NON-APPLICANT

Date 4/23/18

Zoning Section
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

PROJECT NO./CUP NO.: R2015-00408-(5)

APPLICANT: Northlake Associates LLC

LOCATION: Vesting Tentative Tract Map No. 073336, Vesting Tentative Parcel Map No. 073335

North of Lake Hughes Road and Ridge Route Road, East of Interstate 5 Freeway, Castaic

Zoned District: Castaic Canyon

Related zoning matters:

CUP(s) or VARIANCE No.

Change of Zone Case No.

Other

This is an appeal on the decision of the Regional Planning Commission in the subject case. This form is to be presented in person with a check or money order, made payable to the "Board of Supervisors" (check or money order must be presented with personal identification), during regular business hours of 8:00 a.m. to 5:00 p.m. prior to the appeal deadline at the above address. (Appeal fees subject to change). Contact the Zoning Section of the Board of Supervisors for information: (213) 974-1426.

This is to appeal: (Check one)

_____ **The cost of Denial of this request: $915.00***

_X_ **The cost of Approval of this request: $915.00***

***Except for Subdivision appeals: $130.00 of this appeal amount is allocated to the Board of Supervisors' Hearing**

Briefly, explain the reason for the appeal (attach additional information if necessary):

For the reasons set forth in these attached comment letters. Additionally, the County has relocated the planned new pipeline to occur on the Project site due to a response from DPR that it will not permit the pipeline on its land due to, among other things, habitat impacts (an entirely predictable outcome). The County has not, apparently, identified where the pipeline will be relocated and we cannot confirm that it will not have impacts to habitat on the project site. The DEIR should be recirculated because DPR identified significant downstream impacts due to the filling in of a blue line stream on the Project site upon habitat maintained by DPR. The DEIR should be recirculated because it did not and must address the impacts of increased density, noise and light upon the Castaic SRA. The FEIR's assertion that night lighting will be "directed away" from the SRA does not mean those impacts will be reduced to less than significant levels.

x _____ For:
(Signed) **Appellant**

Golden State Environmental Justice Alliance (Craig M. Collins)
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June 16, 2017

Jodie Sackett
Department of Regional Planning
County of Los Angeles
320 West Temple Street, Rm. 1362
Los Angeles, CA 90012
jsackett@planning.lacounty.gov

VIA FIRST CLASS MAIL & EMAIL

Re: *Northlake Specific Plan DSEIR Comments, State Clearinghouse No. 2015031080*

Dear Mr. Sackett and the County of Los Angeles:

On behalf of the Golden State Environmental & Social Justice Alliance, a California Social Purpose Corporation, Entity #C4017878, this is to submit comments under the California Environmental Quality Act ("CEQA") on the Draft Supplemental Environmental Impact Report ("DSEIR") for the Northlake or Northlake Hills Specific Plan project ("the Project"). These comments are in addition to those submitted herewith from biologist Shawn Smallwood relating to biological resources. Please include them as part of the administrative record on this project.

Our comments appear in the order in which they arise in response to the DEIR.

Project Description

Your Project Description in the Executive Summary is one of the least clear we have ever seen.

At 1-2, the County asserts that "Collectively, the Project is defined as the entire 1,330 acre Specific Plan site including the 737-acre VTTM No. 073336 area and associated External Map improvements (Phase 1), and the remaining property for Phase 2 to be developed at a future time." We have no idea what this means. Are you evaluating impacts from the development of Phase 2 or not? We can't determine this from either the Executive Summary or Chapter 4, "Project Description." If you are not evaluating the impacts of Phase 2 of the development, this violates CEQA's requirement that you assess "the whole of an action," and constitutes improper segmentation. Chapter 4 seems to suggest that you evaluated biological impacts from development of the entire parcel, but not necessarily the air quality, GHG or traffic impacts. This omission would be improper, as it is clear that you intend to develop the entire parcel, and it seems that you actually intend to grade the Phase 2 site as well.

In addition, it appears that you are improperly relying upon the adopted 1992 NorthLake Specific Plan because you are adopting a Tentative Tract Map which is inconsistent with it, as can be observed by comparing the map at Exhibit 4-1 with the one at Exhibit 3-5. For one thing, there is now a school site in the middle of the area designated for industrial development (which is also poor and dangerous planning). For another, Table 4-4's Land Use area Comparison makes clear how much more dense the proposed Project is compared to the originally proposed and approved Specific Plan. The "Existing NorthLake Specific Plan" involves 600.3 acres for 3,623 dwelling units (du's) versus a proposed 333.4 acres for 3150 du's. The original plan was for 6.04 du's per acre on average and this plan is for 9.45 du's per acre. Such development is not within the "concept[]" of the original Specific Plan, and is effectively an amendment. As a third example, Exhibit 4-9 regarding planned sewer and wastewater utilities, is nothing like what is depicted in Specific Plan Exhibit II-10, the "Conceptual Wastewater Plan." The Conceptual Wastewater Plan is not adequate for a Specific Plan under Government Code § 65451(a)(2), which provides that a specific plan *shall* include a text and a diagram or diagrams which specify all of the following *in detail*: "(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support land uses described in the plan." And you are effectively amending it. *See also* Gov. Code § 65453(a), "A specific plan shall be prepared, adopted and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or ordinance and may be amended as often as deemed necessary by the legislative body." You are required to amend the Specific Plan here. Because you haven't done that, you have failed to comply with the notice provisions under Gov. Code §§ 65090, 65355, 65453(a) and 65867 and you have failed to provide for a public opportunity to respond under Gov. Code §§ 65033 and 65094. *See Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal. App. 4th 899, 909.

The sewage system you depict in Exhibit 4-9 is inconsistent even with Option 1 of the "Conceptual Wastewater Plan" in Specific Plan Exhibit II-10 because the sewer trunk line runs from NorthLake Blvd. whereas it runs from NorthLake Blvd. to Ridge Line Road and then south in Exhibit 4-9 (to the extent anything can be discerned from the low-resolution drawing provided).

At page 4-7 you contend that the Hillside Management Area ordinance does not apply because the Specific Plan was previously entitled. We disagree because you are effectively amending the Specific Plan.

Additionally, you state that the Phase 2 area of the site is planned for 35 large lot parcels of 20 acres or more for "future lease and finance purposes." Again, this is not in keeping with the Specific Plan, which calls for development into single family homes. You specified 1,176 such homes for Phase 2.

Again, with regard to putting a school in the middle of "Light Industrial" development, you should specify what "Light Industrial" uses are permitted under the zoning code in the DEIR in order to comply with CEQA's mandates of full disclosure, and this is not good planning.

At 4-23, under "Sustainable Features," as to "Water Conservation," you claim that you are going to use "gray water systems." Where? Gray water systems are for the use of water previously used in the home by for example a dishwasher or clothes washer, and they are not the same as using recycled water.

Under "Construction Waste Reduction, Disposal and Recycling," you indicate that there will be 75% reuse or recycling of all waste by 2020. How does the Project propose to implement this? There are no specifics to give the public confidence that this will occur.

Under "Additional Project Design Features," you state the Project will install "the equivalent of" 3 kW solar panel systems for 50% of the residential dwelling units. Is this also for Phase 2? What does "the equivalent of" mean?

You also assert that the Project will install at least 135 EV chargers at nonresidential parking spaces, "Assumed to be Level 2." Level 2 should be required.

As to "Project TDM Features," you assert "Expanding the local transit network by adding to the existing transit service to enhance the service near the Project sites." The applicant and the County do not directly have authority to do this. What have you done to implement it? You also promise "Providing shuttles to major employment centers." On what basis? Is the developer going to pay for this? For how long? Which "major employment centers?" Until credible details are provided, this is a hollow promise which does not provide substantial evidence for any reduced impacts on traffic or air quality.

Air Quality

As a preliminary matter, while you assert that you have done a health risk assessment with respect to diesel particulate matter from construction on the site for adjacent residents, you have not conducted a health risk assessment from the existing school site from exposure to industrial pollutants from the 13.9 acres of industrial use that are to surround it. It is our position that the DEIR should have been circulated to all parents or potential future parents of students of the Elementary School under Health & Safety Code § 42301.6(a); while specific uses are at this time unspecified it is entirely within our anticipation, and it should be within yours, that logistics centers emitting diesel particulate matter ("DPM") or other hazardous air pollutants or toxic air contaminants will be sited within 1,000 feet of the school since you have zoned the entire area industrial. The fact that industrial uses "would be required to meet all applicable air emission standards" does not absolve you of evaluating the risk factors to present or future students.

At 5.1-13, under "Relevant Regulations" as to the South Coast Air Quality Management District ("SCAQMD"), your discussion of the 2012 and 2016 Air Quality Management Plans ("AQMPs") is misleading in that it does not reference EPA's disapproval of them based on the RECLAIM program's failure to meet RACM/RACT, which relates to both $PM_{2.5}$ and NO_x.

Threshold 5.1-1: Would the Project conflict with or obstruct implementation of an applicable AQMP? Per the SCAQMD *CEQA Handbook* (1993), the questions you are required to address here are (1) whether the Project would cause an increase in the frequency or severity of existing violations, cause or contribute to new violations, or delay timely attainment of an ambient air quality standard, and (2) whether the Project would exceed the assumptions in an AQMP. Under the *Handbook*, if you answer either one of these questions in the affirmative, there is a significant impact. *See Handbook*, § 12.3. Therefore, you should make a finding of significance as to this threshold.

Threshold 5.1-2: Would the Project violate an air quality standard or contribute substantially to an existing or projected air quality violation? We first of all question, with respect to construction, your assumption that you would only conduct 1,000 hauling trips in clearing and grading a 1,330-acre site. You concede that you will have NO_x emissions in excess of SCAQMD thresholds for 2018, 2019 and 2020 even with your mitigation measure for the use of Tier 3 equipment.[1] You claim that emissions of PM_{10} and $PM_{2.5}$ from blasting will not occur for more than ¼ acre per day and at 8 lbs per ¼ acre, you will not exceed SCAQMD thresholds. There is no mitigation measure limiting the applicant from blasting more than ¼ acre per day so this simply provides no substantial evidence to support your conclusion.

With respect to your LST analysis, you did not use the LST lookup tables which means you probably exceeded the thresholds in those tables, a fact that the public should have been advised of. As it is, with your modeling Project plus ambient NO_2 would exceed federal standards. Also, you assert that PM_{10} and $PM_{2.5}$ LSTs would not be exceeded, but there is no indication that you included blasting in your analysis.

MM 5.1-6 prohibits mass grading within 1600 feet of Northlake Hills Elementary School "when school is not in session," which makes no sense: the prohibition should be on grading when school *is* in session. Moreover, the MM only requires this "to the maximum extent feasible," which provides absolutely no assurances and is not substantial evidence supporting a conclusion of no significant impact.

And MM 5.7-22 provides that the "master developer" is to establish a "Transportation Management Association" which is to establish a rideshare program for employees of on-site commercial and industrial businesses as well as a commuter bus program to extend existing bus

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[1] Your mitigation measure ("MM") actually calls for the use of Tier 4 equipment "where available," which is hopelessly vague and unenforceable and it was thus appropriate for you to have evaluated impacts as if Tier 3 equipment would be used.

routes into the NorthLake Project area. What is the funding for this? How long will it last? Why is this substantial evidence in support of a conclusion that air quality impacts will be reduced for the significant impacts as to VOCs, NO_x, CO, PM_{10} and $PM_{2.5}$?

We also do not believe you have properly correlated significant emissions to anticipable health impacts under *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184.

At 5.1-35 your provision in MM 5.1-10 for changing/shower facilities in commercial or industrial buildings with more than ten tenant occupants is unlikely to come to pass, as this is an inordinately high number of tenant occupants.

Biological Resources

At 5.2-4 under "Wildlife Surveys" you write that dry season surveys "are currently underway and results will be available in mid-summer 2015," and they will be included in the Biological Technical Report. The DSEIR was not released until mid-2017 and the results of the surveys should have been included in it, not merely the Biological Technical Report, as the Supreme Court has made clear. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 442.

Like Dr. Smallwood, we do not believe there is substantial evidence for your assertion that "the Project site itself does not represent an important component of regional movement of the area." (page 5.2-15).

Given your acknowledgement at 5.2-16 that sage scrub has declined 70-90% and native grasslands have declined by 99%, you should have recognized that there would be significant impacts to these special status vegetation types.

At 5.2-19 your Table 5.2-3 of Special Status Plant Species you contend that the round-leaved filaree was "not observed during 2014 surveys," but in the text you acknowledge that 39 individuals were observed in 2003. Of course, 2014 was in the height of a drought, and you did not survey in 2017 after the rains and before the issuance of the DSEIR, though you could have. This is inadequate disclosure under CEQA.

As to Table 5.2-4, Special Status Wildlife Species, it appears that you did not survey for the California red-legged frog in 2014.

Threshold 5.2-1: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any special status species? You acknowledge having found 8 special status plants on the project site including the round-leaved filaree and the slender mariposa lily. With respect to both, you rely upon transplantation plans to as-yet unidentified sites, and for the

round-leaved filaree, you explicitly state that mitigation would be sufficient on a 1:1 basis.[2] There is no substantial evidence in support of your conclusion that impacts will be mitigated to a less-than-significant level given the expert opinion of the California Native Plant Society that "Alternatives such as site restoration and off-site introduction are generally unproven, and usually unsuccessful." *See* Attachment A at 2. *See also id.* at 2 (Society does not endorse "alteration of naturally occurring plant communities through transplantation because the methodology for most rare plants is untested and therefore unreliable and because most past attempts have ultimately failed"), 3 ("In most instances off-site compensation does not fully reduce impacts to an insignificant level because a net loss of individuals or habitat that supports a natural self-sustaining rare plant population results.") Additionally, the Native Plant Society makes clear that mitigation *must* exceed 1:1 in most cases. *Id.* at 4. Finally, "[i]f transfer of the threatened population is being attempted, an ecological study of the site, including an inventory of rare species, is needed to identify the feasibility of introduction." *Id.* Obviously, you have not done this as you haven't even identified a new site or sites. Therefore, you do not have substantial evidence in support of your conclusion that impacts to these plants will be less than significant.

With respect to the round-leaved filaree in particular, you state in MM 5.2-5 that "Due to the fact that the round-leaved filaree has not been detected since 2001 . . . the occurrence location will be checked prior to construction during the appropriate blooming period to determine if this species still occurs on the site. If it is not found, the population will be assumed extirpated." First of all, earlier in the DEIR at 5.2-21 you state it was found in 2003. And the Biological Technical Report does not detail anything about the filaree's findings other than to identify the location where the 49 individuals were found. You could have, but apparently did not, search the location in April of this year. And it would be a significant impact if you indeed failed to mitigate because you presumed the species extirpated.

Our comments regarding 1:1 mitigation, identifying a site in advance, and offsite mitigation not generally being adequate to reduce impacts to less than significant are equally applicable to the southwestern spiny rush and the paniculate tarplant.

With respect to wildlife species, you assert that through MM 5.2-9 you will reduce impacts to the western spadefoot to less than significant. But you haven't identified a relocation site, and you assert with no basis or substantiation that you will "create" such habitat if you cannot find it. Thus, your conclusion of no significant impact is not based on substantial evidence.

With respect to special status reptiles such as the silvery legless lizard, coastal western whiptail, rosy boa, San Bernardino ring-necked snake, Blainville's horned lizard, and coast patch-nosed snake, MM 5.2-10 says you will translocate them "if feasible" to "adjacent areas." There is no guarantee here, and the "adjacent areas" may not be sufficient in quantity or quality to

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[2] With respect to the slender mariposa lily, you do not even specify a mitigation ratio, though the potential loss of this rare species onsite could number in the thousands of individuals.

accommodate the species. Therefore there is no substantial evidence in support of your conclusion of no significant impact.

With respect to the coastal California gnatcatcher ("CAGN") you again assert no significant impact based on monitoring during vegetation removal and the "preservation," creation and enhancement of habitat under MM's 5.2-1, -2, -6, -12 and -13, as well as consultation with the USFWS under MM 5.2-15 (you inaccurately refer to this as consultation with CDFW). First, MM 5.2-6 which provides for sage scrub mitigation does *not* call for any sort of conservation easement, which would be necessary to assure that impacts are actually reduced, and second, you provide that "implementation shall begin not more than one year following project impacts to this habitat type." The CAGN will plainly be impacted in the interim as there is an entire breeding season that will be missed. Mitigation must be complete *prior* to impacts to the sage scrub onsite. Additionally, the Habitat Mitigation and Monitoring Plan ("HMMP") could easily have been developed already but you defer both it and its performance criteria to a future time (DSEIR at 5.2-45). And there is no provision for maintenance beyond 5 years, and the potential for monitoring for far less than that, which means that it would be impossible to sufficiently establish that performance criteria would be met.

Additionally, your MM's specify at MM 5.2-13 that to comply with the Migratory Bird Treaty Act, you will establish buffers of a mere 25 feet around nests. This is entirely unacceptable; an appropriate buffer is more like 200 feet. *See* Attachment B at I-11. Finally, raptors begin nesting around January 1, not February 1. *See* Attachment C.

Fire Hazards

At 5.5-5 you document the Santa Clarita Valley recent wildfire history, acknowledging over 270 fires since 1960. Earlier you concede that the "growing wildland-urban interface has exposed communities to zones that are highly vulnerable to wildfires." At 5.5-10 you state Santa Clarita is designated a "VHRHSZ" but you do not spell out what this means. At 5.5-12 you note that L.A. County General Plan policy S 3.1 requires discouraging high density and intensity development in VHFHSZ's, which is precisely the opposite of what this Project does. For this if not other reasons, the Project conflicts with the County's General Plan.

Threshold 5.5-4: Would the Project expose people or structures to a significant risk of loss, injury or death involving fires, because the Project is located within a Very High Fire Hazard Severity Zone?, and Threshold 5.5-7: Would the Project expose people or structures to a significant risk of loss, injury or death involving fires? You acknowledge that "The Project site is within a designated VHFHSZ area and would be essentially surrounded by undeveloped lands in the VHFHSZ category." Nevertheless, you assert that with compliance with the County Code and a "Fire Management Program" that has apparently not yet been developed, "impacts . . . would be less than significant." There is essentially no substantial evidence in support of this conclusion in light of your earlier comments and the L.A. County General Plan.

Greenhouse Gas Emissions

Here you refer to the Los Angeles County Climate Action Plan ("CCAP"), which has as its goal reducing greenhouse gas ("GHG") emissions by at least 11% below 2010 levels by 2020. (DSEIR at 5.7-17.) You fail to mention that SB 32 significantly increased the statewide GHG reduction goal, to 40% below 1990 levels by 2030, and demonstrating compliance with the CCAP simply will not demonstrate that the Project will not conflict with the goals of SB 32. *See* CCAP, § 3.2 at page 3-2 (providing only for reduction of 11% below 2010 levels by 2020).

You assert at 5.7-18 that the DSEIR can "tier off" of a programmatic analysis of GHG emissions if it meets the requirements of Guidelines § 15183.5. This would be true of the CCAP if it demonstrated compliance with SB 32 but it does not. It is also definitely not true of the 2012 SCVAP because that document found significant and unavoidable impacts to GHGs. *See* Guidelines § 15183.5(b)(1)(B).

At 5.7-21 you claim you will measure the Project's compliance against Executive Orders S-3-05 and B-30-15, but you never actually do this, sidestepping them on the ground that they are not regionally applicable. The same was argued as to AB 32 before, and the Supreme Court has made more than clear now that assessment of its mandates in the context of CEQA is both appropriate and necessary.

You ultimately calculate GHG emissions at 56,722 $MTCO_2e$ per year, though you claim the impacts of this number are insignificant. We disagree. This number is *highly* significant when measured against SCAQMD's proposed thresholds of 1400 to 3500 $MTCO_2e$ per year depending on whether the Project is commercial, mixed use, or residential.

We also note you assert that the Project "is committing to the *equivalent* of installing solar power *equivalent* to 3 kW per residential dwelling unit for 50 percent of the residential dwelling units." We're not sure what this means. If solar power is not actually installed, for example if the applicant purchases wind or solar credits for a specified number of years, this is not "equivalent."

At 5.7-37, you claim consistency with SCAG 2016-2040 RTP/SCS Goal 8, "Encourage land use and growth patterns that facilitate transit and non-motorized transportation." We disagree that the Project is consistent; there is little to no evidence that the Project is amenable to sustainable work commutes.

At 5.7-43, Table 5.7-7, NorthLake Specific Plan GHG Emission Estimates, you compare a hypothetical BAU scenario to the Project but you do not reflect the underlying assumptions for the BAU numbers, and it is apparent that the reductions attributed to the Project are actually reductions coming from other regulatory programs, not any mitigations imposed by the Project. The Supreme Court recently disapproved of this tactic. The Table as a whole is highly misleading, and the percentage reduction attributable to the Project is actually the difference between the 66,083 $MTCO_2e$ and the 56,722, or about 14.2%, not 40.1%.

Alternatives Analysis

You assert that the "Creek Avoidance Alternative" was found infeasible because it still would require the same infrastructure. There appears to be no substantial evidence to support this conclusion. If development is reduced by, for example, ½, then an additional school site may well not be required.

Conclusion

Thank you for the opportunity to comment on this DSEIR. Please advise us of the availability of a Final SEIR, should you wish to prepare one, and of the further steps of your review of this Project at bentley@blumcollins.com and collins@blumcollins.com. We request notice of any action taken on this project. Thank you.

Sincerely,

/s/ Hannah Bentley

Hannah Bentley
BLUM | COLLINS LLP

Attachments A-C

Shawn Smallwood, PhD
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Attn: Jodie Sackett
County of Los Angeles
Department of Regional Planning
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13 June 2017

RE: Northlake Specific Plan SEIR

Dear Mr. Sackett,

I write to comment on the Supplemental Environmental Impact Report (SEIR) prepared for the Northlake Specific Plan (County of Los Angeles 2017), which I understand is to be up to 3,150 dwelling units and additional commercial development covering 705.4 acres of a 1,330-acre project area in northern Los Angeles County. I also reviewed the biological technical reports in support of the SEIR (BonTerra Psomas 2015).

My qualifications for preparing expert comments are the following. I earned a Ph.D. degree in Ecology from the University of California at Davis in 1990, where I subsequently worked for four years as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, habitat restoration, interactions between wildlife and human infrastructure and activities, conservation of rare and endangered species, and on the ecology of invading species. I have authored numerous papers on special-status species issues, including "Using the best scientific data for endangered species conservation," published in Environmental Management (Smallwood et al. 1999), and "Suggested standards for science applied to conservation issues" published in the Transactions of the Western Section of The Wildlife Society (Smallwood et al. 2001). I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and the Raptor Research Foundation, and I've been a part-time lecturer at California State University, Sacramento. I was also Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management.

I have performed wildlife surveys in California for thirty-three years. Over these years, I studied the impacts of human activities and human infrastructure on wildlife, including on golden eagle, Swainson's hawk, burrowing owl, mountain lion, San Joaquin kangaroo rat, and other species. I have also performed wildlife surveys at many proposed project sites. I performed mountain lion track surveys throughout California since 1985, including near the project site. I also collaborate with colleagues worldwide on the underlying science and policy issues related to anthropogenic impacts on wildlife.

My CV is attached.

BIOLOGICAL IMPACTS ASSESSMENT

Under CEQA, "[A] paramount consideration is the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of any decision." The public needs information that is thorough, relevant, unbiased, and honest; the public needs full disclosure of the environmental setting and possible cumulative impacts. Documents presenting information from a biased perspective will tend to include omissions, logical fallacies, internal contradictions, and unfounded responses to substantial issues. Therefore, my assessment of the SEIR and also considers omissions and bias, which bear on the sufficiency of the SEIR.

I found that the SEIR and supporting documents disclosed only some of the relevant information and was far short of thorough. Given the lack of thoroughness and lack of foundation for many conclusions related to project impacts and appropriate mitigation, I found the SEIR biased in favor of the project. For example, the only general wildlife surveys performed over the last decade occurred at unreported times of day and unreported timespans over 3 consecutive days in April 2014, which was a very narrow time window within one season at the peak of the most intense drought in California's recorded history. According to the SEIR (2017:5.2-4), these surveys were conducted simultaneously with vegetation mapping, which suggests the focus was not on wildlife survey. Many of the conclusions related to project impacts on species were unfounded or flawed by not following logically from premises, as I will address in my comments that follow.

According to the SEIR (2017:5.2-4), "*No mammal trapping was conducted because it was not considered warranted (i.e., there are no Threatened or Endangered mammals expected to occur in the study area).*" There might not be threatened or endangered mammals in the study area, but there was likely a special-status species in the southern grasshopper mouse. Not addressed in the SEIR were multiple additional special-status species of small mammals with geographic ranges overlapping the project area, including San Joaquin pocket mouse (*Pergonathus inornatus*, BLM special animal), Tehachapi pocket mouse (*Perognathus alticola inexpectatus*, California species of special concern), Los Angeles pocket mouse (*Perognathus longimembris brevinasus*, California species of special concern), and desert woodrat (*Neotoma lepida intermedia*, California species of special concern). There could have been other species, as well, but one truth I learned from 23 years of wildlife ecology is that not looking for species is a sure way to not find them – especially special-status species, which tend to be rare and cryptic.

No surveys were performed for detecting bats, either. Acoustic detectors coupled with SonoBat could have been deployed to identify species using the study area. A thermal imaging camera could have been used to quantify activity patterns seasonally and spatially, and some information could have been collected on likely species present based on body size and flight behaviors. Again, not looking is an easy way to remain

ignorant of project impacts, but not looking also deprives decision-makers and the public the thoroughness needed to adequately assess project impacts and mitigation.

Nocturnal surveys using thermal imaging cameras or spotlights also could have shed light on the presence of other mammals, such as American badger (*Taxidea taxis*, California species of special concern), mountain lion (*puma concolor*, California Fully Protected [by voter referendum]), and San Diego black-tailed jackrabbit (*Lepus califomicus bennettii*, California species of special concern). But nothing like this was attempted, leaving those who prepared the SEIR the opportunity to conclude these species may not occur on the project area.

There is no use made of eBird (https://ebird.org/ebird/map), which is curious because at least one of those performing surveys in the study area reported findings to eBird. A quick review of eBird also turned up a credible 2016 sighting of a California condor only a few miles from the project boundary; it was credible because the observer reported the large tag on the bird. Other reports of California condor were reported in 2017 just a few miles farther north.

Surveys on the proposed project site confirmed the presence of 27 terrestrial vertebrate species with special status, including 5 species listed as threatened or endangered under state or federal laws. Multiple additional threatened or endangered species might occur on the proposed project site, but were not detected for insufficient survey effort. That the survey effort detected 27 terrestrial vertebrate species with special status indicates a remarkable richness of special-status species in one place. The lists of species detected in the SEIR and in various BonTerra Psomas (2015) reports are long, indicating the site is rich in wildlife despite the many efforts in the SEIR to downplay the functionality of species' occurrences (e.g., 'habitat may be suitable for foraging, but not for nesting') and the attempts to characterize the site as degraded by cattle grazing and exotic species. Below are some comments on species discussed in the SEIR.

California condor

According to the SEIR (2017:5.2-24), California condors might fly over the proposed project area, but would not be expected to forage there. Why not? No reason is provided for this conclusion. According to the SEIR the project area is used for cattle grazing. If cows sometimes die out there like they do where I work in the Altamont Pass, then California condors will feed on them just as turkey vultures do in the Altamont Pass. Other animals also occur on the proposed project site, and upon death the carcasses of these animals will feed condors. There is no reason why condors would not forage on the project site, and as reported by eBird and noted earlier, California condors have been observed very close by.

Bald eagle

The SEIR (2017:5.2-24) concludes that there is no suitable foraging habitat available on the project site for bald eagle. This is not true. I have watched bald eagles for years foraging for ground squirrels and carrion on the annual grasslands of the Altamont Pass,

an environment very similar to proposed project site. I have also seen bald eagles taking prey items from hawks such as ferruginous hawk. Only two weeks ago I photographed two bald eagles foraging far from lacustrine or riverine habitat, and one was eating from food it held in one foot while kiting over a ridge covered by annual grassland. If those who prepared the SEIR believe that bald eagles only eat fish, they are wrong. There is no reason why bald eagles would not forage over the project area. According to eBird, bald eagles have been reported in the project vicinity.

Golden eagle

Golden eagles were seen on the project site (SEIR 2017:5.2-23), and there are a number of sightings reported in the area on eBird. BonTerra Psomas (2015) claims that although foraging habitat occurs on site, nesting habitat does not. It says, "*Broad expanses of open country are required for foraging, while nesting is primarily restricted to rugged mountainous areas with large trees or on cliffs.*" Whereas nesting habitat often can be characterized as mountainous with large trees or cliffs, golden eagles also nest on shallower terrain, such as in the foothills of the Altamont Pass where I do much of my work. Golden eagles often nest in trees within the annual grasslands of California's foothills. In fact, one of our hatch-year golden eagles from just such a nest on shallower terrain was fit with GPS telemetry by my colleague Doug Bell of East Bay Regional Park District. This eagle left our study area on 15 October 2016 and within two weeks flew right over the Northlake project area (unpublished data) (Figure 1).

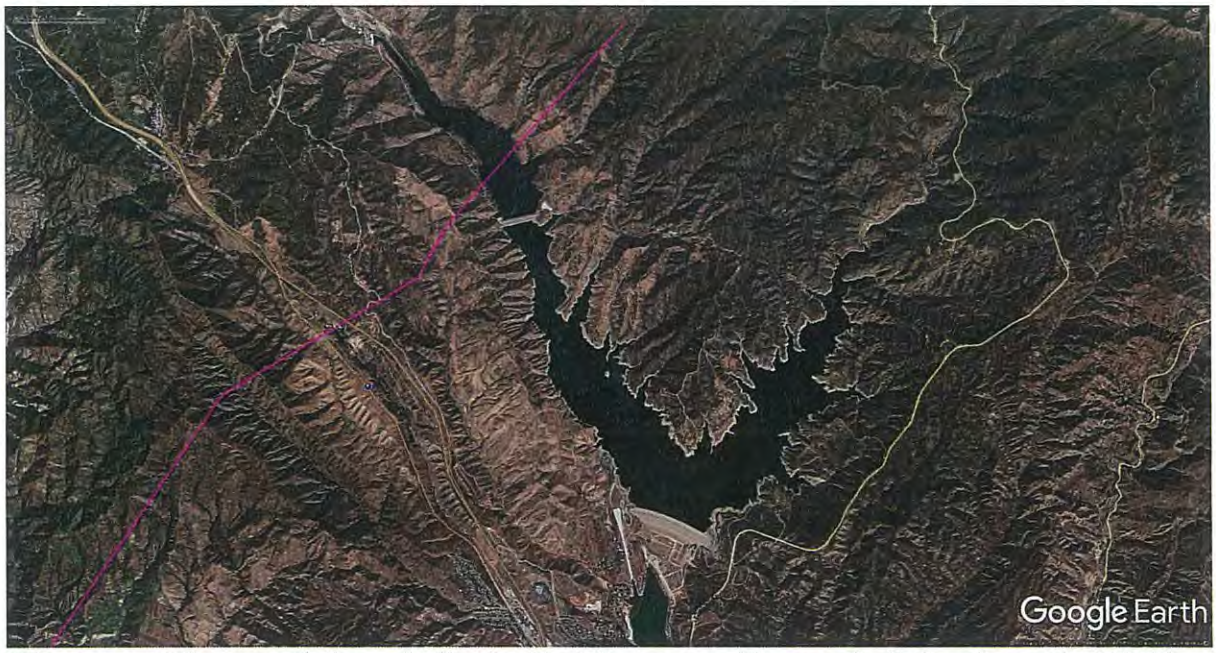


Figure 1. *Flight path (purple line) of hatch-year golden eagle flying from the Diablo Range to the outskirts of Las Vegas, and along the way passing near the proposed Northlake project area (East Bay Regional Park District, unpublished data; Google Earth imagery). The flight path depicted was sometime between 15 October and 7 November 2016, and positions were recorded every 5 minutes, so our eagle spent about 25 minutes over the project area.*

Using Google Earth to zoom in and examine the flight path at many locations, I could see that this eagle threaded the needle of anthropogenic activities, avoiding areas inhabited, farmed and industrialized by people. It is apparent that the path of avoidance is very narrow, and it is reasonable to assume that this path of avoidance will narrow further with each new land conversion for human uses. The SEIR ought to more seriously assess potential project impacts on golden eagle, which would lose 1,330 acres of foraging habitat to the project. Golden eagles would lose additional foraging habitat due to the human-avoidance factor.

Ferruginous hawk

The SEIR (2017:5.2-23) reports that ferruginous hawk was observed on site, and accurately reports that the species does not normally nest in the area. It would be informative, however, to note that ferruginous hawks are migratory and that the project area is within the species' wintering range. The wintering range is just as critical to this species persistence as is the nesting habitat, as no species can successfully breed without having survived the non-breeding season. The project area is important to ferruginous hawk regardless of the species not nesting there.

Swainson's hawk

The SEIR (2017:5.2-23) reports that Swainson's hawks were seen flying overhead on migration, but characterizes the project area as potential foraging habitat but not nesting habitat. The project area is undoubtedly used as foraging habitat, and I would not rule out the site as being used as nesting habitat. Where I live and work no biologist would have believed that Swainson's hawks would ever nest in the foothills of the Altamont Pass, until they did. I recorded a pair of Swainson's hawks nesting in the Altamont Pass in 2016, and having fledged two chicks. The same could happen on the proposed project area so long as the land is not converted to residential or commercial use.

White-tailed kite

According to the SEIR (2017:5.2-2), white-tailed kite may occur on the project area, but according to BonTerra Psomas (2015:Attachment A) the species was seen on site. In my experience, the proposed project area would be ideal for white-tailed kites, both for foraging and nesting. White-tailed kites often nest in riparian trees or in individual trees isolated from others (Erichsen et al. 1996).

Merlin

The SEIR (2017:5.2-24) reports merlin as having been observed on site, and accurately reports that the species does not normally nest in the area. It would be informative, however, to note that merlin are migratory and that the project area is within the species' wintering range. The wintering range is just as critical to this species persistence as is the nesting habitat, as no species can successfully breed without having

survived the non-breeding season. The project area is important to merlin regardless of the species not nesting there.

Burrowing owl

According to BonTerra Psomas (2015, Attachment F:2), burrowing owls show high nest site fidelity, often using the same burrows for nesting year after year. No citation to source accompanied this conclusion. In my research of burrowing owl nest site fidelity, I have found very low site fidelity over six years of monitoring at Dixon National Radio Transmission Facility, 13 years of monitoring at Lemoore Naval Air Station, 17 years of monitoring in Davis, California, and 9 years of monitoring in the Altamont Pass Wind Resource Area. Some nest sites are indeed used over several years, but most are not used again in immediately succeeding years. In fact, among 46 randomly selected plots averaging about 54 ha per plot, nest densities in any given year can predict the densities the following year, but not after 2 or 3 years (Figure 2). Breeding pairs of burrowing owls shift breeding locations often, resulting in a shifting mosaic pattern of abundance that defies any notion of high nest site fidelity.

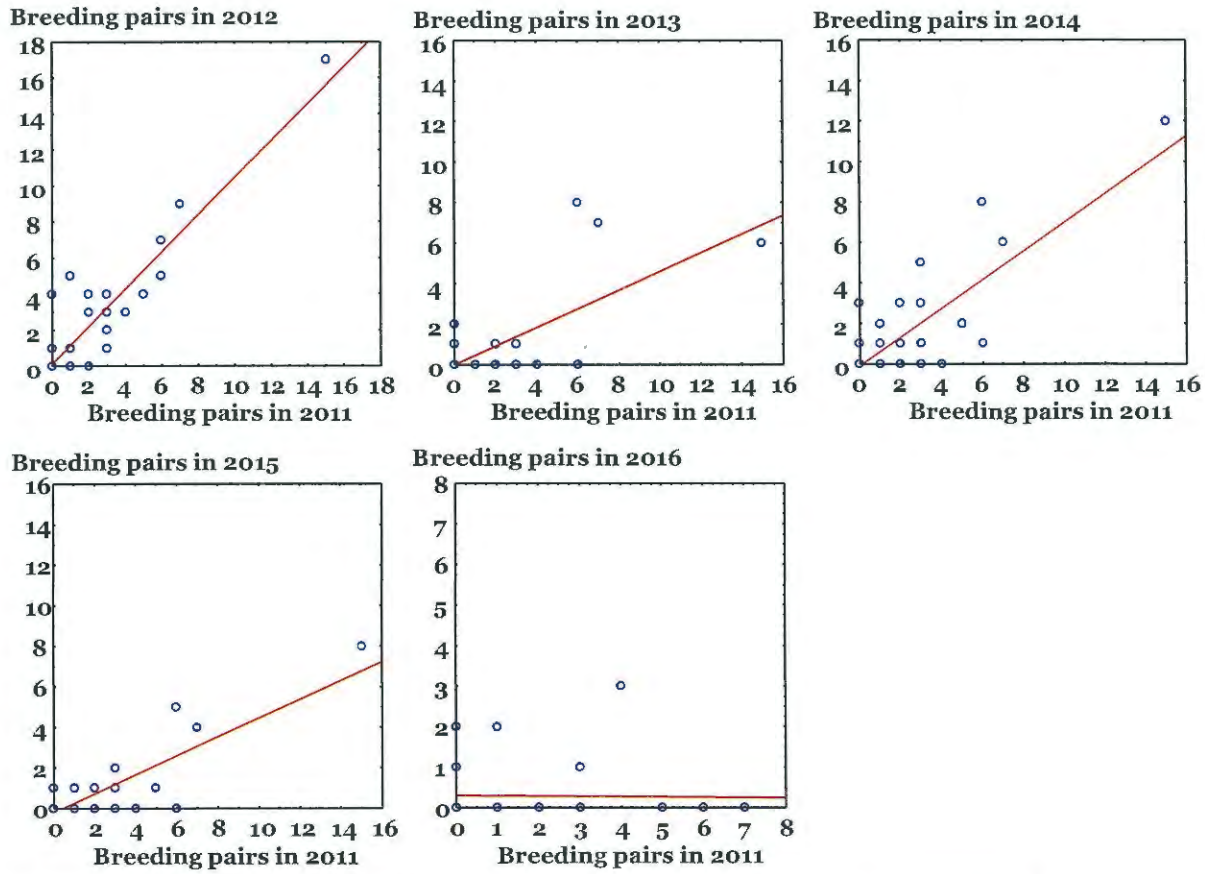


Figure 2. *Breeding pairs of burrowing owls among plots in the APWRA from 2012 through 2016 as functions of breeding pairs in 2011 (Smallwood, unpublished data).*

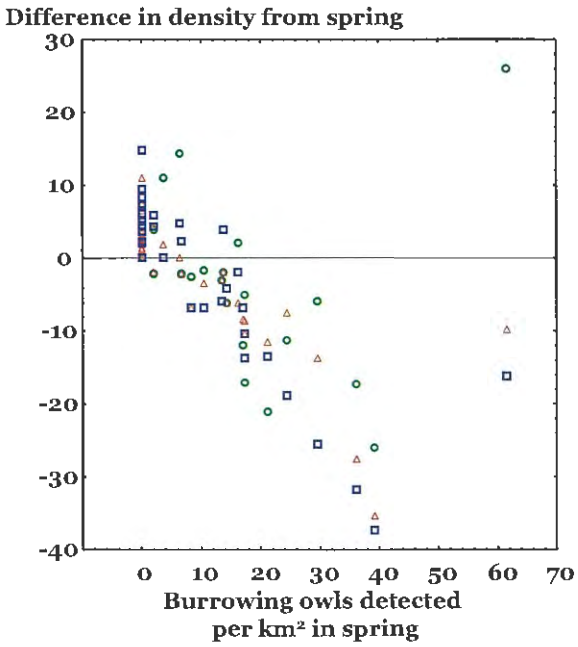
The 2007 survey on the proposed project site was based on the 1995 CDFW protocol. BonTerra Psomas (2015, Attachment F:3) selected terrain to be surveyed that was "not too steep,", but it was not explained what "not too steep" means. I have found breeding burrowing owls on very steep slopes, including on cliffs and slopes so steep that walking on them is challenging. Just this year I found a pair of burrowing owls breeding at the top of a slope so steep that I had to access the burrow site by walking along the ridge crest from further up the ridge. I am concerned that BonTerra Psomas's assumption that burrowing owls only breed on shallow slopes might have resulted in considerable breeding habitat having not been surveyed.

BonTerra Psomas's (2015, Attachment F:4) description of the surveys indicate that the surveys were mostly winter surveys. The survey methods described by BonTerra Psomas indicate lack of experience with winter surveys and what can be expected to be discovered from them. I have performed winter surveys over large areas where I also performed breeding season surveys (Smallwood, unpublished data – scientific papers in progress). I found non-breeding surveys yield very low detection rates because burrowing owls are cryptic when not breeding. During the breeding season there is always an adult sentry near the nest burrow, but when not breeding there is no need for a sentry and burrowing owls almost always hide inside their burrows. I found that the most effective winter survey method is to walk transects no more than 30 m apart, and to often stop and look back over ground already covered. Burrowing owls often emerge from their burrows or fly to other burrows after the biologist walks past the owl's last hide. But even this approach will detect fewer than 10% of the available owls.

Another useful winter-time method is to scan large areas relatively far from the observer, using high-quality binoculars stabilized on a monopod or tripod. While walking transects in winter, it is useful to stop often and scan ahead (and behind, as explained earlier) using binoculars stabilized on a monopod. Also, contrary to BonTerra Psomas (2015, Attachment F:4), it is useful to perform nocturnal surveys using a thermal imaging camera. BonTerra Psomas (2015, Attachment F:4) claimed that nocturnal surveys are not useful because burrowing owls fly away from nest burrows to forage. This is true, but BonTerra Psomas (2015, Attachment F) was performing winter surveys and not breeding season surveys. The owls they could have surveyed for at night would not have been breeding. And even during the breeding season, whereas it is true that breeding owls often fly from the burrow to forage, it is still readily easy to see the owls leaving to forage and returning with prey items. I have been using my thermal camera for such surveys with great effectiveness since 2012, during all times of year.

BonTerra Psomas also demonstrated lack of experience with winter burrowing owl surveys by relying on sign at the burrows, such as pellets and whitewash and prey items. These types of sign are useful for finding nest burrows, but not as useful for finding winter refuge burrows. Many winter refuge burrows are used too briefly for sign to accumulate, as wintering owls tend to move around. Also, there is little connection between breeding and non-breeding distributions, as I have found in two large study areas, including in the Altamont Pass (Figure 3). Burrowing owls generally depart from breeding areas to winter somewhere else, but not necessarily very far from breeding areas.

Figure 3. *Burrowing owl densities within 46 randomized sampling plots in the Altamont Pass Wind Resource Area shifted between seasons as a function of density observed in spring, where green circles represent summer, red triangle represent fall, and blue squares represent winter* (Smallwood, unpublished data).



Further demonstrating lack of familiarity with burrowing owl surveys was BonTerra Psomas's (2015, Attachment F:5) reference to satellite burrows in the context of winter surveys. Satellite burrows are meaningful only during the breeding season; there is no such thing as a satellite burrow in winter.

