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June 17, 2009

Mitra Mehta-Cooper, Principal Planner
General Plan Advisory Committee
Riverside County Planning Department
4080 Lemon Street, 9th floor
Riverside, Ca. 92501

**Re: Lakeview/Nuevo Northeast Agriculture Conversion Policy Area
Meeting June 18th at 9 am**

Dear Ms. Mehta-Cooper,

The California Department of Fish and Game (Department) understands that the General Plan Advisory Committee (GPAC) will be meeting to discuss the Lakeview/Nuevo Northeast Agriculture Conversion Policy Area. We wanted the GPAC members to be aware of our concerns in regards to development in this area. Please see the attached comment letter prepared by the Department in response to The Villages of Lakeview Draft Environmental Impact Report. This letter details our concerns regarding potential project impacts on the Western Riverside Multiple Species Habitat Conservation Plan MSHCP and to our adjacent San Jacinto Wildlife Area lands.

Thank you for providing this opportunity to comment. If you have any questions, please call me at (949) 458-1754.

Sincerely,

Leslie MacNair
Staff Environmental Scientist

cc: Eddy Konno, CDFG, Bermuda Dunes



April 15, 2009

Mr. Matt Straite
County of Riverside Planning Department
4080 Lemon Street, 9th Floor
P.O. Box 1409
Riverside, CA 92502-1409

**Re: Draft Environmental Impact Report No. 471, SCH# 2006071095
The Villages of Lakeview Specific Plan No. 342, GPA 720 & 721**

Dear Mr. Straite:

The Department of Fish and Game (Department) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the above-referenced project concerning impacts to biological resources. The Department is responding as a Trustee Agency for fish and wildlife resources [Fish and Game Code sections 711.7 and 1802 and the California Environmental Quality Act Guidelines (CEQA) section 15386] and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Streambed Alteration Agreement or a California Endangered Species Incidental Take Permit (Fish and Game Code Sections 2081 and 2080.1).

The proposed project is a specific plan covering 2,800 acres in the Lakeview/Nuevo area, west of the City of San Jacinto in Western Riverside County. The project site is located on the north and south side of the Ramona Expressway and includes a portion of the Lakeview Mountains. A portion of the project is adjacent to the State of California's San Jacinto Wildlife Area (SJWA) and the San Jacinto River. Further west is the Bernasconi Hills and Lake Perris. To the northeast is Mystic Lake. The project is a master planned community consisting of a mix of residential and commercial uses, schools, parks, open space, trails and conservation. The plan establishes the maximum number of dwelling units (11,350), the maximum square feet of non-residential development (500,000 sq. ft.) and the various types of amenities and infrastructure.

Existing uses on the site include irrigated and dryland farming, a poultry ranch, a Metropolitan Water District aqueduct and basin, a horse farm, an abandoned RV park and less than 10 residences.

Issues of Concern

On August 8, 2006 the Department and the US Fish and Wildlife Service (USFWS) sent a letter responding to the project Notice of Preparation. In this letter the following Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) issues were raised: the project's consistency with Constrained Linkage 20, the location of the proposed wildlife corridor, and a road that would cross the area proposed for Constrained Linkage 20. The letter also expressed concern about the proximity of the development to the San Jacinto Wildlife Area.

The Department is concerned with the direct and indirect impacts from residential and commercial development adjacent to the SJWA. The wildlife area is used for passive recreation, bird watching, upland and waterfowl hunting and is habitat for the endangered Stephen's

water quality, protection of sensitive biological resources, increased management costs and a potential conflict with upland hunting and dog training.

Biological Resources on Site

The project site has been extensively surveyed for biological resources. Particular species of concern include: San Jacinto valley crownscale, (*Atriplex coronata* var *notatior*) Los Angeles pocket mouse (*Perognathus longimembris brevinasus*), Stephen's kangaroo rat (*Atriplex coronata* var *notatior*) and numerous other species of special concern. Impacts to "natural" riparian resources are 0.10 acres. Vegetation in the Lakeview Mountains consists primarily of chamise chaparral (650 acres), Riversidean sage scrub (289 acres) and other plant communities. An alkaline playa (0.10 acres) is located in the northwest portion of the site. There are approximately 352 acres of disturbed/developed habitat in the project area.

The SJWA is a 9,000 acre Wildlife Area located north and west of the proposed project site. It provides upland and wetland habitat for many sensitive species, including numerous vernal pool and alkaline soil species. The SJWA is a key link in a wildlife corridor stretching from Lake Perris to the Badlands. It is also a key duck hunting and wildlife viewing area. Seasonal upland game hunting is allowed within the SJWA and the Lake Perris State Recreation Area. In addition to hunting, the SJWA is a known destination point for local and regional bird watchers.

