejected by the Board of Supervisors*, was listed as a hardline project in the 2008 draft of the NCMSCP, a document that was never approved.

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All of this relates to the statement in the DEIR that "[t]hese connected blocks of habitat create an on-site biological open space preserve of approximately 1,209.1 acres, which has been designated as a proposed hardline area in the draft North County Plan of the County of San Diego MSCP (North County Plan; County of San Diego 2016)" (p. 2.4-1).

Isn't it procedurally improper to claim concurrence with a preliminary draft document that has not even been released to the public and is not supposed to be finalized until 2020, years after the Project theoretically would be approved and break ground (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova 2007*)? How can a document be in accordance with a plan where even the list of species covered by the plan has not been finalized, and designation of the hardline would require rerunning the model and getting approval from both experts and agencies?

O-7-6

Further, it is questionable that the DEIR actually proposes to follow the NCMSCP in protecting listed species and habitats, given the wide gap between MSCP principles and what is in the DEIR. This is particularly apparent with the DEIR treatment of Engelmann oak (*Quercus engelmannii*), of which over two-thirds of the individuals are proposed to be taken, the treatment of coastal sage scrub (two-thirds removed in an area of critical habitat with proposed offsite mitigation by preserving a different plant alliance over twenty miles away) and wetlands (two acres removed without mitigation), all of which appear to conflict with the intent of the NCMSCP. Why was even the 2008 NCMSCP draft not followed in designing avoidance and mitigation?

O-7-7

Finally, the critical question is why the County even gave the appearance of approving this by allowing these statements to appear in the DEIR. It sets a bad precedent, if County staff appear to favor certain developments by including them in plans that are hidden from the relevant steering committees, the public, the Planning Commission and the Board of Supervisors. San Diego County urgently needs good, affordable, sustainable development. We County residents need to trust that County Planning and Development Services works to serve only the interests of the County and all its residents, not special interests. What steps will the County take to insure that it reviews, and is publicly seen to review, this DEIR "in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language" (*Laurel Heights Improvement Assn. v. Regents of University of California (1988)*)?

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Plant and vegetation issues

We found eleven issues with both the analysis of impacts to plants and vegetation.

First, the survey periods were inadequate. The plant surveys were all performed between May 1, 2013 and August 1, 2013. This was during a drought, so annual plants were generally smaller both in size and population number, making them harder to detect and (for small annuals) harder to identify. Worse, May 2013 was well into the dry season, so the surveyors missed annual species that grew in previous months during the rains. Because the surveys stopped August 1, they also potentially missed fall-blooming plants like the state and federally listed Encinitas baccharis (*Baccharis vanessae*). Why were surveys not performed during flowering times of all likely sensitive and listed species, following standard best survey practices?

O-7-9

Second, they admittedly did not survey the entire site. While this is understandable given the amount of old chaparral on the site, it is possible to identify shrubs like summer holly (*Comarostaphylis diversifolia*, CRPR list 1B) and wart-stemmed ceanothus (*Ceanothus*

O-7-10

O-7-11

verrucosus, CRPR list 2B) by their blossoms, if the surveyor is there in the early spring when they are blooming and has binoculars with which to identify the plants. Simple scheduling of a survey during the winter and early spring would have obviated some of the survey problems they experienced. The problem is even worse for the proposed Ramona mitigation site, as noted below.

Third, the plant list is incomplete, and the CNDDDB database is likely inadequate for both the Project site and the proposed mitigation site. One reason for this is that the San Diego Natural History Museum Plant Atlas records no plant collections for either site. While this is unsurprising for private land, it also suggests that no one has done thorough, focused surveys of the flora. Many species could turn up unexpectedly. That has been my experience at Del Mar Mesa, where years of collecting for the Plant Atlas and state records have turned up a number of rare species. There is also some evidence of an incomplete flora. Some time ago I was in the Merriam Mountains, and I noted that some of the scrub oaks appeared to be *Quercus* × *acutidens*, not *Quercus berberidifolia* (I am interested in scrub oaks and did research on them for my master's thesis). Since I did nothing more than walk along a trail and note the oaks growing beside it as I passed by, this suggests that the floristic survey has issues. **Why was the common *Quercus* × *acutidens* not noted? What else was missed? Were any voucher specimens collected to confirm the identity of the plants? Why were there no follow-up surveys in early 2017, after the wet winter?**