BonTerra Psomas (2015, Attachment F:7) estimated 9 burrowing owls used the project area during the winter of 2007. However, as I pointed out earlier, burrowing owls are very difficult to detect during winter. In my experience, and given the survey methods used, I would expect that BonTerra Psomas (2015, Attachment F:7) grossly underestimated the number of burrowing owls wintering on the project site.

BonTerra Psomas (2015, Attachment F:7) reported that wintering owls had left the project area by 30 March 2007, leading to the SEIR (2017:5.2-39) conclusion, "*The burrowing owl winters on the Project site. This is an unusual wintering location for this species, since it is located in the foothills rather than on the valley floor.*" However, there is nothing unusual about burrowing owls wintering in the foothills, nor would there be anything unusual about them nesting there on the proposed project site. I have documented one of the largest burrowing owl populations in California both wintering and nesting in foothills (Smallwood et al. 2013, Smallwood 2016). Burrowing owls migrating from British Columbia winter in the foothills of Santa Clara County at even higher elevations than in the Altamont Pass or the proposed project site (Lynn Trulio, personal communication, 2017).

Of greater significance, however, is BonTerra Psomas's (2015, Attachment F:7) unfounded conclusion that the project site is used only by wintering burrowing owls. According to BonTerra Psomas (2015, Attachment F:7), "*...there was no evidence of breeding in the survey area during the 2007 breeding season.*" But the only survey performed during the breeding season was on 28 April 2007. The 2007 survey effort

did not meet the standards of the current survey protocol (CDFW 2012) and therefore could not be relied upon to conclude absence during the breeding season (Table 1). This was a critical mistake, because the 2015 survey effort was restricted to the winter months after having concluding, inappropriately, that burrowing owls on site are wintering owls and not present during the breeding season. An inadequate survey effort in 2007 was used to justify an inadequate survey effort in 2015 (Table 2).

The burrowing owl survey effort also fell short of multiple other standards of the CDFW (2012) burrowing owl survey guidelines (Tables 1 and 2). The CDFW (2012) guidelines are imperfect, but are generally effective. (I would advocate for more time scanning for owls before walking transects and I would advocate for nocturnal surveys because burrowing owls are more active at night and more readily detectable.) The guidelines strive to have those doing the surveys to assess the reliability of their findings. The guidelines encourage multiple years of surveys when doubt arises about the representativeness or the veracity of findings. In this case, the 2014/2015 winter survey was performed at the peak of the most intense drought in California's recorded history – at a time when I had recorded a nearly 90% decline in burrowing owls in the Altamont Pass (Alameda and Contra Costa Counties) and when other biologists similarly documented substantial declines thought to have been caused by drought. Of all years to doubt the representativeness of burrowing owl surveys, 2014/2015 set the standard. I would not give much credence to the 2014/2015 winter survey, and I would instead repeat the survey next year because last year the number of emerging chicks per nest increased greatly, and this year the number of nesting pairs has reached about 50% of the abundance of 2011 and chick productivity has increased even more. By next year burrowing owl surveys ought to better represent the average abundance and distribution, and would better inform decision-makers and the public.

According to the SEIR (2017:5.2-39), "*...if active wintering burrows are detected within the Project impact boundary, artificial burrows outside the impact boundary within suitable habitat would be constructed at a 1:1 ratio, ensuring a substantial reduction in potential impacts during and after Project implementation.*" However, this measure would ensure nothing other than the destruction of the local burrowing owl population. I have been monitoring the effectiveness of artificial burrows constructed for burrowing owls in multiple study areas including Davis, California, Dixon National Radio Transmission Facility, and Lemoore Naval Air Station, and I have consulted with biologists who monitored such structures in other study areas. Whereas artificial burrows are often used by owls within the first year of construction, they are quickly abandoned. None of the artificial burrows are used anymore at Davis, Lemoore or Dixon, and nearly all have been abandoned at San Jose International Airport, Moffett Field and many other locations. Without the symbiotic alarm-calling and burrow maintenance of California ground squirrels, artificial burrows fail to provide sufficient protection from predatory attacks, nor do they provide alternative burrows for escaping parasite loads. I cannot endorse the construction of artificial burrows as a mitigation measure for displacing burrowing owls. Burrowing owls need suitable habitat, including California ground squirrels.

Table 1. *Assessment of 2007 burrowing owl survey's (BonTerra Psomas 2015, Attachment F:) consistency with CDFG's (2012) recommended burrowing owl survey protocol. Standards are numbered to match those in CDFG (2012).*

Standard in CDFG (2012)	**Assessment of surveys performed in 2007**	**Was the standard met?**
Minimum qualifications of biologists performing surveys and impact assessments		
(1) Familiarity with the species and local ecology	Poor to middling	Partial
(2) Experience conducting habitat assessments and breeding and non-breeding season surveys	No experience reported	No
(3) Familiarity with regulatory statutes, scientific research and conservation related to burrowing owls	Yes on statutes, but unclear on scientific research and conservation	Partial
(4) Experience with analyzing impacts on burrowing owls	No experience reported or demonstrated	No
Habitat assessment		
(1) Conduct at least 1 visit covering entire site and offsite buffer to 150 m	Not reported; habitat assessment appeared to be based on viewing maps of habitat types	No
(2) Prior to site visit, compile relevant biological information on site and surrounding area	No indication this was done	No
(3) Check available sources for occurrence records	Unclear this was done	No
(4) Identify vegetation cover potentially supporting burrowing owls on site and vicinity	Provided	Yes
(5a) Describe project and timeline of activities	Activities described but not timeline	Yes
(5b) Regional setting map showing project location	Provided	Yes
(5c) Detailed map with project footprint, topography, landscape and potential vegetation-altering activities	Provided, more or less	Yes
(5d) Biological setting including location, acreage, terrain, soils, geography, hydrology, land use and management history	Provided	Yes
(5e) Analysis of relevant historical information concerning burrowing owl use or occupancy	Provided	Yes
(5f) Vegetation cover and height typical of temporal and spatial scales relevant to the assessment	Provided, although heights were crudely described	Yes
(5g) Presence of burrowing owl individuals, pairs or sign	Provided	Yes

Standard in CDFG (2012)	Assessment of surveys performed in 2007	Was the standard met?
(5h) Presence of suitable burrows or burrow surrogates	Provided	Yes
Breeding season surveys		
Perform 4 surveys separated by at least 3 weeks	Performed 2 surveys at most	No
1 survey between 15 February and 15 April	Achieved	Yes
2-3 surveys between 15 April and 15 July	Not done	No
1 survey following June 15	Not done	No
Walk transects spaced 7 m to 20 m apart	Transects separated by 30 m	No
Scan entire viewable area using binoculars at start of each transect and at 100 m intervals	Not done	No
Record all potential burrow locations determined by presence of owls or sign	Reported burrows with sign or owls	Yes
Survey when temperature >20° C, winds <12 km/hr, and cloud cover <75%	Not reported	No
Survey between dawn and 10:00 hours or within 2 hours before sunset	Unclear, not reported.	No
Identify and discuss any adverse conditions such as disease, predation, drought, high rainfall or site disturbance	No discussion of adverse conditions	No
Survey several years at projects where activities will be ongoing, annual or start-and-stop to cover high nest site fidelity	This report covered a single winter season	No
Reporting should include:		
(1) Survey dates with start and end times and weather conditions	Only survey dates reported	Partial
(2) Qualifications of surveyor(s)	Not provided	No
(3) Discussion of how survey timing affected comprehensiveness and detection probability	Not provided	No
(4) Description of survey methods including point count dispersal and duration	Not provided	No
(5) Description and justification of the area surveyed	Provided	Yes

Standard in CDFG (2012)	Assessment of surveys performed in 2007	Was the standard met?
(6) Numbers of nestlings or juveniles associated with each pair and whether adults were banded or marked	Not provided	No
(7) Descriptions of behaviors of burrowing owls observed	Some behavior reported	Partial
(8) List of possible burrowing owl predators in the area, including any signs of predation of burrowing owls	Not provided	No
(9) Detailed map showing all burrowing owl locations and potential or occupied burrows	Provided	Yes
(10) Signed field forms, photos, etc.	Not provided	No
(11) Recent color photos of project site	Provided	Yes
(12) Copies of CNDDB field forms	Not provided	No

Table3. *Assessment of 2015burrowing owl survey's (BonTerra Psomas 2015, Attachment F) consistency with CDFG's (2012) recommended burrowing owl survey protocol. Standards are numbered to match those in CDFG (2012).*

Standard in CDFG (2012)	Assessment of surveys performed in 2015	Was the standard met?
Minimum qualifications of biologists performing surveys and impact assessments		
(1) Familiarity with the species and local ecology	Poor to middling; the 2015 report simply repeated text descriptions of burrowing owl ecology in the 2007 report	Partial
(2) Experience conducting habitat assessments and breeding and non-breeding season surveys	No experience reported other than the 2007 surveys	No
(3) Familiarity with regulatory statutes, scientific research and conservation related to burrowing owls	Yes on statutes, but unclear on scientific research and conservation	Partial
(4) Experience with analyzing impacts on burrowing owls	No experience reported or demonstrated other than 2007 experience	No
Habitat assessment		
(1) Conduct at least 1 visit covering entire site and offsite buffer to 150 m	Not reported	No
(2) Prior to site visit, compile relevant biological information on site and surrounding area	No indication this was done	No
(3) Check available sources for occurrence records	Unclear this was done	No
(4) Identify vegetation cover potentially supporting burrowing owls on site and vicinity	Provided	Yes
(5a) Describe project and timeline of activities	Activities described but not timeline	Partial
(5b) Regional setting map showing project location	Provided	Yes
(5c) Detailed map with project footprint, topography, landscape and potential vegetation-altering activities	Provided, more or less	Yes
(5d) Biological setting including location, acreage, terrain, soils, geography, hydrology, land use and management history	Provided	Yes
(5e) Analysis of relevant historical information concerning burrowing owl use or occupancy	Provided	Yes

Standard in CDFG (2012)	Assessment of surveys performed in 2015	Was the standard met?
(5f) Vegetation cover and height typical of temporal and spatial scales relevant to the assessment	Provided, although heights were crudely described	Partial
(5g) Presence of burrowing owl individuals, pairs or sign	Provided	Yes
(5h) Presence of suitable burrows or burrow surrogates	Provided	Yes
Breeding season surveys		
Perform 4 surveys separated by at least 3 weeks	Followed CBOC (1994) protocol	Yes
1 survey between 15 February and 15 April	Not done	No
2-3 surveys between 15 April and 15 July	Not done	No
1 survey following June 15	Not done	No
Walk transects spaced 7 m to 20 m apart	Transects separated by 30 m	No
Scan entire viewable area using binoculars at start of each transect and at 100 m intervals	Not done	No
Record all potential burrow locations determined by presence of owls or sign	Reported burrows with sign or owls	Yes
Survey when temperature >20° C, winds <12 km/hr, and cloud cover <75%	Not reported	No
Survey between dawn and 10:00 hours or within 2 hours before sunset	Generally reported.	Yes
Identify and discuss any adverse conditions such as disease, predation, drought, high rainfall or site disturbance	No discussion of adverse conditions	No
Survey several years at projects where activities will be ongoing, annual or start-and-stop to cover high nest site fidelity	This report covered a single winter season	No
Reporting should include:		
(1) Survey dates with start and end times and weather conditions	Only survey dates reported	Partial
(2) Qualifications of surveyor(s)	Not provided	No
(3) Discussion of how survey timing affected comprehensiveness and detection probability	Not provided	No

Standard in CDFG (2012)	Assessment of surveys performed in 2015	Was the standard met?
(4) Description of survey methods including point count dispersal and duration	Not provided	No
(5) Description and justification of the area surveyed	Provided, but justification flawed	Yes
(6) Numbers of nestlings or juveniles associated with each pair and whether adults were banded or marked	Not applicable	---
(7) Descriptions of behaviors of burrowing owls observed	Not reported	No
(8) List of possible burrowing owl predators in the area, including any signs of predation of burrowing owls	Not provided	No
(9) Detailed map showing all burrowing owl locations and potential or occupied burrows	Provided	Yes
(10) Signed field forms, photos, etc.	Photos provided	Partial
(11) Recent color photos of project site	Provided	Yes
(12) Copies of CNDDB field forms	Provided	Yes

Tricolored Blackbird

According to the SEIR (page 5.2-37), "*Occasional single tricolored blackbirds have been observed foraging on the Project site. There is no suitable nesting habitat within or in the vicinity of the Project site. This is a highly colonial species that requires protection of nesting colonies and areas where the colonies forage in flocks; therefore, project implementation is not expected to impact this species.*" This exact same statement appears in five attached reports in Appendix F of the SEIR. But where 1 tricolored blackbird is seen there must be more if the entire statement is to be believed; after all, the tricolored blackbird is a "highly colonial species." Does it make sense that only a single member of a highly colonial species would be seen in multiple surveys? I often record tricolored blackbirds in an annual grassland on foothills, similar to the project site. Contrary to the SEIR's conclusion that no suitable habitat occurs on the project site, I often record tricolored blackbirds nesting on hilly landscapes dominated by annual grassland in eastern Alameda and Contra Costa Counties. Based on the environmental conditions described for the site and on photos of the site within the SEIR, I disagree that the project site is unsuitable as nest habitat for tricolored blackbirds. Also, if tricolored blackbirds are nesting someplace just outside the project boundary, they are obviously foraging on the project site. Else, why would they be seen there?

Bats

The SEIR (2017:5.2-25) notes the potential for eight special-status species of bat to forage over the proposed project site, but says of all eight that roosting habitat is either limited or unavailable. But perhaps the SEIR is too quick to dismiss bats as likely to roost on site because the site lacks caves and very many trees. Bats have been documented to roost in many environmental settings. In their extensive review of studies of bat roosting behaviors, Kunz and Lumsden (2003) reported findings that indicated a wide diversity of conditions suitable for roosting. The very first sentence of Kunz and Lumsden (2003:3) reads, "*Bats occupy a wide variety of roosts in both natural and manmade structures.*" By the third page of their review, Kunz and Lumsden (2003:5) were presenting photos and summaries of the variety of cavities and other structures used by roosting bats, including on trees and limbs <25 cm diameter, on snags, live trees, exfoliating bark, exposed boles, cavities in bird nests, in foliage, furled leaves, within termite and ant nests, and on artificial structures. Without actually searching for bats it is perhaps too easy to conclude that roosting habitat is unavailable, but I nearly always see this conclusion in environmental reviews and it cannot always be correct. Bats must roost somewhere, and according to the scientific literature reviewed by Kunz and Lumsden (2003), they find roost opportunities in many different situations. Therefore, I disagree that bat roosting habitat is unavailable on the proposed project area.

Wildlife Movement Impacts

The SEIR's assessment of potential impacts on wildlife movement is premised by faulty definitions. According to the SEIR (2017:5.2-13), "*Wildlife corridors link together*

areas of suitable wildlife habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance." However, this definition appears contrived and convenient for downplaying potential project impacts. No source is cited for the SEIR's definition of wildlife corridors. As it turns out, I have worked on this and related issues for many years, and I have found nearly as many definitions for wildlife corridors as there are consultants and scientists (Smallwood 2015). Defining what is meant by a wildlife corridor depends on context, so there is no catch-all definition. The closest I could come to a general definition was "*Corridor implies concentrated movement of one or more species, or disproportionate use of a linear portion of a landscape*" (Smallwood 2015). The SEIR's definition lacks any scientific origin and is therefore a poor premise for assessing impacts.

The SEIR (2017) presented no evidence that anything had been done in the field to assess whether any portion of the project area or the project area on the whole served to concentrate movement of one or more species of wildlife. No camera traps were placed to detect wildlife movement, nor was any known method used to assess wildlife movement. Only speculation was relied upon, but speculation is prone to hopeful outcomes and thus prone to bias.

Also according to the SEIR (2017:5.2-13), "*The fragmentation of open space areas by urbanization creates isolated "islands" of wildlife habitat.*" Again, this is a definition I have seen for the first time, even though I have worked on the issue of habitat fragmentation since about 1990. No source is cited for this definition. In my review of definitions of habitat fragmentation, the most general definition I could derive was "*...what separates habitat fragmentation from simple habitat loss is the disproportionate reduction in numerical capacity of the remaining habitat of the same net area*" (Smallwood 2015). Fragments need not be habitat islands as defined by the SEIR, but rather diminished in their support of the numerical capacity of a species that had been typical of the habitat prior to fragmentation. This diminishment can be caused by interference with wildlife movement due to physical or biological barriers, to physical or biological pollution, and to increased anthropogenic mortality caused by auto traffic or debilitation caused by lighting or noise (also considered as forms of pollution).

The SEIR (2017:5.2-13) further states, "*...various studies have concluded that some wildlife species, especially the larger and more mobile mammals, will not likely persist over time in fragmented or isolated habitat areas because they prohibit the infusion of new individuals and genetic information.*" However, this conclusion is misleading by suggesting that such studies identified only larger and more mobile mammals are susceptible to fragmentation effects. This is not true, as many examples of small animals being vulnerable to habitat fragmentation have been documented, including for plant species in southern California's coastal scrub (Alberts et al. 1993), small mammals in southern California (Bolger et al. 1997), and small birds (McCollin 1993). Habitat fragmentation is a threat to all biological species, not just mobile large mammals.

The SEIR (2017:5.2-13) introduces another definition of wildlife corridor, similarly unsourced and untested in the field. It also defines a "Travel route", but again without citing any source and without testing in the field whether any aspect of the project area

serves as a travel route. In short, there was no serious effort made to assess the project's potential impacts on wildlife movement. The SEIR relies on speculation.

For example, the SEIR (2017:5.2-14) speculates, "*On the Project site, Grasshopper Canyon is undeveloped and is adjacent to open space in the Angeles National Forest (ANF) and Castaic Lake State Recreation Area (SRA), both of which provide high-quality wildlife habitat. Historically, the Castaic Creek drainage adjacent to the site may have been an important north-south linkage between the mountainous open space of the ANF and resource rich riparian zones along the Santa Clara River. However, construction of Castaic Dam, Lake, Lagoon, and Castaic SRA and its associated facilities along with residential development west of the Lagoon has essentially eliminated this linkage.*" But this speculated conclusion conveniently neglects to consider that Grasshopper Canyon must have received much of the wildlife traffic that was cut off by Castaic Lake. Why would the SEIR not speculate that developing Grasshopper Canyon would close off its use as a diverted movement route between Castaic Lake and Interstate 5? The SEIR's conclusion on potential project interference with wildlife movement appears biased.

Contributing to this appearance of bias, the SEIR (2017:5.2-14) speculates, "*Only local movement of species habituated to an urban landscape (e.g., coyote), are expected to navigate the extensive set of existing barriers.*" Yet earlier in the chapter on biological resources, the SEIR reported that species expected to occur on the project site included bobcat and mountain lion, among other species that are not typically thought of as habituated to urban landscapes. The SEIR's speculated conclusions are inconsistent, indicative of bias.

Traffic Impacts on Wildlife

The SEIR made no attempt to estimate project impacts on wildlife that will be caused by increased traffic on roadways servicing the project. Vehicle collisions have accounted for the deaths of many thousands of reptile, amphibian, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). As an example, a recent study of mortality along a 2.5 mile stretch of Vasco Road in Contra Costa County, California, revealed 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of fatality searches (Mendelsohn 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study right next to Vasco Road (Brown et al. 2016). Applying searcher detection rates estimated from carcass detection trials performed at a wind energy project immediately adjacent to this same stretch of road (Brown et al. 2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number translates to a rate of 3,900 wild animals per mile per year killed along 2.5 miles of road in 1.25 years. Whereas this disturbing fatality rate might be biased high or low by incorrect extrapolations of detection rates from the wind project to the roadway (including the

road verge), and whereas it likely does not apply equally to all roadways, it reveals a huge toll on wildlife caused by auto traffic. The indirect and cumulative impacts caused by Northlake Specific Plan's added traffic should be assessed and mitigated.

Window Impacts on Wildlife

Even though window collisions have been estimated to be the second or third largest source of human-caused bird mortality in the USA, involving up to 1 billion bird fatalities per year (Klem 1990, 2010; Dunn 1993, Loss et al. 2014), the SEIR lacks any assessment of window collision impacts. The SEIR was prepared for the construction of 3,150 dwelling units without any regard to window materials or the numbers and sizes of windows, window orientation, or landscaping around windows. All of these factors contribute to rates of bird collisions with windows. Transparency and reflectance increase collision risk, but there are materials available to minimize the effects of transparency and reflectance, including the glass itself.

Cumulative Impacts

The SEIR (2017:5.2-63) contributes one paragraph to cumulative impacts analysis, and this paragraph is composed of inconsistent, speculative statements. It starts by saying "*The Project would have potentially significant adverse impacts on biological resources,*" and later speculates "*The cumulative impact on biological resources such as special status species, sensitive habitat, jurisdictional resources, and wildlife movement would be considered to be greater than the individual proposed Project,*" and concludes "*The Project is not expected to contribute a significant impact to the Project area.*" Somehow the SEIR drifts within one paragraph from an acknowledgment of potentially significant cumulative impacts to not expecting any significant cumulative impacts. The only reasons given, sort of, are (1) mitigation measures to project impacts and (2) the project's relatively small contribution to cumulative impacts when compared to other projects in the region.

The first reason cited is a false standard for determining whether a project's impacts will be cumulatively considerable. The SEIR implies that a given project impact is cumulatively considerable only when it has not been fully mitigated. In essence, the SEIR implies that cumulative impacts are really residual impacts left over by inadequate mitigation at the project. This notion of residual impact being the source of cumulative impact is not even consistent with CEQA's definition of cumulative effects. Individually mitigated projects do not negate the significance of cumulative impacts. If they did, then CEQA would not require a cumulative effects analysis.

The second reason cited is another false standard for determining whether a project's impacts will be cumulatively considerable. CEQA does not require an assessment of the proportion of cumulative effects contributed by the project, nor are there breaks provided for those contributing the smallest portion of some cumulative impact. Even if there was such a crediting in the cumulative effects analysis, the SEIR relied solely and speculatively on the relative size of the project footprint, and even then provided no comparison of project acreages. The SEIR did not even define a cumulative effects

scope. In summary, there was no serious cumulative effects analysis provided in the SEIR.

MITIGATION

Most of the proposed mitigation measures either contribute no substantial benefits in terms of impact minimization, reduction or compensation, or they threaten additional impacts onsite or offsite where relocations of plants and animals are proposed. Many of the measures also defer the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it.

MM 5.2-1 Preconstruction surveys for special-status species

Preconstruction surveys should be performed, but protocol-level surveys are needed in advance of preconstruction surveys to assess impacts and appropriately formulate mitigation. Preconstruction surveys come too late and are not designed to serve impacts assessment. Adequate detection surveys for most of the potentially occurring special-status species have yet to be completed. So, for example, it remains unknown how many pairs of burrowing owls typically breed on site, and thus the basis for formulating suitable mitigation remains missing.

MM 5.2-2 Compensatory protection of sensitive habitat types

The SEIR should identify exactly where and how specific properties will be protected as part of this mitigation measure. Reasons should be provided for why these specific properties are being protected. In my experience, vague compensatory mitigation measures such as this one result in purchases of conservation easements on land between on- and off-ramps of freeway interchanges or on some degraded property far from the project site. In the case of the Natomas Basin Habitat Conservation Plan, the core mitigation measure was to be the purchase of fee title or conservation easement on properties within a defined boundary buffering the project area, but no property owners were willing to sell. Based on my experience, if the project applicant has not identified specific properties where this measure will be implemented, then I remain skeptical the measure will come to pass as advertised. I will add that management plans should accompany the identification of specific properties for protection per this measure.

MM 5.2-3 Coordinate with federal regulators on removal riparian trees

Coordinating with federal regulators is fine, but I assert that it would be more consistent with the spirit and intent of CEQA to also coordinate with the public on the implementation of this measure. Often there is equal or greater expertise on habitat enhancements or restoration outside regulatory agencies. Coordinating only with the federal regulators shuts out the public from participating with this important part of CEQA review, in my opinion.

MM 5.2-4 Translocation of club-haired Mariposa lily and slender Mariposa lily

This measure should add specific locations where such translocations would happen. The biological resources at the receiving site will be degraded or destroyed by such translocations, so the public should be informed about them. There is a strong likelihood that the translocations will fail, and that the receiving sites will be degraded.

MM 5.2-5 Prepare a special-status plant species restoration plan

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it.

MM 5.2-6 Conserve sage scrub on site at ratio to be determined by LACDRP

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it. Why should LACDRP be the only entity weighing in on the mitigation ratio?

MM 5.2-7 Conserve annual grassland/wildflower fields on site at ratio to be determined by LACDRP

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it. Why should LACDRP be the only entity weighing in on the mitigation ratio?

MM 5.2-8 Conserve foothill needlegrass grassland on site at ratio to be determined by LACDRP

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it. Why should LACDRP be the only entity weighing in on the mitigation ratio?

MM 5.2-9 Relocate western spadefoot toads to similar or better quality habitat onsite

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it. Furthermore, receiving sites will likely be occupied by western spadefoot already, so this measure will likely be nothing better than a dumping of toads on an existing, functioning population of spadefoot toads. To return to the numerical capacity of the receiving site, toads will have to perish in the number being dumped on the receiving site. Alternatively, if receiving sites lack spadefoot toads, then they are likely unsuitable for the toads being dumped into them. Frankly, this measure is cruel and ineffective.

MM 5.2-10 Clearance sweeps and removals of special-status reptile species

Whereas I agree that clearance sweeps should be performed, the SEIR needs to be revised to explain exactly where and how reptiles will be relocated. There needs to be

some consideration of the impacts of receiving sites where cleared reptiles are being dumped.

MM 5.2-11 Prepare HMMP for onsite conservation of riparian habitat

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it.

MM 5.2-12 Biological monitor will review demarcation of construction disturbance

This is fine, but if will contribute little of substance to mitigating project impacts.

MM 5.2-13 Comply with conditions of MBTA and CDFW Code, including bird exclusion and preconstruction nest surveys

As pointed out for MM 5.2-1, preconstruction surveys are needed, but they cannot replace the detection surveys needed to inform impacts assessments. To comply with MBTA and CDFW Code, perform the needed detection surveys.

Also, I must point out that the passive relocation measure proposed for burrowing owls has been documented to result in high burrowing owl mortality. Passive relocation is destructive, not helpful. Evicted owls attempt to re-enter their burrows and in the process get noticed by their predators, who then prey on the owls.

MM 5.2-14 Preconstruction surveys for wintering burrowing owl use

This measure is based on an unqualified premise that the burrowing owls on the project site only winter there. Appropriate surveys are needed to determine how many pairs of burrowing owls typically nest on the site.

MM 5.2-15 Consult with USFWS over take of coastal California gnatcatcher

No comment.

MM 5.2-16 100-foot landscape buffer to reduce project noise reaching natural areas

More details are needed for this measure. A landscaped buffer might indeed reduce noise reaching adjacent natural areas, but the maintenance of the landscaped buffer might introduce other forms of pollution, such as irrigation runoff and the effects of any fertilizers used to grow the trees (or shrubs).

MM 5.2-17 Submit project lighting plan to LACDRP

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it.

MM 5.2-18 Prepare fencing plan to deter residents from intruding into natural areas

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it. I would like to know the types of fencing to be used, as some fences entangle and kill wildlife. Also, fencing solutions often fail to deter residents and their dogs from intruding into natural areas.

MM 5.2-19 Submit landscaping plan to LACDRP to ensure exotic plants will not spread

This measure defers the formulation of the mitigation to an unspecified future date, thereby excluding me and other members of the public from participating with it.

MM 5.2-20 Preconstruction survey for bat roosts

Detection surveys are needed long before preconstruction roost surveys. No detection surveys have been performed other than a search for bat roosts of unreported effort-level.

MM 5.2-21 Obtain discharge permits to protect downstream biology from runoff and erosion

Obtaining a permit does not qualify as a mitigation measure.

MM 5.2-9 through MM 5.2-13 are said to suffice for mitigating any impacts on the project's interference with wildlife movement or wildlife corridors. However, the SEIR provides no explanation for how any of these measures would mitigate project impacts on wildlife movement. In my assessment, the claim that any of these measures would do so is absurd.

SUGGESTED MITIGATION MEASURES

I suggest a few measures that would be more substantial than proposed in the SEIR.

Detection Surveys

I recommend that adequate detection surveys be performed in order to inform decision-makers and the public about potential impacts and to formulate measures to minimize, rectify and compensate for impacts. Detection surveys completed so far have been directed at only a few special-status species, but we need surveys that can detect all of the special-status species potentially using the proposed project area. And we need surveys that can enumerate each species and characterize the demographic organization of these species on site.

Wildlife Movement Surveys

Nothing has been learned about how wildlife move across the proposed project site. Surveys are needed to characterize movement patterns so that informed conclusions can be made about whether and how the project will interfere with wildlife movement. Such surveys are needed to inform mitigation.

Distributed Energy Generation

Rather than relying on electrical energy from fossil fuel sources or from industrial wind turbines or solar projects, all of which themselves cause substantial adverse impacts to wildlife, orient the dwelling units and any commercial buildings to optimize rooftop exposures for the installation of photovoltaic panels.

Roadways

Design roadways to minimize traffic speeds, especially at locations likely to be crossed by wildlife. Provide wildlife under-crossings coupled with fencing to discourage wildlife from crossing over roads.

Windows

As discussed earlier, the project should mitigate bird collisions with windows by designing windows and choosing window materials to minimize collisions, and by planning landscaping to minimize distances between ornamental vegetation and windows. Much has been learned about the mechanisms of bird-window collisions and how to minimize or reduce such collisions. The most effective measures are those planned in advance of construction, so it is important to consult with existing window collision guidelines, e.g., Sheppard and Phillips (2015).

Habitat Protection

Properties to be used for compensating impacts should be identified in a revised EIR. Rationale for selecting these properties should be provided, along with restoration, enhancement, and management plans. Performance standards are needed to ensure that nexus can be demonstrated between the project's impacts and the benefits gained in the protected habitat; acreage should not serve as the sole basis of any such nexus because whereas the project area supports burrowing owls the protected habitat might not. There needs to be demonstrated nexus between impacts and mitigation, and the public reviewing the EIR needs to see it in order to effectively participate with it.

Donations to Wildlife Rehabilitation Facilities

Despite efforts to minimize and reduce project impacts on wildlife, impacts will continue at various levels. Wildlife will continue to be injured by windows, pets, auto traffic and infrastructure such as by electric distribution lines and fences, and many of them will be discovered by concerned citizens. These injured animals are often taken to

wildlife rehabilitation facilities, where most are euthanized either because the injuries are too great for any hope of releasing the animal back to the wild or because operating budgets are too low to afford the level of care needed for rehabilitation and release. The truth is that the non-profit organizations serving to rehabilitate wildlife are almost always operating on shoestring budgets. Many more injured wildlife can be rehabilitated and released by increasing the operating budgets of wildlife rehabbers.

I recommend that compensatory mitigation for ongoing and future impacts be provided in the form of donations to wildlife rehabilitation facilities. The amount of the fund could be assessed by estimating the numbers of injured animals found and delivered to rehabilitation facilities and by interviewing rehabilitation facilities for their costs. Little has been done in support of such an assessment, but Leyvas and Smallwood (2015) initiated a small effort on the cost side of the problem. We surveyed 38 rehabilitation facilities to assess the cost of rehabilitating raptors injured by wind turbines, and we ended up recommending $3,230/injured raptor would serve as a reasonable interim mitigation cost. Since then have also hazarded to guess that $500 per injured non-raptor animal would be reasonable. These costs would need to be multiplied by the number of injured animals ending up in rehabilitation facilities, and these numbers could be obtained by interviewing the rehabbers. Alternatively, a reasonable one-time sum could be estimated and paid out without having to monitor for injuries.

Thank you for your consideration,

Shawn Smallwood, Ph.D.

REFERENCES CITED

Alberts, A. C., A. D. Richman, D. Tran, R. Sauvajot, C. McCalvin, and D. T. Bolger. 1993. "Effects of Habitat Fragmentation on Native and Exotic Plants in Southern California Coastal Scrub." In Interface between Ecology and Land Development in California, edited by J. E. Keeley, 103-10. Southern California Academy of Sciences, Los Angeles.

Bolger, D. T., A. C. Alberts, R. M. Sauvajot, P. Potenza, C. McCalvin, D. Tran, S. Mazzoni, and M. E. Soule. 1997. "Response of Rodents to Habitat Fragmentation in Coastal Southern California." Ecological Applications 7:552-63.

BonTerra Psomas. 2015. Biological Technical Assessment Report NorthLake Specific Plan Development Project. Pasadena, California.

Brown, K., K. S. Smallwood, J. Szewczak, and B. Karas. 2016. Final 2012-2015 Report Avian and Bat Monitoring Project Vasco Winds, LLC. Prepared for NextEra Energy Resources, Livermore, California.

CDFG (California Department of Fish and Game). 2012. Staff Report on Burrowing Owl Mitigation. Sacramento, California.

County of Los Angeles. 2017. NorthLake Specific Plan Project Draft Supplemental Environmental Impact Report (DEIR). Los Angeles, California.

Dunn, E. H. 1993. Bird mortality from striking residential windows in winter. Journal of Field Ornithology 64:302-309.

Erichsen, A. L., K. S. Smallwood, A. M. Commandatore, D. M. Fry, and B. Wilson. 1996. White-tailed Kite movement and nesting patterns in an agricultural landscape. Pages 166-176 in D. M. Bird, D. E. Varland, and J. J. Negro, eds., Raptors in human landscapes. Academic Press, London.

Forman, T. T., D. Sperling, J. A. Bisonette, A. P. Clevenger, C. D. Cutshall, V. H. Dale, L. Fahrig, R. France, C. R. Goldman, K. Heanue, J. A. Jones, F. J. Swanson, T. Turrentine, and T. C. Winter. 2003. Road Ecology. Island Press, Covello, California.

Klem, D., Jr. 1990. Collisions between birds and windows: mortality and prevention. Journal of Field Ornithology 61:120-128.

Klem, D., Jr. 2010. Avian mortality at windows: the second largest human source of bird mortality on earth. Pages 244-251 in Proc. Fourth Int. Partners in Flight Conference: Tundra to Tropics.

Kunz, T. H., and L. F. Lumsden. 2003. Ecology of cavity and foliage roosting bats. Pages 3–89 in T. H. Kunz and M. B. Fenton, Eds., Bat ecology. The University of Chicago Press, Chicago.

Leyvas, E. and K. S. Smallwood. 2015. Rehabilitating injured animals to offset and rectify wind project impacts. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Loss, S. R., T. Will, S. S. Loss, and P. P. Marra. 2014. Bird–building collisions in the United States: Estimates of annual mortality and species vulnerability. The Condor: Ornithological Applications 116:8-23. DOI: 10.1650/CONDOR-13-090.1

McCollin, D. 1993. "Avian Distribution Patterns in a Fragmented Wooded Landscape (North Humberside, U.K.): The Role of between-Patch and within-Patch Structure." Global Ecology and Biogeography Letters 3:48-62.

Mendelsohn, M., W. Dexter, E. Olson, and S. Weber. 2009. Vasco Road wildlife movement study report. Report to Contra Costa County Public Works Department, Martinez, California.

Sheppard, C., and G. Phillips. 2015. Bird-friendly building Design, 2nd Ed., American Bird Conservancy, The Plains, Virginia.

Smallwood, K. S. 2015. Habitat fragmentation and corridors. Pages 84-101 in M. L. Morrison and H. A. Mathewson, Eds., Wildlife habitat conservation: concepts, challenges, and solutions. John Hopkins University Press, Baltimore, Maryland, USA.

Smallwood, K. S. 2016. Report of Altamont Pass research as Vasco Winds mitigation. Report to NextEra Energy Resources, Inc., Office of the California Attorney General, Audubon Society, East Bay Regional Park District.

Smallwood, K.S., J. Beyea and M. Morrison. 1999. Using the best scientific data for endangered species conservation. Environmental Management 24:421-435.

Smallwood, K. S., L. Neher, J. Mount, and R. C. E. Culver. 2013. Nesting Burrowing Owl Abundance in the Altamont Pass Wind Resource Area, California. Wildlife Society Bulletin: 37:787-795.

Smallwood, K.S., A. Gonzales, T. Smith, E. West, C. Hawkins, E. Stitt, C. Keckler, C. Bailey, and K. Brown. 2001. Suggested standards for science applied to conservation issues. Transactions of the Western Section of the Wildlife Society 36:40-49.

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20 February 2018

RE: Northlake Specific Plan SEIR

Dear Mr. Sackett,

I write to reply to responses to my expert comments on the Supplemental Environmental Impact Report (SEIR) prepared for the NorthLake Specific Plan (County of Los Angeles 2017). The responses appear in the NorthLake Specific Plan Project Final Supplemental Environmental Impact Report. My qualifications for preparing expert comments were summarized in my letter of 13 June 2017, along with my CV.

There was no response to my comments I presented in the second paragraph of page 2 of my 13 June 2017 letter, just prior to the comment the County of Los Angeles ("County") labeled 20.1. I commented that the only wildlife surveys performed on the proposed project site were done on 3 days in April 2014 in the midst of the most intense drought in California's recorded history. I also commented on the cursory nature of the surveys, and how they failed to serve as premise for many of the conclusions in the EIR. My comments stand.

Response 20.1: According to the County, "*General wildlife surveys are an effective and widespread method for assessing the potential for general and special status species to occur on the Project site...*" This is not a true statement. If it was, then wildlife biologists and resource agencies would not bother formulating detection survey protocols and survey guidelines. Most special-status species are difficult to detect, requiring intense survey effort, special survey times, or specialized survey methods. Walking over the site with a botanist and taking photos and field notes is not the same – not even close to the same – as for example, laying down traps of a certain type during a specific time of year or phase of the moon cycle, and using specific bait, thermal cover, schedule for checking traps, minimum trap spacing or specific trap placements in relation to burrows or sign or plant cover, number of trap nights and specific intervals between trap efforts for a given species of small mammal. Similar types of protocols, albeit using different methods, have been developed for special-status species of bird, reptile and amphibian. Having implemented such protocols many times in my career, I can assure the City that a general wildlife survey is effective only when the biologist gets lucky by stumbling into a detection of a special-status species. No way can an absence determination be based on a general wildlife survey, especially such a survey as cursory as the one described in the case of the proposed NorthLake Specific Plan.

The County's response to the occurrence potential of multiple special-status species of small mammal that I listed in my comment letter is to explain that the project site is not located within the geographic range of these species. First, geographic range maps are not defined as hard boundaries, within which the species occurs and outside of which the species is absent. Geographic range maps are general characterizations of the known or predicted spatial extent of a species. Knowledge about the spatial extent of a species has to be updated all the time in response to scientific studies and as detections are submitted to resource agencies and checked for veracity. When I began working on mountain lions in California in 1985, California Department of Fish and Wildlife's official geographic range map for mountain lions excluded Marin County. I challenged CDFW's basis for the exclusion and dared the agency to fund me to perform detection surveys in Marin County. The agency met my dare, and I detected sign of mother and kitten mountain lions on Corte Madera Ridge on my very first day of the survey. Since then many detections of mountains in Marin County have added to my 1985 detection, including many within Point Reyes National Seashore (I saw one there, too). The species' geographic range map was amended after 1985 to include Marin County. In another example, Pierson and Rainey (1998) tripled the occurrence records and greatly expanded the known geographic range of spotted bat (*Euderma maculatum*) simply by performing some acoustic detection surveys.

The geographic range of San Joaquin pocket mouse, according to CDFW (M087), is near the project site. I would not dismiss the likelihood of this species occurring there without first implementing a trapping effort suitable for detecting the species.

The geographic range of Los Angeles pocket mouse is not well known. CDFW does not even present a geographic range map for Los Angeles pocket mouse, so the City's claim that the project is outside the range map lacks foundation. Habitat descriptions are consistent with conditions at the proposed project site, including grasslands and sage scrub.

The project site is near the known geographic range of Tehachapi pocket mouse, but little is known about the true range of this species. Laabs (no date) recommended that trapping for the species be performed in preparation for any project proposed along the northern San Gabriel Mountains.

The County's response regarding desert woodrat (*Neotoma lepida intermedia*) is confusing, and perhaps misleading. The City says the omission of this species from the DEIR was due to conflicting species names between the literature and CDFW's special animals list. It says that the species known to occur on the site was identified as *Neotoma bryanti intermedia*, but it is known to CDFW as *Neotoma lepida intermedia*. The impression given by this response is that the desert woodrat was known to exist on site but its omission from the DEIR was due to a mix-up of species names. The response very clearly states that this species was detected on site, and that it occurs on site. However, I again reviewed the DEIR (County of Los Angeles 2017) and its Appendix D (BonTerra Psomas 2015) and found no mention of any kind of woodrat having been detected on site or assessed in any way for potential impacts. If a species of woodrat was

detected on site, then why was it not listed as having been detected in the DEIR? How is it that the County now knows desert woodrat occurs on site? Was the original detection omitted from the DEIR? Were additional surveys performed since the cursory walkover in April 2014?

The change made to the EIR in response to recognizing the occurrence of desert woodrat on site is incomplete and inadequate. There is no analysis of the distribution and abundance of desert woodrat on site as a needed first step toward formulating mitigation. There is no mitigation of impacts to this species. The change made to the EIR merely adds desert woodrat to a growing list of special-status species occurring on the project site.

Response 20.2: In response to my comment, somebody visited the project site with an acoustic bat detector, but only for three nights in July 2017. In only these three nights, the biologist deploying the detector identified ten species of bat, including Pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), western mastiff bat (*Eumops perotis californicus*), western red bat (*Lasiurus blossevillii*), hoary bat (*Lasiurus cinereus*), California myotis (*Myotis californicus*), Western small-footed bat (*Myotis ciliolabrum*), Yuma myotis (*Myotis yumanensis*), western pipistrelle (*Parastrellus hesperus*), and Mexican free-tailed bat (*Tadarida brasiliensis*). Four of these species are listed as California Species of Special Concern, including Pallid bat, Townsend's big-eared bat, western mastiff bat, and western red bat. Three of these species are listed by the Western Bat Working Group as moderate or high conservation priority, including small-footed myotis, Yuma myotis, and hoary bat. That 10 bat species were detected using proper equipment goes to support my reply to the County's response 20.1, which absurdly proclaimed "*General wildlife surveys are an effective and widespread method for assessing the potential for general and special status species to occur on the Project site...*" To exemplify the County's version of a general wildlife survey, the response added "*...the wildlife biologist would be identifying large rocky outcrops, caves, or abandoned mines in the survey area that may provide roosting habitat for bats.*" If this was true, then how is it that the general wildlife survey generated no project impacts analysis related to bats, whereas 3 nights with an acoustic detector turned up 10 species, including 7 special-status species of bats?

