



CALIFORNIA NATIVE PLANT SOCIETY

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California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation

Division c/o AECOM, attn. Carnegie SVRA General Plan

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***RE: Comments on the Final Environmental Impact Report for the Carnegie SVRA
General Plan Revision***

The East Bay Chapter of the California Native Plant Society submitted a comment letter June 29th, 2015, on the Draft Environmental Impact Report (DEIR) and Preliminary General Plan (PGP) on the Carnegie State Vehicular Recreation Area (SVRA) issued by State Parks on April 23, 2015. The comment letter was included as letter O33 in the Draft Final Environmental Impact Report (DFEIR; Appendix A Organizations-b, pp. 475-483) and comment responses include O33-1 through O33-11.

Additionally, our organization submitted a comment letter February 4th, 2016, on the Proposed Final EIR (PFEIR) and PGP. The comment letter was included as letter O in the Final EIR (FEIR; Appendix A, Organizations- Part 11, pp.301-305), and comment responses in FEIR Chapter 7 Organizational Comments and Responses include O9-1

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through O9-10.

The East Bay Chapter of the California Native Plant Society (EBCNPS) concludes that the FEIR and PGP fails to adequately resolve the issues noted in our comments on the DEIR, PFEIR, and PGP. The most current versions of these documents fail to disclose the true effects of the General Plan (GP) on botanical resources especially in the proposed expansion are (Tesla), and fail to satisfy the requirements of CEQA; thus, the FEIR and PGP should not be certified and approved.

No Significant Impact on Biotic Resources Conclusion is not Supported

The FEIR make assertions that the project will not cause any significant environmental impacts, but continues to not provide adequate evidence or analysis to support its conclusion. Facility siting and trail design so as to avoid sensitive species and communities is not viable for several reasons.

This avoidance strategy is demonstrated as ineffective based on the history and currently regular occurrence of illegal and unmitigated off-trail damage occurring at Carnegie SVRA even in trails-only areas. The General Plan does not provide “proven enforcement techniques” currently effective in Carnegie SVRA. Expecting user compliance from the same users who contribute to Carnegie SVRA appearing as it does today, is predictably unreasonable. Many other organizations opposed to this project have addressed and mapped this off-trail abuse in detail. Response FEIR O9-3 states these goals and guidelines for plants were not in place during development of the facilities at the current Carnegie SVRA. However, Carnegie SVRA has had ample time to implement changes to riding areas which would maximally protect and restore biotic resources, but has not done so to any environmental standard recognizable outside the OHV Division, nor aimed for or achieved the highest standard within the OHV Division.

Vaguely qualified standards of success for project goals are stated as “relative” to an uncertain and unclarified standard of time or management, and lack descriptions of quantifiable failure or success measurements, where certainly these have been learned and set from years of Carnegie SVRA operations. Leaving past work and lessons learned unrecognized will place natural resource management in a constantly “adaptive” and “relative” state at the expense of impact inflictions on the natural resources themselves. The FEIR and GP need to prepare for contingencies in the form of alternatives that recognize OHV use as inappropriate in some (or more likely all) of Tesla.

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Plant Goal 1 and Plant Guidelines 1.1 to 1.6 will not adequately protect special-status plant resources or sensitive natural communities

Implementation of the described GP goals and guidelines for plants is necessary but insufficient to identify and avoid special-status plants during planning of future projects. This GP is intended to be “sufficient for future planning processes” (FEIR Chapter 1-Subsequent Planning), including expansion into Tesla. As stated many times in the GP, the GP is meant to be a guideline document. However, the FEIR and GP lack suitable rare plant survey efforts that don't allow for true impact analysis. Additionally, the FEIR lacks suitable vegetation surveys for sensitive natural communities. Even at a programmatic EIR level, proper surveys upon which to base a sound EIR are absolutely necessary.

