

## SCOPE

### Santa Clarita Organization for Planning and the Environment

TO PROMOTE, PROTECT AND PRESERVE THE ENVIRONMENT, ECOLOGY  
AND QUALITY OF LIFE IN THE SANTA CLARITA VALLEY

POST OFFICE BOX 1182, SANTA CLARITA, CA 91386



8-2-10

Attn: Dennis Bedford  
Re: Newhall EIR/EIS  
California Dept. of Fish and Game  
4949 Viewridge Ave.  
San Diego, CA 92123

Attn: Aaron Allen  
Re: Newhall EIR/EIS  
US Army Corp of Engineers  
2151 Alessandro Dr. Suite110  
Ventura, CA 93001

Via email to: [newhallranch@dfg.ca.gov](mailto:newhallranch@dfg.ca.gov)

[Aaron.O.Allen@usace.army.mil](mailto:Aaron.O.Allen@usace.army.mil)

Dear Sirs:

Santa Clarita Organization for Planning and the Environment is a California non-profit corporation founded in 1987 to monitor planning and conservation issues that affect the Santa Clarita Valley. We have sought protection for the Santa Clara River, its tributaries and floodplain for many years because we believe the community will be best served by leaving these resources in as natural a state as possible. A natural river system enhances ground water quality and ground water recharge, provides habitat for wildlife and recreational opportunities for families and children.

We believe that you have still not fully considered the important beneficial qualities of a natural waterway as you evaluated the impacts of this project. Nor have you chosen the least environmentally damaging practical alternative, apparently due to a project description purposely worded in such a way that only the developer's preferred project (or something very close to it), can be approved. We therefore urge you to re-evaluate your project findings.

Further, we continue to believe, perhaps naively, that the purpose of the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA) was to require full disclosure of environmental problems and potential issues so that decision makers will be fully informed of all aspects of a project. Armed with both the good points and the adverse impacts and potential pitfalls, they will make a good decision on behalf of the public as to whether to approve a project or not. This decision would include mitigation to reduce the disclosed adverse impacts.

We were therefore discouraged to read the response to comments provided in the FEIR/EIS and the Findings of that document. Areas of concern were either not addressed in the Responses or obscured in such a fashion as to make them seem non-existent.

This game of hide and seek is not the purpose of this lengthy and time-consuming environmental process. We are discouraged that the Army Corps has apparently not provided *independent evaluation* as is required by law and certainly warranted on behalf of the public.

## **ANALYSIS OF FINACIAL FEASIBILITY**

We believe that a careful and independent review of the financial feasibility of this project will show it to be beyond the reach of a company that only recently emerged from bankruptcy with a limited amount of money. These infrastructure needs include but are not limited to:

Freeway lane expansion

Hwy 126 expansion

Off ramp improvements

Interior roads and streetlights

Bridges

Roads

Sanitation plant with reverse osmosis capability

Sewage pipelines

Brine disposal system (either oil well injection pumps or a brine line to the ocean), purchase of land or easements to support a brine disposal well or pipeline, expensive well closures.

Levees, creek channelization

Water wells or imported water and water bank storage costs

Water pipelines and storage tanks

Trash disposal facilities, landfill expansion

5 elementary schools, 1 high school, fire station, sheriff sub station, library

Costs for this infrastructure could reach one billion dollars. Either the developer must pay for these infrastructure needs or the public must pay for them through increased taxes. In spite of conditions in the Specific Plan and other documents that require the developer to pay for many of these infrastructure needs, this developer may still attempt to publicly fund such requirements.

For example, Condition 4.11-8 of the Specific Plan required Newhall to pay for wastewater treatment, including brine well. Recently Joint Sanitation District 26 and 32 faced a rebellion of local tax payers when they tried to increase taxes to cover the costs of reducing the chloride levels in their effluent that included a brine well. Furious taxpayers wanted to know why these costs were not included in connection fees on new development. The Sanitation members backed down.

Putting these costs off on the taxpayers may no longer be an answer for the development community. With over 30,000 approved but unbuilt units already in the Santa Clarita Valley, such expensive suburban expansion into areas without existing infrastructure may now be financially unfeasible. The FEIS should have analyzed these issues.

