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Alex Tuttle
Planner
Development Review Division
Santa Barbara County Planning & Development
105 E Anapamu Street
Santa Barbara, CA 93101

Subject: Park Hills Estates Draft MND v.2 (10TRM-00000-00001)

Dear. Mr. Tuttle:

David Magney Environmental Consulting (DMEC) was contracted by the San Antonio Creek and Park Highlands Homeowners Associations to review and provide comments on the Draft Mitigated Negative Declaration (MND) focusing on biological resources. This letter provides general and specific comments on the MND and supporting documents.

The Park Hills Estates project site is 14.7 acres, located on a fairly level terrace containing natural vegetation in the Goleta Valley. The site has never been developed, although it is basically surrounded by residential development. The project applicant is proposing to build 18 single-family homes and related facilities on 20 new lots.

Since the assessment of impacts to biological resources in the MND is based for the most part on work conducted by Mark de la Garza of Watershed Environmental, a review of Watershed Environmental's work on the Park Hills Estates project is provided prior to comments on the MND itself. VSJ Biological's 1999 report on biological resources of the project site was not available for review. The County needs to provide all reports associated with the proposed project that are used to conduct the impact assessment and make conclusions.

Park Hills Vegetation Survey by Watershed Environmental

Watershed Environmental first conducted botanical surveys of the project site in March 1998, with the results of that work summarized in the March 1999 report, but was not available as part of the CEQA documentation. That report was the basis for the assessment and report to the Planning Commission in 2007. Since then, Watershed Environmental conducted a supplemental survey of the vegetation of the project site in August 2010, dated 25 October 2010¹. Watershed Environmental's 2010 report includes: introduction, survey methods, survey results, conclusions, and references sections.

The introduction section states that the report, "describes the existing botanical resources located at 4700 Via Los Santos Road (APN:59-290-041) where residential development is proposed. Watershed Environmental performed a botanical inventory/native grassland survey of this property in 1999 and performed a follow up survey in 2005. We also prepared a native grassland mitigation plan for this property

¹ Watershed Environmental, Inc. 2010. Vegetation Survey: Park Hill Estates, 4700 Via Los Santos Road, Santa Barbara, California. (25 October 2010.) Orcutt, CA. Prepared for Jeff nelson, The Nelson Law Firm, Santa Barbara, CA.

in 2006”. DMEC finds the 2010 report wholly inadequate in describing the existing botanical resources of the project site. In addition, the report provides no additional information on wildlife use of the site.

Section 2.0 Survey Methods, on page 1, states, “...biologist Mark de la Garza and mapping analyst Melodee Hickman performed field surveys of the project site on August 11, 18, and 24, 2010. ...Field notes were used to record direct observations of vegetation types and botanical and wildlife resources”. Table 3, Vegetation Observed, starting on Page 6, includes a list of vascular plants, including each plant’s scientific name, common name, and status as native or introduced. This list has numerous errors, including spelling errors, and lack of use of currently accepted botanical nomenclature. Examples are provided below:

Watershed Environmental’s use

Ambrosia psilostachya
Baccharis pilularis var. *consanguinea*
Bromus madritensis rubens
Calandrinia ciliate
Ice plant (for *Carpobrotus edulis*)
Crassula connate
Dichelostemma capitatum
Eremocarpus setigerus
Eucalyptus globules
Gnaphalium californicum
Gnaphalium canescens ssp. *microcephalum*
Hemizonia fasciculata
Hordeum brachyantherum
Hordeum murinum
Leymus trituciudes
Polygonium sp.
Pyracantha sp.
Robinia pseudoacacia
Thysanocarpus laciniatus

