

# CITY OF YORBA LINDA

P.O. BOX 87014

CALIFORNIA 92885-8714

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January 5, 2017

Orange County Planning Commission  
333 W. Santa Ana Blvd  
10 Civic Center Plaza  
Santa Ana, CA 92701

**Re: Proposed Esperanza Hills Project**

Dear Orange County Planning Commissioners:

As the Planning Commission is aware, the City of Yorba Linda ("City") has previously provided input to the County concerning the Esperanza Hills project proposed for an unincorporated County area adjacent to the City. Shortly before the Yorba Linda City Council meeting held on January 3, 2017, the City learned that the Esperanza Hills project may be on the agenda for the Orange County Planning Commission meeting scheduled for January 11, 2017. The City Council, which includes two new Council members, would like to provide further input to the Planning Commission on the Esperanza Hills project. Therefore, the City Council directed that the Esperanza Hills project be put on the City Council's next available meeting agenda for January 17, 2017, for further discussion and direction.

Therefore, the City respectfully requests that the Orange County Planning Commission defer any action on the Esperanza Hills project until the City is able to provide the County with further input on the project after the City Council's January 17, 2017, meeting. As always, the City appreciates the County receiving and considering the City's input on the Esperanza Hills project.

Sincerely,

CITY OF YORBA LINDA

Mark Pulone  
City Manager, City of Yorba Linda



1/10/2017

Members of the Board of Supervisors  
County of Orange  
c/o Clerk of the Board of Supervisors  
333 West Santa Ana Blvd.  
Santa Ana, California 92702-4048

Members of the Planning Commission  
County of Orange  
c/o Secretary of the Planning Commission  
333 West Santa Ana Blvd.  
Santa Ana, California 92702-4048

**RE: Federally Threatened California Gnatcatcher Status on Esperanza Hills Project Site**

Dear Supervisors and Planning Commissioners,

This letter is written and submitted on behalf of the 1.1 million supporters of the Center for Biological Diversity, many of whom live in southern California and have great interest in the protection of our world class natural resources.

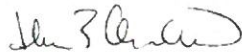
We recently became aware of a situation where federally threatened California gnatcatchers could be in harm's way on the Esperanza Hills project - Revised Final EIR 616. While the original gnatcatcher surveys performed did not document gnatcatcher on site, based on the December 13, 2016 letter from Mr. Robb Hamilton, California gnatcatchers have been documented adjacent and very close (within 1,300 feet) to the proposed "Option 1 Modified" bridge alignment in 2014 and 2016. Coupled with fact that the bridge is within federally designated critical habitat for the California gnatcatcher, we believe that further on-site surveys for gnatcatchers need to be implemented. Based on the results of those future surveys, the project may need to be further redesigned to avoid impacts to this highly imperiled native non-migratory bird.

We agree with Mr. Hamilton's assessment that the recovery of the coastal sage scrub habitat from the 2008 Freeway Complex Fire renders the existing conditions of the site very different than the conditions reported in the 2013 EIR. Because of the recovery of the coastal sage scrub habitat and documented occurrence of California gnatcatchers adjacent to the site, we

request that additional USFWS protocol level surveys<sup>1</sup> be performed on the project site, in order to accurately evaluate the existing site resources. Absent contemporary surveys, the EIR would be a violation of CEQA, which requires full disclosure of existing on-site resources.

Please feel free to contact me with any questions about this matter at the contact information provided.

Sincerely,



Senior Scientist  
Center for Biological Diversity

cc:

Stacey Love, USFWS [Stacey\\_Love@fws.gov](mailto:Stacey_Love@fws.gov)

Robb Hamilton, Hamilton Biological, Inc. [robb@hamiltonbiological.com](mailto:robb@hamiltonbiological.com)

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<sup>1</sup> [https://www.fws.gov/ventura/docs/species/protocols/cagn/coastal-gnatcatcher\\_survey-guidelines.pdf](https://www.fws.gov/ventura/docs/species/protocols/cagn/coastal-gnatcatcher_survey-guidelines.pdf)



**From:** glamb@lambholdings.net  
**Sent:** Tuesday, January 10, 2017 1:30 PM  
**To:** Cataldi, Colby  
**Cc:** Canning, Kevin; Doug Wymore  
**Subject:** [FWD: RE: Aspen] access offer  
**Attachments:** January 5 2016 letter re Aspen.PDF

Colby... I want to make sure everyone is informed as to the status of the proposed sale of the Cielo Vista land for option 2... Please give me a call if you have any questions... Thanks

----- Original Message -----

Subject: RE: Aspen  
From: <glamb@lambholdings.net>  
Date: Mon, January 09, 2017 1:14 pm  
To: "Matsler, Sean" <SMatsler@manatt.com>  
Cc: "Doug Wymore" <dwymore@wymorelaw.com>

Sean;

