



## Preserve Calavera

Coastal North San Diego County

January 5, 2009

Erik Reuter  
Director of Construction, Carlsbad Unified School District  
6225 El Camino Real

Subject: Comments on FEIR Carlsbad High School

Dear Mr. Reuter :

These comments are submitted on behalf of Preserve Calavera, the largest conservation organization in coastal North San Diego County. We very much appreciate the effort required to design a high school that is sensitive to its very special location-- surrounded on three sides by permanently protected natural lands. Because of its unique location, the site provides particular challenges to balance the educational needs of the community with protecting the natural resources that are entrusted to all of us.

We believe the project as currently proposed has failed to meet those challenges. The result is that this project will damage the sensitive natural lands that surround it both temporarily during construction, and permanently. Few projects in this area have moved forward with so many permanent adverse impacts to the environment that are simply dismissed with "overriding considerations." We agree that quality education for the children of this area should not be compromised-- nor should we compromise the health of those students, nearby residents, and the health of our natural world. Many of the needed changes can be done now at this early stage of project design at essentially no cost. Others will require some modifications that will take some time and money. But this effort will be offset by future cost savings and a better project that meets the educational objectives while also being a good neighbor to the plants, animals, and people of this area.

Our top priority concerns, which have been discussed in our prior letter and meetings, include:

- inadequacy of the buffer for Calavera Creek
- impacts to the wildlife movement corridor
- poor transportation system planning
- failure to comply with HMP/MHCP or to meet HCP standards
- errors in air quality analysis
- insufficient justification for so-called "overriding considerations"

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In addition to the above, there are numerous areas where the DEIR and responses to comments have failed to fully identify, analyze, or mitigate for adverse impacts.

The following are specific comments on the principle issues of concern, comments about adequacy of the FEIR, responses to comments and mitigation measures; and comments on the proposed Mitigation Monitoring Program

## **I. Comments on Priority Issues of Concern**

### **Inadequacy of the Buffer for Calavera Creek.**

The project is located within the Agua Hedionda watershed. The creeks in the project vicinity are listed as impaired and not supporting designated beneficial uses under the provisions of Section 303(d) of the Clean Water Act. The project is located in a particularly sensitive part of the Agua Hedionda watershed as it lies within core habitat, a few feet from the confluence with the mainstem of Agua Hedionda Creek, and just a few hundred feet upstream from the impaired Agua Hedionda Lagoon. Furthermore, it is also just upstream from Rancho Carlsbad-- an area built within the 100-year floodplain whose residents have expressed concerns about flooding for many years.

Throughout the EIR, the project has referenced the 100-foot creek buffer as the standard to comply with. The District describes this as being measured from the dripline of the riparian vegetation to the wall along the parking lot and the base of the stadium. In D-9 they state that "The District has worked to achieve the spirit of the HMP's requirements by clustering the classrooms and administration facilities in the center of the site, and by designing the site plan with the largest buffer feasible." They describe the buffer as ranging from 120 feet on the north to 60 feet along the southern part of the site in response to D-9 and 65- 85 feet in the southern part in response to D-11 and others. However, the stadium's upper levels will extend several feet into this restricted buffer, with noise, lights, trash from events and shade from this structure effecting the buffer. They also describe the lot closest to Calavera Creek as designated for "overflow" parking and state this lot will be controlled to accommodate high attendance events, implying the impacts from this lot will thereby be reduced.

There is no evidence to support the conclusion that the proposed buffer is sufficient, that a 100-foot buffer is the relevant standard, nor that all reasonable mitigation measures have been included to protect the buffer. The discussion addresses only one of the reasons for a buffer: wildlife movement. The suggestion is that animals can move to the western side of the creek if the eastern side is not sufficient. But the western side is right next to a high-speed arterial road -- hardly the best place for wildlife movement.. Creek buffers are not just to accommodate animal movement (as discussed further below). Creek buffers are critical to support other sensitive species (including the Least Bell's Vireo), to slow down water run-off and stream bank degradation and sediment loading and to improve water quality and flooding. None of these other reasons for creek buffers are addressed in the analysis.

Furthermore since the project site is not part of the HMP, there is no justification for assuming that the HMP standard of 100' is sufficient. The HMP is developed as a sub-part of a seven-city regional plan and includes numerous other provisions related to conservation of natural lands. It is not appropriate to pick this standard out unless all other conditions of the MHCP/HMP have been complied with- and they have not.

