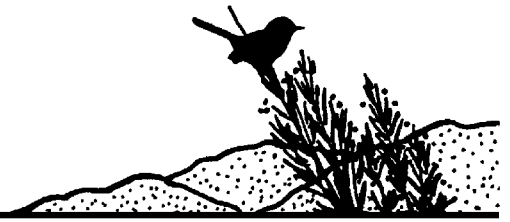


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NCCP Set Back by Orange County Bad Faith

In a stunning display of non-cooperation with the Natural Community Conservation Planning (NCCP) program, the County of Orange — led by Supervisor Todd Spitzer and with only Supervisor Tom Wilson in dissent — approved the Saddleback Meadows project in December. The project lies within the “Southern Subregion” of the NCCP. Approval was given despite unequivocal statements by the U.S. Fish and Wildlife Service and California Department of Fish and Game that vital connectivity with the Central/Coastal NCCP would be severed, defeating a primary purpose of regional conservation planning. According to the wildlife agencies’ letter of October 29, 1998:

We believe that the development “bubbles” on the eastern and northern portions of the property essentially eliminate the corridor ... Our biologists’ professional opinion is that [the project does not] retain appropriate topography and habitat to ensure the continued function of the wildlife movement corridor/linkage that exists on Saddleback Meadows. As currently proposed, the ... development footprint would severely constrain wildlife movement ... and is not acceptable.

Alternative project designs were available, and polls show that nature preservation is highly important to residents. The local community of Trabuco Canyon was strongly opposed to the scale of the project, as were two neighboring monasteries whose tranquility was at stake. Yet the response of Orange County — supposedly enrolled in the NCCP as a partner in preserve assembly — was to rely on the opinion of its own hired consultants rather respect the wildlife agencies. This egregious act of bad faith severely prejudices the success of the NCCP.

It is important to note how Orange County jurisdictions have taken advantage of the NCCP process. Since 1993, the

program has been characterized by years of delay and lack of progress. Nevertheless, the County and other enrollees did not hesitate to obtain expedited gnatcatcher take permits using the special “4(d) rule.” Under this rule, lower value coastal sage scrub, and gnatcatchers living there, may be lost and streamlined permits issued if strict conditions are met and if progress toward a final plan is being made. However, in a zeal to accommodate, the system was abused (see *EHL Newsletter* Vol. 8 No. 3, “Gnatcatcher Permitting Breakdown in Orange County”). The wildlife agencies violated their own regulations, sometimes with only pitiful mitigation. The intent of the 4(d) rule — a short-term bridge to final NCCP plans — was abandoned.

Currently, there are satisfied developers, yet there is no NCCP plan in sight. Nonetheless, the Endangered Habitats League continues to support the Southern Subregion NCCP. The largest habitat areas — and those central to plan success — are as yet untouched. Immense conservation gains will result if prime gnatcatcher habitat in Chiquita Canyon and the wilderness of the Rancho Mission Viejo can be preserved. To undo the vested development rights so unwisely conferred by Orange County on the Saddleback Meadows developers, EHL, Sea and Sage Audubon Society, and Rural Canyons Conservation Fund have filed suit on California Environmental Quality Act (CEQA) and other procedural grounds. We have simultaneously urged the County of Orange to assume a stronger role in plan development, rather than deferring to the major landowner.

However, Orange County’s cynical Saddleback Meadows approval, coupled with its failure thus far to make good on its obligation to produce a final conservation plan, has far-reaching policy ramifications: The purely voluntary nature of the NCCP must be rethought.

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Visit EHL’s new website at:
<http://exo.com/~srsant/ehlindex.htm>

Improper MSCP Implementation Leads to Loss of Vernal Pools

Vernal pools are ephemeral ponds that collect water in winter and host a variety of rare and endangered plants and animals, including fairy shrimp and mesa mint. If a vernal pool or other wetland species is “covered” under the San Diego Multiple Species Conservation Program (MSCP), permits to “take” the species can be issued by the U.S. Army Corps of Engineers in consultation with the U.S. Fish and Wildlife Service. This is the same process that existed prior to the adoption of the MSCP.

