

Comment Letter No. O36

Courtney, Betty@Wildlife

From: jweiner.venturacoastkeeper@gmail.com on behalf of Jason Weiner
 <jweiner.venturacoastkeeper@wishtoyo.org>
Sent: Monday, February 13, 2017 5:38 PM
To: Wildlife Newhall Ranch
Cc: Mati Waiya; Luhuiisha
Subject: Comments on Newhall Ranch Draft AEA (1 of 2)
Attachments: 2.13.17_Wishtoyo_CDFW_Stickleback_Comments.pdf; 2.13.17_Wishtoyo_CDFW_Cultural_Comments.pdf

To Whom It May Concern,

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 1 of 2.

1

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

2

If you could confirm receipt of the two attachments in this email it would be much appreciated.

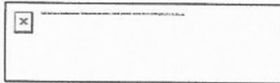
3

Best of Regards,

Jason

--

Jason A. Weiner | General Counsel, Water Initiative Director
 Wishtoyo Foundation & Ventura Coastkeeper
 9452 Telephone Rd. #432
 Ventura, CA 93004
 T: 805.823.3301 | F: 805.258.5107
jweiner.venturacoastkeeper@wishtoyo.org
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Wishtoyo's Water Initiative Page

Wishtoyo's Chumash Village Page

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Courtney, Betty@Wildlife

From: jweiner.venturacoastkeeper@gmail.com on behalf of Jason Weiner
<jweiner.venturacoastkeeper@wishtoyo.org>
Sent: Monday, February 13, 2017 5:57 PM
To: Wildlife Newhall Ranch
Cc: Mati Waiya; Luhuiisha
Subject: Comments on Newhall Ranch Draft AEA (2 of 2)
Attachments: V.Armenta Standing Dec_Attachment.pdf; Canine Forensics Attachment.pdf

To Whom It May Concern,

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 2 of 2, and contains only attachments for Wishtoyo's cultural resources comments. 4

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service. 5

If you could confirm receipt of the two attachments in this email it would be much appreciated. 6

Best of Regards,

Jason

----- Forwarded message -----

From: Jason Weiner <jweiner.venturacoastkeeper@wishtoyo.org>
Date: Mon, Feb 13, 2017 at 5:37 PM
Subject: Comments on Newhall Ranch Draft AEA (1 of 2)
To: newhallranch@wildlife.ca.gov
Cc: Mati Waiya <matiwaiya@wishtoyo.org>, Luhuiisha <luhuiisha@wishtoyo.org>

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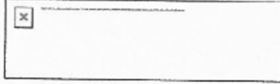
Jason


--


Jason A. Weiner | General Counsel, Water Initiative Director

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Wildlife Newhall Ranch

From: jweiner.venturacoastkeeper@gmail.com on behalf of Jason Weiner
<jweiner.venturacoastkeeper@wishtoyo.org>
Sent: Wednesday, February 15, 2017 8:45 AM
To: Wildlife Newhall Ranch
Subject: Re: Comments on Newhall Ranch Draft AEA (1 of 2)

Dear Betty,

Thank you for confirming. Upon receipt, if there is a way to confirm receipt of the CD we mailed, plus the attachments in the CD, it would be more than great.

7

My best,

Jason

On Wed, Feb 15, 2017 at 7:27 AM, Wildlife Newhall Ranch <NewhallRanch@wildlife.ca.gov> wrote:

Hi Jason-

Sorry for the delayed response. This e-mail is to confirm CDFW received three e-mails and a total of 4 attachments.

8

Thank you-

Betty

Betty Courtney
Environmental Program Manager I
South Coast Region
Department of Fish and Wildlife
PO Box 802619
Santa Clarita, CA 91380-2619
Office [661-263-8306](tel:661-263-8306)
Betty.Courtney@wildlife.ca.gov

From: jweiner.venturacoastkeeper@gmail.com [<mailto:jweiner.venturacoastkeeper@gmail.com>] **On Behalf Of** Jason Weiner
Sent: Monday, February 13, 2017 5:38 PM
To: Wildlife Newhall Ranch

Comment Letter No. O36

Cc: Mati Waiya; Luhuiisha
Subject: Comments on Newhall Ranch Draft AEA (1 of 2)

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Jason

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Jason A. Weiner | General Counsel, Water Initiative Director

Wishtoyo Foundation & Ventura Coastkeeper

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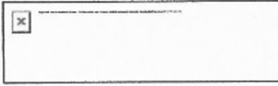
Ventura, CA 93004


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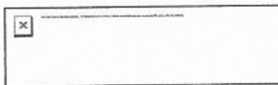
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February 13, 2017

California Department of Fish and Wildlife
 Comments on Newhall Ranch Draft AEA
 c/o Betty Courtney
 3883 Ruffin Road
 San Diego, CA 92123

Re: Cultural Resources Comments on Draft Additional Environmental Analysis for the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan Environmental Impact Report (SCH No. 2000011025) (“Newhall Ranch Draft AEA”).