Fourth, the vegetation mapping is problematic, as the resource maps in the Biological Resources Report (Figures 2.4-5 A-C and 2.4-9 A-C) are illegible, both in the text designating types of vegetation and in whether colored blobs are circles or triangles. While similar but readable maps exist in appendix H, as we understand the ruling in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007), "[a] report buried in an appendix is not a substitute for a good faith reasoned analysis." This error needs to be corrected when the DEIR is recirculated, because the DEIR was circulated without usable resource maps in the body of the DEIR. **Why was this not caught during the compilation of the document?**

Fifth, a problem with the vegetation descriptions in both the DEIR section 2.4 and Appendix H do not actually list what is present in each community (following state vegetation mapping standards mandated by the legislature in 2007 [California Code, Fish and Game Code - FGC § 1940¹]). At best they list a few dominant plant species. This makes it difficult to determine whether the vegetation will be preserved in the isolated fragments the DEIR proposes, especially in the southern part of the Project site. An example of this is that the southern mixed chaparral is noted as being dominated by chamise (*Adenostoma fasciculatum*). This is unsurprising, but the issue is the chamise is a fire follower, and the chaparral is noted as old. As CNPSSD and others have learned, when patches of old chaparral are isolated, they tend not to burn. This has been observed in the canyons of San Diego, where canyons surrounded by development have experienced at most small, quickly suppressed fires for most of a century. As a result, fire followers such as wart-stemmed ceanothus (which requires fire for seeds to germinate), are disappearing from the canyons. In the Project site, it is easy to conclude that chamise dominated mixed chaparral will experience a type conversion over the coming decades, as the chamise dies out and does not burn. What is far less clear is what will replace it. **Scrub oaks, summer holly, and other obligate resprouters would be acceptable, but do they occur in sufficient numbers in these habitat fragments? That is undocumented. If the dying chamise is replaced by non-native invasive grasses invading increasingly open sites, that both**

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O-7-13

O-7-14

¹ <https://www.wildlife.ca.gov/Data/VegCAMP>, accessed 8/11/2017.

decreases the value of the vegetation as habitat and increases the risk of fire and landslide to surrounding homes and roads. Why wasn't the vegetation mapped to state standard? It is very easy to transpose from the state standard system to the obsolete code still used by the County.

Sixth, the analysis of the proposed mitigation site in Ramona is questionable on three grounds. While it was analyzed in a 12 page memorandum from Dudek, this is buried in subappendix K of Appendix H. As noted above, in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007)*, "[a] report buried in an appendix is not a substitute for a good faith reasoned analysis." The second problem with the analysis of the mitigation site is that it is described as "situated between segments of the Cleveland National Forest and San Diego County Parks land." While this is technically true, it is also technically true that Trabuco Canyon is situated between San Diego and Los Angeles, even though it does little to increase the connectivity of human corridors between these two cities. How does the purchase of a small parcel that is not even within the same watershed mitigate for impacts to the Project site? Where is the analysis of this site within the main body of the DEIR? Why should anyone accept as current field studies that were conducted in 1990-1996 by people who did not write the current analysis? Why is the supplemental visit by one person to map vegetation in December 2016 (how long was that visit?) considered sufficient to determine what plant and animal species use the mitigation site throughout the year? Why didn't the DEIR provide up-to-date, thorough surveys before proposing this (or any) site as mitigation? Why not find a mitigation site in the same wildlife corridor complex and watershed as the project it proposes to mitigate?

Seventh, the treatment of invasive species is inadequate. While it is perfectly reasonable that the plant palette for landscaping should not include known invasives and that weed control should take place along the development margins, what about the invasives already on the site? According to Appendix H, subappendix A, the site already contains known moderate and highly invasive species,² including: Italian thistle (*Carduus pycnocephalus*), star thistle (*Centaurea melitensis*), cardoon (*Cynara cardunculus* ssp. *cardunculus*), cape ivy (*Delairea odorata*), black mustard (*Brassica nigra*), shortpod mustard (*Hirschfeldia incana*), ngaio tree (*Myoporum laevis*), salt cedar (*Tamarix ramosissima*), Mexican fan palm (*Washingtonia robusta*), giant reed (*Arundo donax*), slender oat (*Avena barbata*), wild oat (*Avena fatua*), false brome (*Brachypodium distachyon*), ripgut brome (*Bromus diandrus*), soft brome (*Bromus hordeaceus*), red brome (*Bromus madritensis* ssp. *rubens*), pampas grass (*Cortaderia selloana*), Bermuda grass (*Cynodon dactylon*), purple veldt grass (*Ehrharta calycina*), rattail fescue (*Festuca myuros*), Italian ryegrass (*Festuca perennis*), mouse barley (*Hordeum murinum*), and fountain grass (*Pennisetum setaceum*). Without control, these existing plants will degrade the vegetation, decrease wetland function, increase fire ignition danger, and decrease habitat value for both plants and animals. What will be done to control or eliminate the existing, often highly invasive, exotic plant species already present throughout the site?

