



# Revision to ASR and/or Exhibits/Attachments

**Date:** October 20, 2006

**To:** Darlene J. Bloom, Clerk of the Board of Supervisors

**CC:** County Executive Office

**From:** Bryan Speegle, Director, RDMD

A handwritten signature in black ink, appearing to read "Bryan Speegle".

**RE:** Agenda Item(s) # 35 for the October 24, 2006 Board Meeting

**ASR Control #(s):** 06-002204

**Subject:** South Subregion Natural Community Conservation Plan

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## Explanation:

Subsequent to closure of the public review period for the Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan (NCCP/MSAA/HCP) and Environmental Impact Report (EIR) 584, Resources and Development Management Department (RDMD) received correspondence from the following: Endangered Habitats League (EHL), City of Mission Viejo and City of Rancho Santa Margarita (RSM). Copies of these letters are attached hereto as Attachments I-K. RDMD has provided responses to the EHL and City of RSM letters (see Attachments I and K). No response to Mission Viejo is necessary in our opinion.

As of this date, despite the best efforts of the participants, there are a few remaining issues relative to the proposed NCCP component of the overall NCCP/MSAA/HCP which have not been resolved to the full satisfaction of the California Department of Fish and Game (CDFG). Although few in number, if not resolved, these issues could ultimately prevent CDFG from issuing NCCP permits to the County and Rancho Mission Viejo (RMV) (Participating Landowners). A major unresolved issue is the question of who will hold the monies/endowments contemplated by the proposed Conservation Strategy. As set forth in the NCCP/MSAA/HCP documentation provided to the Board (Parts I to VI), the Conservation Strategy contemplates that the County will hold the funds necessary to conduct adaptive management on County Habitat Reserve Lands and the Prima Deshecha Supplemental Open Space, and the Rancho Mission Viejo Land Conservancy (RMVLC) will hold the management funds for the RMV Habitat Reserve Lands. The holding of such funds by parties other than CDFG has been the normal practice in the past for other NCCPs. Recently, the CDFG has indicated that this practice needs to be confirmed, either through additional legislation or through a formal opinion by the State's legal counsel. If this practice is not confirmed it may be necessary that CDFG hold all monies/endowment funds related to the NCCP. CDFG's holding of the monies/endowments is contrary to the Conservation Strategy proposed by the Participating Landowners and may significantly affect the ability of the Participating Landowners to provide the needed funds and to receive NCCP permits from CDFG.

Although it is hoped that all remaining unresolved issues will be resolved to the satisfaction of all parties, including CDFG, their resolution will require additional time and could result in additional delays in implementing the NCCP/MCAA/HCP Conservation Strategy. Rather than incur additional delays, RMV wants to move forward with implementing the Conservation Strategy as described in the NCCP/MCAA/HCP documentation and executing the Implementation Agreement (IA). RDMD concurs with this approach. RMV is committed to implement the full set of Conservation Strategy elements, including assemblage of a Habitat Reserve, formulation and implementation of a Habitat Reserve Management Program (HRMP), with necessary funding, and an interim management program on the part of RMV habitat reserve lands, in return for the regulatory coverage they would receive for their proposed Covered Activities under the Federal Endangered Species Act (Section 10(a)(1)(B)) and the state's Streambed Act (Section 1600 et seq.). Thus, with or without CDFG's issuance of NCCP permits, the entire Conservation Strategy would be implemented (i.e., there would be no change or diminution in the commitments of the Participating Landowners nor in the effectiveness of the Conservation Strategy). The only change in the program as now proposed would be that the County and other Participating Landowners would not receive regulatory coverage under the NCCP Act. Regulatory coverage under the state's NCCP Act would depend on resolving CDFG's NCCP-related issues which ultimately may not be realized. In that event, the Participating Landowners (including the County) would need to obtain additional permit approvals from CDFG to authorize the take of species protected pursuant to the California Endangered Species Act (CESA) pursuant to Sections 2081 and 2080.1 of that Act. However, it is expected that the existing NCCP/MCAA/HCP documentation would provide a basis for expedited processing of these other permits, if they are required.

Regardless, staff believes that the Board's certification of the Joint Programmatic Environment Impact Report/Environment Impact Statement (EIR/EIS) at this time is appropriate in that the Board's CEQA Findings would be based on the proposed Conservation Strategy, the expected impacts of proposed Covered Activities, and related avoidance, minimization and mitigation measures, all of which were analyzed in that document, and which will not change, whether or not coverage is ultimately provided under the NCCP Act. To reiterate, significant benefits would be realized in that Participating Landowners (including the County) would receive regulatory coverage for their proposed Covered Activities under Federal Endangered Species Act (FESA) and the Streambed Act, and expected benefits to wildlife and habitat in Southern Orange County would accrue from the proposed Conservation Strategy.