According to Plant Guideline 1.1, surveys used for the FEIR are severely outdated, as almost all of them fall outside of the GP's own arbitrarily set 5 year range (surveys in 1998, 2000, 2003, 2004, 2014). A comprehensive survey of the entire planning area has not been conducted since 2003. The most recent 2014 surveys were targeted surveys, which is an inappropriate level of survey. “AECOM and TRA Environmental Sciences revisited the locations of previously recorded special-status plant occurrences during March, April, and May 2014” (FEIR, Chapter 2-81). The floristic surveys which were performed, especially those from 2014, were not performed to the level required for botanical inventories for special-status species in areas with critical habitat for, or any documented occurrences of, special-status species (California Department of Fish and Wildlife Service, Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants, 1996).

Botanical inventories need to follow comprehensive stringent survey protocols which are not adequately described or apparently followed in the FEIR. “The entire project area requires a botanical inventory,” (CDFW, 1996) and, “biologists should walk parallel transects spaced 5 to 10 meters (16 to 33 feet) apart throughout the entire site, regardless of subjective habitat evaluations” (CDFW, General Rare Plant Survey Guidelines, 2002). Many times, the GP states surveys were performed to a “reconnaissance level,” basically consisting of office mapping and targeted visits.

EBCNPS and CEQA recognize the GP as a project, requiring adequate surveys of the entire project area. These CDFW guidelines also note that project sites with inventories older than 3 years from the current date of project proposal submission will likely need additional survey. We note that all floristic surveys performed for this FEIR may be invalid according to these CDFW guidelines, due both to time performed and too-coarse level of survey. Because these inadequate surveys are used to determine baseline cumulative impacts for the Carnegie SVRA and Tesla areas as a whole, the analysis of impact within this FEIR and GP is inadequate, and the documents should not be approved. Approval would set a guideline for unacceptable baseline inventory criteria throughout the Carnegie SVRA.

Already, the opportunity for on-the-ground protocol project surveys which would assist

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in determining cumulative impacts over the entire project, has been pigeon-holed into checking in on known occurrence information which is itself from spottily- acquired and outdated original survey work. This is also seen in GP Chapter 2-81, which describes the inappropriate process of dismissing habitat survey requirements and impact analysis on CRPR 1B plant species, defined by CEQA and the GP itself as deserving of legal protections. This lack of accountability for proper floristic survey work is based on the outdated “knowledge” from “previous floristic surveys.”

The GP states, “Additional CRPR 1B species have been documented in the 12- quadrangle search area, but are not known to occur within 5 miles of the planning area. Although potentially suitable habitat is present for these species in the planning area, they are considered to have low potential to occur because they have not been found in the planning area during previous floristic surveys and known occurrences are located many miles away. These species are: Bent-flowered fiddleneck (*Amsinckia lunaris*); Recurved larkspur (*Delphinium recurvatum*); Tracy’s eriastrum (*Eriastrum tracyi*); Mt. Hamilton coreopsis (*Leptosyne hamiltonii*); Mt. Diablo phacelia (*Phacelia phacelioides*); Hooked popcorn-flower (*Plagiobothrys uncinatus*).” It is not specified whether required surveys were performed at all for these rare plant species. These plant species and many more need to be surveyed throughout the project area.

Plant Guideline 1.3 recommends “avoiding siting facilities within 100 feet of known special-status plant occurrences to avoid indirect impacts. If these buffers cannot be maintained, use design features to protect the occurrences from indirect impacts.” Even with buffers of 100 feet, and especially if buffers “cannot be maintained,” the impacts to special-status plant occurrences would be *direct*, as well as indirect and *cumulative*. The same goes for Plant Guideline 1.6, which “prohibit(s) adverse indirect effects on native trees from root compaction and physical damage,” where these effects would be in fact *direct*, as well as *cumulative*. These declared predictable impacts need assessment for their full direct, indirect, and cumulative impacts in the entire project area.