Correct Use

Ambrosia psilostachya var. *californica*
Baccharis pilularis ssp. *consanguinea*
Bromus madritensis ssp. *rubens*
Calandrinia ciliata
Hottentot Fig
Crassula connata
Dichelostemma capitatum ssp. *capitatum*
Eremocarpus setigerus
Eucalyptus globules var. *globules*
Pseudognaphalium californicum
Pseudognaphalium microcephalum
Dienandra fasciculata
Hordeum brachyantherum ssp. *brachyantherum*¹
Hordeum murinum ssp. *glaucum* or *leporinum* or *murinum*
Elymus triticoides ssp. *triticoides*
Polygonum needs to be identified, and spelled correctly.
Pyracantha needs to be identified, and spelled correctly.
Robinia pseudoacacia
Thysanocarpus laciniatus var. *laciniatus*

These numerous errors put into question the accuracy and completeness of the entire list and other aspects of the report.

Page 6, 3.1.2 Vegetation, states that there are “89 species of plants (Table 3)”; however, Table 3 lists only 86 taxa. What was left off the list? It also says that 62 percent of the species are nonnative and 38 percent of them are native, which appears to correspond to there being 89 taxa, but not knowing which taxa are present but not reported makes it impossible to verify the accuracy of any statistical conclusions.

The list also states that *Calandrinia ciliata* is not native when in fact it is a native annual species. Watershed Environmental’s calculations of native versus nonnative species are in error, in part because of errors in such as identified for the native *Calandrinia*. If there are only the 86 taxa present onsite, as evidenced by those taxa listed in Table 3, then the percentage of native species increases to 40 percent. The

¹ Two subspecies of *Hordeum brachyantherum* are known to occur in the region, ssp. *brachyantherum* and ssp. *californicum*. Which subspecies is present? Convention on the use of scientific names says that if the subspecies/variety name is the same as that for the species, then it can be left off; however, when other subspecies/varieties occur onsite or nearby, it is wise, and important, to include the full name to eliminate any question about which taxon is indicated.



likelihood is that the flora of the project site contains many more species than observed and reported and that percentage of native species is also higher than reported.

Watershed Environmental's claim on Page 1 that it followed California Native Plant Society (CNPS), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CDFG) survey protocols and guidelines is not evidenced by what is reported. For example, de la Garza states that he conducted field surveys during March 1998, and 11, 18, and 24 August 2010. Survey protocols state that multiple surveys should be performed during seasons when plants are identifiable. In the Santa Barbara region, plants of various species can be found growing nearly any time of the year; however, most of them are only identifiable during one season, or only a portion of a season. De la Garza failed to conduct any surveys in the middle and late spring, early or late summer, in the fall, and in the winter. The protocols intend that the surveys occur in multiple seasons during the same year, and that if severe climate conditions occur in one season or year, that the surveys should be conducted again the following year. Annual species are especially sensitive to rainfall and temperature patterns/conditions, dependent on minimum climatic conditions suitable for completing their life cycle before they will germinate. Watershed Environmental did NOT follow these survey protocols. To claim that their surveys and reports accurately characterize baseline conditions of biological resources onsite is highly inaccurate and misleading. However, the botanical inventory is silent on nonvascular plants, including bryophytes (mosses, liverworts, hornworts) and lichens.

Watershed Environmental's 1999 report is titled "Botanical Inventory/Native Grassland Survey 4700 Via Los Santos Road, Santa Barbara, California".

Minimum Botanical Survey Requirements

The USFWS, CDFG, and CNPS each have adopted very similar protocols and guidelines for botanists to follow when conducting field surveys and documenting habitat conditions of a project site proposed for development. Copies of these survey guidelines/protocols are attached for reference, and are incorporated herein. Specific pertinent requirements are discussed below:

USFWS Guidelines (published in 2000¹), item "3. List **every** [emphasis added] species observed and compile a comprehensive list of vascular plants for the entire project site. Vascular plants need to be identified to a taxonomic level which allows rarity to be determined" and 4e., "a comprehensive list of all vascular plants occurring on the project site for each habitat type".

