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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

FRIENDS OF THE SANTA CLARA  
RIVER et al.,

Plaintiffs and Appellants,

v.

COUNTY OF LOS ANGELES et al.,

Defendants and Respondents;

THE NEWHALL LAND AND FARMING  
COMPANY,

Real Party in Interest and  
Respondent.

B256125

(Los Angeles County  
Super. Ct. Nos. BS136549, BS138001 )

APPEAL from a judgment of the Superior Court of Los Angeles County, John A. Torribio, Judge. Affirmed.

Center for Biological Diversity, Adam Keats, John Buse, Aruna Prabhala; Wishtoyo Foundation/Ventura Coastkeeper, Jason Weiner, Christina Snider; Advocates for the Environment and Dean Wallraff for Plaintiffs and Appellants.

Office of the County Counsel, Mark J. Saladino, County Counsel, and Joseph M. Nicchitta, Deputy County Counsel, for Defendants and Respondents.

Gatzke Dillon, Mark J. Dillon, David P. Hubbard; Nielsen Merksamer Parinello Gross & Leoni and Arthur G. Scotland; Morrison & Foerester and Miriam A. Vogel for Real Party in Interest and Respondent.

## I. INTRODUCTION

This is an appeal from the February 26, 2014 judgment denying the first amended mandate petition and declaratory and injunctive relief complaint of plaintiffs: Friends of the Santa Clara River; Santa Clarita Organization for Planning and the Environment; Center for Biological Diversity; and Wishtoyo Foundation and its Ventura CoastKeeper Program. Defendants are the County of Los Angeles (the county) and its Board of Supervisors (supervisors board). The real party in interest is The Newhall Land and Farming Company (the developer). This appeal involves one of the five villages where residential and commercial development are to occur as part of the Newhall Ranch Specific Plan (the specific plan).

This case arises from the October 4, 2011 supervisors board certification of the final environmental impact report for the Landmark Village project. For simplicity's purpose, we will refer to the final environmental impact report as the environmental impact report. In addition, the supervisors board approved: a Vesting Tentative Tract Map No. 53108-(5); amendment No. 00-196-(5) to the county's general plan; an amendment to the local plan No. 00-196-(5); conditional use permits Nos. 00-196(5) and 2005-00112-(5); and Oak Tree Permit No. 00-196(5). On February 21, 2012, the supervisors board adopted the Landmark Village findings and conditions. We affirm.

## II. THE FIRST AMENDED COMPLAINT

The first amended complaint contains causes of action for violations of the: state's planning and zoning laws (Gov. Code, § 65008 et seq.); Subdivision Map Act (Gov. Code, § 66400 et seq.); and California Environmental Quality Act. (Pub.

Resources Code, § 21000 et seq.<sup>1</sup>) Plaintiffs seek the following relief: orders vacating and setting aside the approval of the planning documents specified in the immediately preceding paragraph; an order directing the county to certify a legally adequate environmental impact report; a declaration that the county's actions violate this state's planning and zoning laws, the Subdivision Map Act and the California Environmental Quality Act; injunctive relief; attorney's fees; and costs of suit. We will detail the relevant specific allegations later in this opinion while discussing the parties' arguments.

### III. CONSISTENCY WITH THE COUNTY'S GENERAL PLAN'S DEVELOPMENT MONITORING SYSTEM

#### A. Plaintiffs' Contentions and the First Two Causes of Action

The Los Angeles County General Plan (general plan) contains a Development Monitoring System which was adopted by the supervisors board on April 21, 1987. Plaintiffs contend that the failure to comply with the Development Monitoring System, which is part of the general plan, prohibits approval of the subdivision tract map. (Gov. Code, § 66473.5.) Plaintiffs argue that defendants did not comply with the Development Monitoring System. Plaintiffs contend that defendants failed to properly analyze water supply and sewer services availability issues raised by the project.

These contentions relate to the first two causes of action in the mandate petition. The first two causes of action allege an inconsistency exists between the project and the general plan. The first cause of action alleges that Government Code sections 65454 and 65455 required that the project be consistent with the county's general plan. According

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<sup>1</sup> Unless otherwise indicated, all future undesignated statutory references are to the Public Resources Code. References to Guidelines are to those located in California Code of Regulations, title 14, section 15000 et seq. These Guidelines are promulgated by the California Natural Resources Agency to implement the California Environmental Quality Act. (§ 21083, subd. (e); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 448, fn. 4.)

to the first cause of action, the Development Monitoring System prohibits approval of the project unless there is a finding that acceptable infrastructure will be available. Plaintiffs allege there was noncompliance with the Development Monitoring System requirements in terms of water supply for the project. According to plaintiffs, any determination under the Development Monitoring System in this regard must be based upon: current water consumption; current capacity of the water provider; the surplus or deficit within the water provider's area; the anticipated water usage by the new development; and the program schedule of the water provider to expand its capacity in the future. Similarly, plaintiffs allege there was a failure to conduct appropriate review of sewerage, traffic, schools, fire and library services and school capacity as required by the Development Monitoring System.

The second cause of action alleges violations of the Subdivision Map Act. (Gov. Code, § 66410 et seq.) Plaintiffs allege the project was inconsistent with the general plan because: there was noncompliance with the Development Monitoring System by failing to properly analyze the project's water and other infrastructure components; there was a failure to properly issue a conditional use permit; and the planning documents failed to prove the development is designed to maintain water bodies and tributaries in their natural state and properly maintain wildlife movement corridors and migratory paths. Further, the second cause of action alleges noncompliance with Government Code section 66473.7. Plaintiffs allege approval of the tract map must be conditioned upon the availability of a "sufficient water supply" to serve future development. Government Code section 66473.7, subdivision (a)(2) requires that there be sufficient water to meet existing and future demands during "normal, single-dry, and multiple-dry years" over a 20-year period. Plaintiffs allege defendants relied on the "Valencia Water Company Water Supply Assessment Report" in evaluating these issues. According to plaintiffs, this report failed to provide substantial evidence of the required data concerning future water-related demands over a 20-year period. We will detail the specific water supply allegations later in this opinion.

## B. Development Monitoring System

1. Supervisors board resolution adding the Development Monitoring System to the general plan.

We first examine the supervisor board’s resolution adopting the April 21, 1987 general plan amendment. The resolution adopting the Development Monitoring System states it: establishes procedures for scrutinizing new urban growth in expansion areas within the county; is designed to determine the availability of school, fire, sewerage, library, water and road services and facilities on an individual and cumulative basis; is to analyze the expansion costs of school, sewerage and library providers resulting from the development; ensures those new development costs are paid by the developer; makes certain services can be expanded to meet future growth projections; and provides new development occur near already established services. The supervisor board’s resolution amending the general plan states: “The [Development Monitoring System] shall be employed in the initial study phase of the environmental review procedure (prescribed by state law) and shall apply to pending and future urban development applications for changes of zone classification, general plan amendments, conditional use permits, other zoning permits, and subdivisions in Urban Expansion Areas depicted on the Development Policy Map of the General Plan. . . .”

### 2. Development Monitoring System provisions

#### a. purposes

We now synthesize the relevant portions of the Development Monitoring System itself as distinguished from the supervisor board’s authorizing resolution. The Development Monitoring System is designed to evaluate, minimize and potentially avoid increased public expenditures resulting from development: “It is essential that decision-

makers carefully evaluate new development proposals within [the] urban expansion areas to avoid premature investments in major new public services systems and minimize related costs to taxpayers. In particular, development should be carefully evaluated with regard to the expansion costs it may generate. The [Development Management System] is designed to be of major assistance in ensuring that such factors are considered prior to making land use decisions.” The Development Monitoring System requires review of specified aspects of a proposed development, “The infrastructure analysis under the [Development Monitoring System] will determine the availability of water, sewerage, schools, libraries, roads and fire, as well as expansion costs for schools, fire, sewerage, and libraries.” We will set forth in greater detail the factors and criteria for evaluating water supply specified in the Development Monitoring System. The monitoring system is to provide “basic information” to the Regional Planning Commission and the supervisors board.

At another point, the Development Monitoring System states: “Other issues associated with new development, such as mitigation of hazards, access factors, and compatibility with natural resources, will be evaluated by the [c]ounty’s [Development Monitoring System] procedure. The [Development Monitoring System] analysis will be incorporated into the environmental review procedures, pursuant to the California Environmental Quality Act.” Before a development application may be approved, the “planning agency” must determine whether the project conforms to the following general plan policies: avoidance of premature conversion to urban uses; promotion of population growth consistent with service system capacity, resource availability, environmental limitations and “accessibility”; direction of urban development and redevelopment to protect “natural and man-made amenities” and the avoidance of hazardous areas; encouragement of efficient land use; ensuring compliance with plan requirements and that expansion costs will be paid for by the development; and creation of “inter-dependent system of activity centers” to provide services throughout the urban area.

