

# California Native Plant Society

San Diego Chapter of the California Native Plant Society, Conservation Committee

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May 17, 2015

Dennis Campbell  
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RE: Otay Ranch Village 13 Master Planned Community-Resort Village: PDS2004-3800-04-003;  
PDS2004-3810-04-002; PDS2004-3600-04-009; PDS2004-3100-5361A & B; LOG NO.  
PDS2004-04-19005; SCH NO. 2004101058

Dear Mr. Campbell,

We appreciate the opportunity to comment on the Otay Ranch Village 13 Master Planned Community-Resort Village ("Project") draft Environmental Impact Report ("EIR"). The San Diego Chapter of the California Native Plant Society (CNPSD) works to protect California's native plant heritage and preserve it for future generations. 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.

We are writing to question this extravagant project's rationale and to point out flaws in the Project's Specific Plan and EIR, including significant, undocumented impacts to sensitive species both intentionally and through mistakes. In our opinion, the burdens and impacts the proposed Project imposes on the County outweigh its proposed benefits. Therefore we urge the County to not certify the current EIR nor to approve the Project in its current form.

Normally CNPSD simply comments on scientific botanical issues. Here though, the Project and EIR report that there will be significant, unmitigated impacts caused by the Project, and these include impacts to native plants from drought, fire, climate change, and sprawl. In this letter, we therefore go beyond simply pointing out technical problems, to advise the County on whether the impacts caused by the Project are justified by the benefits the Project brings to San Diego County as a whole. In our view, they are not, as detailed below.

O-1-1



*Dedicated to the preservation of California native flora*

- O-1-2
- The Project's "Water Conservation Plan" *starts with the assumption that a typical single-family residence water use of 500 gallons per day.*" (Water Conservation Plan, p.2). ***This is almost as high as the 600 gallons/day average water use for Rancho Santa Fe in summer 2014, which was the highest water use in the state.*** In southern California, the average family water use was 119 gallons/day during the same period<sup>1</sup>. The Project's conservation measures bring "outdoor water use" down to 182 gallons per day, so the average residence would use well above 200, perhaps above 300 gallons/day. This would happen during a historically bad drought, with decreased water supplies predicted as the new normal for the indefinite future. CNPS is a strong advocate for using native plants as water wise landscaping, and we try to get close to 0 gallons/day of outdoor water use year-round, even during droughts. This project's idea of water savings conserves only under a glutton's standards, and these are big houses with big lawns. Not only do they appear designed to conspicuously consume water, but common native drought tolerant plants are (illegally) prohibited from being planted, a point that we discuss below. ***We do not think the County should bear the burden of the extravagant water consumption embodied in the Project.***
- O-1-3
- The Project has no plan for commercial development other than the resort, so we assume that everyone living in the Project will have to drive out to their jobs. Furthermore, there appears to be no on-site provision for (presumably low paid) resort workers to live within walking distance of their jobs, nor apparently for public transportation, so workers will have to drive their cars in to work. The County already has issues with meeting California's sustainability and climate change action goals, and we question the need to add more drivers in another suburb. Moreover, many wildfires start along roads. California's native plants are actively threatened by climate change and by fires started along roads as much as humans are, and CNPS wants to reduce the threat to all.
- O-1-4
- The fire plan is questionable at best. It uses a 2004 FireBehave model (Specific Plan Appendix C, p. C-5), and ignores more current research by the USGS to determine the behavior of fires during extreme Santa Ana events<sup>2</sup>, which reportedly cause the vast majority of structural losses during fires. The preliminary findings of the USGS work strongly suggest that fire-safe landscaping is the most useful means for protecting homes from fire. Sadly, the Project proposes only to use fuel modification zones on the perimeter of the Project, creating limited fuel modification zones that will only help during non wind-driven fires, which normally cause no property loss at all. Cal-Fire's fire safe landscaping recommendations<sup>3</sup> appear to be ignored in the specific plan. CNPSSD advocates the use of fire-safe landscaping, and our members have responded to the challenge of wildfires by finding ways to use native plants to create superior fire-safe landscaping, a topic we deal with below.
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- Since these problematic design elements will not only impact the County's native plants, but its ability to supply residents with sufficient water under long-term water supply reduction, meet state sustainability and climate change goals, and protect the Project's