CNPS Botanical Survey Guidelines (published in 1983 and revised in 2001²), item 4b, "Floristic in nature. A floristic survey requires that every plant observed be identified to species, subspecies, or variety as applicable. In order to properly characterize the site, a complete list of plants observed on the site shall be included in every botanical survey report. In addition, a sufficient number of visits spaced throughout the growing season is necessary to prepare an accurate inventory of all plants that exist on the site. The number of visits and the timing between visits must be determined by geographic location, the plant communities present, and the weather patterns of the year(s) in which the surveys are conducted."

These guidelines developed and published by the federal and state biological resource agencies, and the botanical profession, through CNPS, establish the minimum standards by which botanical resource inventories are to be conducted. These are the standards expected of the botanical consulting profession.

¹ U.S. Fish and Wildlife Service. 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants.

² California Native Plant Society (CNPS). 2001. Botanical Survey Guidelines. Board of Directors, Sacramento, California. See www.cnps.org for complete text of guidelines. First published in 9 December 1983, revised 2 June 2001.



CDFG (2009¹) protocols for conducting botanical surveys and assessing impacts are similar to those by the USFWS and CNPS and require floristic field surveys performed enough times of the year to be able to fully identify all plant species.

Nonvascular Plants Not Assessed

There is no mention of nonvascular plants, yet there are numerous species of that are known from similar habitats nearby, such as the Bridle Ridge/San Marcos Foothills project site a short distance to the east. DMEC conducted a botanical survey of the Bridle Ridge project site in 1997 and 1998 (DMEC 1998²) as part of an Environmental Impact Report for that project. Field surveys were conducted in multiple seasons and for vascular as well as nonvascular plants. Several species of lichens on the Bridle Ridge site were considered rare and mitigation was proposed to protect them. Many of the rare lichens at the Bridle Ridge site were on boulders within grassland areas. The Park Hills Estates project site contains similar habitat and may also contain rare lichen species. Surveys of the lichen and bryophyte flora need to be conducted before the inventory can be considered adequate.

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Page 7, Section 3.2 Environmental Baseline, states that the assessment was based on conditions at the time of the Initial Study; however, it does not provide the date of the Initial Study. Since the current project is one that is modified from one previously approved, with the CEQA review process starting in 1999, it is not at all clear as to the date of the Baseline Conditions for the proposed project. DMEC believes it should be as of Spring 2011.

Page 25, Background and Site History, states that the project site has largely been in a natural state except that it had been dryland farmed for at least one year in 1968; including a small orchard in the southwest corner of the property. Afterwards it was used only for grazing horses until 1995. The site has been unused for any human purpose since 1995.

Botanical Resources

Page 6 of the MND states that “non-native annual grasslands” occur on the project site. Use of the term “Non-native Annual Grassland” in reference to annual grassland habitats imposes an unnecessary bias since the label strongly suggests that it is of less value compared to “native grasslands”. CNPS and CDFG have long been referring to grassland habitats dominated by nonnative grass species as Annual Grasslands since most such areas usually contain a significant component of native plant species and are equally “valuable” to wildlife that forage or live in grassland/herbland environments.

Page 25, Methods, state that a botanical survey was conducted in March 1998 (Watershed Environmental 1999), a vegetation survey in August 2010 (Watershed Environmental 2010), and that the County performed grassland sampling in April 2011; “Methods were based on CNPS survey guidelines (CNPS 2001), and CDFG survey guidelines (CDFG 2009). Quantitative sampling was not performed”. A County P&D biologist visited the site in December 2000, May 2003, July 2010, and March and April 2011.

¹ California Department of Fish and Game (CDFG). 2009. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. 24 November 2009. California Natural Resources Agency, Department of Fish and Game, Sacramento, California.

² David Magney Environmental Consulting. 1998. Botanical Resources of the Bridle Ridge Development Project, Santa Barbara County. May 1998. (PN 97-0162.) Ojai, California. Prepared for County of Santa Barbara, Santa Barbara, California. Prepared on behalf of Rincon Consultants, Inc., Ventura, California.