Dear Mrs. Courtney and to whom it may concern with the California Department of Fish and Wildlife (“CDFW”):

Thank you for providing Wishtoyo Foundation (“Wishtoyo”) with the opportunity to submit comments on the Newhall Ranch Draft AEA. Wishtoyo is a Chumash Native American non-profit organization that protects Chumash culture, and the natural resources all Peoples depend upon. Amongst our members are Chumash Peoples, and Los Angeles and Ventura County residents adversely affected by the EIR.

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These comments are specifically in regards to the impacts to Chumash tribal cultural resources, including burials and natural cultural resources, that are likely to occur during construction of the bridges as designed in the Newhall Ranch Draft AEA and that are likely to occur if the project is modified to reduce greenhouse gas emissions.

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We hereby incorporates Wishtoyo’s and Mati Waiya’s prior submitted comments on the EIR’s deficiencies, including the content of those comments regarding the EIR’s deficiencies as to the identification of, analysis of, and mitigation for Chumash tribal cultural resources at CA-LAN-2133, 2233, 2235, and throughout the project site.

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In regards to the re-circulated greenhouse gas analysis in the Newhall Ranch Draft AEA, if any of the project changes result in new or different ground disturbance within the Project site, because this ground disturbance would likely impact the ancient Chumash burials, villages, and natural cultural resources located all along the Santa Clara River and its tributaries within and in addition to the sites the EIR has already identified, Wishtoyo requests that CDFW amend the EIR to:

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- 1.) Consult with Wishtoyo Foundation and the Chumash Peoples, including the federally recognized Santa Ynez Band of Chumash Mission Indians, in regards to impacts to and mitigation for impacts to tribal cultural resources, including usable natural cultural

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resources such as arroyo willow, juncus, and tule. (See Attached Declaration from Chairman Armenta in regards to requested analysis to identify tribal cultural resources, requested mitigation, and the Chumash Peoples interest in the Project site; See attached Cal Trans 1999 Report providing more information about the Chumash Peoples' historic presence in the project site);

- 2.) Identify the presence of tribal cultural resources, village sites, and natural cultural resources with assistance from the Chumash and Tataviam Peoples;
- 3.) Use best available methods such as ground penetrating radar and canine forensics to locate the village remains and burials of the Chumash peoples (see attachments for examples and descriptions of these methods¹);
- 4.) If Chumash villages, remains, or burials are found:
 - a. Follow CEQA's requirements to fully analyze from the Chumash and Tataviam Peoples' perspective what constitutes avoidances and preservation in place (See *Madera Oversight* (2011) 199 Cal.App.4th 48 for requisite analysis and EIR discussion); and
 - b. Commit to avoidance of impacts if feasible, then preservation in place for the resources if feasible, and only if avoidance and preservation in place are not feasible as defined by adequate feasibility criteria articulated in the EIR, then provide for careful data recovery and re-entry as a last resort. It is impermissible under CEQA to leave it up to Newhall's discretion as to whether to avoid or preserve tribal cultural resources in place.

In regards to the movement of the bridge columns in the Santa Clara River and its

¹ Wishtoyo requests that specially trained forensic canines alone or in combination with ground penetrating radar are utilized (just like they were in Santa Cruz to identify Ohlone Native American burials for the KB Home development) to identify these tribal cultural resources. The use of specially trained canine forensics alone, or in combination with ground penetrating radar, represents the best available technology and most reliable means for the identification of Native American burials, villages, and remains, and thus should be used to identify potential impacts to Native American cultural / historic resources and to mitigate those impacts to a less than significant effect. As discussed by Mati Waiya in his August 2, 2010 letter, moving Native American burials from their original resting place upon discovery during construction, or disturbing and destroying Native American burials with construction equipment, harms Native American cultural historic resources and does not mitigate the impacts to the Native American cultural / historic resources. By utilizing highly trained forensic canines alone or in combination with ground penetrating radar to identify with more reasonable certainty all or almost all of the Native American burials at issue, mitigation measures can be developed in coordination with the local Tribes to achieve preservation in place for impacted burials and tribal cultural resources.