There is nothing in the site plan that shows what part of the lot is "overflow" and how use of this area would be restricted under normal conditions. Furthermore, reduced use of this lot (that is paved and behind an 8 foot high wall) will not provide any benefit to the creek. A true overflow lot would have permeable or semi-permeable cover, be clearly segregated from the regular lots, and would be designed to reduce impacts. This would likely mean considering placing it outside of the wall so that the area would provide at least some benefit to the creek the majority of the time.

Creek buffers provide multiple functions, and the required buffer width depends upon site specific factors and which functions are to be protected. The Agua Hedionda Watershed Management Plan (AHWMP) identifies several issues of concern with this watershed. These include water quality, habitat degradation, channel and bank erosion, and future climate change related impacts effecting sediment loading, channel erosion, and other stressors.

The AHWMP estimated the historic and current riparian habitat and then identified the top 27 buffer restoration areas in the watershed. This includes the entire reach of Calavera Creek along the project boundary. The riparian corridor along this creek has been degraded over time. This has narrowed the historic, natural width of the riparian vegetation. This invalidates the use of the existing vegetation dripline as the beginning point of the buffer. According to the AHWMP, restoration in this area (and the other high priority areas) "provide the greatest benefits to wildlife populations and water quality."<sup>1</sup> Figure 6-5 included in the attachments shows this area identified as one of the top 27 restoration opportunities in the entire watershed.

Furthermore the City of Carlsbad has proposed a public trail that would cause impacts in the buffer zone. None of the discussion about adequacy of the buffer addressed impacts from the public use of this trail.

Lastly, the buffer includes a bioswale as a key element of the site BMP's for storm water control. Storm water run-off will be directed to the buffer area. There is no indication that pollutants from the site will all have dissipated prior to reaching the bioswale within the buffer, nor are there any provisions made for inspection and maintenance of this buffer.

All of these issues constitute additional impacts to the buffer that reduce its effectiveness. The District has failed to demonstrate that the proposed buffer is sufficient to protect the functions of the creek and has failed to adequately identify and mitigate impacts to it.

### **Action Needed :**

Select the Environmentally Preferred Alternative: No Stadium. This alternative will reduce the project footprint so that an adequate buffer can be provided along Calavera Creek.

Redesign the project to improve creek buffers, including the stadium overhang, parking lot size, and access roads.

Fully assess and mitigate for all impacts to the creek buffer including public trails and access, the proposed bioswale or other BMP's, and indirect impacts from the stadium and other site uses.

A reasonable compromise is to delay grading for the stadium and at least 500 parking spaces to a

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<sup>1</sup> Agua Hedionda Watershed Management Plan-Final, August 2008, Tetra Tech, page 6-16.

later phase of construction. As currently proposed, all of the land will be mass graded, perimeter walls constructed, and parking lots paved in the first phase of construction. Do not grade, pave, or impact in the buffer area until such time as it is needed. Why destroy this land and compromise the creek for a facility that is not planned for years, and, in fact may never be constructed?

Provide real controls from trash and noise from upper deck of the stadium. Add conditions to O & M plan that address on-going maintenance of lights, trash and noise control, as well as parking lot restrictions and BMP maintenance.

### **Impacts to the wildlife movement corridor**

We were heartened to see the wildlife corridor issues taken seriously in response to the many DEIR comments. However, Appendix B- Updated and Additional Biological Resources Report fails to adequately address those issues.

As depicted on Figure 1, the Calavera Creek Linkage B continues to function by avoiding the now culverted creek under Cannon Rd and crossing what will be the HS entrance. The entrance will be built within the actual wildlife corridor. This alone requires mitigation. Stating that the corridor will continue to function because wildlife can cross a paved road at night is simplistic at best and thoroughly disregards the importance of wildlife movement corridors at worst. Carlsbad HMP Planning Standards for this area, Zone 14 states “Maintain and enhance wildlife movement potential between core areas using sensitive design of any road or utility crossings of Linkage B (i.e., bridging, undercrossing).” We again request as mitigation for this wildlife corridor impact an undercrossing installed at the HS entrance.

Furthermore, this is our first encounter of an argument refuting an impact by stating the use of the site will be diurnal and wildlife use will be nocturnal. Wildlife corridor function criteria do not recognize this as a valid argument.