In conclusion, staff recommends that the Board of Supervisors should move forward with the proposed actions. At the same time, staff recommends that the Board authorize staff to continue negotiations with CDFG in order to attempt to resolve the remaining issues with the understanding that, if such attempts ultimately prove unsuccessful, the Board's actions would still authorize execution of the IA by the County relative to the proposed Conservation Strategy and related commitments on behalf of the County. Depending on CDFG actions, staff would prepare a final set of documents (Parts I through VI) to include clarifications and revisions in Part VI and the Supplement to Part VI, and to reflect the ultimate program and participants.

Revised Recommended Action(s)

The Recommended Actions are revised as follows:

1. Open Public Hearing on Natural Community Conservation Plan (NCCP) and Environmental Impact Report (EIR) 584, receive public testimony and close public hearing.

2. Adopt Draft Board of Supervisors Resolution 06-XX certifying Final EIR 584 (Including Exhibit A; Statement of Findings and Facts in Support of Findings; and Exhibit B: Mitigation Monitoring and Reporting Program)
3. Adopt Draft Board of Supervisors Resolution 06-XX approving Southern Subregion NCCP/MSAA/HCP and IA as clarified by Part VI and the Supplement to Part VI.
4. Direct staff to continue negotiations with CDFG in to attempt to resolve outstanding issues and receive regulatory coverage for the Participating Landowners (including the County) under the NCCP Act.
5. Authorize Chairman to execute a final Implementation Agreement (IA) in substantial compliance with the Draft IA and including any needed modifications to reflect the outcome of negotiations with the CDFG.

Make modifications to the:

- Subject       Background Information       Summary

Revised Exhibits/Attachments (attached)

- I. Correspondence from Endangered Habitats League dated October 3, 2006 and the County's responses thereto.
- J. Correspondence from the City of Mission Viejo dated October 13, 2006.
- K. Correspondence from the City of Rancho Santa Margarita dated October 13, 2006 and the County's response thereto.

Additional Information and/or Correspondence (attached)

**Attachment I**  
**ENDANGERED HABITATS LEAGUE**  
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



October 3, 2006

*VIA ELECTRONIC, FACSIMILE, AND US MAIL TO COUNTY OF ORANGE  
VIA ELECTRONIC AND US MAIL TO US FISH AND WILDLIFE SERVICE*

Tim Neely  
Planning & Development Services  
300 N. Flower St.  
Santa Ana, CA 92703

Karen Goebel  
US Fish and Wildlife Service  
6010 Hidden Valley Rd.  
Carlsbad, CA 92011

**RE: Responses to Comments for *Draft* Southern Subregion Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan (NCCP/MSAA/HCP), *Draft* Implementation Agreement (IA), and Associated *Draft* Environmental Impact Report/Environmental Impact Statement (EIR/EIS)**

Dear Mr. Neely and Ms. Goebel:

The Resource Organizations (Natural Resources Defense Council, Sea and Sage Audubon Society, Sierra Club, Laguna Greenbelt, Inc., and Endangered Habitats League) appreciate the opportunity to provide responses to your agencies on the Responses to Comments dated September 2006. These responses will utilize your numbering system. We are also providing one additional comment on the NCCP documents themselves.

L-1

We believe that having separate easements for the "gap" lands, rather than including those lands in the main easement (with spreaders), is unduly complicated. If this is how the County intends to proceed, the Open Space Agreement should be revised to clarify the process for recording the easements for the gap lands.

L-2

Regarding the uses within the PAs 3 and 4 setbacks, the response provided is not consistent with the Settlement Agreement. Section 4.3(c)(i) of the Settlement Agreement requires that, *in addition to* NCCP/SAMP/SMAA consistency, the USFWS determine that natural water quality treatment systems and related drainage facilities meet arroyo toad ecological requirements. The County cannot unilaterally determine that this

## Attachment I

requirement is invalid. Failure to comply with this requirement would constitute a breach of the Settlement Agreement.

Again, we request that the NCCP contain a provision that establishes a process for the USFWS to ensure that ecological requirements are met. If not, another process will have to be established outside of the NCCP, or else the facilities may not be constructed within the setbacks. While removal of bullfrogs (as proposed) is certainly an essential aspect, it is not comprehensive. For example, the size and design of the facilities are important. Also, the second action item proposed in the response – a blanket exclusion of arroyo toads from the treatment area – runs counter to the intent of section 4.8(c)(i), which is that any water quality treatment systems within the setbacks should provide compatible and usable foraging habitat for this species.

