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Comment Letter RO4

ENDANGERED HABITATS LEAGUE
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

EHL

March 27, 2018

Ashley Smith
Dept of Planning and Development Services
5510 Overland Ave Suite 310
San Diego, CA 92123

RE: Recircuated DEIR for Harmony Grove Village South

Dear Ms. Smith:

Endangered Habitats League (EHL) opposes this project, which is a piecemeal amendment of General Plan. We find no reason to defeat the fine land use balance that the General Plan represents. RO4-1

The new GHG analysis adopts the approach of the recently adopted Climate Action Plan (CAP) and its EIR. By incorporating a pernicious carbon offset scheme instead of better land use planning and vehicle miles traveled reduction, and by supplying an accompanying threshold of significance, the Department's CAP targets the historic "smart growth" 2011 General Plan Update for dismantling. The Lilac Hills Ranch DEIR contains all the faults under CEQA inherent in his flawed approach.

Regarding the two GHG mitigation measures:

- The prioritization scheme is a sham. No criteria or methods are provided for determining when carbon offsets move from local to national to offshore. It is a hierarchy without meaning or accountability. Is "feasibility" involved, and if so, how? RO4-2
- Because the County has no access to a company's internal balance sheets, no means or standards to determine an adequate profit margin, and no history of ever retaining an independent development economist to expertly sort through these issues, the prioritization will actually depend on an applicants' own financial representations, which are likely to be self-serving and not subject to meaningful verification.
- There are no tests, methods, or standards for determining if a proposed offset is beyond what is otherwise required by law. And beyond that, there are no tests, methods, or standards for determining whether the GHG reduction would have otherwise occurred *absent* the "offset," and thus actually be "additional." If a

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Response to Comment RO4-1

The County acknowledges these introductory comments; however, they do not raise an issue concerning this Revised DEIR pursuant to CEQA Guidelines Section 15088.5(c). Your opposition to the Project is noted.

Response to Comment RO4-2

The revised greenhouse gas (GHG analysis is consistent with CEQA requirements uses. It is assumed that the comment is referring to the Harmony Grove Village (HGV) South Project, not the Lilac Hills Ranch project as mentioned.

The County disagrees that requiring offsets to net zero for any Project elements that exceed current General Plan land use designations is in conflict with the 2011 General Plan. Please see the Global Responses to General Plan/Community Plan CEQA Impact Analysis regarding the County's discretion to amend documents as appropriate, and the Global Responses to Project Consistency with General Plan Policy LU-1.4 regarding the appropriateness of proposing a village extension in accordance with the 2011 General Plan standards. Please also see the Global Responses to Regional Plan Conformity. Each of these global responses is located in Chapter 8.0 of this Final EIR (FEIR). Specifically with regard to VMT, please also see Response to Comment RO4-5, below in this letter.

This comment also identified issues associated with prioritization of locations for offset credit purchase, concerns over private data related to profit margins, determinations of whether a proposed offset is beyond what is otherwise required by law, and the nature of "additional" offsets. The comment contends that there is no evidence that any of the qualified offset programs listed in the RDEIR are capable of ensuring that offsets are "additional." This omission is said to be of a particular concern given the ability to purchase international offset credits. As required under Project Mitigation Measures M-GHG-1 and M-GHG-2, however, there are specific performance standards and requirements that must be adhered to by the Applicant. The carbon offsets to be purchased to reduce GHG emissions shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions as set forth in Cal. Health & Saf. Code Section 38562(d)(1). Of importance to the current issue is that a