As stated above under DMEC's review of Watershed Environmental's botanical survey report, not one biologist surveying the project site followed standard or defensible field survey methods, yet the conclusions made by the County regarding impacts to botanical resources by the proposed project are based primarily on Watershed Environmental's inadequate reports and site verification visits by the County biologist.

Vegetation Sampling

Standard scientifically acceptable (statistically valid) sampling design generally requires at least 20 samples (Dytham 2003¹), in this case transects or plots. Only 10 plots were sampled onsite, apparently in April 2011, to verify Watershed Environmental's August 2010 vegetation survey. Dytham (2003²) states (on page 3) that when sampling two groups, an equal number of samples should be taken from both groups. This applies to Watershed Environmental's work and the County's verification since they were attempting to distinguish "non-native grasslands" from native perennial grasslands. However, both Watershed Environmental's and the County violated scientifically and statistically sound sampling methods by not collecting data from each basic group, by not sampling the areas randomly (a basic tenant in statistical sampling), not having enough samples to truly be statistically representative, and not sampling in other seasons when a significant component of herbaceous grassland species are present.

Sampling should capture the entire range of conditions or variables. Sampling should capture each variable, in this case, a plant species, at least once. The sampling by Watershed Environmental apparently consisted only of a meandering foot survey and recordation of species observed in field notebooks, detecting less than 86 plant taxa (Watershed Environmental's report states that 89 species were observed; however, only 86 are included in their Table 3). No transects or survey plots were established. There is no description, other than referring to USFWS, CNPS, and CDFG guidelines, as to how plant communities were identified or how the boundaries were determined. The County sampled 10 plots, but no datasheets or data are provided, only the County's conclusions. Sampling design should include enough transects to sample each taxon present at least once to ensure statistical validity.

Sampling plots/transects should be established randomly (Dytham 2003³). Or if they need to be stratified, randomness must be implemented at some point to avoid or minimize bias by the sampler. Below is language from a Texas A & M University Galveston description of vegetation sampling methods.

"The most common quantitative sampling methods are the quadrat method and the transect method. The quadrat method allows the user to define a fixed area, called a plot, within which plant characters can be measured. Usually, a rectangular quadrat frame, such as the one shown in Figure 1 (not included here), is used to define the sampling area, although a quadrat can also be a permanently established area within a site. Although the exact experimental design will determine where and how many samples are taken, the procedure always involves measuring plant characters of only those plants inside the quadrat. Quadrat sampling usually attempts to define plant community characteristics for an area much larger than the actual area sampled. For this reason, care must be taken to obtain samples that represent the entire habitat and that eliminate the human factor. Usually this means employing an experimental design that ensures random placement of the frame or permanent quadrat."⁴

¹ Dytham, Calvin. 2003. *Choosing and Using Statistics: A Biologist's Guide*. Second Edition. Blackwell Science, Malden, Massachusetts.

² Ibid.

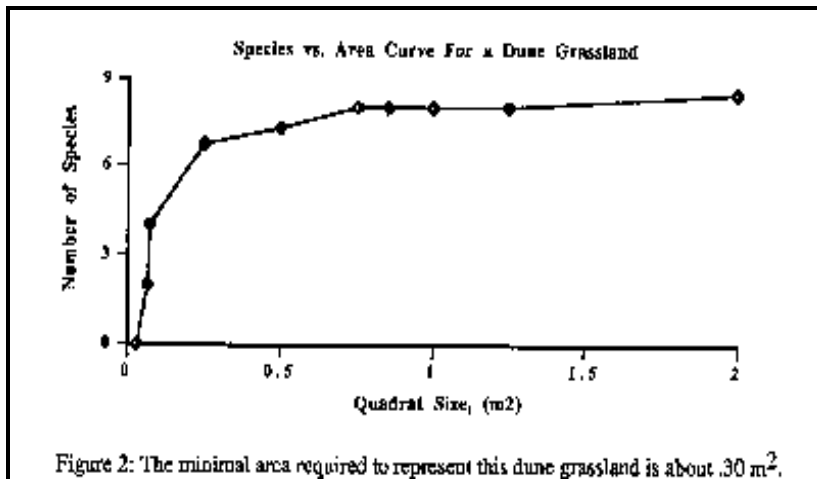
³ Ibid.

