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April 20, 2012

COMMENTS to
TENTATIVE WASTE DISCHARGE REQUIREMENTS (WDR) for the NEWHALL LAND and FARMING COMPANY, PROPOSED RESOURCE MANAGEMENT and DEVELOPMENT PLAN (RMDP), SANTA CLARITA, LOS ANGELES COUNTY (File No. 11-168)

VIA ELECTRONIC MAIL

Dear Ms Carrillo Zara and Staff;

We appreciate the opportunity to comment on this document. I am a former Environmental Scientist with your agency and have been interested in following the Newhall Land development since being tasked with reviewing and advising staff of findings in the *Draft Environmental Impact Statement/Environmental Impact Report* for this project in 2002 and 2003.

Thank you for development of this detailed permit for the project. It is evident Regional Board staff worked to ensure environmental protections are inherent in all phases of the proposed development. Of particular note are progressive elements included in stormwater management, water monitoring, geomorphologic monitoring, soil reuse and protection, and the economically self-sustaining invasive species management requirements.

Please see commentary below.

Best regards,

Julie Clark De Blasio, BS, MUP
Principal, Sweetgrass Environmental Consulting

cc: Mr Larry Myers, Executive Secretary, California Native American Heritage Commission

Comments and Recommendations

Cultural Resources

The WDR permit as well as California Department of Fish and Game and County of Los Angeles respective *Statements of Overriding Conditions* for the Newhall Land and Farming Company development EIS/EIRs failed to address impacts to cultural resources, including and not limited to historic, ethnographic, spiritual, ethnobotanical elements. Due process through tribal consultation and representation with tribal monitoring was excluded for all proposed and planned activities. CEQA, SB18, and other requirements appear not to have been upheld during the planning and permitting processes.

The entire project area of the Newhall Ranch Resource Management and Development Plan (RMDP) is rich with data confirming numerous cultural, spiritual, historic, and contemporary indigenous use sites. Many large village, ceremonial, spiritual, social, gathering, and trading sites are documented for the RMDP.

Furthermore, the area is unique in that records show the vicinity of and surrounding the RMDP is well documented for shared and communal use by six indigenous tribes: Chumash, Kitanemuk, Serrano, Tongva, Tataviam, Yoqut. The presence of the Santa Clara River and its many tributaries sustained human populations for thousands of years prior to non-Indian settlement.[1]

All phases of development for the RMDP may result in disturbance of cultural resources. Locations identified in this project for compensatory mitigation and the extensive hydromodification work proposed in all drainages, waterways, and wetland areas host strong likelihoods of being culturally sensitive areas. Unabated disturbance without appropriate protocols will both permanently impact and desecrate these areas.

The WDR needs to comply with state laws governing this matter. The California Native American Heritage Commission must initially be contacted whereby they can assist with the many tribal contacts. Representatives from all six tribes will then provide best representative contacts with *Most Likely Descendents* (MLDs). Due to the scale and intensive activity levels within the RMDP, *multiple* MLDs need to be identified to monitor the concurrent construction activities during each day of work. The WDR should include these provisions and requirements that address protocols when sites, cemeteries, and other culturally sensitive finds are identified through the course of any land use activity within the RMDP. Requirements must include disclosure, reporting, protection, oversight by MLDs, and repatriation.

Historic Resources

The RMDP is well documented for historic use by Spaniards, missionaries, Mexicans, the Westward Expansion of the North American settlement, and modern era activities and settlement. These resources were neither identified nor addressed by the WDR, California Department of Fish and Game and County of Los Angeles *Statements of Overriding Conditions* for the Newhall Land and Farming Company development

[1] D Wilson. 2000. We are all related. National Park Service, Thousand Oaks CA *and* Regents of the University of California, Davis.

EIS/EIRs as required by CEQA. The WDR should include requirements for the developer to identify, document, report, and protect any significant site or area

Mitigation Requirements

The comment section "Cultural Resources" above highlights the proposed mitigation sites have a great propensity for being located within areas of significant cultural values. The sites should be reevaluated and correlated to not compromise documented areas.

Other areas designated for mitigation might be best reconsidered. For examples:

1. Castaic Creek mitigation area has been farmed in-channel. This appears to be an issue of enforcement as opposed to one whereby the developer now is able to receive credit for both the new housing development along with reparations from farming in the channel.
2. Proposed restoration methodology in the Santa Clara River channel is considered by current science as an active construction activity and not passive biological habitat enhancement. It is counterintuitive the developer should receive mitigation credit for restoring the river using planned techniques (see "Temporary Impacts below for citations).

Monitoring

The RMDP is vast in scale and will have concurrent activities. The permit requires a biological monitor. This project should require multiple monitors with one per activity site to ensure integrity of biological and cultural/historic resources. In order to satisfy need for accurate and comprehensive monitoring, one biological monitor and one tribal MLD need to be work along side each construction activity every day for the duration of the development.

Review and Enforcement

The reporting program requirements within the WDR should be self-sustaining, funded, and modeled for long-term accountability beyond the time the developer leaves the project.

