

Ms. Rachel Warner
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December 12, 2011

SUBJECT: GRADY RANCH PRECISE DEVELOPMENT PLAN DRAFT SUPPLEMENT TO THE GRADY RANCH/BIG ROCK RANCH MASTER PLAN 1996 DRAFT ENVIRONMENTAL IMPACT REPORT

Dear Ms. Warner:

Marin Conservation League (MCL) appreciates this opportunity to comment on the adequacy of the Draft Supplement to the Grady Ranch/Big Rock Ranch 1996 Final Environmental Impact Report (DSEIR) for the Grady Ranch Precise Development Plan (Project).

The SEIR is just one part of the extensive administrative record on which the merits of the Grady Ranch project will be evaluated. It is a key part of the record, however, in that it should provide enough information to clearly describe the project, and sufficient analysis to assure the public and decision makers that all potentially significant impacts have been identified, that mitigation measures are fully analyzed and found to be reliable and feasible, and that alternatives that might lessen any significant impacts have been fully considered. Mitigation measures are of particular importance, for they are the basis of conditions that will be attached to any project or alternative that might be approved.

The purpose of these comments is to identify areas in the Draft SEIR that, in MCL's view, either do not comply with CEQA Guidelines or do not provide sufficient data or analysis to support informed decision making and therefore must be corrected or amplified in the Final SEIR. In its present form, the Draft SEIR is not adequate. We refer you also to a letter from Grassetti Environmental Consulting, dated December, 2011, which reviews the Draft SEIR in detail. In addition to our own observations, we have selected and summarized key points discussed by Mr. Grassetti.

General Comments on the Draft SEIR

The majority of deficiencies in the DSEIR stem from reliance on the conceptual program-level Master Plan EIR for what should be detailed project-level analysis of the Grady Ranch PDP. We agree that a supplement to an EIR need contain only the information necessary to

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make the previous EIR adequate for the project as revised (CEQA Guidelines Section 15163(b)). However, since the subject of the Draft SEIR is a PDP (“Project”), we do not agree with the DSEIR’s assertion that it evaluates the potential impacts of the revised Grady Ranch Project at a project-specific level. The DSEIR provides a general comparison of the impacts of the current project and conditions with those evaluated in the 1996 FEIR; and it incorporates the Program EIR mitigations and adds new mitigation measures as warranted, but It does not provide project-level analysis commensurate with the available information on the project design presented in the PDP.

The lack of project-specific analysis is evident in omissions in the project description such that potentially significant impacts are overlooked; analyses and/or mitigation measures are deferred to future plans and studies so that the adequacy of proposed mitigation measures cannot be determined; and technical analyses do not provide sufficiently detailed information to evaluate the project’s potential impacts.

MCL is not challenging the County’s notification procedure for the DSEIR. Although 20 years have elapsed since the County issued a Notice of Preparation in 1991 for the first EIR on the Grady Ranch/Big Rock Ranch Master Plan, compliance with CEQA Guidelines requires only that the County issue a Notice of Availability for the recently-published Draft SEIR. However, in consideration of the long hiatus since the NOP was issued, and in the interest of transparency and the spirit of “early public consultation” (CEQA Guidelines Section 15083), an informal “notification” that a Supplemental EIR would be prepared would have been a useful means of providing responsible agencies and interested parties the opportunity to comment on the scope. For example, the major creek restoration plan will require permits from several responsible agencies, including the U.S. Army Corps of Engineers, Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board. These agencies will likely use this SEIR in their permitting actions and, therefore, should have been provided the opportunity to comment at an early stage – *or were they consulted in some manner during preparation of the SEIR?*

The long gap in time since issuance of the NOP, which normally establishes the baseline for impact analysis, also has created confusion as to what baseline should be used in the DSEIR (See further discussion below).

Specific Comments on the Draft SEIR

1. The Project Description (DSEIR Chapter 2.) lacks information on important onsite and offsite components.

The DSEIR focuses on impacts of the project facilities on the Grady Ranch site and a small nearby area of Lucas Valley Road. The project description mentions but does not discuss the expansion of off-site water supply facilities, such as extension of recycled water pipelines to a golf course distant from the site, a new pump station and extension of both potable water and wastewater lines to the site. The project may also require upgrading/ extensions/expansions of other offsite utilities, which are not mentioned.

Because the project is dependent on these utility improvements, they must be described in the Final SEIR and any impacts identified and mitigated if they are potentially significant. If any of these improvements have been addressed in other environmental documents (i.e., prepared by MMWD, the water provider), they should be noted and incorporated by reference. (See also discussion of Water Supply under Utilities, below.) In addition, the Final SEIR should identify whether the Grady Ranch facility will require any infrastructure expansions on or adjacent to the existing Skywalker Ranch or Big Rock Ranch facilities

The Project Description also lacks typical project-level EIR details of project components, and therefore may overlook or understate impacts of both construction-phases and operation of the project. These are listed on Pages 3 and 4 of Grasseti (December 2011). The following should be added to that list:

- Irrigation system and water source for non-producing (i.e., landscape) vineyard, as compared to other irrigation for plantings described as “enhancing native vegetation”
- Geothermal heating exchange system, frequently mentioned as mitigation for energy use but never described
- 40,000 square-foot wine cave (tunnel): the rationale for its size, its use, and details of its excavation

Some of the missing items are in the PDP but not in the DSEIR. The PDP submittals include project details as well as technical studies and reports that have been made available to the public only during business hours. These should be briefly summarized in the Project Description and included in technical appendices. Other project description items apparently were not included in the PDP because they have been deferred to future studies. As a result, the project description does not contain adequate information to fully consider the potential impacts of the project, as required in analysis of a PDP. These omissions must be addressed in the Final SEIR.

