

Brianda Negrete

Public Comment

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From: Alex Rodriguez <alex@diversityconsultinggroup.com>
Sent: Thursday, October 13, 2022 4:57 PM
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Cc: Mike Alvarado; dougcampbellusc@gmail.com; alex@dcgco.com
Subject: Comment letter from La Cumbre Mutual Water Company
Attachments: Letter re MND Submitted 10132022.pdf

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All –
On behalf of the board of directors of the La Cumbre Mutual Water Company, attached please find a comment letter regarding the NMD for the Modoc Multi-Use Path.

If you have any questions, please let me know.

Alex Rodriguez, President of the Board
La Cumbre Mutual Water Company
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October 13, 2022

Santa Barbara County Public Works Department
123 E. Anapamu Street
Santa Barbara, California 93101

Re: La Cumbre Mutual Water Company Comments regarding the Draft Revised Mitigated Negative Declaration, Modoc Road Multi-Use Path 22NGD-00000-00003, State Clearinghouse #2022090230, September 8, 2022

Submitted Electronically

To Whom It May Concern:

La Cumbre Mutual Water Company ("LCMWC") owns property and utility infrastructure facilities that will be significantly impacted by the County of Santa Barbara's ("County") proposed Modoc Road Multi-Use Path (22NGD-00000-00003, dated September 8, 2022), the subject of the above-referenced document (the "Project"). The LCMWC-owned property will be adjacent to and/or encroached upon by the Project. Moreover, the LCMWC-owned property that will be impacted by the Project is part of the commonly known as "Modoc Preserve," which is restricted by a Conservation Easement held in Trust by the Land Trust of Santa Barbara County (the "Conservation Easement").

As discussed below, important details contained in the subject-Draft Revised Mitigated Negative Declaration ("MND") are incomplete or inaccurate. Accordingly, LCMWC submits the comments below for the County to consider. Without addressing LCMWC's comments, the County cannot properly analyze the Projects environmental impacts.

Section 1.3 – Project Location

The Project Location has changed from the prior draft of the MND and is different than the Project location identified on the County website, which provides: "The path will start where the City of Santa Barbara path ends near Calle De Los Amigos and connect to the Obern Trail Bike Path across from Encore Drive. Phase I: Calle De Los Amigos to Via Senda (1/3 mile) is currently under construction, and Phase II: Via Senda to Encore."

Section 1.4 – Project Objectives

This section should include a commitment by the County that the County will attain the Project’s purpose and objectives without undue environmental impacts and impositions to existing uses on the property owned by LCMWC, or the Conservation Easement. At a minimum, the County MUST work with nearby landowners and easement holders, including LCMWC, to mitigate the Project’s impacts, to prevent environmental impacts from affecting adjacent properties and/or, if necessary, modify the Conservation Easement. The County’s unwillingness to work with landowners and easement holders could result in an illegal taking.

Section 1.5 – Previous Environmental Documentation

In the interest of full transparency and encouraging robust public involvement, the County should publish the comments it received from the public regarding the prior draft MND that was circulated for comment between May 12 and June 13, 2022, respond in writing to such comments.

Environmental impacts that occur in the County right-of-way should be identified, even if they do not require mitigation. Further, there are impacts that would occur at the eastern end of the Project area where the Modoc Preserve and the County right-of-way overlap and/or become very close to each other. This is an area where alignment A and B appear to be the same.

Moreover, the Conservation Easement has specific restrictions that the County should evaluate as part of the MND. For the portion of the Project that encroaches into the Conservation Easement area, specific mitigation will be required so as not to violate the Conservation Easement or interfere with the Conservation Easement holder’s rights.

The Project’s impacts to the Conservation Easement Area and the Modoc Preserve are not limited to physical ground disturbance or tree removal. The County should evaluate the environmental impacts caused by lighting, water management conflicts with existing uses, utility infrastructure, and utility easements.

The statement that Alignment B is the preferred alignment because it would “[n]ot affect existing trails within the Modoc Preserve” is not consistent with the figures provided by the County. Specifically, the County’s proposed Alignment B would require relocation of existing trails where it encroaches into the Modoc Preserve. Specific mitigation measures should be implemented to address each of these inconsistencies and to address the other concerns expressed in the August 17, 2022, letter from the Land Trust of Santa Barbara County to LCMWC.