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floodplain as provided in the Newhall Ranch Draft AEA, the movement of these columns to areas known to contain Chumash burials (the Chumash buried their dead within the project site for thousands of years along the Santa Clara River)² surely requires a comprehensive investigation of the presence of Chumash burials and other associated remains and tribal cultural resources using the best available methods in the area of bridge construction.³ This is because the deep and extensive excavation into the Santa Clara River and its floodplain needed to insert the columns will surely destroy Chumash burials and tribal cultural resources if these sacred tribal cultural resources lie in the new locations for the columns. These best available methods to identify burials and other significant cultural resources that can inform whether the columns should be moved so as to avoid these cultural resources include ground penetrating radar and canine forensics to locate the village remains and burials of the Chumash peoples (see attachments for examples and descriptions of these methods).¹ In addition, consultation with Wishtoyo and the Chumash Peoples, including the federally recognized Santa Ynez Band of Chumash Mission Indians, is required to help identify the locations of these burial grounds and other cultural resources in this area. This consultation includes provision of the confidential maps to the Chumash Peoples of the exact locations all cultural resources have been found to date to fully inform and aid the Chumash Peoples in identifying their resources and their locations in relation to the new locations for the bridge columns. If during these investigations, Chumash villages, remains, or burials are found, CDFW must:

- a. Follow CEQA’s requirements to fully analyze from the Chumash and Tataviam Peoples’ perspective what constitutes avoidances and preservation in place, and
- b. Commit to avoidance of impacts if feasible, then preservation in place for the resources if feasible, and only if avoidance and preservation in place are not feasible as defined by adequate feasibility criteria articulated in the EIR, then call for data recovery. It is impermissible under CEQA to leave it up to Newhall’s discretion as to whether to avoid or preserve tribal cultural resources in place.

Furthermore, in regards to the movement of the bridge columns out of the wetted channel of the Santa Clara River and onto the Santa Clara River banks and floodplain as provided in the Newhall Ranch Draft AEA, it is apparent that the movement of the columns will result in the clearing and permanent removal of “usable” healthy native riparian vegetation such as tule, juncus, and arroyo willow that are vital natural tribal cultural resources to the Chumash Peoples.

² In addition to Wishtoyo’s and Mati Waiya previously submitted comment letters, see also attached Declaration from Chairman Armenta in regards to requested analysis to identify tribal cultural resources, requested mitigation, and the Chumash Peoples interest in the Project site; See attached Cal Trans 1999 Report providing more information about the Chumash Peoples’ historic presence in the project site.

³ For example, the bridge at Long Canyon crossing the river near Chiquito Canyon will likely impact the Chumash burial grounds and ancient village remains at around and connected to CA-LAN-2233 and or 2235, which are located near the confluence of the Santa Clara River and Chiquito Canyon on both sides of Highway 126 extending all the way down to the Santa Clara River through the proposed Long Canyon bridge crossing.

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Chumash Ap (traditional dwelling unit) made from usable willow and tule

Healthy tule and arroyo willow that are used for instance to construct Chumash dwelling units (aps), for medicinal purposes, and for other cultural purposes; healthy juncus that is used for instance for the world renowned Chumash basketry and for other Chumash cultural practices; and other healthy strands of native riparian vegetation used for Chumash cultural practices, are all rapidly disappearing in the Santa Clara River watershed due to a variety of reasons. These reasons include drought, water diversions (ie: United Water Conservation District's diversion at the Vern Freeman Diversion Dam of all of the Santa Clara River's flow outside of large storm events at River mile 10.5 that dewater the Santa Clara River from River mile 10.5 to the estuary), channelization, and development in the floodplain and along the banks of the Santa Clara River.

We thus request that the EIR survey and document the usable native riparian vegetation that will be impacted by the change in location of the bridge columns/piers, and conduct a cumulative impact analysis as to the cumulative impacts of the project and placement of the bridge columns on the loss of "usable" healthy native riparian vegetation in the Santa Clara River watershed that are suitable for cultural utilization by the Chumash Peoples.