The report also stated there is an opportunity for wildlife to use the box culvert under Cannon Rd. This culvert is not, nor was it ever meant to be, a wildlife undercrossing. Given the long length and narrow opening, it does not meet basic openness criteria for wildlife corridor function. Raccoon is the only likely mammal species to use such a culvert.

Cumulative Impacts-Two of the future permitted projects around the project site, Cantorini and Holly Springs, have been approved and their cumulative impacts on the wildlife corridor are already addressed. It is this project and its impact to the wildlife corridor that remains a significant and cumulative impact.

Wildlife Corridor-Edge Effects- The response to this comment was combined with all other wildlife corridor issues as D-9 which did not address the edge effect issue. Noise, light, trash, non-native species, such as the Norway rat, increased congregation of generalists, such as crows and raccoons will exact a heavy toll from predation, competition and disruption of movement patterns. Riparian zones always have a high rate of biodiversity. Given the corridor is approximately 300-400 feet in width and the project boundary with the corridor is approximately 1800 feet, that is a ratio of edge to habitat that has a more pronounced negative impact. Solitary and shyer mammals, such as deer, bobcat and gray fox will avoid this area. Mammal predators are eleven times more likely to be present in riparian corridors than in upland habitat (Hilty and Merenlender 2004). The sum of these edge effects alters the natural dynamics and species

composition and severely hampers the corridors' function for movement, dispersal and genetic exchange between the core areas. Carlsbad HMP (pg D-76) Zone 14, Linkage B explicitly states that "large mammals using these connections are needed to maintain ecosystem balance at Agua Hedionda Lagoon."

The FEIR has failed to adequately assess or mitigate for the adverse direct, indirect and cumulative impact to the wildlife movement corridor.

**Action needed:**

Install a wildlife undercrossing at the HS roadway entrance.

Install speed bumps and wildlife crossing signage at HS roadway entrance.

Provide mitigation measures specific to the edge effects on the wildlife corridor.

Cumulative impact on wildlife movement remains significant in the FEIR. The scope for the proposed future survey of wildlife movement corridors needs to assess this entire Linkage.

**Poor transportation system planning**

This project, like many projects, has been designed for the automobile. It assumes that staff and students will access the site by automobile, and the site design has given preference to this mode of transportation. Public transit, pedestrian and bicycle access is given lip service and is not fully integrated into site plan. The result is that excess auto trips will cause air pollution in levels that exceed the air quality standards, can cause health effects, and will contribute toward global warming. But there are also numerous indirect impacts from this excessive preference for the automobile: health effects on youth including obesity and poor physical conditioning, and watershed impacts from excess impervious cover for such a huge parking lot and so many interior roads.

According to the San Diego Air Pollution Control District 60% of regional smog-forming emissions come from cars, trucks and buses.<sup>2</sup> Their guidebook " Tools for Reducing Vehicle Trips Through Land Use Design, " includes numerous methods to support alternative transportation that have not been incorporated into this project. They include constructing additional pedestrian pathways; working with transit providers to plan for multi-modal transfer sites that incorporate bicycles and pedestrians; ensuring parking requirements do not exceed demand; and designing projects to increase the convenience, safety and comfort of people using public transit, walking or bicycling, etc.

California Air Resources Control Board has yet to establish final standards for compliance with AB32 for reduction of green house gases (GHG). But in their recently-adopted final Scoping Plan they said, and the District concurred, that " reductions attributable to local government actions are primarily based on reduction of vehicle miles traveled." Reducing vehicle miles is the key way local agencies can assure compliance—and help reduce GHG. Yet this project has proposed no actions to reduce vehicle miles traveled.

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<sup>2</sup> Tools for reducing Vehicle trips Through Land Use design, San Diego Air Pollution Control District, January 1998, page 1-2.

The AHWMP identifies both basic and enhanced Low Impact Development (LID) techniques to comply with water quality requirements that are specifically based on the conditions present in this watershed. Basic techniques include: reducing and disconnecting impervious area; extended dry detention; swales or bioretention; and stream buffers. Enhanced LID techniques that are again selected for watershed specific benefit include stronger efforts to reduce impervious area and disconnect impervious areas, use of porous pavement in select areas of the site, and use of rainwater capture cisterns.<sup>3</sup>

Per the response to D-60, the project would require 340 parking spaces in accordance with the City of Carlsbad's requirements, or 625 using the Institute of Transportation Engineers methodology. Yet the project is proposing 1,000 spaces for the full complement of 2,400 students to be built from the initial phase of the project that will only support 1,500 students and does not include a stadium. This huge amount of impervious cover damages the watershed. Having excess parking encourages excess auto use at the expense of the other modes of transportation.