For example, providing physical separation between the Project and traffic lanes and existing horse/walking trails will not reduce the impact(s) to insignificant. Significant health and safety, lighting, and noise impacts would remain unmitigated. Additionally, the County should address other environmental impacts, including, but not limited to, those related to onsite or off-site mitigation for surface disturbance, retaining walls, and asphalt.

Section 1.6 - Project Approvals

Section 1.6 identifies the Land Trust and LCCMWC as “local agencies.” Neither the Land Trust of Santa

Barbara nor LCMWC are “Local Agencies.” Both entities are nonprofit corporations; the Land Trust holds a 501(C)(3) designation, and the LCMWC holds a 501(C)(12) designation. LCMWC is a utility and is incorrectly identified as “La Cumbre Mutual Water District” instead of “La Cumbre Mutual Water Company” in the MND.

The County should consider adding a “Section 1.6.3 – Other Approvals and Permits” with subsections for the Land Trust and LCMWC. Under the Land Trust subsection, the County should recognize that the Land Trust is a trustee of the Conservation Easement, which covers a portion of the lands within and adjacent to the Project location. The Land Trust would need to concur that the Project is consistent with the Conservation Easement, following coordination with the landowner.

Under the LCMWC subsection, the County should recognize the following:

- LCMWC is a not-for-profit, mutual water company, owned by the landowners within its service area;
- LCMWC is a party to the Conservation Easement that covers a portion of the lands within the Project area and the owner of other lands not covered by the Conservation Easement, but affected by the Project;
- The County may need to enter into agreements with LCMWC, possibly in the form of an easement, to carry out the portion of the Project located on LCMWC-owned property; and
- The County will need to coordinate with LCMWC with respect to easements and utilities (for example, at the eastern end of the Project, there is a high-pressure gas pipeline and below-ground LCMWC infrastructure that may be affected by the Project).

Section 2 – Project Description

The Project description and the environmental analysis based on such description has insufficient detail to allow LCMWC to support a determination that either Alignment A or Alignment B is consistent with the Conservation Easement.

Section 2.1 – Project Characteristics

The MND’s inclusion of the conclusory statements in Section 2.1 regarding land use consistency under the Conservation Easement and impacts caused by noise, traffic or dust are inappropriate in this section because the analysis to support such statements is located elsewhere in the MND. An example of such a conclusionary statement can be found at the bottom of page 4 of the MND.

Further, the County should provide exact locations for each retaining wall that would be constructed under the Alignment A and Alignment B alternatives.

Section 2.2 – Construction Methods

To support the air quality, construction noise and other impact analyses, the County should, for both Alignment A and Alignment B, provide a listing and operations estimate for all construction vehicles to allow the public to compare the impacts caused by construction for each alignment. To the extent available, the County should also provide a construction schedule (by month) to support the analysis of

biological impacts, again clearly delineating the differences under Alignment A and Alignment B. Without this information, any environmental analysis is incomplete.

Section 2.2 discusses in detail the volume of “earthwork” that will be cut and filled and the amount of asphalt and concrete that would be used for Alignment B. For Alignment A, however, the MND simply states “Alignment A would involve much less earthwork and earth material export.” Without a quantifiable comparison between Alignment A and Alignment B, the environmental analysis is incomplete.

The figures in Appendix C are also useful but the use of similar shades of green to designate these alignments provides a challenge for the reader.

Section 3.1 – Existing Land Use

This section should, but fails to, describe the existing land uses on the undeveloped property that is restricted by the Conservation Easement as well as undeveloped property outside of the Conservation Easement area. Such land uses include utility infrastructure, and equestrian and walking trails. The Project would interfere with these uses and convert approximately 1.4 acres (4,000 feet in length by 15 feet width) of undeveloped property into the new multi-use path.

The unlabeled table immediately above Section 3.2 is inaccurate. For example, stating that the “present use & development” is “transportation, open space” is misleading. While much of the property impacted by this Project is currently part of the Modoc Preserve, other portions are used for water supply facilities and equestrian and pedestrian recreation, which are permitted uses under the Conservation Easement. The County should further consider impacts to these existing land uses.

It is also inaccurate to state in the that the “Project does not require water.” The County will need to use water for the Project during construction and water will be required for several years to establish new vegetation. This is explicitly recognized in MND Section 4.15, Impact Discussion item (k).

