

April 24, 2011

Allen Robertson
Deputy Director
California Department of Forestry and Fire Protection (CAL FIRE)
Sacramento, CA

Dear Mr. Robertson,

I have been sent a copy of the Partially Recirculated Draft Environmental Impact Report (RDEIR) (SCH# 2004082094) for the timber harvest on the Fairfax property located in Annapolis, California. Having reviewed this CAL FIRE RDEIR document, I find that the addition of documentary evidence of historic settlements noted by early anthropologists has been added, correcting a deficiency that I noted in my earlier review. This is welcomed, but it also carries with it the potent recognition that the Fairfax conversion (in this instance the timber harvest plan) is proposed to occur in a midst of an extremely sensitive Native American settlement area. You could not hope to find a more sensitive context for ground disturbing activities were you to search diligently for it on remaining forested California landscapes.

MINIMUM REQUIREMENTS FOR ADEQUATE ASSESSMENT AND MITIGATION

If we turn to the discussions of archaeological survey and mitigation in the RDEIR, what we find is that very little of substance has been added to the current RDEIR to change my earlier assessment of the inadequacy of archaeological assessment of heritage resources on the Fairfax property. It is useful to review my previous analysis of July 27, 2009, *inter alia*:

Archaeological Mitigation in the DEIR.

I present here only summary remarks and evaluations on the planned mitigations for cultural resources within the Fairfax Conversion. Let me start with what appears to be a fundamentally flawed methodology used in the assessment, something that then influences the proposed mitigation.

Given the demonstrated importance of the Annapolis area, one might expect at a minimum something more than the assessment protocols that are presented in the DEIR. First, it is difficult to assess precisely what methods Mr. Neri applied to the first assessment process. We learn, for example, that he employed either 20 or 30 meter transects. Why such variation? Was there no consistency? If we examine the DEIR text more closely, we find that the initial survey was biased by his using open exposures on trails and roads, as most of the terrain presented low visibility.

These observations immediately point to fundamental problems—that Neri did not conduct a systematic scientific survey, but instead used open exposures to locate artifacts and other features of archaeological interest. No sub-surface inquiry informed the initial assessment, a perplexing omission in the context of a landscape with moderate to deep duff and dense grass cover in other areas. The problems presented by the incomplete and cursory Neri assessment was then compounded and amplified by the Origer and Associates survey, which evidently went no further than additional documentation of the “sites” identified by Neri. It is unclear why this additional inquiry was restricted in this manner, but the end result is that we know very little that is scientifically reliable about the distribution of archaeological resources on the Fairfax Conversion.

There are at times inherent difficulties with CRM survey methods. For example, the use of widely spaced sampling transects, e.g., 30 m or more, is inadequate for locating small settlements, lithic work stations, and other small activity zones. Handsman and Lamb (1995) have shown convincingly that the use of tightly spaced sampling transects, e.g. 10 m or less, ensure that sites will not be overlooked and consequently the history of an area not erased by inadequate sampling. What would constitute adequate sampling in this instance? Given the archaeological importance of the development area, a minimum sampling scheme should be 10 m staggered transects across the entire parcel, not just those zone now marked for development, to gain comprehensive knowledge. Second, the use of hoes to remove duff for surface inspection is not an adequate method in these circumstances in which land disturbance has occurred for nearly a century and a half. The assumption that surface indicators are sufficient may be appropriate in other routine cases, but not in a zone with such rich heritage resources. Rather, sub-surface sampling on a 10 m grid using a device such as a bucket auger, supplemented with shovel tests when sub-surface indications are found, is called for. Finally, these methods alone must be supplemented by remote sensing that is easily executed in the field. The use of a magnetometer would ensure that fire cracked rock, hearths, and other fire-altered earth and artifacts may be easily located.

What has transpired since to possibly modify this analysis? Let me take up this question serially, but first provide an overview of what I have considered in formulating an answer. First, I have been provided with and have reviewed the 2009 surveys--“*An Archaeological Survey Report for the Artesa/Fairfax Timber Harvesting*--held in confidential status, upon which the present DEIR draws; I have also reviewed other ancillary documents kindly made available by CAL FIRE. I find that they lack scientific rigor given the sensitivity of the region for Native American settlement and utilization. There are no assurances that the so-called 20-25 m zig zag pattern of survey was applied to the entire property. Even were this the case, such a surface examination does not satisfy the needs for fine grained analysis demanded by the distribution of sensitive and important cultural resources in this zone and immediately contiguous to the zone. As I have previously noted, independent survey as well as interviews with local residents have revealed a number of other sites either within or contiguous to the property. The elders of

the Kashia Pomo have specifically asked that I keep this information confidential and my professional code of ethics requires that I respect that request.

METHODOLOGICAL BLUNDERS

I did not have access to documents about the November 2010 event, using a backhoe in heavy brush to search for possible heritage sites. This is new information provided in the RDEIR, to wit:

“The requested additional survey was conducted on November 10th and 11th, 2010 and focused upon a 5-acre block in the northern portion of the project area and a 15-acre block in the southern portion of the project area. To intensively survey these two dense brush locations, Origer & Associates initially proposed the use of a backhoe to flatten brush and create corridors in which the field crew could closely inspect the exposed the ground surface. After a few initial forays into the dense brush with the backhoe, it quickly became apparent that this method could not be employed without creating ground disturbance that would require a Native American monitor to be present per CAL FIRE directives. Consequently no further use of the backhoe was made during the remainder of the survey effort.”

