

California Native Plant Society

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February 17, 2020

Gregory Mattson
San Diego County
Planning and Development Services
Project Processing Counter
5510 Overland Avenue, Suite 110
San Diego, CA 92123
by email to: Gregory.mattson@sdcounty.ca.gov

RE: OTAY RANCH VILLAGE 14 AND PLANNING AREA 19 – PROPOSED PROJECT AMENDMENT, PDS2019-SPA-19-001, PDS2019-STP-19-029, PDS2019-VTM-5616R, and LOG NO. PDS2019-ER-16-19-006A

Dear Mr. Mattson,

Thank you for the opportunity to comment on this draft of the Otay Ranch Village 14 ("Project") proposed project amendment ("Amendment"). CNPS promotes sound plant science as the backbone of effective natural areas protection. 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, on keeping both plants and people safe from damaging fires, and on climate change as it affects both.

We have issues with the way greenhouse gases, wildfire, and plant issues were dealt with in the Amendment. These will be covered in the rest of the letter. To clarify the comments below, they are made in the context of CEQA code (14 CCR § 15162) Subsequent EIRs and Negative Declarations:

“(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

“(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

“(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or



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“(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

“(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

“(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

“(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

“(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.”

Greenhouse Gas Emissions

There are two issues with the amended project. First, the greenhouse gas emissions model has altered significantly, because the project has been redesigned. Second, the legal context under which the original Project was analyzed has been thrown out by Judge Taylor’s ruling. We acknowledge that the County will continue to appeal the ruling as long as it can. However, if history holds, this will be fruitless and the basis for mitigating greenhouse gases in the Project will be held legally inadequate, halting the Project until adequate mitigation can be created.

The issue with the Amendment is that the new design provided an opportunity to “substantially reduce” (per (a)(3)(D) above) the greenhouse gas impacts through decreasing emissions from both building and operating the development. Novel mitigations might have been proposed, such as (for instance) instituting a private shuttle bus between the development and the nearest transit hub, as other developments have proposed.

This appears to be a substantially important new issue that could have substantially decreased emissions. On this basis, we believe that a supplemental EIR should have been written, not this Amendment. Why was this chance to improve the Project’s greenhouse gas footprint not taken?

Wildfire Hazards

The Amendment appears to concentrate development in the most historically fire-prone area in the vicinity (Appendix 2, p. 181). All other things being equal, this would increase the danger from fires to residents. This appears to fall under (a)(3)(B), as wildfire hazards in the Amendment project appear to be “substantially more severe than shown in the previous EIR.”

This appears to be a substantially important increase in an existing problem. On this basis, we believe that a supplemental EIR should have been written, not this amendment. Why was this increase in danger from wildfires not explicitly analyzed and incorporated into the amended Project design?

Impacts to Native Plants and Native Vegetation Communities

The Amendment is based on a map that was not analyzed in any version of the FEIR. The project footprint of the Amendment is different than the main FEIR, and smaller than the alternative version approved in the FEIR. Given that the Biology section was chopped into 26 separate sections on publication in all versions, it takes an unreasonable diligence to piece together the maps and tables of two separate project outlines (each with 26 separate sections) to determine which parts of which of the two analyses presented apply to the Amendment. Certainly the time given to write a response was insufficient for the effort.

Worse, some sets of data, such as the list of plants affected across the entire project, the number of plants per species affected across the entire project, and the number of acres of sensitive vegetation communities affected across the entire project, are only relevant for each project footprint, as they are sums across acres impacted. These analyses, which are so critical for determining whether mitigations are adequate, cannot be performed without having an accurate Project area, and these analyses were not performed in the Amendment.

Due to the lack of analyses, the native plant impacts are different from those analyzed in the previous EIRs and likely would substantially reduce one or more significant effects on the environment by decreasing or eliminating impacts from some species. Unfortunately, the amendment declined to adopt these mitigations.

Therefore, under (a)(3)(D) above, we believe that a Supplemental EIR should have been created, not the Amendment. Why was the chance properly analyze and mitigate for impacts not taken?

Because of the necessity to mitigate for greenhouse gases, analyze the apparent increased risk of fire, and analyze and change the mitigations for impacts to native plants and vegetation communities, we believe that a supplemental EIR should have been created, not the Amendment. The Amendment as published appears to be deficient for the purpose it is required to fulfill. We strongly urge the County to withdraw it and to publish a supplemental EIR in its place.

Thank you for taking these comments. Please keep CNPSSD informed of all developments with this project and associated documents and meetings, at conservation@cnpssd.org and franklandis03@yahoo.com.

Sincerely,



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