### **Actions Needed:**

Reduce parking spaces to the real minimum that is needed-based on the phased build-up of the high school population.

Develop aggressive TDM strategies to encourage car-pooling and the use of alternative transportation.

Provide better access for bicycles and pedestrians with safe crossings and secure storage areas.

Require a large/special event Transportation and Parking Plan that would include use of off-site lots for overflow parking with shuttle services. If this can be done for concerts in the parks, surely it can be done for major football games and graduation events.

### **Failure to Comply with HMP, MHCP or Meet HCP Standards**

The original Biological Core and Linkage Area (BCLA) defined for the regional habitat conservation plan by SANDAG identified the high school site as part of this sensitive core habitat area. Later the high school site and other properties were removed from the regional conservation plan, and these areas were not evaluated for their impact on regional resources. The DEIR does not indicate whether the District intends to use the city of Carlsbad's habitat take permit. If so, there are numerous places throughout where it is clear that the project does not comply with provisions of the HMP, and no HMP consistency determination has been made by either the City of Carlsbad or the WLAs. In fact the comment letters from both the City of Carlsbad and the WLAs identify numerous areas where the project is not in compliance with the HMP and the FEIR failed to address the issue raised. (See D-2,6,7,8,9, and 11 and E -7,8,9, 12,16, 18, and 24)

If the District will be applying for their own take permit, then they are in an HCP process. Since they are not part of the larger preserve system, they will need to demonstrate that their conservation plan can stand alone on its own merits, and that it will not significantly impact the core area and the adjacent preserve lands. The HCP process requires that all impacts have been

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<sup>3</sup> Agua Hedionda Watershed Management Plan-Final, August 2008, Tetra Tech page 7-2

minimized to the maximum extent feasible. Throughout the DEIR and FEIR there has been no real discussion of impact minimization. There are wetlands impacts with no discussion of avoidance or minimization. There are sensitive habitat impacts with no discussion of minimization. There are clearly feasible mitigation measures that have not been proposed (such as reducing the discretionary size of the parking lot, preserving the mulefat scrub as part of the bioswale, increasing the width of the bioswale through the center of the site, eliminating the bridge across the bioswale, and preserving the existing sensitive habitats rather than recreating an artificial area that includes some native plants.

An HCP for the project will need to address big picture issues like habitat fragmentation. The effect of habitat fragmentation is a well established scientific principle. In fact, a recent SANDAG study of the Least Bell's Vireo identified habitat fragmentation as a key contributing factor to the population decline. It is considered such a significant factor in qualitative assessment of habitat that habitat fragmentation and the resultant edge effects are specifically included in the evaluation methodology of the MHCP. (See Public Review Draft MHCP Volume II, November 2000, Section 2.2.3). In "The Impact of Roads on Large Carnivores Around the World," nineteen scientific studies on this issue are identified. (*The Road-Reporter*, Fall 2002, pp 14-16.)

Another key issue both for the HCP and for other agency wetland permits is avoidance and minimization of wetlands. This is the criteria in the MHCP and Carlsbad's HMP. The DEIR is supposed to evaluate compliance with local and regional requirements but failed to do so. In addition to these local criteria, the EIR must also demonstrate that the project is in compliance with the US EPA's Guidelines [Section 404(b)(1)] for the least environmentally damaging practical alternative ("LEAP") as required by the Federal Clean Water Act. The DEIR failed to demonstrate such compliance.

Also the Coastal Sage Scrub(CSS) impact is not consistent with the HMP, and again there is no discussion of impact minimization. The response to E-11 and 21 modified the CSS impacts to 2.11 of 4.01 acres or 52.6 % of the existing habitat. The HMP standards for Zones 14 and 15 are 67% conservation of CSS. The project clearly fails to meet this standard and has included no discussion of any efforts to minimize CSS impacts.

#### **Actions needed:**

Prepare a full HCP plan for this project site demonstrating how impacts have been minimized and including full mitigation.