Thank you for your proposed Sale Terms Letter... I would like to provide the following concerns and clarifications;

1. Final terms were not reached in the January 22, 2016 mediation. However discussions of price for the OPTION 2 access did take place and payment was to be made at grading permit for our project.
2. The Cielo Vista Tentative Parcel Map indicates that The Travis Ranch Trusts is the owner of the property that you are proposing to sell and not Cielo Vista is that still the case?
3. Is Travis willing to sell the property for the OPTION 2 roadway to Aspen Drive contrary to his letters on file with the County where he objects to the roadway across his land?
4. At our meeting on December 20, 2016, I reiterated that a closing on the OPTION 2 roadway access could not occur until receipt of all our entitlements, Agency permits and any litigation resolved due to the litigation threat by the Plaintiff in our CEQA litigation or any other environmental group due to the Endangered Species and Critical Habitat recently found on the Cielo Vista property... You agreed that this was a reasonable requirement, yet your proposed Sale Terms Letter does not reflect that.
5. The Neighbors have indicated that they will use this "New & Important Biological Information" on the Cielo Vista property affecting OPTION 2 roadway to re-open the CEQA litigation we and the County just prevailed on. This is very costly additional litigation for us plus we are required to pay most of the Plaintiff's legal expense whether we win or lose.
6. You indicate you would like our Emergency Access Road to connect to Cielo Vista's "C" street but there isn't any drawing or exhibit showing "C" street?... Any modification to our OCFA & OCSD approved Emergency Access Road would have to be reviewed and approved by them. In addition not knowing if and when Cielo Vista is going to be built precludes us from committing to this at this time.
7. The 50 ft Richard Easement provides water, sewer and utilities for both projects and at the location YLWD has requested. We have an agreement with YLWD and your proposal would breach that agreement.

Sean, with so many unknowns, uncertainties and time delays neither our investors or our bank would fund \$3,500,000 within 30 days of you recording your Parcel Map... I appreciate your effort but I do not think your offer is feasible.

----- Original Message -----

Subject: Aspen

From: "Matsler, Sean" <SMatsler@manatt.com>

Date: Thu, January 05, 2017 3:57 pm

To: "DWYMORE@Q.COM" <DWYMORE@Q.COM>, "GLAMB@LAMBHOLDINGS.NET" <GLAMB@LAMBHOLDINGS.NET>

Doug and Gary,

Happy new year. The attached letter follows up on our meeting prior to the holidays. We look forward to your response.

Sean

**Sean Matsler**

Partner

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**Manatt, Phelps & Phillips, LLP**

695 Town Center Drive, 14th Floor

Costa Mesa, CA 92626

P: (714) 371-2534

[smatsler@manatt.com](mailto:smatsler@manatt.com)

[manatt.com](http://manatt.com)

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January 5, 2017

**BY E-MAIL [DWYMORE@Q.COM; GLAMB@LAMBHOLDINGS.NET]**

Doug Wymore and Gary Lamb  
Yorba Linda Estates, LLC  
7114 E. Stetson Dr., #350  
Scottsdale, AZ 85251

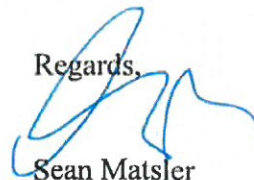
Doug and Gary:

Following our initial discussions before the holidays, we remain committed to the terms that we reached in mediation on January 22, 2016 wherein Esperanza Hills acquires a new parcel that connects to Aspen Way. As discussed in my letters to the County prior to the December 13<sup>th</sup> Board of Supervisors hearing, those terms are very simple:

1. Property Interest and Purchase Price - Cielo Vista will offer Esperanza Hills a fee interest in the approximately 10.1 acre Parcel 2, as shown on the attached Parcel Map, to enable Esperanza Hills to connect to Aspen Way. We already have filed for approval of that Parcel Map. The purchase price for Parcel 2 is \$3.5 million, which shall be paid to Cielo Vista as follows: (a) \$500,000 non-refundable but applicable earnest money to be paid upon mutual execution of a purchase agreement; and (b) the \$3,000,000 million balance due within 30 days of the recordation of the Parcel Map creating Parcel 2.
2. Esperanza Hills Emergency Access - Esperanza Hills shall connect its emergency access roadway directly to Cielo Vista's "C" Street.
3. 50' Richards' Easement - At the time the Cielo Vista Final Tract Map is recorded, any rights in the 50' Richards' easement will be transferred to the right-of-way in the Cielo Vista streets. Cielo Vista and Esperanza Hills will cooperate with respect to the construction of infrastructure (including upsizing of pipes and tanks) required by the Yorba Linda Water District.

Although this letter does not constitute a binding agreement, I will create such an agreement for your signature upon your concurrence with the provisions set forth above. The terms of this letter shall expire on February 4, 2017.

Regards,



Sean Matsler