The Development Monitoring System specifies a 13-step case processing progression involving preparation of a *case report* and *environmental review*. The case

report and the environmental review documents are prepared concurrently and ultimately presented to the Regional Planning Commission. We now turn to the 13-step process specified in the Development Monitoring System.

b. environmental review process

The initial step in the environmental review process commences with the filing of the project application. After filing of the case, the initial study is conducted. The initial study involves an evaluation of both environmental factors and an infrastructure analysis. Both the environmental factors and the infrastructure evaluation include the application of the Development Monitoring System factors. The infrastructure analysis in the Development Monitoring System uses the “Urban Services Analysis.” The Urban Services Analysis: evaluates service provider information which sheds light on the adequacy of infrastructure; assesses expansion costs for schools, fire, sewerage and libraries; and provides a formula for calculating expansion costs.

The initial study determines whether there is a potentially significant environmental impact. This in turn leads to the preparation of the appropriate environmental document. The Development Monitoring System factors are to be incorporated into the environmental document. The general plan amendment states, “The [Development Monitoring System] analysis will be incorporated into the environmental review procedures, pursuant to the California Environmental Quality Act.” In our case, this requires the Development Monitoring System analysis be incorporated into the initial study and the environmental impact report. The environmental impact report is then presented to the Regional Planning Commission.

c. case report

Concurrently with the environmental review, a case report is prepared. The case report evaluates zoning and land division issues. This is accomplished in consultation

with appropriate county and state agencies as the case may be. The case report is then forwarded to the Regional Planning Commission for action.

d. planning commission action

The Regional Planning Commission then reviews the case report and, in this case, the environmental impact report. The Regional Planning Commission determines whether the project meets three factors specified in the Development Criteria and Methodology of the Development Monitoring System: infrastructure; access; and environment. In terms of infrastructure, the Regional Planning Commission evaluates whether the development has an acceptable level or significant impact on service. As to access, among other things, the Regional Planning Commission determines whether the project has acceptable proximity to commercial development and provides for a suitable level of road service. As to the ecological effects, the Regional Planning Commission evaluates the environmental impacts in terms of the following factors: geotechnical; flood hazard; fire; natural resources; open space; and mitigation measures.

If the development meets the three aforementioned criteria, infrastructure, access and environmental, the Regional Planning Commission is to find the project complies with the Development Monitoring System. If the development does not meet the criteria, the Regional Planning Commission must consider the mitigation measures. The Development Monitoring System states: “If the application of the mitigation measures brings the . . . development into conformance with the policies set forth in the [Development Monitoring System], then the planning agency may approve the proposed development, making appropriate findings. If the application of mitigation measures is not sufficient, or if the mitigation measures or alternatives are not feasible, then the planning agency shall deny the proposed development or provide a statement of overriding considerations.” All Regional Planning Commission findings in this regard must be supported by substantial evidence.

e. other aspects of the Development Monitoring System

The Development Monitoring System also imposes broader non-project specific planning requirements, including: preparation of an annually updated reference document summarizing standards, thresholds and generation factors for future developments; preparation of an annual report summarizing whether growth exceeds the general plan's projections in the four major unincorporated planning areas; limiting growth so that it does not exceed that projected for the four major planning areas specified by the general plan through the year 2000; and requiring new development to be located adjacent to approved projects or existing infrastructure. Also, the Development Monitoring System creates a data collection process and computer system for managing future development. This appeal does not involve these non-project specific aspects of the Development Monitoring System.

C. General Plan Requirements

Plaintiffs argue that defendants failed to comply with the Development Monitoring System which, as noted, is part of the general plan. Plaintiffs expressly base their argument concerning defendants' failure to comply with the Development Monitoring System. Plaintiffs argue the failure to comply with the Development Monitoring System, which is part of the general plan, violates requirements imposed by the Subdivision Map Act. (Gov. Code, §§ 66410-66499.38.) An integral part of the project involves approval of a vesting tentative tract map and related documents. The project involves the development of a 422-lot subdivision including: 270 single-family, 15 multi-family and 2 "mixed-use/multi-family lots" (resulting in a construction of 1,444 residential dwelling units); 16 commercial lots; 83 open space lots; 3 recreation lots; 2 park lots; 5 trail-related lots; 4 public facility lots; 13 water quality/debris and lots; 2 utility corridor lots; 4 transportation-related lots; and 3 lots reserved for future light-rail services. Thus, when a landowner seeks to subdivide its property, compliance with the relevant provisions of the

Subdivision Map Act is mandatory. (*van't Rood v. County of Santa Clara* (2003) 113 Cal.App.4th 549, 564; *Beck Development Co. v. Southern Pacific Transportation Co.* (1996) 44 Cal.App.4th 1160, 1197-1198.) Government Code section 66473.5 states in part, “No local agency shall approve a tentative map . . . unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is *consistent* with the general plan. . . .” (See *Woodland Hills Residents Association, Inc. v. City Council* (1979) 23 Cal.3d 917, 936, italics added; *van't Rood v. County of Santa Clara, supra*, 113 Cal.App.4th at p. 564.)

#### D. Consistency Requirement and Standard of Review

Plaintiffs do not raise any issue concerning the environmental impact report as it relates to discussion of the purported inconsistency between the general plan and the project. Certainly, an environmental impact report’s failure to discuss an inconsistency between a general plan and a project, if prejudicial, is a ground for setting aside the certification of environmental documents. (Guidelines, § 15125, subd. (d); see Kostka & Zischke, Cal. Environmental Quality Act (Cont.Ed.Bar 2d ed. 2014) § 20.3, pp. 20-8 through 20-9.) However, plaintiffs do not contest the certification of the environmental impact report on this ground. Rather, this attack upon the project is limited to a violation of Government Code section 66473.5 and the approval of the project’s subdivision. In this limited regard, plaintiffs contend that water and sewer capacity analysis in the initial study and the environmental impact report demonstrates defendants violated the general plan.

There is no requirement of perfect conformity between a general plan and a specific land use decision. The Courts of Appeal have applied the following rule for evaluating consistency between a general plan and a land use decision: ““Our evaluation of appellants’ contention is governed by well established standards.’ ““““An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their

attainment.” [Citation.]’ [Citation.] State law does not require perfect conformity between a proposed project and the applicable general plan. . . . [Citations.]” (*Friends of Lagoon Valley*[v. *City of Vacaville* (2007)] 154 Cal.App.4th 807,) 817.) In other words, “it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan. . . . It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan. [Citations.]” (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1510-1511 [.]’ [Citation.]” (*San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal.App.4th 498, 513-514 (*San Francisco Tomorrow*); see *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1562-1563 (*Pfeiffer*).)

Utilizing the consistency test identified in the immediately foregoing paragraph, as described by this state’s Courts of Appeal, we engage in the following deferential standard of review. An agency’s determination that a project is consistent with the general plan comes before us with a strong presumption of regularity. (*San Francisco Tomorrow, supra*, 229 Cal.App.4th at p. 514; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 638.) We may not reweigh conflicting evidence nor substitute our views for that of the agency approving a project. (*San Francisco Tomorrow, supra*, 229 Cal.App.4th at p. 514; *Wollmer v. City of Berkeley* (2009) 179 Cal.App.4th 933, 940.) We show this deference because the body adopting a general plan has unique competence to interpret those policies when applying them to a proposed project. (*Pfeiffer, supra*, 200 Cal.App.4th at p. 1563; see *San Francisco Tomorrow, supra*, 229 Cal.App.4th at p. 515.) Given this expertise, it is not our role to micromanage development decisions. (*California Native Plant Society v. City of Rancho Cordova, supra*, 172 Cal.App.4th at p. 638; *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719 (*Sequoyah*).)

We review an agency’s consistency finding for an abuse of discretion. (*San Francisco Tomorrow, supra*, 229 Cal.App.4th at p. 514; *Friends of Lagoon Valley v. City of Vacaville, supra*, 154 Cal.App.4th at p. 816.) A consistency determination will be set

aside on abuse of discretion grounds if: the agency did not proceed legally; the conclusion that a project and a general plan are consistent is not supported by findings; or the findings are not supported by substantial evidence. (Code Civ. Proc., § 1094.5, subd. (b); *San Francisco Tomorrow*, *supra*, 229 Cal.App.4th at p. 514; *Sequoyah Hills Homeowners Assn.*, *supra*, 23 Cal.App.4th at p. 717.) In terms of a consistency issue, we may set aside an agency's *substantial evidence finding* only if no reasonable person would have reached the same conclusion. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238; *Families Unafraid to Uphold Rural etc. County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1338.)

Some appellate courts have more generally described our duty thusly: “““A reviewing court’s role ‘is simply to decide whether the city officials considered the applicable policies and the extent to which the proposed project conforms with those policies.’ [Citation.]” [Citation.]”” (*Friends of Lagoon Valley v. City of Vacaville*, *supra*, 154 Cal.App.4th at p. 816; quoting *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 677-678; see *Wollmer v. City of Berkeley*, *supra*, 179 Cal.App.4th at p. 940.) We resolve reasonable doubts in favor of the administrative decision. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514-515; *Wollmer v. City of Berkeley*, *supra*, 179 Cal.App.4th at p. 940.) We review an agency’s consistency finding independently and are not bound by the trial court’s conclusions. (*Pfeiffer*, *supra*, 200 Cal.App.4th at p. 1563; *Friends of Lagoon Valley v. City of Vacaville*, *supra*, 154 Cal.App.4th at p. 816.)