Mapping units is still an outstanding issue. On provided maps, it is not clear what minimum mapping unit the OHMVR’s Division used for vegetation mapping or what they consider to be an appropriate level. Based upon a brief (i.e., less than one half day) survey, we estimated a minimum of 10 acres of a sensitive natural community (*Poa secunda* Herbaceous Alliance [curly blue grass grasslands]); there is the potential for up to 175 acres of this same sensitive natural community in just the one surveyed location within the expansion area. This acreage well-exceeds the typical minimum mapping unit of one acre. We appreciate that the comments response details that one acre is indeed the minimum mapping unit used. However, it is the responsibility of the agency’s hired consultants to find these populations, not the responsibility of volunteers from a nonprofit organization to contribute significant baseline robustness to biotic survey results in an official environmental review process. EBCNPS is happy to review and contribute feedback on the adequacy of an environmental review process through our volunteer resources. The fact that this sensitive natural community was not mapped accurately at its

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location or its potential habitat mapped in the project site, means impacts to these resources cannot be adequately assessed by the public.

The FEIR ignores the information provided in our comment letters stating the curly blue grass grasslands were confirmed by Jennifer Buck (California Native Plant Society vegetation ecologist and partner of the CDFW Biogeographic Data Branch of VegCAMP [Vegetation Classification and Mapping Program]) to meet the membership rules for this sensitive natural community. Concurrence from VegCAMP matters because in 2007, the California State Legislature required CDFW to develop and maintain the vegetation mapping for the state to support conservation and management decisions, which is implemented by VegCAMP (Assembly Bill No. 350; Fish and Game Code Sections 1934 and 1940).

Based on additional native grass species identified in the Ecosystems West report it is possible that other types of undocumented native grasslands, such as purple needlegrass (*Stipa pulchra*), California melic grass (*Melica californica*), and June grass (*Koeleria macratha*) are present within the expansion area. The GP and DFEIR fail to disclose and analyze impacts to those vegetation types, which are considered sensitive natural communities requiring legal protections and adequate surveys.

Predictable expansion plan and land use demand greater resource documentation accuracy at current stage of environmental review

Site-specific surveys are required now, not later. The habit of the entire GP and FEIR combined documents is to declare that avoidance be considered “through design and planning,” but without providing detail and guidelines for specific avoidance measures given predictable land use and associated impacts, or providing alternatives that embrace any measure of full avoidance. Instead, detail for half-measure, non-specific mitigations is provided, and contingency plans are phrased such that some (unquantified) impact is expected to happen regardless. This is made most apparent in Figure 4-1, Preferred Concept Map, and accompanying Table 4-1, Visitor Experience Areas descriptions. Nearly every sentence describing impacts in this section of the GP says to avoid impacts, but goes on to detail multiple steps for what to do next if avoidance is not possible, with each of these steps qualified vaguely.

No combination of resources is deemed valuable enough to completely ban OHV facilities from any area of Tesla or Carnegie SVRA, according to this concept map. Green areas are “Limited Recreation Areas” which is defined to have a “higher-than-average concentration of sensitive natural and/or cultural resources.” Again, this is an unacceptably undefined threshold of qualified relativity. What is an “average concentration” for the Tesla area, or Carnegie SVRA area, or the areas compared, when evaluating density of natural resources? What, then, is “higher-than-average

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concentration”? Further description for Limited Recreation Areas are as follows:

“Allowable Uses: Roads or trails may cross these areas to facilitate public egress/ingress and connectivity between other visitor experience areas; however, their footprint should be limited to the minimum necessary to serve their intended purpose, and they should be designed and managed to avoid or minimize impacts on the surrounding resources. No other facilities will be allowed. These areas could be available for nonmotorized recreational opportunities.

“Resource Management: These areas were chosen based on the presence of sensitive resources and likelihood of remaining undeveloped.”