## **BIOLOGY**

The response to our comments in the FEIR/EIS confirms our assertion that a “take” permit cannot be issued for CESA species such as the white-tailed kite and three-spined unarmored

stickleback, both present on the project site. This fact would seem to require re-evaluation of proposed permitted disturbances to these species' habitat along the Santa Clara River.

### **Re-Stated Recommendations for Biological Resource**

The area now proposed for this new 404 permit is in an even more sensitive area of the river west of I-5. It is also an area that was designated as critical habitat for the Least Bell's Vireo. Biologists noted populations of three-spined stickleback fish, arroyo toad, pond turtles and the rare San Fernando Valley Spine flower (that Newhall Land previously tried to illegally destroy) in this area. This plan would once again enable the destruction of a County designated Significant Ecological area and allow building in the floodplain.

With thousands of housing units already permitted but unbuilt in the Santa Clarita Valley, pads in the nearby Riverpark project and West Creek standing empty and a looming water crisis, this project does not seem to meet threshold requirements for Federal or State approval.

However, should the permitting agencies wish to proceed with such an approval we request the following:

- A survey of the success rate of mitigation for Newhall Land's 1998 404 permit.
- A survey of endangered and threatened species within the 1998 404 permit area to determine their survival rate and thus, how protective that plan was of the various bird, reptile, amphibian and aquatic species.
- No new additional permits should be granted until all required mitigation, including wetland restoration, is completed for the previous 404 permit
- A fund must be set up to hire an independent biologist to track mitigation requirements and ensure they are met.
- Violations should automatically incur an immediate "stop work" order until restitution is provided (this is already a standard condition of the County's Oak Tree permit )
- A five-year *public* review period should be required. At each five year period the developer and agencies must provide a list of all required mitigation and note whether or not it has been completed, and a recent biological survey to determine whether species are protected by the permit. No further work should occur if mitigation is not completed and species have disappeared.
- Off road vehicle use in the river must be banned and a funding mechanism for enforcement created
- No automatic Plan amendments should be granted. Public review must be required for all proposed amendments.
- A greater set back that protects a larger area of the floodplain must be required
- Due to Newhall Land's current tenuous financial situation and the current problems in the housing market, bonding must be required to ensure that promised mitigation will be funded.

## WATER QUALITY

In section **4.4.5 IMPACT SIGNIFICANCE CRITERIA**, the FEIR/EIS defines the following Significance criteria<sup>1</sup>:

### 4.4.5.1 Surface Water Quality

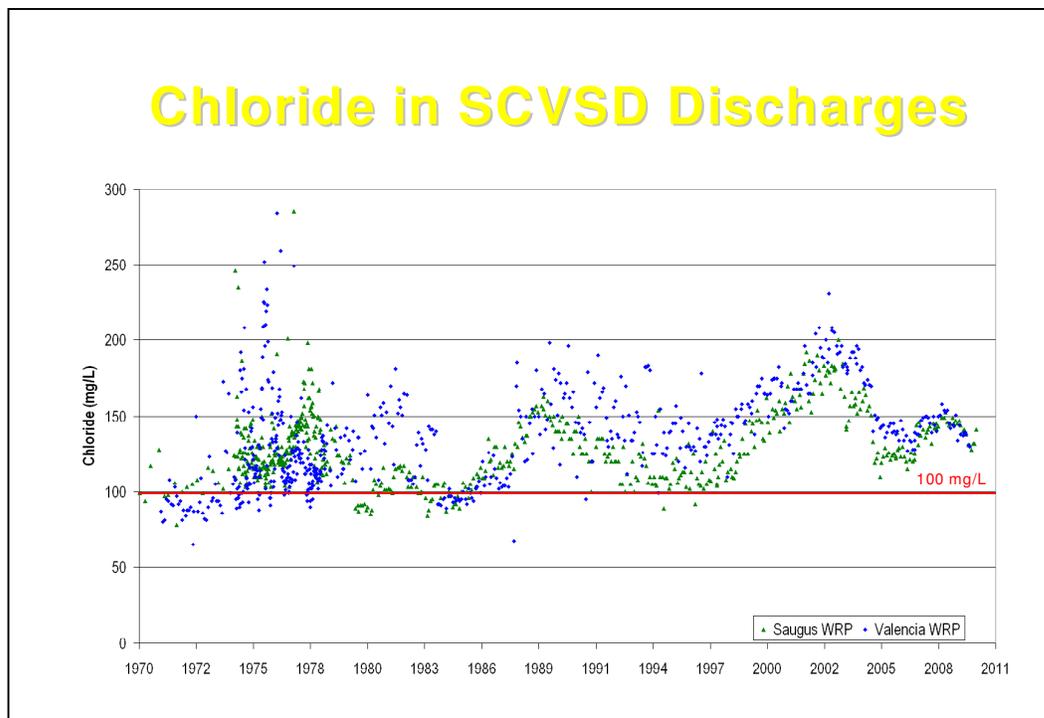
Thresholds of significance for surface water quality impacts have been developed based on a review of the MS4 permit and Appendix G of the State CEQA Guidelines. In order to maintain consistency in the impact analysis, the Corps has agreed to use the criteria presented below for purposes of this EIS/EIR, although significance conclusions are not expressly required under NEPA. A project would have a significant impact on water quality if the project would:

**Significance Criterion 1:** Violate any water quality standards or waste discharge requirement

**Significance Criterion 2:** Create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

**Significance Criterion 3:** Otherwise substantially degrade water quality.

As noted in the FEIR/EIS response to our comments, failure to comply with the compromise Plan<sup>2</sup> worked out with basin stakeholders will result in the imposition of the stricter 100 ug/l TMDL standard. The Sanitation Districts do not currently meet this TMDL Standard as indicated by the chart below supplied at a recent public hearing:



<sup>1</sup> RMDP-SCP Final EIS/EIR 4.4-46 June 2010

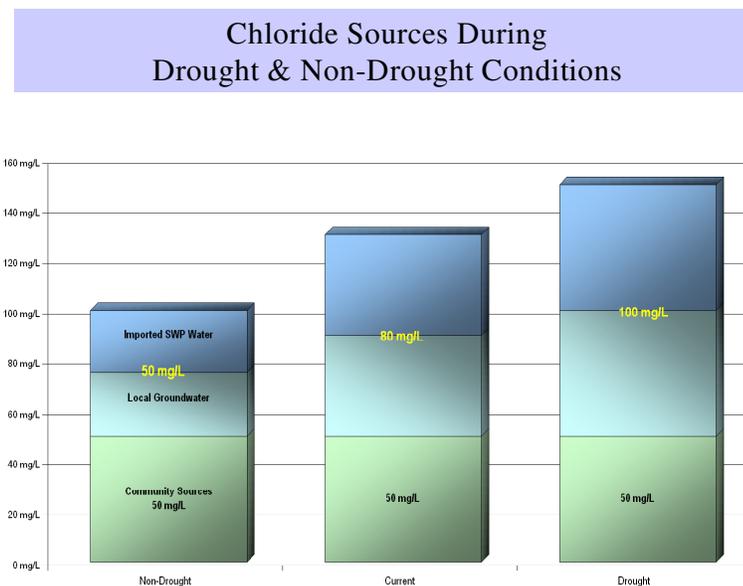
<sup>2</sup> Memorandum of Understanding for Implementation of an Alternative Water Resources Management Plan, Oct. 2008, attached to our August 24<sup>th</sup>, 2009 DEIR/EIS comment letter

Based on the following chronology timelines provided to the community at public hearings, it is obvious that that the Sanitation Districts cannot meet the required timelines of the compromise Plan

- 1989** Permit limits set at 100 mg/L
- 1997 – 2000** Sanitation District efforts to relax limit to 143 mg/L with drought relief failed.
- 2002** RB adopts TMDL with permit limits at 100 mg/L (\$500M project) City and San. Districts oppose and San. District files appeal to State Board
- 2004** RB readopts TMDL with 100 mg/L but extends the compliance schedule to 2018 and allows special studies
- 2006** Ag studies identify 100-117 mg/L protects crops  
Regional Board shortens compliance schedule to May 2016.  
City and Sanitation District oppose to State Board
- 2007** State Board affirms 2006 decision.  
City and District oppose and District pursues alternatives
- 2008** Regional Board approves higher limits  
contingent upon Alternative Compliance Plan (\$250M Project) by May 2015

**July 27, 2010** Sanitation Board members refuse to approve funding for the Alternative Compliance Plan even after Sanitation staff explain that they cannot meet the schedule without approved funding.

