CALIFORNIA
NATIVE PLANT SOCIETY

July 30, 2022

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Sent via email to jGuetschow@co.slo.ca.us

Dear Ms. Guetschow:

These comments are submitted on behalf of the California Native Plant Society, San Luis Obispo Chapter regarding the Draft Environmental Impact Report (DEIR) for the proposed Dana Reserve Specific Plan project (Project). We have reviewed the DEIR and find the DEIR contains several deficiencies and believe it does not fully comply with CEQA. For the reasons detailed below, we believe the DEIR must be revised and recirculated to remedy these deficiencies.

The San Luis Obispo Chapter (CNPSSLO) of the California Native Plant Society (Society) focuses on the protection of and education about native plant species and their natural habitats in San Luis Obispo County and portions of northern Santa Barbara County. The Mission of the Society is to protect CA's native plants and their natural habitats, today and into the future, through science, education, stewardship, gardening, and advocacy.

This development project contemplates a total of 1,289 new residential units on three adjoining parcels totaling 288-acres outside the Urban Reserve Line in the Nipomo Mesa area. A General Plan Amendment would be required to expand the Urban Reserve Line. Land uses would be changed from Residential Rural to Residential Single Family, Recreation, Residential Multi-Family and Commercial. The Dana Reserve Project is one of, if not the, largest proposed housing projects in San Luis Obispo County. We believe the project as proposed is too large for the site and must be reduced in size.

Thank you for the opportunity to comment on this Project.

I. The Project is inconsistent with its own identified Objectives (Project Description comments)

CEQA Section 15124(b) states "The statement of objectives should include the underlying purpose of the project and may discuss the project benefits." While the DEIR presents the objectives of the Project (DEIR at 2-13), it does not include a clear statement of the underlying purpose of the project. Furthermore, it is noteworthy that several of the objectives are in apparent conflict with Objective 9, which states "to maintain the large, centrally located oak woodland

area…and to minimize impacts to special status plants and animals on site." The Project does little to minimize impacts to the oak woodland, oaks, and special status plant and animals. As discussed in the DEIR (Section 4.4) and below, it results in significant, unavoidable impacts to each of these resources.

II. The benefits of the Project as Listed on Page 2-14 of the DEIR are Questionable

The DEIR on page 2-14 also refers to the County's Memorandum of Agreement and some of the benefits the County may receive from implementation of the Project. Listed here are:

A. **"Implementing the County's stated land use goals.**" We believe that, on balance, the Project's inconsistencies with goals and policies, especially Open Space and Biological Resource policies, in addition to substantial unplanned population growth as discussed below in this letter, outweigh whatever land use goals are being referred to here. Therefore, this is not a benefit of the project.
B. **"Dedication of an Open Space Easement, neighborhood park, and trail system.**" While we acknowledge the applicant's set-aside of 17 acres of oak forest in an open space area, it is notable that this area is on steeper slopes and building in this area would be difficult regardless. According to the DEIR, and as spelled out below, the proposed Open Space protects only 4% of the oak woodlands on site, and 3% of the Burton Mesa chaparral.
C. **"Providing for affordable housing in furtherance of the County's Housing Element…**" Trading the unique biological resources of the Nipomo Mesa for a project that may not achieve affordable housing goals is not a benefit and is not supportable.
D. **"Permanent conservation of 388 acres of oak woodland or similar habitat located off-site."** As it is zoned agriculture and is located on steep slopes, the proposed Dana Ridge 388-acre site is not threatened with development. The proposed conservation easement is not functional mitigation for the significant and unavoidable impacts of the project on oak trees, oak woodlands, and oak forest habitats. This is not a benefit of the project.

III. The DEIR Fails to Adequately Address Biological Impacts

The DEIR identifies six Class I impacts to biological resources; we concur with those identified; however, we believe several have not been recognized as such (there are 10 Class I biological impacts, as discussed below) in addition to other issues.

A. Allowing Burton Mesa chaparral mitigation outside SLO County, or even off the Nipomo Mesa, is inadequate mitigation

The DEIR on page 4.4-72 discusses the impacts to Burton Mesa chaparral, specifically the loss of 35 acres. The DEIR acknowledges that on-site mitigation opportunities are limited under the

current project design; it further acknowledges that due to the limited nature of the community, even off-site mitigation opportunities are limited, and its feasibility is questionable. However, *BIO/mm-14.1,* while first stating that the protection, enhancement, and/or restoration of contiguous patches of Burton Mesa chaparral on the Nipomo Mesa is preferred, which we agree with, the mitigation still contemplates the fulfillment of this requirement by restoring Burton Mesa chaparral in Santa Barbara County (at an additional 2:1 ratio). This is not appropriate. CEQA requires that mitigation be "like for like" – allowing mitigation in an adjacent County should not be acceptable, just like allowing mitigation for loss of oak woodlands in an adjacent County would not be acceptable. While mitigation banks have been developed for wetland resources, and certain endangered species where an HCP has been prepared, we are not aware of this being done for this natural community. Why should SLO County forfeit its resources when the impact can be avoided?

B. Off-site compensation for oaks and oak woodland is not a functional mitigation, and Dana Ridge is not an appropriate mitigation site for loss of oaks and Oak Woodland (Impacts 15 and 18)

The DEIR at 4.4.74 Mitigation *BIO/mm-15.1* addresses Off-Site Mitigation for Coast Live Oak Woodland (*Quercus agrifolia / Adenostoma fasciculatum – [Salvia mellifera*]). Here conservation of oak is addressed in the context of the ecosystem in which it is found, rather than as an isolated species. CNPS supports the analysis of the substitute habitat requirements, but also notes that locating suitable habitat may be impossible to either find or acquire. This is noted under "residual impacts" of BIO Impact 15 (Class 1) on DEIR page 4.4-75.

