Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

March 23, 2011

TO: Pat Modugno, Chair
Esther L. Valadez, Vice Chair
Leslie G. Bellamy, Commissioner
Harold V. Helsley, Commissioner
Curt Pedersen, Commissioner

FROM: Mitch Glaser, AICP, Supervising Regional Planner
Community Studies North Section

SUBJECT: **MARCH 23, 2011 -- AGENDA ITEM #6**
PROJECT NO. R2007-01226-(5)
PLAN AMENDMENT NO. 2009-00006-(5)
ZONE CHANGE NO. 2009-00009-(5)
ENVIRONMENTAL ASSESSMENT CASE NO. 2009-00080-(5)
SANTA CLARITA VALLEY AREA PLAN UPDATE (ONE VALLEY ONE VISION)

Staff has received additional correspondence on this matter, which is attached for your consideration.

MWG:mwg

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March 17, 2011

Mr. Mitch Glaser
Supervising Regional Planner
Department of Regional Planning
County of Los Angeles
320 West Temple Street
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RE: Comments of the Attorney General on Recirculated DEIR
Santa Clarita Valley Area Plan, One Valley One Vision

Dear Mr. Glaser:

The Attorney General's Office provides these comments on the Recirculated Draft Environmental Impact Report ("RDEIR") prepared by Los Angeles County on the draft Santa Clarita Valley Area Plan ("Plan").[1] The Plan was developed as part of the One Valley, One Vision ("OVOV") process as an amendment to the Los Angeles County General Plan, and the original DEIR was revised and recirculated in response to public comments, including comments by this office.

The RDEIR updates information and makes mandatory a number of policies that were not mandatory in the previous DEIR.[2] In addition, some new policies have been added. We fully appreciate the County's responsiveness to our concerns in making these changes. Unfortunately, even with these changes, the RDEIR does not comply with the California Environmental Quality Act ("CEQA"), as discussed below. It neither provides complete

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[1] The Attorney General submits these comments pursuant to her independent power and duty to protect the environment and natural resources of the State from pollution, impairment, or destruction, and in furtherance of the public interest. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.) While this letter sets forth various areas of particular concern, it is not intended, and should not be construed, as an exhaustive discussion of the RDEIR's compliance with the California Environmental Quality Act.

[2] We attach our comments on the previous DEIR to this letter, and ask that they be included in the administrative record.

information about all significant environmental impacts, nor does it adequately describe feasible mitigation to lessen the harm to the environment caused by the OVOV Plan.

The RDEIR Concludes that the Plan Will Increase Air Pollutant Emissions, Worsening an Already Critical Public Health Threat, But Fails to Discuss and Analyze Feasible Mitigation

Perhaps the most important environmental impact resulting from the OVOV Plan is increased air pollution. Although the RDEIR discloses the significant health effects likely to result from implementation of the Plan, it fails to propose feasible mitigation to address those effects, as required by CEQA.

The RDEIR shows that a severe, health-threatening air pollution problem already exists in the Santa Clarita Valley ("Valley"). The Valley is part of the South Coast Air Basin, one of the most polluted in the nation, and one of only a handful classified as suffering from "extreme" ozone concentrations.[3] In 2008 (the last year for which the RDEIR presents data) the Santa Clarita/Placerita Monitoring Station located in the Valley showed ozone levels exceeding the health-based federal 8-hour standard on 60 days out of the year, and exceeding the more stringent California 8-hour standard for a total of 81 days. (RDEIR, p. 3.3-19.) As the RDEIR concedes, exposure to ozone can cause serious decrease in lung functions and increased risk of death from lung disease. (RDEIR at p. 3.3-13.) Children chronically exposed to ozone concentrations found in the South Coast Air Basin may suffer life-long damage to their lungs.[4] The chief contributors to ozone concentrations in the Valley are nitrogen oxides and hydrocarbons emitted by cars and trucks. (RDEIR at p. 3.3-10.) As disclosed in the RDEIR, the build-out of the Plan will roughly double the emissions of both these pollutants[5] by greatly increasing the amount of driving in the Valley (RDEIR, pp. 3.3-48, 6.0-11), and as a result, will significantly worsen an already critical ozone pollution problem.