Regarding PA 8 development footprint planning, ACOE Special Condition I.D.8, even as modified in the response, does not explicitly reference coordination with the Wildlife Agencies. We thus recommend the following additional modification:

The permittee shall undertake telemetry monitoring studies for arroyo toad near Planning Area 8 for five years and submit the results to the Corps, CDFG, and USFWS before submittal of an application for Planning Area 8. The results shall be used by these agencies in designing appropriate measures to minimize impacts to the arroyo toad in Planning Area 8.

### L-3

The deletion of “staging areas” and “picnic areas” from allowable uses within the PAs 3 and 4 setbacks is not sufficient for Settlement Agreement consistency. Rather, it is also necessary to delete the very broad term “related recreational facilities,” which could include a host of uses related to trails, such as stables, staging areas, interpretive centers, parking lots, picnic areas, etc. The uses allowed under Section 4.8(b) of the Settlement Agreement are expressly confined to “limited fuel modification zones, trails and *interpretative signage* . . .” We recommend that the precise language of Section 4.8(b) be utilized to avoid any confusion in the implementation of this requirement.

### L-4

We reiterate that, irrespective of the NCCP and any failure of the Wildlife Agencies to enforce the permit conditions, the Benefit Fee must be sufficient to fully fund 5-year management plans for each dedicated area, and any fee reduction that results in insufficient funding of a management plan would violate the Settlement Agreement.

### L-5, L-6

In Section 6, the Settlement Agreement requires that the terms of the Settlement Agreement be incorporated into the Conservation Easement deeds. We thus suggest the following additional provision in the proposed form of deed:

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Settlement Agreement Incorporated by Reference. All of the terms, covenants, and conditions of the Settlement Agreement are hereby incorporated by reference as though set forth fully herein. In the event of any inconsistency between this Easement and the Settlement Agreement, the Settlement Agreement shall control.

Regarding the Settlement Agreement's prohibition on mining and quarrying of materials, no distinction between surface and subsurface mining is made. Thus, the additional vague language regarding not impairing the integrity of habitats and resources is not sufficient to address the concern.

Regarding the proposed change to (c) deleting orchards as a prohibited use, this would appear to allow orchard uses *anywhere* on the NCCP Reserve, which is surely not intended and would violate the Settlement Agreement. We suggest that the original language be restored, and that the apparent discrepancy between the Settlement Agreement and the NCCP in regard to agricultural uses be resolved with an explanation that where certain requirements in the easement are more stringent than what is required by the Settlement Agreement, the more stringent requirements apply.

L-7

The change is appreciated.

L-8

The changes made are appreciated. In regard to Paragraph 3, we reiterate our position that any exchanges or extinguishment of easements undertaken without the approval of the Resource Organizations would constitute violations of the Settlement Agreement. We do not see the point of including provisions in the easement that cannot be legally exercised, and we urge the County to reconsider the language of the easement to allow for Resource Organization approval wherever such approval would be required by the Settlement Agreement.

L-9

The consideration of our nominees is appreciated.

L-10

Spelling out the obligations of the SMWD regarding invasive species is appreciated.

L-11

Regarding potential supplemental planning in SA 2, the Resource Organizations appreciate the County's interest, and offer our constructive assistance.

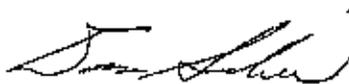
## Attachment I

### Additional comment

Section 6 of the Settlement Agreement requires that all Open Space Lands be placed in a conservation easement, and that the Resource Organizations be made third party beneficiaries to that easement. Section 15(p) of the proposed conservation easement purports to authorize RMV to take all compensation in the event that any part of the easement property is condemned. Such provision would prevent the IRLEH, or other grantee of the easement, from recovering compensation for the loss of the resource, thereby impairing the rights of Resource Organizations as third party beneficiaries to the easement. The grantee and RMV should each be compensated in proportion to the relative value of their respective interests.

We look forward to clarification or revisions that address our remaining concerns and to discussing these issues with you in a timely manner.

Sincerely,



Dan Silver  
Executive Director

cc: Rancho Mission Viejo

## Attachment I

### Response to Comments Endangered Habitats League (letter dated October 2, 2006)

County appreciates the supplemental comments provided by the Endangered Habitats League (on behalf of the collective Resource Organizations) in relation to the responses previously prepared and distributed by the County in September 2006 vis-à-vis Part VI of the NCCP/MSAA/HCP. In reply to the supplemental comments thus provided by the Endangered Habitats League ("EHL"), County offers the following responses (as keyed to the numbered paragraphs appearing in EHL's correspondence):

[L-1] County recognizes EHL's desire for integration of the self-described "gap lands" easements into the main Conservation Easement Deed and the RMV Habitat Reserve. However, as previously identified in Part VI, Section 4.0, Response to Comment L-1, the "gap lands" were intentionally excluded from the Habitat Reserve by virtue of the potential inconsistency of use for these lands under the terms of the NCCP/MSAA/HCP as compared to the terms/limitations of the Settlement Agreement. County recognizes that RMV is obligated to record an easement over these "gap lands" pursuant to the Settlement Agreement; however, the type of easement (*e.g.*, conservation, agricultural or other) and the timing of dedication have yet to be determined. Thus, it would be inappropriate for the County to mandate the inclusion of the undefined "gap lands" easements into the Conservation Easement Deed (*e.g.*, potential inconsistency/conflict in type of easements) and to establish a process in the Open Space Agreement for the recordation of the "gap lands" easements.