The DEIR summarizes impacts to Oak Woodlands in Impact 18 (DEIR at 4.4-79-82), in the context of a conflict with local plans and policies. The DEIR presents, in BIO/mm-18.1, at least four pages of detail on how to minimize damage to oaks that are retained on site. BIO/mm-18.2 requiring an Oak Tree Replacement Plan (DEIR at 4.4-89) appears very complex, involving the essential re-creation of the habitat at some unknown off-site location, with some 40 species of plants listed as being part of such mitigation effort or of other landscaping. BIO/mm-18.3 requires the protection of oaks on site through the development of an Oak Woodland Protection and Restoration Plan (DEIR at 4.4-91) that includes fuel management measures. BIO/mm-18.4 requires off-site preservation of oak woodlands and forest at a 2:1 ratio (DEIR at 4.4-92) and identifies the applicant-proposed "mitigation" of conserving Dana Ridge Ranch. CNPS has for years had a Policy of not recognizing off-site compensation as mitigation.[1] In this instance, the Dana Ridge site is not appropriate for several reasons: (1) it is not threatened with development; (2) it is not visible or accessible to the residents of Nipomo; (3) it contains steep slopes that are most likely unbuildable; (4) it is introduced solely as a false claim to mitigate the large net losses to oak resources; and (5) it would be subject to the very restrictive oak removal standards of the County Oak Ordinance, and therefore oaks on the site would be effectively protected by that ordinance in the absence of any connection to Dana Reserve.

[1] California Native Plant Society. 1998. Policy on Mitigation Guidelines Regarding Impacts to Rare, Threatened, and Endangered Plants. Available online at cnps.org.

At DEIR Section 4.4.2.2.3 Oak Woodlands Conservation, the application of Senate Bill 1334 enabling of a destructive 'oak management plan' is described. We object to the use of an 'oak woodlands management plan' as an instrument to avoid the intent of the County Oak Ordinance to conserve oak trees with the no-net-loss policy. The developer is using the 'management plan' as a vehicle to implement a clause in Senate Bill 1334 to mitigate through use of conservation easements, (PRC 21083.4 (b) (1)), although this clearly violates the spirit of the County Oak Ordinance. In addition, the allowance under SB 1334 that mitigation will allow planting an "appropriate number of trees" (PRC 21083.4 (b) (2) (A)), with obligation to maintain the trees ending after seven years (PRC 21083.4 (b) (2) (B)) would not result in any certainty that trees would survive to maturity. SB 1334 also states that plantings "shall not fulfill more than one-half of the mitigation requirements of the project" (PRC 21083.4 (b) (2) (C)).

It seems much more realistic and prudent to simply protect the existing oak woodland and have a smaller project. This avoids the costly, difficult, and lengthy task of trying to re-create the habitat, which, if successful, would take years to truly accomplish. The record is mixed at best. For example, the recent mitigation effort to replace removed oaks from the nearby Willow Road interchange at Highway 101 has gone on for at least seven or eight years at immense expense at a poorly chosen location (wrong soil type) and can be judged a failure.

C. The impacts to Pismo Clarkia, Federally and State-listed, are not accurately represented (Bio Impact 2)

The DEIR indicates that eight "micropopulations" of Pismo Clarkia occur onsite (DEIR at 4.4-17 and Figure 4.4-5), having been documented during 2019 and 2020 surveys, but not in 2017 and 2018. Bio Impact 2 identifies potential direct and indirect impacts to Pismo Clarkia. Direct, unavoidable impacts are identified as loss of 0.02 acres of the 0.2 acres occurring onsite (DEIR at 4.4-53, Figure 4.4-9) from the construction of the arterial road "Collector B." The DEIR includes three mitigations, BIO/mm 2.1-2.3, that include obtaining an incidental take permit from CDFW, establishing a conservation easement, preparing a Habitat Management Plan, in addition to avoidance of patches identified during 2019 and 2020, in addition to the construction year. Further mitigation is required for the loss of the 0.02 acres, at a 3:1 ratio, "along appropriate boundaries of preserved oak woodland habitat areas" (DEIR at 4.4-56). The DEIR concludes impacts are significant but mitigated to insignificance. We disagree and believe the impacts are significant and unavoidable (Class I).

CNPS experts have been involved in efforts to restore Pismo Clarkia[2]. Pismo Clarkia is indeed a "sensitive" species: the patches are shifting and delicate — they can be extinguished by too much stability or too much impact and require the underlying soil and animal associates to be suitable. Translocation of populations and topsoil stockpiling may be successful for one or two

[2] Arcadis, 2009. Pismo Clarkia Restoration Study 2009 (Year 1) Mitigation and Monitoring Report, PXP – Arroyo Grande Oilfield, Pismo Beach, CA. Prepared for Plains Exploration and Production Company, 5640 South Fairfax Avenue, Los Angeles, CA 90056.

years, but with continued monitoring, the translocated and managed populations head toward steep and terminal decline. There are also issues with herbivory when treatments are placed next to oak woodlands and scrub types where there is adequate cover for brush rabbits. It is also doubtful that construction can be limited to what appears to be a small 50-60 ft. corridor for Collector B, which is also a corridor for water mains (DEIR at 2-9). Given this, the impacts to Pismo Clarkia are significant and unavoidable. CNPS has access to data supporting the long-term failure of Pismo Clarkia transplantation efforts which can be supplied on request.

D. The impacts to Mesa horkelia, Nipomo Mesa ceanothus, and sand mesa manzanita are not accurately represented (Bio Impact 3)

The DEIR on page 4.4-57 identifies impacts to these species and states that impacts can be mitigated to insignificance through the implementation of BIO/mm-3.1 (preservation on or off-site at 1:1 and restoration at 2:1, respectively through a Habitat Mitigation and Monitoring Plan), in addition to BIO/mm 1.1-1.6 (construction protective measures), 14.1 (protect/restore Burton Mesa chaparral); and 15.1 (protect/restore oak woodland at 2:1 ratio). The DEIR states, on page 4.4-59:

"Therefore, it is imperative to preserve an existing population of each species at a 1:1 ratio along with enough suitable unoccupied habitat to reestablish populations prior to issuance of the grading permit. Preservation of an existing population will offset the temporal loss incurred until the reestablishment component of the mitigation can be successfully implemented. This is imperative because it is not always possible to successfully reestablish rare plants (CNPS 1998)."