Eighth: mountain biking, while ubiquitous, has become a major source of environmental degradation in local wildlands. CNPSSD has heard that over 40 miles of illegal trails have been constructed in Carlsbad Highlands, while 19 miles were constructed in Florida Canyon in Balboa Park. Mountain bikers disturb wildlife, bring in numerous weeds, disrupt vernal pools, and drive away hikers, especially those with small children. Very few mountain bikers actually intend to

² Only species of high or moderate rating by Cal-IPC are listed. Many more plant taxa in the Project, such as castor bean and eucalyptus, have a limited rating. Source: <http://cal-ipc.org/paf/> accessed 8/11/2017.

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cause any harm, but by their presence, occasional carelessness, and failure to take simple precautions like cleaning their bikes regularly to keep off weed seeds, they are the major source of day-to-day damage in San Diego's parks and wildlands. The problem will likely get worse, as increasingly powerful electric bikes blur the lines between mountain bicycles and dirt motorbikes, and make it easier for less physically fit people to hit the trails. Has any effort been made to work with local environmental groups and local mountain bike riders to determine which trails are important and which can be closed? How will the Project address all the impacts mountain bikers bring to the natural resources it claims to protect?

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A ninth critical issue is the treatment of wetlands in the Project. Why does the Project propose permanent impacts to wetlands 3.62 acres of wetlands and 12.55 acres of protected wetland buffers, AND an exemption from the County Resource Protection Ordinance (RPO) to justify them? Why are wetlands losses not avoided or at least appropriately mitigated? Why was an off-site mitigation space that contained appropriate wetlands not chosen? How does the County propose to deal with the federal policy of "no net loss" to wetlands? Why should the Project not comply with the RPO?

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Tenth, fire is a major risk in the Project. Why does the Project propose to plant non-natives in Fuel Modification Zone 1? The County fuel modification zone plant list includes both natives and non-natives, and some of the non-native species are at least mildly invasive. Given the number of wildland fragments the Project proposes, only native plants species that occur both within the Project and on this list should be used in the fuel modification zones. Also, the fuel modification zones themselves should be set back into the development, not out into the preserved lands. The fragments are so small that huge fire breaks encroaching into them will imperil their long-term survival.

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Finally, what are the cumulative impacts to the biological resources from the Project? With loss of wetlands, fragmentation of upland vegetation, loss of connectivity, loss of sensitive species, and unmanaged impacts from mountain bikers and fire clearance, this bit of the PAMA will be shredded. How, in detail, do the Project proponents reconcile the contradictory claims that the Project is consistent with the NCMSCP and that it simultaneously cause so much disruption?

O-7-21

Climate change issues

While we applaud the Project for prescribing solar panels on all the houses, there are three important issues with the way greenhouse gases are to be mitigated which need to be substantially rethought.

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First, why provide natural gas to the Project at all? There are electrical equivalents to all equipment and appliances that could use natural gas, and their cost is roughly equivalent to those powered by natural gas (see below for more explanation). In this project, ALL of the natural gas emissions from piped-in gas could be avoided, as could installation of the pipeline itself. Why is natural gas even supplied to the Project?

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Second, it is not clear that the Project as designed can meet all the needs its solar panels are intended to power. My basis for this is that I recently bought a home in San Diego with the intention of installing solar panels, buying a large battery system, an electric car, and converting the house to run entirely on electricity and mostly from the panels. That, incidentally, is why I know that electric appliances and household systems are the same cost as those powered by natural gas. I spent quite a long time looking for a home with a large south or west facing roof on which to put solar panels, and most of the homes on the market did meet this requirement.

