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sent by email to *rosermm@sbcglobal.net*
December 2, 2005

RE: Provinsalia Golf Community draft Environmental Impact Report
SCH # 20080754109

Dear Ms. Moore:

The Sierra Club Lake Group appreciates the opportunity to Comment on the draft Environmental Impact Report for the Provinsalia project, and requests that those Comments be included in the formal record under CEQA, and be included in the preparation of the final EIR.

Before addressing specific points contained in the draft, we would like to make a few remarks about what it leaves out. From the first, the Lake Group and others have raised concerns about what is called "piecemealing" under the CEQA process. This refers to a failure to analyze the implications of a proposed project in a full and comprehensive manner, and is a violation of state standards. As of March 25, 2005, when formal application for development was made to the City of Clearlake, the property in question consisted not of 292 but of 510 acres, partly within the Clearlake city limits and partly in the unincorporated portions of the County of Lake. Whatever the divisions of legal jurisdiction, this is one contiguous piece of land containing many interlaced habitats whose functions do not respect distinctions between City and County. Repeated requests for a comprehensive analysis of Provinsalia's potential impacts on the entire property have been completely ignored.

It is our understanding that title to some of the land outside the Clearlake city limits has been transferred to other owners, but whether or not this is so, CEQA's mandate for a thorough examination of all possible environmental consequences still applies, and applies as well to neighboring tracts of land that are not now and never were under the

control of the Provinsalia developers. This report fails to undertake any analysis whatsoever of the possible effects on these surrounding parcels, some of which are important wildlife habitat, of great scenic value, or currently in agricultural use.

Similarly, the EIR pays virtually no attention to the consequences of development beyond the borders of Clearlake. Even such an obvious impact as increased traffic load in Middletown and the segment of Highway 29 that crosses Mt St Helena (and is already stretched to capacity) has been left out altogether, as has been consideration of the implications for the local economy of constructing so many houses that so few current Lake County residents could afford to buy. Neither is the possibility that the project might be begun and abandoned, joining the host of phantom subdivisions that have plagued Lake County for many years, addressed in any way.

Our specific comments are as follows:

2.0 Executive Summary

p 3 The Owner's Right to Build within the framework of existing zoning is asserted, and repeated in the Alternatives section at the end of the document. We believe this assertion to be specious. According to the (1983) Clearlake General Plan the property is zoned for "Resource Protection and the Environment" which does not preclude development altogether but does "require detailed study of outlying undeveloped areas, to preserve open space and protect people and property." Development "will be permitted only when it can be demonstrated that site planning and engineering will mitigate natural hazards and respect environmental resources." The city is under no obligation to approve subdivision of such lands as a matter of "owner's right" or anything else; to the contrary the burden lies upon the developer to prove that his proposal will not be detrimental to the environment.

Project Description, 4.0

p 15 "the golf course will be irrigated with water drawn from Cache Creek" Water has become the "blue gold" of our times; devoting any part of this precious commodity to an attempt to pretend that the damp drizzly conditions of northern Scotland prevail in arid California seems profoundly wasteful, useless, artificial, and counterproductive—especially since there are five golf courses in Lake County already.

5.1 Aesthetics.

p 25 “The construction of Provinsalia will include substantial re-contouring of the land and a reduction of existing elevations through grading.” It is the extensive grading planned for the site, rather than the mere construction of houses and infrastructure, that is responsible for many of its adverse environmental consequences—massive destruction of woodland and other natural habitat, potentially calamitous erosion and sedimentation of Cache Creek, and the transformation of a place of great natural beauty into an vast insult to the eye. Current sensitive building standards call for the insertion of structures into the smallest possible pockets within surrounding natural vegetation. In contrast, Provinsalia proposes to strip the entire residential and golf course areas, decapitate the hills, and to start fresh from the barren moonscape formed by a phalanx of bulldozers and excavators.

p 27 “The substantial change in the visual character of this area can be described by a “sense of loss of a unique resource” . . . “grading the hillsides will create a visual impact that is not possible to mitigate.” We agree wholeheartedly with these assessments.