The DEIR does not include locations of existing populations that would be preserved, and it is not assured that they will be found. Until these habitat areas are located and can be assured to be protected, impacts would be **significant and unavoidable (Class I.)**

E. The DEIR fails to accurately assess impacts to migratory birds (no impact identified)

It is widely recognized that both migratory and resident bird populations depend on intact, healthy habitat. The Conservation and Open Space Element of the General Plan's Goal BR-1 states: "*Native habitat and biodiversity will be protected, restored, and enhanced."* This Project is clearly inconsistent with this Goal, in addition to Policy BR 1.1: "*Protect sensitive biological resources."* The DEIR concludes that there is no potential impact and there are no identified wetlands or wildlife movement corridors. CNPS strongly rejects this conclusion and finds that it fails to recognize that oak woodlands are often the terminus of either wintering species or nesting species, providing major food resources to species.

F. Impacts to Nesting Birds are Significant and Unavoidable (Class I)

The DEIR on page 4.4-65 identifies impacts to nesting birds and states that impacts can be mitigated to insignificance through the implementation of BIO/mm 7.1 (pre-construction surveys

and nest avoidance), in addition to BIO/mm 1.1-1.6 (construction protective measures), 14.1 (protect/restore Burton Mesa chaparral); 15.1 (protect/restore oak woodland at 2:1 ratio); and 18.4 (off-site preservation of oak woodland at 2:1). However, the DEIR concludes for Impact 14, 15 and 18, for which these mitigations are proposed, that impacts are significant and unavoidable (DEIR at 4.4-73, 4.4-75, and 4.4-92). Given the substantial loss of habitat (Burton Mesa chaparral, oak woodland, oak forest) that would result from the Project, and the management of the Open Space that would remain, and the fact that these impacts are unavoidable, we believe that impacts to nesting birds are also significant and unavoidable Class I).

G. Impacts to American Badger are Significant and Unavoidable (Class I)

The DEIR on page 4.4-67 and 68 identifies impacts to American badger, A CDFW species of special concern, and states that impacts can be mitigated to insignificance through the implementation of BIO/mm 9.1 (badger den preconstruction survey and relocation), in addition to BIO/mm 1.1-1.6 (construction protective measures), 14.1 (protect/restore Burton Mesa chaparral); 15.1 (protect/restore oak woodland at 2:1 ratio); and 18.4 (off-site preservation of oak woodland at 2:1). As stated above under Item F., the impacts for which these mitigations are proposed are significant and unavoidable. Given the substantial loss of habitat (Burton Mesa chaparral, oak woodland, oak forest) that would result from the Project, and the management of the Open Space that would remain, and the fact that these impacts are unavoidable, we believe that impacts to American badger are also significant and unavoidable (Class I). It is likely that American badger would be extirpated from the area due to the loss of open grassland habitat. American badger home range estimates are extremely variable across their range. While they will travel up 6 miles in search of prey,[3] two to two and a half square miles (1327-1549 acres) is typical for a male in California.[4]

IV. The DEIR Fails to Address Certain Issues Relating to Water Resources

A. The DEIR fails to address the dependence of the project on water imported by Nipomo Community Services District which should otherwise have been used to counter continued decline of groundwater storage in the area

CNPS concurs that the project will not directly contribute to the continuing decline in water storage under the Nipomo Mesa. This is because the project will only use imported water brought by pipeline from Santa Maria through the Nipomo Supplemental Water Project (NSWP).

Nipomo CSD has stated that the amount of imported water is sufficient to serve both this project and other potential future projects within the NCSD service area, while not contributing to pumping from Nipomo Mesa sources. The allocation of this imported water to serve future

[3] U.S.G.S. Western Ecological Research Center. 2017. Accessed 2022. American Badgers in San Diego County. https://www.usgs.gov/centers/werc/science/american-badgers-san-diego-county
[4] CDFW. 1988-1990. California Wildlife Habitat Relationship System. American Badger Life History Account. Originally published in Zeiner et al., 1988-1990. California's Wildlife. Vol I-III.

development may severely constrain the use of the water in recovering groundwater levels in the basin.

The Nipomo Mesa Management Reports for 2020[5] and 2021[6] reveal a loss of groundwater storage of 8,807 AF in 2021 and 8,582 AF in 2020. This is also demonstrated by the Key Wells Index which shows continuing declines in well levels. In addition, the Reports show that groundwater extraction from the Nipomo Mesa Management Area was 13,677 AF in 2021 and 14,313 AF in 2020. This implies that about half of the extractions were mined from storage at a time when supplemental water was importing in 3,002 AF in 2021 and 3,809 AF in 2020.

NCSD notes that supplemental water imports could be as high as 3,000 AFY, which is less than half of the ongoing deficit. This raises the issue that imported water should first be dedicated to recharging the basin beyond the quantities currently being substituted at the well head by water imports.

Wastewater from the project will be treated at the Southland Wastewater Treatment Facility, which is situated at the extreme southeast corner of the Nipomo Mesa, and close to the 130 ft. high bluff bordering the Santa Maria River. Nipomo Mesa Management Reports illustrate groundwater contours showing flow to the southwest, so that it is extremely unlikely that the Southland plant will recharge the production aquifers beneath the Mesa, and more likely returning water to the Santa Maria area. It is also possible that the enhanced riparian vegetation in the creek on the opposite side of the freeway is evidence of recharge from the treatment plant. CNPS does not find evidence that the imported water would recharge the aquifers utilized in creating the Key Wells Index.

B. The DEIR fails to accurately point out inconsistencies with County policies

The DEIR on page 4.10-13, 14, 15 lists several policies from the Conservation and Open Space Element of the County General Plan. We offer the following observations:

(a) *General Plan Policy BR 4.1 Protect stream resources: Protect streams and riparian vegetation to preserve water quality and flood control functions and associated fish and wildlife habitat*. The conclusion of 'Potentially Consistent' cannot be made in view of the well-documented drawdown of water tables affecting Black Lake Canyon and associated wetlands. The project does not contribute to recovery of local water tables, and the increased impermeable surface generated by the project may inhibit local recharge.

