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October 29, 2009

Carl Holm, Assistant Director of Planning
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Planning Department
County of Monterey
168 W. Alisal Street, 2d Floor
Salinas, CA 93901

Subject: Holman Ranch (PLN080450) – Unavailability of Reference Documents
for October 2009 Initial Study and Mitigated Negative Declaration

Dear Mr. Holm and Ms. Bradley:

This Office represents The Open Monterey Project and Patricia Bernardi. For years, our clients have advocated actively for transparency and accountability of public agencies, particularly in planning and environmental matters under the California Environmental Quality Act (CEQA).

County Has Not Made Reference Documents Available to the Public for Inspection.

The County is currently recirculating a revised initial study and proposed mitigated negative declaration for the Holman Ranch project application by Holman Ranch Holdings LLC. On October 28, at the Planning Department, I asked to inspect the reference documents listed in the initial study and mitigated negative declaration. None of the references were available for inspection. For that reason, I asked to speak with the project planner, Ms. Bradley. Some twenty minutes later, Ms. Bradley came to the front counter, carrying project files. She acknowledged that none of the references were available for inspection by the public at the front counter. Over the next hour, Ms. Bradley found, one by one, some of the reference documents in the files. I appreciate Ms. Bradley's efforts in finding some of the documents after a time-consuming search. However, the County has failed to comply with CEQA.

The references were not readily available for inspection by the public. (CEQA Guidelines, § 15150.) Further, even an hour and a half after my request, the County did not produce all the records. The County did not produce any records for critical references including numbers 6, 17, 18, 25, 26, 27 and 28.

Reference number 6 lists site visits conducted by the County planner on three separate occasions. Ms. Bradley stated that the project applicant's representative from the Lombardo & Gilles law firm was present at each of the site visits, and provided Ms. Bradley with factual information. Ms. Bradley stated that she took notes during the visits, then incorporated the information from her notes into the initial study, and then destroyed her notes. The problem is that the public does not know what statements in

the initial study are based on representations of the project applicant, and whether the factual representations of the applicant have been independently verified by the County. The information from the applicant has been merged into the County's recirculated initial study, and the underlying documentation – showing which information came from the applicant – has been destroyed. As the Sixth District Court of Appeal has held in another Carmel Valley land use development project involving the Lombardo & Gilles law firm, representations of the project applicant, standing alone, are inherently suspect. (*Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 122 [where “the only evidence” on a key water issue “was the representation of the applicants themselves, who clearly had a vested interest” in the outcome of the County’s CEQA review, “we must question the premise accepted in the EIR” that came from the applicants].) Here, on the Holman Ranch application, each time the County’s recirculated initial study references “Source 3,” the public does not know if the information came from the planner’s personal observations or the applicant’s representations. Because she destroyed her notes, it is even unclear whether the planner would know which was which, with certainty.

Numbers 17 and 18 are communications with state resource agencies. Ms. Bradley stated that she had no notes from these conversations. Numbers 26, 27 and 28 are communications with the Monterey Peninsula Water Management District and the State Water Resources Control Board. These two agencies regulate water, which is a key issue in the project's environmental review and the recirculated initial study.

The Holman Ranch project is highly controversial. The public is very interested in the County review process. While I was at the County yesterday trying to inspect the reference documents, another member of the public came to the County seeking information regarding the revised initial study for the project. We ask that the County make the references available, notify the public that the references are available and where they are located, then extend the comment period at least thirty days beyond the date that the public is notified. The public review period for the initial study should not start until the public has been notified that all references are available to the public for inspection. (CEQA Guidelines, §§ 15105, 15150.)

In the Recirculated Initial Study, the County Failed to Consider
25 to 30 Public Comment Letters on the Earlier Initial Study.

There is a separate and independent serious concern about the adequacy of the recirculated initial study. Yesterday Ms. Bradley stated that she has not yet addressed the comments in 25 to 30 letters received in response to the County's previous initial study circulated in June 2009. It is puzzling why the County is recirculating a revised initial study without responding to or addressing comments made on the June 2009 study.

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After the County released that initial study, the public spent a lot of time evaluating the County's claims, researching the facts, and preparing thoughtful written comments. The failure to address those comments almost undoubtedly renders the revised initial study inadequate. Further, the public should not have to make the same comments over and over again in response to the County's repeated analytical, factual, and procedural errors. Members of the public – including public agencies – should not have to guess whether the County even read their comments on the earlier document, and whether the County's failure in the revised initial study to address the earlier comments is because the County did not even bother to read them. The County should have read all public comments on the June 2009 initial study prior to preparing and recirculating a revised initial study, and should have responded to the comments in the revised document.

Our clients would appreciate a written response from the County on the issues raised in this letter. Thank you.

Very truly yours,



Molly Erickson

cc: Les Girard, Assistant County Counsel
Carmel Valley Association
Save Our Carmel River
Sierra Club, Ventana Chapter