It is unclear what limits are, and to what extent they are enforceable, in these Limited Recreation Areas. One of the main intended purposes of OHV park recreation is provision of OHV trails, and roads or trails are allowed to cross (read: fragment) these undeniably sensitive areas. An avoidance measure is not taken seriously here. What other definition of trails might exist but to “facilitate public egress/ ingress and connectivity”? Supposedly limiting these trails to the “minimum necessary to serve their intended purpose” is simply appropriate protocol for management of a trail located anywhere. An actual commitment to avoiding impacts on sensitive resources would specify areas where all OHV facilities are banned with no exception. The current language of the GP does not realistically allow for or specifically state that such a measure is an acceptable option. The only language that states trails can be “closed and rotated as needed” is not incorporated into the sensitive limited recreation area sections, but confusingly, only in the description for advanced trails sections. Additionally, the total approximate acreage amounts are confusing and contribute to an inability to reasonably evaluate extent of impact in these areas. Resources especially on Tesla are sensitive enough to merit maximal protective measures.

Perhaps most contradictory in Figure 4-1 is the placement of a “Proposed SVRA Entrance” unavoidably traversing an extensive Limited Recreation Area, *and* Corral Hollow Creek, *and* the main area tributary (unnamed on the map) for Corral Hollow Creek all at one spot. In fact, on the map it appears as though Corral Hollow Creek does not exist South of Tesla Road at the Proposed SVRA entrance at that location, when other maps of wetland and riparian delineation demonstrate it is located there. Both proposed SVRA entrances cross Limited Recreation Areas, and this is inappropriate. Yet another contradiction is the placement of a “Potential Gathering Area Overlay,” and “Gathering Services Area” overlapping with significant resources as mapped on the “Special-Status Species and Habitat Occurrences on Tesla Expansion Area” map by Vollmar.

EBCNPS requests an overlay map of the Special-Status Species map (now, and when adequately complete from additional survey work) with the Preferred Concept Map. Lacking this map, it is difficult to fully evaluate potential impacts as described in the FEIR. This is besides our outstanding requests above, that areas of diversity be intrinsically valued. Given the density of sensitive resources already logged through incomplete survey efforts, Tesla is immensely diverse by many expert’s standards. The

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appropriate choice for Carnegie SVRA is not, where do we have the least impact for a project we want to do anyways, comparing areas within Tesla of incredibly diverse ecosystems to each other, but rather, where do we have the least impact for this activity, period. Tesla is not an appropriate place for OHVs, and comparing areas within it to each other to find a “relatively” appropriate development area for OHVs is inappropriate. The lesser of two evils for alternative project sitings on Tesla is still a substantial environmental impact on biotic resources, by the standards of many experts and professional organizations submitting comments.

CEQA Guideline 15146 describes degree of specificity required by an EIR, and is cited several times as justification for the level of analysis presented in this programmatic FEIR and GP for Carnegie SVRA and Tesla. Figure 4-1 and GP Chapter 4-5 descriptions of planned activities and their locations, is evidence that degree of specificity for the project is known well enough to demand a highly-improved level of resource documentation and impact analysis.

Where there could be significant impacts, it is inadequate to defer impact analysis and/or mitigation measures to subsequent CEQA analysis, especially as there are not any provisions ensuring that impact analysis and/or mitigation would occur. Furthermore, some of the guidelines that are provided are insufficient. For example, NRM Guideline 1.2 calls for surveying (and subsequently avoiding impacts to) biological resources when planning new visitor-serving or operations facilities; however, this would not account for any off- trail use (and associated impacts) that would predictably result from those new facilities. The FEIR needs to take into account potential impacts from imperfect enforcement and management mis-steps, not rely solely on perfect management as its own mitigation measure in the GP.

Consider also that avoidance measures need serious consideration as a first- line response to providing mitigation options due to significant impacts. The GP states that its purpose is to provide justification for land uses, not present specific design solutions. But specific design solutions and further biotic survey work should be incorporated into the GP when impacts and future land use can be so specifically anticipated.

Definition for “special-status” plant species in the GP and FEIR requires expansion to appropriately address species rarity under CEQA

Unfortunately, the FEIR reached several inaccurate conclusions in Chapter 2-81 describing significant resource values. It states, “Species identified by the East Bay Chapter of CNPS have no legal designation as special-status species and evaluation of these species in CEQA documents is at the discretion of the lead agency.” EBCNPS is a

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chapter of the same statewide nonprofit which has set guidelines and accepted standards for government agencies for use in all environmental review processes.