⁴ Texas A&M University at Galveston webpage titled, "Scientific Methods for Studying Vegetation", <http://www.tamug.edu/seacamp/virtual/methods.htm>

“Data collected in the field are usually subjected to some type of statistical analysis. Statistical methods range from simple to complex, with the exact method chosen depending on the objective of the study and the original experimental design.”¹

No one bothered, apparently, to use any statistical tests to determine the validity of their sampling methods or hypotheses, as is standard in such studies, or at least it should be standard practice. DMEC presumes that Watershed Environmental and the County hypothesized that native and nonnative grasslands could be distinguished/mapped onsite. They further biased their sampling by not using any randomness in establishing plots or how they actually sampled, all of which are basic sampling protocols, that is, random sampling is vital to removing bias by the data gatherer (Dytham 2003²).

Both Watershed Environmental and the County failed to use sample design protocols when determining the size of the relevé plots. First, Watershed Environmental should have assessed the plant community by walking/surveying it and making a list of all plants found during appropriate seasons. The County should have done the same, and only when they reached the plateau of the species-area curve, then they could determine the bounds (size) of the relevé plot(s). The species-area curve is a chart/graph that indicates the number of species found per unit area. A normal species-area curve will be very steep in the beginning, leveling off at a point when the survey area is so large that the area includes a majority of species occurring in that area, in this case, an area of grassland vegetation. Below is an example of a species-area curve taken from a Society for Ecological Restoration Management Notes website (Fibelibus and MacAller 1993³).



This curve is used as a guide to determine the minimum size of the sampling plot to ensure that the sampling minimizes sampling bias, to make sure that the vast majority of species that make up the plant community actually get sampled. Had Watershed Environmental and/or the County followed sampling design and methods as described by the Bureau of Land Management (1999⁴), the results would almost certainly have been accepted and show different results than has been presented.

¹ Ibid.

² Dytham, Calvin. 2003. *Choosing and Using Statistics: A Biologist's Guide*. Second Edition. Blackwell Science, Malden, Massachusetts.

³ Fibelibus, M.W., and R.T.F. MacAller. 1993. *Methods for Plant Sampling*. Prepared for California Department of Transportation, District 11, San Diego, California. San Diego State University, Biology Department, San Diego, California. Published in *Restoration in the Colorado Desert: Management Notes*. Available at <http://www.sci.sdsu.edu/SERG/techniques/mfps.html>.

⁴ Bureau of Land Management. 1999. *Sampling Vegetation Attributes*. (Interagency Technical Reference 1734-4.) Denver, Colorado. Available at <http://www.blm.gov/nstc/library/techref.htm>

Back to the issue regarding the seasonality of the sampling, as can be seen in the photographs below, taken on June 17th, the “non-native” grasslands of Santa Barbara Ranch south of the railroad tracks west of Isla Vista are clearly dominated by *Deinandra fasciculata*, with well over 10 percent cover over a large portion of the site. All the yellow visible in these photographs is *Deinandra fasciculata*, a common native grassland species. Watershed Environmental and the County both list this species as present onsite, but the dominance of the site by this grassland species changes dramatically as many sites within its range between spring and summer



Bartolome et al. (2007¹) compared grassland-sampling methods and determined that foliar cover sampling “results vary with season and weather, which can be misleading”. This finding supports DMEC’s contention that Watershed Environmental’s and the County’s sampling were flawed for the purposes of determining native grassland species dominance. DMEC does note that the County otherwise made an attempt to follow CNPS vegetation assessment protocols; they just were not statistically valid or performed in the summer months as well as the spring.