<sup>1</sup> Brennan, Deborah Sullivan. 11/5/2014. Rancho Santa Fe tops water-use list. UT-San Diego. <http://www.utsandiego.com/news/2014/nov/05/environment-water-use-home/>

<sup>2</sup> <http://www.werc.usgs.gov/ProjectSubWebPage.aspx?SubWebPageID=9&ProjectID=226>

<sup>3</sup> <http://www.readyforwildfire.org/landscaping/>

O-1-5  
Cont.

residents from fire, we do not believe that the Project's benefits outweigh the impacts. Certainly the Project impacts native plant interests, the topic of the rest of this comment. Still, CNPSSD members are county residents as well. We do not want our county burdened by an extravagant development, nor do we want to see these people put at risk due to inadequate fire planning, nor do we want to see interminable fights over water usage caused by such an imprudent design. Human and native plant interests are aligned here.

There are problems with the plant lists in Specific Plan's Fire Protection Plan Appendices (Appendix J, pp. 51-56). Despite evidence from landscapers that many local California native plants are as non-flammable as common landscaping plants like rosemary and lantana and take far less water to hydrate<sup>4</sup>, the Specific Plan prohibits the use of native plants on the site, including Engelmann oak (*Quercus engelmannii*), manzanitas (*Arctostaphylos* sp.), California sagebrush (*Artemisia californica*), saltbush (*Atriplex* sp.), baccharis (*Baccharis* species), buckwheats (*Eriogonum* species) deer grass (*Muhlenbergia rigens*), *Penstemon spectabilis*, chaparral pea (*Pickeringia montana*), laurel sumac (*Malosma laurina*), Matilija poppy (*Romneya coulteri*), verbenas species, and yucca species.

O-1-6

This is both potentially illegal and ridiculous. California Assembly Bill AB2104 (2014, Gonzalez) amended Section 4735 of the Civil Code to state that " (a) Notwithstanding any other law, a provision of the governing documents or architectural or landscaping guidelines or policies shall be void and unenforceable if it does any of the following: (1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group or as a replacement of existing turf." If residents of the proposed Project want to rip out their lawns and plant natives in an effort to save water, the HOA is ultimately going to have to follow this law and allow that to happen. Therefore, specific plan should not ban native plants from the landscaping.

It is ridiculous in any case, because many of these prohibited native plants are specifically called out for use in the planting plan given in the Preserve Edge Plan (Appendix 1, p.11). Indeed, many of them are named in the Landscape Palette as well (Appendix I). Appendices I and J collectively say that all palms prohibited (Appendix J, p. 53), while calling out at least seven different palm species for planting (Appendix I). This is despite the fact that palm trees readily catch embers and burn like torches<sup>5</sup>, so from a fire-safe context, they should all be banned from the Project.

CNPSSD's recommendation is to scrap Appendices I and J of the fire protection plan, and to rewrite both documents so that a) they do not conflict with existing California state laws like Section 4735 of the Civil Code, b) they do not conflict with each other, with the Preserve Edge Plan, the mitigation measures proposed in the Biological Resources section of the EIR, and common sense, c) they allow residents to plant fire safe landscaping around their house, d) they promote water wise landscaping, especially with native plants, and d) they exclude all misspellings, outdated names, and repeats. As written they are not only a mess, they will create decades of headaches for landscapers, homeowners, and the HOA alike.

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<sup>4</sup> Rubin, G. and L. Warren. 2013. *The California Native Landscape*. Portland, OR. Timber Press Books. See pp. 327-347 for fire discussion, including how native plant landscapes survived the 2003 wildfires, and pp. 344-347 for discussion of particular native species for use in fire-safe landscaping near homes.

<sup>5</sup> [http://www.youtube.com/watch?v=n7iOu\\_vOHsg](http://www.youtube.com/watch?v=n7iOu_vOHsg)

O-1-7

There are serious issues with the botanical section of the EIR. These include significant, unmitigated impacts, lack of surveys during the growing season for at least one and possibly multiple sensitive species, indeed lack of recent surveys at all. Too much of the report relies on data that are 15 years old.