CEQA Guideline 15125 outlines required environmental setting evaluations, and allows accommodation for locally rare plant species. It states, “Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.” Providing environmental setting in the vicinity of the project and baseline conditions are key to deciding impact significance. As environmental resources that are “rare or unique to the region,” EBCNPS Rank A species are defined as locally rare, indeed meet this definition of rarity and thus are deserving of required legal protections. These plants as well as CNPS Rare Plant Rank (CRPR) 3 and 4 plant species have been specifically and inaccurately disregarded for any protections in the FEIR Chapter 2-80 discussing existing conditions.

In tandem, CEQA Guideline 15380 addresses definitions of endangered, rare or threatened species, where “a species not included in any listing identified in (other federal regulation protections) shall nevertheless be considered to be endangered, rare or threatened, if the species can be shown to meet the criteria (of “rare”).” This specifically acknowledges species not presently threatened with extinction or otherwise afforded federal and state legal protections, but are species still occurring in such small numbers that it may become endangered if the environment worsens. EBCNPS Rank A species should be considered significant, locally rare plant species on this brink, and indeed require legal protections. Impacts inflicted on these populations must be reevaluated as significant. Currently, the FEIR and GP both does not afford these plants legal protections, and did not perform adequate (or any) floristic surveys to determine their existence on the project site. Protections are afforded for these species as well because impacts to their occurrences may lead to a tremendous and possibly unrecoverable push towards extinction. Several of our previous comment letters from EBCNPS and the EBCNPS Rare Plant Committee have outlined suggestions for species inclusions on plant surveys. Excellent examples provided by the FEIR are the shredding evening primrose (*Eremothera boothii* ssp. *decorticans*), and green fiddleneck (*Amsinckia vernicosa*).

EBCNPS has a program, started in 1991, that tracks rare, unusual, and significant plants that occur within Contra Costa and Alameda counties. East Bay CNPS has three ranked designations for these species: A (which includes A1, A1, *A1x, A1x, *A2, and A2); B; and C. These ranks are based on the number of botanical regions the subject taxon occurs in. CEQA requires that impacts to “resources that are rare or unique to that region” be evaluated [CEQA Guidelines 15125(c)]. This includes botanical resources that are, but not limited to, peripheral populations and disjunct subpopulations. These are informal terms that refer to those species that might be declining or be in need of concentrated conservation actions to prevent decline. Also, CEQA Guidelines Section 15380 states “a

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species not included in any listing...shall nevertheless be considered to be rare or Endangered if the species is likely to become Endangered within the foreseeable future throughout all or a significant portion of its range and may be considered Threatened as that term is used in the Endangered Species Act.” Locally rare species tracked by the East Bay Chapter of CNPS meet these criteria. Their status is based on their rarity and endangerment throughout all or portions of their range. For the purposes of this General Plan/DEIR locally rare plant species with an “A” designation should be considered special-status species. Based on the results of the Ecosystems West surveys, a total of 28 locally rare plant species (with an A rank) have been identified within the planning area. A complete list of the locally rare plants known to occur in the Corral Hollow region was attached to our NOP comment letter submitted in 2012, and it can be found in Appendix B of this document.

As the steward of land held in the public trust, the California State Parks Department must hold itself to a higher standard of environmental review. Even private development interests consider and mitigate for locally rare plants in the majority of cases. For a public land management agency to fail to even meet this standard level of review is unacceptable.

According to the PGP and FEIR, even the limited botanical surveys of the expansion site have found a much higher density and diversity of special status plants in the proposed expansion area than in the currently operating Carnegie SVRA. Considering that the only variable between these two adjacent parcels is the presence or absence of OHV recreation, the ongoing damage to the native habitat at Carnegie illustrates that OHV recreation is inherently damaging to native plant diversity. This unmitigated significant impact must be addressed in the EIR for this project. Since this and all other previously mentioned significant and unmitigated impacts are not addressed in the Proposed Final EIR, the FEIR **must not** be certified and approved.