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To cut down on the majority of my greenhouse gas emissions, I plan to buy a Chevy Bolt, which uses one charge of its 60 kWh battery to go 238 miles, or about 4 miles per kWh. My high-end solar panels cover 300 square feet of roof and deliver 20-40 kWh per day (usually around 30 kWh per day). So, if I did nothing but charge my car off my solar panels, I could drive about 120 miles per day.

The problem with the Project site is that it sits in a complex mountain range, and most of the homes sit in a north-south trending valley. Since mountains are opaque, most of the proposed homes would not get a full day's sunlight. The limits on sunlight mean in turn that ALL the houses should have large, south-facing roofs. Given the number of miles the Project residents will have to drive to and from this leapfrog sprawl development, I would suggest that each roof needs at least 300 square feet of south-facing solar panels and likely much more. Moreover, the buildings will have to not shade each other. This gets more complicated with the townhomes and apartment buildings, where most (or all) roofs and carports will have to support panels.

The simplest way to provide this level of solar power is to design the Project from the ground up to maximize the amount of solar energy each building receives. The easiest way to do this is to have the streets run predominately north south or east-west, so that builders can use a few home designs and build them in ranks such that they all have the proper roof orientation and they do not shade each other. It is also essential to limiting backyard and street trees to follow California regulations against shading solar panels (Public Resources Code Division 15, Chapter 12. Solar Shade Control [25980-25986], passed in 1974).

Unfortunately, the proposed Project is typically suburban, with looping streets and small parcels facing every direction of the compass. With the existing design, all houses would have to individually be designed for each space to insure that they had at least 300 square feet of roof facing south. That will drive up costs immensely, making these houses unaffordable to median income households. To do otherwise would be to deprive people of the solar they need to power their homes and especially their electric cars. **Why was the project designed this way if it was supposed to run on solar power and minimize greenhouse gas emissions?**

To put it bluntly: given the physical constraints of the site within the Merriam Mountains, the Project has to be designed from the street map and parcel lines on up to meet its needs with solar energy, and the current design is insufficient. The recirculated DEIR should include simple calculations (as above) to demonstrate how much energy can be expected with whatever design of street and home chosen for this problematic site.

This is not to say that the Project should be off the grid. The impact to be mitigated is that 45 percent of County greenhouse gas emissions come from vehicles³, and cutting these emissions down requires a concomitant increase in the amount of electricity used. It will take a lot of wind and solar to power our transportation system, and building new houses with massive solar arrays to power the owner's vehicles is an essential step.

Third, why aren't the commercial buildings designated for solar power? Solar energy peaks in the middle of the work day, and powering lights and HVAC with solar panels would seem to be a no-brainer.

Fourth, who owns and manages the solar panels on the roofs of townhomes, apartments, and commercial buildings, and how is that power supplied to the tenants?

³ County of San Diego Climate Action Plan, http://www.sandiegocounty.gov/content/sdc/pds/ceqa/Climate_Action_Plan_Public_Review.html, accessed August 13, 2017

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This could easily be spelled out in the mitigations, so that ownership is not disputed and the terms of power sale to tenants is easy to negotiate.

Fifth, the strategy for purchasing offsets needs to be further refined. I am somewhat familiar from the Climate Action Reserve from previous work. Currently, they have one project in southern California, the reforestation project at Cuyamaca Rancho State Park (CRSP)⁴. The CRSP project runs for 100 years, not 30 (as prescribed in the Project mitigations as "project lifetime"). The American Carbon Registry apparently does not have any projects in southern California,⁵ while Verified Carbon Standard apparently has no projects in California.⁶ CNPSSD had serious issues with the CRSP General Plan update a few years ago, met with their staff, and used a Public Records Act Request to better understand the CRSP reforestation program from boxes of documentation, the things to know about it are that it was designed primarily to reforest CRSP after the Witch Fire, that the offsets were described to us as a vehicle for large corporations to invest in reforesting the park during the Schwarzenegger administration, and we were told it was *not* regarded as a good investment either in financial terms or in terms of sequestering a given amount of carbon in a given time. It appeared to be charity masquerading as investment. We had issues with the way this was handled procedurally within State Parks, not with investing in the park system, and we hope the reforestation succeeds. Nonetheless, it reportedly is a bad investment if the goal is to get carbon out of the atmosphere and keep it out.