5.3 Biological Resources.

pp 38-52 The project site is evidently rich habitat teeming with complex life. This is apparent despite the strange criteria employed to judge the “likelihood” of any given species of concern occurring on the site: except for the Northwestern pond turtle, which the observers seem to have tripped over, nothing greater than a “medium” probability is admitted for any of them to be present. Whatever the likelihood of the existence of sensitive species on the site today, we can be certain that none of them, nor many of the other creatures that are common residents at this time, will be able to continue to live on the site after the project is built.

p 54 Several Specific Plan goals are listed, including accomodating rather than modifying natural features, minimizing impacts to habitat, preserving trees and wetlands, but these goals are emphatically not achieved by the project as designed.

p 57 Impact 3, loss of oak woodlands. To present as mitigation for the destruction of woodland habitat the intention to refrain from destroying some other woodland habitat is bizarre reasoning indeed. Nor does the replanting program offer any substantive mediation: even if the newly planted trees survive (which is unlikely, and vanishingly unlikely in the case of blue oaks), it would be a generation or more before they could offer habitat remotely comparable to that which was lost. This is particularly true because so many of the planting areas indicated on Map 9 have plainly been

chosen as an adjunct to golf course design rather than for their habitat value, or for their ability to support native trees.

The only acceptable mitigation for the wholesale woodland destruction proposed here would be the permanent preservation of an equivalent area by conservation easement or transfer to public ownership. The parcel east of the project site in the unincorporated area of Lake County that was owned by the developers at the time of their original application to the City would have been ideally suited for this use, and their subsequent transfer of title to that land demonstrates lack of good faith in making adequate compensation for the environmental degradation caused by this project. We propose that the replanting program be eliminated entirely, and the money saved from that fruitless effort, augmented by considerable additional funds, be used to purchase a tract of pristine woodland nearby that will be placed under a permanent conservation easement.

Nothing in the EIR indicates that a Registered Professional Forester was employed to quantify site conditions and habitat impacts, as is required by law. The California Oak Foundation brought this lapse in compliance with CEQA requirements to the attention of the City Planning Department in a letter of July 6, 2005, but no evidence of rectification is apparent.

p 58, Map 9. This map gives a very mistaken idea of the forested areas that would remain on the site after development, by superimposing proposed planting areas on a map showing vegetation zones (including but not limited to oak woodlands) as they exist now, rather than as they would exist (or more properly stated, as they would NOT exist) after the site has been scraped bare.

p 58 The elaborate protective procedures proposed for “tree protection zones” to be delineated before and during construction are laughable considering the wholesale way that trees (and shrubs, and forbs, and grasses, and indeed the soil itself) will be stripped away. The same is true for the requirement that homeowners replace any oaks that they might remove from their lots: no oaks will remain on their lots, to be removed or to be cherished.

p 58 Monitoring provisions ostensibly guarantee the ultimate success of the oak reforestation program (or more probably, given the high mortality of native oaks under cultivation, they seem to guarantee a long-standing annuity for some lucky landscaper), but since no enforcement procedure is specified there is no assurance that monitoring and replacement of the young trees will continue indefinitely, especially after changes in ownership.

p 59 Impact 4, loss of bird habitat. The conclusion that “protection and restoration programs” in the Specific Plan keep this less than significant is only valid if restoration compensated for habitat loss, which it does not. “Planting additional woodlands” is NOT mitigation. Furthermore the loss of grassland habitat can be expected to impact many birds, including woodland nesters, since the grasslands are the source of their food.

p 59 Impact 5, disturbance to raptors. The complicated means which have been established to avoid disturbance to individual, identified nests of eagles or other raptors has led to the conclusion that this impact will be “less than significant,” but the certainty that demolition of their habitat will remove both potential nesting sites and food sources for raptors is not addressed. With no place to live and nothing to eat their “disturbance” is guaranteed.