Had the bat biologist stayed longer or surveyed on various dates at different times of year, I am confident that more species would have been detected, perhaps including Western yellow bat (*Lasiurus xanthinus*) and spotted bat (*Euderma maculatum*), both of which are California Species of Special Concern. There might be 15 or more species of bat using the proposed project site, and perhaps 10 or more bats listed as rare or sensitive. For these reasons I find it incredible that the response adds, "*...it should be noted that this addition does not materially change the description of the Project or the findings of the Draft SEIR.*" Changing an EIR from no bats being assessed for project impacts to the addition of at least seven special-status species of bats easily qualifies as a material change to the EIR.

The response goes on to acknowledge the project will result in the elimination of 1,070 acres of habitat of up to eight special-status species of bat, but then concludes the

impact would be adverse but less than significant "*...because the Project would not impact a substantial population of the bat species mentioned above and would not cause regional populations to drop below self-sustaining levels.*" The response introduces a false standard for determining the significance of project impacts on special-status species. Any loss of habitat or of individuals of special-status species qualifies as significant; after all, any species that is attributed special status by wildlife professionals have been so attributed because the species already experienced substantial decline. These species have already suffered the effects of cumulative effects of human activities and are in need of special conservation efforts.

If the standard of significance was consistent with the County's characterization, then it would be standard practice to perform surveys that are appropriate for quantifying distribution and abundance. Otherwise, how could the County or any other entity determine whether project impacts would cause a substantial population or cause regional populations to drop below self-sustaining levels? If the County's standard was correct, then each project's impact assessment would need to define the demographic organization of each species at issue within the project area so that it could be determined whether the project would affect a portion of a population, the whole of a population, or multiple populations (Smallwood 2001). In my opinion, decision-makers would be much better informed if such a standard existed, but it does not exist under CEQA. Nor was it anywhere close to having been achieved by the surveys serving as foundation for conclusions in the EIR. The County cannot claim anything about the project's potential impacts on populations of any of the bat species at issue, because the County lacks the data needed to understand anything about the social organization of any wildlife species occurring on the proposed project site.

The County claims, "*The results of the survey do not constitute new significance findings, and therefore, and do not trigger the need for recirculation of the Draft SEIR.*" This determination is incorrect. Finding 10 species of bats, 7 of which have special-status, adds at least 7 significance findings.

Response 20.3: In response to my comment that nocturnal surveys would have been useful for determining presence of special-status species of mammal, the County wrote "*While nocturnal surveys provide definitive proof of the species utilizing the site, they are not necessary for determining mammal use of the site.*" This response could be true if sufficient effort was committed via other means. Having performed 900 hours of thermal-imaging surveys at night, and many additional surveys using a spotlight, I know from experience that most mammalian species are primarily nocturnal. Surveying at night is the most efficient way of seeing many mammalian species.

Response 20.4: I had questioned why no use was made of eBird, so in response the County disparaged eBird: "*eBird is an online check list program that allows recreational bird watchers to provide information about birds, which is often in error. There are no professional/educational requirements to have an eBird account or summit data.*" The County's disparagement goes to say, "*The species accounts included in the Draft SEIR relied on the experience of professional biologists...*" However, as I pointed out in my comment, and as acknowledged in the County's response, one of the

biologists who surveyed the proposed project site reported his findings to eBird – not once, but many times from multiple locations in the area. The County wants to have it both ways by claiming it relied only on professionals while also acknowledging that one of its biologists posts to eBird. Perhaps as a means to downplay the biologist's posting to eBird, the response claims that the reported information was from an offsite survey. However, if this biologist's surveys were offsite, then some were on the project boundary. Anyhow, the professional biologist tasked with surveying the project site for birds also finds value in eBird, thereby undermining the County's disparagement of eBird.

Many people post their bird sightings to eBird, including seasoned professionals with whom I am familiar and hold my respect for their birding skills. Like any data base, however, the user must take care in using it. The County is correct that eBird includes errors. However, the vast majority of the reports are accurate, and many can be confirmed with attached videos or photos. Often, sightings reported at a site are repeated by others visiting the site at the same time or other times. I have multiple times visited proposed project sites to find the same bird species that had earlier been reported on eBird. Furthermore, I have many times visited project sites and started my investigations by asking locals to tell me which species of wildlife they see in the area – an approach similar to using eBird. Asking locals has many times tipped me off to exactly where or when I could visit a location to detect special-status species.

The best use of eBird is the use my comment suggested for it, which is an indicator of species likely to occur at a project site. The California Natural Diversity Data Base (CNDDB), which is the type of professionally managed data the County says it prefers to trust, is limited by volunteer reporting of special-status species detections. CDFW posts a disclaimer on CNDDB's web page: "*We work very hard to keep the CNDDB and the Spotted Owl Database as current and up-to-date as possible given our capabilities and resources. However, we cannot and do not portray the CNDDB as an exhaustive and comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence or absence of sensitive species will always be an important obligation of our customers.*" CNDDB, like eBird, is a useful starting point for identifying which special-status species might use a project site, but neither data base is a useful source for concluding species' absence. And this goes to the key point I tried to make with my comment letter of 13 June 2017 – the County repeatedly errs on the side of incautious dismissal of project impacts, which is exactly the wrong way to err given the spirit and intent of CEQA to inform decision-makers and to minimize environmental harm. My comment suggested that eBird would serve as a useful source of species' detections, but the County dismisses eBird as unprofessional while at the same time claiming that a cursory walkover survey during 3 days in the middle of California's most intense drought in history was consistent with industry standards and therefore professional.

Standard scientific practice when assessing risks to rare or precious resources in the face of high uncertainty (such as having performed a cursory walkover survey for the resources at issue) is to err on the side of caution (National Research Council 1986, O'Brien 2000, Shrader-Frechette and McCoy 1992). Doing so would be consistent with

the goals and objectives of CEQA. The burden of proof is supposed to be on proving the absence of special-status species, not on proving presence. eBird is just another tool that is useful for identifying the suite of special-status species that ought to be investigated for presence or absence. Proving absence is the next step, and requires professional detection surveys that are designed for substantiating absence determinations.

According to the County, "*All potentially present threatened or endangered wildlife species have been evaluated, and no additionally listed species are expected to occur with any further survey efforts.*" But this is what the reader of the SEIR was supposed to believe prior to my comment that special-status species of bat would likely be detected by using acoustic bat detectors. After three days of using bat detectors, we now know there are at least 10 species of bat use the proposed project site. Similar outcomes are likely for the other special-status species I identified in my comment letter if only the County would implement the appropriate protocol-level detection surveys. Summarily declaring that these other species are absent is neither scientifically defensible nor professional.

Responding to my comment about the County downplaying the rich biological value of the project site, the County says "*Regarding statements in the Draft SEIR that some species (mostly avian) have potential suitable foraging habitat onsite, but not nesting, this is a industry standard to distinguish the difference between foraging and nesting potential onsite. Many avian species forage in one type of habitat while nest in another and impacts to these habitat components are considered separately in the CEQA analysis.*" Unfortunately, the County again presents a false standard. An "industry standard" is not the same thing as a scientific standard, nor is it agreed upon by some convention of professional biologists or resource agencies. In my experience industry standards are whatever the definer of industry standards wants them to be. In this case, the County wants the reader to believe that birds nest over here and forage over there, in two separate habitats. This is a false dichotomy of resources, and therefore a false standard of assessment under CEQA.

A bird's nest is a critical component of the life of a bird; without the nest there is no bird, or worse yet, there are no birds for years to come. Taking a nest translates into taking the reproductive capacity of birds that would have relied on that nest. However, the reproductive capacity of birds extends beyond the nest structure itself; it includes all of the bird's foraging habitat. Taking foraging habitat translates into taking the reproductive capacity of birds that would have relied on a nest on or off the project site. The County's supposed industry standard attempts to decouple nesting habitat from the appropriate temporal and spatial scales at which nesting functions.

Nests are meaningless to birds out of context of the habitats in which nests function, including foraging habitat. Erichsen et al. (1996) found that white-tailed kite nest success was significantly greater when more of the area within 0.8 km of the nest was covered by natural vegetation. Nest success and reuse was significantly greater when more of the forest was protected from logging around Tasmanian wedge-tailed eagle nests (Mooney and Taylor 1996). Pande et al. (2011) found that nest production of rock

eagle-owls was greatest where more open habitat was available around the nests and where several alternative nest sites were available. Smallwood et al. (2009) found that nest site occupancy of American kestrels was greatest in the largest habitat patches they measured as part of a large-scale habitat fragmentation study. I could go on, adding example after example of scientific sources providing evidence that the nest cannot be functionally decoupled from foraging habitat. The County's industry standard is contrived for convenience and has no foundation in science.

Response 20.5: The County responds to my comment about California condors: "*The categorization of habitat into breeding versus foraging use of the Project site are factual important distinctions and intended to contribute to the knowledge of the reader, and the assessment and ultimate determination of impacts.*" As I pointed out in reply to response 20.4, the EIR's categorization of breeding versus foraging habitat is not factual nor does it contribute to the knowledge of the reader; it in fact misleads the reader by introducing the false notion that breeding bird habitat can be decoupled from foraging habitat. It cannot. In a human context it would be like claiming that eliminating all of the local grocery stores will have no impact on a young family that is allowed to remain in their house. The grocery stores are just as important to the family's well-being as is the house; the larger neighborhood is where the family truly prospers.

The County adds more misleading claims: "*Because breeding habitat (i.e. large trees, cliff faces) is typically less abundant that foraging habitat (i.e. grassland, scrub) there are often higher priorities for certain species in regard to breeding versus foraging. Typically breeding areas are a smaller subset of suitable habitat, and therefore, potentially more susceptible to loss/impacts.*" These statements over-generalize by claiming that birds "typically" breed in environmental settings that are different and rarer than their foraging habitat. Many species of bird nest amidst the same vegetative cover in which they forage, including western burrowing owls, western meadowlarks, Cooper's hawks, horned larks, and so many more. For some species, it is true that breeding is restricted to a scarcely available environmental setting, but even for these species the County falsely asserts a priority to breeding habitat. Again, a bird's reproductive capacity depends on both the availability of nesting substrate and foraging habitat. It is misleading to claim that there is plenty of foraging habitat, as if there is a surplus that can be taken with no ill-effect on the bird species at issue. Reducing a nesting pair's foraging habitat by 50% will just as surely destroy that pair's reproductive capacity as would taking the nest substrate.

The County responded to my comment about potential use of the site by condors by reviewing condor telemetry data during 2014. The County concludes "*No reported landings occurred, and therefore no foraging, occurred which is expected for this area as the Project site is outside the known core foraging range for this species.*" I have to wonder whether the County would have come to the same conclusion for the species' core foraging area in 1988, when no California condors would have been detected within the core foraging area cited by the County (no California condors remained in the wild in 1988). The core foraging area has of course been changing as California condor recovery efforts continue. Only over the last decade have wild-fledged condors

contributed to the foraging area, the core of which is not the only important foraging habitat of condors. It is silly of the County to argue that its unlikely condors will forage on the project site because those that flew over in 2014 didn't land to eat carrion. If I applied the same logic to hundreds of recorded golden eagle flights in my eagle study area, I would falsely conclude that eagles don't actually forage in my study area. It is not every day that biologists get to see large raptors consuming food, and consuming food is not the definition of foraging; it is an outcome. Flying raptors are almost always foraging. California condors observed flying over the project site were most likely foraging. Otherwise, what is it that the County would have us believe those condors were doing?

That the County's investigation of condor telemetry paths revealed flights over the project site is additional evidence that the project site serves as California condor foraging habitat. It confirmed my comment, just as the County's response 20.2 confirmed my comment about bats. The project's impact on California condor needs to be quantified and mitigation formulated to address the impact.

Response 20.6: The County claims that it is unreasonable of me to extrapolate my observations of bald eagles foraging for terrestrial prey in the grasslands of the Altamont Pass to what might happen on the grassland of the project site. I disagree that it is unreasonable to apply the scientific method in an impacts assessment. It is also hypocritical of the County to rely on summary habitat associations for each species in the EIR's potential occurrence tables, and then to say that I cannot apply the same approach to bald eagles.

In an effort to downplay my observations of bald eagles foraging on grasslands, the County speculates that "*If cattle grazing were to cease on the Project site, these grasslands would mostly be converted back to sage scrub and chaparral habitats.*" However, under CEQA it is the existing conditions of a proposed project site that must be analyzed, and not some speculated condition of an alternate reality that is convenient to one's desired project outcome.

The County also claims that because only a third of the project area is covered by grassland, the grassland would be unsuitable as foraging habitat for bald eagles. Why? Is there a threshold ratio of vegetation cover that determines the value of grassland as bald eagle foraging habitat? I am not aware of any such threshold. I stand by my comments that bald eagles forage for terrestrial species in grassland cover, and that the project would adversely affect bald eagles by removing foraging habitat.

Response 20.7: The County dismisses my comment on the project's impacts on golden eagle partly by arguing, "*The potential for occurrence is considered extremely conservative given the lack of breeding records in the Project region and the tendancy for golden eagles in the region to breed in rugged mountenous country (Allen et al.).*" I cannot comment on the veracity of Allen et al. as a source for this argument because no reference list appears to have been provided with the FEIR, but I can counter this argument by pointing out that one of the world's highest-density breeding populations

of golden eagles is located in the Altamont Pass (Hunt et al. 1999), an area I would not characterize as rugged mountainous country.

The County did not address the larger point of my comment. Golden eagles are averse to anthropogenic activities/land uses, and I cited a telemetered eagle as an example of how golden eagles avoid human-occupied areas. This golden eagle I used as an example in my original comment had also flown right over the project area. If the project goes forward, golden eagle flight paths will be further restricted to an increasingly narrow strip of wildlands in the San Gabriel Mountains. The project would interfere with the movement of golden eagles in the region, and impact that is not being addressed in the EIR. It needs to be addressed.

Response 20.8: To dismiss my comment about project impacts to wintering ferruginous hawks the County argued, "*After nearly 20 years of biological surveys on this Project site, the ferruginous hawk has been observed only a few times during the winter season; there is no regular wintering by this species on this Project site (Appendix D of the Draft SEIR).*" I returned to the Draft SEIR and quickly found the statement, "*The data provided in this report are from general surveys of the study area that were conducted by BonTerra from 1997 to 2006, and in 2014 and 2015.*" I read further to learn whether the surveys would have enabled detections of ferruginous hawks over the winter months. Surveys for southwestern willow flycatcher and least Bell's vireo were performed 1997 and 2000-2007, but these were in spring and summer and not in winter. Nesting raptor surveys were done in 1997-2000, but obviously not over the winter because winter is not when raptors are nesting. There was a California red-legged frog habitat assessment survey in 2001, but it was in May, not winter. There were surveys for spadefoot toad in 2000 and 2014, but these surveys were in spring. Fairy shrimp surveys were done in 2004, 2005, and 2014, but the biologists involved were looking for fairy shrimp, not ferruginous hawks. Burrowing owl surveys were done in 2007 and 2014-2015, but only a few visits were made in winter. Coastal California gnatcatcher surveys were done in 2014-2015, but in spring and not winter. The walkover surveys in 2015 occurred in April. All in all, the County cannot claim that 20 years of surveys support their conclusion of no regular wintering by ferruginous hawks on the project site. Biologists would need to have surveyed over the winter months spanning 20 years in order for the County to support its conclusion of no regular wintering. The County's argument on this matter is misleading and unsupportable. I stand by my original comment.

Response 20.9: In response to my comment about possible Swainson's hawk nesting on site, the County presents its typical arguments, but this time added "*It is possible that a stray migrant may stop and forage.*" I wonder what a stray migrant Swainson's hawk might be. A lost migrant? A vagabond Swainson's hawk? The County is again misleading the readers of the FEIR, this time by introducing a new term to wildlife biology – the stray migrant, otherwise implied as a "throw-away bird."

The County continues its dismissal of my comment with "*The Swainson's hawk is considered extirpated for breeding on the coastal slope, which includes the Project region.*" And as I pointed out in my comment, the same was said of the coastal hills

west of the Great Central Valley until two years ago when some of us started recording Swainson's hawks nesting in those hills. As acknowledged by the County, a population of Swainson's hawks has been breeding in the Antelope Valley, a short distance away (also see CEC and CDFG 2010). I would not be surprised to find Swainson's hawks nesting on the project site this year or the next, and they might have nested there last year. The CEC and CDFG (2010) guidelines on Swainson's hawk breeding-season detection surveys should be implemented.

Response 20.10: Dismissing my comment on white-tailed kite impacts, the County repeats the argument used with ferruginous hawk, "*After nearly 20 years of biological surveys on this Project site, the white-tailed kite has been observed only a few times on the Project site.*" My review of the surveys performed at the project site revealed a spotty survey effort, mostly devoted to specific taxa such as fairy shrimp, red-legged frogs, spadefoot toad, and endangered songbirds. The County lacks foundation for concluding that white-tailed kite rarely use the project site. Had the site been surveyed for birds for 20 years, I would give the County's argument some credibility, but there were not 20 years of suitable surveys for white-tailed kite. I stand by my comment.

Response 20.11: The County dismissed my comment about impacts to wintering merlin, using the same argument as response 20.8. The County lacks foundation for this argument because winter surveys for birds were not regularly performed. The County has no idea how often merlin winter on the project site. I stand by my comment.

Response 20.12: Most of my comments on burrowing owl were not addressed in the FEIR. However, in response to my comment, burrowing owl breeding season surveys were performed. According to the County, "*In order to provide additional breeding survey data, an additional breeding season survey was conducted in summer 2017 in accordance with CDFW protocol (CDFW 2012).*" Contrary to the County's assertion that the CDFW (2012) standards were met, they were missed in significant ways (Table 1). The surveys did not meet the most critical standards of the CDFW (2012) guidelines.

The survey effort fell short of the time typically taken to meet the survey guidelines. The surveys lasted 2 hours per day over 3 days. Given the reported 30 m separation between walking transects and assuming 500 acres needed to be covered (grasslands and disturbed areas), and walking at 1.5 miles per hour (half of typical walking speed to accommodate stops every 100 m to visually scan for owls using binoculars pursuant to CDFW guidelines), 58 person-hours was needed to complete one survey of all 500 acres (not counting the 150 m buffer area). Using two people, a single survey could be done in 29 hours, which is 15× longer than the 2 hours reported by BonTerra Psomas (2017). Had the transect separation been 20 m – the upper end of the 7-20 m range recommended in CDFW (2012), each survey effort would have required 34.4 hours using two people. For added perspective, 2 hours of survey per day across 500 acres is a commitment of **14 seconds per acre**, i.e., slightly longer than a blink per acre. The 2017 survey effort was nowhere near sufficient for meeting the CDFW (2012) guidelines, nor was it an improvement over the earlier survey efforts I commented on in my 13 June 2017 letter.

Table 1. *Assessment of 2017 burrowing owl survey's (BonTerra Psomas 2017) consistency with CDFW's (2012) recommended burrowing owl survey protocol. Standards are numbered to match those in CDFW (2012).*

Standard in CDFG (2012)	**Assessment of surveys performed in 2017**	**Was the standard met?**
Minimum qualifications of biologists performing surveys and impact assessments		
(1) Familiarity with the species and local ecology	Poor to middling; The few citations of ecology showed improved familiarity over earlier surveys, but the summary was in error about owls being grassland specialists and having high nest site fidelity	Partial
(2) Experience conducting habitat assessments and breeding and non-breeding season surveys	No experience reported	No
(3) Familiarity with regulatory statutes, scientific research and conservation related to burrowing owls	Yes on statutes, but although CDFW (2012) survey guidelines were reportedly followed, they were not	Partial
(4) Experience with analyzing impacts on burrowing owls	No experience reported or demonstrated	No
Habitat assessment		
(1) Conduct at least 1 visit covering entire site and offsite buffer to 150 m	Assessment done on 27 June 2017	Yes
(2) Prior to site visit, compile relevant biological information on site and surrounding area	Provided cursory review of owl occurrences in region, but no data base search was evident	Partial
(3) Check available sources for occurrence records	No indication this was done	No
(4) Identify vegetation cover potentially supporting burrowing owls on site and vicinity	No information provided.	No
(5a) Describe project and timeline of activities	Activities described but not timeline	Partial
(5b) Regional setting map showing project location	Provided	Yes
(5c) Detailed map with project footprint, topography, landscape and potential vegetation-altering activities	Provided in EIR	Yes
(5d) Biological setting including location, acreage, terrain, soils, geography, hydrology, land use and management history	Provided	Yes
(5e) Analysis of relevant historical information concerning burrowing owl use or occupancy	Provided	Yes

Standard in CDFG (2012)	Assessment of surveys performed in 2017	Was the standard met?
(5f) Vegetation cover and height typical of temporal and spatial scales relevant to the assessment	Not provided	No
(5g) Presence of burrowing owl individuals, pairs or sign	No mention made of previous detections	No
(5h) Presence of suitable burrows or burrow surrogates	No discussion provided	No
Breeding season surveys		
Perform 4 surveys separated by at least 3 weeks	Only 3 surveys (Can't count the habitat assessment done in the middle of the day), with one survey interval <3 weeks	No
1 survey between 15 February and 15 April	Not done	No
2-3 surveys between 15 April and 15 July	Not done (first survey was 18 July)	No
1 survey following June 15	Achieved (all surveys were after 15 June)	Yes
Walk transects spaced 7 m to 20 m apart	Transects separated by 30 m – 10 m too far apart	No
Scan entire viewable area using binoculars at start of each transect and at 100 m intervals	Not done	No
Record all potential burrow locations determined by presence of owls or sign	Not done	No
Survey when temperature >20° C, winds <12 km/hr, and cloud cover <75%	Achieved	Yes
Survey between dawn and 10:00 hours or within 2 hours before sunset	Achieved for the most part.	Yes
Identify and discuss any adverse conditions such as disease, predation, drought, high rainfall or site disturbance	No discussion of adverse conditions	No
Survey several years at projects where activities will be ongoing, annual or start-and-stop to cover high nest site fidelity	This report covered a single summer	No
Reporting should include:		
(1) Survey dates with start and end times and weather conditions	Achieved	Yes
(2) Qualifications of surveyor(s)	Not provided	No

Standard in CDFG (2012)	Assessment of surveys performed in 2017	Was the standard met?
(3) Discussion of how survey timing affected comprehensiveness and detection probability	Not provided, and this was needed in this case because the surveys happened very late in the season, especially for southern California where breeding tends to end earlier	No
(4) Description of survey methods including point count dispersal and duration	Not provided	No
(5) Description and justification of the area surveyed	N explanation provided	No
(6) Numbers of nestlings or juveniles associated with each pair and whether adults were banded or marked	Not applicable	
(7) Descriptions of behaviors of burrowing owls observed	Not applicable	
(8) List of possible burrowing owl predators in the area, including any signs of predation of burrowing owls	Not provided	No
(9) Detailed map showing all burrowing owl locations and potential or occupied burrows	Not applicable	
(10) Signed field forms, photos, etc.	Not applicable	
(11) Recent color photos of project site	Not provided	No
(12) Copies of CNDDB field forms	Not applicable	

Response 20.13: Dismissing my comment on the likelihood of more than the one tricolored blackbird occurring on site, the County writes "As indicated by the Los Angeles Breeding Bird Atlas and eBird, there are no br*eeding colonies of the tricolored blackbird in the vicinity of the Project site (Allen et al. 2017, eBird 2017)*." As I explained earlier, these types of data bases cannot be used to conclude absence of a species. Lack of occurrence in the Breeding Bird Atlas or eBird does not qualify as evidence of absence because the data they contain are volunteer submissions of sightings that are not made during survey efforts designed to prove absence.

The County further argues that observations of single tricolored blackbirds are evidence of species identification errors: "*Single tricolored observations are considered anomalies or are explained as incorrect identifications such as what is likely occurring in eBird.*" Another explanation could be that the other individuals of a group were missed by the observer, which is possibly what happened with the SEIR's sole bird reported on site. Yet another explanation is that the County is incorrect about the rareness of single tricolored blackbird occurrences. It just so happens that on 3 September 2015, I began counting the number of birds of every species I observed while doing raptor behavior surveys at many stations across the grasslands of the Altamont Pass. After 401 hours of surveys since that date, 8% of my tricolored blackbird observations have been of single individuals. Another 15% was of only two individuals. Groups of 5 or fewer composed 38% of my recorded observations. Figure 1 shows a group of 3 tricolored blackbirds I photographed foraging on grassland.

Figure 1. *A group of 3 tricolored blackbirds foraging on grassland.*

Response 20.14: The County twists and turns in its effort to downplay the documented occurrences of 10 bat species on site, most of them with special status. The County says there's likely roosting habitat, but concludes it is not critically important roosting habitat. Again, I have to ask, where does the County think these bats are coming from? They have to come from someplace. If they are roosting and reproducing on site, then the roosting habitat must be very important to those bats. If they are not roosting on site, then they are certainly foraging on site. The evidence for their use of the site is incontrovertible; they were detected on site using acoustic bat detectors. They were identified to species. The County cannot credibly claim that the site is of no importance to bats.

Response 20.15: Responding to my comment about the contrivance of a corridor definition and the lack of citation of the definition presented in the SEIR, the County writes "*A citation is not provided because Psomas compiled these definitions from a variety of sources and professional experience to assist the reader with the terminology used in the Draft SEIR.*" This explanation is unsatisfactory. Such an excuse can be used to contrive all sorts of "scientific" terms for use in environmental reviews, without having to explain where the terms came from. If a new definition of wildlife corridor is to be presented, then evidence or logical argument is needed in support of the new definition. None was provided in the SEIR and none is provided in the response to my comment.

The County further claims, "*We concur with the approach of the commenter and prefer to utilize our terminology specific to the current conversation and have done so in the Draft SEIR.*" However, the County's approach is not my approach. Smallwood (2015) was critical of the many unique definitions of wildlife corridor. Smallwood (2015) reviewed the definitions, and from the scientific literature identified the thematic meaning intended from the various definitions, and proposed a clearer, consolidated definition. My review was then peer-reviewed before being accepted by the editor. My approach was scientific, whereas the County's approach is ad-hoc and unsupported by any cited source.

Continuing its defense of inventing its own corridor definition, the County misleadingly claims "*...there is no scientific consensus on a definition of wildlife corridor as the commenter acknowledges.*" It seems that whoever responded to my comment has not read my paper on habitat fragmentation and corridors, because this response is way off. Smallwood (2015) pointed out that the scientific concept of wildlife corridor was not being interpreted accurately or consistently by members of the environmental consulting industry. Part of the confusion comes from scientists relying on various types of corridor, such as strip corridor, line corridor, habitat corridor, movement corridor, dispersal corridor, or landscape linkages. Each of these types of corridor carries specific meanings, which often get jumbled or conflated by consultants. The definition I offered in my comment letter was the closest definition to the type of wildlife corridor often discussed in environmental reviews.

The County assures that "*The wildlife movement analysis was prepared by senior Project biologists with many years of experience conducting wildlife movement*

studies, and with a strong understanding of how various taxa move through a landscape." This might be true, but it would help to provide evidence that the project biologists have many years of experience conducting wildlife movement studies. The response could have cited the studies, or even one study. Given the propensity of the County to offer misleading responses to my comments, and given the incorrect, narrow definition of wildlife corridor, I cannot help but question whether the project biologists are experienced with wildlife movement studies. If they are so experienced, then demonstrate their experience by citing some studies.

The County defends not having conducted field studies on wildlife movement cross the project site by explaining "*The analysis is based on factors such as surrounding land uses, quality of habitat on site, amount of cover on site, topography, existing disturbances, and existing barriers.*" But this explanation raises more questions than provides answers. Exactly how did surrounding land-uses factor into the analysis? How was habitat quality measured? Was it measured? How does the County define habitat quality? None of the other factors are explained, either; they are simply included in a list.

The County further defends its lack of fieldwork by arguing, that "*Wildlife traps and other methods for documenting exactly which species are moving through the site is not always necessary, and can present problems such as false negatives.*" The surest way to get false negatives is to not look for wildlife species. Again, the County is hypocritical with its arguments. In response 20.2, the County wrote "*General wildlife surveys are an effective and widespread method for assessing the potential for general and special status species to occur on the Project site...*" Not long after defending general wildlife surveys, the County expresses doubts about trapping due to potential false negatives. This makes no sense because trapping is less likely to result in false negatives than walking over the site per "general wildlife survey."

The County adds, "*In addition, wildlife movement is a consideration of gene movement for entire suites of animals and plants as well, which are typically discussed on the theoretical level regardless of particular species occurring or not occurring.*" This statement makes no sense.

The County further adds, "*While indicator species, and large mobile species are often identified, they are more often than not a representation of a community movement.*" It is impossible to take the County's responses seriously when faced with ridiculous statements like this. What part of science or industry practice does this concept find its origin? Nobody studies "community movement."

The response goes on to distinguish local movement from regional movement of wildlife, and claims my comment goes to the former, which is not subject to CEQA review. This is absurd. Furthermore, it ignores movement by volant wildlife. I stand by my comment, which addresses the project's potential impacts on wildlife movement in the region.

The County claims "*Wildlife may travel down Grasshopper Canyon, encounter development or other human disturbances, and then travel back up. This type of movement, however, would not be considered an important wildlife movement route.*" Why would that be? How is the responder to know whether it is important for wildlife to traverse Grasshopper Canyon and return? Much of the response appears focused on defending the EIR's analysis of wildlife movement against my charge of bias, but conclusions like this one appear biased. I will add that the development at the south end of the proposed project site will not be seen by all species of wildlife as an impassible barrier to movement.

Response 20.16: Responding to my comment that the EIR failed to analyze impacts to wildlife caused by the project's generated auto traffic, the County speculates that only common species will use the roads and get killed by auto collisions. After offering this speculation, the County then says my comment was speculative and there is no CEQA requirement for the County to analyze speculated impacts. The County seems to want the reader to believe that it is alright to speculate on the project's lack of impacts but not on the projects likely impacts. There are a few problems with the County's response. First, the likely impacts I raised were not speculative, but based on lots of empirical evidence summarized in scientific papers and books, a couple of which I cited. Loss et al. (2014) estimated nationwide bird mortality due to traffic collisions on roads ranges between 89 and 340 million per year. Many thousands of roadkill wildlife incidents in California have been reported to the UC Davis Road Ecology Center (Shilling et al. 2017). Examining Figure 5 of Shilling et al. (2017) reveals that the project site is within a statistically significant hot spot for auto traffic fatalities of wildlife. In my own studies I have recorded thousands of wildlife fatalities on California's roads, including special-status species (Smallwood unpublished data).

The second problem with the response is that even if I was speculating on the impacts, there is nothing wrong with CEQA impacts analysis relying on some speculation -- it is often used. There is nothing wrong with it so long as it refrains from expressing a bias.

A third problem with the response is the County's baseless assertion that traffic-caused fatalities will be to common species only. Rare and endangered species are killed by auto traffic all too often. Mendelsohn et al. (2009) found 120 California red-legged frogs and 50 California tiger salamanders along 2.5 miles of road over 1.25 years of monitoring, as well as 2 burrowing owls, 1 prairie falcon, 5 American badgers, and 20 San Joaquin pocket mice. Altogether, these special-status species composed 15.5% of the road fatalities discovered during the study. The County's baseless assumption that only common species would be affected by project-generated auto traffic is incorrect.

The EIR needs to assess impacts to wildlife caused by project-generated traffic. So far, it has not done so.

Response 20.17: I had commented that collisions with windows are estimated to cause the deaths of up to 1 billion birds annually in the USA, and that the EIR ought to assess impacts of window collisions caused by the project. According to the County, "*The Draft SEIR does not address Project impacts to birds from bird strikes because*

literature shows that the majority of bird strikes occur within migrant stopover habitat and when the structure contains a high percentage (>45 percent) of glass coverage (Sabo et al. 2016)." The County further states that the project site does not concentrate stop-over migrant birds, and that the hazards posed by windows consist of glass transparency and reflectivity. However, the County comes up short on all points. Its citation of Sabo et al. (2016) is inaccurate, as Sabo et al. (2016) did not test whether collision rates varied by percentage glass cover; the study tested hypotheses related to age demographic and migratory status of birds colliding with the windows. The County also has no idea how many birds stop over during migration at the project site, because there were no surveys designed to detect migration stop-over of any species of birds. The County is wrong about the relative threat posed by residential contributions to window collisions, and it lists only two of the multiple causal factors of collisions.

Window collisions are often characterized as either the second or third largest source or anthropogenic-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently Loss et al.'s (2014) estimate of 365-988 million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. However, these estimates and their interpretation warrant examination because they were based on opportunistic sampling, volunteer study participation, and fatality monitoring by more inexperienced than experienced searchers.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building (including residential homes) per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

Homes with birdfeeders are associated with higher rates of window collisions than are homes without birdfeeders (Kummer and Bayne 2015, Kummer et al. 2016a), so the developed area might pose even greater hazard to birds if it includes numerous birdfeeders. Another factor potentially biasing national or North American estimates low was revealed by Bracey et al.'s (2016) finding that trained fatality searchers found 2.6× the number of fatalities found by homeowners on the days when both trained searchers and homeowners searched around homes. The difference in carcass detection was 30.4-fold when involving carcasses volitionally placed by Bracey et al. (2016) in blind detection trials. This much larger difference in trial carcass detection rates likely resulted because their placements did not include the sounds that typically alert homeowners to actual window collisions, but this explanation also raises the question of

how often homeowner participants with such studies miss detecting window-caused fatalities because they did not hear the collisions.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) were able to incorporate many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only two of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source, their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings, including houses, can intercept many nocturnal migrants as well as birds flying in daylight. Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager at al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of

two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48 day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows at a zoo. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities. There is ample evidence available to support my prediction that the proposed Zeiss Innovation Center will result in many collision fatalities of birds.

Below is a list of collision factors I found in the scientific literature. Following this list are specific notes and findings taken from the literature and my own experience. But also notice that this list of collision factors is much longer than the County's two factors.

(1) Inherent hazard of a structure in the airspace used for nocturnal migration or other flights
(2) Window transparency, falsely revealing passage through structure or to indoor plants
(3) Window reflectance, falsely depicting vegetation, competitors, or open airspace
(4) Black hole or passage effect
(5) Window or façade extent, or proportion of façade consisting of window or other reflective surface
(6) Size of window
(7) Type of glass
(8) Lighting, which is correlated with window extent and building operations
(9) Height of structure (collision mechanisms shift with height above ground)
(10) Orientation of façade with respect to winds and solar exposure
(11) Structural layout causing confusion and entrapment
(12) Context in terms of urban-rural gradient, or surrounding extent of impervious surface vs vegetation
(13) Height, structure, and extent of vegetation grown near home or building
(14) Presence of birdfeeders or other attractants
(15) Relative abundance
(16) Season of the year
(17) Ecology, demography and behavior
(18) Predatory attacks or cues provoking fear of attack
(19) Aggressive social interactions

(1) Inherent hazard of structure in airspace.—Not all of a structure's collision risk can be attributed to windows. Overing (1938) reported 576 birds collided with the Washington Monument in 90 minutes on one night, 12 September 1937. The average annual fatality count had been 328 birds from 1932 through 1936. Gelb and Delacretaz (2009) and Klem et al. (2009) also reported finding collision victims at buildings lacking windows,

although many fewer than they found at buildings fitted with widows. The takeaway is that any building going up at the project site would likely kill birds, although the impacts of a glass-sided building or house would likely be much greater.

(2) Window transparency.—Widely believed as one of the two principal factors contributing to avian collisions with buildings is the transparency of glass used in windows on the buildings (Klem 1989). Gelb and Delacretaz (2009) felt that many of the collisions they detected occurred where transparent windows revealed interior vegetation.

(3) Window reflectance.—Widely believed as one of the two principal factors contributing to avian collisions with buildings is the reflectance of glass used in windows on the buildings (Klem 1989). Reflectance can deceptively depict open airspace, vegetation as habitat destination, or competitive rivals as self-images (Klem 1989). Gelb and Delacretaz (2009) felt that many of the collisions they detected occurred toward the lower parts of buildings where large glass exteriors reflected outdoor vegetation. Klem et al. (2009) and Borden et al. (2010) also found that reflected outdoor vegetation associated positively with collisions.

(4) Black hole or passage effect.—Although this factor was not often mentioned in the bird-window collision literature, it was suggested in Sheppard and Phillips (2015). The black hole or passage effect is the deceptive appearance of a cavity or darkened ledge that certain species of bird typically approach with speed when seeking roosting sites. The deception is achieved when shadows from awnings or the interior light conditions give the appearance of cavities or protected ledges. This factor appears potentially to be nuanced variations on transparency or reflectance or possibly an interaction effect of both of these factors.

(5) Window or façade extent.—Klem et al. (2009), Borden et al. (2010), Hager et al. (2013), and Ocampo-Peñuela et al. (2016) reported increased collision fatalities at buildings with larger reflective façades or higher proportions of façades composed of windows. However, Porter and Huang (2015) found a negative relationship between fatalities found and proportion of façade that was glazed.

(6) Size of window.—According to Kahle et al. (2016), collision rates were higher on large-pane windows compared to small-pane windows.

(7) Type of glass.—Klem et al. (2009) found that collision fatalities associated with the type of glass used on buildings. Otherwise, little attention has been directed towards the types of glass in buildings.

(8) Lighting.—Parkins et al. (2015) found that light emission from buildings correlated positively with percent glass on the façade, suggesting that lighting is linked to the extent of windows. Zink and Eckles (2010) reported fatality reductions, including an 80% reduction at a Chicago high-rise, upon the initiation of the Lights-out Program. However, Zink and Eckles (2010) provided no information on their search effort, such as the number of searches or search interval or search area around each building.

(9) Height of structure.—I found little if any hypothesis-testing related to building height, including whether another suite of factors might relate to collision victims of high-rises. Are migrants more commonly the victims of high-rises or of smaller buildings? I would expect that some of the factors noted in other contexts will not be important with the upper portions of high-rises, such as birds attacking reflected self-images, or the extent of vegetation cover nearby, or the presence or absence of birdfeeders nearby.

(10) Orientation of façade.—Some studies tested façade orientation, but not convincingly. Confounding factors such as the extent and types of windows would require large sample sizes of collision victims to parse out the variation so that some portion of it could be attributed to orientation of façade. Whether certain orientations cause disproportionately stronger or more realistic-appearing reflections ought to be testable through measurement, but counting dead birds under the measured façades would help.

(11) Structural layout.—Bird-safe building guidelines have illustrated examples of structural layouts associated with high rates of bird-window collisions, but little attention has been directed towards hazardous structural layouts in the scientific literature. An exception was Johnson and Hudson (1976), who found high collision rates at 3 stories of glassed-in walkways atop an open breezeway, located on a break in slope with trees on one side of the structure and open sky on the other, Washington State University.

(12) Context in urban-rural gradient.—Numbers of fatalities found in monitoring have associated negatively with increasing developed area surrounding the building (Hager et al. 2013), and positively with more rural settings (Kummer et al. 2016a).

(13) Height, structure and extent of vegetation near building.—Correlations have sometimes been found between collision rates and the presence or extent of vegetation near windows (Hager et al. 2008, Borden et al. 2010, Kummer et al. 2016a, Ocampo-Peñuela et al. 2016). However, Porter and Huang (2015) found a negative relationship between fatalities found and vegetation cover near the building. In my experience, what probably matters most is the distance from the building that vegetation occurs. If the vegetation that is used by birds is very close to a glass façade, then birds coming from that glass will be less likely to attain sufficient speed upon arrival at the façade to result in a fatal injury. Too far away and there is probably no relationship. But 30 to 50 m away, birds alighting from vegetation can attain lethal speeds by the time they arrive at the windows.

(14) Presence of birdfeeders.—Dunn (1993) reported a weak correlation ($r = 0.13$, $P < 0.001$) between number of birds killed by home windows and the number of birds counted at feeders. However, Kummer and Bayne (2015) found that experimental installment of birdfeeders at homes increased bird collisions with windows 1.84-fold.

(15) Relative abundance.—Collision rates have often been assumed to increase with local density or relative abundance (Klem 1989), and positive correlations have been measured (Dunn 1993, Hager et al. 2008). However, Hager and Craig (2014) found a negative correlation between fatality rates and relative abundance near buildings.

(16) Season of the year.—Borden et al. (2010) found 90% of collision fatalities during spring and fall migration periods. The significance of this finding is magnified by 7-day carcass persistence rates of 0.45 and 0.35 in spring and fall, rates which were considerably lower than during winter and summer (Hager et al. 2012). In other words, the concentration of fatalities during migration seasons would increase after applying seasonally-explicit adjustments for carcass persistence.

(17) Ecology, demography and behavior.—Klem (1989) noted that certain types of birds were not found as common window-caused fatalities, including soaring hawks and waterbirds. Cusa et al. (2015) found that species colliding with buildings surrounded by higher levels of urban greenery were foliage gleaners, and species colliding with buildings surrounded by higher levels of urbanization were ground foragers. Sabo et al. (2016) found no difference in age class, but did find that migrants are more susceptible to collision than resident birds.

(18) Predatory attacks.—Panic flights caused by raptors were mentioned in 16% of window strike reports in Dunn's (1993) study. I have witnessed Cooper's hawks chasing birds into windows, including house finches next door to my home and a northern mocking bird chased directly into my office window.

(19) Aggressive social interactions.—I found no hypothesis-testing of the roles of aggressive social interactions in the literature other than the occasional anecdotal account of birds attacking their self-images reflected from windows. However, I have witnessed birds chasing each other and sometimes these chases resulting in one of the birds hitting a window.

Given the magnitude of bird-window collision impacts, there are obviously great opportunities for reducing and minimizing these impacts going forward. Existing structures can be modified or retrofitted to reduce impacts, and proposed new structures can be more carefully sited and designed to minimize impacts. However, the costs of some of these measures can be high and can vary greatly, but most importantly the efficacies of many of these measures remain uncertain. Both the costs and effectiveness of all of these measures can be better understood through experimentation and careful scientific investigation. Post-construction fatality monitoring should be an essential feature of any new project involving the installations of windows. Below is a listing of mitigation options, along with some notes and findings from the literature.

<u>(1) Retrofitting to reduce impacts</u>
(1A) Marking windows
(1B) Managing outdoor landscape vegetation
(1C) Managing indoor landscape vegetation
(1D) Managing nocturnal lighting

(1A) Marking windows.—Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 67% after placing decals on windows. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film.

(2) Siting and Designing to minimize impacts
(2A) Deciding on location of structure
(2B) Deciding on façade and orientation
(2C) Selecting type and sizes of windows
(2D) Designing to minimize transparency through two parallel facades
(2E) Designing to minimize views of interior plants
(2F) Landscaping to increase distances between windows and trees and shrubs

If the project goes forward, it should at a minimum adhere to available guidelines on building design intended to minimize collision hazards to birds. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

Given the magnitudes of the window collision impacts, the responsible thing to do, and the appropriate thing under CEQA, would be to assess potential impacts of window collisions, as my original comment suggested, and to design the project to minimize impacts. Impacts that cannot be avoided should be mitigated through compensatory measures, such as donating funds to wildlife rehabilitation facilities.

Response 20.18: In responding to my comment about the need for a cumulative impacts analysis, the County argued "*The cumulative impacts analysis considers both the Project impacts as well as the Project mitigation as a whole.*" Unfortunately, this statement makes no sense. How does it have anything to do with cumulative effects analysis? None of the rest of the response made any sense, either. For example, it says "*Looking at the Project without the migration measures would not be appropriate under CEQA.*" Even replacing 'migration' with 'mitigation' fails to clarify the response. Is the County attempting to say that cumulative effects analysis is useless without

considering the benefits of mitigation? (See my original comment about how cumulative effects are not residual impacts following project-level mitigation.) If so, the responder appears to be confused about cumulative effects analysis, and that significant cumulative effects themselves need to be mitigated.