#### E. Initial Study and Water Capacity

Plaintiff’s contend that the water capacity analysis mandated by the Development Monitoring System in that the initial study was grossly inadequate. The initial study is dated August 26, 2003. The initial study concludes there is substantial evidence that the Landmark Village project may have a significant environmental impact. Attached to the

initial study is the water capacity analysis required by the Development Monitoring System. According to plaintiffs, the initial study fails to properly take into account the: current capacity of the service provider to supply well water annually in acre-feet; deficit or surplus within the service provider's area; and program schedule of the service provider to extend capacity in the future. Defendants and the developer argue this issue has been forfeited as it relates to the initial study. We agree.

As noted, the second cause of action alleges violations of the Subdivision Map Act. Government Code section 66473.5 requires that tentative map approval occur only when the legislative body finds that the proposed subdivision is consistent with the general plan. However, the first amended complaint contains no allegations concerning water supply deficiencies *in the initial study*. Plaintiffs' statement of issues references defects in the Development Monitoring System analysis in the environmental impact report. Further, the argument in plaintiffs' opening brief filed in the trial court makes no mention of the initial study. Rather, the only issue raised concerning water capacity and the Development Monitoring System refers to the environmental impact report. Thus, plaintiff's contentions raised for the first time on appeal concerning water capacity, the Development Monitoring System and the *initial study* have been forfeited. (*Citizens Opposing a Dangerous Environment v. County of Kern* (2014) 228 Cal.App.4th 360, 380, fn. 16; *A Local & Regional Monitor v. City of Los Angeles* (1993) 12 Cal.App.4th 1773, 1804.)

#### F. Environmental Impact Report and Water Capacity

Plaintiffs allege the failure to comply with the Development Monitoring System, which is part of the general plan, required disapproval of the tract map application. The relevant portions of the first amended complaint allege: "Under Government Code section 66473.7, the [county] is required to condition approval of the Tract Map on the availability of a sufficient water supply to serve future development of the tract. Government Code section 66473.7(a)(2) defines 'sufficient water supply' to mean that

‘the total water supplies available during normal, single-dry, and multiple-dry years within a 20 year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses.’ [¶] . . . In approving the Project, the [county] relied on the Valencia Water Company Water Supply Assessment Report. The Water Supply Assessment Report, however, does not provide substantial evidence of a sufficient water supply to serve the Project. [¶] . . . The Board’s findings in support of the Project approval are not supported by substantial evidence in the record.” Plaintiffs’ issues statement filed with the trial court specifically raises the issue of whether defendants complied with the Development Monitoring System.<sup>2</sup>

Plaintiffs’ points and authorities argue that defendants failed to properly undertake the Urban Services Analysis required by the general plan’s Development Monitoring System. Plaintiffs’ points and authorities argue that defendants failed to properly analyze water-supply availability in compliance with the Development Monitoring System. Specifically, plaintiffs argue: “Even though the [Development Monitoring System] requires the Project analysis to be based on the available capacity of the purveyor, here the record contains no analysis of [the Valencia Water Company]’s capacity to provide sufficient water for the Project. The scope of the water-supply analyses in the record is the entire Santa Clarita Valley, not the portion of the Santa Clarita Valley served by the Valencia Water Company. This use of the wrong area for analysis makes the analysis

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<sup>2</sup> Plaintiff’s’ issues statement explains: “The Los Angeles County General Plan contains a set of procedures called the Development Monitoring System . . . and requires the County to use these procedures to evaluate infrastructure availability for proposed development projects. They mandate evaluation of the availability of water supplies and other infrastructure based on service-provider (e.g. retail water purveyor) boundaries, and based on specific data provided by the service provider. The [Development Monitoring System] also requires the County to make specific findings before approving a project. The [environmental impact report’s Development Monitoring System] analysis is based on incomplete data, and data covering a much larger area than the Project’s service-provider area. The County also failed to make the findings required by the [Development Monitoring System] before approving the Project. Is the Project consistent with the General Plan?”

inconsistent with [the Development Monitoring System] requirements.” Plaintiffs’ points and authorities conclude, “Because the record lacks an analysis of the [Landmark Village] Project’s water supply based on the factors required by the [Development Monitoring System], the [c]ounty has not complied with mandatory requirements of the General Plan, and the project is therefore inconsistent with the General Plan.”

We agree with defendants and the developer that the sole Development Monitoring System *water issue* is whether the supply will be adequate for the Landmark Village project. The Development Monitoring System requires the following in terms of evaluating water systems: “The planning agency shall determine if a project will be provided with an acceptable level of water supply and shall base its determination upon the following Summary Reference Manual data: [¶] a. The current water consumption (in acre-feet or gallons) within the service area boundaries[;] [¶] b. The current capacity of the service provider to supply water (in acre-feet per year); [¶] c. The deficit or surplus within the service provider’s area, calculated by determining the difference between *capacity* and usage; [¶] d. The anticipated usage of water by new development on a per unit basis; [¶] e. The programmed schedule of the service provider to expand its capacity in the future.” (Italics added.) The capacity question is the sole issue raised in the trial court. Any other contentions concerning water service and the Development Monitoring System have been forfeited. (*Citizens Opposing a Dangerous Environment v. County of Kern, supra*, 228 Cal.App.4th at p. 380, fn. 16; *A Local & Regional Monitor v. City of Los Angeles, supra*, 12 Cal.App.4th at p. 1804.)

The following demonstrates defendants complied with the Development Monitoring System in evaluating water supply availability for the Landmark Village project. As noted, the Development Monitoring System requires its analysis appear as part of the California Environmental Quality Act ecological review process. Further, the Development Monitoring System leads to the decision maker reviewing the appropriate environmental document. In this case, the ultimate decision maker is the supervisors board.

A material part of the environmental impact report relies on two urban water management plans. (Wat. Code, § 10615<sup>3</sup>.) Among other things, an urban water management plan provides: an existing and planned water sources for five-year increments; a projected population growth for the same five-year increments; a detailed description of water sources and the amount and location of groundwater; a description of the water supply's reliability for single and multiple-dry years; and a description of uses in the same five-year increments. (Wat. Code, § 10631, subs. (a)-(d)<sup>4</sup>; see *Sonoma*

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<sup>3</sup> Water Code section 10615 describes an urban water management plan thusly: “‘Plan’ means an urban water management plan prepared pursuant to this part. A plan shall describe and evaluate sources of supply, reasonable and practical efficient uses, reclamation and demand management activities. The components of the plan may vary according to an individual community or area’s characteristics and its capabilities to efficiently use and conserve water. The plan shall address measures for residential, commercial, governmental, and industrial water demand management as set forth in Article 2 (commencing with Section 10630) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.”

<sup>4</sup> Water Code section 10631, subdivisions (a) through (e)(2) states: “A plan shall be adopted in accordance with this chapter that shall do all of the following: [¶] (a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier’s water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available. [¶] (b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments described in subdivision (a). If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information shall be included in the plan: [¶] (1) A copy of any groundwater management plan adopted by the urban water supplier, including plans adopted pursuant to Part 2.75 (commencing with Section 10750), or any other specific authorization for groundwater management. [¶] (2) A description of any groundwater basin or basins from which the urban water supplier pumps groundwater. For basins that a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the urban water supplier has the legal right to pump under the order or decree. For basins that have not been adjudicated, information as to whether the department has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current official departmental bulletin that characterizes the

*County Water Coalition v. Sonoma County Water Agency* (2010) 189 Cal.App.4th 33, 38, 40; *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2004) 123 Cal.App.4th 1, 8.) The in-depth information and analysis created by an urban water management plan far exceeds that required by the Development Monitoring System.

The first urban water management plan was prepared in 2005 for the: Castaic Lake Water Agency; the Castaic Lake Water Agency Santa Clarita Water Division; Newhall County Water District; and the Valencia Water Company. The 2005 urban water management plan was prepared by: Black & Veatch; Nancy Clemm; Kennedy/Jenks Consultants; Jeff Lambert; Lohdorff & Scalmanini Consulting Engineers; Reiter/Lowery Consultants; and Richard Slade and Associates, L.L.C. In 2011, the 2010 Urban Water Management Plan was prepared for: the Castaic Lake Water Agency; the

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condition of the groundwater basin, and a detailed description of the efforts being undertaken by the urban water supplier to eliminate the long-term overdraft condition. [¶] (3) A detailed description and analysis of the location, amount, and sufficiency of groundwater pumped by the urban water supplier for the past five years. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records. [¶] (4) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the urban water supplier. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records. [¶] (c)(1) Describe the reliability of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following: [¶] (A) An average water year. [¶] (B) A single-dry water year. [¶] (C) Multiple-dry water years. [¶] (2) For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to supplement or replace that source with alternative sources or water demand management measures, to the extent practicable. [¶] (d) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis. [¶] (e)(1) Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, identifying the uses among water use sectors, including, but not necessarily limited to, all of the following uses: [¶] (A) Single-family residential. [¶] (B) Multifamily. [¶] (C) Commercial. [¶] (D) Industrial. [¶] (E) Institutional and governmental. [¶] (F) Landscape. [¶] (G) Sales to other agencies. [¶] (H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof. [¶] (I) Agricultural. [¶] (J) Distribution system water loss. [¶] (2) The water use projections shall be in the same five-year increments described in subdivision (a).”