While DMEC contends that the vegetation sampling did not follow statistically valid methods, the mapping by the County may be fairly accurate for grassland vegetation; however, without reviewing the actual relevé plot datasheets and a map showing the specific areas of the project site they covered, it is impossible for anyone to evaluate them for accuracy, completeness, and/or validity. They should have been included as an appendix to the MND.

Furthermore, a question remains about the presence of wetland habitats onsite, as discussed below.

Wetland Habitat

The County biologist found a small population of *Juncus occidentalis* (formerly known as *J. tenuis* var. *occidentalis*) in a shallow swale onsite; however, she did not feel that it was extensive enough to map or consider a wetland habitat. *Juncus occidentalis* is listed by the U.S. Fish and Wildlife Service as a Facultative Wetland (FACW) hydrophyte, as indicated in the MND. Since plants typically found in wetland habitats are growing there for a reason, it is curious, and should have sent up red flags, that maybe a shallow groundwater table occurs within the swale they were growing in. Looking for additional evidence that this might be the case, DMEC reviewed the list of vascular plants reported from the project site to see if there were other hydrophytes present. The results of this examination found a total of 16 species that are found

¹ Bartolome, J.W., G.F. Hayes, and L.D. Ford. 2007. Monitoring California Grasslands for Native Perennial Grasses Workshop Handbook. 10 July 2007. ESNEER Coastal Training Program, Berkeley, California.

in wetlands at least 50 percent of the time. This is very strong evidence that wetland conditions do indeed occur onsite. Those plants are:

Crassula connata (FAC), *Eleocharis macrostachys* (OBL), *Hordeum brachyantherum* (FACW), *Leymus triticoides* (FAC+), *Lolium multiflorum* (FAC), *Plantago major* (FACW-), *Poa annua* (FACW-), *Plantago lanceolata* (FAC-), *Picris echioides* (FAC*), *Phalaris aquatica* (FAC+), and *Sonchus asper* (FAC-).

Having performed many wetland delineations throughout California, including some of the largest delineations in the state, my experience leads me to believe that wetland habitat may indeed be present onsite.

Wildlife

VJS Biological conducted a survey of wildlife in 1998 and reported observations of several bird and mammal species, and one reptile; however, there is no evidence that he conducted any surveys for any invertebrate species. It does not appear that any supplemental surveys for wildlife species were ever conducted onsite, even though VJS Biological's surveys are now over 13 years old. A copy of the wildlife survey report should have been included as an appendix to the MND.

Since wildlife are mobile, and many more species of wildlife are now considered rare, it is of great concern that the County did not consider this component of the biological resources in the current MND.

For example, several species of terrestrial land snails are known to occur in Santa Barbara County (Roth and Sadeghain 2003¹) and that several of them are rare (CNDDDB 2009² and Magney 2009a³). DMEC has compiled a GIS database of all terrestrial snails and slugs of California based primarily on Roth and Sadeghain's work and has been identifying those species that are rare based on their distribution and known occurrences, such as for Ventura County (Magney 2009a) and Los Angeles County (Magney 2009b⁴). Based on this work, several species of terrestrial snails known to occur in Santa Barbara County need to be considered for potential for impacts on them. Some of these taxa are considered sensitive by the California Department of Fish and Game's Natural Diversity Database (CNDDDB 2009) and several additional species are currently under consideration for addition to that list based on my research.

Below is a list of the native terrestrial snails and slugs known to occur in Santa Barbara County mainland:

- *Ariolimax columbianus strimineus* (7 counties and 2 islands)
- *Haplotrema caelatum* (4 counties, no islands)
- *Helminthoglypta cuyama* (1 county, no islands) – Santa Barbara County endemic
- *Helminthoglypta fieldi* (2 counties, no islands)
- *Helminthoglypta phlyctaena* (1 county, no islands) – Santa Barbara County endemic
- *Helminthoglypta umbilicata* (3 counties, no islands)
- *Hesperarion hemphilli* (8 counties, no islands)
- *Nearctula rowellii rowellii* (7 counties and 3 islands)
- *Paralaoma servilis* (31 counties and 2 islands)

¹ Roth, Barry, and Patricia S. Sadeghain. 2003. Checklist of the Land Snails and Slugs of California. (*Santa Barbara Museum of Natural History Contributions in Science* No. 3.) Santa Barbara, California.