[L-2] Regarding the uses within the setbacks of PAs 3 and 4, the County cannot require that the USFWS "determine that natural water quality treatment systems and related drainage meet arroyo toad ecological requirements" as the County has no regulatory authority over the USFWS. The County did discuss the issue of arroyo toads and water quality treatment systems with the USFWS. The response provided to the initial comment is reflective of the USFWS's thoughts on how arroyo toad ecological requirements should and should not be met by facilities whose primary purpose is the treatment of water quality to ensure that downstream resources, *i.e.*, the major toad population in a key location in San Juan Creek are not impacted.

ACOE Special Condition LD.8 was appropriately modified as set forth in Part VI, Section 5.0 ("Clarifications and Revisions"), page 5-45.

[L-3] As recognized by EHL, County has previously agreed to modify Appendix U to specifically eliminate "staging areas" and "picnic areas" from the list of "related recreational facilities." Thus, and as previously identified in Part VI, Section 4.0, Response to Comment L-3, the relevant portion of Appendix U now reads:

Limited fuel modification zones, trails, and related recreational facilities (*i.e.*, interpretative signage) are allowed within the 400-meter corridor.

By virtue of the qualifying "*i.e.*" appearing at the beginning of the parenthetical phrase, the term "related recreational facilities" is expressly limited to "interpretative signage" - no other use or activity may qualify as a "related recreational use" for purposes of Appendix U. As such, the text of Appendix U and Section 4.8(b) of the Settlement Agreement are consistent and equivalent. Further modification of Appendix U is not required.

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[L-4] EHL's comments regarding full funding of the 5-year management plans and compliance with the terms of the Settlement Agreement are duly noted.

[L-5, L-6] Paragraph 1. As previously identified in Part VI, Section 4.0, Response to Comments L-5 and L-6, the draft Conservation Easement Deed ("CED") reflects the existence and purpose of the Settlement Agreement, and the terms of the proposed CED are consistent with the provisions and requirements of the Settlement Agreement. Notably:

1. Recital C of the CED expressly references the Settlement Agreement and the increased amount of open space protected under the Settlement Agreement.
2. Recital H of the CED recognizes, in relevant part, that the terms of the Settlement Agreement require that the identified open space be made subject to the CED pursuant to a phased dedication program.
3. Section 1 of the CED declares, in relevant part, that an express purpose of the CED is to assure that the identified open space will be retained forever in its natural, restored or enhanced condition consistent with the Settlement Agreement.
4. Section 5 of the CED recognizes that, in the context of Prohibited Uses, the Settlement Agreement declares certain limitations and exceptions with respect to activities within the defined open space (*see, e.g.*, subsections (z), (cc), (dd), (hh) and (ii)).
5. Section 15(o) of the CED recognizes that the parties to the Settlement Agreement are express third-party beneficiaries of the CED.

In short, the purpose, intent and obligations of the Settlement Agreement are currently and accurately reflected in the CED. Addition of the supplemental language requested by EHL concerning "incorporation by reference" would not improve or otherwise materially benefit the operation or effect of the CED or grant greater protections to the parties. Accordingly, County respectfully declines to add the requested language.

Paragraph 2. As identified in Part VI, Section 4.0, Response to Comment L-6 (Paragraphs 2 and 3), the text of Sections 5.(oo) and (bb) of the CED accurately reflects the purposes and intent of the Settlement Agreement parties with respect to the conduct of surface vs. subsurface mining activities within the Defined Open Space. County also believes that with the addition of the qualifying language appearing at the end of Section 5.(oo) (*i.e.*, "provided that said activities do not compromise or impair the integrity of the protected habitat and species resources located on the Property"), the conservation interests identified in the CED will be adequately protected in the context of subsurface mining activities that may be conducted in the future.

Paragraph 3. By eliminating the term "orchard" from Section 5.(c) of the CED, County intended to eliminate redundancy in the "Prohibited Uses" section of the CED. Specifically, Section 5.(dd) of the CED presents a comprehensive prohibition on new, expanded and/or relocated orchard crops within the defined open space, subject to limited exceptions. In eliminating "orchard" from Section 5.(c), County consolidated the scope of allowed vs. disallowed orchard uses within the CED open space (*i.e.*, Section 5.(dd)) and eliminated the

## **Attachment I**

potential for conflicting interpretations between two sections addressing the same topic. Further explanation and textual reconciliation with the Settlement Agreement is neither warranted or necessary.