Provide a plan for management of all sensitive resources and funding to assure they will be managed in perpetuity.

#### **Errors in Air Quality Analysis**

The summary of operational air quality impacts in Section 5.3.3 states " the proposed project would not be consistent with the San Diego Regional Air Quality Strategy.[ Threshold AQ-1]". It goes on to state that one of the key indicators for consistency is "Whether the project would result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of the AAQS or interim emission reduction in the RAQS..." It later says that the long term emissions would not exceed the SDAPCD thresholds.

However this conclusion is based on faulty analyses. The DEIR identifies baseline air quality conditions (Table 5.3-4), and project specific operation conditions both for year 2011 (Table 5.3-8) and 2030 (Table 5.3-10). However the DEIR failed to add the project specific air pollution to the baseline which is essential to determine if there will be any increase in severity or frequency or new violations as is required to meet the threshold.

Furthermore the analysis fails to analyze the urban island heat effect. According to Petra Pless such conversions of green open space to parking lots, roads and roofs can reasonably be expected to increase local ambient air temperature and the local formation of ozone. This would increase the current exceedances of the ozone standards.<sup>4</sup>

In addition, the DEIR failed to analyze secondary emissions from increased electricity generation. The generation of electricity generates emissions and the project will require significant amounts of electricity. A typical high school of this size has a \$ 40,000/month electricity bill.<sup>5</sup> All of these add additional direct and/or indirect operational air quality impacts that were not evaluated in the DEIR, that are not consistent with the RAQS and for which no mitigation has been provided.

In addition to the operational impacts, the project will have significant temporary construction impacts. Mitigation measure 5.3-2 will reduce these impacts, but for PM10 they will still exceed the standard by 31%.

Additional feasible mitigation measures exist and are required to mitigate the significant construction and operational impacts from this project.

### **Actions Needed:**

Correct the air quality analysis to fully identify all of the adverse operational impacts.

Add appropriate mitigation measures to reduce impacts to the maximum extent feasible. Such additional feasible measures are identified in the Robertson Ranch Comments and should include the following for fugitive dust from construction: prewet surface soils prior to clearing and grubbing, stabilize soil surface with palliative to form crust immediately after clearing, grade each phase of project separately, dig test holes to determine if prewatering is sufficient, cover backfill material when not actively handling, empty loader bucket slowly, minimize drop height from loader bucket, install perimeter wind barriers, limit size of equipment staging area, limit vehicle speeds, remove materials from downwind side of stockpiles, clean wheels and undercarriage of haul trucks prior to leaving the site, install and maintain trackout control devices where paved and unpaved travel routes intersect, pave construction roadways as early as possible, avoid use of high pressure air to blow soil and debris from forms, post a public sign with name and telephone number of who to contact for dust complaints and require corrective action within 24 hours.<sup>6</sup>

It should include the following mitigation for diesel exhaust mitigation: implementation of construction management techniques, use of CARB certified off road engines or alternatively

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<sup>4</sup> Comments on Air Quality, DEIR Robertson Ranch Master Plan, Petra Pless, D.Env., November 30, 2005, pp 7-8.

<sup>5</sup> Personnal Communication Michael Winters January 4, 2009.

<sup>6</sup> Comments on Air Quality, Petra Pless, pages 11-14.

fueled construction equipment, buffer zone to sensitive receptors, etc.<sup>7</sup>

For operational traffic impacts mitigation should include: establish carpool/vanpool program, provide preferential carpool/vanpool parking, locate building entrances near transit stops, provide shuttle service to food service/commercial establishments, implement parking fee programs, etc.<sup>8</sup>

For stationary source emissions mitigation should include the following feasible measures: increase wall and attic insulation beyond Title 24 requirements, plant shade trees in parking lots, install solar cooling/heating, reduce standard paving by 20%, use electric lawn and garden equipment for landscaping, pay an air quality mitigation fee and secure emission offsets.<sup>9</sup>

A complete copy of the referenced Comments on Air Quality report is included as an attachment and is part of the public record.