In another example of confusion about cumulative effects, the responder says "*The cumulative impacts of the Project are assessed to determine if the Project contribution is cumulatively considerable.*" What's missing here is the context of past, ongoing, and likely future projects that will affect the species at issue. The County appears to not understand the topic of cumulative impacts analysis. My original comment has not been addressed in a serious manner.

Response 20.19: It would have been less confusing to have not lumped my two comments into one for a response. This lumping of comments has been a problem throughout the response to comments to this point. Here, I made two distinctly different comments, the response to which distorts the meaning of either comment.

I started with a general comment that most of the mitigation measures contribute no substantial benefits, and some actually threaten additional harm to wildlife species. I also commented that the formulation of many of the measures are deferred to unspecified later dates. To my first point, the County offered no response. To my second point, the County argued that CEQA does not require full details of mitigation measures. However, I did not comment that full details are necessary, but I implied that sufficient detail is needed for me and other members of the public to meaningfully participate with them.

My next comment was on the inappropriate substitution of preconstruction take-avoidance surveys for detection surveys. The County's response is that all necessary surveys have been completed. But they have not, at least not for the majority of special-status species potentially using the project site. The County repeatedly uses the term 'focused surveys' instead of 'detection surveys,' but there is a difference here as well. Focused surveys are not necessarily detection surveys. Detection surveys are designed to maximize likelihood of detection and to support determinations of species absence. Focused surveys are surveys directed towards a particular species, but not necessarily designed to support determinations of species absence. Preconstruction take-avoidance surveys, which are the surveys discussed in MM 5.2-1, are designed only to provide one last opportunity to save individual animals before the tractor blade grinds them into the earth. Detection surveys are needed well in advance of construction in order to find out where special-status species are located and how they are using the site. Detection surveys improve the efficacy of preconstruction take-avoidance surveys. They also inform project planning to avoid and minimize impacts, estimation of project impacts, and formulation of appropriate compensatory mitigation.

Response 20.20: The County does not provide a satisfactory response to my comment. As I commented in my 13 June 2017 letter, I have seen too many empty promises of mitigation land that will be protected. The land to be protected needs to be

identified in the EIR, along with a management plan appropriate to the property. The FEIR remains incomplete by not identifying lands to be protected.

Response 20.21: Responding to my comment that the formulation of mitigation for the loss of riparian trees is being deferred to some later date and will involve only the government resource agencies, the County says I had the opportunity to comment on mitigation measure 5.2-3 during the comment period. Sure, I would have provided some suggestions if I had enough information to say anything useful about the measure. Al the measure says is that riparian trees will be lost to the project and the mitigation for this loss will be worked out later in consultation with "the appropriate agencies." No information is provided about how many trees will be taken, or how they will be mitigated. No information is provided on when the mitigation will be formulated, nor is there any project permitting threshold mentioned. I provided the only comment that was useful in the face of a black-box mitigation measure.

Response 20.22: Similar to response 20.21, this response dismisses my comment and says again that it will defer the formulation of the mitigation for the translocation of a special-status species of plant. The reader of the EIR is given no idea where the plants will go, or how the receiving site will be prepared, or what will become of the biological organisms at the receiving site, how the transplants will be managed, or success monitored. No idea is provided about what will happen if the translocation(s) fails. Below I summarize mitigation guidelines with which I concur. I recommend that the EIR be revised to accommodate these guidelines.

The California Native Plant Society (CNPS) prepared mitigation guidelines for projects posing threats to special-status species of plants (CNPS 1998). Here I summarize the CNPS guidelines as well as CDFW's (1997) expectations for mitigation. These expectations support my comments of 13 June 2017, and should be considered by the County.

CNPS (1998) advocates only for mitigation involving avoidance of impacts. To avoid impacts, CNPS recommends pre-project planning and design, reconfiguring an existing project, or adopting the no-project alternative, in addition to site protection such as fencing and transfer of development rights in easements or fee title.

When lead agencies decide to minimize, rectify, reduce or compensate impacts, CNPS (1998) recommends certain standards. For example, mitigation measures should be developed on a site-specific basis, and should involve consultation with the appropriate regulatory agencies. Additional research should be conducted to determine which mitigation measures are appropriate for the specific life history and ecological relationships of rare plant species occurring at a particular site. CNPS (1998) regards habitat restoration and off-site introduction or translocation as unproven and usually unsuccessful. Genetic contamination of an otherwise unaffected population is intolerable.

When lead agencies allow reduction of impacts, CNPS's (1998) guidelines maintain that the project size should be reduced, the project sited in the least environmentally

sensitive area and surrounded by buffer zones permanently protected in conservation easements. CNPS also insists that efforts be made to salvage portions of the population that will be lost.

When restoration is pursued, CNPS (1998) recommends that it be directed to mitigate impacts of projects approved prior to environmental regulations. It must be tailored to the project site based on the assembly of local species and habitats. The goals of the restoration project and the courses of action intended to achieve those goals need to precede implementation. Pre-impact site conditions should be determined, and the restoration plan should consider land contours, soil types, erosion patterns, and pre-impact hydrologic conditions. Study of the targeted species should be thorough so as to identify their total distribution, habitat descriptions of occupied site and symbiotic relationships with other species. The plan should consider propagation techniques, re-introduction strategy, invasive species controls, site protection, public access and other factors. Finally, a monitoring program should be sufficiently rigorous to assess restoration success, and to augment the knowledge base relevant to related restoration efforts.

When lead agencies authorize reductions of impacts over time, the CNPS (1998) recommends limiting public access to protected habitat areas through fencing or other means, and that the species and habitat conditions are monitored to detect intrusion and subsequent impacts caused by construction and operation activities. Public education should be implemented regarding the values of these areas.

When off-site compensation is pursued, off-site populations should be protected permanently through conservation easement or mitigation banking. The area of a conservation easement must be sufficiently large to support a biologically secure, reproducing population within a buffer zone in perpetuity. The surrounding land uses must be considered, as well as expected future land uses. The design of the site boundary and management plan must be scientifically based, utilizing information from baseline studies and natural history data for each species. The contract should specify the rights of the grantee, the grantors rights and uses, and restrictions of undesirable activities, and it should include language that binds the terms and conditions of the contract in perpetuity, regardless of fee title transfers. The contract should protect the site from land use change, introduction of exotic species and public access, and it should protect the right of the grantee to enforce compliance with the terms of the easement.

Also, the mitigation exchange ratio should exceed 1:1 for most species, thereby accounting for an inevitable net loss of individuals and habitat area. Where needed, off-site compensation areas should be enhanced by reducing impacts caused by on-going activities such as over-grazing by livestock or dumping of hazardous materials or trash. Translocations should be preceded by detailed inventories of species occurring at the receiving site, accompanied by a feasibility assessment regarding persistence and avoidance of genetic contamination. These should also occur at the appropriate time of year, following proper handling and propagation methods in consultation with the regulatory agencies. Furthermore, all translocations should be completed and shown to be successful prior to the initiation of project activities.

CNPS (1998) and CDFW (1997) insist that the mitigation design, implementation measures, and reporting methods be clearly documented, along with whom or which agencies are responsible for achieving clearly defined success criteria. Assurances must be provided in writing that certain performance criteria of the mitigation plan will be realized, and guaranteed by a negotiable performance security large enough to complete the mitigation and to pursue alternative mitigation measures should the implementation be incomplete or the objectives fail to be achieved. Five years of monitoring the success of the mitigation should be the minimum time period before returning the performance security.

Some of these guidelines can be met by implementing the special-status plant species restoration plan presented in Appendix C of the FEIR. However, the mitigation plan comes up short on some of the guidelines. Avoidance does not appear to be considered at all, and on-site translocation is all but ruled out. No specific off-site location has yet been identified, but it has been suggested in the restoration plan that the special-status plant species might be sent over to Castaic Lake State Recreation Area. The EIR needs to inform the public exactly where the translocated plants might be translocated within Castaic Lake State Recreation Area, and it needs to inform whether the managers of the Recreation Area would tolerate restoration impacts on the Recreation Area. It needs to be known whether translocation receiver sites within the Recreation Area can be protected from people using the Recreation Area. Also, alternate sites need to be identified per the restoration plan's contingency for translocation failures.

Another shortfall is in the mitigation ratio, which is only 1:1, and so will not account for translocation failures. The response says the mitigation ratio exceeds 1:1, but the restoration plan in App. C has the mitigation ratio at 1:1. More details are also needed on the contract between the grantee and grantor, as recommended by CNPS (1998). Also, there appears to be no plan to inventory species at the receiver site(s) so that additional project impacts can be documented at the receiver site(s).

There appears to be no commitment to accomplish the translocations prior to project construction, as recommended by CNPS (1998). Having negotiated a mitigation plan with the developer of a residential project, I know firsthand how mitigation measures timed for post-construction can fail to materialize because the project's revenues prove deficient. Commitments to mitigation need to be made prior to construction rather than as a condition of construction. Finally, there needs to be a performance security bond, as recommended by CNPS (1998).

Response 20.23: The County says my comment was incorrect because "*The comment alleges biology mitigation measures are deferred mitigation.*" I find this response confusing, but anyhow a restoration plan was produced along with the FEIR, so I can comment on the details of the mitigation now. Please see my reply to response 20.22, because it applies to this response as well.

Response 20.24: A restoration plan was produced along with the FEIR, so I can comment on the details of the mitigation now. Please see my reply to response 20.22, because it applies to this response as well.

Response 20.25: A restoration plan was produced along with the FEIR, so I can comment on the details of the mitigation now. Please see my reply to response 20.22, because it applies to this response as well.

Response 20.26: A restoration plan was produced along with the FEIR, so I can comment on the details of the mitigation now. Please see my reply to response 20.22, because it applies to this response as well.

Response 20.27: The County refers me to the draft Western Spadefoot Relocation Program that accompanies the release of the FEIR. There are several significant problems with this plan. First, it refers to not a single example of successful translocation of western spadefoot. Given how little is known about western spadefoot, and given the extreme conditions of the species' life history, I would be skeptical that translocation of this species would ever prove effective. The plan includes creating ponds where none exist, apparently trusting that the soils and hydrology at sites where ponds do not exist will somehow maintain created ponds into the future.

Second, the plan would result in the degradation and destruction of biota outside the project area, but no mitigation is proposed for offsetting these added impacts. How is it beneficial to species in the receiving sites to be displaced by created ponds?

Third, the plan proposes to implement adaptive management, but fails to include more than one of the tenets of adaptive management (the one tenet included is monitoring). The plan includes no threshold values of success linked to the monitoring and to alternative management prescriptions. For tenets of adaptive management, see Holling (1978) and Walters (1986) as original sources, and Walters and Hollings (1990), Haney and Powers (1996), McClain and Lee (1996), Lancia et al. (1996), and Smallwood et al. (1998) for additional discussion of the a priori objectives and performance thresholds, performance monitoring, and feedbacks to objectives and alternative prescriptive measures. Another useful source would be Morrison (2002). As it stands, the Western Spadefoot Relocation Program presents an empty promise of adaptive management, and an empty promise of mitigating for the takings of western spadefoot as a result of the project. The plan would likely cause more harm than simply wiping out the onsite western spadefoots. I suggest that the only effective solution for onsite western spadefoot is avoidance.

Response 20.28: Responding to my concern about the adequacy of mitigation for reptiles, involving the collection and translocation of reptiles detected during preconstruction take-avoidance surveys, the County confirms my concern by writing "*Due to the low frequency expected for translocation events, impacts to receptor sites are not expected.*" In other words, most of the on-site reptiles will be crushed to death by the construction machinery. Compensatory mitigation is needed. One such measure

could include donations of funds to wildlife rehabilitation facilities, as I suggested on 13 June 2017, though the County rejected this measure in response 20.46.

Response 20.29: Instead of giving us a conceptual habitat mitigation plan, how about a detailed plan including actual commitments of funds and actions that precede construction? Please see my reply to response 20.22.

Response 20.30: I stand by my comment. The measure provides little benefit to wildlife species affected by the project.

Response 20.31: The County again falsely claims "*All necessary species surveys needed to inform the impact assessment have been conducted and results reported within the Draft and Final SEIR.*" The CDFW (2012) guidelines on burrowing owl surveys were not followed. Detection surveys were not performed for multiple other special-status species of bird. These surveys are need for multiple reasons, including for improving the efficacy of preconstruction take-avoidance surveys.

The County claims "*Focused surveys for special status species, as well as general wildlife and plant surveys over the course of 20 years informed Section 5.2, Biological Resources, of the Draft SEIR.*" But again, focused surveys are not necessarily detection surveys. Also, it is misleading to claim that 20 years of wildlife surveys have been performed, as this claim is simply not true.

It is also misleading for the County to claim, "*Nesting bird locations are always temporal and cannot be applied to a later date. Therefore, the mitigation measure provides the only solution to detections and avoidance actions.*" Pre-construction surveys are not the only solution to detections. They are not suitable replacements for detection surveys. This is why wildlife professionals prepare guidelines and protocols specifically for detection surveys.

It is further misleading of the County to claim, "*In regard to burrowing owl: passive relocation of burrowing owls is an approved method recommended by the CDFW per the 2012 guidelines as described in Response 20.12 above.*" Here is what CDFW (2012:10) says about passive relocation: "*Eviction of burrowing owls is a potentially significant impact under CEQA.*" CDFW (2012) states explicitly that burrow exclusion is not take avoidance, minimization, or mitigation method. It is not a method recommended by CDFW.

Response 20.32: The response again claims focused surveys were performed for burrowing owl, where "focused surveys" is code for failing to meet the detection survey standards of CDFW (2012). See my reply to response 20.12. Detection surveys have not been performed to the standards of CDFW (2012). The County's assumption that the site is used only by wintering owls lacks foundation.

Response 20.34: I stand by my comment regarding lighting mitigation details. The County maintains that impacts to wildlife will be mitigated simply as a result of the Lighting Plan being reviewed by Los Angeles County Department of Regional Planning.

Response 20.35: See my reply to response 20.34. I stand by my comment.

Response 20.37: In response to my original comment, acoustic bat detections were conducted. In only three nights in July 2017, 10 species of bat were detected, including 7 with special status. The bat surveys were very helpful, but they strongly indicate that more detection work is needed. Surveys should be performed in spring and fall, as well. In my experience with bat surveys using a thermal imaging camera, bat activity shifts seasonally, with peak activity in the fall months. Also, rather than just relying on ground stations, acoustic bat detectors placed higher off the ground will likely detect a different suite of species.

Response 20.39: The County repeats its assertion that "*...the Project site itself does not represent an important component of the regional movement of the area.*" The EIR provides no foundation for this conclusion. It also neglects to consider the use of the site as stopover habitat by migrating birds and bats. The County seems entirely focused on four-legged animals moving through canyon bottoms, but most of the wildlife movement that will be disrupted will be to migrating birds and bats. The EIR's conclusion of less than significant impacts on wildlife movement is without foundation and most assuredly incorrect.

Response 20.40: According to the County, "*The comment suggests that focused detection surveys for all potential special-status species are necessary. General wildlife surveys have been conducted...*" As I continue to try to get across, general wildlife surveys are not detection surveys. I stand by my original comment.

Response 20.41: The County referred me to other responses, one of which referenced a report on potential wildlife use of I-5 under-crossings (App. D of the FEIR). The report of visits to I-5 under-crossings did little to satisfy anyone's concerns over whether wildlife use those under-crossings. No cameras were placed, nor any other means to document wildlife use of the under-crossings other than examination of tracks, which looked rather difficult to me given the asphalt and concrete surfaces on several of the under-crossings. Why not place event-triggered cameras?

No wildlife movement surveys have been conducted, so the EIR's impact determinations related to wildlife movement lack any more foundation than speculation. Also, no consideration was given to the use of the site by migrating birds and bats. I stand by my comment in my 13 June 2017 letter.

Response 20.42: The County beats around the bush with its response, but never promises to design the project to maximize roof orientations for optimal solar energy generation using photovoltaic panels. If homes could be oriented to maximize on-site renewable energy generation, then many wildlife fatalities can be prevented at offsite energy generation facilities and transmission lines.

Response 20.43: The County dismisses my comment, arguing that road traffic will be slow enough to prevent collisions with wildlife, and that culverts at drainage

intersections will offer wildlife with road crossing opportunities. In other words, the County intends to implement the same roadway designs that have caused the deaths of 89 and 340 million birds per year (Loss et al. 2014) and no doubt millions of non-volant vertebrate animals. Where mitigation measures are feasible and would make a real difference, the County is opting to do nothing to minimize wildlife fatalities caused by the project-generated traffic.

Response 20.44: The County dismisses my comment on the grounds that "*...the County as lead agency has the discretion to determine appropriate significance thresholds, for which bird collision impacts is not one.*" I will note that my comment pointed out a known impact to birds caused by window collisions, and it suggested known effective mitigation measures that are readily available and achievable.

Response 20.45: The County says "*...off-site mitigation is considered a viable option to satisfy some or all of the habitat mitigation requirements of the Project.*" Essentially repeating from my original comment, the public needs to see more than a "viable option." Offsite mitigation is obviously a key element of the project's mitigation plan. Viable options were also claimed for the Natomas Basin Habitat Conservation Plan, but those options turned out to not be viable, after all. The same thing has happened at many other projects. I refer the County to my reply to response 20.22, which includes the recommendations of CNPS (1998) and CDFW (1997). Commitments of offsite properties, mitigation actions, and performance securities are needed in advance of construction rather than as conditions of construction. The public needs to know that the commitment is truly viable and that the funding is not dependent on revenues from home sales.

Response 20.46: The County rejects my suggested compensatory mitigation measure of donating funds to wildlife rehabilitation facilities. By doing so, the County will increase the demand on wildlife rehabilitation facilities that usually rely on donations and can barely cover their operating expenses. The project will result in many more animals being injured by cats, windows, cars and other hazards, and some of these animals will be going to wildlife rehabilitation facilities that the County refuses to reimburse for these additional patients.

Additional comments

BonTerra (2017 App. B:1) explained that its biological resources downstream impacts assessment applies only to Phase 1 of the project, and that another assessment will be needed for Phase II. I thought CEQA required an environmental review for the whole of the project.

I noticed that the biological resources downstream impacts assessment says nothing about the following potential impacts:

(1) Increased flow caused by expanse of impervious surfaces;
(2) Increased wildland fires associated with increase in human presence, and implications of burned areas on runoff and sediment flows; and,

(3) Downstream loading of contaminants such as fertilizers, pesticides, plastics, roundworm (from dogs) and *Toxoplasma gondii* (from cats). According to a UC Davis wildlife health research program, "*Toxoplasma gondii is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats – domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces...* and *...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea*" (http://www.evotis.org/toxoplasma-gondii-sea-otters/).

The EIR should be revised to assess these potential impacts.

Thank you for your consideration,

Shawn Smallwood

Shawn Smallwood, Ph.D.

REFERENCES CITED

BonTerra Psomas. 2015. Biological Technical Assessment Report NorthLake Specific Plan Development Project. Pasadena, California.

BonTerra Psomos. 2017. Biological Resources Downstream Impacts Assessment: NorthLake Specific Plan Project. Appendix B of NorthLake Specific Plan Project Final Supplemental Environmental Impact Report (DEIR). Los Angeles, California.

Borden, W. C., O. M. Lockhart, A. W. Jones, and M. S. Lyons. 2010. Seasonal, taxonomic, and local habitat components of bird-window collisions on an urban university campus in Cleveland, OH. Ohio Journal of Science 110(3):44-52.

Bracey, A. M., M. A. Etterson, G. J. Niemi, and R. F. Green. 2016. Variation in bird-window collision mortality and scavenging rates within an urban landscape. The Wilson Journal of Ornithology 128:355-367.

CDFW (California Department of Fish and Wildlife). 1997. Guidelines for assessing the effects of proposed developments on rare, threatened, and endangered plants and plant communities. California Department of Fish and Game, Sacramento.

CDFW (California Department of Fish and Wildlife). 2012. Staff Report on Burrowing Owl Mitigation. Sacramento, California.

California Native Plant Society. 1998. Mitigation guidelines regarding impacts to rare, threatened, and endangered plants. http://www.cnps.org/cnps/archive/mitigation.pdf

Calvert, A. M., C. A. Bishop, R. D. Elliot, E. A. Krebs, T. M. Kydd, C. S. Machtans, and G. J. Robertson. 2013. A synthesis of human-related avian mortality in Canada. Avian Conservation and Ecology 8(2): 11. http://dx.doi.org/10.5751/ACE-00581-080211

CEC and CDFG. 2010. Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California. California Energy Commission and Department of Fish and Game, Sacramento, California.

County of Los Angeles. 2017. NorthLake Specific Plan Project Draft Supplemental Environmental Impact Report (DEIR). Los Angeles, California.

County of Los Angeles. 2018. NorthLake Specific Plan Project Final Supplemental Environmental Impact Report (FEIR). Los Angeles, California.

Cusa M, Jackson DA, Mesure M. 2015. Window collisions by migratory bird species: urban geographical patterns and habitat associations. Urban Ecosystems 18(4):1–20. DOI 10.1007/s11252-015-0459-3.

Dunn, E. H. 1993. Bird mortality from striking residential windows in winter. Journal of Field Ornithology 64:302-309.

Erichsen, A.L., K.S. Smallwood, A.M. Commandatore, D.M. Fry, and B. Wilson. 1996. White-tailed Kite movement and nesting patterns in an agricultural landscape. Pages 166-176 in D.M. Bird, D.E. Varland, and J.J. Negro, eds., Raptors in human landscapes. Academic Press, London.

Gelb, Y. and N. Delacretaz. 2009. Windows and vegetation: Primary factors in Manhattan bird collisions. Northeastern Naturalist 16:455-470.

Hager, S. B, and M. E. Craig. 2014. Bird-window collisions in the summer breeding season. PeerJ 2:e460 DOI 10.7717/peerj.460.

Hager, S. B., H. Trudell, K. J. McKay, S. M. Crandall, and L. Mayer. 2008. Bird density and mortality at windows. Wilson Journal of Ornithology 120:550-564.

Hager, S. B., B. J. Cosentino, and K. J. McKay. 2012. Scavenging effects persistence of avian carcasses resulting from window collisions in an urban landscape. Journal of Field Ornithology 83:203-211.

Hager S. B., B. J. Cosentino, K J. McKay, C. Monson, W. Zuurdeeg, and B. Blevins. 2013. Window area and development drive spatial variation in bird-window

collisions in an urban landscape. PLoS ONE 8(1): e53371. doi:10.1371/journal.pone.0053371

Haney, A., and R.L. Power. 1996. Adaptive management for sound ecosystem management. Environmental Management 20:879-886.

Holling, C.S. (ed.). 1978. Adaptive environmental assessment and management. John Wiley & Sons, New York.

Hunt, W. G., R. E. Jackman, T. L. Hunt, D. E. Driscoll, and L. Culp. 1999. A population study of golden eagles in the Altamont Pass Wind Resource Area: population trend analysis 1997. Report to National Renewable Energy Laboratory, Subcontract XAT-6-16459-01. National Technical Information Service, U. S. Department of Commerce, Springfield, Virginia.

Johnson, R. E., and G. E. Hudson. 1976. Bird mortality at a glassed-in walkway in Washington State. Western Birds 7:99-107.

Kahle, L. Q., M. E. Flannery, and J. P. Dumbacher. 2016. Bird-window collisions at a west-coast urban park museum: analyses of bird biology and window attributes from Golden Gate Park, San Francisco. PLoS ONE 11(1):e144600 DOI 10.1371/journal.pone.0144600.

Klem, D., Jr. 1989. Bird-window collisions. Wilson Bulletin 101:606-620.

Klem, D., Jr. 1990. Collisions between birds and windows: mortality and prevention. Journal of Field Ornithology 61:120-128.

Klem, D., Jr. 2009. Preventing bird-window collisions. The Wilson Journal of Ornithology 121:314-321.

Klem, D., Jr. 2010. Avian mortality at windows: the second largest human source of bird mortality on earth. Pages 244-251 in Proc. Fourth Int. Partners in Flight Conference: Tundra to Tropics.

Klem, D., Jr. 2011. Evaluating the effectiveness of Acopian Birdsavers to deter or prevent bird-glass collisions. Unpublished report.

Klem, D., Jr. and P. G. Saenger. 2013. Evaluating the Effectiveness of Select Visual Signals to Prevent Bird-window Collisions. The Wilson Journal of Ornithology 125:406–411.

Klem, D. Jr., C. J. Farmer, N. Delacretaz, Y. Gelb and P. G. Saenger. 2009. Architectural and Landscape Risk Factors Associated with Bird-Glass Collisions in an Urban Environment. Wilson Journal of Ornithology 121:126-134.

Kummer J. A., and E. M. Bayne. 2015. Bird feeders and their effects on bird-window collisions at residential houses. Avian Conservation and Ecology 10(2):6 DOI 10.5751/ACE-00787-100206.

Kummer, J. A., E. M. Bayne, and C. S. Machtans. 2016a. Use of citizen science to identify factors affecting bird-window collision risk at houses. The Condor: Ornithological Applications 118:624-639. DOI: 10.1650/CONDOR-16-26.1

Laabs, D. (no date). Tehachapi Pocket Mouse *Perognathus alticola inexpectatus*. https://www.blm.gov/ca/pdfs/cdd_pdfs/tehachpktmse1.PDF

Lancia, R. A., C. E. Braun, M. W. Collopy, R. D. Dueser, J. G. Kie, C. J. Martinka, J. D. Nichols, T. D. Nudds, W. R. Porath, and N. G. Tilghman. 1996. ARM! For the future: adaptive resource management in the wildlife profession. Wildlife Society Bulletin 24:436-442.

Loss, S. R., T. Will, and P. P. Marra. 2014. Estimation of Bird-Vehicle Collision Mortality on U.S. Roads. The Journal of Wildlife Management 78:763–771.

Loss, S. R., T. Will, S. S. Loss, and P. P. Marra. 2014. Bird–building collisions in the United States: Estimates of annual mortality and species vulnerability. The Condor: Ornithological Applications 116:8-23. DOI: 10.1650/CONDOR-13-090.1

Machtans, C. S., C. H. R. Wedeles, and E. M. Bayne. 2013. A first estimate for Canada of the number of birds killed by colliding with building windows. Avian Conservation and Ecology 8(2):6. http://dx.doi.org/10.5751/ACE-00568-080206

McLain, R. J. and R. G. Lee. 1996. Adaptive management: promises and pitfalls. Environmental Management 20:437-442.

Mooney, N. J., and R. J. Taylor. 1996. Value of nest site protection in ameliorating the effects of forestry operations on wedge-tailed eagles in Tasmania. Pages 275-282 in D.M. Bird, D.E. Varland, and J.J. Negro, eds., Raptors in human landscapes. Academic Press, London.

Morrison, M. L. 2002. Wildlife Restoration: Techniques for habitat analysis and animal monitoring. Society for Ecological Restoration, Island Press, Covelo, California.

National Research Council. 1986. Ecological knowledge and environmental problem-solving: concepts and case studies. National Academy Press, Washington, D.C.

O'Brien, M. 2000. Making better environmental decisions: an alternative to risk management. The MIT Press, Cambridge, Massachusetts.

Ocampo-Peñuela, N., R. S. Winton, C. J. Wu, E. Zambello, T. W. Wittig and N. L. Cagle . 2016. Patterns of bird-window collisions inform mitigation on a university campus. PeerJ4:e1652;DOI10.7717/peerj.1652

Orff, K., H. Brown, S. Caputo, E. J. McAdams, M. Fowle, G. Phillips, C. DeWitt, and Y. Gelb. 2007. Bbird-safe buildings guidelines. New York City Audubon, New York.

Overing, R. 1938. High Mortality at the Washington Monument. The Auk 55:679.

Parkins, K. L., S. B. Elbin, and E. Barnes. 2015. Light, Glass, and Bird–building Collisions in an Urban Park. Northeastern Naturalist 22:84-94.

Pande, S., A. Pawashe, M. Mahajan, A. Mahabal, C. Joglekar, and R. Yosef. Breeding biology, nesting habitat, and diet of the rock eagle-owl (*Bubo bengalensis*). Journal of Raptor Research 45:211-219.

Pierson, E. D. and W. E. Rainey. 1998. Distribution of the Spotted Bat, *Euderma maculatum*, in California. Journal of Mammalogy 79:1296-1305.

Porter, A., and A. Huang. 2015. Bird Collisions with Glass: UBC pilot project to assess bird collision rates in Western North America. UBC Social Ecological Economic Development Studies (SEEDS) Student Report. Report to Environment Canada, UBC SEEDS and UBC BRITE.

Rössler, M., E. Nemeth, and A. Bruckner. 2015. Glass pane markings to prevent bird-window collisions: less can be more. Biologia 70: 535—541. DOI: 10.1515/biolog-2015-0057

Sabo, A. M., N. D. G. Hagemeyer, A. S. Lahey, and E. L. Walters. 2016. Local avian density influences risk of mortality from window strikes. PeerJ 4:e2170; DOI 10.7717/peerj.2170

San Francisco Planning Department. 2011. Standards for bird-safe buildings. San Francisco Planning Department, City and County of San Francisco, California.

Sheppard, C., and G. Phillips. 2015. Bird-friendly building Design, 2nd Ed., American Bird Conservancy, The Plains, Virginia.

Shrader-Frechette, K. S., and E. D. McCoy. 1992. Statistics, costs and rationality in ecological inference. Tree 7: 96-99.

Smallwood, J. A., P. Winkler, G. I. Fowles, and M. A. Craddock. 2009. American kestrel breeding habitat: the importance of patch size. Journal of Raptor Research 43:308-314.

Smallwood, K. S. 2001. Linking habitat restoration to meaningful units of animal demography. Restoration Ecology 9:253-261.

Smallwood, K. S. 2015. Habitat fragmentation and corridors. Pages 84-101 in M. L. Morrison and H. A. Mathewson, Eds., Wildlife habitat conservation: concepts, challenges, and solutions. John Hopkins University Press, Baltimore, Maryland, USA.

Smallwood, K.S., J. Beyea and M. Morrison. 1999. Using the best scientific data for endangered species conservation. Environmental Management 24:421-435.

Somerlot, K. E. 2003. Survey of songbird mortality due to window collisions on the Murray State University campus. Journal of Service Learning in Conservation Biology 1:1–19.

Walters, C.J. 1986. Adaptive management of renewable resources. McGraw-Hill, New York.

Walters, C. J. and C. S. Holling. 1990. Large-scale management experiments and learning by doing. Ecology 71:2060-2068.

Zink, R. M., and J. Eckles. 2010. Twin cities bird-building collisions: a status update on "Project Birdsafe." The Loon 82:34-37.

NON-APPLICANT

Date APRIL 27, 2018

Zoning Section
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

PROJECT NO./CUP NO.: R2015-00408-(5) CUP NO. 201500019

APPLICANT: NORTHLAKE ASSOCIATES LLC RAMAN GAUR JOHN ARVIN

LOCATION: EAST OF INTERSTATE 5, WEST OF CASTAIC LAKE, NORTH OF UNINCORPORATED COMMUNITY OF CASTAIC

Zoned District: CASTAIC CANYON →

Related zoning matters:

CUP NO. 201500019

CUP(s) or VARIANCE No.

Change of Zone Case No. —

Other VTTM NO. 073336 VTPM NO. 073335

This is an appeal on the decision of the Regional Planning Commission in the subject case. This form is to be presented in person with a check or money order, made payable to the "Board of Supervisors" (check or money order must be presented with personal identification), during regular business hours of 8:00 a.m. to 5:00 p.m. prior to the appeal deadline at the above address. (Appeal fees subject to change). Contact the Zoning Section of the Board of Supervisors for information: (213) 974-1426.

This is to appeal: (Check one)

____ **The cost of Denial of this request: $915.00***

X **The cost of Approval of this request: $915.00***

***Except for Subdivision appeals: $130.00 of this appeal amount is allocated to the Board of Supervisors' Hearing**

Briefly, explain the reason for the appeal (attach additional information if necessary):

- INADEQUATE FEIR
- GIFT OF PUBLIC FUNDS PROVIDING COUNTY LAND TO DEVELOPER
- INADEQUATE PUBLIC BENEFIT
- IMPACTS TO SURROUNDING PUBLIC PARKLAND

x _____
(Signed) Appellant

PAUL EDELMAN
Print Name

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GARRETT WEINSTEIN
Project Analyst

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MOUNTAINS RECREATION AND CONSERVATION AUTHORITY
A local agency exercising joint powers of the Santa Monica Mountains Conservancy and the Conejo and Rancho Simi Recreation & Park Districts

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STATE OF CALIFORNIA—THE NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

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April 17, 2018

Regional Planning Commission
Department of Regional Planning
Los Angeles County Hall of Records, Room 1348
320 W. Temple Stree
Los Angeles, California 90012

Via Electronic Mail

North Lake Project
Final Supplemental Environmental Impact Report Comments
R2015-00408-(5) - SCH No. 2015031080 - VTT No. TR 073336

Dear Planning Commissioners:

The Santa Monica Mountains Conservancy (Conservancy) urges the Regional Planning Commission at a minimum to not certify the Final Supplemental Environmental Impact Report and require a re-circulation to address major deficiencies in the record including an inadequate range of alternatives. More decisively we urge the Commission to deny the North Lake project for the following ubiquitous and compelling reasons.

The huge myth and erroneous smoke screen that staff and the developer are putting before your Commission is that the 1992 North Lake Specific Plan guarantees the developer substantial immutable development rights. That Plan is a devastating early 1990's dinosaur document that does not have the foundation of a Environmental Impact Report representing either current physical conditions and standards beneath it. For all intents and purposes, this project is starting at close to square one in regards to environmental review. There is an attempt to lure the Commission into myopically believing differently and thus force perhaps the most ill suited land use in the County's history -- a land use that provides no general public benefit (except for tract residents) and heaps of permanent public detriment for the whole County. The Commission must, and legally can, look at this property as a fresh slate in regards to environmental review and thus project design. The developer common cry that,"We made it better than the prior project" does nothing to substantively solve huge unmitigable environmental issues with the project.

The FSEIR was intentionally crafted to exclude any Alternative projects for your consideration that provide even a slightly better public outcome on everything from traffic to degradation of public lands to regional wildlife habitat connectivity. That is an insult and

slight to the Commission and the people of Los Angeles County. The project grading footprint of every FSEIR alternative is the same with tens of millions of cubic yards of earth filling Grasshopper Canyon and scraping its walls bare. What fallacy that the project would not be blatantly visible with a fully improved miles of street-lit Ridge Route, a ridgeline commercial complex, and over a thousand dwelling units and street lights glowing above the Santa Clarita Valley surrounded by natural darkness.

Only a misguided decision-making body would approve a project that unnecessarily extends suburban residential development over three miles into an area jacketed by public National Forest lands, Bureau of Land Management property, and high public visitation-State-owned-Castaic Lake Recreation Area. Through what mechanism is the County providing its now public land to facilitate this development? Is the developer paying the County?

Nobody would benefit from this project in either the short or long run other than the developer and maybe the few vocal small businesses at the base of the grade. Do you destroy a whole remote canyon next to a cherished recreation area and exacerbate an existing traffic nightmare just to benefit future totally unknown homeowners in area that has a glut of approved unbuilt development? Luxury housing available at best three years from now at the maximum possible distance from the City of Los Angeles does not address address home afford ability.

Only a poorly informed decision-making body would fall into the trap of burying 3.5 miles of blueline stream that flow into Castaic Lagoon used for swimming to create expensive housing in the Santa Clarita Valley where there are tens of thousands of unbuilt approved housing units.

There is no combined set of needs for this project that outweigh the massive amount of unmitigated adverse environmental impacts. The benefits in the Statement of Overriding Considerations (SOC) are all unsupported with data or common sense. However, the regionally significant project detriments are patently clear in every arena of environmental impact.

The County published a April 5, 2018 Supplemental Memo that disclosed that revisions to the Project were made which removed virtually all of the proposed commercial and industrial uses in favor of more dwelling units. Such revisions effect various EIR technical analyses that now do not reflect this project revision. In addition, a project description cannot be changed after a DSEIR has be circulated. The SOC claims that the project will provide for (now non-existent) industrial uses. Those claimed economic benefits no longer exist even on paper.

The applicant made an attempt to show east-west wildlife connectivity through the project connected to the two adjacent vehicle tunnels under southbound Interstate 5. Tunnel 2 in the FSEIR appendices is flanked on both sides by parkland owned by the Mountains Recreation and Conservation Authority and paid for by the owner of over one hundred acres between the south and north bound I5 lanes. Given the paucity of undercrossings for animals under the I5 from Violin Canyon to Templin Highway, no under-crossing can be dismissed as valuable to cross-freeway wildlife movement. The FSEIR fails to include a viable habitat linkage option from Tunnel 2 to protected public lands without a minimum 6,000 foot journey around either end of the proposed project. Animals can navigate 60 percent slopes for considerable lengths. The applicant dismisses the ability of animals to enter the North Lake property approximately east of Tunnel 2 because of steep terrain. The FSEIR shall remain deficient until a detailed slope study shows the terrain viability for animals to move from Tunnel 2 over the Grasshopper Canyon watershed divide to the bottom of Grasshopper Canyon. The FSEIR shall remain deficient until includes an Alternative that provides a protected direct east-west habitat linkage between Tunnel 2 and Castaic Lake Recreation Area public lands. No non-North Lake private lands can break this linkage.

The applicant will taut the value of Tunnel 3 as a superior habitat linkage. However, both sides of Tunnel 3 have multiple non-North Lake private parcels that could easily be blocked by fencing and diminish the efficacy of the tunnel. At paint ball facility is also in the way.

The FSEIR is deficient for not addressing how improvements to Ridge Route and added traffic would diminish wildlife potential to safely cross Ridge Route. The FSEIR is deficient for not addressing how a 3.5-mile-long development next to Castaic Lake Recreation Area could adversely affect human intolerant wildlife species on the land between the lake and the development.

Letters in record from the Center for Biological Diversity and the California Department of Fish and Wildlife address a plethora of FSEIR deficiencies that are herein incorporated by reference.

The FSEIR totally fails to make the case that a much less damaging project is infeasible. The project design does not avoid any environmental resources. The project does not cluster any development to create ecologically viable blocks of open space. The minimum basic unwritten standard for open space dedications of County projects is a minimum 50 percent open space dedication. This project does not even come close to that standard.

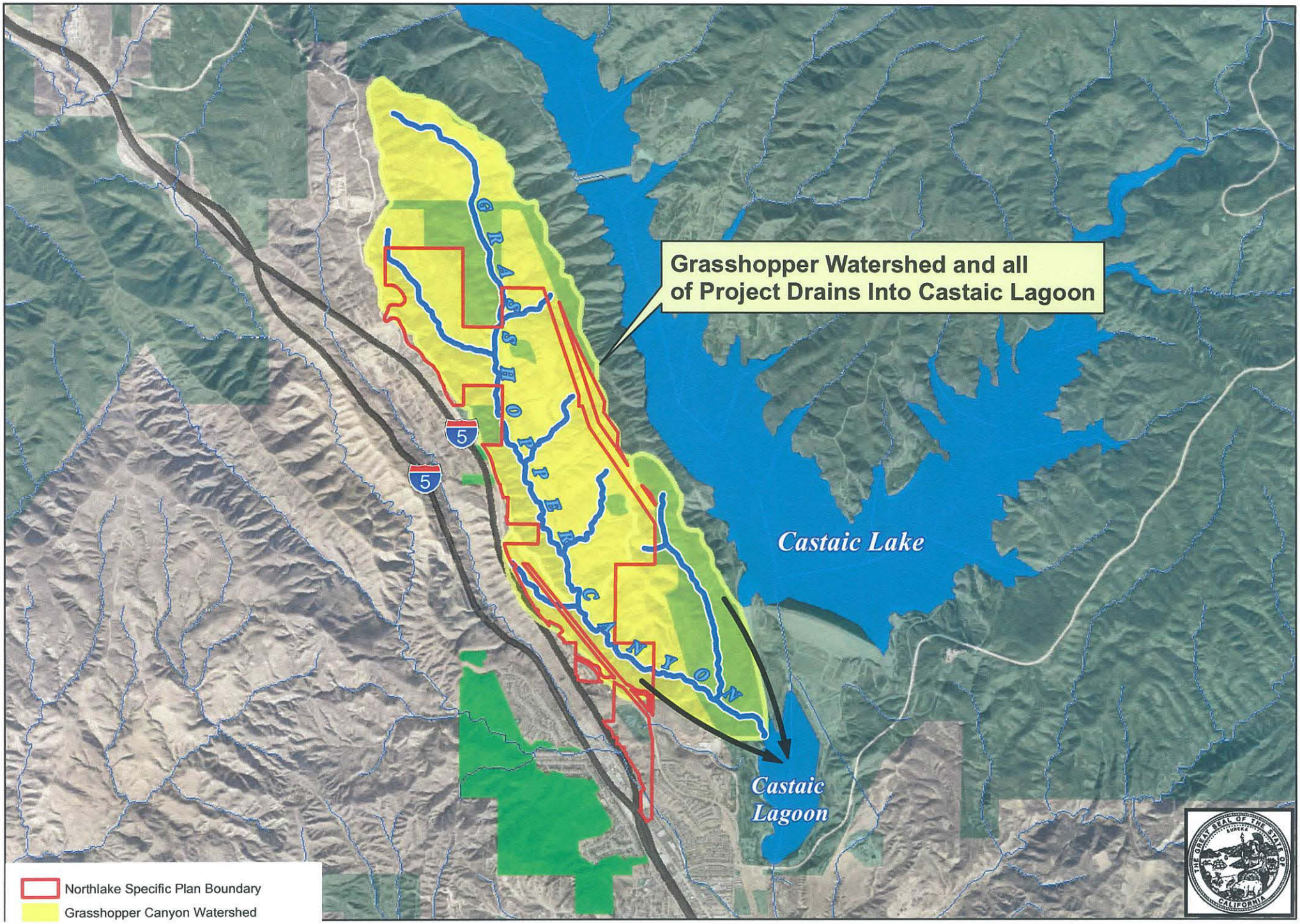
The FSEIR is deficient for not addressing why the Creek Avoidance Alternative would require exporting a minimum 10 million cubic yards of earth. Where is the demonstrated proof? The FSEIR partially rules out a creek avoidance alternative because it will require three bridges. Since when does the need for three bridges rule out the viability of a project with over 1,000 housing units? These stark omissions show the weakness of the FSEIR Alternatives selection.

The entire proposed development project footprint collects pollutants, concentrates them in artificial ponds, and then releases them into the Castaic Lagoon swimming area. How is this a public benefit? It is a huge permanent public safety threat.

The FSEIR is deficient for not addressing new standards for debris flow generated by the recent catastrophic debris flows in Montecito. The Tract Map cannot be approved because of this public safety issue. The County will develop new standards for silt and debris flow from offsite upstream properties perhaps ridgeline to ridgeline. The FSEIR does not taken into account potential additional debris flow from the "Montecito Effect."