Tima Link Lotah, a Shmuwich Chumash weaver and cultural educator, weaving Chumash baskets with usable juncus from the Santa Clara River

If CDFW does not have the expertise to identify the native riparian vegetation used for Chumash cultural purposes or to determine which native riparian vegetation is "usable" for

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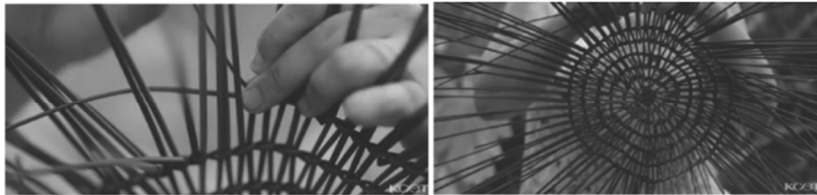
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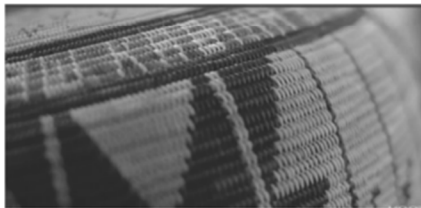


Chumash cultural purposes, we ask that you consult with the various Chumash bands, clans, and tribes, and the Wishtoyo Foundation who has members from various Chumash bands, clans, and tribes, whom can assist the Department in these identification efforts. Wishtoyo and our Chumash members that have expertise in basket weaving; Ap construction; native plant harvesting; native plants used for Chumash cultural, medicinal, and religious purposes; and the “usable” native riparian vegetation of the Santa Clara River that are utilized for Chumash cultural practices, would be happy to take you on a tour of the Santa Clara River, the Newhall project sight, and the location where the Newhall Ranch Draft AEA indicates the bridge columns and infrastructure will be moved to in order to share Chumash traditional knowledge to inform CDFW of the presence “usable” native riparian vegetation essential to the cultural practices and life ways of the Chumash Peoples. Once the usable native riparian vegetation is identified, CDFW must adhere to CEQA’s requirements to avoid as a first priority and preserve in place the usable native riparian vegetation, as it is a sacred and vital natural tribal cultural resource. This means moving the bridge columns, the bridge entirely, or not building a bridge, or taking other measures to avoid impacts to these rapidly disappearing natural tribal cultural resources.



Tima Link Lotah weaving Chumash baskets with usable juncus from the Santa Clara River

Usable native riparian vegetation, including, but not limited to tule, arroyo willow, and juncus, are rapidly disappearing in the watershed, and are tribal cultural resources essential to sustaining the culture and cultural practices, and life ways of the Chumash Peoples.



A finished Chumash Basket. Usable Juncus is Essential for Chumash Basketry and the Chumash Cultural Practice of Basket Weaving

Comment Letter No. O36



WISHTOYO
CHUMASH FOUNDATION

Thank you for considering our comments. Please feel free to contact Wishtoyo with questions, for additional information, or to schedule consultation and a site visit.

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Sincerely,

A handwritten signature in black ink, appearing to read 'JW'.

Jason Weiner, General Counsel
Wishtoyo Foundation
805-823-3301, jweiner.venturacoastkeeper@wishtoyo.org

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9452 Telephone Road # 432, Ventura, CA 93004
www.wishtoyo.org

ATTACHMENT 1
PAGE 1 OF 147

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Case 2:14-cv-01667-PSG-CW Document 97-1 Filed 03/03/15 Page 1 of 147 Page ID #:1968

1 Aruna Prabhala, Cal. Bar No. 278865
2 Adam Keats, Cal. Bar No. 191157
3 John Buse, Cal. Bar. No. 163156
4 Center for Biological Diversity
5 351 California Street, Suite 600
6 San Francisco, CA 94104
7 Telephone: 415-436-9682
8 Facsimile: 415-436-9683
9 aprabhala@biologicaldiversity.org
10 akeats@biologicaldiversity.org
11 jbuse@biologicaldiversity.org

9 Jason Weiner, Cal. Bar. No. 259264
10 Wishtoyo Foundation and its Ventura Coastkeeper Program
11 3875-A Telegraph Road #423
12 Ventura, CA 93003
13 Telephone: 805-823-3301
14 Facsimile: 805-258-5107
15 jweiner.venturacoastkeeper@wishtoyo.org

15 Attorneys for Plaintiffs

16
17 **UNITED STATES DISTRICT COURT**
18 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