However, the MSCP also went beyond existing procedures. It established stringent avoidance and enhancement standards, monitoring and management requirements, and acquisition obligations for vernal pool and other wetland habitats. A Vernal Pool National Wildlife Refuge was established to facilitate federal acquisitions beyond the avoidance requirements.

In some cases, the system worked well. For example, during a project redesign for MSCP compliance, previously unreported vernal pools were avoided at the Robinhood Ridge site in the City of San Diego. On Otay and Del Mar mesas, over 70 acres of vernal pools have been acquired; habitat restoration is occurring at most of these pools.

The system broke down, however, when a large number of vernal pools were allowed to be destroyed on the Cousins property in the City of San Diego after a take permit was inappropriately issued by the Army Corps of Engineers. After political pressure was applied, the City of San Diego and the U.S. Fish and Wildlife Service concurred with the permit, and the site was graded.

EHL forcefully challenged the loss of the Cousins vernal pools on grounds that the MSCP clearly required avoidance of these pools, regardless of the off-site mitigation offered and regardless of whether or not the Army Corps had issued a take permit. We were prepared to sue the City over its failure to follow MSCP regulations. However, the City responded with a directive from the Mayor, initiating negotiations to clarify and tighten the City’s MSCP obligations for vernal pool protection. Details of vernal pool management and monitoring were to be addressed as well.

The Endangered Habitats League and other conservation representatives were actively negotiating with the City when a lawsuit was filed by these other groups. The lawsuit targets the MSCP plan itself, rather than the particular enforcement case represented by the Cousins project. The negotiations, which had been making substantial progress, were suspended.

EHL did not join the suit. There was a good alternative to litigation, and, in our opinion, the suit wrongly identifies the MSCP as the problem, rather than the City’s implementation of the MSCP. The distinction is significant and critical. If the suit is “successful” in removing seven vernal pool species from the MSCP covered species list, all the positive features of the MSCP that go beyond Corps of Engineers permitting — management, monitoring, acquisition, etc. — will also be removed. Instead of an MSCP ordinance mandating avoidance of impacts right up to the Constitutional limit of reasonable economic use, the City would revert to the loose “social and economic benefit” overrides permitted under the California Environmental Quality Act. Take authorization would revert to the very federal agencies that permitted the Cousins loss in the first place.

There is thus a disagreement over the best strategy, though not over objectives, in this sad case. EHL will work with all parties to ensure that a higher standard of MSCP enforcement is the result.

Progress on Otay Mountain Wilderness Designation

The Otay Mountain area near the Mexican border contains an assemblage of restricted flora, supporting numerous species of limited range including the largest stand of Tecate Cypress in the world. It also provides the only vast, contiguous, and undeveloped landscape linkage to Mexico remaining in cismontane Southern California.

For several years EHL has pressed for wilderness designation for the Otay Mountain area. Working with the Wilderness Society, NRDC, and the Sierra Club, a complex negotiation with myriad government agencies focused on reconciling border interdiction and resource protection issues. Recent reconciliation of final issues and the critical support of Secretary Babbitt, who upheld his end of a handshake agreement, has resulted in the introduction of the Otay Mountain Wilderness Bill, H.R. 15. We expect to celebrate full wilderness designation for this important area this year.

ENDANGERED HABITATS LEAGUE

**The Endangered Habitats League is a non-profit organization.
All contributions are tax-deductible.**

Dan Silver Coordinator and Newsletter Editor

Jack Bath Director-San Bernardino County/EHL Secretary

Michael Beck Director-San Diego County

Jane Block Director-Riverside County

Pete DeSimone Director-Orange County

Jess Morton Director-Los Angeles County/EHL Treasurer

San Diego’s Last Coastal Mesa Protected

The passage of Proposition M in the November election put in place the final land use element in the long and tortuous battle for the protection of the last coastal mesa in San Diego County, Carmel Mountain.

Flat as a tabletop with unrestricted breathtaking views to Torrey Pines State Reserve and the Pacific Ocean, Carmel Mountain is also, acre for acre, the most important biological resource area in the City of San Diego. Vernal pools, southern maritime chaparral, short-leaved dudleya, and numerous other rare plants are found on what is now a restricted 400-acre near-island within the MSCP preserve. Tenuous connections remain to Torrey Pines State Reserve and Los Peñasquitos Canyon Preserve.