MSHCP Issues

The proposed project is within subunits 1 and 2 of the Lakeview/Nuevo Area Plan of the MSHCP. It impacts Criteria Cells 2161, 2252, 2253, 2254, 2255, 2258, 2259, 2355, 2356, 2357, 2451, 2452, 2453, 2556, 25576 and 2558. The project is located adjacent to the Lake Perris State Recreation Area and SJWA (Existing Core H). Portions of the project are also located within the 100 year flood plain of the San Jacinto River, however, no residential or commercial development is proposed in the floodplain. Proposed Noncontiguous Habitat Block 5 consists of the Lakeview Mountains which is to be connected to other MSCHCP conserved lands via Proposed Constrained Linkage 20.

In connection with the DEIR, the County has submitted a Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) Compliance Report, a Joint Project Review Determination Letter (JPR 07-07-16-01), three addendums to the Compliance Report and a MSHCP equivalency finding.

Upon reviewing the proposed development, the Department has several issues: the width of the area conserved for Proposed Constrained Linkage 20 (Linkage), placing a road through the linkage, and fencing to protect the linkage.

In a separate letter in response to the MSHCP Joint Project Review process, the agencies commended the applicants for moving the linkage west of Bridge Street and stated that the conservation of 984 acres would substantially contribute to assembling proposed Non-Contiguous habitat Block 5. However, the agencies commented that a linkage of 1,000 feet is not sufficient and that the dimensional data for this linkage advocates a width of 1,500 to 4,500 feet. Maximizing reserve assembly efforts within proposed linkage areas is important to establishing and maintaining the function of the linkage and the overall MSHCP reserve configuration. The Department recommends that the linkage be widened; the road through it removed and the corridor include directional fencing to direct animals to the corridor.

San Jacinto Wildlife Area

The SJWA consists of 9,000 acres. It is adjacent to the 8,800 acre Lake Perris State Recreation Area. The current configuration of the Wildlife Area is the result of a series of acquisitions, either as mitigation for development or for specific acquisition purposes. Millions of dollars of public funds have been spent purchasing lands for the SJWA.

Historically, the impetus for the acquisition of the SJWA stems from the Davis-Dolwig Act of 1961, which requires the State of California to restore wildlife resources unavoidably impacted as a result of the construction of the State Water Project (SWP). The San Jacinto Valley was selected as one of many sites for the development of a state wildlife area due to the adjacency to the Lake Perris State Recreation Area, the rural nature of the area, and the existing land use designations being primarily recreation, open space, agriculture and low density land uses. It was also perceived that the location was consistent with the existing surrounding agricultural uses and the existing flood control plans for the San Jacinto River. The main uses of the SJWA are for wildlife observation, regulated hunting, nature study, fishing, hiking, photography, field trials, and preservation of wildlife and wildlife habitat.

Upland Game Hunting

The Department has statutory responsibility to manage the public trust resources of wildlife and authority to regulate sport hunting. The Legislature has declared the state policy objectives to include maintenance of diversified recreational uses of wildlife, including the sport of hunting, as proper use of certain designated species of wildlife. Senate Bill 452 further provides for resource assessment, public education and outreach and increasing hunting access for upland game hunting.

Sport hunting is a highly regulated activity. The Department sets regulations governing seasons, bag limits, and methods of take for game species annually. Regulations are adopted consistent with the Department's mission to manage viable populations of wildlife in the state of California.

Within the State of California, slightly more than half of the upland game hunters and a significant portion of the deer hunters reside in southern California. The majority of wildlife habitat that once occurred in southern California has diminished and access to suitable hunting lands is becoming increasingly limited. Public lands provide for the majority of recreational sport hunting opportunity in southern California.

The Draft San Jacinto Wildlife Area Management Plan includes a hunting element as part of its public access program. Hunting is allowed for waterfowl and upland game. The upland game hunting map in the SJWA draft management plan shows that the area from the southern boundary to approximately the duck ponds and SJWA Headquarters are designated for upland hunting (quail, rabbit, dove and snipe). The Department also administers upland game hunting in the Lake Perris State Recreation Area. Goal number 47 of the management plan is to increase upland game and waterfowl hunting opportunities on the Wildlife Area in conjunction with upland habitat enhancements. Shotgun only hunting is allowed from July 1 until the end of quail season in January.

In addition to hunting, there is a public use element involving dog training and field trials. There are regular field trial events on the Wildlife Area adjacent to the proposed development. From eight to ten dog training organizations participate in the annual events. There are also hunter education programs.