### **Insufficient Justification for Unmitigated Adverse Impacts**

We do not recall seeing an environmental review for any other project in North County that is allowing so many adverse impacts and justifying them based on "overriding considerations." Of course, this site started out with significant constraints. But those were known from the beginning of design. This would not be so egregious if there, in fact, had been a substantial effort to try to reduce the impacts. But in most cases this effort has been minimal at best. While CEQA allows a public agency to approve a project despite significant adverse impacts, the statement of overriding considerations must be based on substantial evidence in the entire record. [Public Resources Code, 21081.5; see *Sierra Club v. Contra Costa County* ( 1992) 10 Cal.App.4<sup>th</sup> 1212, 1222-24.] The statement of overriding considerations has not provided sufficient explanation as to why a specific impact could not be mitigated to a less than significant level; it merely lists the minimal mitigation measures that it found to be feasible. Furthermore there are numerous additional mitigation measures that are feasible and should be considered.

For example:

Aesthetic mitigation should include reducing the stadium impacts by moving visitor seats to the other side where they are incorporated into the slope of the hillside, and providing screening landscaping that considers the impacts from public trails.

Air Quality construction mitigation should include phasing to reduce the amount of equipment in use at one time, and the other measures discussed above.

Air Quality operational impacts mitigation should include the measures discussed above under transportation planning and air quality.

Noise mitigation should include relocation of visitor seats, a smaller stadium, control of number of days of impact from night events in the stadium, reduced hours for the use of the stadium, or siting the stadium on an interior part of the site.

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<sup>7</sup> IBID, p 14.

<sup>8</sup> IBID, pages 18-19.

<sup>9</sup> IBID, pages 20-21.

## II. Inadequate Responses to Comments on DEIR

We reviewed the responses to our comments, as well as responses made to other commentors. In many cases the responses were incomplete, not responsive to the issue raised, or not in full compliance with the requirements of CEQA. The written responses are supposed to describe the disposition of any significant environmental issue raised by commentors. [ Public Resources Code 21091, subd.(d)(2)(B).] In many cases significant issues were simply ignored in the response. CEQA guidelines also state that "There must be a good faith reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." [ CEQA Guidelines 15088, subd. (b)] The following are a few examples that illustrate the inadequacy of the responses to comments.

### D-2 Night time lighting

The issue of concern is that nightlighting on the site could effect sensitive species in the surrounding area. The response states that " The stadium lighting is the only lighting that exceeds the commonly accepted threshold. Security lighting from the parking lots would not exceed the project thresholds." The issue is not "commonly accepted" or "project" thresholds for nighttime lighting. The issue is the threshold for protecting sensitive habitat. The MHCP includes very specific criteria for nighttime lighting that is to be designed so there is no light spillover onto sensitive lands. The FEIR did not evaluate lighting impacts using the proper standard and has failed to demonstrate that there will be no adverse impacts from lighting that is not associated with the stadium. The fact that stadium light will be off by 9:30 or 10:00 p.m. does not mean that locker room areas, assembly areas, parking lots will not all have lighting above the minimum required for site security. The proposed 8-foot wall will address car headlights in the parking lot but does not address all of the remaining sources of nightlighting on the site.

The FEIR response has not properly identified or mitigated for all of the nightlighting impacts of the project.

### D -4 Air Quality Impacts

The comment asked for clarification of the discrepancy in air quality impacts between this project and the DEIR for the remodeling of the existing high school. This project said there will be reduced GHG from the transfer of 1,500 students from the existing high school, while the DEIR for the remodeling of the existing high school said just the opposite. The response to comments merely restated the conclusion but failed to provide any factual basis for it. Since the District has said there will be no boundaries for either school, and no survey of travel patterns has been done, there is no basis for the conclusion. Furthermore, the response completely ignored the inconsistency in the conclusions reached in two EIR's for the two high school projects. Clearly both cannot be correct.

### D-22 Public trails

The city identified concerns about the planned public trail just outside the project boundary. The response indicates that the project will not interfere with the public trail which the District has no obligation. At a meeting with project staff on December 31, 2009, it was stated that per discussions with the WLAs this area will be fenced and gated in a way that will still allow access for maintenance of city facilities but restrictions on pedestrian use will eliminate the public trail

in order to reduce impacts on the buffer. While this will improve the function of the buffer, the loss of this recreational element should have been clearly identified in the FEIR as an adverse impact and a conflict with the City's Master Trail Plan. Failure to identify this impact is a CEQA violation.