[L-7] EHL's comments are duly noted.

[L-8] EHL's comments regarding issues potentially stemming from future exchanges or extinguishments of easements are duly noted.

[L-9] EHL's comments are duly noted.

[L-10] EHL's comments are duly noted.

[L-11] EHL's willingness to participate in potential planning efforts relative to SA2 is duly noted and appreciated.

### **Additional Comment**

EHL's comment is focused upon ensuring the long-term financial integrity of the NCCP/MSAA/HCP and its Conservation Strategy. Pursuant to the NCCP/MSAA/HCP and the express provisions of the Implementation Agreement, RMV is both committed and obligated to fully fund the agreed-upon HRMP. As such, and regardless of allocation or distribution of proceeds following condemnation of a portion of the RMV Habitat Reserve Lands, RMV's funding commitments and obligations relative to the continuation of the HRMP will remain. Thus, addition of supplemental text concerning allocation and assignment of condemnation proceeds is unnecessary to ensure the continuing financial reliability and viability of the Conservation Strategy.



## Attachment J

# City of Mission Viejo

## Community Development Department

Lance R. MacLean  
Mayor

Frank Ury  
Mayor Pro Tempore

Trish Kelley  
Council Member

John Paul "J.P." Ledesma  
Council Member

Gail Reavis  
Council Member

October 13, 2006

Jerry Mitchell  
County of Orange  
Planning and Development Services  
300 North Flower Street  
Santa Ana, CA 92701-4048

**Subject: County's Response to City's Comments on Draft NCCP EIR/EIS**

Dear Mr. Mitchell:

I write to thank the County of Orange ("County") for providing written responses to the City of Mission Viejo's September 11, 2006 comment letter on the Draft NCCP/MSAA/HCP Joint Programmatic EIR/EIS. The City appreciates the County taking the time and effort to clarify the issues the City raised regarding the implementation of the NCCP/MSAA/HCP (the "NCCP").

As stated in our comment letter, it is not the City's intent to delay action on forming an NCCP in South Orange County. The City is well aware of the importance of the NCCP to preserving the native habitat of South Orange County, and our comments were neither intended, nor should they be construed, as a challenge, contest or objection to the NCCP. To the contrary, the City merely sought clarification of the role of the NCCP in the context of future transportation planning within the study area. As the County is aware, the City and County (along with other parties) entered into a settlement agreement (the "Settlement Agreement") regarding the proposed development of the real property located in unincorporated Orange County more commonly known as Rancho Mission Viejo (the "Ranch Plan"). The Settlement Agreement required that development of the Ranch Plan proceed in a manner consistent with the impacts identified in Program EIR No. 589 ("EIR No. 589"). In reviewing the NCCP Joint EIR/EIS, the City found additional clarification necessary to ensure that the NCCP, which includes a substantial portion of the real property located within the Ranch Plan area, is implemented in a manner consistent with the Settlement Agreement.

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## Attachment J

Mr. Jerry Mitchell

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The City has reviewed the County's written responses to the City's comments. In addition, the City met with the Ranch Plan applicant's representatives and technical staff who provided additional clarifications of matters within the documents relating to the implementation of the NCCP and the development of the Ranch Plan. The County's written responses, coupled with the additional clarification provided by the Ranch Plan applicant's representatives, are sufficient to allow the City to confirm that the adoption and implementation of the NCCP, as proposed, will not result in added impacts to the development of the Ranch Plan beyond those that were identified by EIR No. 589. Accordingly, the City is satisfied that the NCCP entitlements are being processed in a matter that is consistent with the Settlement Agreement and requires no further documentation or information with respect to the adoption and implementation of the NCCP.

Thank you again for your time and effort in responding to our inquiries.

Sincerely,



Charles W. Wilson, AICP  
Director of Community Development

cc: Dennis Wilberg, City Manager  
William Curley, City Attorney  
Loren Anderson, Director of Public Works  
Shirley Land, Transportation Manager  
Elaine Lister, Planning Manager  
Gail Shimoto-Lohr, GSL Associates

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### CITY OF RANCHO SANTA MARGARITA

October 13, 2006

*Mayor*  
James M. Thor

*Mayor Pro Tempore*  
L. Anthony Beall

*Council Members*  
Neil C. Blais  
Gary Thompson  
Jerry Holloway

*City Manager*  
Steven E. Hayman

Mr. Bryan Speegle  
Director, Resources and Development Management Department  
County of Orange  
300 N. Flower Street  
Santa Ana, CA 92703-5000

**Subject: Disputed Open Space Properties Within the City of Rancho Santa Margarita**

Dear Mr. Speegle:

As you know, the City of Rancho Santa Margarita ("City") and County of Orange ("County") are currently involved in litigation related to open space properties ("Chiquita Ridge") located within the City's boundaries. The City believes that ownership of the subject property, as outlined in the Second Amended Complaint entitled City of Rancho Santa Margarita vs. County of Orange (San Diego Superior Court Case No. GIN 048650), should have been transferred to the City in accordance with the Local Agency Formation Commission (LAFCO) Resolution at the time the City incorporated.