Likewise, the RDEIR concludes that adoption of the land use decisions proposed in the OVOV Plan will result in a doubling of particulate matter (commonly referred to as soot) emissions over existing levels. (RDEIR p. 3.3-48.) As the RDEIR acknowledges, the possible health effects of exposure to particulate matter include decline in lung function in children and increased risk of premature death from heart or lung disease in the elderly. As with ozone, cars and trucks are a significant source of these emissions and increased driving will make the existing problem even worse. (RDEIR, p. 3.3-11.)

While the RDEIR does not present Valley-specific data on toxic air contaminants, it does state that residents of the South Coast Air Basin as a whole are exposed to levels that pose a risk

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[3] Ozone is the main component of what is commonly referred to as smog.
[4] New England Journal of Medicine, vol. 351, no. 11, pages 1057-1068 (2004).
[5] The RDEIR shows that the summertime emissions of hydrocarbons will increase by 104 percent, and summertime emissions of nitrogen oxides by 102 percent. (RDEIR, pp. 3.3-48, 6.0-11.)

of causing cancer in 12 of every 10,000 persons exposed. (RDEIR, p. 3.3-16.) Several of these toxic air contaminants, including diesel particulates, benzene, and 1,3-butadiene, are also "generated mainly from vehicles" (*Id*), adding yet another health risk exacerbated by increased driving in the Valley. These facts demonstrate there is an existing need to *reduce* exposure to ozone, airborne particulates, and air toxics that result from car and truck emissions.

The RDEIR recognizes that "local governments are responsible for the mitigation of emissions resulting from land use decisions. . . ." (RDEIR, p. 3.3-33.) Yet, rather than proposing land use changes that reduce the need to drive in the Valley, the OVOV Plan will result in a 120 percent *increase* in existing driving trips, with a total projected increase of 1,800,382 trip ends over what was driven in 2004 (the year for which the RDEIR makes the comparison). (RDEIR, Appen.3.2, p. B-38.) This 120 percent increase in driving will far outstrip the 75 percent increase in population expected during the years covered by the Plan. (RDEIR, pp. 3.3-48-49.) Under the Plan, a total of over three million additional miles would be traveled in the Valley as a whole. (RDEIR, p. 6.0-23.) The RDEIR correctly concludes that this increase in driving and its resulting air pollutant emissions "would result in a significant cumulative air quality impact." (RDEIR, p. 3.3-49.)

When an EIR makes a finding of significant environmental harm from a project, as it does here, CEQA requires the public agency carrying out the project to adopt all feasible mitigation measures to lessen that harm, or to adopt a feasible alternative that will do less environmental damage. (Pub. Resources Code, §§ 21002, 21081 and 21081.5.) If the public agency rejects a mitigation measure or alternative as infeasible, the agency must make specific findings, supported by substantial evidence, that a mitigation measure or alternative is not feasible. (Pub. Resources Code, §§ 21081 and 21081.5.) Here, the RDEIR does not provide substantial evidence that all feasible mitigation has been proposed. For example, the RDEIR relies on a number of measures and policies that it states will reduce air pollution, including air pollution from cars and trucks, resulting from the OVOV Plan.[6] However, most of the measures and policies identified are unenforceable or vague, directing the County only to "promote," "encourage," "support," or "investigate" various methods to reduce driving, or committing the County to use the measures only "where feasible" or "where appropriate," without providing any criteria for the circumstances under which a measure will be considered "feasible" or "appropriate." It is not clear, and the RDEIR does not specify, whether a measure is being rejected on the basis of technical or economic infeasibility, or both.