p 60 Impact 6, Valley Elderberry Beetles. Similarly, much verbiage is devoted to complicated arrangements to fence off “shrubs that can be avoided,” (ie one elderberry bush) complete with environmental monitoring—but the other elderberry is slated to be “relocated” meaning that it will probably die. The photograph of this particular elderberry shows it surrounded by meadow on flat land: since the surrounding terrain, unlike Provinsalia’s hillsides, would not require extensive grading, why wouldn’t it be possible to leave this shrub and surrounding native vegetation *in situ*, and build around it?

p 61 Impact 6, the Clear Lake hitch. The report seems to be saying that although potential hitch spawning areas will be permanently removed (by the total destruction of the ephemeral streams on the site), the impact is insignificant because similar areas will still exist within the floodplain of Cache Creek. To the contrary, although apparently suitable spawning areas may exist within the floodplain—as they do in many places around Clear Lake— these low-lying stretches of slow-moving water are not prime spawning habitat for *lavinia exilicaudata chi*. Although hitch population dynamics are still poorly understood, in order to reproduce well the hitch apparently require access to briskly moving waters running over gravel, well upstream from lake level; the precipitous reduction in their populations has been primarily attributed to artificial barriers to their annual spawning migration in search of such habitat. In this case what is proposed is not the mere creation of barriers but the permanent destruction of potential spawning areas. Mitigation—preferably in the form of a substantial monetary contribution to the removal of migration barriers elsewhere within the watershed—should certainly be required before the impact on hitch is

deemed less than significant.

5.4 Cultural Resources

Specific comments on this section of the EIR should be left to those who can bring either a tribal or a professional perspective to bear, but we are concerned that so much of the mitigation relies on covering sites, and so little avoidance is proposed.

5.5 Geology & Soils

p 84 Impact 5, substantial soil erosion or the loss of topsoil. Erosion control measures proposed—revegetation with native grasses and use of erosion control blankets—can alleviate these risks but not eliminate them, especially if heavy rains come before new vegetation becomes established. Therefore significant effects cannot be ruled out, and catastrophic effects are possible. The risk of adverse consequences is especially high because of the very sensitive nature of the site, which drains into Cache Creek immediately upstream from the Clear Lake Dam. Degradation of the creek from sedimentation, deplorable wherever it occurred, could in this case contribute to the premature end of the useful lifespan of the dam itself.

5.6 Hazards

p 92 Impact 2, fire. Putting a massive residential development on a site surrounded by fire-prone wildlands will put life and property at risk no matter what mitigations are proposed. Wildfires move according to their own internal logic and can in the most extreme cases even create their own weather; they can leap mere buffer zones with a single bound. Moreover, the width of the buffers—twenty feet—doesn't even meet CDF standards, which require a minimal thirty foot buffer zone.

5.7 Hydrology

p 100-1 Impact 1, changes to natural drainage. It is proposed to limit golf course pesticide and herbicide applications to the dry season, but this will not prevent their eventual discharge into Cache Creek unless these chemicals all degrade to harmless materials before the following rainy season. And as stated above, erosion control measures may not be sufficient to prevent runoff and sedimentation of loose soil

following grading activities, especially since the planned grading is so drastic. And changes to natural drainage, whatever the proposed mitigations of their impacts, cannot be denied, since it is proposed to entirely eliminate three ephemeral watercourses and their intermittent tributaries, replacing them with underground pipes. This cannot possibly be called a “less than significant” impact.

p 102 Impact 3, degradation of Cache Creek water quality during construction. Assessment that mitigation reduces this to less than significant status relies on the judgment that erosion control measures required by the Specific Plan and the permitting process will be adequate, a conclusion which is by no means certain.

p 102 Impact 4. Degradation of water quality by pollutants from roads, pesticides from the golf course, or other sources. The mitigation proposed is frequent testing of water in retention basins, and an assurance that if pollutant levels become too high “appropriate measures” will be taken. What measures? Surely detoxification measures should be specified before assuming that they will be adequate. The possibility that an extreme storm event could overtax the capacity of the retention basins and result in toxic runoff directly into Cache Creek is not even addressed.