Anticipated Impacts on the Wildlife Area

In 1982 the Department reviewed a proposal for a development (Lakeview Specific Plan, 800 residential lots plus commercial) adjacent to the SJWA. The development was proposed north and south of the Ramona Expressway in the southwestern portion of the wildlife area. In a letter dated August 24, 1982, the Department outlined its objections to the proposed project. The major objection was that development of a high density urban and commercial development is not compatible with the management or enhancement of adjoining lands for wildlife values. The Department also expressed concern that the indirect effects of urban development (noise, lighting, people, traffic, pets, etc.) would negate or limit opportunities to enhance and manage Department lands.

Another objection was that placement of high density urban development would likely result in prohibitions and restrictions on public use of the adjoining wildlife area, particularly in reference to hunting. It was also pointed out that the close association of urban development could significantly depreciate the public use of the wildlife area.

The objections the Department voiced in reference to the Lakeview Specific Plan are even more valid today in light of the increased amount of new development in the area. Land use designations for the proposed project adjacent to the SJWA are medium high (5-8 units per acre), high (8-14 units per acre) and very high (14-22 units per acre). Although some indirect impacts have been addressed, a detailed impact analysis of the proposed development on the SJWA was not presented. These impacts include: the potential loss of hunting opportunities, habitat degradation from human encroachment, increased patrol and enforcement costs, the increased potential of fires, the illegal use of off road vehicles, including bicycles, increased costs for removal of trash and the predatory impact of domestic pets on wildlife. As currently proposed, all these costs would have to be absorbed by the Department. This is not to say that potential residents would be barred from the SJWA, but that they would be barred, as is the general public, from unauthorized areas and unauthorized activities. For instance, the development plan shows a proposed trail to be used by potential residents for access to the wildlife area. This is not compatible with the draft management plan for SJWA.

Hunting of upland game in proximity to urban development would be potentially threatened. Even if the homeowners are notified beforehand of the use of adjacent property for hunting, it is realistic to expect that once families move into the area, hunting will become a safety issue and that residents will want to eliminate hunting. The possibility of having to eliminate hunting from an area where it is currently permitted and expected to increase is a significant adverse impact.

Sport hunting contributes substantially to the State's economy annually. Through the sale of licenses, tags, stamps and excise taxes on hunting equipment, millions of dollars are raised for wildlife agencies. These funds enable resource agencies to maintain, restore and enhance wildlife habitat throughout the state. Loss of upland game hunting would also result in a loss of income.

It has also been the experience of the Department and other open space land managers that human encroachment and disturbance is a natural consequence of placing urban development adjacent to conservation lands and leads to increased management costs. These costs would be a direct result of the proposed development and the Department would expect mitigation. Residents adjacent to open space tend to have a proprietary interest in it. The existence of nearby conservation lands is a selling point for developers and would be highlighted when residences are built and sold. The Department would expect that residents from adjoining development would utilize the wildlife area in permitted and unpermitted ways, thus causing the Department the need to expend limited resources on patrolling and enforcement and nuisance

abatement. This would also pose a burden on local law enforcement to enforce trespassing and other unpermitted activities, such as motorbikes, all terrain vehicles and bicycles.

Although the development has proposals regarding limiting the number of pets and conditions for having pets, the responsible authority would be the Homeowner Association. Conditions of the Homeowner Association are typically subject to a change by vote of the homeowners. Therefore, these conditions would have to be legally enforceable by an agency other than the Homeowners Association. There would also have to be provisions to trap and remove any domestic animals encroaching onto the SJWA.

All the above-mentioned activities have costs that are associated with the development which should not be borne by the Department and should be mitigated to the satisfaction of the Department. For these reasons, the Department would expect that the proposed development would have to place eight foot high fencing along the SJWA boundary, provide funding for a full-time enforcement position, and provide funding for trapping of domestic animals and removal of trash generated by the development.

Project Alternatives

In accordance with CEQA, the DEIR includes a project alternatives analysis. Alternative #3 (no development north of the Ramona Expressway) provides for continuing agricultural use north of the Ramona Expressway and placement of all commercial and residential units south of the Ramona Expressway. This alternative would meet the goals of the project for housing and commercial development and also not encroach upon the SJWA. There would still be indirect impacts associated with such an intense development, but the Department believes that this alternative is less impacting compared to placing subdivision development adjacent to the SJWA.

The Department believes that this is the only alternative presented that mitigates impacts on the SJWA from the proposed development. There would be no need for extraordinary law enforcement, trapping of domestic animals, dangers to humans from hunting or necessity to eliminate upland game hunting as currently practiced on the SJWA.

Of the alternatives presented, the Department recommends that alternative number 3 (no development north of Ramona Expressway) be adopted.