Santa Clarita Water Division of the Castaic Lake Water Agency; the Newhall County Water Districts; and the Valencia Water Company. The 775-page 2011 report was prepared by Kennedy/Jenks Consultants, Nancy Clemm, professional engineer, Luhdorff & Scalmanini Consulting Engineers and Stacy Miller Public Affairs.

According to the environmental impact report, the Landmark Village project is expected to generate a total water demand of 972 acre-feet per year. An acre-foot represents 43,560 cubic feet or 325,850 gallons of water. The projected water use is 608 acre-feet of potable and 384 acre-feet of non-potable water. The potable water demand will be met by the developer's rights to 7,038 acre-feet per year of groundwater from the Alluvial aquifer. The developer's water rights are used to support its existing agricultural uses. As a result, it is not expected that there would be any significant environmental effects in terms of potable water demand. In terms of non-potable water demand, this requirement will be met through the use of recycled water from the developer's water reclamation plant. In addition, it is expected there will be a build-out of the developer's water reclamation plant occurring over time as the specific plan was implemented. In the event of interruptions in the supply of non-potable water demand from the developer's water reclamation plant, it will be met through the use of recycled water from the Valencia Water District's reclamation project.

Section 3 of the 2011 urban water management plan describes available resources for both potable and non-potable water. Included in the description of available resources is an analysis of: both recent historical, 2005-2009, and projected groundwater production, 2015-2010, for each water district; active municipal groundwater source capacity; existing and planned groundwater pumping. Also, section 4 of the 2011 urban water management plan identifies: existing wastewater treatment facilities; planned improvements and expansions; projected wastewater flows; projected wastewater generation for recycled water use for 2010 through 2050 for each water district; and recycled water demand. Further, the 2011 urban water management plan identifies in annual acreage feet the potential supplies and demands for all of the Newhall Ranch

Project which includes the Landmark Village project. The potential recycled water supply and demand was equal—22,800 acre feet annually.

Further, in January 2010, the Valencia Water Company prepared a revised water supply assessment for the Landmark Village project. The revised water assessment was prepared as required by Water Code sections 10910<sup>5</sup> to 10912 and Government Code section 66473.7.<sup>6</sup> (See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of*

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<sup>5</sup> Water Code section 10910, subdivisions (a) and (b) provide: “(a) Any city or county that determines that a project, as defined in Section 10912, is subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) under Section 21080 of the Public Resources Code shall comply with this part. [¶] (b) The city or county, at the time that it determines whether an environmental impact report, a negative declaration, or a mitigated negative declaration is required for any project subject to the California Environmental Quality Act pursuant to Section 21080.1 of the Public Resources Code, shall identify any water system that is, or may become as a result of supplying water to the project identified pursuant to this subdivision, a public water system, as defined in Section 10912, that may supply water for the project. If the city or county is not able to identify any public water system that may supply water for the project, the city or county shall prepare the water assessment required by this part after consulting with any entity serving domestic water supplies whose service area includes the project site, the local agency formation commission, and any public water system adjacent to the project site.”

<sup>6</sup> Government Code section 66473.7, subdivision (a)(2) defines “sufficient water supply” as follows: “‘Sufficient water supply’ means the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses. In determining ‘sufficient water supply,’ all of the following factors shall be considered: [¶] (A) The availability of water supplies over a historical record of at least 20 years. [¶] (B) The applicability of an urban water shortage contingency analysis prepared pursuant to Section 10632 of the Water Code that includes actions to be undertaken by the public water system in response to water supply shortages. [¶] (C) The reduction in water supply allocated to a specific water use sector pursuant to a resolution or ordinance adopted, or a contract entered into, by the public water system, as long as that resolution, ordinance, or contract does not conflict with Section 354 of the Water Code. [¶] (D) The amount of water that the water supplier can reasonably rely on receiving from other water supply projects, such as conjunctive use, reclaimed water, water conservation, and water transfer, including programs identified under federal, state, and local water initiatives such as CALFED and Colorado River tentative agreements, to the extent that these water supplies meet the criteria of subdivision (d).”

*Rancho Cordova* (2007) 40 Cal.4th 412, 433; *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 283.) The Landmark Village project is located in the Valencia Water Company service area. The county had requested preparation of the revised water supply assessment. The updated assessment's purpose is as follows: "The purpose of this updated [water supply assessment] is to provide the [c]ounty with an analysis of whether Valencia's water system has sufficient projected water supplies to meet the demands of the project, in addition to existing and planned future uses in the Santa Clarita Valley. Specifically, this [water supply assessment] evaluates whether the total projected water supply determined to be available during normal, single dry, and multiple dry water years over the next 25 years, will meet the projected water demand associated with the project, in addition to existing and planned future water uses, including agriculture and manufacturing uses. If the water supply is anticipated to be insufficient, the [water supply assessment] must describe measures being taken to obtain an adequate supply. The [water supply assessment] is required to be included in the [e]nvironmental [i]mpact [r]eport . . . prepared by the [c]ounty for the project pursuant to [the California Environmental Quality Act]." (Fns. omitted.) The 2010 water supply assessment identifies with specificity sources for both potable and non-potable water. The 2010 water supply assessment charts in detail: current and planned supplies and banking programs; projected average or normal year supplies and demands; and anticipated supplies and demands for single and multiple dry years. The 2010 water supply assessment concludes, "Valencia Water Company's total projected water supplies will meet the projected water demands associated with the Landmark Village project in combination with existing and other planned uses within the Valencia[] service area." The environmental impact report relies on both the 2005 and 2011 urban water management plans and the 2010 water supply assessment.

The environmental impact report utilizes the Development Monitoring System Build-Out Scenario in evaluating water demand and supply. The environmental impact report assesses the Landmark Village project's consistency with the general plan Development Monitoring System's requirements. The environmental impact report

explains the Development Monitoring System's goals and why they were satisfied by the water analysis. The environmental impact report concludes, "Based on the information provided in this analysis, the Landmark Village project is consistent with the [g]eneral [p]lan [Development Monitoring System] policies as they relate to water supplies."

We now apply the aforementioned deferential standard of review to the issue preserved for appellate review—whether the water capacity analysis complies with the Development Monitoring System. The environmental impact report relies on past and current analysis concerning water supplies. The 2005 and 2011 urban water management plans and January 2010 Valencia Water Company revised water supply assessment constitute substantial evidence sufficient water supplies exist for the Landmark Village project. Further, the use of the Development Monitoring System Build-Out Scenario provided the supervisors board with sufficient data to: assess the availability and development costs of water services and facilities; ensure the developer pays the expansion costs; assure that water supplies will meet future growth; and ensure that development occurs near existing water supplies. These are matters identified in the supervisors board April 21, 1987 resolution adopting the Development Monitoring System. The environmental impact report reflects that Development Monitoring System Build-Out Scenario permitted the supervisors board to make an intelligent land use decision concerning potable and non-potable water supplies. Under the deferential standard of review we must apply, we conclude the approval of the tract map was conducted in compliance with the county's general plan. (See part II (D), *ante*, at pp. 10-12.)

One final word is an order concerning plaintiffs' contention that the Valencia Water Company may not be entitled to use water to serve the Landmark Village project. At the outset, we agree with defendants and the developer that plaintiffs' argument is speculative. In any event, the environmental impact report explains: there is no dispute between the developer and Valencia Water Company as to the right to use ground water; the Valencia Water Company has appropriative water rights; and there is sufficient evidence the Landmark Village project's probable water demands will be satisfied by

ground water pumped from the Alluvial aquifer. Plaintiffs' speculative assertions regarding uncertainty as to the right to use water have no merit.

## G. Sewage and Wastewater Issues

### 1. Initial study

Plaintiffs argue, as they did in connection with water supply issues, that defendants failed to properly analyze sewer service availability under the Development Monitoring System. Plaintiffs argue the initial study fails to adequately analyze sewer services availability in compliance with the Development Monitoring System. However, the first amended complaint contains no allegations concerning sewer supply deficiencies *in the initial study*. Plaintiffs' statement of issues identifies defects in the Development Monitoring System analysis in the environmental impact report. Further, plaintiffs' opening brief filed in the trial court makes no mention of any deficiencies in the analysis concerning sewer services in the initial study. As in connection with the water issues, plaintiffs have forfeited any contention concerning the initial study's compliance with the Development Monitoring System. (*Citizens Opposing a Dangerous Environment v. County of Kern, supra*, 228 Cal.App.4th at p. 380, fn. 16; *A Local & Regional Monitor v. City of Los Angeles, supra*, 12 Cal.App.4th at p. 1804.)

### 2. environmental impact report

As noted, plaintiffs are not contending the environmental impact report fails to adequately discuss sewer related issues as required by the California Environmental Quality Act. Rather, plaintiffs argue that the environmental impact report demonstrates defendants did not comply with the Development Monitoring System. In plaintiffs' view, the failure to properly comply with the Development Monitoring Systems' requirements, which are part of the general plan, prohibited approval of the tract map application.