All vascular plants need to be identified to a taxonomic level which allows rarity to be determined

The as-yet-unidentified Fritillary species found on Tesla, must be treated as rare until proved otherwise and receive rare plant protections. CDFW 2002 guidelines for rare plant surveys suggest, “Document findings of target species by completing California Native Species Field Survey Form(s) and submit form(s) to the Natural Diversity Data Base. Documentation of determinations and/or voucher specimens may be useful in cases of taxonomic ambiguities, habitat or range extensions.” This occurrence may be an unexpected range extension of a species unknown in the area. FEIR response to comments that they believe this chance to be unlikely, is completely inadequate.

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Contemplating the GP and FEIR without yet identifying this species adds up to inappropriate delay of analysis, which contributes to an inadequate level of impact analysis for the entire project, as it calls into question whether other similar oversights have been delayed and tabled prematurely in favor of project advancement.

We will restate our information and professional opinion on this topic for the record: Based on the results of Ecosystem West's (2004) botanical surveys it was reported that an undescribed species of Fritillary was found during these studies. Today, in spite of knowing of this undocumented species for over a decade, and in spite of planning a General Plan Update that will change the land use of the area where this novel species occurs, State Parks has yet to analyze the genetics of this plant population to better understand and classify it. Should this entity be validly published, it would represent a taxon with a very limited distribution, only occurring within the acquisition property and with the proposed use of this area, it should be considered endangered. Based on the Constraints Map provided as part of 2013 scoping documents, the area where this entity occurs was labeled as least sensitive. It is challenging to understand how State Parks could have classified the area in the "least sensitive" category since it supports a species that may be currently unknown to science. The Ecosystem West report states:

Fritillary (*Fritillaria* sp. nov.?). At two locations within the study area, we observed a fritillary (*Fritillaria* sp.) that could not be satisfactorily identified using keys and descriptions in standard references (Abrams 1923; Munz and Keck 1973; Ness 1993). This species is a lily-like plant with solitary erect flowering stems about 1-2 feet tall. Non-flowering plants produce no stem and only a single large, broadly lanceolate leaf directly from the underground bulb. Flowering stems have a number of narrowly lanceolate leaves that are alternate but sometimes crowded. Each plant has several nodding flowers, each with six perianth segments about 1-2 inches long that are greenish-yellow with purple mottling inside and greenish-yellow, purplish, or purple-mottled outside. The flowers have only a faint unpleasant odor. The fruits range from rounded to angled (as in *Fritillaria pluriflora*, a species not otherwise resembling this plant).

“The combination of characters described above does not correspond to any *Fritillaria* species occurring in California, according to the above references. This species may have been previously misidentified by Jones & Stokes (2000) as stinkbells (*Fritillaria agrestis*), a species whose perianth segments are greenish-white outside and purplish-brown inside, but not mottled, and whose flowers have a strong unpleasant odor. We conclude, pending further study, that this fritillary could be an undescribed species.”

“Until the taxonomic status of this plant can be clarified, and its overall distribution and abundance determined, we recommend that this plant be treated as falling under the regulatory authority of CEQA under Section 15380 of the CEQA Guidelines.”

“We observed this fritillary at two locations in the study area (Figure). The larger occurrence is located on the Tesla property above the historic Tesla mine and Tesla town site, in T3S R3E near the boundary of the SW ¼ of NW ¼ and the NW ¼ of SW ¼ Sec. 25. This occurrence covers approximately 0.1 acre and contains about 500 plants, only

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about 40 percent of which were flowering in 2003. The smaller occurrence is in the southwest corner of the riding area, in T3S R4E SW ¼ of SW ¼ Sec. 32. This occurrence contains approximately 15 plants in an area 10×20 feet, with two additional plants approximately 50 feet downslope (northeast).”