19 CENTER FOR BIOLOGICAL) Case No. CV 14-01667 PSG (CWx)
20 DIVERSITY, et al.)
21)
22 Plaintiffs,) **DECLARATION OF HON.**
23 v.) **CHAIRMAN VINCENT ARMENTA**
24) **IN SUPPORT OF PLAINTIFFS'**
25 UNITED STATES ARMY CORPS OF) **MOTION FOR SUMMARY**
26 ENGINEERS, et al.) **JUDGMENT**
27 Defendants.)
28)

36

Declaration of Hon. Chairman Vincent Armenta
CV 14-01667 PSG

ATTACHMENT 2
PAGE 1 OF 443

Comment Letter No. 036

LA 4 5 46

A Study in the Prehistory of the Santa Clara River Valley
Archaeological Data Recovery at CA-LAN-2233
Los Angeles County, California

P.M. 0.0/R5.3
07-LAN-126, 07-051421

auth: Georgie Waugh

with Contributions by

- Patricia Welsh
- K.W.P. Miller, I. Lopez and P.L. Walker
- Harold Hunt
- Jason Eschelman
- Judith K. Polanich
- Glenn Russell
- Lisa S. Klug and Virginia Popper
- Deborah J. Meyer
- B.G. Hailock
- Donna Kimer
- Beta Analytic
- M. Steven Shackley
- Thomas Origer

4) 7th Excavation
1) Road Construction
6th Verde 1382
11-001-03

37

Prepared by:

Cultural Studies Office
Environmental Program
California Department of Transportation
Sacramento, California

Prepared for:

Ron Kosinski
Supervising Environmental Planner
California Department of Transportation
District 7
Los Angeles, California

June 1999

ACOE138796

ATTACHMENT 3
PAGE 1 OF 6

Comment Letter No. 036

Articles Discussing How Forensic Dogs can be and have been successfully used to identify and locate Native American human remains (last visited October 21, 2011)1.) <http://www.ohloneation.org/?p=264>

By charlene on September 20th, 2011

Forensic Dogs Successful in Identifying Ancient Human Remains for Ohlone*Category: Uncategorized, Tags: burial site, forensic dog, kb homes, ohlone, santa cruz*

Native Americans are always concerned when their exists the potential of unearthing human remains during construction projects. During a time when regular protocol would dictate the use of drills and tedious ground penetrating strategies that might harm or destroy findings, two alternatives have been incorporated during a recent project.

This fall the remains of an Ohlone boy were discovered during a KB home building project in Santa Cruz, CA. During negotiation meetings between the home builder, the City of Santa Cruz, CA and the Ohlone all parties agreed to respect and accept the results from two alternative proven methods of ground investigation. The two methods include ground penetrating radar or (GPR) and specially trained forensic dogs.

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In this case, Ohlone descendant Chuck Strickland recommended the GPR method. A trained GPR technician came to the building site and scanned surface of the earth to see if additional buried remains could be detected. Unfortunately, due to layers of sediment and rock would not allow proper functioning of this method. While this did meet the Ohlone requirement of a non-invasive method for predicting the likelihood of findings, it would not be a good match for this project.

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To: Wildlife Newhall Ranch
Cc: Mati Waiya; Luhuiisha
Subject: Wishtoyo Comments on Newhall Ranch Draft AEA (3 of 3)

To Whom it May Concern:

Wishtoyo Foundation hereby supplements its 2/13/17 comments on the Newhall Ranch Draft AEA regarding the Unarmored Threespine Stickleback ("UTS") with the following content that we request be attached to and included in our 2/13/17 UTS letter:

Based on the scientific literature regarding Unarmored Threespine Stickleback ("UTS") habitat and water quality requirements and sensitivities, the Valencia WTP monitoring data of its effluent discharge and the Santa Clara River upstream and downstream of its discharge, and Wishtoyo Foundation monitoring data of the Santa Clara River upstream and downstream of the Valencia WTP effluent discharge, it is apparent that the Valencia WTP effluent discharge is impairing UTS habitat and causing adverse survival and reproductive impacts to the UTS in the Santa Clara River from the confluence of the Valencia WTP effluent discharge to the Dry Gap also due to:

Pollutants, including, but not limited to metals, chlorides, excessive nutrients causing oxygen starved conditions, and CECs (Contaminants of Emerging Concern such as caffeine, fire retardants, and pharmaceuticals) contained in the Valencia WTP effluent discharge. (see attachments in CD to Wishtoyo 2/13/17 letter)

Baskin 2000 (see attachments in CD to Wishtoyo 2/13/17 letter) provides:

Two features of the stickleback's habitat appear to be essential for the survival of the young. First a slow flow of clear water is necessary for the proper development of the eggs. Any form of pollution or even small amounts of turbidity may interfere with normal development.