There is substantial evidence defendants complied with the Development Monitoring System's requirements for analysis in an environmental document. The Development Monitoring System imposes the following requirements below the heading "Sanitation Districts": "The planning agency shall determine if a project will be provided with an acceptable level of sewage disposal and shall base its determination upon the following Summary Reference Manual data: [¶] a. The current sewage discharge (in gallons per day) within the district's boundaries; [¶] b. The current treatment capacity of the sanitation district (in gallons per day); [¶] c. The deficit or surplus associated with the sanitation district, calculated by determining the difference between capacity and usage; [¶] d. The average discharge of sewage on a per unit basis, applicable to new development; [¶] e. The programmed schedule of the sanitation district to expand its capacity in the future; [¶] f. The estimated expansion costs of future construction; and [¶] g. The ultimate site capacity."

There is substantial evidence identified in environmental impact report to meet the Development Monitoring System requirement that the project will provide an "acceptable level" of sewage disposal. Based upon projections by the Santa Clarita Valley Sanitation District, with the planned construction of the Newhall Ranch Water Reclamation Plant, wastewater disposal impacts would be less than significant. We turn now to the data requirements imposed by the Development Monitoring System in the wastewater context identified in the immediately preceding paragraph.

First, because the Landmark Village site is undeveloped, there is no wastewater discharge, collection and conveyance at present. Second, as required by the specific plan, a new sanitation district treatment was formed. The new district, the Newhall Ranch County Sanitation District, will provide wastewater services for the specific plan area including the Landmark Village project. Third, the capacity of the Newhall Ranch Water Reclamation Plant, when completed, will be 6.8 million gallons per day. The maximum flow for the Newhall Ranch Water Reclamation Plant will be 13.8 million gallons per day of wastewater. The Landmark Village project is expected to "generate a worst-case average total" of 0.41 million gallons per day of wastewater. That wastewater would be

treated at the Newhall Ranch Water Reclamation Plant. When completed, the Newhall Ranch Water Reclamation Plant will serve the specific plan area. In the near term, during the Newhall Ranch Water Reclamation Plant's construction, it will be necessary to use a water reclamation plant operated by the Santa Clarita Valley Sanitation District. Wastewater will be pumped to the Valencia Water Reclamation Plant and treated there at the developer's sole expense. The environmental impact report explains that the Santa Clarita Valley Sanitation District reclamation plant has sufficient capacity to handle the short-term discharge of water from the Landmark Village project. It is anticipated that the construction of the Newhall Ranch Water Reclamation Plant will take approximately six to eight months while the Valencia Water Reclamation Plant is temporarily used. Fourth, the environmental impact report describes the projected wastewater generation for the Landmark Village project on a gallons per day calculation for: single-family dwelling units; multi-family dwelling units; commercial retail uses; and the elementary school.

Fifth, the environmental impact report describes the scheduled staged expansion of water treatment facilities including the Newhall Ranch Water Reclamation Plant. Sixth, there will be no public costs incurred in the construction of the Newhall Ranch Water Reclamation Plant. Those costs will be incurred by the developer. In addition, the costs of sending to and treating wastewater at the Valencia Water Reclamation Plant will be borne by the developer. Seventh, the ultimate site capacity is set forth in the environmental impact report. As noted, the Newhall Ranch Water Reclamation Plant has a capacity of 6.8 million gallons per day. The maximum flow is 13.8 million gallons per day. When we apply the deferential standard of review for evaluating consistency with the general plan, we conclude the wastewater analysis comports with the Development Monitoring System requirements. (See part II (D), *ante*, at pp. 10-12.)

#### IV. GREENHOUSE GAS EMISSIONS

Plaintiffs contend that defendant utilized a legally impermissible baseline to evaluate the project's greenhouse gas emissions. According to plaintiffs, defendant has relied upon a comparison between the project and a purely fictitious "business-as-usual" scenario. This baseline issue is currently under consideration by our Supreme Court. (*Center for Biological Diversity v. Department of Fish and Wildlife* (2014) 224 Cal.App.4th 1105, review granted July 9, 2014, S217763.)

Health and Safety Code section 38550<sup>7</sup> requires the California Air Resources Board (air resources board) to develop a plan to limit statewide greenhouse gas emissions to 1990 levels by 2020. (See *Association of Irrigated Residents v. State Air Resources Bd.* (2012) 206 Cal.App.4th 1487, 1490; *Utility Consumers' Action Network v. Public Utilities Com.* (2010) 187 Cal.App.4th 688, 694.) The air resources board has determined, by law, greenhouse gas emissions must be reduced to 1990 levels by the year 2020. This is to be accomplished by developing actions to reduce greenhouse gas emissions. The lead agency for accomplishing this reduction in greenhouse gas emissions is the air resources board. (Health & Saf. Code, § 38510.) On December 11, 2008, the air resources board issued its 121-page "Climate Change Scoping Plan" which proposed a comprehensive set of actions designed to reduce overall greenhouse gas emissions. (See *Association of Irrigated Residents v. State Air Resources Bd.*, *supra*, 206 Cal.App.4th at p. 1492.)

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<sup>7</sup> Health and Safety Code section 38850 states: "By January 1, 2008, the state board shall, after one or more public workshops, with public notice, and an opportunity for all interested parties to comment, determine what the statewide greenhouse gas emissions level was in 1990, and approve in a public hearing, a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2020. In order to ensure the most accurate determination feasible, the state board shall evaluate the best available scientific, technological, and economic information on greenhouse gas emissions to determine the 1990 level of greenhouse gas emissions."

The air resources board's scoping plan's executive summary states, "This plan calls for an ambitious but achievable reduction in California's carbon footprint. Reducing greenhouse gas emissions to 1990 levels means cutting approximately 30 percent from business-as-usual emissions levels projected for 2020, or about 15 percent from today's levels." The term "business-as-usual emissions levels" refers to what will occur if there is no transition to renewable energy technologies and increased energy efficiency programs. The scoping plan defines the business as usual methodology as a means of identifying the quantity of emissions if no greenhouse gas reduction measures are undertaken. The scoping plan also utilizes the term "no action taken" scenario to describe the level of greenhouse gas emissions if no environmentally appropriate corrective action is taken. The planned deviation from the business as usual or no action taken scenario is described in the air resources board's scoping plan: "Significant progress can be made toward the 2020 goal relying on existing technologies and improving the efficiency of energy use. A number of solutions are 'off the shelf,' and many - especially investments in energy conservation and efficiency - have proven economic benefits. Other solutions involve improving our state's infrastructure, transitioning to cleaner and more secure sources of energy, and adopting 21<sup>st</sup> Century land use planning and development practices."

Defendants selected as the significance criterion the reduction specified in Health and Safety Code section 38550. The environmental impact report states: "[T]he following significance criterion is used to assess impacts: [¶] Will the project's [greenhouse gas] emissions impede compliance with the [greenhouse gas] emissions reductions mandated in [Assem. Bill No.] 32?" (Italics deleted.) Defendants had discretion to select the significance criterion for greenhouse gas emissions. (Guidelines, § 15064.4, subd. (a); *Citizens for Responsible Equitable Environmental Dev. v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 336.) The Court of Appeal for the First Appellate District, Division Four explained a lead agency's responsibilities in assessing the significance of greenhouse gas emissions: "In assessing the significance of these emissions, the lead agency should consider the extent to which the project may affect

emissions levels; whether emissions exceed an applicable threshold of significance; and whether the project complies with regulations or requirements adopted to implement statewide, regional, or local plans to reduce [greenhouse gas emissions].” (*North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors* (2013) 216 Cal.App.4th 614, 650; see *Citizens for Responsible Equitable Environmental Dev. v. City of Chula Vista*, *supra*, 197 Cal.App.4th at p. 335.) Utilization of the Health and Safety Code section 38550 significance criterion has been approved in three different cases. (*Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 841 [“The City properly adopted Assembly Bill 32’s reduction targets for [greenhouse gas] emissions as the threshold-of-significance standard in determining whether the [project’s] [greenhouse gas] emissions constituted a significant environmental impact.”]; *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 651 [adopting an ultimate goal of 15 per cent reductions from the 1990 level of greenhouse gas emissions]; *Citizens for Responsible Equitable Environmental Dev. v. City of Chula Vista*, *supra*, 197 Cal.App.4th at p. 336 [“Here, the City properly exercised its discretion to utilize compliance with Assembly Bill No. 32 (2005-2006 Reg. Sess.) as the threshold.”].) The Sacramento and San Joaquin Valley air quality districts have endorsed the use of the Health and Safety Code section 38550 significance criterion by lead agencies in preparing environmental planning documents.

Further, there is no merit to the argument that the Health and Safety Code section 38550 criterion is an illusory criterion in this context. The environmental impact report examines the existing emissions resulting from farmland/agricultural operation uses and concludes it produced 553 tons of greenhouse gas emissions annually. No doubt, there will be a significant increase above existing emissions levels. The environmental impact report assesses an inventory of eight categories of greenhouse gas emissions: vegetation; construction; residential; non-residential; mobile; municipal; recreational (pools); and area pollution which includes hearth (e.g. fireplaces) and landscape (e.g. lawn mowing) environmental discharges. The project would result in an annualized total of 30,439 tons of greenhouse gas emissions if improved environmental efficiencies are not utilized.

The environmental impact report relies upon air resources board analysis concerning greater environmental efficiencies. Utilizing those efficiencies, the project will instead result in 21,291 tons of greenhouse gas emissions. And, the environmental impact report notes that the project's proposed annualized emissions are 31.2 percent below the so-called business as usual or no action taken projections. The greenhouse gas emissions reductions are greater than the percentage figure adopted for necessary reductions by the air resources board.