“The occurrence on the Tesla property is on a small, nearly level saddle on a small spur ridge and extends down a steep northwest-facing side slope. The soil is clay-rich and is mapped by Welch (1966) as rock lands, although the soil is not rocky. The habitat is low California annual grassland with approximately 70 to 90 percent cover. Associated species at this location include purple needlegrass, Malpais bluegrass, wild oat, other non-native annual grasses, , purple sanicle (*Sanicula bipinnatifida*), California plantain, California matchweed, yarrow, Henderson’s shooting star, California filago (*Filago californica*), Great Valley gumplant, smooth cat’s-ear, valley popcorn-flower, red-stemmed filaree, and long-beaked filaree.”

“The riding area occurrence is near the top of a northeast-facing slope in a gently sloping open area in open blue oak savanna. The soil has high clay content and is mapped as Contra Costa variant shaly clay loam by Welch (1966) and as Vallecitos rocky loam by Whitaker (1980). The herbaceous cover at this location is unusually sparse, only about 40 percent. Associated species at this location include wild oat, blow-wives, red-stemmed filaree, common fiddleneck, soft chess, long-spurred plectritis, blue dicks, caraway-leaved lomatium, a Clarkia species, and few-flowered clover (*Trifolium oliganthum*). An OHV trail passes through this area, and plants in this area could be subject to impacts from OHV use.”

This species must be properly document and classified before this plan is allowed to move forward. Finalizing this General Plan and EIR before such actions are taken make it impossible to properly consider whether or not any future land use decisions would permanently affect the population’s viability in the future.

Alternatives Analysis does not include Non-OHV use Alternative

The only alternative considered besides No Project is a Reduced Developed Use Area Alternative that still allows OHV use throughout most of the expansion area. A complete alternatives analysis must consider a Non-OHV use alternative. Most project objectives can be met, and environmental impacts greatly reduced or mitigated, by a project that provides for continued OHV use in the existing CSVRA and sets aside the expansion area for resource protection and as a mitigation bank for ongoing damage occurring at Carnegie.

State Park representatives have claimed in the past that all potential uses for the Alameda/Tesla parcel must include OHV use for the Alameda/Tesla parcels due to the

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fact the OHMVR funds were used to purchase the land. This assertion is misleading considering the fact that the OHVMVR Division is already managing land purchased with OHMVR funds for non-OHV use. The DEIR does not include the residences on 350+ acres along Tesla Road which were paid for by OHMVR funds and which are not being considered for OHV recreational use. The purchase and ongoing management of this area is evidence that OHMVR funds can be used for non OHV use and mitigation (in this case employee housing and buffers). The expansive area of Hollister Hills SVRA that is used as a buffer and as mitigation for sound and dust impacts is another example of OHV-owned land being used for purposes other than OHV recreation.

Given the conservation value of the expansion area to numerous sensitive biological resources, the EBCNPS chapter supports the U.S. Fish and Wildlife Service's and CDFW's recommendation that the expansion area be used as compensatory habitat for impacts to listed species at the existing CSVRA. We ask that the OHMVR Division work with local agencies and with the community that have also submitted documentation about the EIR deficiencies and objections to the OHV expansion plan, to ensure that **the Tesla park land is permanently preserved with no OHV use.**

Clarify definition of “facilities” and future “environmental review processes”

An ambiguity of terms exists for projects where further CEQA process would be required of Carnegie SVRA. Confirmation that any future development of “facilities” which include planning, design, and construction of “OHV Trails,” needs to be clarified in the GP and FEIR as a clearly- defined term and process in both documents. GP Chapter 2-2 characterizes existing Carnegie SVRA Land Use and Facilities, and section 2.2.3 contains this definition of “Facilities” (pp. 2-8):

VISITOR FACILITIES: Visitor facilities include multiple restrooms scattered throughout the SVRA, day-use sites for picnicking and staging, and the following recreational facilities:

- ▶ OHV Trails—Available for a range of skill levels; main trails are marked by the level of difficulty. Off-highway motorcycles are allowed on all trails. Most trails are multiuse, but some trails are not wide enough for all-terrain vehicles (ATVs).
- ▶ Motocross Track—Open to off-highway motorcycles only. Formalized competitive events are held on some weekends, causing the track to be closed to the public periodically.
- ▶ ATV/Motocross Track—Open to both ATVs and off-highway motorcycles.
- ▶ 70cc Children's Track—Available for off-highway motorcycles and ATVs with small

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engines up to 70cc displacement. This track offers young riders an opportunity to practice and improve their riding skills.