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	carbon offset credit is clearly defined to mean the past reduction or sequestration of one metric ton of carbon dioxide equivalent that is “not otherwise required” (CEQA Guidelines section 15126.4[c][3]). This means that preservation has not already been guaranteed for resource, resulting in GHG benefits already occurring. As part of the required mitigation, carbon offsets shall be purchased through a CARB-approved registry, such as the Climate Action Reserve, American Carbon Registry, or Verified Carbon Standard, or any registry approved by CARB to act as a registry under the State’s cap-and-trade program. If no CARB-approved registry is in existence, then the Applicant or its designee shall purchase off-site carbon offset credits from any other reputable registry or entity to the satisfaction of the Director of PDS. The CAP, adopted by the County on February 14, 2018, requires the County to use CARB-approved registries, such as the Climate Action Reserve, Verified Carbon Standard, and American Carbon Registry (see CAP SEIR Section 2.7.5.1) The comment is incorrect in stating that there is no prioritization with respect to determining how offsets move from local to national to offshore. Mitigation measure (M-GHG-2) specifically states: *The County will consider, to the satisfaction of the Director of PDS, the following geographic priorities for GHG reduction features, and off-site carbon offset projects: (1) Project design features/on-site reduction measures; (2) off-site within the unincorporated areas of the County of San Diego; (3) off-site within the County of San Diego; (4) off-site within the State of California; (5) off-site within the United States; and (6) off-site internationally.* The Mitigation Measure describes criteria based upon geographic priorities. The first focus is Project design features/on-site reduction measures. International offsets are last on the geographic hierarchy and would only be allowed, if, to the satisfaction of the Director of PDS, the other options in the order of hierarchy are not feasible. This geographic hierarchy is consistent with the 2017 Climate Change Scoping Plan (November 2017, page 102). CARB recommended that lead agencies prioritize on-site design features and direct investments in GHG reductions in the vicinity of a project to help generate real

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	demand side benefits and local jobs. However, CARB also recognized that it might be appropriate to mitigate a project's emissions through purchasing and retiring carbon credits issued by a recognized and reputable, accredited carbon registry when on-site measures or regional investments are infeasible or non-effective (page 137). However, regardless of where such offsets are purchased, the offset credits must meet the performance standards stated above, "real, permanent, quantifiable, verifiable, and enforceable" as defined in Cal. Health & Saf. Code Section 38562(d)(1); with carbon offset credit being defined to mean the past reduction or sequestration of one metric ton of carbon dioxide equivalent that is "not otherwise required" per CEQA Guidelines section 15126.4(c)(3). Please also refer to the Global Responses to Carbon Offsets in Chapter 8.0 of this FEIR.

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Comment Letter RO4 forest would not otherwise have been cut down, there is no GHG benefit to "saving" it. RO4-2 • Application of the hierarchy and offset purchases will occur at the building permit state, after the project is approved. There will be no public input or CEQA process; it is wholly a staff determination. Absent set performance standards and criteria for feasibility, for additionality, etc., the offsets scheme constitutes deferred mitigation. RO4-3 • Studies have soundly discredited carbon offsets, showing them to be ineffective in the first instance and lacking enforcement thereafter. Even the most sophisticated offset programs have failed. A 2016 report prepared for the EU Directorate General for Climate Action concluded that nearly 75% of the potential certified offset projects had a low likelihood of actually contributing additive GHG reductions, and less than 10% of such projects had a high likelihood of additive reductions. See enclosures: Institute of Applied Ecology, *How additional is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives*, March, 2016, at 11; *Carbon Credits Likely Worthless in Reducing Emissions, Study Says*, Inside Climate News, April 19, 2017.) Partly in recognition of these flaws, offsets are typically permitted to constitute only a very small part of an overall emission reduction program—for example, California's cap and trade program allows no more than 8 percent reductions come from offsets. There is simply no evidence that the undefined, unenforceable offsets proposed by the DEIR will cause any meaningful reduction to mitigate the permanent increase in GHG caused by the proposed sprawl development. Scams did not end with snake oil salesmen. What is the County's budget for inspecting offsets in distant parts of the nation or globe? If the offsets go awry, the County may never know, let alone be able to effect a remedy on distant soil or exact alternative measures from a developer long exited from the project. • As a practical matter, carbon offsets will *not* be available locally. The DSEIR admits that *no* local "off the shelf" carbon registry projects are ready for use. Furthermore, the County's own Direct Investment Program will likely consume all future local credits for its own use. Thus, offsets for GPAs will have to be in more distant and far less accountable locations. • The use of a 30-year project life span does not correspond with the reality that people will live in homes and GHGs will be emitted by the project far beyond 30 years. RO4-4 • The DEIR asserts consistency with San Diego Forward but fails to actually analyze the impact of its huge auto trips on the RTP/SCS, which does not include this project. The RTP/SCS calls for an approximate 15% reduction in vehicle RO4-5	**Response to Comment RO4-3** This comment expresses concerns over the lack of public review of the purchase program and lack of County elucidation of set performance standards and criteria for feasibility, additionally, etc. Please see the Global Responses to Carbon Offsets in this chapter of this FEIR. The comment also states that offsets constitute deferred mitigation. The County disagrees. Projected HGV South GHG emissions were modeled based on a thorough Project description (see Chapter 1.0 of the EIR), and in accordance with industry standards by qualified technical professionals. As stated in Project mitigation measure M-GHG-1, purchase and retirement of credits for the full offset for construction-period emissions would occur prior to issuance of the first grading permit. Similarly, and consistent with mitigation measure M-GHG-2, prior to issuance of building permits for each implementing Site Plan, purchase and retirement of carbon offsets for the incremental portion of the Project within the Site Plan in a quantity sufficient to offset, for a 30-year period, the operational GHG emissions from that incremental amount of development to net zero, must be documented to have occurred. There is no deferral of impact identification and mitigation must occur prior to appropriate action thresholds. Relative to performance standards, please see Response to Comment RO4-2, above. Real: offsets may only be issued for emissions reductions that are a result of complete emissions accounting. They must be permanent and irreversible, quantified through methodology protocols, documented and capable of objective review by a neutral, third-party verifier, enforceable (i.e., legally binding), and additional, as described in Response to Comment RO4-2. **Response to Comment RO4-4** This comment expresses concerns over the efficacy of carbon offsets, whether they will be locally available, and the stated 30-year "project life span" assumed in the offset purchase program. Please see the Global Responses to Carbon Offsets in Chapter 8.0 of this FEIR. With respect to the commenter's concern that the County may not be able to effectively manage or inspect offset credits that are not local in nature, the use of carbon registries will provide a mechanism to ensure credits will actually