Thus, there is no basis under any standard of judicial review of administrative action for rejecting the environmental impact report's discussion concerning greenhouse gas emissions. The criterion significance has been approved in other cases. Further, the environmental impact report assesses what will happen with the development if no action is taken as distinguished from what will occur with improved environmental efficiencies. There is nothing illusory about the environmental impact report greenhouse gas emissions discussion.

## V. CULTURAL RESOURCES

Plaintiffs argue that defendant has failed to proceed in the manner required by law because the environmental impact report fails to: disclose and analyze two "new" Native American resources; investigate "the presence of early Millingstone era remains" beneath a site labeled CA-LAN-2333 (site 2333); identify the likely presence of Native American burial grounds adjacent to State Route 126; and disclose the discovery of a Native American cemetery near a project excavation for widening the highway.

First, plaintiffs have forfeited this contention by failing to objectively discuss the facts. They have not discussed: the specific plan environmental impact report's analysis of the extensive investigation of Native American resources in the specific plan and Landmark Village areas; no excavation is to occur in the Landmark Village site; the grading plan and its effect on site 2333 and the evidence the Millingstone remains have already been recovered; and the remains adjoining State Route 126 are not on the project

site. We agree with defendants and the developer that the entire Native American issue is forfeited. (Cal. Rules of Court, rule 8.204(a)(2)(C); *Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 881; *Myers v. Trendwest Resorts, Inc.* (2009) 178 Cal.App.4th 735, 739; *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1265-1266.)

Second, none of the asserted environmental impact report deficiencies warrants reversal. We conduct substantial evidence review of plaintiffs' arguments that additional environmental review is necessitated. (*Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal.App.4th 689, 702; *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1073-1075.) The specific plan environmental impact report, which has been certified, extensively discusses Native American issues. The Legislature has expressed a preference for use of a program environmental impact report to streamline analysis in subsequently conducted project-level ecological review. (§ 21093, subd. (a); *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1171-1172.) When a subsequent project environmental impact report is prepared, it should not discuss matters which were examined in the program environmental impact report. (Guidelines, § 15152, subd. (d)(1) [a subsequent environmental impact report should only discuss matters which were "not examined as significant effects on the environment in the prior" environmental impact report]; see Practice Under the Cal. Environmental Quality Act, *op. cit.*, § 19.17, p. 19-19.) The W&S Consulting assessment and the subsequent discovery of remains during the State Highway 126 widening were discussed in extensive detail in the specific plan environmental impact report. The specific plan environmental impact report acknowledges that *grading* could result in a significant adverse effect on archaeological resources.

Because grading could result in a significant adverse effect on Native American resources, the specific plan environmental impact report adopted the following mitigation measure: "SP 4.3-1 Any adverse impacts to . . . LAN-2133, . . . and the northern portion of -2233 are to be mitigated by avoidance and preservation. Should preservation of the sites be infeasible, a Phase III data recovery (salvage excavation) operation is to be completed on the sites so affected, with archaeological monitoring of grading to occur

during subsequent soils removals on the site. This will serve to collect and preserve the scientific information contained therein, thereby mitigating all significant impacts to the affected cultural resource.” This mitigation measure was adopted as part of the specific plan environmental impact report. And mitigation measure SP 4.3-1 specifically applies to the Landmark Village project. The Landmark Village environmental impact report expressly states that it is subject to mitigation measure SP 4.3-1 in the specific plan environmental impact report. Thus, defendants could properly rely upon the discussion in the specific plan program environmental impact report in certifying the Landmark Village project environmental impact report. (§§ 21093-21094; Guidelines, §§ 15006, subds. (f), (m), 15063, subd. (c)(3)(D).) Under these circumstances, there was no need for additional environmental review. (Guidelines, § 15168, subd. (c)(2); *Citizens for Responsible Equitable Environmental Dev. v. City of Chula Vista*, *supra*, 197 Cal.App.4th at p. 336.) Further, the specific plan program environmental impact report is now final and is deemed conclusively adequate under sections 21667, subdivision (c) and 21167.2. And of special consequence is the specific plan environmental impact report identifies mitigation measure SP 4.3-1 as applicable to Landmark Village project.

Plaintiffs’ only contentions of consequence relates to proposed grading at Chiquito Canyon. The specific plan environmental impact report did not contemplate the use of Chiquito Canyon as an excavation site. Plaintiffs argue this creates a new and substantially more severe impact. As noted, site LAN-2233 is not located within the Landmark Village project area. Rather, it is located in the Homestead Village area in the northern part of the specific plan area.

The Landmark Village environmental impact describes the relevant Native American archaeological setting: “No portion of the Landmark Village tract map site would directly or indirectly impact either of the two known archeological sites in the area. However, the Chiquito Canyon grading site and the utility corridor on the South side of [State Route]-126 passed near [ ]LAN-2233. . . . [ ]LAN-2233 was found to contain two components: a northern component containing a subsurface archaeological deposit and intact artifacts; and a southern component consisting solely of a surface

scatter of stone artifacts. The northern component contains scientific information that may contribute to the reconstruction of local prehistory. Activity associated with grading in the Chiquito Canyon grading site may have a potentially significant indirect impact on the northern site due to its close proximity to this resource. [¶] Phase II fieldwork in the southern portion of [ ]LAN-2233 resulted in the recovery of all extant artifacts from this area of the site. This recovery fully mitigates the potentially significant impact that might occur as result of any land disturbance required for the utility corridor.” The environmental impact report then proceeds to restate the project mitigation measures imposed by the specific plan environmental impact report. Hence, the discovery of any Native American remains or artifacts is subject to the specific plan mitigation avoidance and preservation requirements imposed by the specific plan environmental impact report.

Further, the Landmark Village environmental impact report has imposed additional mitigation measures beyond those adopted in the certified specific plan environmental impact report. Identified as mitigation measures LV 4.22-1 and 4.22-2, they provide additional protections in the event of the discovery of Native American resources during grading operations.<sup>8</sup> In a similar vein, during any widening of State

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<sup>8</sup> Mitigation measure LV 4.22-1 states: “Although no other significant cultural resources were observed or recorded, all grading activities and surface modifications must be confined to only those areas of absolute necessity to reduce any form of impact on unrecorded (buried) cultural resources that may exist within the confines of the project area. In the event that resources are found during construction, activity shall stop and a qualified archaeologist shall be contacted to evaluate the resources. If the find is determined to be a historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Construction work may continue on other parts of the construction site while historical/archaeological mitigation takes place, pursuant to Public Utilities Code Section 21083.2(i).” Mitigation measure LV 4.22-2 states: “For archeological sites actually discovered during construction, there shall be an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be a historical or unique archeological resource, as defined under [the California Environmental Quality Act], contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation shall be provided. Construction work may continue on other parts of the construction site while

Route 126, the specific plan avoidance and preservation requirements apply to any discoveries of Native American remains or artifacts. Also, issues concerning the Millingstone remains and Native American burials at site 2233 are subject to the specific plan avoidance and preservation requirements. In any event, all of the Landmark Village grading, even that outside the development area, would be consistent with the specific plan's conceptual grading plan. Substantial evidence supports the trial court's determination not to order the preparation of what amounts to a third environmental impact report to evaluate Native American resources. We need not address the parties' other contentions including the developer's and defendants' arguments concerning exhaustion of administrative remedies.

## VI. SEDIMENT ANALYSIS

### A. Plaintiffs' Contentions

Plaintiffs contend that the environmental impact report relies on a grossly inaccurate total annual sediment yield figure. In addition, plaintiffs contend the environmental impact report relies on an erroneous sediment-yield-rate figure for the project area. Plaintiffs' reply brief explains their concerns as to sediment yield figure-related issues: "[T]he [p]roject will not only capture and remove the sediment that would otherwise flow into the [Santa Clara] River from tributary drainages through the construction of three tributary debris basins and numerous sediment traps, but it will also halt sediment input from highly erosive tributary landscapes. Slope-stability features and flattening of natural slopes to prevent erosion and landslides in Adobe and Chiquito Canyons will halt sediment production from the steep sloping erosive landscapes. Sediment delivery, and burned and bulk debris flow rates will also be reduced drastically from the stabilization of erodible soils within the actual Landmark Village site, which

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historical/archeological mitigation takes place, pursuant to Public Utilities Code Section 21083.2(i)."

will be covered over with impervious surfaces such as roofs, pavement, and non-erodible vegetation. And the [p]roject's cementing of the Santa Clara River bed and banks will stop the contribution of sediment from the [Santa Clara] River itself." (Fns. omitted.)

Based upon these impacts, the opening brief argues: "The [environmental impact report's] analysis of the [p]roject's cumulative sediment yield sediment impacts is based on two significant errors: it uses an incorrect baseline figure for [p]roject site suspended sediment yield and an incorrect Santa Clara River total annual sediment discharge figure to analyze the [p]roject's cumulative sediment-based riparian hydromodification impacts. These flaws result in the [environmental impact report] grossly underestimating the [p]roject's reduction of sediment yield, and thus conceal potentially irreversible and catastrophic downstream cumulative ecological and beach replenishment impacts. In addition, in the process of adopting this flawed analysis, the [c]ounty failed to provide a good faith effort at full disclosure and reasoned analysis of public and expert comments as required by [the California Environmental Quality Act]." (Fn. omitted.) These contentions do not warrant reversal.