The Santa Clarita Sanitation Districts' failure to meet the Clean Water Act Total Maximum Daily Load (TMDL) standard for chloride of 100mg/l in the Santa Clara River as a result mainly of the sharp and continuing increase in the use of imported State Water Project (SWP) water. The FEIR Response to comments denies this fact. However, the following slides presented to the public by the Sanitation Districts clearly indicated this fact.



According to the Recirculated Landmark DEIR now before the County of Los Angeles, Newhall reserves the option to use the Valencia treatment plant rather than building their own Sanitation Plant as required by the Specific Plan. Without the immediate construction of the Newhall Ranch Water Reclamation Plant, approved as an RO (reverse osmosis salt removal system) facility, the high chlorides in the wells proposed to be used by this project in the chart below and the additional imported Nickels water will add to this load. Apparently there are no plans to build this plant for the first phases of Newhall Ranch. Nor does it appear that the additional unreviewed 1725 units proposed for the Entrada project will be served by a new RO sanitation facility.

## Water Quality Constituents of Concern

### Secondary Standards: (from FEIR Appendix F4\_3\_46)

Parameter	MCL	DLR	Units	E-14	E-15	E-16	E-17
Chloride	250-500-600	NA	mg/L	75	88	89	74
pH	6.5 - 8.5	NA	units	7.5	7.7	7.3	7.4
Specific Conductance (E.C.)	900-1600-2,200	NA	umho/cm	1240	1290	1390	1360
Sulfate	250-500-600	0.5	mg/L	340	330	340	340
Total Dissolved Solids (TDS)	500-1000-1500	NA	mg/L	900	890	950	960

**The FEIR/EIS failed to discuss this potential inability to comply with the Clean Water Act. As indicated by the description of significance above, this is a significant unmitigated impact that was not addressed.**

Further, Newhall Ranch planned to utilize abandoned oil wells on its property for injection purposes. In response to our concern about the lack of studies for such a well, an Application to the USEPA for brine well was included in the FEIR<sup>3</sup>. It is our understanding that the USEPA Drinking Water section has rejected this Application. Additionally, the Safety Plan included in that application calls for two wells in order to provide a back up in case of a failure of the first well. However, the application was for only one well. In light of the BP disaster, it is imperative that a real and verifiable emergency plan exists.

<sup>3</sup> Appendix 4\_4\_02, WZI, Inc.

**Condition 4.11-8 required Newhall to pay for the cost of water expansion and treating the wastewater effluent. Although financial feasibility analysis is required and we requested such information in our DEIR/EIS comments, the financial cost analysis of this brine well was deleted from the Application included in the FEIR/EIS (see footnote 3) Newhall must make and disclose these calculations.**

## **WATER SUPPLY**

### **No Contract to move stored water from Kern to Castaic Lake Water Agency**

Although the response to comments fails to clearly address our comments, it is obvious that no agreement with the Department of Water Resources (DWR) to move the Kern River water purchased from the Nickels family from the Tubman turnout in Kern County to Newhall Ranch exists.<sup>4</sup>

A wheeling agreement must exist before water can be delivered to Newhall Ranch. It is our understanding that the DWR does not make such agreements with private parties. The statement made in a recent letter to the County of Los Angeles signed by Castaic Lake Water Agency General Manager, Dan Masnada, verifies this fact:

*“The document should state that though the Nickels water does constitute a source of supply, its delivery is contingent on execution of agreements with CLWA, and through CLWA, with DWR.”<sup>5</sup>*

### **No Water Rights to water from the Santa Clara River Alluvium or Saugus Aquifer**

We re-iterate, the Santa Clara River is NOT an adjudicated basin. **Valencia Water Co. has no adjudicated right to any amount of water from the Santa Clara River.** Water needs elsewhere in the upper watershed may have to be supplied from Valencia’s existing agricultural wells. Indeed, the one agricultural well that is currently producing, E-15, is now serving existing customers in the Commerce Center. No discussion of impacts to existing users, should state water cutbacks become long term and final, is included.