Similarly, many measures require only that the County "work with" agencies that do or may provide transit options, or to "seek" funding or other assistance to provide transportation options. While many of the listed measures appear well intentioned and might be effective if

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[6] See, e.g., proposed mitigation measures from the OVOV Land Use Element numbered 1.1.3, 1.2.13, 4.4.3, 4.5.4, 5.2.3, 5.2.4, and 5.2.5; mitigation measures from the Transportation and Circulation Element numbered 1.1.4, 1.1.12, 1.1.2, 1.2.4, 1.2.9, 1.2.11, 3.1.2, 3.1.3, 3.1.4, 3.1.5, 3.1.6, 3.1.7, 3.2.4, 4.2.1, 5.2.5, 5.4.3, 6.2.3, 7.1.6, and 7.1.9; and mitigation measures from the Conservation and Open Space Element numbered 1.5.7, 7.1.2, and 7.1.3

carried out, the RDEIR provides no substantial evidence – often no evidence at all – that they will be implemented or, if implemented, whether they will be effective at reducing vehicle miles traveled .[7] The RDEIR also fails to provide substantial evidence that it is infeasible to make these non-enforceable measures binding and enforceable.[8] As it concedes, even if all the mitigation in the RDEIR is adopted, increases in air pollution from the OVOV Plan will remain significant.

Faced with the conclusion that the serious public health threat from air pollution in the Valley will be exacerbated under the OVOV Plan, and with the finding that the mitigation proposed will not reduce impacts to insignificant levels, the County is obliged under CEQA to adopt additional measures that are enforceable or, alternatively, to provide substantial evidence that additional measures are infeasible. The RDEIR does neither.

While the OVOV Plan Substantially Increases Greenhouse Gas Emissions, the RDEIR Defers Mitigation of this Impact to a Future, Undefined Climate Action Plan

Although the RDEIR estimates that GHG emissions will increase over existing emissions in the OVOV Plan area by 1,848,400 metric tons per year at full build out of the Plan, (RDEIR, p. 3.4-45), the RDEIR contains no overall plan to reduce GHG emissions. Because the RDEIR finds the GHG impacts of the OVOV Plan to be "potentially significant" (RDEIR, p. 3.4-139), the County is obligated to provide mitigation. Instead, the RDEIR – just like the DEIR it revises – chiefly promises that the County will have a Climate Action Plan ("CAP") in place 18 months from whatever date the OVOV Plan is adopted. Rather than giving a detailed outline of what the CAP will contain, however, the RDEIR only provides a half-page description of the very general areas the CAP will address. (RDEIR, p. 3.3-70.) Most importantly, the RDEIR provides no binding emissions reduction targets or other performance criteria that the CAP must meet. Providing such reduction goals and performance criteria, depending on their level of detail, could sufficiently satisfy the County's duty to mitigate the increase in GHG emissions from the OVOV Plan (*Sacramento Old City Ass'n v. City Council* (1991) 229 Cal.App.3d 1011, 1020-1021), but the RDEIR lacks either a CAP itself or any binding criteria or goals that the CAP is required to meet. Accordingly, the RDEIR lacks adequate mitigation to satisfy CEQA. While the County's Green Building Program is a positive accomplishment, and presumably contributes to the lowered estimate of GHG emissions in the RDEIR over the original DEIR, the RDEIR still shows a significant increase in such emissions at a time when they must be reduced to meet California's emission reduction and climate change objectives. CEQA requires that the County adopt all feasible mitigation measures for GHG emissions. It has not yet done so.

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[7] For example, CalTrans has made clear that some of the freeway improvements that the Traffic Study relies on in its analysis are not funded and that there is no assurance that they will be funded. (CalTrans response to Notice of [EIR] Preparation, dated September 15, 2008; see, also, RDEIR at Appen, 3.2, p. 4-35.)

[8] Our office has previously provided the County with multiple examples of feasible mitigation measures, and of general plans, such as the Yolo County plan, that use such measures to reduce vehicle miles traveled.

The RDEIR Is Not an Adequate Environmental Disclosure Document, Because it Fails to Provide Full Information about Housing, Particularly Affordable Housing

CEQA requires transparency as to governmental decisions that can harm the environment. As the California Supreme Court held in *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1989) 47 Cal.3d 376, 392, "the EIR . . . is a document of accountability" for the public officials who certify it. It must make full disclosure of all significant environmental harm that may result from the project being considered. Despite the revisions, the RDEIR still does not comply with this bedrock requirement of CEQA with respect to the impacts of new housing and suburban sprawl.

