

October 17, 2007

Janet Palma, Assistant Project Manager
PMC
1440 Broadway, Suite 1008
Oakland, CA 94612

Re: Provinsalia DEIR

Dear Ms. Palma:

The California Oak Foundation (COF) appreciates the opportunity to comment on the Provinsalia DEIR. COF review finds that Provinsalia fails to comply with California Environmental Quality Act (CEQA) oak woodlands biological and air quality mitigation standards.

1. The DEIR oak woodlands biological assessment and mitigation measures amount to little more than sophistry. For example:

Despite acknowledging that, "*The proposed project is one of multiple developments planned or proposed in the Clear Lake area,*" the cumulative impacts biological analysis fails to quantify the extent and severity of oak woodland impacts from past, present and future projects, as required by CEQA.

The contention that planting oaks will "*restore*" 60 acres of functional oak woodland habitat in the midst of a residential and golf course project is ludicrous.

Proposing to plant 75 percent of mitigation oaks from 15-gallon box and 24-gallon box sizes is flawed due to the high mortality of these sizes. All planted oak should be from 5-gallon containers and the oaks shall not have been in the container for more than three years.

2. The Regulatory Framework section (4.5.2) fails to acknowledge that CEQA requires an assessment of air quality impacts resulting from the conversion of oak woodlands to a housing-recreational subdivision. The state's California Climate Action Registry recognizes that converting oak woodlands to development is a carbon emission, due to lost forest photosynthesis and the burning of oaks releases captured carbon. Thus, the conversion of oak woodlands for development raises dual carbon emission issues.

In September at the California League of Cities convention, Attorney General Brown gave members the threat of lawsuits if the state's 400+ cities don't account for the greenhouse gas producing activities related to their planning processes. Brown told hundreds of mayors and city managers that CEQA discretionary approvals must provide; (1) an examination of a project's impact on climate change and the adoption of all feasible mitigation measures to reduce such impacts; (2) such analysis can and must be done today even absent established thresholds of significance or impending regulations under Assembly Bill 32.

More recently, Brown reached a \$10 million legal settlement with ConocoPhillips regarding mitigation offsets for greenhouse gas emissions caused by an expansion of its refinery in Rodeo. Mitigation monies included \$2.8 million for wildfire reforestation to sequester an estimated 1.5 million metric tons of greenhouse gases. The inclusion in the Conoco agreement of reforestation funds to sequester greenhouse gases means a direct link has been made between the California Climate Action Registry forest protocols and CEQA in a legally binding agreement.

The legal opinions and actions of Attorney General Brown signify that there is no need to wait until January 1, 2010 for the California Air Resource Board's prescriptive oak woodlands regulations to be implemented; Provinsalia *must* analyze long-term air quality impacts due to carbon sequestration loss from the removal of 50 acres of oak woodlands - now. CEQA air quality questions to be answered include; (1) how much potential carbon sequestration will be lost due to impacts to oak woodlands soil, seedlings, saplings, trees and associated vegetation; (2) how much sequestered carbon will be released if the impacted oaks are burned?

Until the identified CEQA oak woodlands biological and air quality deficiencies are corrected, the California Oak Foundation objects to approval of the project and adoption of the Provinsalia DEIR.

Sincerely,

Janet S. Cobb, President
California Oak Foundation