Sincerely,

PAUL EDELMAN
Deputy Director
Natural Resources and Planning


Grasshopper Watershed and all
of Project Drains Into Castaic Lagoon
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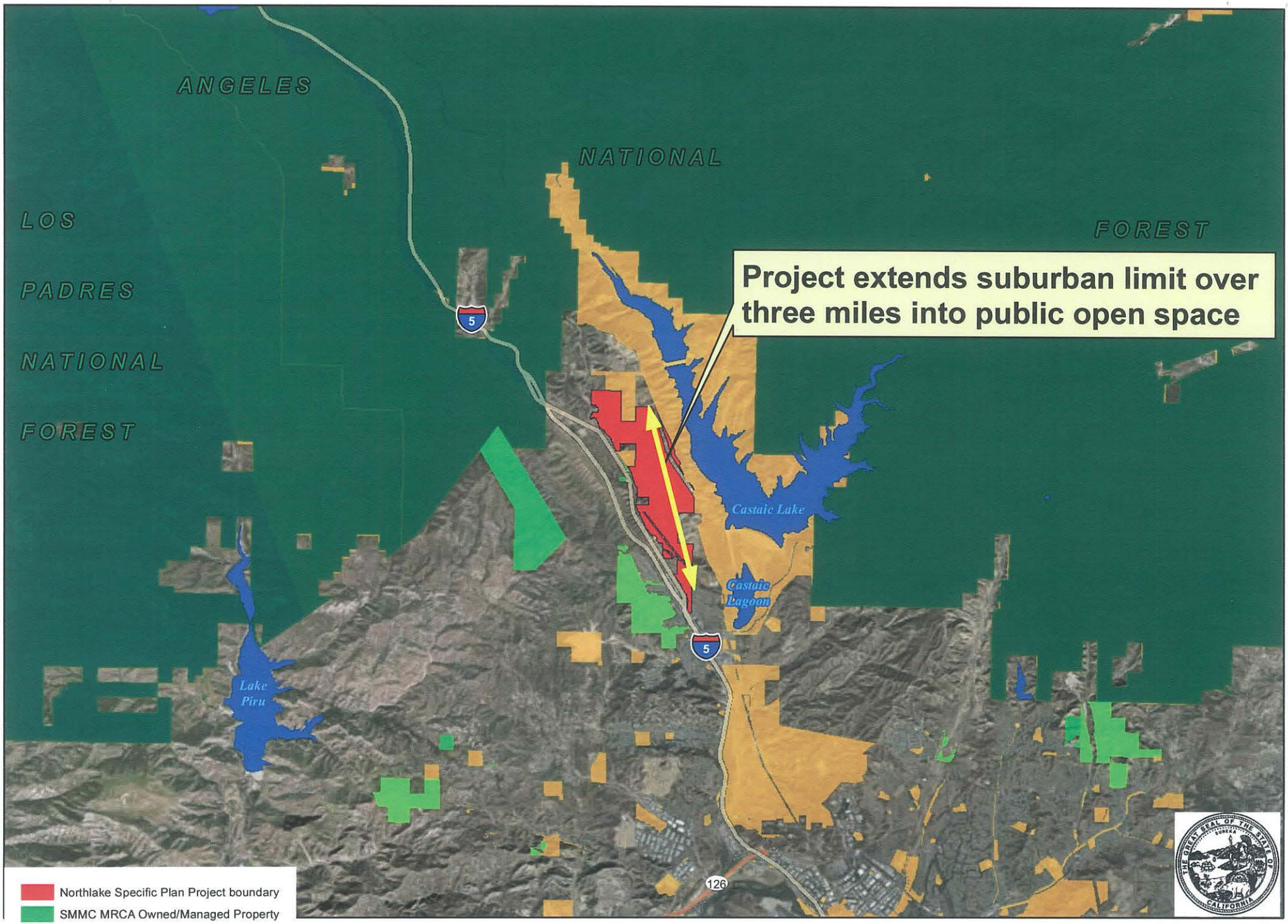
ANGELES
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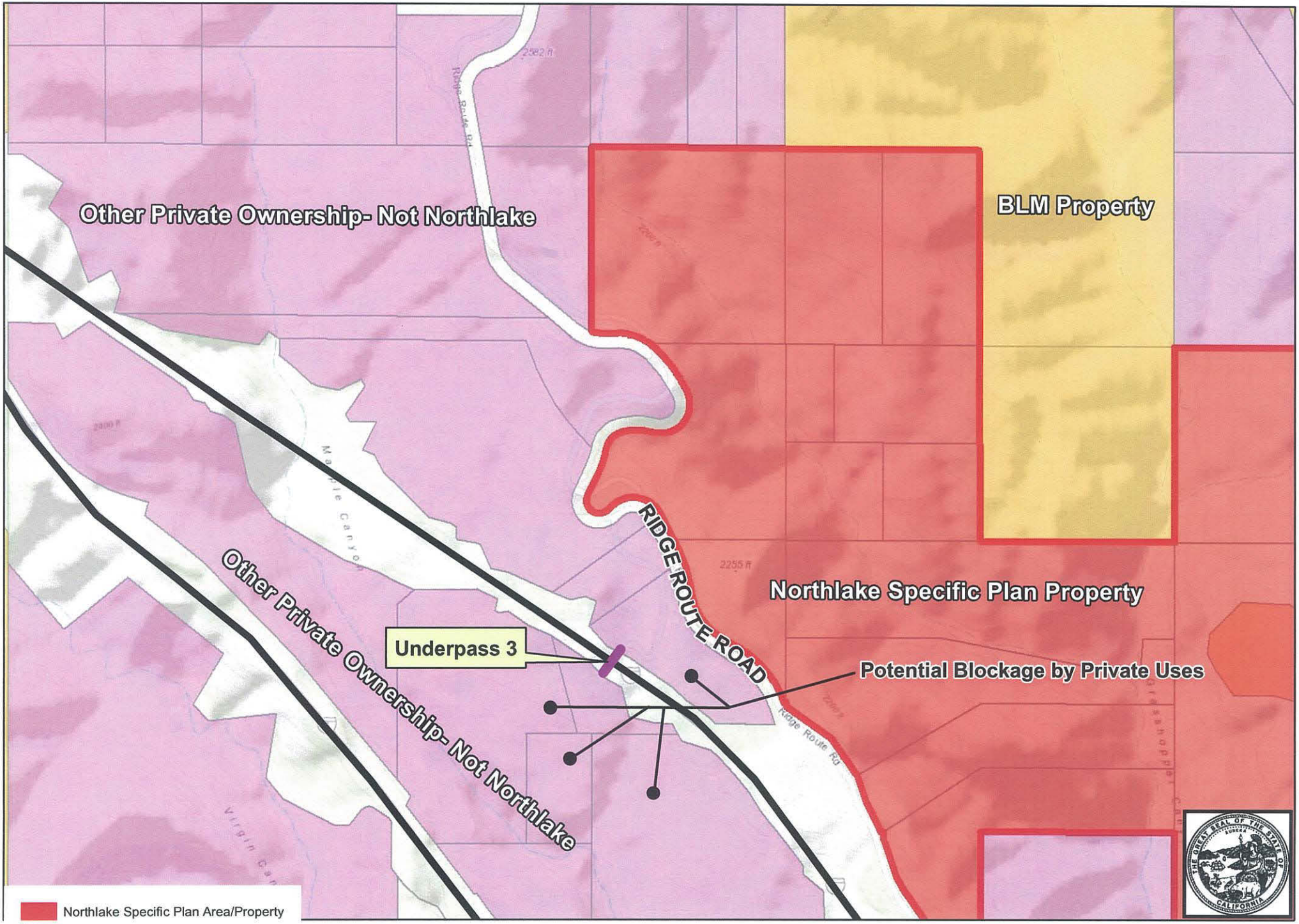
PADRES
NATIONAL
FOREST
Project extends suburban limit over three miles into public open space
Castaic Lake
Castaic Lagoon
Lake Piru
5
5
126
Northlake Specific Plan Project boundary
SMMC MRCA Owned/Managed Property
Angeles/Los Padres National Forest
Other Public Land
Project No. R2015-00408-(5)
Northlake Associates LLC
4/18/2018
0
1.5
3
Miles
N



Project No. R2015-00408-(5)
Northlake Associates LLC

4/18/2018

Feet
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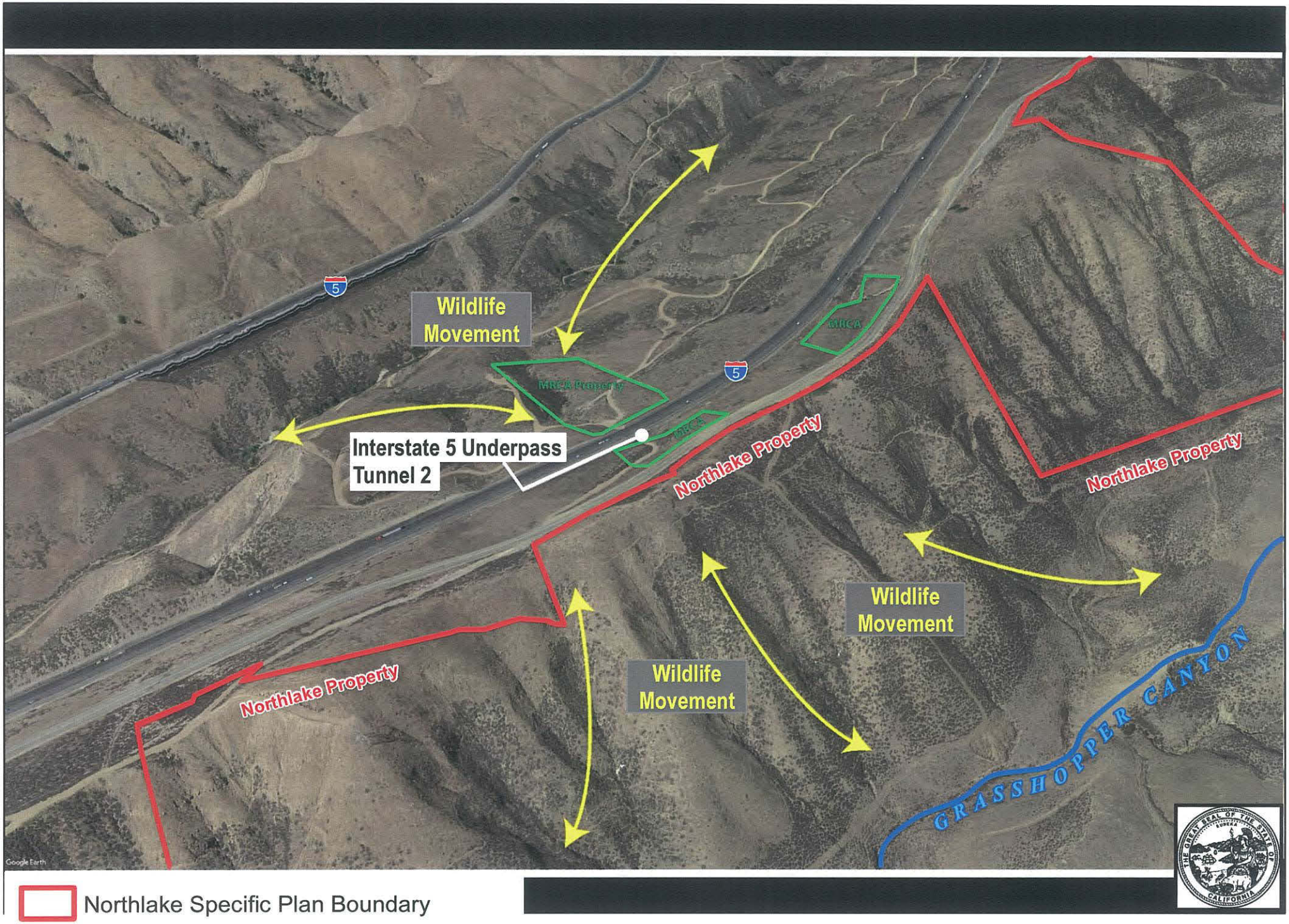


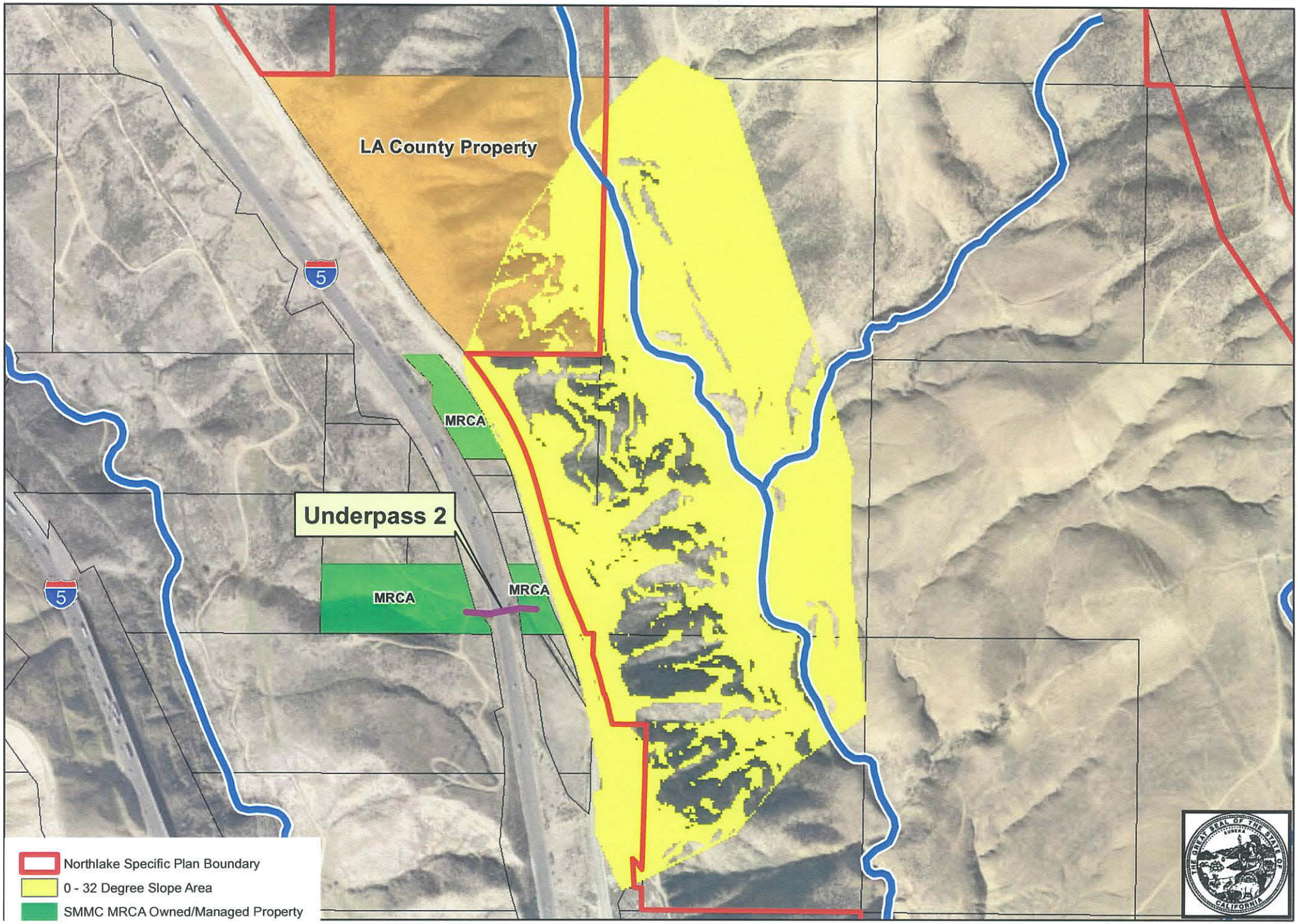
Northlake Specific Plan Boundary

SMMC MRCA Owned/Managed Property

Project No. R2015-00408-(5)
Northlake Associates LLC

4/18/2018

0 250 500 Feet



Project No. R2015-00408-(5)
Northlake Associates LLC

4/18/2018

NON-APPLICANT

Date Apri 30, 2018

Zoning Section
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

PROJECT NO./CUP NO.: Project No. R2015-00408-(5) / Vesting Tentative Tract Map No. TR073336 / Tentative Parce Map No. TR073335 / Conditional Use Permit 201500019 / Environmental Review No. 201500030 / State Clearinghouse No. 2015031080

APPLICANT: NorthLake Associates, LLC

LOCATION: The Project site is located north of Lake Hughes Road and Ridge Route Road, east of Interstate 5 and west of Castaic Lake and Lagoon in the unincorporated community of Castaic.

Zoned District:

Related zoning matters:

CUP(s) or VARIANCE No. CUP No. 201500019

Change of Zone Case No.

Other

This is an appeal on the decision of the Regional Planning Commission in the subject case. This form is to be presented in person with a check or money order, made payable to the "Board of Supervisors" (check or money order must be presented with personal identification), during regular business hours of 8:00 a.m. to 5:00 p.m. prior to the appeal deadline at the above address. (Appeal fees subject to change). Contact the Zoning Section of the Board of Supervisors for information: (213) 974-1426.

This is to appeal: (Check one)

_____ **The cost of Denial of this request: $915.00***

__X__ **The cost of Approval of this request: $915.00***

***Except for Subdivision appeals: $130.00 of this appeal amount is allocated to the Board of Supervisors' Hearing**

Briefly, explain the reason for the appeal (attach additional information if necessary):

The Supplemental Final Environmental Impact Report (FEIR) for the Project fails to adequately analyze or mitigate the Project's impacts on special status species, air quality, and water quality, among other areas. The FEIR fails to consider and adopt feasible alternatives that minimize the impacts of the Project on the environment. For more detail, please see the attached comment letters the Center for Biological Diversity submitted to the Planning Commission. The references for these letters are included on the attached USB drive.

x _____
(Signed) **Appellant**

John Rose, Center for Biological Diversity
Print Name

660 S. Figueroa Street #1000
Street Address

Los Angeles, CA 90017
City/Zip

(213) 785-5406
Day Time Telephone Number

jrose@biologicaldiversity.org
E-mail Address

Friends of the
Santa Clara
River

April 16, 2018

Via Electronic Mail and FedEx (w/attachments)

Mr. Jodie Sackett
County of Los Angeles
Department of Regional Planning
Hall of Records, 13th Floor, Room 1348
320 West Temple Street
Los Angeles, CA 90012
jsackett@planning.lacounty.gov

Re: NorthLake Specific Plan, Final Supplemental Environmental Impact Report

Dear Mr. Sackett:

These comments are submitted on behalf of the Center for Biological Diversity ("Center") and Friends of the Santa Clara River ("Conservation Groups") on the Final Supplemental Environmental Impact Report ("FEIR") for the proposed NorthLake Specific Plan Project ("Project").

The Conservation Groups respectfully request that the Project not be approved in its current form. As the California Department of Fish and Wildlife ("CDFW") and the Santa Monica Mountains Conservancy ("SMMC") and have already recommended in their respective comment letters, **the Project should be significantly downsized in order to avoid impacts to Grasshopper Creek, the western spadefoot toad, and other resources.**

On a broader level, it is unfortunate the County is even considering approval of such an outdated and environmentally harmful sprawl project. **The solution to the region's housing shortage is not to pave over blue-line streams, evict rare native wildlife, and destroy other irreplaceable natural resources**. Instead, the County should focus on encouraging development and affordable housing in existing communities. Approving the Project as proposed would also undermine the County's commitment to sustainability and fighting climate change. In addition, approval of the Project would endanger thousands of people, as the project area lies in a very high fire hazard severity zone.

The FEIR does not cure the deficiencies in the Draft Supplemental Environmental Impact Report ("DEIR") to adequately analyze a range of environmental impacts, mitigation measures, and alternatives; and to adequately describe the Project and its impacts. At the same time, the FEIR contains significant new information and the County has erred in failing to issue an amended DEIR, thereby depriving the public its rights to notice and opportunity to comment.

I. Background on the Conservation Groups

The Center for Biological Diversity is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over one million members and online activists throughout California and the United Sates. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Los Angeles County.

The mission of Friends of the Santa Clara River is to protect and preserve the cultural and biological resources of the Santa Clara River Watershed.

II. The County Should Not Approve Large-Scale Development in a Very High Fire Hazard Severity Zone.

The Project site is located in a "very high" fire hazard severity zone. (DEIR at 5.5-1.) California just experienced its worst wildfire season on record, which resulted in the loss of human life, the destruction of thousands of buildings, and extremely large expenses for the state.[1] A recent study revealed a disturbing trend in which new development is occurring fastest in high fire hazard severity zones.[2]

Unfortunately, the Project appears to continue that trend. The EIR[3] states:

> Implementation of the Project would increase the demand for fire services including personnel, equipment, and facilities as a result of the increased potential for structural fires and human-induced fires. Additionally, the Project site lies outside the service area of the Consolidated Fire District; this will thereby affect response times to the Project site. (DEIR at 5.5-1.)

The EIR later concedes that large fires occur in the SCVAP planning area approximately ***every ten* years**. (DEIR at 5.5-4.) Adding hundreds of acres of development and siting thousands of people in a very high fire hazard severity zone is irresponsible planning and will endanger future residents. Largescale development in such zones also is an irresponsible use of County and state funds and resources, as significant firefighting efforts will eventually be needed if (or when) fires occur.

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[1] *Washington Post*, "Costs to Fight 2017 California Wildfires Shatter Records" (Jan. 18, 2018); *Daily News*, "California keeps going over budget as costs of fighting wildfires continue to increase" Dec. 7, 2017).
[2] *KPCC*, "New housing grows fastest in SoCal's most fire-prone areas" (Mar. 12, 2018); Radeloff 2018.
[3] The DEIR and the FEIR together will sometimes be referred to as the "EIR" in this letter given that both documents collectively make up the EIR. However, citations will still reference the "FEIR" or "DEIR."

III. The FEIR Fails to Demonstrate That a Less Environmentally Damaging Project is Not Feasible.

The Center's comments on the DEIR outlined the County's substantive mandate under CEQA to study alternatives to the proposed project and select an alternative that minimizes impacts to the environment. The Center specifically questioned why the "Creek Avoidance Alternative" was not selected. As discussed below, the FEIR still fails to adequately answer this question.

A. The FEIR does not contain evidence that the Creek Avoidance Alternative is not feasible.

In attempting to justify why the Creek Avoidance Alternative was not selected, the FEIR claims that the Creek Avoidance Alternative would not "provide a mix of uses to reduce offsite vehicle trips and VMT..." (FEIR at 2-26.) Yet, elsewhere the FEIR takes the position that it would be "speculative" to assume that any of the jobs onsite would be filled by future residents of the Project. (FEIR at 2-81.) The FEIR does not explain how it can rely upon these onsite uses to reduce VMT while also implying that onsite jobs will ***not*** result in a reduction in VMT. In short, this justification appears to be little more than a posthoc rationalization by the developer to support its preferred project.

In rejecting the Creek Avoidance Alternative, the FEIR also claims that utility pipelines would need to cross over the creek, which would risk accidental spills, presumably which could contaminate the creek. (FEIR at 2-85.) The FEIR's purported concern for Grasshopper Creek is bewildering since the proposed project would destroy most of it. Obviously the ***risk*** of a spill is a far lesser "impact" than the ***certainty*** that a large portion of the stream will be destroyed. The FEIR fails to explain this logical inconsistency in its analysis. Similarly, the FEIR is devoid of any analysis showing why a utility pipeline would somehow make the project infeasible.

The FEIR's general complaints about how utilities will be needed regardless of project size also do not show how the Creek Avoidance Alternative is infeasible. Developments of all sizes—including those that are merely a few acres—are able to absorb the cost of attaching utilities.

In rejecting the Creek Avoidance Alternative, the FEIR claims that a reduction in project size would "not fully meet the Project objectives to enhance local economic well-being..." (FEIR at 2-85.) The FEIR contains no data backing up this claim, nor does it contain any comparison on the economic benefits of the preferred project versus the Creek Avoidance Alternative. The FEIR also ignores the reality that healthy and intact streams and ecosystems have economic benefits deriving from increased tourism. This omission is particularly notable given the Project's location next to Castaic Lake State Recreation Area, which is a local resource for recreation and tourism.

The FEIR claims that a smaller project is not feasible because the development "would also require development of amenities including schools, and parks." (FEIR at 2-79.) It is striking that the FEIR is justifying the destruction of *more* open space because of a perceived cost of "developing" parks. As noted above, the Project area is already surrounded by parks and open space, such as the Castaic Lake State Recreation Area. Surely something is wrong with the

planning process if the destruction of pristine open space is being justified due to a perceived cost of developing artificial parks. Justifying the destruction of wildlands in order to fund the creation of artificial parks also seems antithetical to the Project purpose of creating a community focused on "outdoor recreation" that "celebrate[s] the uniqueness of the place." (FEIR at 4-2.)

Likewise, the purported concern about developing schools is not consistent with various other statements in the FEIR—the FEIR refers to an "optional school site" (FEIR at 2-43) and contains analysis describing the Project's impacts if no school is developed (FEIR at 2-82.) If the Creek Avoidance Alternative is being rejected because a school would not be feasible with a smaller project, then why does the FEIR also state that a school may not be required? These types of inconsistencies render the FEIR inadequate as a decision-making document.

As discussed further below, the FEIR also contains the unsupportable claim that the Project will *not* have a significant effect on stream and riparian habitats. Because the FEIR fails to acknowledge that the Project will in fact have a significant effect on a stream and riparian habitat, it improperly concludes that no alternative that reduces biological impacts is necessary, which undermines the entire alternatives analysis. (FEIR at 2-94.)

The FEIR also failed to analyze whether a higher density project (and correspondingly smaller footprint) would be appropriate given the sensitive biological resources onsite. Such an alternative should have been included in the alternatives analysis.

The Center's comments on the DEIR also noted that there was no analysis of comparative environmental costs or economic benefits (including costs/profits) among the various project alternatives. The FEIR fails to even acknowledge—let alone respond—to this serious deficiency in the FEIR. (FEIR at 2-86.)

Finally, the FEIR fails to offer any evidence that a "low carbon alternative" is not feasible. It instead confusingly states that a "low carbon alternative" is not feasible because there is "no development on site and lower emissions isn't attainable." (FEIR at 2-91.) As discussed in the Climate Change section of this letter, a zero net energy development ***is*** feasible and a large development in the same area has agreed to seek and obtain zero net energy. Nowhere does the FEIR provide evidence demonstrating that a low carbon or zero carbon alternative is not feasible.

B. The EIR's alternatives analyses fail to account for the aesthetic degradation to Castaic Lake State Recreation Area and resulting economic losses.

Despite the FEIR's purported objective of promoting "economic growth," the FEIR fails to consider how marring the aesthetic and environmental values (and risking degraded water quality) of the Castaic Lake State Recreation Area (the "SRA") could impede economic growth. As documented on the Friends of Castaic Lake website, (http://www.castaiclake.com), the SRA is the County's largest regional park and is a local resource that supports recreation, tourism, hiking, fishing, boating, and tournaments.[4]

[4] The County's official website for Castaic Lake SRA similarly states, "Castaic Lake State Recreation Area is one of the largest and most spectacular state water reservoirs in California! It not only provides fresh water to local communities, but this 12,658-acre facility is also a great local recreational escape for the entire family!" http://parks.lacounty.gov/wps/portal/dpr/Parks/Castaic_Lake_State_Recreation_Area

The SRA's aesthetic and scenic values generate filming fees for the County as well as jobs and economic growth through film production. As the Friends of Castaic Lake website notes, "For leading film industry professionals, Castaic Lake continues to be a lucrative and expansive resource for diverse production necessities. Whether your production is large or small, the lake provides a unique environment for finding the terrain, setting and space needed to get that perfect shot. Many popular television shows such as 'C.S.I.' and 'Fear Factor' have used Castaic Lake to facilitate their production goals."[5] These aesthetic values will be significantly degraded if thousands of houses are built next to the SRA.

Despite the known aesthetic values of the SRA (which also are a driver of economic growth), the EIR contains a scant 1.5 pages of conclusory analysis on the aesthetic impacts of the Project. The EIR acknowledges that the project will be visible from the Castaic Lake SRA trail but incorrectly claims this impact is not significant due to "design guidelines." (DEIR at 7-1.) No analysis is provided supporting this untenable claim. The EIR also contains no visualizations of the extent of impacts to viewsheds, particularly in the SRA, making it impossible for decisionmakers to determine whether impacts to viewsheds would be significant.

C. The current version of the Project does not meet the project objectives.

The FEIR's fixation on the preferred alternative is unjustified because even the preferred alternative does not meet the project objectives outlined in the EIR. The EIR includes a project objective to "[i]nclude a mix of residential, commercial, industrial, recreational, and institutional uses ***that will reduce offsite vehicle trips and vehicle miles travelled.***" (DEIR at 4-3, emphasis added.) However, the FEIR elsewhere states: "Regarding to employment, the Project does include employment opportunities associated with the on-site light industrial, commercial, recreational and institutional uses. While it is possible that some of these jobs may be filled by future residents of the Project, ***it is too speculative to conclude that***. It is noted that the Project Objectives (refer to page 4-3 of the Draft SEIR) identify that jobs would be created and do not identify that these jobs would necessarily be filled by future residents of the Project…it is assumed that most future residents would ***not*** work on-site." (FEIR at 2-81, emphasis added.) The FEIR thus is clear that it is likely that the Project will ***not*** "reduce offsite vehicle trips and vehicle miles travelled" by including e or commercial or industrial uses onsite. As such, the preferred alternative fails to meet the project objectives.

Even if the EIR was not internally consistent as described above, there is an even more serious error in the EIR – On April 5, 2018, the County published a 307-page "Supplemental Memo," which reveals that ***all*** of the industrial uses and virtually all of the commercial uses have now been eliminated from the Project and replaced with more dwelling units. (Memo at PDF 12.) The Memo explains that the "[r]evisions would eliminate industrial uses" and "areas that were previously proposed for industrial and commercial would now be developed with residential uses…" (Memo at PDF 14.) This revision to the Project renders it inconsistent with the Project objectives. More importantly, the County rejected (and refused to even consider) the Creek Avoidance Alternative purportedly because of a concern for reduced VMT arising from these same commercial and industrial uses. As such, the County's rejection of the Creek Avoidance Alternative on the basis that it would not provide an adequate "mix of uses" appears to be a pretext, given that the current preferred project also lacks this mix of uses.

[5] http://www.castaiclake.com/filming.html

Indeed, in the Alternatives Analysis, the EIR considers a "No Industrial Development Alternative" and concludes that it "would not meet the Project objective related to the provision of industrial uses to accommodate the projected labor force..." (DEIR at 6-21.) This conclusion remains in the FEIR.

D. The FEIR continues to misleadingly claim that large-scale development is inevitable on the site.

The FEIR continues to misleadingly suggest that development will occur even in the absence of the Project or certification of the FEIR. (FEIR at 2-87.) The FEIR goes so far as to say that "[t]he Project approved under the Specific Plan could be constructed today." (FEIR at 2-118.) This is factually inaccurate. There are numerous other regulatory requirements aside from CEQA review that are required for the prior version of the project to move forward. For instance, a streambed alteration permit would be needed from CDFW. CDFW has voiced serious concerns with the current version of the Project and those concerns likely apply to the prior version as well. In addition, it has been over 25 years since the entitlement of the original project and no development has occurred—conditions have changed, climate change has intensified, the extinction crisis has broadened. Applicable laws, plans, and regulations have changed significantly. None of these factors would have been adequately analyzed in a 26 year-old document. At a bare minimum, construction of the old version of the project would require certification of a supplemental or subsequent EIR. And CEQA requires analysis based upon existing physical conditions, not theoretical conditions. In short, the FEIR's fixation on the old version of the Project and the perceived "inevitability" of development frustrates public participation and informed decision-making.

IV. The FEIR Fails to Disclose or Mitigate Impacts to Grasshopper Creek and Other Streams.

The FEIR fails to accurately disclose the impacts of the Project on Grasshopper Creek, Castaic Creek, and the Santa Clara River. The FEIR employs a shockingly simplistic approach to determining whether these streams are impacted by considering the size of the entire watersheds instead of the areas actually impacted. For instance, the FEIR claims that the Project will impact "only 26 percent of the Grasshopper Canyon watershed" because the Project is destroying only 697 acres of the 2,685-acre watershed. (FEIR at 2-7.) This approach ignores the fact that 3.5 miles of ***the creek*** itself is part of those 697 impacted acres. The FEIR therefore equates lands at the edges of the watershed with the actual stream in order to downplay impacts to the actual stream. Taken to its logical extreme, the FEIR's approach would likewise conclude that filling the Merced River in Yosemite Valley with cement would not amount to a significant effect on the Merced River because only a few acres of the river's watershed were actually impacted with the cement.

The FEIR similarly persists in claiming that the Project only affects "approximately 1 percent" of the 129,680 acre Castaic Creek watershed and "approximately 0.4 percent" of the upper Santa Clara River watershed. (FEIR at 2-100.) This simplistic comparison is misleading for the same reasons discussed in the above.

The FEIR also fails to consider how other projects within the Castaic Creek and Santa Clara River watersheds have the potential to cumulatively impact these watersheds when

combined with the Project. In short, the FEIR's approach ignores the "death by a thousand cuts" that has slowly degraded water quality and streamflows in these streams. Instead, the FEIR claims BMPs—which are already required by law—will protect these resources that belong to all Californians. If BMPs and compliance with existing regulations were all that is necessary to ensure clean and healthy streams in Southern California, then why do many streams in Southern California fail to meet state and federal water quality standards? The FEIR never answers this crucial question.

Moreover, the FEIR reasserts the untenable claim that filling 3.5 miles of a blue-line stream is not a "significant impact" even without mitigation. The FEIR's claim is inconsistent with the comments submitted by CDFW, SMMC, and the California Department of Parks and Recreation.

The FEIR's claim also conflicts with the CEQA Guidelines. Appendix G considers an impact significant if it will (1) "have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service...." Filling 3.5 miles of a blue-line stream is categorically a "substantial adverse effect" on riparian habitat. Even accepting the FEIR's creative accounting—which misleadingly claims that only 26 percent of the Grasshopper Creek watershed will be impacted—a 26 percent reduction is still a significant impact. Moreover, CDFW already identified this "riparian habitat or other sensitive natural community"; more specifically, CDFW's comments noted that the DEIR did not include an alternative that minimized significant effects to sensitive resources, including the majority of Grasshopper Creek, vernal pools, and a perennial steep.

Appendix G also considers an impact significant if it will (1) "substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site"; or (2) "substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site..." The FEIR contains insufficient evidence to show that destroying a 3.5 miles of a stream will not alter drainage.

Because the FEIR fails to acknowledge the severity of the impacts on the watershed, it proposes insufficient mitigation. In response to the Center's comments that the DEIR failed to incorporate any BMPs as actual mitigation measures, the FEIR doubles down this approach, claiming that "[c]ompliance with regulatory requirements is not considered mitigation since it applies to the Project regardless of impacts; nor is mitigation required in order to ensure regulatory compliance..." (FEIR at 2-93.) The FEIR cites no authority for this claim. In fact, courts have held the opposite—specifically that "a condition requiring compliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance." (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) And while regulatory compliance ***may*** be one of many reasonable mitigation measures, courts are similarly clear that mere regulatory compliance is often insufficient to support a finding of no significant impact. (*Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17.)

The FEIR now includes "PDFs" or "project design features" which purport to incorporate some BMPs from the water quality technical report. Again, these are not enforceable CEQA mitigation measures. They are also deferred and vague, and are not clearly detailed in the FEIR, thereby frustrating public participation and informed decision-making.

V. The FEIR Fails to Adequately Analyze and/or Mitigate Impacts to Important Habitats and Special Status Wildlife.

The FEIR's claim that the Project would not drive special status species to below self-sustaining levels is unsubstantiated (FEIR, Response to Comments 16.55, Page 2-113). The proposed mitigation measures do not guarantee no net loss of habitat quantity or quality, nor do they ensure that displaced special-status species will thrive (whether sites are acquired or restored/established). These species and habitats are garnered special attention and protection with the intent of improving their chances of survival by avoiding take and further degradation due to impacts from actions such as those described in this project (*See* Center's DEIR Comment letter at p. 13.) The FEIR's finding that significant impacts to biological resources will be mitigated to less than significant is not supported by the facts and fails to meet CEQA's requirements.

The FEIR's assertion that a mitigation ratio of 2:1 for impacted habitats will reduce impacts to biological resources to less than significant (FEIR, Response to Comments 16.22, Page 2-94) and that established/created mitigation sites will exhibit equivalent ecological function within five years (DEIR MM 5.2-6,-7,-8,-11; FEIR, Appendix C, Draft Western Spadefoot Toad Relocation Program, Page 10) is unfounded. The FEIR needs to take into account that, due to their project, habitat loss and species displacement are immediate, while any gains from their mitigation is uncertain. Therefore, higher mitigation ratios coupled with extended years of effective monitoring and adaptive management strategies are needed to improve chances of achieving no net loss of habitats like wetlands and sage scrub (Moilanen et al.; Sudol and Ambrose; Ambrose et al.). If higher mitigation ratios are not feasible, the FEIR must provide evidence and analysis supporting that conclusion. With one third of America's plant and animal species vulnerable to impacts from human activity and one fifth at risk of extinction (Stein et al 2018), it is crucial that strategies to prevent further degradation and loss of biodiversity are explicit and scientifically sound.

Western Spadefoot Toad and Non-riparian Wetland Habitat

Amphibian populations in the U.S. are declining at an alarming rate of almost 4% per year (Grant et al.); therefore, impacts at the local population level must be thoughtfully and scientifically addressed, especially for species known to be in decline, such as the Western Spadefoot Toad, a California species of concern. The Draft Western Spadefoot Relocation Program provides more details regarding the translocation of western spadefoot toads that will be impacted by the project (FEIR, Appendix C). However, amphibian relocation has limited success, particularly if habitat needs to be created (Germano and Bishop). There is no scientific basis for the FEIR's claim that a Relocation Program would "result in substantial avoidance of direct impacts" to the toads, and stating that the species will persist in the region because of this mitigation is misleading and has a high likelihood of being false (DEIR, page 5.2-36).

The Draft Relocation Program fails to demonstrate that the planned relocation and created wetlands will be able to facilitate the long-term survival of the relocated toad populations (FEIR, Appendix C, Draft Western Spadefoot Relocation Program). In describing the potential sites for created pools, the Draft Relocation Program does not describe the upland habitat that would be vital to the toads' continued survival. The Draft Relocation Program states that there is "ample" upland habitat at the potential relocation site, but it does not provide further details (FEIR, Appendix C, Draft Western Spadefoot Toad Relocation Program, Page 2). Based on the map of vegetation types at the project site (DEIR, Exhibit 5.2-1), the proposed relocation sites (FEIR Appendix C, Draft Western Toad Relocation Program, Exhibit 1) are in areas dominated with California sagebrush-California buckwheat scrub with minimal areas (less than 150m at the widest point) of mixed sagebrush/scrub/California annual grasses. These toads prefer areas of open vegetation and short grasses, where soil is sandy and friable (United States Fish and Wildlife; Jansen et al.), and it is unclear if the proposed relocation sites fall in or near the mixed sagebrush/scrub/California annual grasses. In addition, according to Semlitsch and Bodie (2003), the average maximum upland habitat utilization from suitable breeding wetlands for frogs and toads is about 400m, making the California grasses habitat in/near the proposed relocation sites insufficient. If no burrowing habitat is available, toads will disperse further away from breeding ponds in search of their preferred substrate, which could lead to increased mortality and potentially no breeding functionality of the created pools (Germano and Bishop; Jansen et al.). The Draft Relocation Program lacks appropriate considerations of upland terrestrial habitat (including soil type) for the proposed created wetland habitat, making it less likely to facilitate successful toad establishment and more likely to cause toad mortality.

Should relocation be required during a drought year, the FEIR states in the Draft Relocation Program that they will transfer water to existing seasonal ponds to sustain breeding at least to the point of oviposition (FEIR, Appendix C, Draft Western Spadefoot Toad Relocation Program, Page 9). However, it is unclear whether this strategy will actually evoke the toads to emerge from their burrows to breed. These toads stay in burrows up to 0.9m deep (Ruibal et al.), and although the factors that stimulate emergence are not well understood, it is possible that sound or vibration from rain striking the ground may be the primary cue for the toads to emerge (United States Fish and Wildlife). Simply filling the pools may not be enough to motivate the toads to emerge from their burrows, which could leave the entire population to remain in their burrows and lost to construction. The failure of the FEIR to fully disclose and analyze this outcome violates CEQA.

Another factor that the toads' continued survival relies on is that the created wetlands must exhibit the appropriate hydrological and biological conditions. The proposed evaluation of wetland establishment and success based on photo-documentation (FEIR, Appendix C, Draft Western Spadefoot Toad Relocation Program, Pages 10-11) is wildly insufficient. Restoring complex ecosystems like ephemeral wetlands often results in reduced ecological function. In studies conducted in California on wetland mitigation sites permitted between 1979 and 2002, less than 20% of mitigated wetlands were performing optimally (Ambrose et al.; Sudol and Ambrose). Thus, the success of mitigation sites relies on the appropriate assessment of measurable performance standards based on habitat functions and adaptive management strategies (Bronner et al.; Matthews and Endress; Ambrose et al.; Sudol and Ambrose).

To accurately assess the ecological function of a created wetland, there are a suite of functions that must be measured, including buffer and landscape context, hydrology, physical structure (soils and topography), and biotic structure (native vs invasive plant and animal species) (Bronner et al.; Ambrose et al.; Sudol and Ambrose). The FEIR's current evaluation protocol would not provide the necessary information on any of these essential ecological functions. In addition, while the relocation program allows for adaptive management of these wetlands and toad populations, it states that monitoring will continue for only five years, whether or not the mitigation is successful (FEIR, Appendix C, Draft Western Spadefoot Toad Relocation Program, Pages 10). Five years is likely not enough time to determine the long-term trajectory for functional equivalency of created wetlands or the future survival of the Western Spadefoot Toad populations (Germano and Bishop; Zedler and Callaway; Mitsch and Wilson). The relocation program lacks consideration of the time it takes for created wetlands to have their intended functionality, the need for appropriate upland terrestrial habitat for species survival, and the importance of measuring performance criteria indicative of habitat functionality, which makes it unlikely to mitigate significant project impacts on the Western Spadefoot Toad and associated wetlands.

Southwestern Willow Flycatcher, Least Bell's Vireo, and Riparian Wetland Habitat

The FEIR claims that project impacts to riparian habitat and associated special status species are less than significant with mitigation, yet it provides little explanation as to how the mitigation plans will minimize such impacts (FEIR, Response to Comments 16.22, Page 2-94). The project would impact 13.26 acres of riparian/open water habitat, which includes filling in a portion of Grasshopper Creek and its tributaries (FEIR, Appendix C, Conceptual Habitat Mitigation Plan, Table 2). These areas are potential habitat for the federally endangered Southwestern Willow Flycatcher and Least Bell's Vireo, which have been observed in and near the project site (DEIR, Table 5.2-4, Page 5.2-24). The loss of potential habitat for these endangered birds and the fact that California has already lost ~95% of historic levels of riparian areas makes it extremely important that the mitigation of lost riparian wetland habitat clearly targets no net loss through strategic adaptive management and planning.