From a profession perspective, this is a bizarre incident and one that undermines the credibility of those engaged in the assessment process for this property. It is an embarrassment because it constitutes such a significant methodological blunder; it was also witnessed by local people who expressed their alarm over such an extraordinary “survey method”.

The November event is also a poignant commentary on how misguided this assessment program has been from the beginning, when the most thorough and detailed survey possible should have been employed—not some run of the mill survey that is commonly applied to properties where few historical or archaeological resources may be expected. The ad hoc nature of such surveys is captured by the language used in the RDEIR, viz: “In these areas where the presence of very dense vegetation made conducting an intensive archaeological survey impractical, a mixed strategy survey was conducted by making forays into the brush, where possible, to examine the ground surface.” The absence of precision and the absence of a systematic survey strategy continue as major issues.

I have previously recommended—given the high sensitivity and the historical significance of archaeological sites in the area—that a very thorough survey program based on a 10 m staggered grid be employed, along with subsurface sampling and remote sensing (see above quote for my 2009 comments). This would be a responsible program to follow and until such a program is implemented, the methodologically questionable surveys conducted on the property thus far must be considered altogether inadequate. It is puzzling why there should be resistance to a rigorous scientifically reliable assessment program, when only such a program can satisfy major questions about a property located in a highly sensitive cultural resource zone. It is mystifying why DEIRs continue to be

prepared on this property when CEQA provides specific mitigation criteria at Pub. Res. Code Section 21083.2(c)-(f) for “unique” archaeological resources (defined at 21083.2(g) as “an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; (2) Has a special and particular quality such as oldest of its type or best available example of its type.” Of particular telling interest is that the RDEIR use the phrase “somewhat unique” to describe the Annapolis “District” on p. 3.5-3.9. The implication for CEQA is, pointedly, an unmitigated significant impact requiring a finding of overriding consideration.

The property obviously meets these criteria and thus it is in the interest of CAL FIRE, the Native American community, the people of California, and concerned researchers for CAL FIRE to withhold further consideration of a timber harvest plan and any ancillary vineyard development.

TO DESIGNATE AN ARCHAEOLOGICAL DISTRICT OR NOT

The convoluted reasoning of the RDEIR challenges both lay and professional understanding and unnecessarily mystifies a compelling justification for an archaeological district. Readers are led to believe that the RDEIR supports an archaeological district when they read, “The distribution of known and reported archaeological sites in the Annapolis area, outside the Fairfax Conversion property, suggests that an appropriate boundary for an ‘Annapolis Archaeological District’ would include the land above the 600-foot contour interval on both Beatty Ridge and Brushy Ridge.” This is an unambiguous, clear-cut admission that an archaeological district is appropriate and could be easily designated. Yet, many contradictions and qualifications enter the narrative, for example: “While the creation of an ‘Annapolis Archaeological District’ could help to highlight the research potential of the archaeological resources in the area, state and federal laws call for avoidance of all known cultural resources to the extent feasible.” This is a misleading assertion, for it ignores the obvious potential that these admittedly important sites have as future knowledge sources and as a culture “bank” for the Kashia Pomo.

The RDEIR further exacerbates the confusion it creates by stating that, “At present there is a lack of sufficient data to link the various prehistoric sites temporally or thematically as a District,” a blatant contradiction to the summary conclusion quoted in the previous paragraph. The RDEIR also states, “Therefore, creation of an archaeological district would not afford the sites greater protection than they will receive as individual recorded archaeological sites that have been determined to be potentially significant under one or more of the relevant criteria for significant archaeological and/or historic-era sites” (RDEIR 3.5-31). You simply cannot have it both ways. It is, plainly said, nonsense to focus only on the Fairfax Conversion in such a conclusion, for an archaeological district for the Fairfax property is but a first step to a larger archaeological district that should and would include more than the Fairfax property. The property and the context—as the RDEIR repeatedly admits—is rich and deserving of protection under the aegis of an

archaeological district that includes the Fairfax property and also the surrounding sites, under other regulatory procedures, through time. These heritage resources must be treated holistically, not in a piecemeal manner.

The contradictory summaries and conclusion noted in the paragraphs above are highlighted by the following RDEIR observation: “The terrain in the vicinity of Annapolis is generally much gentler and flatter than other inland areas associated with the North Coast Range, making the region somewhat unique and likely more attractive to prehistoric habitation. As such, the location and density of archaeological sites within this particular area may reflect patterns outside of the typical Northern Coastal habitation model...” (RDEIR 3.5-3). This type of confused and circular reasoning insults the Kasha Pomo, it violates principles of heritage conservation held in county, state, and federal law, and it hides the issues from public understanding. Moreover, it is far from the regulatory standard of “good faith, reasoned analysis” that avoids “...statements unsupported by factual information...” for response to comments (CEQA Guidelines 15088 (b)).

It is time that CAL FIRE stop equivocating on this important matter and either deny the Artesa application outright on heritage grounds or insist on implementation of rigorous surface and subsurface surveys that have been previously recommended but ignored.

Should you have any questions, I am available for your consultation.

Sincerely,

Peter Schmidt

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