Jurisdictional Waters of the State

The project will involve impacts to stream and riparian habitat and requires submittal of a Lake and Streambed Alteration Agreement (LSAA) Notification. The DEIR distinguishes between natural riparian and non-natural riparian elements (drainage ditches). The MSHCP does not view these non-natural riparian elements as subject to the riparian policies of the MSHCP. However, the State doesn't differentiate between natural and unnatural riparian pursuant to Section 1600 et. seq of the Fish and Game code. Therefore the DEIR needs to identify waters jurisdictional to the State and any mitigation necessary to offset these impacts. A jurisdictional delineation report will also be required to be submitted to the Department with the LSAA Notification.

The Department's issuance of a Streambed Alteration Agreement for a project that is subject to the California Environmental Quality Act (CEQA) will require CEQA compliance actions by the Department as a Responsible Agency. The Department, as a Responsible Agency under CEQA, may consider the local jurisdiction's (lead agency) DEIR for the project. If the CEQA documents do not fully identify potential impacts to lakes, streams, and associated resources

and provide adequate avoidance, mitigation, monitoring, funding sources, a habitat management plan and reporting commitments, additional CEQA documentation will be required prior to execution (signing) of the Streambed Alteration Agreement. In order to avoid delays or repetition of the CEQA process, potential impacts to a stream, as well as avoidance and mitigation measures need to be discussed within this CEQA document.

The following information will be required for the processing of a Streambed Alteration Agreement and the Department recommends incorporating the following in the DEIR to avoid the need for subsequent CEQA documentation and project delays:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);
- 2) Discussion of avoidance measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance.

Section 151370 of the CEQA guidelines includes a definition of mitigation. It states that mitigation includes:

- 1) Avoiding the impact altogether by not taking a certain action or parts of an action,
- 2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation,
- 3) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment,
- 4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action,
- 5) Compensating for the impact by replacing or providing substitute resources or environments.

The DEIR did not provide an impact analysis of the effects of the project on jurisdictional waters nor incorporate specific mitigation measures for these resources. By not providing mitigation for the riparian plants, the Department cannot determine that impacts to the vegetation will be mitigated. In the absence of this analysis in CEQA documents, the Department believes that it cannot fulfill its obligations as a Trustee and Responsible Agency for fish and wildlife resources. Permit negotiations conducted after and outside of the CEQA process deprive the public of its rights to know what project impacts are and how they are being mitigated in violation of CEQA Section 15002. Also, because mitigation to offset the impacts were not identified in the CEQA document, the Department does not believe that the Lead Agency can make the determination that impacts to jurisdictional drainages and/or riparian habitat are "less than significant" without knowing what the specific mitigation measures are that will reduce those impacts.

The Department opposes the elimination of drainages and their associated habitats. The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or off-site at a minimum 3:1 replacement-to-impact ratio, depending on the impacts and proposed mitigation. Additional mitigation requirements through the Department's Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, project design, and other factors. We recommend submitting a notification early on, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Streambed Alteration Agreement notification package, please call (562) 590-5880.

Department Recommendations

One of the Department primary CEQA responsibilities is to point out deficiencies in CEQA documents submitted to the Department for review, particularly if the Department is a Responsible Agency. In this case, the department is commenting on three aspects of the project: 1) proposed conservation for Proposed Constrained Linkage 20, 2) potential impacts to the San Jacinto Wildlife Area, and 3) impacts to jurisdictional waters of the State.

Linkage: The Department recommends that the linkage be widened, the linkage fenced, and the proposed road through the linkage are removed. Access to the strip of commercial development east of the linkage should be provided via the existing road (Ramona).

San Jacinto Wildlife Area: The Department has discussed the potential adverse impacts of subdivision development on the Wildlife Area. This letter contains mitigation measures that the Department recommends in the event that development occurs north of the Ramona Expressway. The Department also recommends that Alternative No. 3 (no development north of the Ramona Expressway) is the Department's preferred alternative. The DEIR should include a discussion of access to the SJWA and how this development would impact ingress-egress.

State Jurisdictional Waters: The Department recommends that the applicants submit an analysis of impacts to riparian habitat and stream channel and proposed mitigation measures to offset those impacts. Impacts to jurisdictional waters will require a 1600 Streambed Alteration Agreement from the Department of Fish and Game.

Thank you for this opportunity to comment. If you have any questions, please contact Robin Maloney-Rames, Environmental Scientist, at (909) 980-3818. Further coordination on 1600 Agreements will be handled by Michael Flores, Environmental Scientist (909) 987-8397.

Sincerely,



Scott Dawson
Senior Environmental Scientist
Habitat Conservation Planning

cc: Nancy Ferguson, USFWS
Jeff Brandt, CDFG
Leslie McNair, CDFG
Eddy Konno, CDFG
Scott Sewell, CDFG