5.8 Noise

p 112 Impact 1, traffic noise on Dam Road and Lake St. It is acknowledged that noise increases will be noticeable, and significant. Even if the developer’s proposed mitigation—upgrading the affected houses with acoustically rated windows, weatherstripping, and solid doors—would be an adequate compensation for what many would consider a drastic and permanent degradation of their quality of life, it is for some strange reason offered only to “current residences adjacent to Dam Road *west* of Lake Street” (italics mine) and not to Provinsalia’s closer neighbors to the east. Are affected residents along Dam Road east of Lake Street, and on Lake Street itself, expected to buy some earplugs and put up with the racket?

Since the additional listed noise impacts would affect future Provinsalia residents (who can be presumed to have accepted them voluntarily) rather than the surrounding community they are of less concern. The basic proposed mitigation is the restriction of particularly noisy activities (ie delivery of propane) to the hours between 7AM and 7PM, according to the apparently common assumption that it doesn’t matter if the days are a living hell as long as your sleep is undisturbed.

5.9 Parks

p 116 The proposition that the developer be allowed to offset the deficit in Clearlake parkland created by Provinsalia by turning the project's golf course (which the area does not need, and that would be of benefit only to a tiny minority of its citizens, most of them Provinsalia residents) over to the city would be entirely unacceptable even without the maintenance costs that would inevitably accompany the acquisition of such a white elephant. The city should not accept golf course ownership or maintenance responsibilities under any circumstances; should it choose to assume ownership of the dedicated open space on the Provinsalia site that should not absolve the developer of responsibility to provide additional parkland within the population centers of Clearlake.

5.10 Population and Housing

p 121 Impact 1, Introducing growth to an undeveloped area. This impact can hardly be denied. Although current zoning as Resource Protection ostensibly allows development at a density as great as one dwelling per 2000 square feet, in fact no subdivision would be permitted at all without guarantees that the natural resources of the site would be protected. Claiming that the overwhelming change to the site and to the surrounding area caused by Provinsalia would be "insignificant" by comparing it to a quite imaginary high density alternative is specious.

5.14 Additional Impacts

pp 163-4. Subdivisions and other developments currently pending within the City of Clearlake are listed. In contrast to the statement that these projects "are similar to Provinsalia because they are primarily new developments to be located on undeveloped property," distinctions are abundantly clear. The first distinction is that of scale: the largest among the other the residential subdivisions currently under consideration within the city limits consists of a mere 79 lots, not much more than 10 per cent of those proposed for Provinsalia, and altogether they would augment Clearlake's population less than half as much as Provinsalia alone. Second, the other subdivisions are very differently located. Provinsalia would be built on pristine land approaching wilderness in its character and at the extreme edge of the city limits, whereas the rest of the projects are more centrally placed, with existing residences adjacent or nearby, and adequately served by highways and other infrastructure. All by itself Provinsalia will have a greater impact on the "cumulative effect" of changing the

city from a semi-rural to an urban place than will all the rest combined.