▶ 110cc Beginner Track—Available for off-highway motorcycles and ATVs with small engines up to 110cc displacement.

▶ 4x4 Challenge Area—Open to four-wheel-drive (4WD) vehicles only. The area is not currently available to trials bikes.

▶ Hillclimb Special Event Area—Open to off-highway motorcycles. This area is closed to the public except during formal hillclimb events several weekends a year.

▶ Campsites—Provided for those looking to camp with or without a trailer (23 sites). Each site has a shade structure, fire ring, and picnic table.

▶ Park Concession—Provides SVRA visitors access to purchase off-highway motorcycles and ATV parts, safety gear, and OHV accessories. Food service and minor OHV repair service are also available.

Thus, and OHV Trail is defined as a type of Visitor Facility. The definitions of planned facilities is further evidence that the plans and anticipated impacts are known well-enough to justify better biological surveys. Elsewhere in the FEIR and GP, “facilities” otherwise seems to be defined as buildings, restrooms, and concession stands, and trails are termed as a “land use,” “potential action,” or other colloquial term that is not explicitly defined as a facility, where construction of a facility would be a specific project proposed and requiring additional subsequent environmental review. Construction and maintenance of OHV Trails are proposed projects not without their own impacts.

We are especially wary due to a precedent of Notice of Exemption (NOE) and Mitigated Negative Declaration (MND) submissions by Carnegie SVRA for small projects, actions which did not take into account cumulative impacts from projects and assisted in the Carnegie SVRA appearing as it is today. Defining a selection of predictable projects (such as outlined in the Preferred Concept Map, or OHV Trail descriptions above) and their associated minimum level of environmental review process required would assist understanding of project impact as a whole.

Also in GP Chapter 2-2, the GP again justifies the level of analysis of this FEIR with a case study from the California Supreme Court, “it is proper for a lead agency to use its discretion to focus a first-tier EIR on only the...program, leaving project-specific details to subsequent EIRs when specific projects are considered.” (*In re Bay Delta* [2008] 43 Cal. 4th 1143, 1174.). Does reference to this case mean Carnegie SVRA is committing to subsequent EIRs as environmental impact analysis documentation preferred over NOEs and MNDs? Is Carnegie SVRA committing itself to EIRs as its standard preferred environmental review process? Given the valuable resources in this area as stated repeatedly, subsequent EIRs would be an appropriate level of environmental impact analysis. We would support a baseline standard of solely EIRs performed on subsequent

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proposed projects at Carnegie SVRA, as a step in the right direction favoring natural resources.

Conclusion

The extensive evidence submitted in the scoping stage, DEIR, PFEIR, and FEIR comment letters and throughout the CEQA process document: 1) the presence of sensitive biologic and cultural resources throughout the Tesla expansion area, 2) impacts to these sensitive resources from OHV use at Carnegie SVRA, 3) cumulative impacts from the existing CSVRA operations, and 4) mitigation standards required for such sensitive resources. The FEIR and GP do not protect the sensitive resources in Tesla or compensate for the ongoing impacts at the existing CSVRA. The FEIR concludes that there will be no significant biological impacts from locating trails and facilities throughout most of Tesla, but it does not provide the required biologic and other environmental studies that support that conclusion.

Huge gaps exist in the credibility and adequacy of impact analysis of the FEIR and GP. Tesla is not appropriate for OHV use. The expansion area should be designated as a sensitive area as provided in the Public Resources Code or through other viable preservation alternatives, as permanent mitigation with no OHV use, for the ongoing impacts of OHV use at the existing Carnegie SVRA. **Therefore the FEIR and GP should not be certified and approved.**

EBCNPS appreciates the consideration of these comments. Please do not hesitate to contact us with questions at conservation@ebcnps.org or by phone at (510) 734-0335.

Sincerely,

Karen Whitestone
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