(b) *General Plan Policy BR 4.4 Vegetated Treatment Systems (Low Impact Development Techniques). Promote use and maintenance of engineered, vegetated treatment systems*

[5] Nipomo Mesa Management Area, 2021. Thirteenth Annual Report, Calendar Year 2020. Prepared by NMMA Technical Group. Submitted April 2021.
[6] Nipomo Mesa Management Area, 2022. Fourteenth Annual Report, Calendar Year 2021. Prepared by NMMA Technical Group. Submitted April 2022.

such as constructed wetlands, vegetated swales, or vegetated filter strips where they will reduce nonpoint source pollution from private and public development. The conclusion of 'Potentially Consistent' is speculative, as project plans show no substantial treatment areas to compensate from the pollution from the large number of vehicles and people using the area. This would include distributed waste from pets and other byproducts of human occupation not currently present at the site. Furthermore, pollutants might be concentrated at the collection ponds where natural soil processes would be less available for any current distributed treatment currently present at the site.

(c) *General Plan Policy SL 2.1 Protect watersheds and aquifer recharge areas. Give high priority to protecting watersheds, aquifer-recharge areas, and natural drainage systems when reviewing applications for discretionary development.* By design, this project increases impermeable surface and concentrates runoff water in basins situated at the perimeter of the project. Given that fine sediment and colloidal sediment load will also be concentrated in these basins, it is likely that recharge capacity will decrease over time. Table 4.10-2 shows that basin-provided storage volume totaling 1,249,104 cu. ft is more than the code required capacity of 1,086,134 cu. ft. and therefore fully mitigated. We have concerns that the hydrologic calculations do not address the expected increased intensity of storms associated with global warming and the increased chances of atmospheric rivers hitting the central coast. We also do not see any provision in dealing with any basin overspill during such events. For example, the basin adjacent to Pomeroy would spill into residential neighborhoods, and overspill from the northeast pond would spill beneath the freeway onto the highly erodible slopes on the far side.

(d) *General Plan Policy WR 1.9 Discourage new water systems. Enable expansion of public services by community services districts and County service areas to serve contiguous development when water is available. Strongly discourage the formation of new water and sewer systems serving urban development at the fringe and outside of urban or village reserve lines or services lines. Strongly discourage the formation of new mutual or private water companies in groundwater basins with Resource Management System Levels of Severity I, II, or III, except where needed to resolve health and safety concerns.* We find that while the statutory wording of "new water system" may not seem to apply to the intention of NCSD to serve this development, this is in fact a new water system consuming imported water. As the groundwater condition is at RMS Level of Severity III, this would have prevented the developer from making a water import contract that was not channeled through NCSD, and therefore we find that this General Plan policy has been violated in spirit, if not in law. Furthermore, as we have noted in our comments at the start of this section, imported water would have been better utilized in recharging the groundwater rather that servicing new demand.

(e) *General Plan Policy WR 1.13 Density increases in rural areas. Do not approve General Plan amendments or land divisions that increase the density or intensity of non-agricultural uses in rural areas that have a recommended or certified Level of Severity II*

or II for water supply until a Level of Severity I or better is reached unless there is an overriding public need. The DEIR notes "*The intent of this policy is to encourage infill development and conserve water resources*." As this development is at the northeastern margin of the NCSD service area, it hardly qualifies as infill. NCSD water service to an area north of the proposed development was emplaced as an emergency measure after that area ran out of water.

(f) *General Plan Policy WR 1.14 Avoid net increase in water use. Avoid a net increase in non-agricultural water use in groundwater basins that are recommended or certified as Level of Severity II or III for water supply. Place limitations on further land divisions in these areas until plans are in place and funded to ensure that the safe yield will not be exceeded.*
Framework for Planning Policy 3 Preserve and sustain important water resources, watersheds, and riparian habitats.
As noted elsewhere, the developer claims that the use of 100% imported water results in no violation of this policy. However, it is clear that basin safe yield is currently exceeded, and this is a 'further land division'. There is also a net increase in water use. As the project is solely dependent on imported water subject to legal agreements that could change over time, the project might at some future time need to depend on local groundwater.

(g) *Policy WR 3.3 Improve groundwater quality. Protect and improve groundwater quality from point and non-point source pollution, including nitrate contamination; MTBE and other industrial, agricultural, and commercial sources of contamination; naturally occurring mineralization, boron, radionuclides, geothermal contamination; and seawater intrusion and salts.* It is fairly obvious that human occupation will not improve over the water quality of water filtered by woodland and grassland, in spite of any mitigation imposed on the project.

In conclusion, even though water for the project would be supplied by the NCSD using imported water, we note several apparent policy inconsistencies, and importantly, that the project does not contribute to recovery of local water tables.

V. Air Quality, Greenhouse Gas Emissions, and Transportation

Regarding Air Quality, the DEIR also identifies that the project would conflict with the SLOAPCD Clean Air Plan, including inconsistencies with Land Use Planning Strategies L-3 Balancing Jobs and Housing (AQ Impact 1, DEIR at 4.3-25). Impacts would be significant and unavoidable (Class I). In addition, the DEIR states that the project would result in a cumulatively considerable net increase of criteria pollutants in exceedance of established SLOAPCD daily emissions thresholds (AQ Impact 3, DEIR at 4.3-32). Impacts would be significant and unavoidable (Class I).

Regarding Greenhouse Gas Emissions, the DEIR also identifies that the project would generate VMT in a manner that would be inconsistent with SLOCOG's 2019 Regional Transportation Plan/Sustainable Communities Strategy and the effectiveness of the identified mitigation to reduce this impact below applicable thresholds is not certain (GHG Impact 3, DEIR at 4.8-28, 29). Therefore, even with implementation of identified mitigation, potential impacts would be significant and unavoidable (Class I). Cumulative impacts would also be significant and unavoidable (GHG Impact 5, DEIR at 4.8-30).

