

September 26, 2009

VIA FACSIMILE

Chairperson Pat Bates
Orange County Board of Supervisors
10 Civic Center Plaza
Santa Ana, CA 92701

**RE: Agenda Item 26, Sept. 29, 2009:
Open Space Lands Transaction - Letter of Intent**

Dear Chairperson Bates and Members of the Board:

The Endangered Habitats League (EHL) supports the goal of transferring Irvine Company lands to the County of Orange, but wishes to call to your attention some concerns. We urge that these be addressed in a revised Letter of Intent.

As background, EHL served on the original Working Group for the Orange County Central-Coastal NCCP and publicly supported it despite the controversy at the time. We also applauded the unprecedented donation by The Irvine Company of conservation easements on the magnificent North Ranch. As you consider how to best transfer these lands to public ownership, we urge your attention to these matters:

First, we recommend that deed restrictions not *substitute* for conservation easements. Our understanding is that, if deed restrictions were the only conservation protection and the restrictions were violated, the property could revert to the grantor and the restrictions could be extinguished. It therefore seems unlikely that The Nature Conservancy will relinquish the easements, particularly given the conservation assurances it made to the public at the time of acceptance. Deed restrictions should be added only as an *additional* protective layer to the existing easements.

Second, we urge that adequate long-term funding streams for management be identified prior to transfer, which is the standard of practice. While urgent circumstances sometimes make it necessary to transfer land without such prior identification, that is not the case here. *A non-wasting endowment that also supports significant habitat restoration would be ideal and should be sought.* Alternatively, reliable County budget projections that satisfy the anticipated new management costs should be documented. The staff report notes improvement in OC Park's budget but does not quantify the expected management costs or the financial resources likely to be available.

Finally, the LOI should set *general* parameters for future discussion rather than describe specific outcomes. The County risks litigation if The Irvine Company relies on a provision of the LOI to its detriment and that provision is not consummated. At a minimum, the LOI should explicitly anticipate potential changes in the County's position.

We once again applaud the County's conservation vision of receiving these lands and would be pleased to work with you to optimize the transfer.

With best regards,

Dan Silver MD
Executive Director

cc: Mark Denny
Interested parties