#### D - 38 Access road to water tank

The City of Carlsbad requested a 30' easement road to the water tank, with 12' wide AC paving and curbs. The response is that a road will be provided and the District will negotiate with the City regarding its width. This FEIR did not include sufficient information to qualify as adequate CEQA review for any modifications to this road. Widening, paving, and curbs could all add adverse impacts that have not been identified or mitigated.

The FEIR needs to specifically identify what changes, if any, will be made to this road, or state that any such future changes are not within the scope of this EIR.

#### E-12 Conservation easement for buffer along Highlands Ecological Reserve

The District had proposed a conservation easement to DFG in the DEIR as a means to ensure the conservation value of the buffer. The FEIR changed this to merely an offer of a conservation easement when DFG indicated they were not willing to accept this in the absence of funding to maintain the land and clarification of conditions associated with the easement. An "offer" of an easement provides no assurances of protection of this buffer. The FEIR must assure protection of this area. If this were part of the HMP/MHCP, this would require funding in perpetuity sufficient to manage the land to the standards of the MHCP. Since the District is not subject to this plan they would need to specify the management standards and provide sufficient funding to manage the land to that standard.

The mitigation measure as proposed, an "offer" of an easement, is insufficient to assure protection of the buffer and the adverse impact has therefor not been mitigated.

#### F -65 Use of native plants

In its project description the District has made the following claim: "The campus concept design emphasizes the idea of a balance between the man-made environment and nature. The architectural and site design would feature an intellectual understanding and experience of natural systems with diverse indoor and outdoor learning spaces."

To help reach this goal and to minimize the impacts to the adjacent natural lands we recommended the use of native plants, throughout the campus, to the maximum extent possible. The response was " The landscape plan will make use of drought-tolerant native plants." In other places it says the landscaping plan will be submitted to the WLA's for approval prior to initiating impacts.

According to Douglas W. Tallamy, Professor and Chair of the Department of Entomology and Wildlife Ecology at the University of Delaware, in his book entitled Bringing Nature Home: How Native Plants Sustain Wildlife in Our Gardens, published in 2007, "We can no longer hope to coexist with other animals if we continue to wage war on their homes and food supplies. This simple tenet provides an imperative, particularly for the bird and butterfly lovers among us, to fight invasive aliens as if it really matters and to re-evaluate our centuries-old love affair with alien ornamentals... Gardening with natives is no longer just a peripheral option favored by

vegetarians and erstwhile hippies. It is an important part of a paradigm shift in our shaky relationship with the planet that sustains us-one that mainstream gardeners can no longer afford to ignore."

The response has not addressed the concern to maximize the use of native plants- "making use" is not a real commitment to minimize the effect on the adjacent sensitive lands.

#### F -74 MHCP Edge Effect conditions

The response was "Comment noted, no response is necessary". The intent of the comment was that the project has not complied with all of the required MHCP edge effect conditions. The response to D-6 identified how the project would address four of those conditions that are specified in the HMP. However, this leaves numerous potential adverse edge effects unmitigated. This includes things like trash control from outdoor eating areas, fueling zones for construction equipment, etc. The complete list of MHCP edge effect conditions submitted previously needs to be evaluated and addressed or the project will have indirect impacts on the adjacent sensitive resources that have not been mitigated.

#### F -107 Assessment of Cumulative Impacts

The response says " See response F- 107." This is an obvious error and has therefore not provided a response to the comment made. One critical issue that should have been addressed is the cumulative impact of the future extension of Cannon Rd. The private road access to the HS site and construction of a parking lot within the southern alignment alternative of the proposed roadway extension will have a direct impact on any future analysis of the impacts of extending this road. Grading and paving the first few hundred feet of a road prejudices future alignment choices. It also creates an additional access path into the core habitat area for pedestrians and even motorized vehicles. Temporary construction access to the adjacent Rancho Carlsbad site off of this "private driveway" is being provided and will also cause direct, indirect and cumulative impacts that have not been identified or mitigated.

The project has failed to comply with the CEQA requirements to consider " Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." [CEQA Guidelines, 15355, subd.(b).]

#### F -108 Summary table of environmental impacts

The response included a list that is not consistent with the separately bound Findings of Fact and Statement of Overriding Considerations. For example, operational air quality is shown as less than significant in the responses to comments, but is shown as a remaining unmitigated impact on page 2-8 of the Findings of Fact. Biological resources are listed as cumulatively significant in the summary, but not in the Findings of Fact. The summary table is worthless and not responsive to the comment-- which was to provide a useful summary of impacts. Furthermore, conflicting information on these two documents makes it impossible for reviewers or the decision-makers to know exactly what they are being asked to approve.

