

SANTA MONICA MOUNTAINS CONSERVANCY

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Regional Planning Commission
County of Los Angeles
320 West Temple Street
Los Angeles, California 90012

**Draft Significant Ecological Area Ordinance
and Implementation Guide Comments**

Dear Chairperson Moon and Commissioners:

The Santa Monica Mountains Conservancy (Conservancy) commends and supports the County's efforts on the Draft Significant Ecological Area Ordinance and Implementation Guide. The extended time taken to reach this point in the SEA update process has been well worth the delay.

The Conservancy prefers the Alternative Option for reduced SEA exemptions in the Antelope Valley contrary to the staff recommendation. The total exemption of broad swaths of the Antelope Valley from the Ordinance ignores the biological science in the record. Science should prevail to protect desert habitat.

The well-outlined requirements for the submission of biological constraints analyses will save time and money for all parties involved. The Ordinance and Implementation Guide are well designed to shape projects and require the permanent protection of open space. However, they have a substantial weakness in terms of the guaranteed permanency of the protection mechanisms. To remedy this weakness, the Conservancy urges the Commission to recommend that the Board of Supervisors add the following requirement language to the Ordinance to better ensure the efficacy of required conservation easements, deed restrictions, and other covenants for land protection.

If a recorded land protection instrument is subordinate in title to secured loans, including construction loans, then a default on any one said loans wipes out the land protection mechanisms enforceability. Likewise if the land protection instrument/mechanism is subordinate in title to unused easements that are not consistent with minimum land protection objectives, the ecological value of newly protected land could be significantly degraded.

Recommended Language for Natural Open Space Preservation Mechanisms:

Obligated landowners--early enough in the entitlement process--must provide a current (no less than two months old) title report(s) with hyperlinked instruments and plotted easements to the Regional Planning Department staff to demonstrate:

- a) *That the proposed covenant, deed restriction, or conservation easement is not subordinate to any loans that if defaulted on could eliminate their efficacy. The owner must work with the loan holder(s) to make the recorded open space protection mechanism superior in the chain of title.*
- b) *That the existing or future ecological value of the proposed covenant, deed restriction, or conservation easement is not substantially diminished by any recorded easements that are inconsistent with the stated land protection objectives. If such inconsistencies exist the boundaries of the protected natural area must adjusted.*

A final potential weakness lies in County's lack of recourse if mitigation trees are not replanted and monitored for the required seven years. For example if persons obtained their permits, built their project, and planted their mitigation trees but then never addressed the trees again, it appears that the County has no recourse other than to potentially record a violation on the property. If the ownership does not change hands for many years, then no mitigation occurs or it is significantly delayed perhaps with a new owner that desires to remedy the violation. The only solution to compel timely compliance is some program that has the equivalence of a construction bond. Without a significant financial consequence, longer term biological mitigation measures generally have a poor success rate. We urge the County to hire the additional Foresters and Planners recommended in the staff report. Held performance fees could help fund these new positions critical to the full success of the SEA program.

Please direct any questions or future correspondence to Paul Edelman of our staff at 310-589-3200 ext. 128 or at the above letterhead address.

Sincerely,

IRMA MUÑOZ

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Chairperson