To that end, the County has not coordinated with LCMWC for the provision of water, and it is unclear if the County is working with the Goleta Sanitary District to acquire recycled water for these purposes.

Section 4.0 – Potentially Significant Effects Checklist

As currently set out in Section 4, it is extremely difficult to evaluate the environmental impacts associated with Alignment A and Alignment B and differentiate between the County’s analysis, if any, for each alternative alignment. For example, it is entirely unclear if the “Will the proposal result in:” charts used for each environmental impact (e.g., visual resources, agricultural resources, etc.) describe the findings for Alignment A, Alignment B or both. The potential environmental impact of each alignment needs to be analyzed separately, and where the analysis is identical, the County must explain why. Further, the detailed effects of the proposed facilities that are described in Section 2 (including the path, retaining walls, staging areas, exclusion fencing, lighting, ...) should be analyzed separately.

It is important to note that lighting is not allowed on the Modoc Preserve pursuant to the Conservation Easement.

Section 4.3 (A) – Air Quality

We recommend that recycled water be used, where applicable.

Section 4.4 – Biological Resources

Bullets (h) and (i) of the Impact Discussion on page 42 of the MND states that virtually the same habitat impacts will occur regardless of whether the County implements Alignment A or Alignment B.

Much of the habitat impacts of Alignment B, however, fall within the boundaries of the Modoc Preserve. The Project would effectively convert potential habitat within the Modoc Preserve into a multi-use path, and thus eliminate the possibility of the restoration of these areas in the future. Considering Alignment A will not encroach upon the Modoc Preserve, it is unclear how the biological impacts could be the same.

Further, Alignment B does not include fencing between the multi-use path and the Modoc Preserve. Without fencing, there would be no effective barrier to prevent the incursion of bicycles, pedestrians, or pets into the Modoc Preserve's sensitive vegetation. Such incursion will result in the degradation of biological resources.

Section 4.9 – Hazardous Materials/Risk of Upset

The MND does not analyze the risks (both short term during construction and long-term) of the Project on the existing high-pressure natural gas pipeline that crosses the eastern end of the Project area. This facility, and other below ground utilities, needs to be identified and the risks associated with such facilities, principally during construction, must be evaluated.

Section 4.10 – Land Use

The County should list the zoning designation of the evaluated lands by assessor parcel number.

Based on the existing, incomplete Project description, LCMWC disagrees with the conclusion listed under Impact Discussion item (a), primarily because there is no actual analysis, just a conclusion.

As for item (h), the assumptions and methods used to calculate the acres of displaced open space (0.65 acres) are entirely unclear. LCMWC believes that this figure is incorrect and underestimated.

Impact Discussion item (i) is incorrect because there will be a physical change using Alignment B, which is a conversion of some of the Modoc Preserve into a multi-use path. The analysis must, at a minimum, consider the primary existing land use (the Modoc Preserve) and the Conservation Easement.

Section 4.15 – Water Resources/Flooding

Section 4.15 contains several inaccuracies and oversimplifications. Principally, stormwater runoff from the Multi-use Path project area will have little effect on groundwater levels in the Foothill Groundwater Basin. Most runoff will enter Cienegitas Creek and more likely recharge the eastern portion of the Goleta Central Basin.

Further, the MND incorrectly states in Impact Discussion item (k) that the Project will not require water. The project will increase consumptive use of water for, and during, construction activities (for dust control) and to establish of vegetation.

Conclusion

As discussed above, the MND fails to consider important Project components in its environmental analysis, including the following:

- Measures to limit unacceptable intrusions into the Modoc Preserve's sensitive habitats. These intrusions could be prevented with appropriate fencing, vegetation screening, and notices to Project users;
- Measures to control pollutants (e.g.; runoff and refuse) from Modoc Road and the multi-use path, including typical non-point stormwater devices, and periodic clean-up;
- Measures to maintain and preserve permitted uses of LCMWC-owned lands without undue environmental impacts, including impacts to existing utility easements and existing and planned facilities;
- Measures to maintain the multi-use path, its facilities and adjacent lands, especially after significant weather events; and
- Measures to ensure emergency services will be able to access users of the Project, since portions of Alignment B would not be immediately adjacent to Modoc Road and the current Class 2 bike path.

Accordingly, the MND and the environmental analysis contained in the MND is incomplete. LCMWC looks forward to the County addressing these issues.

Kind regards,



Alex Rodriguez, Board President