2. The descriptions of setting conditions are not sufficient to allow comparison of existing and post-project conditions and impacts, and baseline is not defined.

For example, the DSEIR contains no past and existing flow data for Miller Creek, and therefore provides no baseline at all upon which to evaluate the project’s runoff impacts to the creek. Some of the checklist discussions use existing conditions as the setting baseline, while others compare impacts with the 1996 conditions, for example, water supply and traffic. The NOP 1991 baseline year is not evident in any analysis (“Where an EIR is required for a project, the baseline for assessing impacts will normally be the environmental setting for the project at the time a notice of preparation was issued” [Remy, Thomas, et al. Guide to CEQA, 2007]). This confusion of baselines should be explained in the Final SEIR, since CEQA offers some latitude in choice of baseline for supplemental and subsequent EIRs.

3. The Project Objectives listed on pp. 2-5 of the DSEIR are too narrowly defined to allow meaningful consideration of alternatives.

The CEQA Guidelines make clear that the project objectives drive the agency's selection of a reasonable range of alternatives. The Project Objectives listed on Page 2-6 and 2-7 are crafted so narrowly that they effectively limit the range of alternatives to the existing site. The alternatives "analyzed" in the DSEIR are drawn from the Master Plan EIR rather than focused on reducing impacts to the proposed Grady Ranch development site itself. Project alternatives could include off-site options (such as elsewhere in San Rafael), or reduced or redesigned project options to break up mass or lower the height. (Additional alternatives have been suggested by neighbors. [See Grasseti, December 2011])

4. Technical analyses are either inadequate or improperly defer analyses and/or plans

Aesthetics

The DSEIR does not provide design details or visual simulations of buildings, the enlarged water tank, or revised grading elevations. In particular, the new 400,000 gallon water tank would be a major visual element. In addition, a number of new homes with views of the site have been constructed in the project vicinity since 1996. The discussion does not provide adequate information to support a conclusion of insignificance. Mitigation 5.5-8 defers design of the water tanks to a later stage. The Final SEIR should describe the tank design and assess its impacts to the visual environment. It should also show the locations of the new homes and, through simulation, indicate how views from those homes would change.

Agriculture

We appreciate that the number of trees to be removed under the Master Plan has been substantially reduced in the current project. Nonetheless, Mitigations 5.3-2a, b, c, and d inappropriately defer final tree removal plans, guidelines, and replacement to a later approval stage. The Final SEIR should provide maps of trees proposed for removal and tree removal guidelines for public and agency review.

Air Quality

Since approval of the Master Plan EIR in 1996, new residences in the immediate neighborhood have become potential receptors of air pollutants. The construction emissions discussion concludes that new mitigation measures AQ-1a and AQ-1b that would reduce the project's significant construction emissions to less-than-significant levels. However, no calculations or analyses are provided to support this conclusion. The health-risk assessment (HRA) called for in mitigation AQ-2 should be included in the project-level Final SEIR and not deferred to a future time.

Biological Resources

The most obvious revision to the current project is the addition of 1.5 miles of stream restoration. While the objective is to gain long-term benefits, the construction of these

improvements has inherent risks and could result in significant impacts to biological resources on site and downstream of the site during and post construction. The DSEIR briefly acknowledges that “construction-related disturbance or loss of special status wildlife species would substantially increase the severity of the previously identified significant impact.” The DSEIR then concludes that this impact would be reduced to less than significant by new mitigation Bio-2. However, mitigation Bio-2 includes the phrases “to the extent practicable” and “attempt to focus, adding doubt as to the predictability of performance of the mitigation as well as its feasibility. A revised measure in the Final SEIR should include performance standards and clearly state what will and will not be done to reach them.

Biological impacts relative to pre-project baseline conditions, and mitigation measures associated with high flow (urbanization) and low flow (headwater storage) changes to the flow regime should be clearly described in the Final SEIR. Biological and riparian impacts downstream of the proposed project should be given equal weight to on-site impacts.

Numerous plans are referenced in the DSEIR but they are not summarized or provided in an Appendix. These include among others: Wetland Mitigation and Monitoring Plan, Tree Preservation Guidelines Report, and Tree Replacement Report; Landscape and Vegetation Management Plan, Special- Status Plant Protection Program, and detailed Wetland Protection, Replacement, and Restoration Program, called for in the 1996 program EIR’s mitigations. These should have been prepared prior to issuance of this DSEIR (or were they?) and summarized in the Final SEIR. Without reviewing them, it is not possible to determine how effective they would be in reducing impacts to biological resources on site and downstream.