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	reduce carbon emissions. The use of such registries to purchase and retire carbon credits enable companies and organizations to invest proactively in projects that will reduce GHG emissions forecasted to occur once the projects are fully implemented. It provides a trusted, transparent resource for companies and organizations, such as land developers, manufacturing facilities, and other large projects, to reduce their carbon footprints in a responsible, consistent and accountable manner. With respect to the assertion that emission trading is unsuccessful, please see "California's carbon market is a big success. Here are the facts" by Erica Morehouse, incorporated herein and available at https://www.edf.org/blog/2016/.../californias-carbon-market-big-success-here-are-fact. As of 2016, California is ahead of schedule in meeting its climate goals. The state's nearly 10-year-old climate program, of which the carbon market is the backbone, initially required a reduction in greenhouse gas emissions to 1990 levels by 2020, 15 percent below where emissions would be without regulation. "But the Golden State is expected to be well below 1990 levels four years from now; emissions have been below required levels every year for which we have data." **Response to Comment RO4-5** This comment voices concern over consistency with the SANDAG Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) incorporated into San Diego Forward (the Regional Plan). Please see the Global Responses to Regional Plan Conformity in Chapter 8.0 of this FEIR. Relative to the comment regarding SANDAG achieving the RTP/SCS reduction in vehicle miles traveled from cars and light trucks, SANDAG was tasked by the California Air Resources Board (CARB) to achieve a 7 percent reduction (from a 2005 base year) in per capita GHGs from passenger cars and light trucks by 2020, and a 13 percent reduction by 2035 relative to emission levels in 2005. Currently, the region would achieve or exceed both reduction targets by implementing its SCS (SANDAG 2015). SANDAG calculations (which were accepted by CARB) stated that it would achieve the region's targets with 15 percent per capita reduction by 2020 and 21 percent reduction by 2035. When SANDAG calculates their vehicle miles travelled, it is based

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	on the current General Plan, and is therefore, as SANDAG describes, a forecast that is a snapshot in time. SANDAG’s forecasts are meant to assist jurisdictions and special districts in their planning efforts. However, SANDAG routinely updates these projections based on land use decisions by all jurisdictions. SANDAG’s Regional Growth Forecast data for population and housing itself includes a note that reads: “This forecast represents one possibility for future growth in the San Diego region. It is intended to represent likely prediction of future growth, but it is not intended to be a prescription for growth.” Further, SANDAG’s 2050 Regional Growth Forecast (available on SANDAG’s website at http://www.sandag.org) states: “The purpose of the 2050 Regional Growth Forecast is to provide a starting point for regional planning. The forecast is not intended to be a prescription for future growth. Rather, the forecast is intended to show possible future development patterns based on regional projections and local input.” Local input can change, which would involve consideration by the County Board of Supervisors of any requested General Plan Amendment. SANDAG regularly updates their population projections to reflect changes in jurisdictional land use plans, the regional economy and changes in economy. SANDAG’s SCS, including the forecasted development pattern, is not intended to regulate the use of land, as explicitly provided by the California Legislature when enacting SB 375. Rather, pursuant to Government Code section 65080(b)(2)(K), the SCS does not regulate the use of land; does not supersede the exercise of the land use authority of cities and counties within its region; and, does not require that a city’s or county’s land use policies and regulations, including its general plan, be consistent with it. It is acknowledged that the Proposed Project is not currently included within the Regional Growth Forecast, as it proposes an amendment to the adopted General Plan that provides the land use assumptions used by SANDAG. The County will continue to provide updates to SANDAG relevant to their regional growth forecasts. Should the Proposed Project be approved, staff will provide that information to SANDAG as soon as possible, and potentially with an ability to have it included in Series 14 Regional Growth Forecast (the current forecast SANDAG is developing. It is also noted that SANDAG is on track to exceed the 2020 and 2035 targets specified above. These calculations exceed