The DEIR Vehicle Miles Traveled (VMT) analysis concluded that the project's estimated VMT per Employee and residential VMT per capita are higher than the regional averages and that the project would generate an increase in regional VMT (DEIR at 4.17-40). Thus, buildout of the Specific Plan Area would exceed County VMT Thresholds of Significance and result in a significant impact. At buildout, the project would result in an overall increase in regional VMT and exceed County thresholds, resulting in a **significant and unavoidable impact to VMT** (TR Impact 3). This is also inconsistent with State CEQA Guidelines Section 15064.3(b). The DEIR at 4.17-48 also identifies **significant and unavoidable cumulative VMT impacts** (TR Impact 9).

VI. Section 4.11 - The DEIR Fails to Establish Consistency with Applicable Plan and Policies

The EIR identifies potential inconsistencies with policies relating to air quality, biological resources, GHG emissions, transportation, land use planning, public services, and recreation. We emphasize several of these inconsistencies below.

A. The project would be inconsistent with the County General Plan, Conservation and Open Space Element, in addition to other elements of the General Plan.

As identified in the DEIR, the project would be inconsistent with several goals and policies of the Conservation and Open Space Element: Goal BR1 (Native habitat and biodiversity protection), Policy Br 1.2, 1.4, 1.9 and 2.6 (DEIR at 4.11-30). Goal BR3 requires the maintenance of the acreage of native woodlands, forests, and trees at 2008 levels. As stated above, the project would result in the direct loss of 35 acres of Burton Mesa chaparral (97%), 75 acres of oak woodland (96%), and 21.7 acres of oak forest. The project is thus inconsistent with this Goal, and Policies 3.1, 3.2, and 3.3, which relate to native tree protection and oak woodland preservation (DEIR at 4.11-31). The inadequate 1:1 replacement ratios and the extremely low on-site replacement of only 194 of the 3,943 trees to be removed supports this determination. The DEIR on page 4.11-37 concludes that **LUP Impact 5** (loss of habitats and resultant policy inconsistency) would be significant and unavoidable. We agree with this determination and suggest that this points to another alternative.

From the standpoint of visual resources, Goal 2 requires that the natural and historic character and identity of rural areas be protected. The DEIR finds that the project "would inherently

change the visual character of the site and surroundings through the introduction of commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial landform alteration" (DEIR at 4.11-29). The project is inconsistent with this Goal.

Policy VR 2.1 requires that the review of proposed development encourage designs that are compatible with the natural landscape and with recognized historical character and discourage designs that are clearly out of place within rural areas. The DEIR finds that the project "would inherently change the visual character of the site and surroundings through the introduction of commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial landform alteration" (DEIR at 4.11-29). The project is inconsistent with this policy.

Policy VR 2.2 requires that the review of proposed development encourage designs that emphasize native vegetation and conform grading to existing natural forms, with abundant native and/or drought-tolerant landscaping that screens buildings and parking lots and blends development with the natural landscape. The DEIR finds that "Although the project site would preserve the existing oak ridge, it would severely alter the existing native vegetation and natural landforms of the remainder of the site with the introduction of commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial landform alteration" (DEIR at 4.11-29). The project is inconsistent with this policy.

B. The project would be inconsistent with Framework for Planning (Inland).

As identified in the DEIR, the project is inconsistent with Principles 1 and 2 and Policies 1 and 2 of these respective principles of Framework for Planning (note the incorrect spelling of principle). These policies guide the retention and preservation of open space and natural resources, and the rate of growth in the area (DEIR at 4.11-32).

Principle 1 relates to the preservation of open space, scenic natural beauty, and natural resources, the conservation of energy resources and the protection of agricultural land and resources. The DEIR finds that "Although the project would preserve the existing oak ridge, the project would inherently change the visual character of the site and surroundings through the introduction of commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial sensitive habitat loss and landform alteration" (DEIR at 4.11-32). The project is clearly inconsistent with this.

In addition, Principle 2, Policy 1 requires that rural areas be maintained in "very low-density residential uses." The project through its large number of residential units and commercial uses would change the character of the area and thus be inconsistent with this policy. The DEIR on page 4.11-39 and 4.11-40 is inconsistent. On page 4.11-39 the DEIR indicates that **LUP Impact 7** is Class I, yet the textual discussion regarding Aesthetics that follows, and the table on page 4.11-40, indicates it is Class II. This should be rectified. Inherent in these principals and policies is the protection of resources. We believe **LUP Impact 7** is a Class I impact.

C. The project would be inconsistent with County of San Luis Obispo Land Use Ordinance 22.10.095 – Highway Corridor Design Standards.

The DEIR finds that "The project would inherently change the visual character of the site and surroundings through the introduction of roads, commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial landform alteration within highly visible locations as seen from US 101 (DEIR at 4.11-33).

D. The project would be inconsistent with the South County Inland Area Plan.

The project would be inconsistent with several guidelines, goals, and supportive goals of the South County (South) SubArea. A key guideline requires "retain land in open space in new land divisions that will preserve oak woodlands, riparian and other important biological habitats (emphasis added), and historic place surroundings." (DEIR at 4.11-34). The project is clearly inconsistent with this guideline in that it retains only 3% of the Burton Mesa chaparral and 4% of the oak woodland on site as Open Space. A key supportive goal is stated as follows, in part: "Promote the protection of natural resources and encourage the following in new development proposals: a. retention of sensitive vegetation…" (DEIR at 4.11-35). The removal of over 4,000 mature oak trees and 35 acres of Burton Mesa chaparral is wholly inconsistent with this. While several of the other policy inconsistencies mentioned above are discussed under **LUP Impacts 5, 6, and 7**, it is not clear where this inconsistency is addressed. We believe this to be a Class I impact.