According to the Conceptual Habitat Mitigation Plan and MM 5.2-11, any mitigation for riparian habitat, whether onsite or offsite, would be completed at a mitigation ratio of 2:1 ratio (DEIR, MM 5.2-11, Page 5.2-54-55; FEIR, Appendix C, Conceptual Habitat Mitigation Plan, Table 2). This is insufficient, particularly since the FEIR needs to replace potential habitat for multiple endangered species. CDFW suggests a mitigation ratio of 5:1 for endangered species wetland habitat in the south coast region (California Department of Fish and Wildlife 2001). The Conceptual Habitat Mitigation Plan also states that riparian habitat will likely require habitat establishment, but no details regarding where this might be are provided, except that it will "require more intensive scouting and analysis" to find potential mitigation sites (FEIR, Appendix C, Conceptual Habitat Mitigation Plan, Page 8). The restoration/establishment of unidentified wetlands is not adequate mitigation under CEQA. In addition to siting mitigation banks approved by the USACE and CDFW (FEIR, Appendix C, Conceptual Habitat Mitigation Plan, Page 7), the Conceptual Habitat Mitigation Plan should also provide potential mitigation sites for riparian habitat restoration/establishment prior to habitat destruction.

Riparian/stream habitats are difficult to replace or create because of their complex hydrological, physical, and biotic structure, and it can take many years before an established riparian mitigation site might (or might not) become as ecologically functional as the lost habitat (Bronner et al.; Ambrose et al.; Sudol and Ambrose). The FEIR proposes a five-year monitoring program of the riparian mitigation sites in MM 5.2-11, which does not guarantee the equivalent ecological function of healthy riparian habitats (DEIR, MM 5.2-11, Page 5.2-54-55). The FEIR also does not provide measures to ensure that adaptive management strategies will be implemented to facilitate ecological function (DEIR MM 5.2-11, Page 5.2-55). Adaptive management, collecting measurable performance standards based on habitat functions to determine mitigation success, and improved documentation strategies are necessary to increase the success rate of riparian mitigation sites (Bronner et al.; Matthews and Endress; Ambrose et al.; Sudol and Ambrose).

Many of the mitigation measures in the FEIR also amount to the deferred development of mitigation. CEQA generally bars such deferred development of mitigation. In the limited circumstances in which deferred mitigation is appropriate, the agency must meet all of the following elements: (1) practical considerations prevented the formulation of mitigation measures during the planning process; (2) the agency committed itself to developing mitigation measures in the future; (3) the agency adopted specific performance criteria prior to project approval; and (4) the EIR lists the mitigation measures to be considered, analyzed, and possibly incorporated into the mitigation plan. (See *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 736-37 [review denied].) Here, the FEIR fails to establish that mitigation measures to protect biological resources could not have been developed *prior* to project approval. Nor does the FEIR establish compliance with any of the other elements set forth above for each mitigation measure.

Coastal California Gnatcatcher and Sage Scrub Habitat

As discussed in the Center's DEIR comment letter, impacts to special status species is per se significant where it substantially reduces the number or restricts the range of the species. During focused surveys conducted in 2014 and 2015, breeding and non-breeding individuals of the federally threatened Coastal California Gnatcatcher were observed throughout and directly adjacent to the project area (DEIR, Table 5.2-4, Page 5.2-24 and Exhibit 5.2-2). The project area is located in the northern region of the California gnatcatcher's current range (USFWS 2018), which is important as climate change continues to cause species to shift their distributions both in latitude and elevation (Chen et al.; Gillings et al.). According to Langham et al. (2015), over 50% of assessed North American birds are predicted to lose more than half of their current geographic range, making high quality habitat in the northern portion of the California gnatcatcher potentially critical for the future survival of the species. Preserving existing habitat known to be utilized by the species should be prioritized while considering species sensitivities and local-scale effects of climate change (Rapacciuolo et al.; Lenoir and Svenning).

The California gnatcatcher is dependent on coastal sage scrub habitat. It is estimated that over 90% of the coastal sage scrub habitat in California has been lost (Bowler, "Coastal Sage Scrub Restoration - I: The Challenge of Mitigation"), and much of the remaining habitat is highly fragmented (Bowler, "Ecological Restoration of Coastal Sage Scrub and Its Potential Role

in Habitat Conservation Plans."). Thus, the loss of 634.70 acres of remaining, intact, high quality sage scrub communities must be avoided, and if all impacts cannot be avoided, mitigated to ensure no net loss of habitat quantity or quality. Both acquisition and restoration/establishment of high quality habitat should be implemented to more effectively mitigate the loss and degradation of existing sage scrub habitat (Bowler, "Coastal Sage Scrub Restoration - I: The Challenge of Mitigation"; Bowler, "Ecological Restoration of Coastal Sage Scrub and Its Potential Role in Habitat Conservation Plans."). Although mitigation measures will prioritize existing California gnatcatcher critical habitat at a 2:1 ratio, as described in the draft Conceptual Habitat Mitigation Plan and MM 5.2-6 (FEIR, Appendix C, Conceptual Habitat Mitigation Plan, Page 7), these mitigation measures do not specify degraded areas that will be restored or replaced. In addition, for state and/or federally threatened or endangered species and their habitat, the ratio for mitigation is typically higher, ranging from 3:1 to 10:1.

In MM 5.2-6 the Applicant discusses sage scrub restoration or enhancement; however, the Applicant does not plan to measure enough indicators to determine the ecological function of the mitigation sites (DEIR, MM 5.2-6, Page 5.2-45). It is insufficient to only document the native and invasive plant cover; other indicators must be measured to assess the whole community and overall ecological functionality of the sites, including the presence/absence of native and non-native flora and fauna in the understory (Bowler et al 2000). In addition, should initial attempts of restoration/establishment fail or need improvement, mitigation measures should include adaptive management strategies that allow for protocol updates based on the most current scientific research in order to increase the chances of success. The FEIR should provide a comprehensive revegetation plan with measurable success criteria indicative of habitat functionality, and it should specify that adaptive mitigation strategies will be implemented if/when needed to improve or stabilize the intended ecological function of the mitigation sites, as overseen by the USFWS.

Sage scrub habitat is dependent on fire cycles that span many decades (Bowler, "Coastal Sage Scrub Restoration - I: The Challenge of Mitigation"; Bowler, "Ecological Restoration of Coastal Sage Scrub and Its Potential Role in Habitat Conservation Plans."). Thus, mitigation measures that provide for the maintenance and monitoring of mitigation sites for only five years are insufficient (DEIR, MM 5.2-6, Page 5.2-46-47), and long-term preservation planning should consider post-fire community changes and include burning and understory supplementation if/when necessary.

It is important to note that increased human presence coupled with the effects of climate change will likely lead to an increase in fire frequency and intensity, which would disrupt vegetation communities in and adjacent to the project that are dependent on low frequency and low intensity fire regimes, such as sage scrub (Westerling and Bryant; Syphard et al.; Fried et al.). While the FEIR provides some details regarding a Fire Management Plan, which includes a fuel modification plan, landscape plan, and irrigation plan, all to be developed in concert with LA County Fire Department approval and to be maintained by a Landscape Maintenance District or HOA (DEIR, Section 5.5), the lack of an established plan makes it difficult to ascertain whether the project footprint and consequent mitigation requirements reflect the total amount of disturbed/impacted habitat. In addition, it should be made clear that the most current fire safety recommendations from the LA County Fire Department and insurance companies, like the

California FAIR Plan Property Insurance
(https://www.cfpnet.com/index.php/consumers/brushwildfirerating/), will be implemented during project development and lifetime maintenance of the site.

Burrowing Owl and Grassland Habitat

The Burrowing Owl is a species of special concern whose populations have been dramatically declining in California since the 1980s. The destruction of wintering habitat is a significant impact, as stated in the FEIR. Yet mitigation measures to offset these impacts are insufficient. In MM 5.2-13, the FEIR states that if a wintering burrowing owl is observed during the non-nesting season, the burrow(s) will be closed and the owl(s) will be excluded (DEIR, MM 5.2-13, Page 5.2-56), but they do not mention a Burrowing Owl Exclusion Plan to be developed and approved by the local CDFW office prior to exclusion, as recommended by CDFW (2012). In addition, before habitat destruction and burrowing owl exclusions take place, the FEIR should legally secure mitigation lands and develop burrowing owl monitoring and management plans (California Department of Fish and Wildlife). These mitigation measures are not included in the FEIR. This amounts to the deferred development of mitigation measures, in violation of CEQA and *POET*.

In MM 5.2-14 the FEIR states that if suitable burrows are removed or impacted, then artificial burrows will be created onsite or offsite, depending on available suitable habitat (DEIR, MM 5.2-13, Page 5.2-56). However, the FEIR does not specify where artificial burrows will be created in relation to the impacted natural burrows. According to CDFW (2012), if active burrows are closed, artificial burrows should be created in suitable habitat within 210m of the natural burrow(s) to increase the chances of successful reestablishment. These mitigation measures are not currently incorporated in the FEIR or Conceptual Habitat Mitigation Plan. Once again, this amounts to the deferred development of mitigation measures, in violation of CEQA and *POET*.

The main causes of burrowing owl declines are habitat loss, degradation, and fragmentation, yet mitigation for foothill needlegrass grassland in MM 5.2-8 only provides for a minimum mitigation ratio of 2:1 (DEIR, MM 5.2-8, Page 5.2-50). Because the burrowing owl is a species of special concern, the mitigation ratio should be at least 3:1 to prevent further loss of the species. In addition, mitigation should include both habitat preservation and establishment.

The minimum of 6.5 acres of habitat for every burrowing owl impacted, as mentioned in MM 5.2-8 (DEIR, MM 5.2-8, Pages 5.2-50), is not based on the best available science. This minimum acreage is from an outdated source (The California Burrowing Owl Consortium 1993), and new scientific data regarding burrowing owl mitigation have arisen since then. The amount of habitat required per owl depends on the quality of the habitat, and home ranges have been observed to be from 280 to 600 acres per individual (California Department of Fish and Wildlife). To facilitate the establishment of burrowing owls in mitigated habitat, Trulio (2015) recommends 30 to 140 acres per owl pair, along with open and structurally heterogeneous grassland habitat, high burrow densities, healthy ground squirrel or other fossorial mammal populations, and adjacent owl-occupied nesting habitat. No details are provided in the FEIR or

Conceptual Habitat Mitigation Plan to ensure that appropriate mitigation sites will be acquired and established to facilitate the long-term survival of burrowing owls.

Free-roaming Domestic Animals

Another controllable threat that the FEIR fails to appropriately address is the banning of free-roaming domestic animals. The FEIR states that development "edge effects" such as domestic cats and dogs will be adverse but not significant because wildlife populations in the region would not be impacted to below self-sustaining levels. However, scientific studies have shown that the impacts of free-roaming dogs and cats on wildlife are often underestimated, and in fact, they can pose significant impacts to wildlife (Loss et al.; Young et al.). This controllable impact should be addressed in order to reduce impacts to the adjacent wildlife.

Worker and Future Resident Awareness

There is no mention in the FEIR of developing or implementing a worker training program to increase awareness of potential special status species and habitats that may be encountered/impacted onsite. Providing worker training is a simple way to educate workers about why certain precautions are necessary. It is a way to help workers be able to recognize signs of these species and be more invested in their protection.

Because the project is located near natural open space and nature reserves, the FEIR should include a mitigation measure to increase education and awareness to future residents regarding environmental resources and how to minimize impacts to the environment. They should include that Home Owners Associations or similar entities provide the most up-to-date information regarding fire safety, special status species in and near the area, and the impacts of pesticides/rodenticides on local wildlife.

Pesticide and Rodenticide Impacts

The FEIR fails to appropriately address eliminating the use of rodenticides and pesticides in the proposed project area, which will likely be used for foraging by raptors (including burrowing owls), native predators, and scavengers. Secondary poisoning of wildlife from these products is increasingly decimating populations of predators, particularly in the urban wildlife interface (Mcmillin), and pesticides in urban runoff have been shown to have adverse effects on amphibian populations (Hayes et al.; Relyea.) Nonetheless, the FEIR does not appear to contain any analysis about the dangers of pesticide use in close proximity to special status amphibians such as the western spadefoot toad.

The FEIR instead completely disclaims any responsibility for mitigating pesticide impacts on special status species, stating that the "Project does not have the legal ability to ban the use of specific pesticides by the residents; the Project must achieve regulatory compliance." (FEIR at 2-96.) This is inaccurate and subverts the purpose of CEQA. The purpose of CEQA is not to ensure compliance with other environmental regulations. Instead, CEQA requires the agency to independently assess the potential direct and indirect impacts of the Project—based upon the species present and the surrounding habitats and environmental resources. Given the Project's unique location which encompasses sensitive riparian habitat for special status species,

the County cannot just point to regulations of general applicability and claim impacts are mitigated. Site specific analysis of pesticide impacts and targeted mitigation measures are required.

The FEIR states that MM 5.8-1 and the Integrated Pest Management Plan is sufficient to mitigate against pesticides and rodenticides and that it is illegal to ban the use of pesticides by residents (FEIR Response to Comments 16.23, Page 2-96). The FEIR's reliance upon "Integrated Pest Management" or "IPM" remains vague, deferred, and ineffective. In response to this concerned raised by the Center, the FEIR includes a number of links describing various IPM programs. This does not take the place of site-specific analysis assessing the effectiveness of IPM techniques. Notably, the diversity of the links listed in the FEIR demonstrates that there is no agreed-upon "IPM" set of measures with specific performance criteria. CEQA requires far more than the agency merely agree to abide by a set of ideas that are differently laid out by other parties. CEQA requires that specific, binding and enforceable mitigation measures be disclosed and discussed in the FEIR, and then adopted as conditions of project approval. The FEIR is deficient in this regard. The FEIR should also require that the Home Owners Association or similar entity provide up-to-date information regarding the impacts of rodenticides and pesticides on nearby wildlife.

Indirect Effects on Wilderness and Open Space

Large-scale development near existing conservation areas carries special risks and requires extra measures to ensure that conservation areas are not impacted by development. For instance, residents of the Project may develop unofficial walking, hiking, biking, or off-road vehicle trails in conservation areas, resulting to impacts to wildlife and ecosystem functions. Such impacts are well documented at other conservation areas in Southern California adjacent to development.[6] Unfortunately, the FEIR fails to adequately analyze, disclose, or mitigate this foreseeable effect of siting thousands of people next to the Angeles National Forest and in close proximity to the Los Padres National Forest.

VI. The EIR Does Not Adequately Analyze or Mitigate the Air Quality Impacts of the Project.

A. Air pollution is a public health crisis that requires the County to focus development in existing cities.

Air quality is a significant environmental and public health concern as unhealthy, polluted air contributes to, and exacerbates many diseases and mortality rates. In the U.S., government estimates indicate that between 10-12 percent of total health costs can be attributed to air pollution. (VCAQR 2003) Many plants and trees, including agricultural crops, are injured by air pollutants. This damage ranges from decreases in productivity, a weakened ability to survive drought and pests, to direct mortality. (VCAQR) Wildlife is also impacted by air pollution as the plants and trees that comprise their habitats are weakened or killed (yet the FEIR contains no analysis of the impacts of air pollution on wildlife). Aquatic species and habitats are

[6] David Garrick, "Trials Proposed for Del Mar Mesa Area," *San Diego Union Tribune* (July 20, 2015); Dryw Keltz, "Fish and Wildlife Squeeze Bikers from Carlsbad's Lake Calavera," *San Diego Reader* (June 5, 2017); Steven Bartholow, "Recreationists React to Crack Down on Authorized Trials Near Santee," *Santee Patch* (Nov. 16, 2013).

impacted by air pollution through the formation of acid rain that raises the pH level in oceans, rivers and lakes. (EPA 2016) Greenhouse gases, such as the air pollutant carbon dioxide which is released by fossil fuel combustion, contribute directly to human-induced climate change. (EPA 2016) In this feedback loop, poor air quality that contributed to climate change will in turn worsen the impacts of climate change and attendant air pollution problems. (BAAQMD 2016)

Some of the nation's most polluted counties are in Southern California with LA County continually topping the list. (ALA 2016) Air pollution and its impacts are felt most heavily by young children, the elderly, pregnant women and people with existing heart and lung disease. People living in poverty are also more susceptible to air pollution as they are less able to relocate to less polluted areas, and their homes and places of work are more likely to be located near sources of pollution, such as freeways or ports, as there areas are more affordable. (BAAQMD 2016; ALA 2016) Pollution sources include transportation, industry and manufacturing, construction, the importation and movement of goods, and energy development. Transportation presents one of the most significant sources of pollution in urban areas, where large segments of the population are constantly exposed to roads and traffic. (BAAQMD 2016; Newman)

Although there are many different types of air pollution, Ozone, Fine Particulate Matter and Toxic Air Contaminants are of greatest concern in urban areas, particularly in Southern California. These three air pollutants have been linked to an increased incidence and risk of cancer, birth defects, low birth weights and premature death, in addition to a variety of cardiac and lung diseases such as asthma, COPD, stroke and heart attack. (Laurent 2016; ALA 2016) Ozone, also commonly referred to as smog, is created by the atmospheric mixing of gases resulting fossil fuel combustion and other volatile organic compounds and sunlight. Although it is invisible, ozone poses one of the greatest health risks, prompting the EPA to strengthen its National Ambient Air Quality Standard for Ozone in 2015. (ALA 2016) Fine Particulate Matter is generally found in urban areas as a result of vehicle exhaust emissions, and these microscopic particles are what contribute to visible air pollution. These tiny participles are dangerous because they are small enough to escape our body's natural defenses and enter the blood stream. Fugitive dust is a term used for fine particulate matter that results from disturbance by human activity such as construction and road-building operations. (VCAQR 2003) Fine Particulate Matter can also result from ash caused by forest fires, which will continue to impact those living in the urban-wildland interface and increasingly beyond as climate change exacerbates the risk of forest fires. (BAAQMD 2016) Toxic Air Contaminants are released from vehicle fuels, especially diesel, which accounts for over 50% of the cancer risk from TACs. (BAAQMB 2016) This is especially relevant for Southern California with its abundance of diesel shipping traffic. (Bailey; Betancourt 2012)

Urban infill is an effective plan for reducing the air pollution and greenhouse gas emission resulting from heavy reliance on vehicles. Centrally locating housing, shopping and places of employment reduces vehicle miles travelled and new road construction. With fewer roads and less traffic, it will be less likely that housing will be located near busy, polluting roads, which is a large source of exposure. (BAAQMD 2016) Infill planning also allows for realistic promotion of alternative transportation such as walking or biking.

B. The County must conduct a health risk assessment prior to project approval.

The EIR must adequately analyze the potential health risks—including cumulative impacts—arising from air pollution generated directly or indirectly by the Project. The Guidelines require EIRs to discuss health problems caused by proposed projects. (Guidelines § 15126.2.) The EIR must assure that this is a robust health assessment for all criteria pollutants, Mobile Source Air Toxics, such as acrolein, benzene, 1,3-butadiene, diesel particulate matter, formaldehyde, naphthalene, and polycyclic organic matter, and Toxic Air Contaminants. Simply providing emissions levels or general descriptions of health impacts provides an inadequate context to decisionmakers and the public of the Project's actual effects on public health. In *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, the court held the agency failed to proceed in a manner required by law because the EIR did not include information on the air pollution impacts of the project on specific areas near the project vicinity, including how frequently and for what length of time the level of particulate air pollution in the surrounding area would exceed standards of significance. (*Id.* at 487-88.) Here, the FEIR does not provide adequate information on how specific pollutants would disperse and impact neighboring jurisdictions or specific areas in the project vicinity.

Instead, the EIR disclaims responsibility for analyzing these types of effects of the Project *now*, claiming such analysis is "speculative" because the exact uses have not yet been finalized. (FEIR at 2-67.) The FEIR also confusingly refers to the Northlake Specific Plan as a "program level specific plan." (*Id.*) While CEQA provides for "program level" EIRs, the Conservation Groups are unaware of any regulatory approval known as a "program level specific plan." In any event, CEQA does not allow an agency to avoid analyzing the effects of the project *prior* to approval by labelling it a "program-level" project.

Moreover, to the extent the exact nature of development is uncertain at this time, the agency must use its best efforts to find out all that it reasonably can, and then disclose any remaining uncertainties after conducting such an investigation and inquiry. (See *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 21-24.) For example, the County should have analyzed the health risks and conducted a health assessment based upon the most intensive uses permitted by the Project in order to inform the public and decision-makers of the "worst case" impacts of the Project on people living in the vicinity of the Project. Or it could have analyzed development types it views as "reasonably foreseeable" based upon the proposed zoning designations. In short, the County must use "best efforts to find out and disclose all that it reasonably can..." (Guidelines § 15144; Pub. Res. Code § 21003.1(a).)

All that the EIR proposes in MM 5.1-14 is the preparation of a health risk assessment prior to issuance of building permits for industrial buildings in the Project area. However, this would be a ministerial process that would occur outside of public view. (FEIR at 2-67.) The public and decision-makers would be unable to review the assessment or offer comments on its adequacy (and this applies equally to other types of development that might occur onsite). While CEQA allows for the deferral of developing mitigation measures in very limited contexts, it does not allow for the deferral of analysis regarding potential effects.

C. The County should require much stronger air quality mitigation measures.

CEQA requires that—*prior* to the approval of a project—the lead agency adopt all feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of the project. (Pub. Res. Code § 21002.) In addition, "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified." (CEQA Guidelines § 15126.4(a)(1)(B).)

The EIR states that construction and operational air pollution impacts would remain significant and unavoidable for a number of different types of air pollution. However, the EIR does not demonstrate that the County considered all potentially feasible mitigation measures for each type of air pollution, or adopted all feasible measures. Indeed, there are a wealth of mitigation measures already proposed by other agencies in technical reports that were not incorporated in the EIR.

Many mitigation measures that should be considered and adopted are described in detail in the documents attached: (1) San Joaquin Valley Air Pollution Control District: Mitigation Measures, (2) Bay Area Air Quality Management District, *California Environmental Quality Act: Air Quality Guidelines* (2011), (3) Sacramento Metropolitan Air Quality Management District, Recommended Guidance for Land Use Emission Reductions Version 3.3 (for Operational Emissions) (2016), (4) San Luis Obispo County Air Pollution Control District, CEQA Air Quality Handbook: A Guide for Assessing the Air Quality Impacts For Projects Subject to CEQA Review (2012), (5) California Air Pollution Control Officers Association (CAPCOA), *CEQA and Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act* (2008), and (6) California Attorney General's Office, *Addressing Climate Change at the Project Level* (2010). The documents identify existing and potential mitigation measures that could be applied to projects during the CEQA process to reduce a project's air pollution and GHG emissions. These mitigation measures also provide the co-benefit of reducing many criteria emissions that contribute to the significant impacts to air quality from the Project and should be evaluated for their feasibility in reducing both GHGs and criteria pollutants.

Because CEQA requires the adoption of all feasible mitigation measures to reduce significant impacts, the Project must adopt all feasible mitigation measures to reduce air quality and GHG impacts or provide "substantial evidence" as to why the mitigation measures are infeasible. (Guidelines § 15091(b).) Again, even if the Project's impacts are *unavoidable* that does not absolve the County of its obligation to *mitigate* significant impacts to the extent feasible. Conservation Groups therefore suggest the EIR adopt all feasible mitigation measures set forth in the attached. Their feasibility is proven, in many cases, by their actual implementation by cities and counties across California.

D. The EIR needs to disclose the health risks of siting people next to a freeway.

The EIR proposes siting people within close proximity to the I-5 freeway, which is one of the busiest freeways in the region. The EIR claims that no health risk assessment is necessary because a 2005 Land Use Handbook requires such assessments only when there are sensitive uses within 500 feet of a freeway. (DEIR at 5.1-40.) Here, the EIR proposes multifamily homes within 900 feet of the freeway and single family homes within 1,200 feet.

The problem here is that there are in fact serious health risks associated with siting people 900-1200 feet from a freeway. Numerous studies have documented the air pollution and health impacts associated with siting expressways and freeways in close proximity to residential development, particularly upon sensitive receptors such as children and the elderly. (Lin 2000.) A review of 700 studies concluded that pollution causes asthma attacks in children, the onset of childhood asthma, impaired lung function, premature death and death from cardiovascular diseases, and cardiovascular morbidity. (Health Effects Institute 2010[7].)

Quite critically for this project, the Health Effects Institute study concluded that the "exposure zone" was 300 to 500 meters from the highways (984 feet to 1640 feet). (*Id.*) Other studies have reached similar conclusions. (*See* Anderson 2011; Suglia 2008.) Living near expressways also increases the likelihood that residents will suffer from dementia. (Chen 2017.) The University of Southern California's Environmental Health Centers have also collected data and studies showing risks and health impacts to pregnant women, babies, children, teenagers, adults, and seniors of living by a freeway.[8] While the studies are summarized in the footnoted website, most of them have also been enclosed with this letter. In short, the EIR fails to address the overwhelming body of peer-reviewed scientific evidence demonstrating that siting development next to a freeway or expressway will lead to significant health effects on the residents.

If the County does decide to move forward with siting people in such close proximity to a freeway despite the strong evidence that it may make people sick, it should require the developer to notify potential residents of the health risks of living by an expressway or freeway.[9] And it should disclose all the types of health impacts of such development in the EIR.

Instead, the County discounts the findings of its own Department of Public Health, claiming that "these freeway siting recommendations are based on studies from the early 2000s, and since then, diesel particulate emissions from heavy trucks have substantially declined; therefore, the siting guidelines are even more conservative." (DEIR at 5.1-40.) This ignores the scientific research conducted since the early 2000s (some of which is included as references) showing that living near a freeway is actually *more* dangerous than scientists initially concluded. Moreover, the focus solely on diesel particulate matter ("DPM") is a red herring—there are many other types of air pollution emanating from freeways (not to mention the EIR contains no information on whether the *volume* of DPM-generating vehicles has increased over the past 20 years, which it likely has as population and economic activity has increased in California). The EIR also insinuates that the "topographical location" will reduce risks, but does not provide any evidence supporting this. Air pollution can move horizontally or vertically and likely can travel up a small hillside, especially in windy conditions.

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[7] https://www.healtheffects.org/publication/traffic-related-air-pollution-critical-review-literature-emissions-exposure-and-health

[8] *See* http://envhealthcenters.usc.edu/infographics/infographic-living-near-busy-roads-or-traffic-pollution/references-living-near-busy-roads-or-traffic-pollution (collecting studies); *see also* http://www.latimes.com/projects/la-me-freeway-pollution/.

[9] *See Los Angeles Times,* "L.A. warns homebuilders, but not residents, of traffic pollution health risks," (Aug. 20, 2017) http://beta.latimes.com/local/lanow/la-me-ln-freeway-pollution-warnings-20170804-story.html.

Finally, as discussed later, the Supplemental Memo reveals that the Project now proposes siting people even *closer* to the I-5 than initially proposed, which is likely to lead to more serious health risks and impacts.

VII. The FEIR Fails to Analyze or Mitigate the Project's GHG Impacts.

A. Climate Change is a Catastrophic and Pressing Threat to California

A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and that climate change threats are becoming increasingly dangerous. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, concluded in its 2014 Fifth Assessment Report that: "[w]arming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen," and further that "[r]ecent climate changes have had widespread impacts on human and natural systems."[10] These findings were echoed in the United States' own 2014 Third National Climate Assessment and 2017 Climate Science Special Report, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The Third National Climate Assessment concluded that "[m]ultiple lines of independent evidence confirm that human activities are the primary cause of the global warming of the past 50 years"[11] and "[i]impacts related to climate change are already evident in many regions and are expected to become increasingly disruptive across the nation throughout this century and beyond."[12] The 2017 Climate Science Special Report similarly concluded:

> [B]ased on extensive evidence,…it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.
>
> In addition to warming, many other aspects of global climate are changing, primarily in response to human activities. Thousands of studies conducted by researchers around the world have documented changes in surface, atmospheric, and oceanic temperatures; melting glaciers; diminishing snow cover; shrinking sea ice; rising sea levels; ocean acidification; and increasing atmospheric water

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[10] IPCC [Intergovernmental Panel on Climate Change], Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, R.K. Pachauri & L.A. Meyer (eds.)], IPCC, Geneva, Switzerland (2014), http://www.ipcc.ch/pdf/assessment-report/ar5/syr/SYR_AR5_FINAL_full_wcover.pdf at 2.

[11] Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014), http://nca2014.globalchange.gov/downloads at 7.

[12] Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014), http://nca2014.globalchange.gov/downloads at 10.

vapor.[13]

The U.S. National Research Council concluded that "[c]limate change is occurring, is caused largely by human activities, and poses significant risks for—and in many cases is already affecting—a broad range of human and natural systems."[14] Based on observed and expected harms from climate change, in 2009 the U.S. Environmental Protection Agency found that greenhouse gas pollution endangers the health and welfare of current and future generations.[15]

These authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving climate change. As stated by the Third National Climate Assessment: "observations unequivocally show that climate is changing and that the warming of the past 50 years is primarily due to human-induced emissions of heat-trapping gases."[16] The Assessment makes clear that "reduc[ing] the risks of some of the worst impacts of climate change" will require "aggressive and sustained greenhouse gas emission reductions" over the course of this century.[17]

The impacts of climate change will be felt by humans and wildlife. Climate change is increasing stress on species and ecosystems—causing changes in distribution, phenology, physiology, vital rates, genetics, ecosystem structure and processes—in addition to increasing species extinction risk.[18] Climate-change-related local extinctions are already widespread and have occurred in hundreds of species.[19] Catastrophic levels of species extinctions are projected during this century if climate change continues unabated.[20] In California, climate change will transform our climate, resulting in such impacts as increased temperatures and wildfires, and a reduction in snowpack and precipitation levels and water availability, as we detail below.

Therefore, immediate and aggressive greenhouse gas emissions reductions are necessary to keep warming well below 2°C above pre-industrial levels. The IPCC Fifth Assessment Report and other expert assessments have established global carbon budgets, or the total amount of

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[13] USGCRP [U.S. Global Change Research Program], Climate Science Special Report: Fourth National Climate Assessment, Volume I [Wuebbles, D.J. et al. (eds.)], U.S. Global Change Research Program, Washington, DC (2017), https://science2017.globalchange.gov/ at 10.

[14] NRC [National Research Council], Advancing the Science of Climate Change, National Research Council (2010), www.nap.edu at 2.

[15] U.S. EPA [U.S. Environmental Protection Agency], Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, 74 Federal Register 66496 (2009).

[16] Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014) at 2. *See also* Report Finding 1 at 15: "The global warming of the past 50 years is primarily due to human activities, predominantly the burning of fossil fuels."

[17] Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014) at 13, 14, and 649. *See also* Report Finding 3 at 15: "Human-induced climate change is projected to continue, and it will accelerate significantly if global emissions of heat-trapping gases continue to increase."

[18] Warren, Rachel et al., Increasing impacts of climate change upon ecosystems with increasing global mean temperature rise, 106 Climatic Change 141 (2011).

[19] Wiens, John J., Climate-related local extinctions are already widespread among plant and animal species, 14 PLoS Biology e2001104 (2016).

[20] Thomas, Chris. D. et al., Extinction risk from climate change, 427 Nature 145 (2004); Maclean, Ilya M. D. & Robert J. Wilson, Recent ecological responses to climate change support predictions of high extinction risk, 108 PNAS 12337 (2011); Urban, Mark C., Accelerating extinction risk from climate change, 348 Science 571 (2015).

carbon that can be burned while maintaining some probability of staying below a given temperature target. According to the IPCC, total cumulative anthropogenic emissions of CO_2 must remain below about 1,000 $GtCO_2$ from 2011 onward for a 66 percent probability of limiting warming to 2°C above pre-industrial levels, and to 400 $GtCO_2$ from 2011 onward for a 66 percent probability of limiting warming to 1.5°C.[21] These carbon budgets have been reduced to 850 $GtCO_2$ and 240 $GtCO_2$, respectively, from 2015 onward.[22] Given that global CO_2 emissions in 2016 alone totaled 36 $GtCO_2$,[23] humanity is rapidly consuming the remaining carbon budget needed to avoid the worst impacts of climate change. As of early 2018, climate policies by the world's countries would lead to an estimated 3.4°C of warming, and possibly up to 4.7°C of warming, well above the level needed to avoid the worst dangers of climate change.[24]

The United States has contributed more to climate change than any other country. The U.S. is the world's biggest cumulative emitter of greenhouse gas pollution, responsible for 27 percent of cumulative global CO_2 emissions since 1850, and the U.S. is currently the world's second highest emitter on an annual and per capita basis.[25] Nonetheless, U.S. climate policy is wholly inadequate to meet the international climate target to hold global average temperature rise to well below 2°C above pre-industrial levels to avoid the worst dangers of climate change. Current U.S. climate policy has been ranked as "critically insufficient" by an international team of climate policy experts and climate scientists which concluded: "These steps represent a severe backwards move and an abrogation of the United States' responsibility as the world's second largest emitter at a time when more, not less, commitment is needed from all governments to avert the worst impacts of climate change."[26]

In response to inadequate action on the national level, California has taken steps through legislation and regulation to fight climate change and reduce statewide GHG emissions. Enforcement and compliance with these steps is essential to help stabilize the climate and avoid catastrophic impacts to our environment. California has a mandate under AB 32 to reach 1990 levels of GHG emissions by the year 2020, equivalent to approximately a 15 percent reduction from a business-as-usual projection. (Health & Saf. Code § 38550.) Based on the warning of the Intergovernmental panel on Climate Change and leading climate scientists, Governor Brown issued an executive order in April 2015 requiring GHG emission reduction 40 percent below 1990 levels by 2030. (Executive Order B-30-15 (2015).) The Executive Order is line with a

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[21] IPCC [Intergovernmental Panel on Climate Change], 2013: Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis, Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F. et al. (eds.)], Cambridge University Press (2013) at 25; IPCC [Intergovernmental Panel on Climate Change], Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.)], IPCC, Geneva, Switzerland (2014) at 63-64 & Table 2.2.

[22] Rogelj, Joeri et al., Differences between carbon budget estimates unraveled, 6 Nature Climate Change 245 (2016) at Table 2.

[23] Le Quéré, Corrine, et al., Global Carbon Budget 2017, Earth Syst. Sci. Data Discuss., https://doi.org/10.5194/essd-2017-123 (2017), http://www.globalcarbonproject.org/carbonbudget/17/data.htm.

[24] Climate Action Tracker, Improvement in warming outlook at India and China move ahead, but Paris Agreement gap still looms large (November 2017), http://climateactiontracker.org/publications/briefing/288/Improvement-in-warming-outlook-as-India-and-China-move-ahead-but-Paris-Agreement-gap-still-looms-large.html.

[25] World Resources Institute, 6 Graphs Explain the World's Top 10 Emitters (November 25, 2014).

[26] Climate Action Tracker, USA (last updated 6 November 2017), http://climateactiontracker.org/countries/usa.

previous Executive Order mandating the state reduce emission levels to 80 percent below 1990 levels by 2050 in order to minimize significant climate change impacts. (Executive Order S-3-05 (2005).) In enacting SB 375, the state has also recognized the critical role that land use planning plays in achieving greenhouse gas emission reductions in California.[27]

The state Legislature has found that failure to achieve greenhouse gas reduction would be "detrimental" to the state's economy. (Health & Saf. Code § 38501(b).) In his 2015 Inaugural Address, Governor Brown reiterated his commitment to reduce greenhouse gas emissions with three new goals for the next fifteen years:

- Increase electricity derived from renewable sources to 50 percent;
- Reduce today's petroleum use in cars and trucks by 50 percent;
- Double the efficiency of existing buildings and make heating fuels cleaner. (Brown 2015 Address.)

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, (9th Cir. 2008) 538 F.3d 1172, 1217 ("the impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis" that agencies must conduct).) One source or one small project may not appear to have a significant effect on climate change, but the combined impacts of many sources can drastically damage California's climate as a whole. Therefore, project-specific GHG emission disclosure, analysis and mitigation is vital to California meeting its climate goals and maintaining our climate.

B. The FEIR fails to establish consistency with AB 32 and its implementing policies, plans, and executive orders.

The EIR claims that because the Project is purportedly consistent with the Los Angeles County Climate Community Action Plan ("CCAP") and the 2012 Santa Clarita Valley Area Plan ("SCVAP"), the Project will not have a significant effect on climate change. (DEIR at 5.7-44.) As a preliminary matter, the FEIR fails to explain how the CCAP or SCVAP is consistent with CARB's 2017 Climate Change Scoping Plan Update,[28] which identifies a goal of reducing emissions to 1990 levels by 2020. Instead, the FEIR only claims that the CCAP sets a goal of reducing emissions to 11 percent below ***2010*** levels by 2020. (DEIR at 5.7-17.) The CCAP explains that the 11 percent target was based upon a 2013 GHG inventory update that purportedly showed that only a "smaller percent reduction (i.e., a 10% to 11% reduction) from 2005 to 2008 levels is needed to achieve the 2020 target (than anticipated in the AB 32 Scoping Plan)." (CCAP at 3-1.)[29]

However, the CCAP does not account for more ambitious GHG targets of the state that have been implemented since the initial scoping plan was released in 2011. For instance, Governor Brown signed Executive Order B-30-15 on April 29, 2015, which sets a target of reducing GHG emissions to 40 percent below 1990 levels by 2040. Although the EIR states that the CCAP was adopted on October 6, 2015, the CCAP contains no mention of Executive Order B-30-15. The goals in EO B-30-15 are incorporated into the 2017 Scoping Plan, and the Scoping

[27] See http://www.arb.ca.gov/cc/sb375/sb375.htm.
[28] https://www.arb.ca.gov/cc/scopingplan/2030sp_pp_final.pdf
[29] http://planning.lacounty.gov/assets/upl/project/ccap_final-august2015.pdf

Plan specifically recommends that local governments have a "community-wide goal to achieve emissions of no more than six metric tons CO2e per capita by 2030 and no more than two metric tons CO2e per capita by 2050." (Scoping Plan at 133.) The goals in EO B-30-15 are also incorporated into SB 32, and are therefore state law. (DEIR at 5.7-14.)

Nonetheless, neither the EIR nor the CCAP establish consistency with B-30-15 or the 2017 Scoping Plan. This omission is particularly serious given that the EIR concedes that this executive order—which the EIR characterizes as a statewide interim GHG target—applies to the Project. (DEIR at 5.7-22 & 12.)

The EIR also fails to analyze whether the Project is consistent EO B-16-2012, which (1) directs state agencies to facilitate the rapid commercialization of zero-emission vehicles and (2) establishes a goal of an "80 percent reduction of greenhouse gas emissions from the transportation sector in California by 2050 as compared to 1990 levels." (*Bay Area Citizens v. Association of Bay Area Governments* (2016) 248 Cal. App. 4th 966, 980.) Such large reductions in GHG emissions from the transportation sector requires that local land use authorities (such as the County) decline to approve projects that will lead to outsized transportations and GHG impacts.

To the extent that the County believes that these orders and policies are not specifically applicable to the Project, the Conservation Groups disagree. *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal. 5th 497, 515 ("*SANDAG*") stated that it is not dispositive whether an earlier GHG executive order (EO S-3-05) is an "adopted GHG reduction plan" or accepted threshold of significance. Instead, *SANDAG* observed that EO S-3-05's "goal of reducing California's greenhouse gas emissions to 80 percent below 1990 levels expresses the pace and magnitude of reduction efforts that the scientific community believes necessary to stabilize the climate. ***This scientific information has important value to policymakers and citizens in considering the emission impacts of a project*** like SANDAG's regional transportation plan." (*Ibid.*) *SANDAG* also approvingly cited a letter from the California Attorney General noting that infrastructure and land use decisions "***may lock in transportation inefficiencies and preclude any realistic possibility of meeting the Executive Order's goal of an 80% reduction in GHG emissions***." (*Id.* at 509, emphasis added.)

The 2017 Scoping Plan further states that "Implementation of this change will rely, in part, on local land use decisions to reduce GHG emissions associated with the transportation sector, both at the project level, and in long-term plans (including general plans, climate action plans, specific plans, and transportation plans) and supporting sustainable community strategies developed under SB 375." (Scoping Plan at 101.) This indicates that mere reliance upon an existing long-term plan is not necessarily sufficient to reduce a project's GHG emissions, particularly when additional policies or standards have been implemented since adoption of the long-term plan.

The Conservation Groups are concerned that this Project—which is located fairly far from existing city centers and services—is exactly the type of project that will lock in transportation inefficiencies and preclude the state's ability to meet its GHG reduction goals. In fact, a recent report confirms this concern. Next10 issued their 2017 California Green

Innovation Index Report, ("CGII Report")[30] which shows that transportation emissions—which are the largest source of GHG emissions in the state—have been increasing. The CGI Report reveals that commute times in California have increased and average freeway speeds have decreased, which results in traffic congestion and additional GHG emissions. The CGI Report further demonstrates that GHG emissions reductions have recently has reached a plateau and are not decreasing at a significant pace anymore. (CGII Report at Figure 5.) The Report indicates that this is due to transportation emissions, which have begun to rise. (CGI Report at Figures 9 and 10.) As perhaps the largest land use authority in California, the County should exercise its authority to reduce transportation emissions instead of approving more large-scale sprawl projects.

Center for Biological Diversity v. Department of Fish & Wildlife (2015) 62 Cal.4th 204, 230 stated that "[l]ocal governments [] bear the primary burden of evaluating a land use project's impact on greenhouse gas emissions. ***Some of this burden*** can be relieved by using geographically specific greenhouse gas emission reduction plans to provide a basis for the tiering or streamlining of project-level CEQA analysis." (Emphasis added.) Here, even assuming that the CCAP and SCVAP are valid documents that adequately implemented plans in existence at the time they were adopted, that does not relieve the County of its burden to ensure that future projects are consistent with all ***new*** policies, plans, and the best available data and science about the current emissions levels. Here, it is not clear that the County considered relevant and current data regarding climate change or the impacts of the transportation sector.

C. The FEIR's measures to reduce GHG emissions are vague and unenforceable.

The FEIR identifies some measures designed to reduce the Project's GHG emissions, including a "commitment" to install a certain amount of solar panels and EV chargers. (DEIR at 5.7-22; FEIR at 2-83.) While such measures are steps in the right direction, they do not qualify as enforceable mitigation measures under CEQA, such that there is no assurance that they will be implemented. If the Applicant is truly "committed" to these measures, then these measures should be incorporated as CEQA mitigation measures and/or binding conditions of project approval. Notably, the FEIR relies on these measures in claiming that the Project will reduce its GHG emissions from 66,083 MTCO2e to 56,722 MTCO2e. Accordingly, if the FEIR is going to rely on these measures to reduce GHG emissions, then there must be conditions of approval.

On a related matter, the FEIR lacks detail on the types of EV chargers that will be required. EV chargers in commercial parking lots should have "Level 3" DC fast charging instead of slower Level 2 charging.