It has now come to our attention that there are other properties located in the City which were designated open space at the time of City incorporation and that may be the subject of similar disputes, along with any trail or County easement. As Staff continues to review the City's land use records along with other incorporation documents that were either not disclosed or transmitted to the City upon incorporation, we have become increasingly concerned and convinced that many open space properties, easements and trails should have been transferred by the County to the City upon incorporation. We brought these concerns to County Counsel's attention at the Chiquita Ridge mediation meeting on October 12, 2006.

In compliance with agreed upon discussions between the City and County representatives at yesterday's mediation meeting, we have compiled a list of potentially disputed properties for your review. Our Special Counsel, Deborah Fox, will also be following up with a letter to County Counsel, Jeff Richard, to request that City and County representatives schedule a fact finding meeting to discuss these properties.

Most importantly, the City is aware that most, if not all, of the additional disputed properties are located in proposed Habitat



Mr. Bryan Speegle  
October 13, 2006  
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Reserve or Supplemental Open Space Area in the Draft Southern Subregion Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and Master Streambed Alteration Agreement (MSAA).

The County Board of Supervisors is scheduled to take final action on these documents on October 24, 2006. Since the City has not participated in reserve area negotiations under the NCCP process as a property owner of proposed reserve area, the inclusion of the disputed properties should be suspended until such time that the ownership is clarified. This request is similar to our earlier request regarding the Chiquita Ridge property which we appreciated the County in honoring. Any unilateral inclusion of these properties within NCCP preservation area would have severe consequences on the City's ownership, land use and zoning authority granted under state law.

I have attached several exhibits that outline the various designated Open Space and potential trail properties in dispute. In addition, the County should have transferred any County easement within the City's boundaries at the time of incorporation. Staff has provided the GIS ID No. for all open space properties, as created by the County with the parcel data. Any additional information we provided is based on the most recent information the City was able to obtain. In many cases, APNs have inexplicably changed and Tract and Lot numbers were never given to the City when it incorporated. In addition, I have attached a map of the City with disputed property locations depicted in red. Finally, I have outlined the disputed property areas on a copy of the proposed NCCP/MSAA/HCP Alternative B-12 map. A copy of the City's General Plan Trail Map and an aerial photo of the City highlighting various trail locations are also included.

The City appreciates your cooperation in this urgent matter of the NCCP and looks forward to resolving these property issues on a comprehensive citywide basis. If you have any questions, please contact me at (949) 635-1800, ext. 8707.

Sincerely,

Kathleen Haton  
Planning/Community Development Director

Attachments



Mr. Bryan Speegle  
October 13, 2006  
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cc: John Cavanaugh, City Attorney  
Steven Hayman, City Manager  
City Council  
Deborah Fox, Fox & Schagi  
Jeff Richards, County Counsel  
Orange County Board of Supervisors  
Thomas G. Mauk, County Executive Officer  
Kevin Thomas, Director, County Harbors, Beaches & Parks  
Harry Huggins, HBP Acquisitions