E. The project would result in cumulative impacts associated with Policy Inconsistency.

We believe the DEIR correctly concludes "cumulative impacts associated with inconsistency with Land Use Planning Policy L-3 and goals and policies identified within the County COSE, Framework for Planning (Inland), LUO, and South County Area Plan regarding preservation and no net loss of sensitive biological resources and preservation of rural visual character would be *significant and unavoidable*. One can only conclude that the DEIR **fails to adequately establish consistency with applicable plans and policies.**

F. The DEIR mischaracterizes some plan inconsistencies as consistencies or leaves out discussion altogether.

Several of the policies in the Policy Consistency section are mischaracterized as potentially consistent, with a few specifics listed below, for the reason stated.

Policy	Intent	EIR Mischaracterization and Reason for Inconsistency
COSE Pol OS 1.1	Protect open space resources	DEIR indicates potentially consistent at 4.11-9 and 4.4-47. **Inconsistent** is correct. Only 17% of the SP area is protected as OS when most of the site is sensitive habitat (oak woodlands, BM chaparral, etc.) that would be lost to development.
COSE Policy OS 1.8	Maximize protection of environmentally sensitive resources	DEIR indicates potentially consistent at 4.11-9. **Inconsistent** is correct. The proposed OS area protects very little of the sensitive site resources. Except for Pismo Clarkia and mesa horkelia, DEIR Figure 4.4-3 & 4.4-8 shows that most sensitive species occur outside the proposed open space area and would be impacted. Stormwater basins provide minimal to no value as site resources.
COSE Policy OS 2.1	Protect, sustain, and restore open Space	DEIR indicates potentially consistent at 4.11-9. **Inconsistent**, as above. In addition, management by a homeowner's association raises the possibility of future impacts.
Framework Principle 1, Pol 7	Maximize avoidance of sensitive environmental resources through site design.	DEIR indicates potentially consistent at 4.11-11. **Inconsistent** is correct. Considering the "large, centrally-located oak forest" (approx. 16-17 acres) to be avoidance of sensitive resources is a mockery given the prevalence of several rare plant species, >4,000 oaks, and 132 acres of sensitive habitats that will be lost due to this project (DEIR, Table 4.4-7).
Framework Principle 1, Pol 1		DEIR indicates potentially consistent at 4.11-11. **Inconsistent** is correct. Appears in DEIR on page 4.11-11 as potentially

Policy	Intent	EIR Mischaracterization and Reason for Inconsistency
		consistent; on page 4.11-32 as potentially inconsistent. Clarify. We believe inconsistent is correct.
Framework Principle 2, Pol 1		DEIR indicates potentially consistent at 4.11-11. **Inconsistent** is correct. Appears in DEIR on page 4.11-11 as potentially consistent; on page 4.11-33 as potentially inconsistent. Clarify. We believe inconsistent is correct.
Framework Principle 2, Pol 2		**Inconsistent** is correct. Appears in DEIR on page 4.11-11 as potentially consistent; on page 4.11-33 as potentially inconsistent. We believe inconsistent is correct.
Title 22 County of San Luis Obispo Land Use Ordinance Section 22.98.072 (H)(8), Land Use Category Standards for the South County Sub-area, Residential Rural (RR), Dana Ranch [aka Dana Reserve]	"*b.* ***Oak habitat preservation****. Designation of the existing oak forest habitat for open space preservation, where limited recreational and open space uses may be allowed*. "	**Inconsistent.** Restated in DEIR at 4.4-38, but consistency not addressed. The section requires conserving the existing oak forest habitat on site. Project does preserve 17 of 21.7 acres of oak forest, but it removes 75 acres of oak woodland. The Project is inconsistent for reasons noted above.
Title 22.58, LUO, Oak Woodland Ordinance	*"To maintain the character of the existing landscape and promote oak woodland management independent of regulation."*	**Inconsistent.** Summarized in DEIR at 4.4-37. Notably, consistency is not addressed in DEIR. The Project requests a CUP under the Ordinance. However, the Ordinance came about due to public pressure because of massive oak tree removal from Agricultural activities. It is antithetical to the intent that the Ordinance is now being used to support this request.

VII. The DEIR Alternatives Analysis is Inadequate and Fails to Comply with CEQA

The Alternatives Section of the DEIR summarizes the Class I impacts of the project (DEIR at 5-3 through 5-6), describes alternatives considered but discarded (5-8 through 5-11), and analyses the No-project alternative and five other alternatives, defined roughly as follows:

- Alternative 1- applicant-preferred alternative, which moves neighborhood 10, the affordable housing area, out of an oak woodland area and into a more centrally located area of the site, and allows as many residential units as the Project (1,289);
- Alternative 2 – La Canada Ranch alternative, which would vastly increase the amount of open space, and allow only 535 residential units;
- Alternative 3 – Residential Rural Cluster alternative, which would include a similar amount of open space as the Project, remove the commercial development, and would allow anywhere from 78 to 390 residential units;
- Alternative 4 – Development on Non-Native Grassland alternative, which would vastly increase the amount of open space to 183 acres and include a 15% reduction in residential units to 1,100 (and also changing the ratio of RSF to RMF); and
- Alternative 5 - Gradual Transition alternative, which includes open space similar to the Project, but would include a 12% reduction in residential units to 1,135 (and also changing the ratio of RSF to RMF.

The above alternatives differ in their feasibility and ability to reduce Class I impacts and inconsistencies with County plans and policies.

Significantly, the DEIR rejects an alternative, the Burton Mesa chaparral avoidance alternative, because "it may be infeasible from a cost perspective" (DEIR at 5-9). This alternative would preserve 205 acres in open space, and depending on how the units are allocated, could allow up to 600-700 residential units, although the DEIR claims 815, based on 111 RSF units, and 704 RMF units. We believe this to be the Environmentally Superior Alternative, as discussed further below, along with other comments on alternatives.