Moreover, the FEIR refers to a "transportation demand management" or "TDM" measures, but lacks sufficient detail for the public to ascertain whether these measures will reduce GHG emissions. (FEIR at 5.7-22.) For example, the FEIR does not specify which "major employment center" will receive shuttle service, or how the local transit network will be expanded. (*Id.*) While the Supplemental Memo provides slightly more detail on this topic, it is insufficient to determine whether such measures will actually lead to real reductions in

[30] http://next10.org/sites/default/files/2017-CA-Green-Innovation-Index-2.pdf

automobile trips or GHGs. Given that the Project site is quite far from existing employment centers, the FEIR should provide specific details on how this program will in fact reduce transportation demand. In Appx. G of the DEIR (prepared by the Applicant's consultant), Table 2-13 purports to estimate the reductions in VMT resulting from the TDM measures. However, the CAPCOA Fact Sheet on which the table relies contains differing numerical reductions or "n/a" for the measures identified in the table.[31] Accordingly, it is not clear from the record whether even the small reductions in GHGs claimed are based upon reliable data. The FEIR also should describe how the TDM will be funded (and to what amount) and what entity will administer it.

D. The FEIR should require "zero net energy" as a condition of the Project.

Other projects in the County that have recently been approved include a goal of zero net GHG emissions. Such projects intend to achieve that goal through reducing onsite GHG emissions to the greatest extent practicable, but also by offsetting any other emissions through local emissions reductions projects.[32] Here, the FEIR fails to provide substantial evidence that such additional reductions needed to achieve zero net energy are infeasible—for instance, the FEIR could include more robust EV charging requirements, more onsite renewable energy, and a program to offset the remaining GHG emissions locally.

Any offset program must ensure "Additionality." California law establishes specific standards for greenhouse gas offset credits used in the AB 32 cap-and-trade system. Health and Safety Code section 38562(d) requires, in relevant part, that:

> (1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
>
> (2) For regulations pursuant to Part 5 (commencing with Section 38570) [i.e., regulations implementing the market-based cap-and-trade system], the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.
>
> (3) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this division.

In particular, the two-part definition of "additional" under subdivision (d)(2) requires not only that credited reductions are not otherwise legally required, but also that credited reductions would not otherwise occur in the absence of the offset project.

This definition of "additional" also applies in the CEQA context, as the regulatory history of the relevant CEQA Guidelines makes clear. The CEQA Guidelines specify that only GHG reductions that are "not otherwise required" may be used to offset project emissions. (CEQA

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[31] http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf at Table 6-2.
[32] *See* California Department of Fish and Wildlife, *Newhall Ranch Resource and Development Management and Development Plan, Final Additional Environmental Analysis*, Appendix 2.1, available at http://planning.lacounty.gov/assets/upl/case/tr_53108_appendix-2-0-cdfw-final-aea-excerpts.pdf.

Guidelines, § 15126.4, subd. (c)(3).) However, as the California Resources Agency's Final Statement of Reasons for adopting this Guideline explains, the "not otherwise required" language was intended to make clear that only "additional" emissions reductions—that is, reductions not otherwise required by law or likely to occur anyway—may be used to generate offsets for CEQA mitigation.[33] The Final Statement of Reasons explicitly interprets CEQA's mitigation requirements, including requirements governing use of offsets, as "consistent with the Legislature's directive in AB32 that reductions relied on as part of a market-based compliance mechanism must be 'in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.'" (*Ibid.*)

Again, the FEIR has not established how zero net energy is infeasible. (See *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 600 (whether a project is economically unfeasible "is not measured by increased cost or lost profit, but upon whether the effect of the proposed mitigation is such that the project is rendered impractical.").)

VIII. Many of the Studies Incorporated into the EIR Do Not Reflect the County's Independent Judgment.

Many of the studies that the FEIR cites to (*e.g.*, the Biological Resources Downstream Impacts Assessment [Appx. B], Special Status Plant Species Restoration Plan [Appx. C], Wildlife Crossing Assessment Memo [Appx. D]) indicate on their cover pages that they were prepared for the Applicant by a third party consultant. The FEIR indicates that the County accepted all of the conclusions and analyses prepared by these developer-funded consultants instead of independently preparing its own analyses. This is unlawful under CEQA. (*See California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 194 (a public agency cannot charge a developer with the responsibility to study the impact of a proposed project and the EIR must reflect the independent judgment of the lead agency).)

It is true that the lead agency may receive information "which shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration." (Pub. Res. Code § 21082.1.) To the extent the County can rely upon studies prepared and funded by the developer, this is the only section that would permit the County to do so. However, neither this section nor any of the CEQA Guidelines give the lead agency the discretion to uncritically rely upon the analyses and conclusions in the various developer-funded studies; the County must exercise its own independent judgment and support that judgment with evidence and analyses within the EIR. (*See Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal. App. 4th 357, 371.) This is especially true when neutral expert authorities—such as CDFW and SMMC—strenuously disagreed with much of the developer-funded analyses and conclusions. Nonetheless, the responses in the FEIR to comments by these agencies (and other agencies) generally fail to do anything more to restate the conclusions of the developer-funded studies. Such reliance on developer-funded studies (especially in the face of disagreement by expert agencies) does not allow for informed and reasoned decision-making, nor is such reliance entitled to deference under the "substantial evidence" standard.

[33] California Natural Resources Agency, Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97 at 48, 87-90 (December 2009).

In addition, many of these studies were published in the last few weeks, given the public very little time to review and provide comments. This frustrates CEQA's goals of public participation and informed decision-making.

IX. The EIR Needs To Be Recirculated Because The Project Was Significantly Revised on April 5, 2018.

As noted above, the County published a "Supplemental Memo" on April 5, 2018 that disclosed that revisions to the Project were made which removed virtually all of the commercial and industrial uses in favor of more dwelling units. Such revisions effect the traffic analysis, and by extension the air quality analysis and GHG analysis, as well as the studies supporting these analyses.

The EIR should be recirculated with adequate analysis assessing these revisions. Resources Code section 21092.1 provides that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 and consultation has occurred pursuant to Sections 21104 and 21153, but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report." CEQA Guideline 15088.5 further clarifies that "As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information."

Significant new information includes "a disclosure that (1) a new significant environmental impact would result from the project or a new mitigation measure; (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted; (3) a feasible alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the project's significant impacts but the project's proponents decline to adopt it; or (4) the draft EIR 'was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (*North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 654-655.)

At a minimum, either element (1) or (2) could be applicable here. While it is not apparent from the brief analyses in the Supplemental Memo exactly in what location the additional residential uses will be sited, the Memo indicates that "areas that were previously proposed for industrial and commercial would now be developed with residential uses..." (Memo at PDF 14.) However, the industrial and commercial uses were sited closest to I-5, presumably because of the public health risks of siting residential uses immediately adjacent to a highway. Yet, neither the Memo nor the EIR adequately analyze or consider the risks of siting people in such close proximity to a freeway. This is problematic because the scientific literature cited above indicates that the closer people live to a freeway, the more severe and pervasive the potential impacts are upon those persons.

X. The Statement of Overriding Considerations is Conclusory and Factually Incorrect.

The Statement of Overriding Considerations ("SOC") is deficient because it repeats the same factually and legally unsupportable conclusions and analyses set forth in the EIR (which

are outlined in this letter, the Center's previous comments, and in various other comment letters by expert agencies such as CDFW and SMMC). The SOC therefore fails to provide substantial evidence supporting its claims as to the impacts and proposed alternatives and mitigation measures. For example, as discussed above, the EIR does not show that the Creek Avoidance Alternative is not feasible. And the final version of the Project does not even meet all of the project objectives.

The SOC also is factually incorrect in repeatedly claiming that the Project will provide for industrial uses. (Supplemental Memo at PDF 204.) Likewise, the SOC is incorrect in claiming that the Project will be generating more employment opportunities based upon these (now non-existent) industrial uses. (*Id.*) Because of this, the SOC is incorrect in claiming that the "Project will accomplish and be fully consistent with Project Objectives… described in Table 6-1 of the SEIR." (*Id.*) As noted above, the EIR reaches the opposite conclusion when analyzing the No Industrial Development Alternative. (DEIR at 6-21.) At best, the SOC is extremely misleading because it claims economic benefits that are no longer part of the Project. These discrepancies and errors frustrate public participation and informed decision-making.

Moreover, the SOC is replete with bare statements that impacts are outweighed by benefits without adequate supporting analysis. The SOC does not adequately consider the impacts of the Project on other community resources such as the SRA (as discussed above). The SOC contains similarly conclusory claims that all feasible mitigation measures have been adopted. CEQA requires substantial evidence supporting these claims with respect to each area of significant impacts.

Finally, the SOC refers to the EIR as a "Program EIR" even though a program EIR is not appropriate here; the Project is a "specific plan," which is a particular development project, not a program for a regulatory action (e.g., a general plan).

XI. Conclusion.

The Center notes that the County failed to provide any response in the FEIR to the Center's request that—in connection with the administrative record—the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made. The Center again asks that the County confirm that it has complied with these requests.

In light of the many significant, unavoidable environmental impacts that will result from the Project, we strongly urge the Project not be approved in its current form. If the County is intent on moving forward with this unwise project, at a minimum it should be redesigned and downsized to avoid sensitive resources such as Grasshopper Creek and habitat for the western spadefoot toad and burrowing owl.

Sincerely,

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References
(Attached on CD)

Ambrose, Richard F., et al. "An Evaluation of Compensatory Mitigation Projects Permitted under Clean Water Act Section 401 by the Los Angeles Regional Quality Control Board, 1991-2002." California State Water Resources Control Board, no. August, 2006, http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/mitigation_finalreport_execsum081307.pdf

American Lung Association (ALA), State of the Air 2016.

Bailey, D., et al., Clean cargo: a guide to reducing diesel air pollution from the freight industry in your community, NRDC.

Barboza, T. and J. Schleuss, *L.A. keeps building near freeways, even though living there makes people sick*, Los Angeles Times (March 2, 2017) http://www.latimes.com/projects/la-me-freeway-pollution/

Barboza, T., *L.A. warns homebuilders, but not residents, of traffic pollution health risks*, Los Angeles Times (Aug. 20, 2017) http://beta.latimes.com/local/lanow/la-me-ln-freeway-pollution-warnings-20170804-story.html.

Bartholow, S., *Recreationists React to Crack Down on Authorized Trails Near Santee*, Santee Patch (Nov. 16, 2013).

Bay Area Air Quality Management District (BAAQMD), California Environmental Quality Act: Air Quality Guidelines (2011)

Bay Area Air Quality Management District (BAAQMD), Planning Healthy Places: a guidebook for addressing local sources of air pollutants in community planning (2016).

Betancourt, S. and Mark Vallianatos, Storing harm: the health and community impacts of goods movement warehousing and logistics, THE Impact Project (2012).

Bowler, Peter A. "Coastal Sage Scrub Restoration - I: The Challenge of Mitigation." Biological Conservation, vol. 8, no. 2, 1990, pp. 78–82, doi:10.1016/0006-3207(92)90694-I.
---. "Ecological Restoration of Coastal Sage Scrub and Its Potential Role in Habitat Conservation Plans." Environmental Management, vol. 26, no. 1, 2000, pp. 85–96, doi:10.1007/s002670010064.

Brauer M, et al., Air pollution from traffic and the development of respiratory infections and asthmatic and allergic symptoms in children, American Journal of Respiratory and Critical Care Medicine, 166(8): 1092-8 (2002).

Brauer M, et al., Air pollution and development of asthma, allergy and infections in a birth cohort, European Respiratory Journal, 29(5): 879-888 (2007).

Bronner, Colleen E., et al. "An Assessment of U.S. Stream Compensatory Mitigation Policy: Necessary Changes to Protect Ecosystem Functions and Services." Journal of the American Water Resources Association, vol. 49, no. 2, 2013, pp. 449–62, doi:10.1111/jawr.12034.

Brook, R. D. et al., Particulate Matter Air Pollution and Cardiovascular Disease, An Update to the Scientific Statement From the American Heart Association, Circulation, 121(21): 2331-78 (2010).

California Air Pollution Control Officers Association (CAPCOA), California Emissions Estimator Model User's Guide (2016).

California Air Pollution Control Officers Association (CAPCOA), CEQA and Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act (2008)

California Air Pollution Control Officers Association (CAPCOA), Quantifying Greenhouse Gas Mitigation Measures: A Resources for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures (2010) http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf

California Air Resources Board (CARB), The 2017 Climate Change Scoping Plan Update https://www.arb.ca.gov/cc/scopingplan/2030sp_pp_final.pdf

California Attorney General's Office, Addressing Climate Change at the Project Level (2010).

California Department of Fish and Wildlife, Newhall Ranch Resource and Development Management and Development Plan, Final Additional Environmental Analysis, http://planning.lacounty.gov/assets/upl/case/tr_53108_appendix-2-0-cdfw-final-aea-excerpts.pdf

California Department of Fish and Wildlife, South Coast Region; Guidelines for Wetland Mitigation Appendix D. National Research Council. 2001. Compensating for Wetland Losses Under the Clean Water Act. Washington, DC: The National Academies Press. doi: 10.17226/10134.

California Department of Fish and Wildlife. Staff Report on Burrowing Owl Mitigation. 2012, https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843.

California Natural Resources Agency (CNRA), Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97 (December 2009).

Chen, H. et al., Living near major roads and the incidence of dementia, Parkinson's disease, and multiple sclerosis: a population-based cohort study, The Lancet, Online 04 January 2017, (2017).

Chen, I-ching, et al. "Rapid Range Shifts of Species of Climate Warming." Science, vol. 333, no. August, 2011, pp. 1024–26, doi:10.1126/science.1206432.

Climate Action Tracker, Improvement in warming outlook at India and China move ahead, but Paris Agreement gap still looms large (November 2017), http://climateactiontracker.org/publications/briefing/288/Improvement-in-warming-outlook-as-India-and-China-move-ahead-but-Paris-Agreement-gap-still-looms-large.html

Climate Action Tracker, USA (last updated 6 November 2017), http://climateactiontracker.org/countries/usa

Downey, D., *California keeps going over budget as costs of fighting wildfires continue to increase*, The Press-Enterprise (Dec. 7, 2017).

EPA, Causes of Climate Change, Webpage https://www.epa.gov/climate-change-science/causes-climate-change (last update 10/11/2016)

EPA, What is Acid Rain? Webpage https://www.epa.gov/acidrain/what-acid-rain (last updated 3/31/2016)

Fried, Jeremy S., et al. "The Impact of Climate Change on Wildfire Severity: A Regional Forecast for Northern California." Climate Change, vol. 64, 2004, pp. 169–91, doi:10.1023/B:CLIM.0000024667.89579.ed.

Garrick, D., *Trails Proposed for Del Mar Mesa Area*, San Diego Union Tribune (July 20, 2015)

Gatto NM, Henderson VW, Hodis HN, St John JA, Lurmann F, Chen JC, Mack WJ. (2014). Components of air pollution and cognitive function in middle-aged and older adults in Los Angeles. Neurotoxicology, 40: 1-7.

Gauderman WJ, Urman R, Avol E, Berhane K, McConnell R, Rappaport E, Chang R, Lurmann F, Gilliland F. (2015). Association of Improved Air Quality with Lung Development in Children. The New England Journal of Medicine, 372(10): 905–913.

Gauderman WJ, Vora H, McConnell R, Berhane K, Gilliland F, Thomas D, Lurmann F, Avol E, Kunzli N, Jerrett M, Peters J. (2007). Effect of exposure to traffic on lung development from 10 to 18 years of age: a cohort study. The Lancet, 369(9561): 571-7.

Germano, Jennifer M., and Phillip J. Bishop. "Suitability of Amphibians and Reptiles for Translocation Suitability of Amphibians and Reptiles for." Source: Conservation Biology Conservation Biology, vol. 23, no. 1, 2009, pp. 7–157, doi:10.1111/j.1523-1739.2008.01123x.

Ghattas, R. et al., Life Cycle Assessment for Residential Buildings: a literature review and gap analysis, Concrete Sustainability Hub, MIT (2013).

Gillings, Simon, et al. "Directionality of Recent Bird Distribution Shifts and Climate Change in Great Britain." Global Change Biology, vol. 21, no. 6, 2008, pp. 2155–68, doi:10.1111/gcb.12823.

Gold, D. R. and M.A. Mittleman, New insights into pollution and the cardiovascular system: 2010 to 2012, Circulation, 127(18): 1903-1913 (2013).

Grant, Evan H.Campbell, et al. "Quantitative Evidence for the Effects of Multiple Drivers on Continental-Scale Amphibian Declines." Scientific Reports, vol. 6, no. 1, 2016, p. 25625, doi:10.1038/srep25625.

Guerin, E., *New housing grows fastest in SoCal's most fire-prone areas*, KPCC Radio (Mar. 12, 2018)

Hart, J.E., et al., Roadway proximity and risk of sudden cardiac death in women, Circulation 130(17): 1474-82 (2014).

Hayes, Tyrone B., et al. "Pesticide Mixtures, Endocrine Disruption, and Amphibian Declines: Are We Underestimating the Impact?" Environmental Health Perspectives, vol. 114, no. SUPPL.1, 2006, pp. 40–50, doi:10.1289/ehp.8051.

Health Effects Institute, Traffic-Related Air Pollution: A Critical Review of the Literature on Emissions, Exposure, and Health Effects (2010).

Hoffmann, B. et al., Air quality, stroke, and coronary events: results of the Heinz Nixdorf Recall Study from the Ruhr Region, Deutsches Ärzteblatt International 112(12): 195-201 (2015).

IPCC [Intergovernmental Panel on Climate Change], 2013: Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis, Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F. et al. (eds.)], Cambridge University Press (2013).

IPCC [Intergovernmental Panel on Climate Change], Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, R.K. Pachauri & L.A. Meyer (eds.)], IPCC, Geneva, Switzerland (2014), http://www.ipcc.ch/pdf/assessment-report/ar5/syr/SYR_AR5_FINAL_full_wcover.pdf

Jansen, Kevin P., et al. "Spadefoot Toads (Scaphiopus Holbrookii Holbrookii) in an Urban Landscape : Effects of Nonnatural Substrates on Burrowing in Adults and Juveniles Published by : Society for the Study of Amphibians and Reptiles Stable URL : http://www.jstor.org/stable/156." Society for the Study of Amphibians and Reptiles, vol. 35, no. 1, 2001, pp. 141–45.

Jerrett, M. et al., Spatial analysis of air pollution and mortality in California American Journal of Respiratory and Critical Care Medicine 188(5): 593-599 (2013).

Keltz, D., *Fish and Wildlife Squeeze Bikers from Carlsbad's Lake Calavera*, San Diego Reader (June 5, 2017).

Kunzli, N et al., Ambient air pollution and the progression of atherosclerosis in adults, PLoS One, 5: e9096 (2010).

Langham, Gary M., et al. "Conservation Status of North American Birds in the Face of Future Climate Change." PLoS ONE, vol. 10, no. 9, 2015, pp. 1–16, doi:10.1371/journal.pone.0135350.

Laurent, O. et al., Sources and contents of air pollution affecting term low birth weight in Los Angeles County, California, 2001-2008, Environmental Research 134: 488-495 (2014).

Laurent, O. et al., Low birth weight and air pollution in California: which sources and components drive the risk?, Environment International 92-93:471-477 (2016).

Le Quéré, Corrine, et al., Global Carbon Budget 2017, Earth Syst. Sci. Data Discuss., https://doi.org/10.5194/essd-2017-123 (2017)

Lenoir, J., and J. C. Svenning. "Climate-Related Range Shifts - a Global Multidimensional Synthesis and New Research Directions." Ecography, vol. 38, no. 1, 2015, pp. 15–28, doi:10.1111/ecog.00967.

Lepeule, J. et al., Long-term effects of traffic particles on lung function decline in the elderly. American Journal of Respiratory and Critical Care Medicine, 190(5): 542-8 (2014).

Lin, S. et al., Childhood Asthma Hospitalization and Residential Exposure to State Route Traffic, Environmental Research Section A 88, 73-81 (2002).

Los Angeles County, Dept. of Regional Planning, Unincorporated Los Angeles County Community Climate Action Plan 2020 (2015)
http://planning.lacounty.gov/assets/upl/project/ccap_final-august2015.pdf

Loss, Scott R., et al. "The Impact of Free-Ranging Domestic Cats on Wildlife of the United States." Nature Communications, vol. 4, Nature Publishing Group, 2013, pp. 1–7, doi:10.1038/ncomms2380.

Maclean, Ilya M. D. & Robert J. Wilson, Recent ecological responses to climate change support predictions of high extinction risk, 108 PNAS 12337 (2011)

Malmqvist E, Jakobsson K, Tinnerberg H, Rignell-Hydbom A, Rylander L. (2013). Gestational diabetes and preeclampsia in association with air pollution at levels below current air quality guidelines. Environmental Health Perspectives, 121(4): 488-93

Matthews, Jeffrey W., and Anton G. Endress. "Performance Criteria, Compliance Success, and Vegetation Development in Compensatory Mitigation Wetlands." Environmental Management, vol. 41, no. 1, 2008, pp. 130–41, doi:10.1007/s00267-007-9002-5.

McConnell R, Berhane K, Yao L, Jerrett M, Lurmann F, Gilliland F, Kunzli N, Gauderman J, Avol E, Thomas D, Peters J. (2006). Traffic, susceptibility, and childhood asthma. Environmental Health Perspectives, 114: 766-72.

McConnell R, Gilliland FD, Goran M, Allayee H, Hricko A, Mittelman S. (2016). Does near-roadway air pollution contribute to childhood obesity? Pediatric Obesity, 11(1): 1-3.

McConnell R, Islam T, Shankardass K, Jerrett M, Lurmann F, Gilliland F, Gauderman J, Avol E, Kunzli N, Yao L, Peters J, Berhane K. (2010). Childhood incident asthma and traffic-related air pollution at home and school. Environmental Health Perspectives, 118(7): 1021-1026.

McConnell R, Shen E, Gilliland FD, Jerrett M, Wolch J, Chang CC, Lurmann F, Berhane K. (2015). A longitudinal cohort study of body mass index and childhood exposure to secondhand tobacco smoke and air pollution: the Southern California Children's Health Study. Environmental Health Perspectives, 123(4): 360-366.

Mcmillin, Stella. Anticoagulant Rodenticides : Secondary Poisoning of Wildlife in California What Are Anticoagulant Rodenticides? 2013.

Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014), http://nca2014.globalchange.gov/downloads

Mitsch, William J., and Renee F. Wilson. "Improving the Success of Wetland Creation and Restoration with Know-How, Time, and Self-Design." Ecological Applications, vol. 6, no. 1, 1996, pp. 16–17.

Mobasher Z, Salam MT, Goodwin TM, Lurmann F, Ingles SA, Wilson ML. (2013). Associations between ambient air pollution and Hypertensive Disorders of Pregnancy. Environmental Research, 123: 9-16.

Moilanen, Atte, et al. "How Much Compensation Is Enough? A Framework for Incorporating Uncertainty and Time Discounting When Calculating Offset Ratios for Impacted Habitat." Restoration Ecology, vol. 17, no. 4, 2009, pp. 470–78, doi:10.1111/j.1526-100X.2008.00382.x.

Newman, P., Inland Ports of Southern California – warehouses, distribution centers, intermodal facilities, costs and trends, Center for Community Action and Environmental Justice

Next Ten, California Green Innovation Index, 9th Edition (2017) http://next10.org/sites/default/files/2017-CA-Green-Innovation-Index-2.pdf

NRC [National Research Council], Advancing the Science of Climate Change, National Research Council (2010), www.nap.edu

Pereira G, Haggar F, Shand AW, Bower C, Cook A, Nassar N. (2013). Association between pre-eclampsia and locally derived traffic-related air pollution: a retrospective cohort study. Journal of Epidemiology and Community Health, 67(2): 147-152.

Perera FP, et al. (2014). Early-life exposure to polycyclic aromatic hydrocarbons and ADHD behavior problems. PLoS One, 9(11): e111670.

Radeloff, V. C. et al., Rapid growth of the US wildland-urban interface raises wildfire risk, PNAS (2018)

Rapacciuolo, Giovanni, et al. "Beyond a Warming Fingerprint: Individualistic Biogeographic Responses to Heterogeneous Climate Change in California." Global Change Biology, vol. 20, no. 9, 2014, pp. 2841–55, doi:10.1111/gcb.12638.

Raz R, Roberts AL, Lyall K, Hart JE, Just AC, Laden and Weisskopf MG. (2015). Autism spectrum disorder and particulate matter air pollution before, during, and after pregnancy: a nested case–control analysis within the Nurses' Health Study II cohort. Environmental Health Perspectives, 123: 264–270.

Relyea, R. A., The Lethal Impacts of Roundup on Aquatic and Terrestrial Amphibians, Ecological Applications, 15:4, 1118-1124 (2005).

Renda, M., Costs to Fight 2017 California Wildfires Shatter Records, Courthouse News (January 8, 2018).

Ritz B, Qiu J, Lee PC, Lurmann F, Penfold B, Erin Weiss R, McConnell R, Arora C, Hobel C, Wilhelm M. (2014). Prenatal air pollution exposure and ultrasound measures of fetal growth in Los Angeles, California. Environmental Research, 130: 7-13.

Rogelj, Joeri et al., Differences between carbon budget estimates unraveled, 6 Nature Climate Change 245 (2016)

Ruibal, R., et al. "The Terrestrial Ecology of the Spadefoot Toad Scaphiopus Hammondii." Copeia, no. 3, 1969, pp. 571–84.

Sacramento Metropolitan Air Quality Management District, Recommended Guidance for Land Use Emission Reductions Version 3.3 (for Operational Emissions) (2016)

San Joaquin Valley Air Pollution Control District: Mitigation Measures

San Luis Obispo County Air Pollution Control District, CEQA Air Quality Handbook: A Guide for Assessing the Air Quality Impacts For Projects Subject to CEQA Review (2012)

Sbihi H, Tamburic L, Koehoorn M, Brauer M. (2016). Perinatal air pollution exposure and development of asthma from birth to age 10 years. European Respiratory Journal, 47(4): 1062-1071.

Semlitsch, Raymond D., and J.Russell Bodie. "Biological Criteria for Buffer Zones around Wetlands and Riparian Habitats for Amphibians and Reptiles." Conservation Biology, vol. 17, no. 5, 2003, pp. 1219–28, doi:10.1046/j.1523-1739.2003.02177.x.

Senate Bill 375 http://www.arb.ca.gov/cc/sb375/sb375.htm

Stein, B.A. et al., Reversing America's Wildlife Crisis: Securing the Future of Our Fish and Wildlife, Washington, DC: National Wildlife Federation (2018).

Sudol, Mark F., and Richard F. Ambrose. "The US Clean Water Act and Habitat Replacement: Evaluation of Mitigation Sites in Orange County, California, USA." Environmental Management, vol. 30, no. 5, 2002, pp. 727–34, doi:10.1007/s00267-002-2787-3.

Suglia, S. F. et al., Association between traffic-related black carbon exposure and lung function among urban women, Environmental Health Perspectives 116:10, 1333-1337 (2008).

Syphard, Alexandra D., et al. "Human Influence on California Fire Regimes Published by : Wiley on Behalf of the Ecological Society of America Stable URL : http://www.jstor.org/stable/40062041." Ecological Society of America, vol. 17, no. 5, 2007, pp. 1388–402.

Thomas, Chris. D. et al., Extinction risk from climate change, 427 Nature 145 (2004)

Tierney, L., The grim scope of 2017's California wildfire season is now clear. The danger's not over, The Washington Post (Jan. 4, 2018).

Trulio, Lynne. Western Burrowing Owl Workshop Burrowing Owl or " Little Miner " An Odd Bird Entire Species Range - US Subspecies of Burrowing Owls Identification - Adults Identification - Adults Identification - Chicks. 2015.

U.S. EPA [U.S. Environmental Protection Agency], Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, 74 Federal Register 66496 (2009).

United States Fish and Wildlife. Vernal Pool Recovery Plan. 2005, https://www.fws.gov/sacramento/es/Recovery-Planning/Vernal-Pool/

Urban, Mark C., Accelerating extinction risk from climate change, 348 Science 571 (2015).

USGCRP [U.S. Global Change Research Program], Climate Science Special Report: Fourth National Climate Assessment, Volume I [Wuebbles, D.J. et al. (eds.)], U.S. Global Change Research Program, Washington, DC (2017), https://science2017.globalchange.gov/ at 10.

Ventura County Air Pollution Control District, Ventura County Air Quality Assessment Guidelines (2003).

Volk HE, Kerin T, Lurmann F, Hertz-Picciotto I, McConnell R, Campbell DB. (2014). Autism spectrum disorder: interaction of air pollution with the MET receptor tyrosine kinase gene. Epidemiology, 25(1): 44-7.

Volk HE, Lurmann F, Penfold B, Hertz-Picciotto I, McConnell R. (2013). Traffic-related air pollution, particulate matter, and autism. JAMA Psychiatry, 70(1): 71-77.

Warren, Rachel et al., Increasing impacts of climate change upon ecosystems with increasing global mean temperature rise, 106 Climatic Change 141 (2011).

Westerling, A. L., and B. P. Bryant. "Climate Change and Wildfire in California." Climatic Change, vol. 87, no. 1 SUPPL, 2007, doi:10.1007/s10584-007-9363-z.

Wiens, John J., Climate-related local extinctions are already widespread among plant and animal species, 14 PLoS Biology e2001104 (2016).

Wilhelm M and Ritz B. (2003). Residential proximity to traffic and adverse birth outcomes in Los Angeles County, California, 1994-1996. Environmental Health Perspectives, 111(2): 207–216.

Wilhelm M, Ghosh JK, Su J, Cockburn M, Jerrett M, Ritz B. (2011). Traffic-related air toxics and preterm birth: a population-based case-control study in Los Angeles County, California. Environmental Health, 10: 89.

Woodward N, Finch CE, Morgan TE. (2015). Traffic-related air pollution and brain development. AIMS Environmental Science, 2(2): 353-373.

World Resources Institute, 6 Graphs Explain the World's Top 10 Emitters (November 25, 2014).

Wu J, Ren C, Delfino RJ, Chung J, Wilhelm M, Ritz B. (2009). Association between local traffic-generated air pollution and preeclampsia and preterm delivery in the south coast air basin of California. Environmental Health Perspectives, 117(11): 1773-1779.

Wu M, Ries JJ, Proietti E, Vogt D, Hahn S, Hoesli I. (2016). Development of Late-Onset Preeclampsia in Association with Road Densities as a Proxy for Traffic-Related Air Pollution. Fetal Diagnosis and Therapy, 39(1): 21-27.

Young, Julie K., et al. "Is Wildlife Going to the Dogs? Impacts of Feral and Free-Roaming Dogs on Wildlife Populations." BioScience, vol. 61, no. 2, 2011, pp. 125–32, doi:10.1525/bio.2011.61.2.7.

Zedler, Joy B., and John C. Callaway. "Tracking Wetland Restoration: Do Mitigation Sites Follow Desired Trajectories?" Restoration Ecology, vol. 7, no. 1, 1999, pp. 69–73, doi:10.1046/j.1526-100X.1999.07108.x.

EXHIBIT A

TIFFANY YAP, MS, D.Env

SKILLS PROFILE

Resourceful, adaptable, and enthusiastic interdisciplinary scientist with demonstrated abilities to conduct in-depth research and produce high quality documents while meeting deadlines, work well independently and as a valued team member, and effectively resolve problems through strong leadership. Strengths include:

- Strong background in environmental research, data analysis, modeling, and visualization.
- Excellent written and oral communication and management skills for scientific publications, environmental reports, public presentations, and training/supervising students and volunteers.
- Experience preparing documents and reports pursuant to federal and state environmental regulations, including the National Environmental Policy Act (NEPA), California Environmental Quality Act (CEQA), Federal and California Endangered Species Act (ESA and CESA), Clean Water Act (CWA), Magnuson-Stevens Fishery Conservation Act, Marine Mammal Protection Act, Migratory Bird Treaty Act.
- Experience conducting and coordinating field surveys and biological monitoring for the following: amphibians, recreational fisheries, intertidal habitat, marine mammals, and nesting birds.
- Proficient in Microsoft Office Suite, ArcGIS, R, and Maxent (modeling software).

EDUCATION

D.Env (Ph.D) Environmental Science & Engineering, Institute of the Environment, UCLA
Dissertation: Amphibian disease and the impacts of wildlife trade, invasive carrier species, and climate change.
Additional Research: Abundance and distribution of intertidal rockweeds (Fucales) along the US west coast.

MS Environmental Health Sciences, School of Public Health, UCLA
Research: Effects of urbanization on amphibian populations. Certification: Leaders in Sustainability.

BA Biology, Minor in Education, UC Berkeley

Relevant Coursework: Applied Ecology, California Ecosystems, Ecology of Marine Infectious Disease, Vertebrate Natural History, Environmental Transport, Environmental Toxicology, Aquatic Chemistry, Atmospheric Chemistry, Physical Oceanography, Hydrology, Water and Wastewater Treatment, Environmental Microbiology, Environmental Law, Business and the Environment, Environmental Economics, Environmental Analysis and Policy, Sustainable Architecture, Epidemiology

EXPERIENCE

Wildlife Corridor Advocate, Center for Biological Diversity, Oakland, CA *2018 – present*

- Work in the Urban Wildlands program to protect biodiversity and environmental health at the interface between humans and the natural environment
- Support CEQA compliance analysis
- Provide wildlife corridor and habitat connectivity education and outreach

Affiliate/Postdoctoral Researcher, Museum of Vertebrate Zoology, UC Berkeley/San Francisco State University, San Francisco Bay Area, CA *2014 - 2018*

- Conducted amphibian disease research in collaboration with researchers at other academic institutions and government agencies to publish studies in peer-reviewed journals.
- Presented research to academics, government agencies, non-profits, and the general public.

Scientific Aid, California Recreational Fisheries Survey, California Department of Fish and Wildlife, Belmont, CA *2017 - Present*

- Interviewed recreational anglers and collect fisheries data that inform stock assessments and regulations.
- Educated anglers and the general public about current fishing regulations.

Environmental Scientist III, AECOM, Oakland, CA *2011 - 2017*

- Provided environmental impact assessment, permitting, compliance, planning, and oversight services for public and private sector clients to comply with federal, state, and local regulations.*
- Conducted environmental assessments in terrestrial and aquatic habitats in California and Canada.
- Managed client, contractor, and agency relationships throughout project timelines.

Graduate Student Researcher, UCLA, Los Angeles, CA *2008 - 2011*

- D.Env research: marine rocky intertidal seaweeds and invertebrates on the west coast of the US, in collaboration with the Marine Rocky Intertidal Network and the Bureau of Ocean Energy Management.
- MS research: impacts of urbanization on newt populations in Southern California, in collaboration with the National Parks Service.

Research Assistant, Southern California Coastal Water Research Project, Costa Mesa, CA *2009*

- Supported beach water quality studies to detect levels of fecal indicator bacteria.
- Applied various rapid methods for quantifying bacteria levels in water and sand.

Staff Research Associate/Lab Manager, UCLA, Los Angeles, CA *2005 - 2007*

- Managed and maintained the lab and six genetic mice lines for spinal cord development research.
- Performed perfusions, gross and micro dissections, cryostat sectioning, and immunohistochemistry experiments to support neuronal migration and axon regeneration studies in mice and rats.
- Supervised and trained incoming graduate students, employees, and volunteers.
- Implemented a user-friendly recordkeeping system and substantially reduced mouse housing costs.

Staff Research Associate, NCIRE, The Veterans Health Research Institute, San Francisco, CA *2002 - 2004*

- Managed and maintained nine genetic mice lines for heart disease research in three Cardiology labs.
- Performed gross dissections, myocyte isolation and culture, and PCR to support heart failure studies.
- Decreased animal housing bills by ~$3000/month.

PUBLICATIONS

Yap TA, Koo MS, Ambrose RF, Wake DB, Vredenburg VT (2015) Averting a North American biodiversity crisis. *Science* 349(6247):481–482. DOI: 10.1126/science.aab1052

Yap TA, Gillespie L, Ellison S, Flechas SV, Koo MS, Martinez AE, Vredenburg VT (2016) Invasion of the fungal pathogen *Batrachochytrium dendrobatidis* on California Islands. *Ecohealth* 13(1)145-150. DOI: 10.1007/s10393-015-1071-y

Yap TA, Nguyen NT, Serr M, Shepak A, Vredenburg VT (2017) *Batrachochytrium salamandrivorans* and the risk of a second amphibian pandemic. *Ecohealth* 14:851-864. DOI: 10.1007/s10393-017-1278-1

Yap TA, Koo MS, Ambrose RF, Vredenburg VT (in press) Introduced bullfrog facilitates pathogen invasion in western North America. *Plos One*

PRESENTATIONS & INVITED LECTURES

Yap TA (2 November 2017) "Protecting amphibians from disease: using models to guide conservation action." California Department of Fish and Wildlife Science Symposium. UC Davis, Davis, CA

Yap TA (21 November 2016) "Assessing the threat of two deadly fungal pathogens to amphibian biodiversity and the impacts of human-mediated movement of an invasive carrier species." I.B. 234 Seminar on Biology of Amphibians & Reptiles (Herp Group), UC Berkeley, Berkeley, CA

Whitaker SG, Dilly GF, Ambrose RF, **Yap TA**, Richards DV (6 Oct 2016) "Widespread declines in abundances of the intertidal rockweed *Silvetia compressa* on the Channel Islands." CAIslands Symposium, Ventura, CA

Yap TA (16 April 2016) "Emerging infectious disease and amphibian mass extinction: how research can guide biodiversity conservation policy." Our Changing Planet Lecture Series, Cal Day, UC Berkeley, Berkeley, CA

* Please see Detailed Professional Experience on pages 3-4 for details, including a list of clients and responsibilities.

Yap TA (2 December 2015) "Salamander vulnerability to *Bsal*, a lethal chytrid fungus." EcoINFORMA Workshop: Promoting Synergy in the Innovative use of environmental data, Washington DC

Koo MS, **Yap TA,** Vredenburg VT, Catenazzi A, Spencer CL, Wake DB (1 Aug 2015) "Averting a biodiversity crisis: AmphibiaWeb addresses the new *Bsal* threat." Society for the Study of Amphibians and Reptiles Meeting. University of Kansas, Lawrence, KS

Yap TA (12 May 2015) "A new chytrid fungal pathogen threatens North American salamander biodiversity." Colloquium in Ecology, Evolution, and Conservation Biology, SFSU, San Francisco, CA

Yap TA, Ambrose RF (2012) "Investigating Rockweed Abundances in the Rocky Intertidal of the West Coast of the USA." Annual Multi-Agency Rocky Intertidal Network (MARINe) workshop

AWARDS

EcoINFORMA Student Competition Winner 2015, Charles F. Scott Fellowship 2014-2015, Friday Harbor Labs Scholarship 2010, William & Flora Hewlett Foundation Award 2009-2010, University Fellowship 2007-2011

SELECTED PRINT/NEWS MEDIA

KQED Science (4 Aug 2015). *Killer fungus could "devour" California's salamanders*. By Johanna Varner. [**Interviewed**] http://ww2.kqed.org/science/2015/08/04/killer-fungus-could-devour-californias-salamanders/

Wired (30 July 2015). *What it's like to watch a species go extinct*. By Lizzie Wade. [**Interviewed**] http://www.wired.com/2015/07/watching-species-go-extinct-frogs-bd-salamanders-bsal/

DETAILED PROFESSIONAL EXPERIENCE

Type	Client	Description
Impact Assessment and Permitting	BG Group British Columbia, Canada	Researcher, field crew leader, and technical support for studies regarding the construction of a liquefied natural gas facility. Prepared an Environmental Impact Statement and Environmental Assessment (Intertidal and Subtidal Marine Habitat Section), an Abalone Habitat Assessment, an Abalone Presence/Absence Memorandum, a Subtidal Habitat Summary Report, and a Marine Fish Life Histories Report. Coordinated and conducted intertidal surveys and marine mammal surveys. Coordinated subtidal field surveys.
Impact Assessment and Permitting	Phillips 66 Port Costa, CA	Field manager and biologist. Provided biological resources and permitting support for a wharf deconstruction project. Prepared an Initial Study/Mitigated Negative Declaration; an Essential Fish Habitat Assessment; a Biological Assessment; permit applications for the California State Lands Commission, United States Army Corps of Engineers, Regional Water Quality Control Board and San Francisco Bay Conservation and Development Commission; a Stakeholder Communications Plan; and a public fact sheet. Conducted surveys for nesting birds, habitat, and wetland delineation. Coordinated all field activities, including all site visits, surveys, and community involvement.
Impact Assessment and Permitting/ Environmental Compliance	Valero Refining Company Martinez, CA	Provided biological resources and permitting support and environmental oversight for the repair of an oil pipeline. Prepared a Biological Assessment, environmental monitoring logs, and a post-construction report. Conducted pre-construction biological surveys (e.g., nesting bird surveys), construction monitoring, and crewmember training.
Impact Assessment and Permitting	United States Coast Guard Tahoe City, CA	Provided biological resources and permitting support for a pier extension. Prepared a joint Environmental Assessment/Initial Study Mitigated Negative Declaration/Tahoe Regional Planning Agency Initial Environmental Checklist, a Biological Assessment, and a Prime Fish Habitat Mitigation and Monitoring Plan.

Impact Assessment and Permitting	Caltrans District 4 San Francisco, CA	Provided permitting support for the replacement and extension of an outfall pipe in the San Francisco Bay. Prepared an Incidental Harassment Authorization Permit Application.
Impact Assessment and Permitting	New Jersey Army National Guard Sea Girt, NJ	Provided permitting support for a programmatic master plan and a stand-alone new construction project. Prepared Environmental Assessments, Findings of No Significant Impact, and a Coastal Area Facility Review Act Application for new construction.
Impact Assessment and Permitting	Phillips 66 Contra Costa County, CA	Provided technical support, review, and editing for the preparation of a Field Sampling Plan for a benthic infaunal and submerged aquatic vegetation habitat assessment.
Environmental Compliance	Levi Strauss & Co MS, NV, TX, Canada, Mexico	Project Manager. Provided environmental oversight and consultation regarding the Superfund Amendments Reauthorization Act Title III Emergency Planning and Community Right-to Know Act. Organized and maintained hazardous chemical inventories for seven facilities throughout North America. Prepared and submitted Tier II reports. Sent out notifications and quarterly updates.
Environmental Compliance	Southern California Edison CA, NV	Subject Matter Expert. Reviewed desert tortoise, desert bighorn sheep, and nesting bird daily monitoring reports for installation of a transmission line. Reports were required by the project's Mitigation, Monitoring, Compliance, and Reporting Program and were accessed and submitted to agencies through Southern California Edison's proprietary database.
Environmental Compliance	Praxis/Californi a Broadband Cooperative Mono and Inyo Counties, CA	Provided field support for the Digital 395 fiber network installation along the U.S. route 395 highway. Conducted habitat surveys to identify and mark water features and potential habitat for sensitive species. Provided environmental oversight and construction monitoring with a focus on biological resources compliance. Used various online field applications for report write-ups and submittals.
Environmental Compliance	Bay Area Rapid Transit (BART) Oakland, CA	Provided support for environmental oversight and construction monitoring with a focus on stormwater and biological resources compliance for construction of the BART Oakland Airport Connector. Conducted construction monitoring, prepared daily environmental monitoring logs, and uploaded Rain Event Action Plans to the State Water Resources Control Board's Stormwater Multi-Application, Reporting, and Tracking System.
Environmental Compliance	Caltrans District 4 Foster City, CA	Provided environmental oversight for a guardrail installation project along U.S. Route 101 and Interstate 280. Conducted nesting bird surveys prior to vegetation trimming, guardrail installation, and implementation of vegetation control.
Environmental Compliance	Golden Gate Bridge, Highway and Transportation District San Francisco, CA	Provided support for environmental oversight and construction monitoring with a focus on erosion control and biological resources compliance for construction of the Golden Gate Bridge Moveable Median. Conducted construction monitoring. Prepared daily environmental monitoring logs and monthly environmental compliance reports.
Environmental Compliance	San Francisco County Transportation Authority San Francisco, CA	Provided environmental oversight for the construction of a freeway on-ramp and off-ramp. Conducted pre-construction bat surveys prior to the removal of vegetation and abandoned buildings.