The heart of the mesa, owned by Pardee Development Company, was also the major battleground. The solution, Proposition M, enacted land exchanges that served all interests. Backers included the City, environmentalists, and the landowner. In a process that over the years reflected the worst, and ultimately the best of a group effort, the EHL partnered with other environmental and community groups to achieve this significant environmental victory.

EHL is represented on the board of the recently formed Friends of Carmel Mountain, which will be working on the development of the management plan for the mesa.

Sprawl Symposium Comes to Southern California

The Planning and Conservation League Foundation is holding its annual legislative symposium in Southern California this year on Saturday, March 6, 1999 in the beautiful City of Brea Civic and Cultural Center, located in northern Orange County. Called “Sprawl Attacks Southern California,” the event will feature top Davis Administration environmental officials including Mary Nichols, the new California Resources Secretary, and Winston Hickox, the new head of California EPA. Workshops will be held on Southern California and state-level environmental issues, and an electric vehicle will be available for test drives. Attendance is highly recommended.

For registration information, visit the PCL website at <<http://www.pcl.org>>, or contact Tim McRae (916-444-8726, ext. 138, or e-mail <tmcrae@pcl.org>). Cost is \$72 with three meals, \$30 without.

BALLOT

Endangered Habitats League Board of Directors

The Nominating Committee did not receive any suggestions for new EHL Board members. The Committee has therefore re-nominated the existing Board. Please mail in your ballot! However, we still want to expand and diversify our Board. If you know of potential candidates, please contact us.

Nominated for election to two-year terms

Dan Silver – <i>Chief Executive Officer</i>	yes _____	no _____	neutral _____
Jane Block – <i>Riverside County Director</i>	yes _____	no _____	neutral _____
Michael Beck – <i>San Diego Director</i>	yes _____	no _____	neutral _____
Jack Bath – <i>San Bernardino County Director and Secretary</i>	yes _____	no _____	neutral _____
Pete DeSimone – <i>Orange County Director</i>	yes _____	no _____	neutral _____
Jess Morton – <i>Los Angeles County Director and Treasurer</i>	yes _____	no _____	neutral _____

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Beasts and Botany of the Coastal Sage Scrub

Within the coastal sage scrub ecosystem, something can always be found in bloom. At times, the colors are subdued, concentrated, as with the deep yellow socketed into the flowers of coast goldenbush. Or they are flung wide, scattered over the surrounding vegetation, as when manroot sends out its white-flowered vines. But the color is there. Even in the hottest days of fall, when the creamy heads of buckwheat have burned brick red, the violet-veined blossoms of *Stephanomeria* dot leafless stalks with persistent white.

It is in spring, though, that the full magic of coastal sage scrub becomes apparent. Yellow dominates wherever bush sunflower grows. Each “flower” is itself a multitude of flowers, with the deep brown disc flowers surrounded by a halo of lemony ray flowers. Yellow dominates, too, wherever mustard has invaded. It is as if the profusion of mustard flowers has created a yellow haze over the landscape.

Open areas show the low golden splendor of California poppies, mixed with the blues and purples of lupines in their many kinds. Look for red, too — Indian paintbrush splashing rocky hillsides, the more subdued pinks of owl’s clover mixing with bunch grasses and other low vegetation. Bulbs send up shoots here and there — a frozen burst of goldenstars, purple-blue fingers of wild hyacinth.

Most amazing of all is the violet-throated splendor of *Calochortus*, the mariposa lily. The scientific name means “beautiful grass” in Greek, and is apt. California has been blessed with several species, but many are uncommon, some near extinction. One is already thought to be extinct! The mariposa lilies native to coastal sage scrub are not common and, considering the pace of suburban development around us, not assured of survival without a successful conclusion to our own land use planning efforts.

Nonetheless, spring is upon us, and the wildflowers are coming out to welcome us as we explore local hillsides and meadows. You can’t miss some of the colors, mustard and sunflower. But a closer look will be repaid many times over. Who knows, you may even spot those rare little gems, the mariposa lilies. —Jess Morton

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