Valencia Water Co. is a wholly owned subsidiary of Newhall Land and Farming, Newhall is fully aware of this issue.

### **Effects of Global Warming on Water Supply**

We have attached a Tetra Tech report of the long-term effects of global warming on water supplies for inclusion in the Administrative Record. It clearly indicates extreme water supply problems for the Newhall Ranch area.

## **CONCLUSION**

We continue to believe that the Specific Plan, Entrada and the VCC will significantly impact water resources in the Santa Clara Valley by both the substantial water demand of the

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<sup>4</sup> Landmark Village DEIR, Volume VI, Appendix 4.10f, Nickels water contracts, Pages 2 and 5 of Contract between Nickels and NLF pdf pages 121,124

<sup>5</sup> Correspondence from CLWA to County of Los Angeles, page 3 Item 5, Oct 28<sup>th</sup>, 2009, attached

projects themselves as well as the need to supply existing approved entitlements with the agricultural water previously proposed to be used to supply the Specific Plan. Additionally, significant effects on water quality will result from implementation of this project. It appears that information and documents that might show this to be the case have either been excluded from the discussion or obfuscated.

The Army Corps is required by its guidelines to provide independent analysis of project documentation. However, the consultants that provided documentation to this EIR/EIS process were hired and controlled either directly by Newhall or indirectly through its preparer, Impact Sciences.

This information becomes apparent upon examination of the bankruptcy files for Newhall Land and Farming that indicate direct payments to consultants.<sup>6</sup>

It should be re-iterated that Valencia Water Co. is the wholly owned subsidiary of the Newhall Land and Farming Company. It would be difficult for a general manager, whose job may obviously be subject to his ability to find an adequate water supply for his parent company's developments, may not make as thorough a disclosure of problems as an independent public resource agency.

It should be further noted that Valencia Water Co. manages many of the water reports produced for the Santa Clarita Valley, including the annual Water Report. Thus they control consultants who often are the same ones that work on Newhall Land's development documents.

Such concerns over accuracy and disclosure should be obvious to anyone after reading the extent of litigation discussed in the DEIR/EIS related to water issues in the Santa Clarita Valley.

We therefore re-iterate the recommendations for providing a more ***independent***, balanced and thorough document:

- 1) Require a water analysis to be prepared by an unrelated third party chosen by, for example, the US EPA or USGS.
- 2) Wait until the most recent Water Reliability Report from the Dept. of Water Resources is released (release projected for late 2009 early 2010) so that it can be included in this document.
- 3) Re-circulate the document with INDEPENDENT reference materials included on disc so that they are available to all reviewers.
- 4) Require that a Ventura County biologist representing the environmental community be included on the ground water monitoring MOU and receive their evaluation.
- 5) Perform a literature search for independent research on controversial EIR/EIS issues

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<sup>6</sup> See attached Complaints for Avoidance and Recovery of Preferential Transfers, Landsource Bankruptcy filings

Thank you in advance for addressing these issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lynne Plambeck".

Lynne Plambeck  
President

**Attachments:**

1. Correspondence from CLWA to County of Los Angeles, page 3 Item 5, Oct 28<sup>th</sup>, 2009
2. Correspondence from the Joint Sanitation District 26 and 32 dated May 5, 2010
3. Evaluating the Sustainability of Projected Water Demands under future Climate Change Scenarios, Tetra Tech, Inc., July 2010
4. Various sample Complaints for Avoidance and Recovery of Preferential Transfers, Landsource Bankruptcy filings, others available on line at the Kurtzman Carson Consultants LLC website for the Landsource bankruptcy and hereby incorporated by reference
5. Declaration of Lynne Plambeck, Landsource Bankruptcy