O-1-8

The EIR incorrectly refers to CNPS plant listings. The proper document to use is CDFW's *Special Vascular Plants, Bryophytes, and Lichens List*<sup>6</sup>. As seen from its title, the list covers vascular plants, bryophytes, and lichens, but the EIR only covers vascular plants, so the botanical surveys are incomplete, and should include focused surveys for bryophytes and lichens. As I (Frank Landis) know from botanizing on Del Mar Mesa, San Diego has sensitive species in both of these groups, and both are likely to be living within the Project boundary. Impacts to them should be mitigated as well. Specific botanical issues are listed below:

O-1-9

- **There are unmitigated, significant impacts to Nuttall's scrub oak (*Quercus dumosa*), a CDFW list 1B rare plant.** In the Biological Resources section (p. 2.3-3), doubt was raised over whether the *Quercus dumosa* onsite was correctly identified, based on a 2012 literature review<sup>7</sup>. Due to this question, no mitigation was made for Nuttall's scrub oak in the project.

This was almost certainly in error. The literature on Nuttall's scrub oak has issues, and the idea that it grows "almost always within sight of the ocean" can be readily disproved. That is what I (Frank Landis) did. The San Diego Plant Atlas, a free online resource from the San Diego Natural History Museum herbarium ([www.sdplantatlas.org](http://www.sdplantatlas.org)), contains a resource for mapping where their specimens came from (<http://www.sdplantatlas.org/GMap/GMapSpeciesMap.htm>). Of the 62 Nuttall's scrub oak specimens they curate, two were collected east of the project site (specimens 79441 and 180320). Since I am quite familiar with Nuttall's scrub oak, as I see it every week on Del Mar Mesa and I do have a botany PhD, I went to the SDNHM herbarium to check specimens 79441 and 180320. Both are undoubtedly Nuttall's scrub oak, and that identification was confirmed (as noted on each specimen sheet) for 180320 by Dr. Jon Rebman, head of the herbarium and a leading expert on San Diego's flora, and for 79441 by Dr. Kevin Nixon, the oak expert who created the modern name of *Quercus dumosa* and wrongly described it as growing within sight of the ocean<sup>8</sup>, despite having this specimen to hand. Scientists are not infallible, and the true range of Nuttall's scrub oak is a subject of active research. The best information to date is the online map available from the SD Plant Atlas.

Because of the herbarium specimens, I can confidently state that the Project site is within the physically documented range of Nuttall's scrub oak, as the Project site is west of the easternmost documented and confirmed locations for this species in southern San Diego County. Thayer (2012) was an inadequate reference for excluding them from mitigation.

If there is further dispute over the identity of the Project's oaks, the proper solution is to send out a qualified botanist with a CDFW sensitive plant collection permit, have this scientist collect specimens of the oak in question, identify them with help from local experts,

<sup>6</sup> California Department of Fish and Wildlife, Natural Diversity Database. April 2015. Special Vascular Plants, Bryophytes, and Lichens List. Quarterly publication. 125 pp.

<sup>7</sup> Fryer, Janet L. 2012. *Quercus berberidifolia*, *Q. dumosa*. In: Fire Effects Information System, [Online]. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Available: <http://www.fs.fed.us/database/feis/>

<sup>8</sup> [http://www.efloras.org/florataxon.aspx?flora\\_id=1&taxon\\_id=233501023](http://www.efloras.org/florataxon.aspx?flora_id=1&taxon_id=233501023)

and deposit the specimens at the SDNHM herbarium so there are publicly available reference specimens in case the question arises again. As an aside, the 2000 surveys of the Project site involved Fred Roberts, a well-known and extremely respected botanist and oak expert who literally wrote the book on southern California oak identification.<sup>9</sup> The attempt to discredit numerous field observations by qualified botanists like Fred is questionable at best.

O-1-9  
Cont.

***Based on the available physical evidence, the County must assume that the Nuttall's scrub oak on the project site have been correctly identified, that the significant impacts to them have not been mitigated, and that these impacts need to be mitigated before the Project can be considered for certification. Following the Draft Otay Ranch Phase 2 Resource Management Plan, we urge the County to mandate preservation of 75% of the Nuttall's scrub oak population in situ. If another goal is chosen, what is the County's reasoning and plan to preserve this population of one of the rarest oaks in California?***

O-1-10

- **Lack of surveys for sensitive bryophytes and lichens.** Species such as "the rarest lichen in California," *Texosporium sancti-jacobi*, may well occur on the project site, as might *Catillaria glauconigricans*, which is currently only known in California from the bark of Nuttall's scrub oak on Del Mar Mesa. CDFW should be consulted for advice on how to proceed, both with surveys, impacts and possible mitigation.