Seeding Requirements

The permit states invasive plants are not to be planted within 200 feet from a natural area. Seed dispersal and volunteer propagation can occur within two miles from a parent plant.[2] The proposed planting restriction does not create a buffer wide enough to protect native plant communities from competitive invasive species. The 200-foot requirement should be extended *at least* to 1200 feet and include requirements that invasive species not be planted adjacent to natural or constructed drainages, sidewalks, or roads.

Site Clean Up

[2] Schultz, B. 2012. The noxious weed seedbank. Fact Sheet 12-01. University of Nevada Cooperative Extension. Reno.

825 acres within the project area have existing disturbance from roadways and industrial oil production. The WDR should address remediation requirements associated with the oil fields needed prior to redevelopment of that acreage.

Subsidence

The project area has one of the greatest subsidence rates in southern California as found from a joint state and federal agency investigation. The naturally occurring phenomenon is exacerbated by activities associated from multiple petroleum and groundwater wells located in the project vicinity. Environmental, ground, and surface water threats are possible from the combination of subsidence and drilling. The WDR should address this topic and require preventative measures and associated terrestrial, surface, and groundwater monitoring.[3]

Temporary Impacts

It appears proposed bank stabilization employing buried soil concrete may be calculated as a temporary impact in this permit. Albeit revegetation with native species is proposed on these banks, the type of stabilization activity is a permanent disturbance due to the presence of soil concrete. Concrete has a propensity for producing leachate that may escape plant uptake and remediation thereby potentially contaminating waters.[4,5] Compensatory mitigation requirements for riparian bank soil stabilization using buried soil concrete should thus be recalculated at the higher ratio as a permanent impact.

Water Quality/Detention Basins

Removal of large shrubs and trees should be subject to more permitting authority oversight in addition to the one WDR requirement of halting activities during bird nesting season. Constructed and natural basins that are vegetated provide many more benefits to water quality, passive water treatment, and environmental services than those devoid of plants. Returns include: lower water temperature, less algal growth, remediation through plant uptake, increased habitat and wildlife use, and aesthetic improvement.[6]

Conclusion

Requirements inherent in this permit are substandard. Some contemporary planning and engineering progressive stringent protocols and monitoring elements are included. However, they are eclipsed by antiquated project design and supporting permits authority that clearly avoids employing most current engineering, scientific, and planning principles. This type of 'model community' and its associated activities have not been upheld as construction industry standard for at least 20 years. Decades of engineering,

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[3] Hodgkinson, KM *et al*. 1996. Damage and restoration of geodetic infrastructure caused by the 1994 Northridge CA earthquake. *in* United States Geological Survey Open-File Report 96.517. US Government Printing Office. Menlo Park, Pasadena CA.

[4] Sargeant, SL *et al*. 2004. Conceptual model development for bank stabilization in freshwater systems. Washington State Department of Transportation. Oympia WA

[5] Whitow, TH, RW Hassis, AT Leiser. 1979. Use of vegetation to reduce levee erosion in the Sacramento-San Joaquín Delta. California Department of Water Resources. Sacramento CA

[6] RL France, ed. 2002. Handbook of water sensitive planning and design. CRC Press. Boca Raton FL

scientific, and planning trials, studies, data collection, and real world utility disproved most of the types of construction and design elements proposed throughout the RMDP.

Of note and particular setback is that nearly 57% of tributaries and drainages to the Santa Clara River and their headwaters will be decimated in perpetuity by conversion into engineered underground stormwater channels. This will result in evisceration of the physical and biological integrity of existing streams, hydrology, and the interdependence of all organisms living in the watershed of the project area. The US Army Corps of Engineers §404 permit justifies the loss of over 66 acres of water features with the "enhancement, restoration, and creation of 132.2 acres" of riparian values. It was understood in 2002 and 2003 when I was active on the Newhall Land and Farming project with the Regional Board the master planned community would incorporate existing wetlands, streams, and waterways into the project design. Instead, the final enterprise fully follows a 'clean palette' approach whereby the Earth and majority of geomorphic, cultural, and biological features are destroyed and replaced with completely new and anthropogenically enhanced components.
This type of design is currently and primarily used and suited for reurbanization projects. The existing open space natural community found throughout most of the RMDP is an extremely important and highly functioning ecosystem and watershed that provides essential and life-giving benefits to the economies and bionetworks of the local region and the many communities located downstream toward the Pacific Ocean. Functionality of the watershed, ecosystems, groundwater recharge, and agriculture all depend on the ecosystem services provided by the Santa Clara River, its many tributaries, and Castaic Creek. The proposed type of disturbance to hydrology and plant communities in the RMDP will cease to ever fully function again despite best agency efforts to require reintroduction of native plants and hydroengineering.

Finally, it is apparent the separate *Statements of Overriding Conditions* for the final EIS/EIR written by California Department of Fish and Game and County of Los Angeles failed to address the following cumulative impacts of the project: cultural, historic, hydromodification. It is a travesty that will be lamented and remembered for generations to come that permitting authorities did not fully require best current science and planning practices of the developer.