A. The alternatives presented fail to optimize for affordable housing while maximizing conservation of oak woodlands (DEIR page 5-57)

The DEIR analysis concludes for Alternatives 2 through 5 that there is failure to meet the project objective of providing a diversity of housing types…, including affordable housing (DEIR at 5-32, 5-44, 5-57, 5-69.) For alternatives 2 and 3, the DEIR uses this to argue against the feasibility or acceptance of the alternative (DEIR, as referenced above). For alternatives 4 and 5, it again uses this to downplay the feasibility of the alternatives. If this objective is so important, why weren't more alternatives that would meet this objective selected and analyzed?

Because (a) the proposed project is vastly inconsistent with the existing general plan, as evidenced Section VI above; and (b) in consideration of the need for affordable housing being listed as a supporting criterion for choice of certain alternatives; we suggest that another alternative should be considered. This alternative would minimize general plan inconsistencies

and optimize housing needs, so that the same number of units could be placed on the eastern half of the project area. Rather than have four fifths of the development unaffordable, all units could be made affordable rather than the currently proposed one fifth of the development. This could be achieved through multistory apartment units or some other such accommodation.

B. The analysis of alternatives fails to impartially determine whether a particular alternative meets or doesn't meet the project objectives.

Furthermore, it is notable that this one project objective, Objective 5 on page 5-2 of the DEIR, ("to provide a diversity of housing types…") is used to downplay the feasibility of each of these alternatives when the same reasoning could be used in the opposite manner for Objective 9, ("To maintain the large centrally located oak woodland area as a site feature and to minimize impacts to special status plants and animals on site.") We believe the analysis of alternatives fails to impartially determine whether a particular alternative meets or doesn't meet the project objectives. We find no language in the project description stating that the fundamental purpose of the project is to supply affordable housing, It may be an objective, but it is not a stated purpose. In fact, the project description contains no statement of purpose for the project. CEQA Section 15124(b) states "The statement of objectives should include the underlying purpose of the project and may discuss the project benefits."

It is also worth noting that the DEIR in this section, 5.2.1, Project Objectives, does not use the word "basic" (DEIR, page 5-2), while numerous times in the alternatives analysis (DEIR at 5-9, 5-11, 5-32), text refers to "basic project objectives," when there are no such identified "basic project objectives. There are just project objectives, supposedly equally weighted. (This is also the wording in Section 2.4, Project Objectives, in the Project Description (DEIR at 2-13).

C. The DEIR does not adequately analyze the Burton Mesa Chaparral Avoidance Alternative and rejects the alternative without providing substantial evidence of infeasibility (DEIR page 5-8)

This alternative results in development being placed at the eastern end of the site. (DEIR Figure 5-1, page 5-10). As currently defined in the DEIR, it would result in 205 acres being dedicated to Open Space; 61 acres would be devoted to residential uses (DEIR at 5-8). A total of 815 units, as opposed to 1,289 under the Project, would be possible. Notably, it is described as including four-story residential multi-family units, and two-story single-family units. This alternative is clearly the environmentally superior project. It appears to be rejected, among other reasons, due to the aesthetic impact of inclusion of four-story apartments or condominiums and two-story single-family homes. We find this to be without merit; a smaller 600–700-unit project (which would still be quite large for this County) could easily be designed to have lower buildings, which would eliminate the impact to aesthetics.

The idea that accessory dwelling units (ADUs) could elevate the impact of the project is an issue common to nearly all the considered alternatives, and not a reason to reject this Burton Mesa Chaparral Avoidance alternative.

The DEIR dismisses the Burton Mesa alternative as (1) not meeting the "most of the basic objectives" of the project, and (2) as "may be infeasible from a cost perspective (DEIR at 5-9). We reject both assertions.

This alternative keeps all the various housing types in the project proposal; it simply changes the ratios by eliminating the tract home neighborhoods that require removal of the oak woodland.

With a few minor changes, the BMC avoidance alternative could provide a greater range of housing types than the developer's proposal. The commercial area could be slightly reduced to make room for more homes. Reviewing the project objectives, the BMC avoidance alternative can fulfill all 13 of them. To wit:

- It meets Objective 1 because it provides a mix of land uses (OS, MFR, SFR, FC, REC all shown in Fig 5-1).
- It meets Objective 2, respect for Old Town Nipomo, because village commercial can remain, simply reduced in size.
- It meets Objective 3, regarding parks and open space areas with a network of trails, because there is essentially no change from the Project, just a smaller project.
- It meets Objective 4, Rural history through arch design, since there is no change from the Project.
- It meets Objective 5, a Diversity of housing types, including affordable housing, since there is no change from the Project.
- It meets Objective 6, new employment and job training opportunities, since there is no change from the Project.
- It meets Objective 7, to enhance circulation within the Specific Plan Area and in the area, (but much of this is required *because* of the Project);
- It meets Objective 8, to integrate a network of walking, bicycling, and equestrian facilities because this remains possible in a reduced area.
- It meets Objective 9, to maintain a large centrally located oak woodland (see Figure 5-1);
- It meets Objective 10, to meet County energy requirements, since there is no change from the Project.
- It meets Objective 11, to reduce uncertainty in planning since there is no change from the Project, it's just a smaller project.
- It meets Objective 12, for effective and efficient development of public facilities, infrastructure, and services since there is no change from Project, just a smaller project.
- It meets Objective 13, to meet the requirements of the NCSD.

No substantial evidence is provided to show why the BMC avoidance alternative is not feasible. For these reasons the dismissal of this alternative is rejected, and we request that more detailed analysis of this alternative be made, both on the basis of its financial feasibility and on its obvious position as the environmentally superior alternative.

The Burton Mesa chaparral avoidance alternative would still make the project one of the largest in San Luis Obispo County in years. It also would still allow for 600 to 700 units to be built as part of the project. It also would keep intact the great majority of the oak woodland and Burton Mesa chaparral and would preserve 90% or more of the oaks on site. For these reasons this alternative should be considered the environmentally superior alternative and should be supported instead of the developer's proposal.