Furthermore, “cumulative effect” cannot be limited merely to those development proposals currently before the city, but must take into account ALL the growth that can reasonably be expected. In particular, it is essential to address the growth-inducing effects created by Provinsalia’s extension of infrastructure past the undeveloped portions of the city lying to the north and west. The EIR entirely fails to do this.

pp 164-5 Summary of biological impacts

We strongly disagree that these are less than significant, especially Impact 3, loss of oak woodlands.

p 165 Cultural resources. It is admitted that cumulative impacts will tend to degrade cultural resources significantly, but no mitigation is proposed.

p 166 Noise. The mitigation measures proposed to diminish traffic noise are extremely limited and do not in our opinion reduce this impact to a less than significant level.

p 166 Parks. The Provinsalia golf course should not under any circumstances be accepted as a contribution towards Clearlake’s parkland deficit.

p 166 Population. The cumulative impact includes not only the other housing developments currently proposed within the city, (700 people) but also Provinsalia itself (1700 people), PLUS an additional unknown number drawn to additional developments in the surrounding neighborhood, especially in the tracts to the north and west of Provinsalia.

p 167 Public Services. Despite the assertion that “increased revenue from property tax will offset additional usage of county services” studies have shown that the shortfall between property taxes and services caused by new construction averages 10 percent: where is this money supposed to come from? There is only one apparent source: the pockets of city taxpayers as a whole.

6.0 Alternatives

p 169 Alternative 1, No Project. The Sierra Club Lake Group agrees very strongly with the conclusion that “This is the environmentally superior alternative.” It is irrelevant that this alternative “would not meet the project objectives as identified in the Specific Plan,” since far from being a precondition, approval of the Specific Plan (and associated

rezoning, General Plan Amendment, etc) is exactly what the developers are now seeking from the city.

p 170-72 Alternative 2, "Owner's right to build". This "alternative" is entirely imaginary, since the city is under no obligation to permit construction of the nature described. Resource Protection designation under the existing General Plan requires that open space be preserved, and that the physical characteristics of the site, visual amenities, and natural resources and hazards be taken into account before allowing any development to go forward. The overcrowded high density subdivision represented by this straw man "alternative" would never be approved even if it were not in violation of state regulations.

pp 173 -5. Alternative 3, Reduced density. Although superior in several respects to the original proposal, this alternative does not address the major objections that we have to the project.

Some Genuine Alternatives

Our own recommendation is that the City of Clearlake choose Alternative 1, No Project, but if for some reason this prudent course does not seem feasible many better possibilities exist besides those suggested. For example, many of Provinsalia's adverse environmental consequences would be alleviated simply by eliminating the golf course, and keeping those 80-some acres in their natural state, with a low-impact network of hiking, biking, and equestrian trails providing for access and enjoyment. This alternative would preserve much valuable habitat, vastly reduce destructive, erosion-inducing grading, and avoid detrimental future effects such as chemical runoff into Cache Creek and excessive demand for water. With this alteration the project would also be far less costly to build and maintain, and at least as valuable: studies indicate that adjacent open lands add approximately ten per cent to the value of a residence, compared to the six per cent value-added provided by an associated golf course.

Another significant improvement to the project design would come from shifting the main vehicular access to the property from Dam Road to 18th Avenue, along the route now proposed for emergency vehicle access only, or (preferable if the terrain permits) through the commercial area on Dam Road extension, past WalMart. This change would eliminate the unreasonable burden imposed on Dam Road residents by the necessity for widening that street and subsequent heavy traffic rushing past their homes, as well as the lesser but still significant traffic load on Lake Street and the rest of Lower Lake. It would also allow the archeological site LAK-386 to be preserved

undisturbed. If this change is adopted we recommend that Dam Road not be “improved” at all, and that access to Provinsalia from that direction be limited to emergencies only, as is now proposed for the 18th Avenue connection.

We also recommend that plans to replace the three ephemeral streams with underground conduits be scrapped, and that these riparian areas be preserved with their natural vegetation and habitat value intact. A glance at Photo 8 (p 47) makes it obvious that large trees thrive along these watercourses, and that they provide habitat and scenic values quite distinct from the surrounding grasslands. It is also obvious from Map 8 (p 57) that preservation of these streams would eliminate the need to remove many of the oaks now slated for destruction; saving the creeks would also preserve hatch spawning habitat, and add greatly to the aesthetic values of the subdivision.

Yours sincerely,

Victoria Brandon
Sierra Club Lake Group Chair