Greenhouse Gas Emissions

The project’s greenhouse gas (GHG) emissions are more than twice the BAAQMD’s “Efficiency Threshold” levels, due in part to the site’s location distant from residential areas or mass-transit hubs. This estimate was based on “an annual average of 170 employees per day,” whereas the actual project employment would be double that number to 340 employees. Therefore, the GHS (and possibly overall air pollutant emissions) appear to be substantially underestimated in this SDEIR. Further, table GHG-3 indicates that the vast majority of project GHG emissions result from the high electricity use associated with the light industrial activities proposed for the site.

The DSEIR’s mitigation measures fail to provide any actual mitigation for its GHG emissions. The best explanation of how the project’s greenhouse gas emissions might be *offset* through funding a County-wide Climate Action Plan (CAP) is provided in a letter from the BAAQMD, dated December 8, 2011. The details of that letter should be provided in the Final SEIR or the letter attached, as a clear explanation of how the CAP offset would work. Otherwise the mitigation is not adequate to reduce the impact to less-than-significant.

Hydrology and Water Quality

The DSEIR does not provide project-level analysis of construction impacts on water quality from the creek restoration plans and the associated changes in channel grade, nor impacts on storm and low flow conditions onsite or downstream. In the absence of baseline hydrologic conditions, the project impacts cannot be measured. The analyses are not sufficient to conclude that proposed stormwater controls, and restoration efforts will mitigate potential impacts on water quality or high flow regime on site and downstream. Similarly, potential impacts to groundwater resources and summer baseflow regimes critical to sustain downstream populations of steelhead and resident biological resources are not sufficiently analyzed. The Final SEIR must fully address these critical issues.

Noise

A number of new houses constructed in the project area since 1996 now qualify as sensitive receptors of both construction noise and potential single-event noise, such as blasting or uses of the outdoor stage. Therefore, the noise analysis should be expanded in the Final SEIR to evaluate the increase in noise levels at the receptors during the 2.5-year construction period. Given its omission in the DSEIR, we suggest that a single-event noise criterion that is protective of local residential land uses be added to the Final SEIR, and that potential single-event project noise incidents be compared to this standard.

Transportation and Traffic

The traffic analysis in the DSEIR refers to a February 2010 Transportation and Circulation Update but fails to summarize that update or include it as an appendix. In addition, there's no analysis comparing the project with existing conditions. Instead, the DSEIR defers the analysis and promises a "plan to plan," which is impermissible under CEQA. The Final SEIR should include a peer review of the Transportation and Circulation Update by the County.

Utilities and Service Systems

The water supply discussion in the DSEIR is entirely inadequate. At the simplest level, the discussion on Page 3-106, which references the 1996 EIR's 120,000-gallon water tank, should have been updated to account for the project's 400,000-gallon tank plus 40,000-gallon additional tank and how these tanks are to be utilized and how they will impact views of the site.

With respect to water supply, the 1996 EIR's evaluation is out of date and must be updated in the Final SEIR to current water supply/demand conditions. The discussion in the DSEIR is far from complete in stating: "It is expected that MMWD currently has capacity to serve the development based on consultation between the project applicant and MMWD." In fact, MMWD would not have the capacity to serve the project, absent an offset funded by the applicant to enable expansion of recycling facilities elsewhere in the District. Further, the 2007 Countywide Plan contains policy program PFS-2.r that states: "In water districts where there is insufficient water to serve new construction or uses requiring an additional water meter or increased water supply . . . the County shall require new construction or uses to offset demand so that there is no net increase in demand." The Final SEIR must provide evidence and analysis supporting the DSEIR's claim, and explain how the new water demand complies with the Countywide Plan.

The discussion indicating that water supply offsets are being sought by the applicant must fully disclose the arrangement with MMWD and evaluate any offsite impacts in the Final SEIR. If supplemental water supply is required for the project, then the Final SEIR must identify its source and evaluate the possible effects on groundwater and surface water resources, if these are utilized, and, if so, the effects on fisheries in local streams.

4. Mandatory Findings of Significance

The Cumulative Impacts discussion is outdated and incomplete. The Final SEIR should describe the current conditions – which of the projects identified on p. 3- 109 have been constructed? Are new projects proposed? The proposed Rocking Horse Phase 1 and 2 projects should be added to the cumulative projects list and preliminary evaluations of their impacts included in cumulative impact discussion under each technical section, or in a final discussion. Currently, there is no such evaluation in the DSEIR; the “evaluation” on pp. 3-109-110 is merely a statement of conclusions and not an evidence-based evaluation of cumulative impacts.

5. Conclusion

The net effect of the above-referenced deficiencies is that the DSEIR fails to adequately identify the project’s potentially significant environmental impacts, and, more seriously, afford assurances that impacts will be mitigated in a timely manner. The Final SEIR must come back to the public and decision makers with a full analysis that enables informed decisions on the project’s merits.

Sincerely,

A handwritten signature in blue ink that reads "Susan Stompe". The signature is written in a cursive style with a large initial 'S'.

Susan Stompe
President