² California Natural Diversity Database (CNDDDB). 2009. Special Animals. March. California Department of Fish and Game, Biogeographic Data Branch, Sacramento, California.

³ Magney, D.L. 2009a. Ventura County Wildlife – Terrestrial Snails and Slugs. 1 June 2009. David Magney Environmental Consulting, Ojai, California. Published through the Sespe Institute (www.sespeinstitute.com)

⁴ Magney, D.L. 2009b. Terrestrial Snails of Los Angeles County. 20 August 2009. David Magney Environmental Consulting, Ojai, California. Published through the Sespe Institute (www.sespeinstitute.com)



- *Striatura pugetensis* (32 counties and 2 islands)
- *Zonitoides arboreus* (33 counties)
- And 8 nonnative species. (Roth & Sadeghain 2003.)

Those rare species tracked by the CNDDDB known to occur in Santa Barbara County include:

- *Haplotrema caelatum* – Slotted Lancethooth (GINI rarity ranking)
- *Helminthoglypta phlyctaena* – Zaca Shoulderband (G1G2N1N2)

There are undoubtedly additional species; however, the list specific for Santa Barbara County has not yet been compiled other than what Roth & Sadeghain (2003) compiled. Seasonal surveys for native terrestrial gastropods (includes snails and slugs) need to be performed to determine if one or more rare species are present onsite, and if they would be significantly impacted by the proposed project. CDFG recently (2009) required Newhall Land & Farming Company to conduct such surveys on the Newhall Ranch for similar concerns, and indeed found four species, two of which Barry Roth, PhD., believes may be undescribed species.

Bird Nests

Calif. Fish & Game Code Section 3503 – prohibits the unnecessary disturbance of any bird nest. Section 3503.5 goes on to prohibit that take of any raptor nest. There is no indication anywhere that a bird nest survey was ever conducted at the project site.

Page 34, e). Specimen Trees, states that the “...removal of one Elderberry tree located on Lot 19, however, this impact would be less than significant given that the tree does not provide significant habitat value for nesting, breeding, or roosting for rare, threatened, endangered, or sensitive species, nor does it provide a significant food source for area wildlife”. This conclusion is not substantiated by the evidence and mischaracterizes the facts. No surveys for bird nests were ever conducted except for White-tailed Kite, and that occurred over 12 years ago. There is no evidence that any surveys for active or inactive bird nests of any kind were performed recently. It is well known that suitable nesting sites are not used every year, and that birds will move into unoccupied nesting areas when other sites are already occupied by others, or nesting sites nearby have been destroyed. The probability that there is at least one active bird nest on the 14-acre site is near 100 percent positive. The entire project site needs to be surveyed for active bird nests during the nesting season, generally between March 1st and July 31st.

Burrowing Owl is known to forage and nest in similar habitats as present at the Park Hills Estates project site, such as the Bridle Ridge/San Marcos Foothill property immediately east of State Route 154. It is quite possible that Burrowing Owl, while not observed onsite by Semenson in the late 1990s, could have colonized the project site since then.

The VJS wildlife survey report was not reviewed as it was not made available as part of the MND (other than a brief summary) or as an appendix.

Staff Report to Planning Commission 2007

The original project, approved in 2007, for the same project site consisted of 12 single-family residences and associated facilities on the 14+-acre site. A 2.2-acre open space lot would contain associated facilities (detention basin) and onsite mitigation for impacts to biological resources.



The assessment of biological resources was based on Watershed Environmental's 1999 and VJS Biological's 1999 reports on botanical and wildlife resources, respectively, as well as opinions of the County biologist.

Since the project avoided some of the impacts to native grassland habitat and the mitigation was proposed to occur onsite, the project was considered to be consistent with the Goleta Community Plan.