#### E- 26 and others- Alternatives Analysis

Alternatives analysis is the heart of the environmental review process. Several commentators raised concerns about the adequacy of the alternatives analysis. In response to this, the District

changed the description of the No-Stadium Alternative and specifically identified this as the environmentally-preferred alternative. There was only minimal consideration given to this single environmentally preferred alternative.

The legal issue of concern is: Has the agency considered a *reasonable range* of alternatives. (See Village of Laguna Beach v. Board of Supervisors (1982) 134 Cal.App.3d 1022, 1028-1032.) . No consideration was given to other modifications of the project to lessen the adverse impacts for which overriding considerations are being used. Reasonable range does not mean a project must attain all of the project objectives, but that it could feasibly attain most. Certainly the lack of a stadium is not critical to the quality of education at a high school as numerous high schools do not have stadiums. [CEQA Guidelines 15126.6,subd.(a)]

Other feasible alternatives exist, particularly ones that would address the issues for which impacts have not been reduced below the level of significance: aesthetics, noise and air quality. CEQA “ requires public agencies to deny approval of a project with significant adverse effects when feasible alternatives or feasible mitigation measures can substantially lessen the effects.” [Sierra Club v. Gilroy City Council, 222 Cal.App.3d 30. 41 (1990).]

The project has not provided analysis of a reasonable range of alternatives and incorrectly rejected the environmentally preferred alternative that attains the majority of the project objectives.

### **III. Mitigation Monitoring Program**

The following are specific comments on the items that were included in the Mitigation Monitoring Program (MMP). The number assigned is the mitigation measure as identified in the MMP.

- 1-2 Needs to include consideration of reducing adverse impacts to views from public trails, and not just roadways as these are also part of the public impact.
- 4.2 Needs to also include that the district will continue to maintain lighting in a way that reduces impacts on sensitive habitat. This should be included in the site Operations and Maintenance Plan (O & M). In the absence of this, the amount of light or the direction of the lights could be changed over time so that this impact is no longer mitigated.
- 4-6 Eliminate the qualifier for CSS mitigation. This area has previously been identified as occupied CSS so mitigation must be at the full 2:1 ratio.
- 4-13 This needs to occur prior to approval of final map-- not just prior to construction. Furthermore, the biologist needs to monitor the site throughout construction to assure that wildlife movement is protected both during construction and after operation of the facility.
- 4-14 The offer of an easement is not a mitigation measure. The District must complete an HCP that includes an Open Space Management Plan and provides the funding necessary to manage sensitive habitat to the level specified in the approved HCP/OSMP.
- 4.16 Beyond Cal-IPC, the agency should also consult with the SDNHM Botany Department list of exotic, invasive plants at <http://www.sdnhm.org/research/botany/sdweeds.html> . The SDNHM Botany Department has spear-headed the effort to scientifically document the

floristic diversity of all San Diego County through the Plant Atlas Project, and therefore obviously has the local botanical expertise. There is at least one exotic (lantana spp) in the SDNHM list which does not appear to be included the Cal-IPC list of invasive plants.

- 4.16 There is an obvious typographical error in the next to the last sentence. Furthermore the WLA's will only review the landscaping plan for exclusion of exotics, not for the other interface factors that are not part of their regulatory oversight. We also request review of the plan by experts from the San Diego Chapter of the California Native Plant Society.
- 4-20 This sounds like a one-time effort. This needs to be re-worded to make it clear that this condition applies throughout the life of the project.

### **Conclusion**

We hereby request that the District withdraw the FEIR, deny the project without prejudice, address the identified issues, and bring this project back for consideration when it has fully addressed all of the issues identified above.

Thank you for your consideration of these concerns. Your continued efforts at their resolution will result in a better project and one that provides quality education, but that doesn't sacrifice the health and wellbeing of the people of this area, and the endangered plants and animals that live here with us.

Sincerely

Diane Nygaard  
On Behalf of Preserve Calavera

Attachments

Figure 6-5 from AHWMP- Buffer Restoration Opportunities  
Comments on Air Quality DEIR Robertson Ranch Master Plan, Petra Pless, November 30, 2005