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	the targets by approximately 110 and 62 percent, respectively. As described in the cited global response, SANDAG has identified the County General Plan goal of moving 20 percent of future planned growth into western communities as part of the overall regional planning to reduce VMT. The Project is located in the western extent of unincorporated County lands. Location of the Project within the western communities can support reductions of County development in other portions of the unincorporated area. Please also note that SANDAG does assume some growth for this area as the 2035 forecast development pattern map shows General Plan-consistent residential land uses on site. City of Escondido lands abut the southern Project boundary, and developed City uses are less than 0.5 mile from the Project boundary. The City of San Marcos uses are within 2.0 miles to the north and the closest City boundary is approximately 1.1 mile to the northwest. Both of these cities contain shopping, educational and job opportunities, as well as public transit hubs, which provide options for public transit. The boundary of the incorporated city of Encinitas is approximately 4.0 miles westerly, and the northern portions of the City of San Diego along the I-15 corridor, are within approximately 4.4 miles. Most of the jobs are aggregated along the SR 78 corridor, stretching from Carlsbad to Escondido. The Project is also contiguous with HGV. It is in immediate proximity to recreational amenities provided by the County (community parks), paved roads, and HGV additional parks and planned limited commercial. All of these elements, combined with the Project on-site trails and tie-in to other regional trail facilities as shown on EIR Figure 1-17, *Trails and Pathways Plan,* support bike riding and pedestrian activities between HGV South and HGV through connections to the approved HGV multi-purpose trail on Country Club Drive and on-site wide streets with low use rates, sharrows, and pedestrian pathways. Finally, the Project would be "transit ready." A turn out for a future bus stop would be incorporated into the Center House use area, and two HOA-provided electric vehicles would be available for use within the Project and to HGV. These latter two commitments have been incorporated into Project PDFs and are included in the FEIR on Table 1-2, *Project Design Features*, in Subchapter 2.7, and in Chapter 7.0, *List of Mitigation Measures and Project Design*

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	Features. All of these Project elements are anticipated to help with VMT reductions. It is also noted that although no deductions from emissions can be taken given the voluntary nature of the measure (residents can choose to participate or not), the Project would encourage carpooling. As described in Subchapter 2.7 PDFs, "The HOA will provide informational materials on SANDAG's rideshare programs like icommute." Finally, the Project incorporates substantial on-site GHG emissions reduction measures as part of on-site design; as discussed in detail in FEIR Subchapter 2.7 and Section 3.1.1, *Energy*. Although these measures would not always reduce vehicular related emissions, they would contribute to reduction in Project-related emissions. All of these features will support SANDAG in achieving its goals. Specific to VMT, the Project has an average trip length of 7.88 miles, which is consistent with SANDAGs projections. as stated in Subchapter 2.7 of the EIR, and as supported by modelling discussed in Appendix C of EIR Appendix J. Average trip length actually provides the best indication with respect to compliance with the RTP/SCS goals and policies. The Project's VMT rate (7.88) is within the regional average identified by SANDAG. The fact that the trip length is consistent with SANDAG's regional average of 7.9 miles shows that the Project is in fact in an appropriate location for the reasons described above.

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miles traveled from cars and light trucks. How does this high VMT per capita project affect regional VMT reduction goals? RO4-5

Thank you for considering our views.

Yours truly,

Dan Silver
Executive Director

Enclosures

- How additional is the Clean Development Mechanism?
- Carbon Credits Likely Worthless in Reducing Emissions, Study Says

RO4-6

Response to Comment RO4-6

Both of these enclosures are cited in Comment RO4-4. Please see the Global Responses to Carbon Offsets in this chapter of this FEIR.