O-1-11

- **Lack of up-to-date surveys.** The most recent plant and vegetation surveys were performed in 2009, and the EIR uses data on annual plant populations from 2000 as if they are current. CNPSSD urges the County to mandate focused sensitive plant surveys in the proper season before the EIR is certified, since it is based on data more than five years old.

O-1-12

- **Under-mitigated impacts to Sensitive Plants.** How does the following statement make sense?: "The habitat created pursuant to the Conceptual Upland Restoration Plan must be placed within an open space easement dedicated to the County of San Diego prior to or immediately following the approval of the Conceptual Upland Restoration Plan" (p. 2-3.38) This is gibberish, as it says the actual restoration has to be completed before the conceptual plan for how to create the actual plan is approved. Yet this is as far as the Project proponents are willing to go to actually restore plants that are taken by development, except for hiring a site manager afterward. If the restoration fails because it was installed before the plan was completed, that appears to be too bad, because there's also no penalty for failing to make the goals laid out in the Conceptual Plan. ***CNPSSD asks that the mitigations, especially M-BI-1d, be rewritten so that the planning precedes development, a real (non-conceptual) plan is in place before restoration is undertaken, materials are secured from populations on-site to the extent possible, and there are real penalties for failure to meet restoration targets, along with provisions for replanting.***

O-1-13

Due to the problem with M-BI-1d listed above, the following sensitive plant species are not preserved to the Standards of the Otay Ranch RMP Percent Preservation Required:

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<sup>9</sup> Roberts, Fred M. Jr. 1995. *The Oaks of the Southern Californian Floristic Province*. Encinitas, CA. F.M. Roberts Publications. 112 p.

O-1-13  
Cont.

Species	CDFW Rank/ County List	Percent Preserved in Project*	Percent Preservation required by Otay Ranch RMP	Difference
San Diego goldenstar ( <i>Bloomeria clevelandii</i> )	1B/A	41%	54	-13%
Western dichondra ( <i>Dichondra occidentalis</i> )	4.2/D	40%	50%	-10%
San Diego barrel cactus ( <i>Ferocactus viridescens</i> )	2.1/B	47%	75%	-28%
San Diego marshelder ( <i>Iva hayesiana</i> )	2.2/B	47	75	-28%
Little mousetail ( <i>Myosurus minimus spp. apus</i> )	3.1/C	0%	75% if it is extant	-75%
California adder's tongue ( <i>Ophioglossum californicum</i> )	4.2/D	0%	75% if it is extant	-75%
Munz's sage ( <i>Salvia munzii</i> )	2B/B	65%	46%	-19%
Ashy spikemoss ( <i>Selaginella cinerascens</i> )	4.1/D	0%	50%	-50%

\*This percentage assumes that data collected as far back as 2000 is currently correct. The shortfall may be substantially higher.

These sensitive species deserve better protection than they get under the existing mitigation. What additional measures will the County and Project Proponents take to meet the standards of the RMP?

O-1-14

***Of particular concern is the San Diego golden star, a list 1B plant, San Diego barrel cactus, Munz's sage, a List 2B plant. As with the adolphia (M-BI-8) and the Nuttall's scrub oak, the mitigation plan needs to set forth explicit measures to insure that these rare and sensitive plants are properly mitigated, and not inadvertently left of a landscaping palette or otherwise conveniently ignored.***

O-1-15

Similarly, coastal sage scrub and southern willow woodland vegetation communities are not preserved in the Project to the percent preservation required by the Otay Ranch RMP Phase 2. Coastal sage scrub, at 66% preserved (Appendix G of Biological Resources Technical Report), reaches the mandated 70% goal by third-party purchase of outside other lands in Otay Ranch. Floodplain Scrub (FS), Southern Willow Scrub (SWS), Freshwater Marsh (FWS) collectively are 85% preserved on the Project Site, and also rely on third-party purchases of land outside the Project to reach the 95% preservation mandated by the Otay Ranch RMP. **In both these cases, the off-site mitigation lands and purchasers need to be**



O-1-15 | **identified before the Project breaks ground. Otherwise, this mitigation is incomplete,**  
Cont. | **and there are unmitigated impacts to these sensitive communities.**

- **Vernal pool mitigations do not obviously meet RMP goals.** Since option 2 of M-BI-7 essentially "buys an indulgence" by paying money into a vernal pool mitigation bank, where the recipient pools are not identified (if they exist at all), ***CNPS strongly advocates option 1, performing mitigation onsite.***