D. The DEIR does not adequately analyze the Residential Rural Development Alternative, rejecting it without substantial evidence (DEIR page 5-9)

This alternative would set aside 173 acres as residential rural land, with 49 acres of open space, and 22 acres dedicated to commercial. In view of the nature of the surrounding developed land as Rural Residential, it might be surmised that future development of the Dana Reserve would follow the same path and be considered by many to have been the most likely future for the land. However, the alternatives section in the DEIR does not attempt to review the entire parcel being zoned to Residential Rural, but just those portions that are intended for housing under the currently proposed project. The concept of clustering the lots is not considered. This appears to be just one of several different use configurations, but as the most likely potential for the site in the absence of the Dana Reserve would be Residential Rural for the entire parcel, this option should have been considered, along with the potential for clustering to protect habitat. Again, the argument about not meeting the "basic" project objective relating to providing a diversity of housing types, including affordable housing, comes up, and the alternative is eliminated.

E. The DEIR does not adequately analyze the Residential Rural Cluster Subdivision Alternative (Alternative 3)

We question the land area analysis presented under the analysis of Alternative 3. DEIR Section 5.4.4.1 notes that the cluster subdivision standards (LUO Section 22.22.140.B.) and the Subdivision Design Standards (LUO Section 22.22.060.) allow for 39 Rural Residential Parcels with an approximately 0.5-acre parcel size if sewer and water were to be provided, resulting in 40 acres of footprint on the 185 acres of the project land. The DEIR also states that a minimum parcel size of 2.5 acres would be required if water is not provided, totaling 97.5 acres for the 39 parcels. However, there is no analysis of the degree and location of clustering addressed in Alternative 3, where the infrastructure costs are considered a negative factor (*This alternative may preclude annexation into the NCSD due to infrastructure costs. If annexation into the NCSD does not occur, this alternative would rely on domestic water and sewer infrastructure and the minimum lot size would be 2.5 acres.*) If the clustering is restricted to the eastern end of the parcel, and is not distributed over much of the parcel, infrastructure costs would not be such a significant issue, and

the footprint would be limited to the 40 acres with no violation of the Conservation and Open Space Element of the General Plan.

The DEIR identifies this residential rural cluster alternative as the environmentally superior alternative. While it can be agreed that this alternative is superior to the proposed project, it is not environmentally superior to the Burton Mesa chaparral avoidance alternative, which has been questionably eliminated, and is therefore improperly identified. Alternative 3 could result in "edge effects;" a phenomenon well known to ecologists. This effect states that the edges of a habitat are more prone to degradation from outside than the interiors areas of such habitat. The non-native habitats of the housing complex, with their introduced plants (and weeds), and dogs and cats, can quickly invade neighboring undisturbed areas. Having clusters of such housing will increase the amount of "edge", thus making it easier for such intrusions to occur. This phenomenon has been observed again and again, and although such a development approach may leave more oak trees, it reduces the intrinsic value of the habitat and reduces that habitat to essentially its scenic character. It should be noted that this alternative is presented only in concept; much would depend on how and where the clusters were sited.

We therefore reject the selection of Alternative 3 as Environmentally Superior.

F. Alternative 4 also fails as the Environmentally Superior Alternative

The Burton Mesa chaparral avoidance alternative and Alternatives 2 and 4 result in the greatest amount of open space (205 acres, 173, and 183 acres, respectively) and thus preservation of biological resources. Alternative 4 would result in 1,100 units within 80 acres and is considered feasible (DEIR at 5-57). Alternative 4 is clearly better than the proposed project based on the increased acreage of protected oak woodland through a 15% decrease in housing and other land uses. However, the edge effects issue removes this alternative from consideration.

We therefore conclude that a slightly revised Burton Mesa Chaparral avoidance alternative is the environmentally superior alternative, and that its rejection as infeasible is without substantial evidence.

G. Evaluate a Proposed Alternative to Reconcile the oft-stated Need for Affordable Housing found in the Alternatives Analysis of the DEIR while achieving Minimal Impacts to Natural Resources and minimizing inconsistencies with the General Plan

CNPS concurs that the DEIR shows that the Project and its Alternatives cannot minimize impacts to natural habitat to a degree that would be possible if the County's need for affordable housing were to be applied to this entire project. As noted above, CNPS, given a choice of alternatives, were it not for edge effects, would prefer Alternative 4, but we concur that this does not include sufficient affordable housing. We prefer the Burton Mesa Chaparral avoidance alternative, which has been inappropriately rejected. None of the Alternatives or the Proposed

Project sufficiently address the affordable housing crisis, despite being one of the largest housing projects proposed for the South County. We therefore strongly recommend a new alternative be considered: one that includes all units being built as affordable in a much smaller unit footprint, and that these units be concentrated at the eastern end of the project area. To best match developer objectives, as required by CEQA, we recommend that this new alternative be allowed as many residential units as originally planned but concentrated in a much smaller area by using multiple unit buildings. In this way impacts to the oaks and listed species, which are considered significant and unavoidable in the existing analysis, would be greatly reduced.

In summary, allowing insufficient mitigation and a gross violation of the General Plan by a developer is not in the best interests of the people in the County. As CEQA states that alternatives must, to a certain degree, meet the objectives of the developer, CNPS suggests that raising densities on a smaller footprint *does* meet a major objective, while also addressing a housing need that is insufficiently addressed by the current project.

VIII. Conclusion

The Dana Reserve Specific Plan Project must be reduced in size. The project site contains unique resources that need not be traded for the development of housing. There are multiple significant and unavoidable (Class I) impacts of the project that should drive this reduction in size. This is one of, if not THE, largest project(s) in SLO County. There are numerous and vast inconsistencies with County policies, specifically the biological resource policies of the Conservation and Open Space Element of the General Plan. The alternatives analysis eliminates what we believe is a viable alternative. Given this, we believe the DEIR should be revised and recirculated to reflect that the Burton Mesa chaparral avoidance alternative is the environmentally superior alternative, and it must be analyzed along with other alternatives.

Thank you for your consideration of these comments.

Sincerely,

Melissa Mooney
President
California Native Plant Society, San Luis Obispo Chapter