Before proceeding to an analysis of plaintiffs' contentions, it bears emphasis that their briefing omits most facts pertinent to sediment issues. Further, plaintiffs' briefs do not even identify with appropriate precision defendants' sediment findings as reflected in the environmental impact report and supporting documents. Had defendants and the developer argued that the one-sided presentation of facts in the briefing forfeited the sediment analysis issue, we would have agreed. We fully understand plaintiffs' difficulty in briefing complex issues within restrictions imposed by the California Rules of Court. But this case involves the failure to even give passing reference to defendants' determinations and the extensive supporting scientific data. (*Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1028; *Defend the Bay v. City of Irvine, supra*, 119 Cal.App.4th at p. 1266.)

## B. Standard of Review

The gravamen of plaintiffs' contentions is the environmental impact report's sediment impacts discussion is flawed and fails to meet statutorily required requirements for good-faith investigation and disclosure. An environmental impact report's fundamental purpose is to inform public officials and the people they serve of any significant adverse effects a project is likely to have on the environment. (§ 21061; *Neighbors for Smart Rail v. Exposition Metro Line Const. Authority*, *supra*, 57 Cal.4th at p. 447; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, *supra*, 40 Cal.4th at p. 428.) We presume the correctness of defendant's decisions in the environmental impact report context. (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 11; *State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 674, 723.) Our Supreme Court has described the limited nature of our review: "In reviewing agency actions under [the California Environmental Quality Act], . . . section 21168.5 provides that a court's inquiry 'shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; see *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 195.)

Thus, our standard of review depends upon the nature of the challenge to an environmental impact report: "In evaluating an [environmental impact report] for [California Environmental Quality Act] compliance, then, a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts. For example, where an agency failed to require an applicant to provide certain information mandated by [the California Environmental Quality Act] and to include that information in its environmental analysis, we held the agency 'failed to proceed in the manner prescribed by [the California Environmental Quality Act].'" (*Sierra Club v. State Bd. of Forestry*

(1994) 7 Cal.4th 1215, 1236; see also *Santiago County Water Dist. v. County of Orange* [(1981)] 118 Cal.App.3d [818], 829 [[environmental impact report] legally inadequate because of lack of water supply and facilities analysis].) In contrast, in a factual dispute over ‘whether adverse effects have been mitigated or could be better mitigated’ (*Laurel Heights [Improvement Assn. v. Regents of University of California]* (1988) ] 47 Cal.3d [376,] 393), the agency’s conclusion would be reviewed only for substantial evidence.” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, supra*, 40 Cal.4th at p. 435.)

In terms of the correctness of defendants’ environmental conclusions, our Supreme Court has explained: “Thus, the reviewing court ““does not pass upon the correctness of the [environmental impact report’s] environmental conclusions, but only upon its sufficiency as an informative document.”” [Citations.] We may not set aside an agency’s approval of an [environmental impact report] on the ground that an opposite conclusion would have been equally or more reasonable.” (*Citizens of Goleta Valley v. Board of Supervisors, supra*, 52 Cal.3d at p. 564, quoting *Laurel Heights Improvement Assn. v. Regents of University of California, supra*, 47 Cal.3d at p. 392 and *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 189.) Thus, we defer to defendants’ resolution of conflicting opinions and evidence. (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 572; accord *Environmental Council of Sacramento v. City of Sacramento, supra*, 142 Cal.App.4th at p. 1042.)

### C. The Environmental Impact Report Analysis

The issue raised by plaintiff relates to hydromodification which is described in the environmental impact report thusly: “Urbanization modifies natural watershed and stream hydrologic and geomorphic processes by introducing increased volumes and duration of flow *via* increased runoff from impervious services and drainage infrastructure. . . . Potential changes to the hydrologic regime may include increases in runoff volumes, frequency of runoff events, long-term cumulative duration, as well as

increased peak flows. Urbanization also may introduce dry weather flows where only wet weather flows existed prior to development. These changes are referred to as ‘hydromodification.’ [¶] Hydromodification intensifies sediment transport and often leads to stream channel enlargement and loss of habitat and associated riparian species. . . . A change to the project site’s hydrologic regime would be considered a condition of concern if the change could have a significant impact on downstream natural channels and habitat integrity, alone or in conjunction with impacts of other projects.” (Fns. omitted.) Hydromodification can also refer to physical alterations to drainage beds and banks.

The environmental impact report recognizes hydromodification can present serious environmental problems: “Hydromodification intensifies sediment transport and often leads to stream channel enlargement and loss of habitat and associated riparian species. . . . Under certain circumstances, development can also cause a reduction in the amount of sediment supplied to the stream system, which can lead to stream channel incision and widening. These changes also have the potential to impact downstream channels and habitat integrity. A project that increases runoff due to impervious surfaces and traps sediment from upland watershed sources creates potential compounding effects. [¶] A change to the project site’s hydrologic regime would be considered a condition of concern if the change could have a significant impact on downstream natural channels and habitat integrity, alone or in conjunction with the impacts of other projects.”

Faced with this problem, the environmental impact report engages in extensive analysis of planning, development and mitigation measures envisioned for the Landmark Village project. After review of scientific data and anticipated building practices which we shall summarize later, the environmental impact report concludes: “Based upon the above discussion, concluding that the project includes hydromodification controls as [project design features], that future development projects within the watershed would control flow in compliance with the regional program, and that large-scale changes naturally occur in the Santa Clara River in response to major episodic events, the project’s contribution to cumulative hydromodification impacts to the Santa Clara River

would be less than significant and consistent with the requirements of the [Municipal Separate Storm Sewer System] Permit.” In terms of cumulative impacts, the environmental impact report concludes, “Because cumulative development will be subject to the same or similar required mitigation measures as the proposed project, no additional cumulative mitigation measures are proposed or required.”

We now review the administrative record for substantial evidence to support these conclusions. To begin with, the Landmark Village site represents only 0.102 percent of the Santa Clara River watershed. Even after build-out of the Landmark Village site, one-third of the area site would remain vegetated. Once completed, non-vegetated land would comprise only 0.5 percent of the total impervious area in the watershed after ultimate build-out is accomplished. And, as explained by the environmental impact report, the Landmark Village project is subject to the specific plan. The specific plan adopted mitigation monitoring measures specific to the Landmark Village project site.

Further, the Landmark Village will utilize low impact development best management practices which seek to mimic predevelopment hydrologic conditions. The environmental impact report also refers to these design features and best management practices as progressive hydromodification control measures. The environmental impact report explains, “The primary goals of design and [low impact development best management practices] are to maintain a landscape functionally equivalent to pre-development hydrologic conditions. . . .” Such best management practices, according to the environmental impact report, include: minimizing impervious areas by preserving open spaces; using permeable paving areas; reducing land coverage by building narrower and higher footprints and the like; dispersal of impervious areas; utilization of the Environmental Protection Agency Green Streets Manual; minimizing directly connected impervious areas; conserving natural areas; selecting appropriate building materials; and protecting slopes and channels. Using the low impact development best management practices, the project is designed to reduce the effective impervious area, which alters hydrologic conditions, to five percent of the total project area. Overall, 64 percent of the tract map area will have impervious surfaces while 36 percent will be impervious.

Putting aside the building and road design features, 24 percent of the 292.6 acre Landmark Village development will remain as trails, parks, vegetated slopes and open space and subject to water quality treatment best management practices. Of course, off-site borrow sites, such as Chiquito Canyon, will not have any impervious services which can affect runoff.

Also, we agree with defendants and the developer that the environmental impact report engaged in a thorough analysis of potential significant sediment impacts. The environmental impact report specifically examines: the relationship between urbanization and hydromodification; the effects of hydromodification on downstream ecological conditions; the effects of the project and parcel design features we have discussed which reduce the adverse influence of runoff from impervious surfaces in both dry and wet weather scenarios; and cumulative hydromodification effects. The environmental impact report assesses the absence of a significant environmental impact in part based on Santa Clara River studies by Balance Hydrologics, Inc. and Pacific Advanced Civil Engineering, Inc. The 39-page Balance Hydrologics, Inc. report consists of a historical and scientific analysis of the Santa Clara River. The 387-page Pacific Advanced Civil Engineering, Inc. report includes statistical and analytical appendices and analyzes: the project site; the hydrology and fluvial mechanics of the Santa Clara River; historic flood data; and the effect of specific project aspects on erosion and other ecological factors.