The general problem with sequestering carbon in southern California is that we experience frequent droughts and high temperatures, both of which mean that our wildlands accumulate less biomass per acre (and thus less carbon per acre) than do forests in northern California, especially forests dominated by redwoods, douglas-fir, and other tall trees. There are other problems (such as invasive bark beetles and increased fires) that make our forests even more risky investments going into the future.

An additional problem is the SCAQMD mandate of a project life of 30 years. When dealing with forestry, the time between successive cuts of a tree farm, at least in the Pacific Northwest, is between 40 and 100 years.⁷ Having an offset that runs only 30 years means that the trees are protected for only 30 years, then cut. In other words, *any forestry operation in California could claim to sell 30 year carbon offsets*, because they would cut their trees every 50-60 years. This being the case, why is the DEIR only doing offsets for only 30 years? Why not for at least 100 years, as is used by the Climate Action Reserve?

The offset measures in the DEIR need to be rewritten to deal with the realities of this type of investment. Even if the Project invests in the County, the only current investment is the 100 year project at CRSP, and that seems likely to not meet its carbon sequestration goals. If carbon offsets are to be used as viable mitigation strategy, they need to be redesigned from the ground up, with sufficient detail that we can trust that the investments made will actually take the designated amount of carbon out of the atmosphere and keep it out until global atmospheric CO₂ concentrations are stabilized. To otherwise jeopardizes the Project and all of San Diego.

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⁴ <https://thereserve2.apx.com/myModule/rpt/myrpt.asp>, accessed August 11, 2017. Note that some scrolling is required.

⁵ <https://acr2.apx.com/myModule/rpt/myrpt.asp>, accessed August 11, 2017.

⁶⁶ <http://vcsprojectdatabase.org/#/home>, accessed August 11, 2017.

⁷ <https://www1.udel.edu/johnmack/frec424/424lec16.html> and http://www.oregonloggers.org/Forest_About_FullCycle.aspx, accessed August 11, 2017.

Page 9 of 9

Conclusion

The Newland Sierra Project is both unready for reality and problematic for the County. That is why CNPSSD supports the No Project Alternative and no General Plan Amendment on this version of the Project and advocates that the DEIR go back for a thorough rewrite and recirculation if the Project proponents are serious about building anything in the Merriam Mountains.

The general problem with solar power at this time is that it cannot be an afterthought to building design, any more than carbon mitigation can be. It is totally reasonable and laudable to install solar panels on every building in a development, but if these panels are to be anything more than expensive decorations, the development needs to be designed to maximize solar power from the streets, parcel lines, house designs and street tree palette up. That's just the way solar power works: it's not as versatile as fossil fuels, which is why we've generally avoided using it until climate change now forces us to do it or else. Similarly, the market for carbon offsets is much more complicated than the writers of the DEIR appear to know. Carbon offsets are a worthwhile investment, but it needs its own plan and analysis, not just a few lines of high-sounding and unworkable mitigations. Unfortunately, the existing design is just another subdivision, with solar added as an afterthought in an attempt to gain regulatory approval.

The Project site can be charitably described as suboptimal for a large development. This is not just about solar panels, it is about traffic jams, fire, and the destruction of a large area of valuable wildlands, all mixed into one unending mess for the County to deal with in perpetuity.

There are good scientific and managerial reasons to leave this site undeveloped. From the conservation perspective, large blocks of wildlands are better able to support working ecosystems, and having these large blocks connected to each other via wildlife corridors enables organisms to move and adapt as they need.

The same is true for human habitats. It is cheaper, easier, and healthier to have people clustered, so that they can walk to the grocery store instead of getting on the freeway, so that specialty businesses and arts districts have the people to support them. Newland Sierra is the exact opposite of this: people will have to drive, and drive, and drive, for everything they need except perhaps a place to sleep, get gas, and walk their dogs. Fragmented, leapfrog developments like Newland Sierra cause more problems than they solve, and the County was right to avoid them in the 2011 General Plan update. We urge the County to not amend the plan to favor Newland Sierra.

Thank you for the opportunity to comment on the FCI GPA. If you have any questions, comments, or concerns, please contact Frank Landis at 310-883-8569 (cell) or conservation@cnpsd.org. Please keep us informed of all future announcements, meetings, and documents related to this project.

Sincerely,



Frank Landis, PhD (Botany)
Conservation Chair,
California Native Plant Society, San Diego Chapter

O-7-28

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