Additionally, Appendix G of the Biological Technical Report presents some confusing language about how the Project "is designed to preserve 95% of large or high value vernal pool complexes and 95% of all other vernal pools" because "70% of all vernal pools will be preserved. 100% of high value vernal pool complexes will be preserved" (page G-2). This makes little sense, especially in context with the proposed mitigation measures in the main body of the EIR. ***The EIR needs to clarify what measures are being undertaken to meet Otay Ranch RMP goals for vernal pools on the Project property.***

O-1-16

Finally, the Biological Resource section lists "soft chess (*Bromus hordeaceus*), narrow-leaved filago (*Filago gallica*), broad-leaved filaree (*Erodium botrys*), fascicled tarplant (*Deinandra [Hemizonia] fasciculata*), and doveweed (*Eremocarpus setigerus*)" as vernal pool indicator species. These are all annual grassland species not associated with vernal pools, and soft chess, narrow-leaved filago, and broad-leaved filaree are non-native invasives. This paragraph needs to be updated by someone who knows which of the species listed are indeed vernal pool indicators. In general, plant scientific names need to be brought in line with current taxonomy, ideally using a single reference like the second edition of *The Jepson Manual*. As it is, they are a mingling of plant names from the last 20 or 30 years, and it is even worse when the plant palettes of the Specific Plan are taken into account.

O-1-17

- **Ashy spikemoss is impacted without mitigation.** Despite the fact that the presence of ashy spikemoss was noted on page A-1 of the plant list (Appendix A, Vascular Plant Species Observed in the Project Area), somehow it disappeared from the EIR. This mistake must be remedied.

***The Otay Ranch RMP Phase 2 mandates 50% preservation of Ashy spikemoss. Habitat preservation and (if necessary) mitigation measures must be created and undertaken to preserve this plant.***

O-1-18

- **Surveys for California adder's tongue were undertaken in the wrong season.** Years of trying unsuccessfully to collect this plant on Del Mar Mesa has taught me that it is only aboveground during a brief window between December and late February, especially now with the bizarre rainy seasons. It's entirely possible that the reason it has not been seen in so many years is that no one has surveyed the Project site at the proper time, as mandated by CEQA. ***Since California adder's tongue is not the only species that is present during winter rains, there need to be additional sensitive plant surveys in winter 2015, to determine if California adder's tongue and other plants (such as little mousetail) are indeed present on the project site.***

O-1-19

- **Absence of Engelmann oak, singlewhorl burrobush, and Dunn's mariposa from sensitive plant surveys.** The SDNHM herbarium contains a specimens of sensitive species

on or adjacent to the Project lands that are not included in the Biological Resources Report. Has any attempt been made to insure they are not on the Project? These include:

- Singlewhorl burrobush (*Ambrosia monogyra*, List 2B.2) collected on Otay Lakes Road in 2005.
- Dunn's mariposa (*Calochortus dunnii*, List 1B.2). This species occurs south of the Project on preserve lands, and an unknown *Calochortus* species is listed in the flora.
- Engelmann oak (*Quercus engelmannii*, list 4.2) collected in 1940 on the edge of Otay Lakes Road (specimen 28307), on the boundary of the Project. Given that the species is also on the Specific Plan prohibited list of plant species and that impacts to the Nuttall's scrub oak were mishandled, we suggest that the Project Proponents at the very least allow Engelmann oak to be planted on the site again, if it is not still there and somehow misidentified.

O-1-19  
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Overall, the Specific Plan for the Project describes a planned community that puts an unfairly large burden on the County. It seems a throwback, designed for the 1980s or 1990s, when energy was cheap, surplus water was available, climate change was not on everyone's mind and the 2003 fires hadn't happened. It is poorly designed for 21st Century realities. If built as proposed, it will be a continual drain on the County's resources, as well as the source of potential tragedies during Santa Ana-drive wildfires. Furthermore, the Project's draft EIR contains major errors and omissions in its treatment of sensitive plants and sensitive plant communities. These must be fixed before the draft EIR is certified. Due to these many and serious shortcomings, we ask that the County not certify the EIR presented nor approve the Project.

CNPSSD appreciates the opportunity to comment on this project. Please keep us informed of all subsequent documents, hearings, and decisions on this and any related projects.

O-1-20

Sincerely,



Frank Landis, PhD (Botany)

Conservation Chair

California Native Plant Society, San Diego Chapter