Because of the presence of the Valencia WTP effluent discharge containing CECs, excessive nutrients, chlorides, metals, and other pollutants that dominates the amount of flow in the Santa Clara River from its confluence with the Santa Clara River to the Dry Gap, and because the EIR has now revealed that UTS are not

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present in this stretch, the EIR must prevent any discharge of effluent from the Proposed Newhall POTW, as doing so would expose the UTS to additional CECs, chlorides, metals, excessive nutrients and other pollutants that would interfere with normal UTS egg and juvenile development, and UTS survival. Unless, the EIR can demonstrate that the pollutants in the proposed Newhall POTW will not harm UTS, because of the new information that UTS are no longer present downstream of the Valencia WTP, the EIR must prohibit any discharges of effluent from the proposed Newhall POTW containing levels of CECs, chlorides, nutrients, metals, and other pollutants that are greater than the levels naturally found in an unimpaired Santa Clara River.

2

Thank you for considering our supplemental comments.

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Best of Regards,

Jason Weiner

Wishtoyo Foundation

Water Initiative Director & General Counsel

9452 Telephone Road #432

Ventura, CA 93004

jweiner.venturacoastkeeper@wishtoyo.org

805-823-3301

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Subject: Comments on Newhall Ranch Draft AEA (1 of 2)
To: newhallranch@wildlife.ca.gov
Cc: Mati Waiya <matiwaiya@wishtoyo.org>, Luhuiisha <luhuiisha@wishtoyo.org>

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If you could confirm receipt of the two attachments in this email it would be much appreciated.

9


Best of Regards,


Jason

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Jason A. Weiner | General Counsel, Water Initiative Director
Wishtoyo Foundation & Ventura Coastkeeper
9452 Telephone Rd. #432
Ventura, CA 93004
T: 805.823.3301 | F: 805.258.5107
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 Wishtoyo's Water Initiative Page

 Wishtoyo's Chumash Village Page


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Comment Letter No. O37

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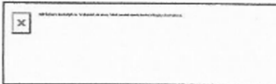
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Comment Letter No. O38

WESTERN GOLF
PROPERTIES

January 25, 2017

Ms. Betty Courtney
Environmental Program Manager I, South Coast Region
California Department of Fish and Wildlife
3883 Ruffin Road
San Diego, CA 92123

Re: Newhall Ranch

Dear Ms. Courtney:

Western Golf Properties provides golf course management and consulting services to a variety of golf courses and private golf clubs across the nation. This includes day to day golf course management and related restaurant and banquet operations for Tournament Players Club at Valencia (a Five Point property) as well as golf course maintenance operations for Friendly Valley's golf course. Both of these golf properties are located within the Santa Clarita Valley and, in total, employ an estimated 100 Western Golf employees locally.

1

I am familiar with the Net Zero Newhall initiative and am writing to express my full support for the entire Newhall Ranch plan, including the first two villages, Landmark Village and Mission Village.

The Net Zero Newhall plan to create Newhall Ranch as the most environmentally sustainable master planned community of its size in the nation with zero net greenhouse gas emissions is an exciting proposal worthy of our full support and is consistent with the healthy lifestyles we promote at the golf courses and private golf clubs we manage across the nation.

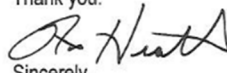
2

Furthermore, Santa Clarita would greatly benefit from the tremendous jobs created by Newhall Ranch, which would also provide much needed new housing to a very supply constrained market.

It is this kind of thoughtful, environmentally-sensitive development that Santa Clarita needs and it has our full support.

We urge our elected officials to quickly approve Newhall Ranch, including Landmark Village and Mission Village. Newhall Ranch is good for the local economy and has our full support.

Thank you.


Sincerely,
Robert Heath
Chief Executive Officer

One Spectrum Pointe Drive, Suite 310, Lake Forest, CA 92630 p. 714.404.9270 f.760.262.0029 wgolfp.com