The environmental impact report discusses and accepts the October 2005 Balance Hydrologics, Inc. analysis. According to the Balance Hydrologics, Inc. report, upriver development will have no significant hydromodification effects. The report bases this conclusion on: historic aerial photographs which show upriver changes, including dam construction, have not affected its geomorphic expression; large events such as stormwater peaks, which are called re-set events, because they change the river's geomorphic expression, are the dominant force in defining channel characteristics; the re-set events are so dramatic that they buffer changes that may occur during short-term sediment transport; and the increase from four to nine percent in the urban area would not

have a significant geomorphic impact on the Santa Clara River mainstream. In addition, the environmental impact report synthesizes and accepts the Fluvial Study in the Pacific Advanced Civil Engineering, Inc. report. That report, after evaluating runoff from the Landmark Village and mandated development requirements, concludes there will be no significant downriver impacts. The Pacific Advanced Civil Engineering, Inc. report concludes that “large events” have a greater erosive effect than will the Landmark Village project. This conclusion is consistent with the Balance Hydrologics, Inc. analysis that the Santa Clara River’s morphology is historically unaffected by upriver development but by natural re-set events. The foregoing constitutes substantial evidence which supports defendants’ no significant impact finding.

D. The Stillwater Sciences Report Authored by Glen Leverich and the Responsive  
Analysis of Others

Plaintiffs rely on an eight-page August 16, 2011 technical report prepared by Mr. Leverich, a Berkley, California Senior Geomorphologist/Geologist with Stillwater Sciences. The technical report was prepared as a comment for the final environmental impact statement/environmental impact report for another project. The project at issue was the Newhall Ranch Resource Management and Development Plan. Mr. Leverich concluded that the sediment analysis in a draft of the Newhall Ranch Resource Management and Development Plan was inaccurate. Plaintiffs extrapolate from Mr. Leverich’s analysis and challenge the conclusions in the Landmark Village environmental impact report.

Mr. Leverich’s analysis does not permit reversal. To begin with, the final environmental impact statement/environmental impact report for the Newhall Ranch Resource Management and Development Plan was ultimately certified. In the process leading up to its certification, Dr. Aaron Allen of the United States Army Corps of Engineers responded to Mr. Leverich’s technical report. Dr. Allen’s response is contained in a memorandum to file. Dr. Allen has extensive experience in evaluating

fluvial processes in arid and semi-arid areas and the Santa Clara River. That memorandum is part of the administrative record of the Landmark Village certification process. Dr. Allen explains that Mr. Leverich had not reviewed: pertinent responses to comments in the Newhall Ranch Resource Management and Development Plan certification process; technical appendices to the final environmental impact statement/environmental impact report prepared for the Newhall Ranch Resource Management and Development Plan certification process; and the Balance Hydrologics, Inc. report. Further, Dr. Allen explains that Mr. Leverich was commenting on a project different from the one under consideration by the engineer corps. And, Dr. Allen notes that Mr. Leverich misunderstood the bank design for large portions of the Santa Clara River in the specific plan area.

In addition, the administrative record before defendants includes a 28-page response to Mr. Leverich's technical memorandum by a 5-person staff of Pacific Advanced Civil Engineering, Inc. The August 29, 2011 Pacific Advanced Civil Engineering, Inc. analysis responds to Mr. Leverich's eight-page August 16, 2011 technical report. Pacific Advanced Civil Engineering, Inc. team members have extensive experience in connection with issues relating to the Newhall Ranch area and the Santa Clara River. The response explains that Mr. Leverich "appear[ed]" to be unaware of seven separate documents promulgated in the Newhall Ranch Resource Management and Development Plan certification process. These seven documents were prepared by the engineer corps and a consultant, Geosyntec Consultants. Additionally, the Pacific Advanced Civil Engineering, Inc. memorandum explains, "[Mr. Leverich] acknowledged that [he] did not review any of the technical appendices or modeling that formed the basis for the information provided in the Draft and Final [environmental impact statement/environmental impact report]."

Further, there is evidence Mr. Leverich's study was much less detailed than that conducted by the Pacific Advanced Civil Engineering, Inc. staff. The Pacific Advanced Civil Engineering, Inc. staff studied sediment transport/fluvial evaluation criteria for 20 sub-reaches of the Santa Clara River. Mr. Leverich studied only three. The Pacific

Advanced Civil Engineering, Inc. staff applies sediment transport/fluvial evaluation criteria in 250 engineer corps Hydrologic Engineering Center River Analysis System model cross-sections. Mr. Leverich conducted less than 20, according to the Pacific Advanced Civil Engineering, Inc. staff. According to the Pacific Advanced Civil Engineering, Inc. staff, Mr. Leverich could not possibly evaluate any “deficiencies or discrepancies” in the Newhall Ranch Resource Management and Development Plan environmental documents. This is because Mr. Leverich had not read the technical analysis for the Newhall Ranch Resource Management and Development Plan environmental documents.

Also, the Pacific Advanced Civil Engineering, Inc. staff identifies Landmark Village project-related changes in discharges at the Los Angeles and Ventura County lines. The Pacific Advanced Civil Engineering, Inc. staff conclusions is premised upon the following, “The assessment of the [Santa Clara] River hydrology for the proposed [Landmark Village] [p]roject and alternatives was based on the 1994 joint Los Angeles County/Ventura County Hydrology Report, which has been accepted and adopted by both jurisdictions.” The August 29, 2011 analysis concludes there will be no net change in the Santa Clara River discharge at the Los Angeles and Ventura County lines. The Pacific Advanced Civil Engineering, Inc. analysis extends over 2, 5, 10, 20, 50 and 100-year time frames.

In addition, the Pacific Advanced Civil Engineering, Inc. staff responds to Mr. Leverich’s assertion that the sediment delivery analysis contained errors and was often misleading. The following is the Pacific Advanced Civil Engineering, Inc. staff analysis concerning Mr. Leverich’s accusation: “[Pacific Advanced Civil Engineering, Inc. staff] conducted a detailed and independent river and tributary analyses. . . . [¶] The majority of the analysis and reports have been reviewed and approved by [the Los Angeles County Department of Public Works] (including detailed review by Dr. Iraj Nasserri and Dr. Ben Willardson). The [Los Angeles County Department of Public Works] also retained outside experts to review specific elements of the analysis including Dr. Ron Copeland at Mobile Boundary Hydraulics for review of the [engineer corps Hydrologic Engineering

Center]-6 sediment transport analysis. In addition, to the in-house staff of experts . . . [the Pacific Advanced Civil Engineering, Inc.] has consulted with industry experts including Dr. Howard Chang at [the University of California, San Diego].” The Pacific Advanced Civil Engineering, Inc. staff then explains the extensive use of third party scientists and engineers to review sediment delivery issues. The report notes that Drs. Andrew Collison and Jeffrey Haltiner have independently validated the October 2008 Pacific Advanced Civil Engineering, Inc. Phase 2 Fluvial Study. This was the study which approved by the Los Angeles County Department of Public Works on November 25, 2008.

Further, the Landmark Village administrative record includes a 19-page analysis provided to the supervisors board concerning Mr. Leverich’s memorandum. The written discussion provided to the supervisors board reiterates defendants’ prior responses to issues raised during the comment period. Those comments indicate that the Landmark Village project will not cause significant hydrological impacts downriver from the construction area. And, the analysis provided to the supervisors board explains why the previously certified specific plan environmental impact report concluded, “Therefore, the overall mosaic of habitats in the river would be maintained because the key hydraulic characteristics would not be significantly different under the [s]pecific [p]lan.” Also, the written analysis provided to the supervisors board reiterates the conclusions of the Balance Hydrologics, Inc. report which discusses cumulative height or modification of facts on the Santa Clara River. The analysis states: “The Balance Hydrologics[, Inc.] report addressed the concern over whether future urbanization resulting from the Newhall Ranch Specific Plan and other cumulative development would result in adverse changes in the Santa Clara River. The report used an empirical approach to assess potential effects of urbanization on channel morphology associated with implementation of the [s]pecific [p]lan, combined with other existing and future development in the upper watershed of the Santa Clara River.” The supervisors board analysis reiterates the re-set flood and large storm events impacts which affect the stability of local channel geomorphology and riparian vegetation discussed in the Balance Hydrologics, Inc. report.

The foregoing constitutes substantial evidence the Landmark Village project will have no significant adverse hydromodification and sediment transport impacts. A wide array of credentialed scientists have reached this environmental conclusion after extensive research and collaboration. Moreover, as noted, Mr. Leverich's memorandum was prepared in connection with the Newhall Ranch Resource Management and Development Plan environmental impact report; not this project. There is evidence Mr. Leverich's conclusions were made without a thorough study of the technical data and knowledge of the then current proposed Newhall Ranch Resource Management and Development Plan project. And the Santa Clara River hydrology research conducted by scientists who collaboratively disagree with Mr. Leverich was more thorough than that performed by him. Further, the scientists disagreeing with Mr. Leverich are more experienced than he is in evaluating the hydromodification process in the Santa Clara River and its watershed. The administrative record contains a comprehensive fact-based response to Mr. Leverich's argument. Defendants' conclusions, as expressed in the environmental impact report and related findings, are supported by substantial evidence. Under any standard of judicial review, the judgment must be affirmed. We need not discuss the parties' remaining contentions.

## VII. DISPOSITION

The judgment is affirmed. Defendants and the real party in interest, County of Los Angeles, Los Angeles County Board of Supervisors and the Newhall Land and Farming Company, shall recover their costs incurred on appeal from plaintiffs: Friends of the Santa Clara River; Santa Clarita Organization for Planning and the Environment; Center for Biological Diversity; and Wishtoyo Foundation and its Ventura CoastKeeper Program.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

MOSK, J.

KRIEGLER, J.