Unavoidable cumulative impacts resulting from the project were considered "covered" by a finding of overriding considerations in adopting the Goleta Community (Comprehensive) Plan EIR, as unmitigatable, and no further analysis was required for the Park Hills Estates project (version 1) (see pages 14 and 21 of the 2007 staff report to the Planning Commission).

Inadequacy of Proposed Mitigation Measures

Mitigation Measure Bio-1 (Tree Protection Plan) is intended to protect mature Coast Live Oak trees during construction activities, to just 6 feet beyond the tree driplines. International Society of Arboriculture (ISA) strongly recommends that no disturbance occur 15 feet beyond a tree's dripline or at least 15 feet from the trunk if the canopy is less than 15 feet in any location. The mitigation measure needs to require that construction activities within 100 feet of any tree to be protected be monitored by a Certified Arborist. The Arborist should be empowered to stop all work that may damage a protected tree. The County should also require that a Certified Arborist inspect all the protected trees after all construction has been completed and submit an assessment report for each tree to the County prior to issuing an occupancy permit.

Mitigation Measure Bio-Sp2 (Native Grassland Compensatory Mitigation Plan) requires a minimum of 6.14 acres of native perennial grassland habitat be restored to compensate for the destruction and loss of 3.07 acres of Purple Needlegrass Grassland. This is in conflict with the Goleta Valley Plan Policy BIO-GV-14, which requires that native grasslands be preserved to the maximum extent possible. Clearly, the proposed project makes no attempt to preserve any of the native grasslands onsite, even though a previous project approved by the County did exactly that and the developer believed that the project was still economically viable. Regardless, the location and condition of the restoration site is not identified and there is no provision to determine what sensitive biological resources are present at that site. The mitigation site will be nearly half the size of the entire project site, and has great potential to contain one or more sensitive biological resources. This is a violation of CEQA in that all components of a discretionary project must be evaluated as one project. The mitigation site(s) must be identified in the CEQA document and activities at them must be evaluated as part of the proposed project. Furthermore, the proposed mitigation measure does not include remedies for total or partial failure of the mitigation.

Mitigation Measure Bio-21 (Use Natives) requires native plant material to be used in the rear of Lots 11 and 12, presumably to protect adjacent native habitat to be retained. While this is laudable, it will hardly be effective in protecting natural habitats. DMEC recommends that all landscaping within the project site must be of native plants indigenous to the Santa Barbara region and that the landscapes be designed to minimize the amount of irrigation necessary to maintain the landscaping. The mitigation measure, or an additional measure, needs to also prohibit the planting of any invasive exotic species as listed by CalIPC or the California Native Plant Society.

The MND lacks any mitigation measures to protect raptor nests that occur onsite. The MND lacks any mitigation measures to protect active bird nests other than raptor nests. Migratory birds are protected by international treaty, and that protection extends to their nests and habitat. California Fish & Game Code

Section 3503 protects the nests of all birds. Surveys need to be conducted for any and all bird nests prior to construction and construction needs to be prohibited from within a safe distance from any active bird nest, typically 500 feet for raptors and 300 feet for other species.

In conclusion, DMEC believes that the County cannot reasonably perform an impact assessment of the proposed project since the biological surveys of the project site are both seriously dated (i.e. out of date), inadequate in not surveying for entire groups of plants (nonvascular plants) and wildlife (invertebrates). Since true baseline conditions are not truly known, it is impossible for anyone to make reasonable conclusions regarding significance of impacts on the biological resources present on the 14+-acre project site. Furthermore, measures recommended to reduce what significant impacts that were identified are either inadequate or infeasible. There was no attempt to avoid any of the project-related impacts to biological resources.

Please contact me if you have any questions about this letter.

Sincerely,



David L. Magney
President/ISA Certified Arborist

cc: Danny Vickers, San Antonio Creek HOA
David M. Brown, Conservation Committee Chairman, Channel Islands Chapter, California Native Plant Society