To attempt to curb sprawl and reduce air pollution and GHG emissions in the OVOV area, the RDEIR identifies various "smart growth" strategies and requirements to be applied to new housing developments. The RDEIR, however, fails to provide sufficient information to allow the public to assess the potential effectiveness of these measures. For example, the RDEIR does not tell the public or the decision makers how many new dwelling units remain to be built within the land use projections in the OVOV Plan, and how many already have their planning approvals. Instead, the RDEIR shows that of the 84,000 total dwelling units that the OVOV Plan allows in the unincorporated County portion of the Valley at full build out, 56,500 either are already built, or have already received their permits but are not yet built. This leaves a total of 27,500 units still allowable. Of those remaining allowable units, the RDEIR says that "several thousand dwelling units were the subject of pending land use applications" in 2008, when preparation of the EIR began. (RDEIR, p. 3.19-2.) Despite having revised the DEIR, and therefore having the opportunity to update it, the County has not provided an estimate of how many of these "several thousand" additional dwelling units have been entitled since 2008, specified where those entitled units are located, or identified how many units remain within the OVOV allowable total to which the "smart growth" mitigation may be applied. This is crucial information that would allow the public and the Board of Supervisors to understand how much or how little flexibility there is to apply smart growth techniques to new housing developments, and to use such techniques to attempt to curb low-density sprawl and increased driving in the County's portion of the Valley. This failure to fully describe the significant environmental impacts severely undercuts the RDEIR's ability to provide adequate mitigation for those impacts, as required by CEQA.

Another example of the lack of adequate information in the RDEIR concerns affordable housing and commuting patterns. Policies that promote the location of affordable housing near jobs and other destinations can significantly affect the environment and public health. While, the RDEIR discloses that about half the employed people in the Valley commute *out* of the Valley to their jobs (RDEIR, p. 3.19-2), it fails to provide the same information as to the number of people who live outside the Valley but commute *into* the Valley to work there. It also does not perform an analysis to determine whether increasing the amount of affordable housing in the

Valley might allow more commuters to both live and work in the Valley, and thus drive less.[9] The RDEIR does set out the number of units of moderate, low and very low income housing that the County must provide *County-wide* to meet its Regional Housing Needs Assessment (RHNA), but it does not provide an estimate of the percentage of the RHNA the County plans to meet in the Valley, or how it plans to meet it. This information is crucial to determining whether all feasible mitigation has been adopted for the air pollution and greenhouse gas impacts from the OVOV Plan, and should be provided to ensure CEQA compliance.

We understand that significant effort has gone into the development of the RDEIR and we appreciate the opportunity to provide these comments. To discuss further, please contact the undersigned.

Sincerely,

SUSAN L. DURBIN
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

Enc.

[9] See, for example, the recently issued report from the Non-Profit Housing Association of Northern California, *Miles From Home*, as an example of an analysis of the association between provision of adequate affordable housing and increased driving.

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March 17, 2011

Mr. Mitch Glaser, AICP
Department of Regional Planning
County of Los Angeles
320 W. Temple Street
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Re: 2011 OVOV

Dear Mr. Glaser,

We are writing in opposition to the proposed change of Sloan Canyon Road from Hillcrest Parkway to Quail Valley Road and removal of the current Limited Secondary Highway designation.

Sloan Canyon Road has been on the Los Angeles County Master Highway Plan for decades and remains to this day as a Secondary Highway. It is the essential future roadway element specifically designed to serve the north and south circulation connection of the western portion of the Castaic Community. This essential need has always been wisely planned to accommodate both emergency and convenience access relative to the area wide circulation element and supported by fact whereby previous Bridge and Thoroughfare District fees have been paid and collected toward this circulation element.

Those that are supporting a change in removing this Limited Secondary Highway designation do not speak for the whole community.

Our Regional Planners have recognized and determined this need of the community for some 50+ years. Please keep this Limited Secondary Highway designation in place where such an important community regional benefit should be incorporated back into the Castaic Bridge and Thoroughfare District.

Respectfully,

MAR 21 2011

Michael T. Davitt
Director of Real Estate

Cc: Michael D. Antonovich, Los Angeles County Supervisor, District 5
Pat Modugno, Los Angeles County Planning Commissioner, District 5
Rosalind Wayman, Senior Deputy to Supervisor Antonovich (Santa Clarita)