| LAST KNOWN APN | TRACT NO | LOT NO | GIS ID NO.<br>MSLINK |
|----------------|----------|--------|----------------------|
| 125-033-12     |          |        | 6292222              |
| 125-033-13     |          |        | 6292223              |
| 125-033-14     |          |        | 6292216              |
| 125-033-16     |          |        | 6292225              |
| 125-033-22     |          |        | 6290167              |
| 125-033-27     |          |        | 6290171              |
| 125-033-28     |          |        | 6292224              |
| 125-033-29     |          |        | 6292241              |
| 125-033-30     |          |        | 6290169              |
| 125-033-57     |          |        | 7221853              |
| 125-033-64     |          |        | 8365772              |
| 125-085-33     |          |        | 6292257              |
| 125-085-36     |          |        | 6292259              |
| 125-085-80     |          |        | 8033817              |
| 125-087-05     |          |        | 8366777              |
| 125-087-06     |          |        | 8366771              |
| 125-087-08     |          |        | 8231084              |
| 125-087-11     | 13085    | 33     | 8033808              |
| 125-087-12     |          |        | 8220579              |
| 125-087-12     |          |        | 8220577              |
| 125-087-14     |          |        | 6292275              |
| 125-100-58     |          |        | 6292346              |
| 125-110-24     |          |        | 6290111              |
| 125-110-26     |          |        | 6290114              |
| 787-151-02     | 13086    | A      | 6291868              |
| 790-021-44     | 14967    | A      | 7263904              |
| 790-021-50     | 14457    | A      | 6273387              |
| 790-021-56     | 14804    | A      | 7263615              |
| 804-541-01     |          |        | 6270001              |
| 804-541-16     | 13131    | O      | 6270016              |
| 804-541-17     |          |        | 6270017              |
| 804-541-27     | 13131    | K      | 8358583              |
| 805-011-38     | 13384    |        | 6290014              |
| 805-011-45     | 13384    |        | 6290016              |
| 805-011-48     |          |        | 6290017              |
| 805-011-57     |          |        | 6290060              |
| 805-011-58     |          |        | 6290012              |
| 805-071-09     | 13000    | E      | 6290051              |
| 805-071-24     | 13000    | A      | 6290057              |
| 805-211-01     | 13165    | A      | 6291846              |
| 805-211-03     | 13166    | A      | 6291948              |
| 805-241-10     | 13084    | B      | 8011738              |
| 805-241-12     | 13084    | D      | 6291958              |
| 805-241-13     | 13084    | E      | 6291959              |
| 805-252-01     | 13201    | A      | 6291960              |
| 805-252-02     | 13202    | A      | 6291861              |
| 805-261-08     | 13086    | A      | 6291962              |
| 805-361-58     | 13236    | H      | 8012617              |
| 805-391-08     | 13428    | E      | 6292204              |
| 805-391-09     | 13428    | E      | 6292205              |

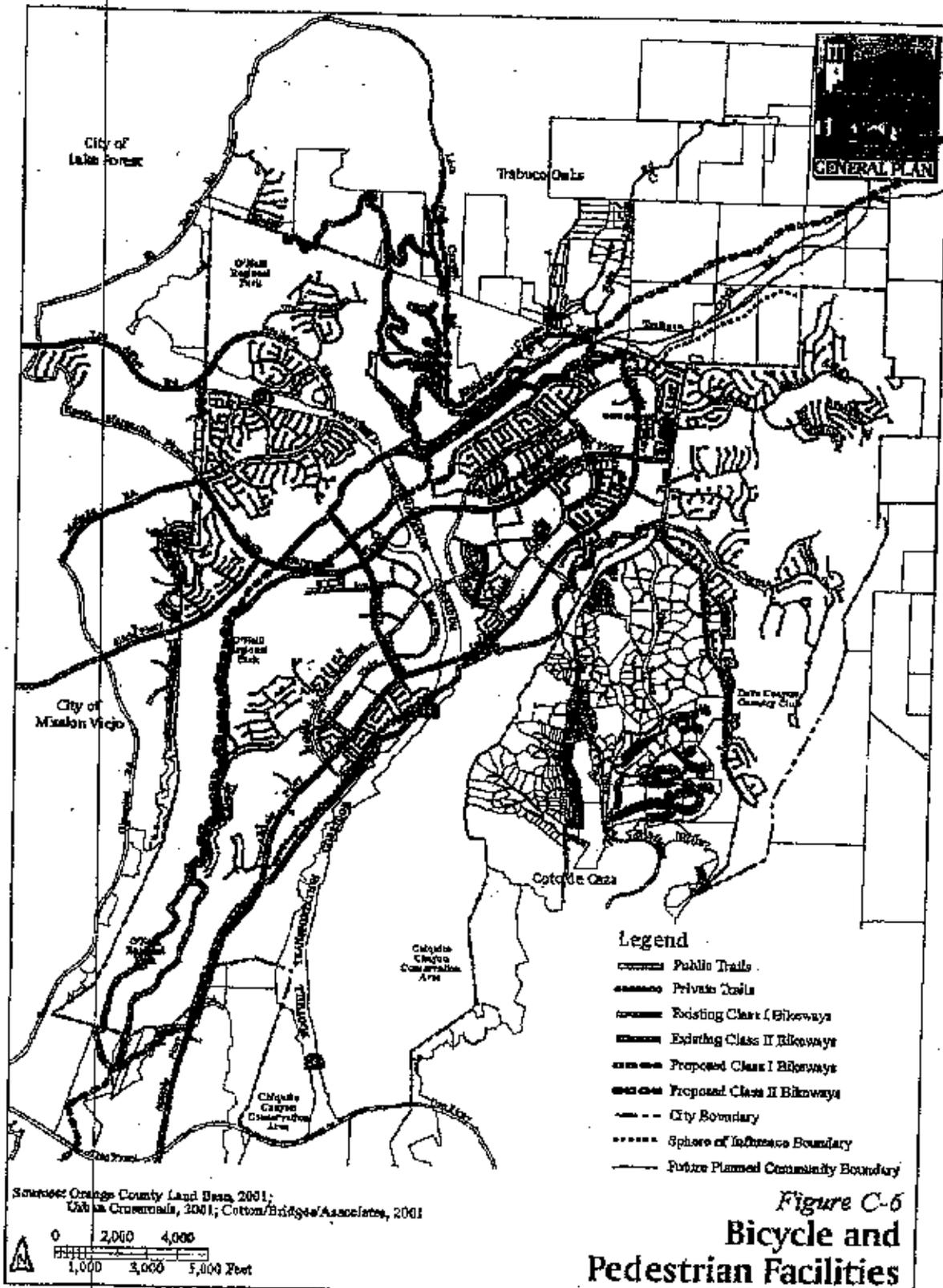
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| 805-501-03 | 15299 | A   | 7417371 |
| 805-501-04 | 15299 | B   | 7417370 |
| 805-501-06 | 15299 | C   | 7417372 |
| 805-501-10 | 13084 | B   | 8134044 |
| 805-531-56 | 15749 | C   | 8411326 |
| 805-531-57 | 15749 | D   | 8411327 |
| 805-541-45 | 15749 | B   | 8411326 |
| 805-541-50 | 15749 | C   | 8411324 |
| 805-051-35 | 12948 | F   | 7582130 |
| 805-084-44 | 15608 | E   | 7883430 |
| 614-051-46 | 13164 | B   | 7870457 |
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| 833-081-22 |       |     | 6384298 |
| 833-081-27 |       |     | 6384815 |
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| 833-081-46 |       |     | 6384827 |
| 833-451-07 | 12784 | B   | 6380822 |
| 833-681-02 | 13473 | 18  | 6384812 |
| 833-592-38 | 13474 | H   | 8011629 |
| 833-592-39 | 13474 | G   | 8011628 |
| 833-592-40 | 13474 | F   | 8011077 |
| 833-621-20 | 13475 | B   | 8011636 |
| 833-641-36 | 13213 | 156 | 8011071 |
| 833-641-45 | 13213 | Q   | 8011072 |
| 833-641-46 | 13213 | P   | 8078530 |
| 836-031-29 |       |     | 6416467 |
| 836-031-46 |       |     | 6416475 |
| 836-821-42 | 13854 | F   | 7340920 |
| 836-831-16 | 13854 | A   | 7340919 |
| 836-831-17 | 13854 | E   | 7340921 |
| 836-841-04 | 15219 | F   | 7385370 |
| 836-841-05 | 15219 | E   | 7385369 |
| 836-881-24 | 13340 | E   | 7785456 |
| 839-011-08 | 13679 | C   | 6418154 |
| 839-011-09 | 13679 | D   | 6418155 |
| 839-011-27 | 14274 | G   | 7414624 |
| 839-012-01 | 14274 | D   | 7414622 |
| 839-012-07 | 14274 | A   | 7414619 |
| 839-021-03 | 13679 | B   | 6418163 |
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| 839-032-18 | 14393 | E   | 8073365 |
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| 839-121-19 | 14413 | B   | 8073851 |
| 839-121-20 | 14413 | C   | 7192107 |
| 839-121-22 | 14413 | F   | 7192102 |
| 839-211-01 | 13339 | C   | 7198852 |
| 839-211-02 | 13339 | B   | 7198856 |

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| B42-071-11 |       |   |  | 8410043 |
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|            | 13000 | D |  | 8522239 |
|            | 13384 |   |  | 8304287 |
|            |       |   |  | 8307288 |
|            |       |   |  | 8887285 |
|            |       |   |  | 8387284 |
|            |       |   |  | 8168948 |
|            |       |   |  | 8364288 |
|            |       |   |  | 8228578 |

### Open Space Properties







## **Attachment K**

### **Response to Comment: City of Rancho Santa Margarita (letter dated October 13, 2006)**

The County responded to a prior letter from the City dated September 11, 2006 regarding certain claims it has asserted in ongoing litigation with the County -- see Part VI Response to Comments F-1 through F-14. Unlike the prior comments, the October 13 letter was received after the end of the public review period for the NCCP/MSAA/HCP and EIR 584 and the County is therefore under no obligation to provide written responses as part of its Response to Comment document. Also, the letter appears to raise claims not previously raised with the County that involve numerous properties and which are outside the scope of the existing litigation. The letter and issues contained therein are still being reviewed by the County. Any further comment on the issues raised in the letter must necessarily await completion of the County's review.