Via Electronic Mail and USPS (w/attachments)

Mr. Jodie Sackett
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Re: NorthLake Specific Plan, Draft Environmental Impact Report

Dear Ms. Sackett:

These comments are submitted on behalf of the Center for Biological Diversity ("Center") on the Draft Environmental Impact Report ("DEIR") for the proposed NorthLake Specific Plan Project ("Project"). The California Environmental Quality Act ("CEQA") mandated environmental review for the Project is inadequate and fails to comply with the requirements of the statute. The DEIR fails to adequately analyze a range of environmental impacts, mitigation measures, and alternatives. For the reasons detailed below, we urge that the Project be denied, or at a minimum, the DEIR must be revised and recirculated to remedy these deficiencies.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over one million members and online activists throughout California and the United Sates. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Los Angeles County.

I. The Current Project Description Does Not Represent The True Scope of the Project and is Misleading.

Under CEQA, a "project" is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment . . . ." (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222 (citing CEQA Guidelines § 15378, subd. (a).) An "accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*Cnty. of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193; (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149

Cal.App.4th 645, 655 (project description held unstable and misleading) [hereinafter "*San Joaquin Raptor*"].) "However, a curtailed, enigmatic or unstable project description draws a red herring across the path of public input." (*San Joaquin Raptor*, 149 Cal.App.4th, at 655.).

An inaccurate or truncated project description is prejudicial error because it fails to "adequately apprise all interested parties of the true scope of the project." (*See City of Santee v. Cnty. of San Diego* (1989) 214 Cal.App.3d 1438, 1454-55 [hereinafter "*City of Santee*"].) "Only through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives." (*San Joaquin Raptor*, 149 Cal.App.4th, at 655.)

As a general matter, the DEIR needs to be clearer about distinguishing between the 1992 NorthLake Plan and the current Project. Adopting a clearer naming system would aid the public by eliminating confusion and helping to more easily identify which plan is being referenced.

There are also numerous deficiencies in the Project Description. The Project Description provides objectives that erroneously rely on outside data which is not provided in the DEIR. There is no way for the public to assess whether the objectives rely on meaningful studies or if a legitimate need exists in the community for this development. For example, one objective states a goal of enhancing local economic well-being by ostensibly providing jobs for the same people who will live in the new housing. (DEIR at 4-3.) This is insufficient for two reasons. First, it is unclear whether there is in fact a need for housing and the DEIR provides no evidence to support this claim. Second, there is no evidence supporting the contention that those purchasing homes will stay within the community for their employment. There are no assurances that those living in the housing development will also work on-site. This has additional implications on GHG/air quality analyses if residents will be traveling outside of community for work, yet the DEIR assumes they will remain on-site. There is also insufficient evidence to support the conclusion that this project will alleviate some need for stability within the community. Simply stating that there are new housing demands or instability in the County is insufficient without further studies or data. The DEIR mentions that this development will generate 9,734 new residents but fails to indicate the anticipated demographics of new residences, especially regarding their ability to afford the housing and their employment objectives (this also impacts the DEIR's purported need for schools and the DEIR's analysis of transportation/GHG issues from due to travel for education and employment).

The DEIR mentions several pending realignments and utility sub-projects which are conditional to development. (DEIR at 4-4; 4-17.) These include the need to build sufficient water supply, wastewater and sewer infrastructure. However, the DEIR fails to clearly indicate the siting, existing conditions, and environmental impacts of these large infrastructure projects, which are, as the DEIR stated, conditional to development. (DEIR at 4-3 – 4-5; Table at 4-1.) The DEIR also mentions the need for realignment of an oil pipeline and electrical transmission lines. (DEIR at 4-4.) Yet the DEIR fails to clearly illustrate how exactly they will realign the pipeline or electrical transmission lines, where they will move these lines, or analyze the environmental impacts of this realignment.

The DEIR's discussion of a school conflicts with the Project's objectives regarding transportation and emissions reductions. The DEIR contains a section dedicated to discussing

the inclusion of a school, yet this is only potentially part of Phase 2; there is no guarantee another school will be built. Although NorthLake Elementary School already exists, the DEIR does not contemplate the reality that school-aged residents would need to travel outside the community to attend middle and high school. Nor does the DEIR consider that some school-aged residents may attend private schools outside of the Project area.

The DEIR states that the development will "remediate" environmental hazards. (DEIR at 4-10.) This statement is problematic because it mischaracterizes the Project's interaction with environmental hazards so as to misleadingly indicate that the project is *improving* the environment through development. It is also unclear whether there will be other hazardous activities associated with the project, which are never mentioned in the Project Description.

The DEIR states that the Project requires "minimum landscaping requirements," (DEIR at 4-12) yet fails to give specifics as to what those requirements are, fails to analyze these requirements in the context of water or non-invasive plant use, and fails to provide assurances that these requirements would comply with Los Angeles County Green Building Standards. The DEIR also fails to explain *how* the Project will meet California's solid waste goals other than a cursory statement that they will do so. Mere conclusory responses are inadequate. (*See Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 ("To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."). Nor does the DEIR explain what is meant by solar panel equivalent.

The DEIR inconsistently references cattle grazing. (*See* DEIR at 1-2; *cf.* DEIR at 7-12.) The DEIR switches between referring to cattle grazing as a "historic" use and a current use of the land. (*Id.*) The DEIR also states that no cattle grazing will be permitted in the new development but fails to clarify where the cattle that currently graze will go. (DEIR at 4-19.) If the cattle are going to be moved to another location, the DEIR needs to analyze the environmental impact on the new location. The DEIR also mentions animal care and handling facilities yet never describes what types of animals will be handled or how this fits into the project as a whole. DEIR at 4-19, 5.8-40.)

The DEIR fails to analyze or disclose any of the impacts of the previously named foreseeable uses and consequently provides no firm basis to assess the environmental costs and appropriate mitigation measures of the Project. (*San Joaquin Raptor*, 149 Cal.App.4th at 655.) As such, the DEIR fails to inform decision-makers and the public of the true scope of the Project from which all interested parties could assess the direct and indirect environmental effects of the Project. (*City of Santee*, 214 Cal.App.3d, at 1454-55; *San Joaquin Raptor*, 149 Cal.App.4th, 655; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 83-86.)

II. The Alternatives Analysis in the DEIR is Inadequate and Fails to Comply with CEQA.

CEQA mandates that significant environmental damage be avoided or substantially lessened where feasible. (Pub. Res. Code § 21002; Guidelines §§ 15002(a)(3), 15021(a)(2),

15126(d).) Moreover, although "an EIR need not consider every conceivable alternative to a project . . . it must consider a reasonable range of potentially feasible alternatives that will foster informed decision decision-making and public participation." (Guidelines § 15126.6(a).) Additionally, the "key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts." (*Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal. App. 4th 1059, 1089.) Accordingly, a rigorous analysis of reasonable alternatives to the Project must be provided to comply with this strict mandate. Unfortunately, the DEIR fails to meet this requirement on two levels: the DEIR analysis of the alternatives proposed is inadequate and the DEIR fails to include a reasonable range of alternative.

In rejecting the Creek Avoidance Alternative, the DEIR provides insufficient explanation as to why creek avoidance was eliminated from further consideration. (*See* DEIR at 6-7.) No explanation was given for why, contrary to common sense, eliminating more than half of the residential units would still necessitate the same amount of curbs, streetlights, utilities, etc. The DEIR attempts to bolster this rejection by arguing that the development would require schools, which would need to be built regardless of the number of houses in the development. (DEIR at 6-7.) However, as the DEIR itself stated above, the school is only potentially part of Phase 2 and not integral to the Project.

In analyzing the No Project Alternative, the DEIR impermissibly rejected this alternative in a conclusory fashion. (*See Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 ("To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."). Additionally, if the reasons for rejection the No Project Alternative is for feasibility reasons, case law indicates the standard for feasibility is high. Whether a project is economically unfeasible "is not measured by increased cost or lost profit, but upon whether the effect of the proposed mitigation is such that the project is rendered impractical." (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 600 (internal citation omitted).) In *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1180, the Court agreed with the trial court that the administrative record did not contain analysis of the project alternatives in terms of comparative costs, comparative profit or losses, or comparative economic benefit to the project applicant or the community at large.

In analyzing the No Project Alternative and Alternative Site, the DEIR should have discussed the need for the Project and whether the uses that would potentially utilize the Project can be accommodated in existing areas. As CAPCOA states in its white paper, one way local governments can avoid significant increases in GHG emissions and help solve the problem of climate change is to "facilitate more efficient and economic use of the lands" already developed within the community. (CAPCOA 2008.) Reinvesting in existing communities is "appreciably" more efficient than new development and may even result in a net reduction of greenhouse gases. (CAPCOA 2008.) The DEIR should consider an alternative that relies more on higher-density mixed commercial/residential development projects on existing disturbed lands in order to support the reduction of vehicle trips, promote alternatives to individual vehicle travel, and encourage efficient delivery of services and goods. (Office of the California Attorney General 2008.). Here, the objectives do not indicate that this specific site is necessary to accomplish the project goals.

In analyzing the Project pursuant to the Specific Plan, the DEIR fails to give any detail about what species would be impacted by the development.

In analyzing the No Industrial Alternative, the DEIR indicates that this alternative actually provides no fewer environmental impacts than the Proposed Project. (DEIR at 6-21). The DEIR also concludes that this alternative that would lead to an increase in driving due to removal of on-site employment opportunities (DEIR at 6-20); however, this erroneously assumes that those living in the development would seek out industrial employment (this assumption also implicates the Project's GHG emissions). Intensive industrial uses next to a national forest will likely be problematic yet this alternative does not discuss this at all. The DEIR fails to specify what industrial uses the developers are considering; these could have huge range of impacts and analyses given the potential different uses.

In analyzing all of the alternatives, the DEIR relies on 1992 NorthLake Specific Plan for guideline conformity as though the old plan holds legal weight. The DEIR has not explained why conformance with the 1992 Plan has any relevance to the current project in 2017. Just because the earlier specific plan was approved does not mean that it necessarily is legally adequate under CEQA. Any environmental conditions or mitigation measures detailed for that plan are not necessarily reflective of current conditions and CEQA requires an analysis based upon actual physical conditions. (Guidelines § 15126.2(a); *Communities for a Better Environment v. City of Richm*ond (2010) 184 Cal.App.4th 70, 83-86.) Environmental laws and regulations as well as CEQA-specific requirements have become significantly stronger in California since 1992 such that mitigation that might have been adequate then may not be sufficient now. CEQA requires adoption of all "feasible" mitigation measures and measures which may have not been feasible in 1992 may be feasible now (such as technologically sophisticated air pollution control equipment or solar power). Additionally, the County's General Plan in 1992 is likely different than current general plan. Recent land use trends indicate a movement towards consolidating sprawl, and a valid development in 1992 might not be an acceptable land use decision in 2017.

The DEIR provides no explanation for why the applicant chose not to make this their preferred alternative given that this is deemed the environmentally superior option. Moreover, Table 6-5 provides no way to quantifiably, and therefore meaningfully, compare the options. Table 6-2 ostensibly provides some detail on which to compare the 1992 NorthLake Specific Plan and the Proposed Plan, but this table excludes all of the other alternatives and is not helpful without having the 1992 NorthLake Specific Plan or EIR. (DEIR at 6-12.) The DEIR should include quantitative and meaningful comparisons between the Project's impacts and proposed alternatives' likely impacts, including analysis of estimated GHG emissions, quantified impacts to biological resources, water resources including water quality and water availability, and traffic resulting from each proposed alternative. Under CEQA, "the public agency bears the burden of affirmatively demonstrating that, notwithstanding a project's impact on the environment, the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures." (*Mountain Lion Foundation v. Fish & Game Com.* (1997), 16 Cal. 4th 105, 134.) The DEIR's general statements regarding these topics are insufficient.

A. The DEIR should have analyzed a wider range of alternatives.

As illustrated above, the DEIR did not analyze a reasonable range of alternatives including, but not limited to, the following: increased density with a substantially smaller project footprint; transportation-oriented design surrounding existing transit nodes or transit corridors within or adjacent to the Project area; a low carbon alternative that would actually result in lower emissions; conversion of the land into a conservation or mitigation bank; and mixed use development combined with greater preservation and enhancement of existing wildlife habitat. As courts have made clear, "[a] potential alternative should not be excluded from consideration merely because it would impede to some degree the attainment of the project objectives, or would be more costly." (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal. App. 4th 1437, 1456-57 (quotations omitted).) The DEIR should have included a larger range of alternatives from which decision-makers could choose.

III. The DEIR's Analysis of Surface Water is Flawed.

The DEIR indicates that the Project would have no significant impacts and no mitigation measures required for water quality and hydrology issues. (DEIR at 5.8-81) Given the proximity of the Project to bodies of water, such as Castaic Lagoon, and the projects infill of Grasshopper Creek, this conclusion is not supportable. Additionally, discussion of Marble Creek and the Santa Clara River are absent from the Project Description. Yet it is clear the Project will have impacts on both of these waterways.

While the DEIR provides a list of Best Management Practices ("BMPs") that may reduce impacts (DEIR at 5.8-38 – 5.8-40), none of BMPs listed are specified as enforceable mitigation measures, which is required under CEQA. The DEIR does not indicate that these mitigation measures are binding on the project or that the applicant is required to comply.

Moreover, the water quality and hydrology section appears to contain significant amounts of "boilerplate" information that does not necessarily assist the public in understanding the impacts of the Project. In particular, the DEIR begins its hydrology and water quality analysis on page 5.8-1 of the DEIR, yet delays any CEQA-required discussion of environmental impacts as they relate to the project until page 58-47 – in other words, 47 pages of the section do not discuss or analyze actual impacts of the Project. And substantive information and studies regarding impact are only included in two separate thousand-page documents.

A. The DEIR does not adequately analyze impacts on wildlife on aquatic wildlife.

CEQA requires the County to require all feasible mitigation measures. (Pub. Res. Code §§21002, 21081(a); CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15091(a)(1).) In its DEIR, the County failed to justify why a 100-percent avoidance mitigation measure of Grasshopper Creek would be infeasible. The mitigation measures provided to resolve infilling the aquatic habitat only consider relocating the respective species. Relocation is generally expensive and unsuccessful, which is well documented in the scientific literature.[1] There is no mention of

[1] Fischer, J. and D.B Lindenmayer 2000. An assessment of the published results of animal relocations. Biological Conservation 96:1-11.

avoiding the creek or providing a buffer and this would be a reasonable avoidance and minimization strategy. Additionally, the County should prohibit herbicide use that may run or drift onto Spadefoot Toad habitat, because herbicides are proven to disrupt amphibian reproduction.[2] Moreover, the Project will likely impact wildlife movement by filling in a portion of Grasshopper Creek Canyon, through which a tributary flows. A recirculated EIR needs to include an alternative to avoid Grasshopper Creek and Canyon in order to avoid and minimize impacts to onsite wildlife as well as connectivity.

The DEIR describes an Integrated Pest Management ("IPM") Plan but declines to actually list pesticides that will be used or provide the IPM in the public review. Nor is this plan binding on the Project. The DEIR states that "[p]esticides in runoff may or may not increase in the post-development phase" (DEIR at 5.8-61) yet fails to address issues that may result regarding runoff and bioaccumulation. The DEIR's reliance on IPM is ill-placed. IPM is entirely voluntary; it does not legally bind the Applicant to employ IPM strategies, and fails to define which products the Applicant has promised not to use. (*Appendix H-1 Water Quality Technical Report.*) Because the Applicant is under no legal compulsion to adhere to this promise, the County cannot and should not rely on this mitigation measure to reduce harm to individuals on or near the Project property. (CEQA Guidelines § 15126.4(a)(2); *Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development").) Additionally, the DEIR does not point to any study or analysis that would suggest IPM is an effective means to mitigate harm to sensitive species, such as amphibians. Thus, the DEIR fails to present IPM for the Project to interested members of the community from becoming fully informed of the benefits and risks of this form of mitigation. (Cal. Pub. Res. Code § 21002, 21003.)

The DEIR's failure to prohibit certain pesticides is all the more glaring in light of the threats facing the Santa Clara River. The DEIR admits that the Santa Clara River is considered impaired (DEIR at 5.8-20) and designated as a Significant Ecological Area ("SEA") and it is clear that the Project will impact tributaries, particularly Castaic Creek, that lead to the Santa Clara River. (DEIR at 5.2-27.) This seems likely problematic given that the Santa Clara River is home to numerous endangered wildlife. Yet the DEIR contradicts itself by stating that the Santa Clara River has remained "stable" despite increased urban growth and water use. (DEIR at 5.8-81.)

B. The DEIR Does not ensure TMDL and NPDES Permit compliance.

The DEIR fails to and must implement additional mitigation measures in order to comply with the TMDL requirements. The DEIR has not assessed how the Project will meet these mandatory requirements and must provide more than simply stating that the project will be subject to and comply with jurisdictional waters. (*Californians for Alternatives to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17 (compliance with existing environmental laws or regulations is not sufficient to support a finding that a project will not have significant

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[2] Hayes et al. 2002. Herbicides: Feminization of male frogs in the wild. Nature 419: 895-896. http://palgrave.nature.com/nature/journal/v419/n6910/full/419895a.html

environmental impacts).) None of the recommended mitigation measures explain *how* the Project will comply or provide quantifiable and binding measures to be taken.

C. The DEIR provides conflicting and inadequate information regarding runoff and sedimentation impacts.

The DEIR provides an inadequate description of mitigation measures for alleviating significant sedimentation impacts because of both construction as well as implementation of the Project. The DEIR also fails to demonstrate that these mitigation measures would be effective in reducing impacts to less than significant. The DEIR indicates that the by eliminating cattle grazing, the project will improve existing sediment loads in Castaic Lagoon. (DEIR at 5.8-2.) While cattle grazing does have some impact on water quality, there is no evidence that a project which introduces thousands of people to a previously undeveloped area will have fewer impacts than cattle grazing.

The proposed Project could result in significant nutrient loading into waterways. Yet the DEIR appears to state that the Project may reduce the volume of runoff containing sedimentation from current levels and suggests that in fact Castaic Lagoon possesses an "assimilative capacity for nutrients" so that nutrient loading from the project would not affect the water quality. (DEIR at 5.8-55.)

Thus, the DEIR casts a blanket statement that mitigation measures will reduce peak runoff and total runoff volume for the entire project that is overbroad and misleading, does not provide decision-makers the ability to assess whether mitigation measures that will result in net sedimentation reductions in compliance with existing law, and leaves out essential information like recommended mitigation measures to reduce environmental impacts. The DEIR is contrary to CEQA requirements of full disclosure and intelligent decision-making. (Cal. Pub. Res. Code § 21002, 21003.)

D. The DEIR does not adequately analyze or mitigate impacts arising from hazardous substances.

The DEIR provides that a combination of setbacks from drainage features and hazardous material management measures would minimize the potential for pesticides to enter the many waterways on the project site. (DEIR at 5.8-65.) However, the DEIR fails to provide further details on the hazardous materials business plan, including specific mitigation measures and the enforceability of the measures, which would be controlling for how hazardous materials and potential spills will be managed on the Project site. Instead, the DEIR defers this mitigation measure, an error that must be corrected in the final EIR. Additionally, the pipeline relocation analysis regarding impacts to water quality is insufficient and fails to provide more than cursory mention of compliance with BMPs and Low Impact Development ("LID") strategies. (DEIR at 5.8-66.)

IV. The DEIR Does Not Adequately Analyze or Mitigate Impacts To Groundwater.

The DEIR provides conclusory and inaccurate statements regarding impacts to groundwater. The DEIR states that increasing impervious surface will limit precipitation recharge but that this is counteracted by the increase runoff to Castaic Lagoon. (DEIR at 5.8-73

– 74.) Not only does this not make sense, but the DEIR fails to consider the fact that the runoff from the impervious surfaces will contain contaminants and fails to analyze those impacts.

The DEIR also states that the Project will recharge the Alluvial aquiver, thereby benefiting the groundwater supplies for the Project (DEIR at 58-50.) The DEIR should provide further information as to how an increase in impervious surfaces associated with development will actually benefit groundwater supplies.

V. The DEIR Fails to Adequately Analyze the Growth-Inducing Impacts of the Project.

EIRs are required to provide a detailed discussion regarding the growth-inducing impacts of a project. (Guidelines §§ 21100(b)(5); 21156.) *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 369 sets forth three factors to determine the level of detail required in a growth-inducing impacts analysis: (a) the nature of the project; (b) the directness or indirectness of the contemplated impact; and (c) the ability to forecast the actual effects the project will have on the physical environment. (*Id.*) Applying these factors here, the DEIR should have contained a detailed analysis regarding growth-inducing impacts because (a) the Project at issue is extremely large, is sited in an area with no existing development, and includes infrastructure that will undoubtedly act as a catalyst for future development in the area; (b) the Project will result in direct impacts in the area by paving the way for future development through infrastructure; (c) the County already has lists of potential proposed developments (*see* DEIR at 5.12-43)), such that the County can forecast the nature and extent of growth inducing impacts. Despite these requirements, the DEIR spends less than two pages analyzing the growth-inducing impacts of the Project. This is plainly inadequate under *Napa Citizens.*

The DEIR states that property west of I-5 may be developed but not as the result of this Project (DEIR at 7-14) but this conclusion fails to consider how the current Project will pave the way to induce more development. The DEIR relies on a flawed argument that somehow because this Project was previously approved in 1992 that means the DEIR now does not need to analyze growth-inducing impacts.

The DEIR purports to accommodate a housing crisis in Los Angeles (although the proposed development is not close enough to Los Angeles to legitimately provide housing for residents living in the city) and based on this assumption, mistakenly concludes that this somehow counteracts any growth-inducing capabilities of the Project. (DEIR at 7-14.)

Finally, the DEIR claims that it requires no changes to current zoning or codes. This statement is both inaccurate [*see* DIER at 4-8 (description of necessary Conditional Use Permit for development)] and confuses "precedent-setting action" with garden variety development that nonetheless induces growth in an otherwise undeveloped area of land and requires CEQA analysis. (DEIR at 7-15.)

VI. The DEIR Does Not Adequately Analyze Or Mitigate The Air Quality Impacts of the Project.

The DEIR's air quality impacts analysis is flawed because it underestimates the air quality impacts likely resulting from the Project and fails to adopt all feasible mitigation

measures. Californians experience the worst air quality in the nation, with annual health and economic impacts estimated at 8,800 deaths and $71 billion per year. (ALA 2013.) The Project will further degrade the region's air quality by generating considerable emissions from the construction phase through ongoing operations.

Regarding criteria pollutants, the DEIR's significance analysis is flawed because it uses the "Localized Significance Threshold" or "LST" methodology. (DEIR at 5.1-38.) This is not a proper threshold for this Project. According to South Coast Air Quality Management District ("SCAQMD"), LSTs only apply to projects that must undergo CEQA or NEPA review and "are five acres or less."[3] In contrast, the Project would develop approximately 1,330 acres. Additionally, the DEIR states that specific emissions based on land uses cannot be characterized (and therefore analyzed) without knowing the nature of the use. (DEIR at 5.1-38.) However, the DEIR cannot avoid analysis or disclosure by simply stating that future uses will comply with SCAQMD rules.

The DEIR states that industrial and commercial land uses will be potentially significant (DEIR at 5.1-40) but fails to address mitigation measures by impermissibly concluding that any potential facilities would comply with SCAQMD requirements. The DEIR also makes conclusory and erroneous statements that health risks from off-site sources would be less than significant, requiring no mitigation measures, because a study from the early 2000s set a "conservative" baseline and diesel emissions from heavy trucks have declined since then. The DEIR provides no evidence to support this conclusion.

There are numerous other inadequacies with the DEIR's air quality analysis, including the following:

- Regarding Carbon Monoxide, the DEIR uses outdated studies to conduct an analysis (*See* DEIR at 5.1-37 [citing plans from 1992 and 2003].) The DEIR also includes references to the 1992 and 2012 EIRs as though either of these provide relevant or binding data on the current Project. (DEIR at 5.1-5.)

- None of the County of Los Angeles General Plan Goals or Policies appears to be binding on the Project. (DEIR at 5.1-17.) Nor do any of the BMPs regarding construction activities. (DEIR at 5.1-21.)

- The DEIR references Best Available Control Mechanisms ("BACMs") listed in Appendix C yet this information does not appear anywhere in that appendix. (DEIR at 5.1-17.)

Regarding operational activities, the DEIR states that "[mitigation] measures provide incentives but do not guarantee any reductions [in emissions of mobile source pollutants]." (DEIR at 5.1-33.) The DEIR then goes on to list possible measures, including a suggestion from the 1992 Plan for a "commuter computer program." (*Id.*) The DEIR does not explain what this means or how it would reduce impacts.

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[3] South Coast Air Quality Management District, "Localized Significance Thresholds," (available at http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds).

The DEIR makes a confusing and incorrect argument that the 2012 Air Quality Management Plan ("AQMP") took the 1992 Plan into consideration because it came many years after the creation of the 1992 Plan; the DEIR then improperly concludes that compliance with the 2012 AQMP indicates that there are no significant impacts regarding obstruction of the AQMP. (DEIR at 5.1-20.)

VII. The DEIR Fails To Adequately Analyze Or Mitigate The Impacts Of The Project On Biological Resources.

A. Habitat destruction is a leading cause of extinction.

Species diversity is critical for healthy ecosystems, and ensuring habitat integrity if a key component to species survival. (Dobson 1997.) Habitat destruct or alteration can increase incidents of wildfire and flooding as the ecosystem becomes imbalanced, making it more susceptible to these events. (Brooks 2004; Nilsson 2000.) Developments that convert open space into another use, such as housing, industry, energy or agriculture, negatively impact the species that live in these areas, and the ecosystem as a whole. (Walston 2016; Chaplin-Kramer 2015; Minnich 1998.) Many of the species that have potential to occur in the project area are already imperiled or endangered, and further encroachment onto their habitat worsens the threat to their success and survival.

While the entire habitat may not be converted or destroyed through development, it may be fragmented such that it becomes useless as a habitat for particular species. Even if the habitat remains intact, light and noise pollution can negatively impact the health and reproductive rates of species that are sensitive to these types of pollution. (Slabbekoorn 2008; Longcore 2004.) Pollution in the form of pesticides and rodenticides are also a threat, in addition to run-off pollution from roads that impacts water quality and aquatic life and the species that depend on it. (Perez 2007; Miller 2006; Relyea 2005.) Roads create habitat fragmentation since they act as dangerous physical barriers that many species won't cross, or are killed or injured if they do. (Poessel 2014; Ware 2015; Brock 2004; Swihart 1984.) Additionally, roads facilitate the spread of non-native and invasive species, particularly plants and their seeds, which threaten the survival of species native to these areas. (Gelbard 2003.) Fences create another type of habitat fragmentation by reducing mobility and prevent species from accessing all areas that they depend on for survival, or worse, they ensnare the animals that do try to cross them, resulting in injury or death. (Baines 2003; Paige 2008.) For many species, climate change will mean the need for adaptation in the form of migration to new habitats that support their needs. Fragmentation or obstruction of this mobility will result in greater mortality. (Scheffers 2016.)

Urban infill projects reuse land that has already been disturbed and that is located near urban centers, thus removing the need for conversion of open space for housing, businesses, shopping, roads and other infrastructure. (Wheeler 2002.) These projects are also good candidates for citing distributed solar, further reducing impacts to species and habitat. (Powers 2009.) Wildlife corridors, bridges and underpasses can be constructed in places where roads bisect and disconnect habitat and mobility. (Servheen 2007.) Fences should be used with an understanding of the impacts they have on species mobility, and should be constructed in such a way as to specifically exclude the target species, not all species. Consideration should be given to the type of fencing and the ways in which species could become entangles, injured or killed.

(Paige 2008.) Connective corridors between fragmented habitats will enable species to utilize the habitat and retain needed mobility for survival. (South Coast Wildlands 2008.) Alternatives to toxic and poisonous pesticides and herbicides should be used whenever possible to reduce harm to species and their habitats. (Litmans 2004.)

B. The DEIR does not contain an adequate baseline for biological resources.

CEQA requires that the lead agency analyze and disclose the existing conditions in the Project area. Unfortunately, the DEIR fails to do this by relying upon outdated surveys. In particular, the DEIR relies on surveys primarily from 1997 to 2004 and 2005 and 2006. (DEIR at 5.2-2.) Surveys that are over ten years old cannot provide information on "current conditions" on the site and are therefore not sufficient under CEQA.

Similarly, the DEIR relies upon inadequate surveys for special status species. The DEIR states that the Project site contains "potentially suitable habitat" for five species of federally endangered or threatened shrimp, but that no shrimp was observed during "2014-2015 focused surveys." The 2014-2015 rain season for Los Angeles County was barely half of average, such that shrimp's vernal pool habitat was significantly diminished. The DEIR should include surveys from years (such as 2016-2017) that contain rainfall at average or above average.

In addition, the DEIR claims that protocol level surveys were conducted in 2014-2015 for each species of fairy shrimp. (DEIR at 5.2-25.) However, the survey report does not appear to be included in the appendixes to the DEIR – only a survey report for a 2005-2006 survey is included.

The DEIR only references surveys for the California red-legged frog from 2001. These surveys are too old to provide any meaningful information on the current site conditions. Even if these surveys were not outdated, it is not clear that the surveys were conducted using established protocols. For instance, the surveys were only conducted between 11:30 a.m. and 6:30 p.m. (DEIR, Appx. D, Att. C) even though the adult red-legged frogs are nocturnal.[4] Because critical habitat for the California red-legged frog lies south east of the Project site, the County should require protocol level surveys of the California red-legged frog.

Despite the fact that the federally-threatened California gnatcatchers were located on site, including one onsite nest and a second one directly adjacent off-site, it does not appear that protocol-level surveys[5] were implemented for this species. Protocol-level surveys are necessary in order to evaluate the impacts from the project on the gnatcatcher. These documented locations for California gnatcatchers are some of the most northerly locations for this rare species,[6] and species on the edge of their range are particularly important, especially as the effects of a warming climate proceed.[7]

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[4] https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/es_ca-red-legged-frog.htm.
[5] https://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/CCalGnatcatcher.1997.protocol.pdf.
[6] CNDDB 2017.
[7] Channell, R. and M.V. Lomolino 2000. Dynamic biogeography and conservation of endangered species. Nature 403: 84-86. http://fire.biol.wwu.edu/cmoyer/zztemp_fire/biol432_W00/papers/biogeo_endspp00.pdf.

The DEIR should be recirculated after comprehensive surveys are conducted at the appropriate time of year to observe sensitive plant and animal species.

C. The DEIR fails to adequately analyze or mitigate impacts to special status wildlife.

The DEIR must analyze and mitigate all impacts on special status species, including California Department of Fish and Wildlife ("CDFW") species of special concern. The CDFW defines a species of special concern as a species that, among other things, "is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status."[8] CDFW aims to "achieve conservation and recovery of these animals before they meet California Endangered Species Act criteria for listing as threatened or endangered." (*Id.*) CDFW states that species of special concern "should be considered during the environmental review process." (*Id.*; CEQA Guidelines § 15380(b)(B).) An impact to wildlife is significant where it "substantially reduce[s] the number or restrict[s] the range of an endangered, rare or threatened species." (CEQA Guidelines, § 15065.) CDFW interprets this provision to apply to species of special concern. The County must mitigate significant effects whenever feasible. (Cal. Pub. Res. Code § 21080.5(d)(2)(A).)

- **Western Spadefoot Toad.** The DEIR states that the Project site hosts one of the few known populations of the western spadefoot in the region and that impacts would be significant. (DEIR at 5.2-36.) Yet, the DEIR states that MM 5.2-9 would render impacts less than significant. (DEIR at 5.2-52.) MM 5.2-9 is a "relocation program" that proposes to relocate the spadefoot toad population onto unspecified "suitable habitat." (*Id.*) If "suitable habitat" is not available, then MM 5.2-9 states that the habitat shall be "created." The DEIR fails to offer any evidence or analysis indicating that such a relocation program would be successful. In general, relocation programs are extremely risky and often result in the death of the relocated animals. Even if relocation programs were a reliable mitigation measure (which they are not necessarily), the DEIR provides very little detail as to how the relocation program will be conducted or where the toads will be relocated. The Project should not disrupt one of the last remaining populations of a special status species. Instead, the Project should be reconfigured or downsized in a manner that will not impact the toad populations.

- **Special status reptiles.** The DEIR states that various special status reptile species may occur on the Project site, including the silvery legless lizard, coastal western whiptail, rosy boa, San Bernardino ring-necked snack, Blaineville's horned lizard, and coast patch-nosed snake. (DEIR at 5.2-36.) The DEIR claims that "sweeps" prior to construction and "relocation...as necessary" would render impacts less than significant. (DEIR at 5.2-36.) MM 5.2-10 vaguely states, "If feasible, special status reptiles will be removed from the disturbance area and relocated to suitable habitat in adjacent areas." (DEIR at 5.2-52.) This mitigation measure does not address the habitat destruction that the Project will cause, nor does it ensure that direct mortality of special status species will not occur. And by qualifying the sentence with "if feasible," MM 5.2-10 gives the applicant a way

[8] *See* California Dep't of Fish & Wildlife, *Species of Special Concern* (available at https://www.wildlife.ca.gov/Conservation/SSC/).

to avoid conducting any mitigation if it states mitigation would not be "feasible." In any event, a "clearance sweep" immediately before construction activities begin will not result in the identification, capture, and successful relocation of over half a dozen species of small reptiles (many of which are active only at night and difficult to locate).

- **Southwestern willow flycatcher and least bell's vireo.** The DEIR states that these species have been observed on the Project area. (DEIR at 5.2-37.) In addition, the DEIR states that the Project will impact riparian habitat used by these species. (*Id.*) Given that these species are listed as endangered, the Project should avoid any development in areas used by these species. The DEIR incorrectly states that "biological monitoring" would reduce impacts to less than significant (*Id.*); monitoring will not protect these species from losing vital riparian habitat. While the DEIR promises that "suitable habitat" will be replaced at a 2:1 ratio, the proposed mitigation measures do not set forth specific plans and policies to ensure that actual habitat used by these species will be protected. And for impacts to federally listed endangered species, mitigation ratios generally should be much higher (e.g., at least 5:1).

- **California gnatcatcher.** The DEIR states that the California gnatcatcher has been observed on the Project site and that the Project would impact approximately 634.70 acres of habitat. (DEIR at 5.2-37.) While the DEIR vaguely states that impacts would be mitigated at a 2:1 ratio, the DEIR again does not specify whether it requires the preservation of 1269.40 acres of California gnatcatcher habitat, or where such habitat is located.

- **Other special status bird species.** Numerous other special status bird species inhabit the Project site. (DEIR at 5.2-37 & 38.) The DEIR states that hundreds of acres of habitat for these species would be lost, but that the loss would not be "substantial on a regional basis." (DEIR at 5.2-38.) Given the widespread habitat loss to special status bird species in Southern California caused by sprawl development, the DEIR's conclusion that such impacts are not "substantial" is not supportable.

D. The DEIR fails to set forth adequate or enforceable mitigation measures to protect special status wildlife.

The DEIR's mitigation measures are not adequate to protect special status wildlife. While MM 5.2-2 proposes acquisition of lands as described in certain Area Plan Policies, the DEIR does not provide any details regarding the types of land to be acquired, the amount of acreage, the location of the land, or which species the land acquisition will mitigate impacts. (DEIR at 5.2-42.) Such vague, deferred, and unenforceable mitigation proposals are not appropriate under CEQA. MM 5.2-3 similarly provides various potential mitigation measures (e.g., "creation" of habitat onsite or offsite) but the measures are vague and do not require the applicant to commit to any particular mitigation. CEQA requires more than a mere promise that the applicant will "consult" with applicable agencies; CEQA requires that all feasible mitigation measures be adopted ***prior*** to project approval.

MM 5.2-7 states that mitigation at a 2:1 ratio shall occur for California grassland/wildflowers fields. However, the measure also states that the ratio shall be no less than 6.5 acres of habitat preserved/restored per burrowing owl location impacted. (DEIR at 5.2-47.) It is unclear how this measure will actually protect burrowing owls given that the measure does not appear to require that the protected lands actual contain existing burrowing owl populations. MM 5.2-8 contains similar language regarding the burrowing owl, but does not indicate whether any lands proposed for protection actual have existing burrowing owl populations.

An overarching problem with all of the proposed offsite mitigation is that the DEIR does not appear to require that the lands be connected to other open space. Without such a requirement, the Project could "mitigate" its impacts by protecting land that is isolated from other open space and thus has very little value because wildlife cannot migrant between the mitigation land and other open space. In contrast, the lands to be developed for the Project are adjacent to thousands of acres of open space in the Angeles National Forest.

The DEIR references a Habitat Mitigation and Monitoring Plan that will be developed and reviewed by the County's Department of Regional Planning. This plan is key to minimizing and mitigating impacts to environmental resources and should be included in the revised and recirculated EIR, so that the public and decision-makers can understand what is being proposed to minimize and mitigate the impact to on-site and off-site resources that will be affected by the project.

E. The DEIR fails to adequately analyze impacts on wildlife from noise.

Impacts on wildlife from noise are not adequately addressed within the DEIR. The DEIR merely acknowledges that noise may disrupt some species, but claims such impacts would not be significant because most of the species on the Project area are not federally listed species. (DEIR at 5.2-40.) As such, there is no analysis or determination within the DEIR as to whether noise impacts will disrupt the nesting, foraging, or other behavioral patterns of wildlife in the on-site conserved lands and adjacent open space. A full analysis of project related noise on wildlife should be provided in the revised and recirculated EIR. In addition, the DEIR must include mitigation measures for ongoing project operation to limit noise impacts to wildlife, especially given its location next to a national forest.

F. The DEIR does not address harmful interactions between humans and wildlife.

Another issue that is not addressed in the DEIR is the strong likelihood of problematic interactions between humans and wildlife. The DEIR notes that the Project site is "adjacent to open space in the Angeles National Forest (ANF) and Castaic Lake State Recreation Area (SRA), both of which provide high-quality wildlife habitat." (DEIR at 5.2-14.)

By placing over thousands of people in close proximity to open space areas, there is a strong probability that coyotes and other animals will forage in trash cans, prey on domestic pets, and otherwise disturb and frighten residents. In response, project residents may try to handle such interactions themselves, causing greater damage – for instance, putting out poison which could then kill an endangered or special status species. That interactions between humans and wildlife will occur is a problematic issue that needs to be identified and analyzed in the DEIR.

Another aspect of human and wildlife interaction that is commonly not considered is the likelihood of increasing the dependency of certain wildlife species on human-supplied food sources and human-created habitats which benefit invasive species over native species. (Hansen et al. 2005.) For example, people often place in bird feeders outside their homes which usually causes an increase in certain bird-species as well as bird predators in that area, creating competition among birds, increased predation, and the spread of parasites between species. (Shochat et al. 2010.) With the exurban type of development that this Project proposes, research has documented that native species have reduced survival and reproduction near homes, and native species richness often drops with increased exurban densities. In addition, exotic species, some human-adapted native species, and species from early successional stages often increase with exurban development. (Hansen et al. 2005.) As with this proposed project, the location of development is often nonrandom relative to biodiversity because both are influenced by biophysical factors resulting in the effects on biodiversity being disproportionately large relative to the area of exurban development. (*Id.*) In other words, not all natural areas are created equal and some of the most biodiverse areas and areas that are key to conserve for their biodiversity are often the same areas that are most attractive for exurban development.

VIII. The Project Is Not Consistent With The General Plan.

Land use decisions must be consistent with all applicable land use policies, including the General Plan and all of its elements. (*See Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal. App. 4th 1552, 1562-1563.) Unfortunately, the Project is clearly inconsistent with multiple General Plan policies, as set forth below.

A. General Issues with General Plan Consistency

Although the DEIR defers conducting an analysis of the elements of the Santa Clarita Valley Area Plan 2012 ("SCVAP 2012"), the Project seems to conflict with the SCVAP 2012 goals, such as reducing vehicle trips and preserving water quality. (DEIR at 5.9-9.)

The DEIR states that Los Angeles County Board of Supervisors have only "indicated intent" to approve the general plan update; it is unclear if this update is binding on the Project. (DEIR at 5.9-7). The DEIR also lists several policies from the Los Angeles 1980 General Plan such as encouraging infill development and discouraging sprawling development, but then states that these goals no longer apply without further explanation as to why. (DEIR at 5.9-8.)

The DEIR provides conflicting statements regarding access to schools. The DEIR mentions building a school as part of Phase 2 of the Project and concludes this is consistent with the County's education policies (DEIR at 5.9-16) but construction of a public or private school (also it is likely inconsistent with the County's educational goals to *potentially* provide a location for a *private* school) is not guaranteed and would require travel off-site, which conflicts with travel and emission goals.

Again, the DEIR references "commuter computer program" as a legitimate means of reducing vehicle trips and ensuring consistency with emissions reduction goals. (DEIR at 5.9-21.)

The DEIR impermissibly concludes that the Project is consistent with water goals because it will comply with a NPDES permit. (DEIR 5.9-24.)

B. The DEIR impermissibly relies on 1992 Specific Plan.

The DEIR begins its land use analysis (and much of its analysis throughout the entire DEIR) with the assumption that the 1992 Northlake Specific Plan has been "adopted" and continues to carry legitimacy in providing consistency with various County plans. (DEIR at 5.9-3). The DEIR goes on to conclude, without any evidence, that the incorporation of the 1992 Plan indicates consistency with all applicable plans. (DEIR at 5.9-12.) Specifically, the DEIR states that the 1992 Plan has been incorporated into the SCVAP 2012. (DEIR at 5.9-8.) The DEIR also states that the Los Angeles County General Plan assumes future development from the 1992 Plan (DEIR at 5.9-14.) The DEIR impermissibly concludes that the 1992 Plan supersedes and replaces the Los Angeles County General Plan and SCVAP 2012. (DEIR at 5.9-10.) The DEIR does not provide any evidence for this and ignores the fact that the 1992 Plan is not applicable to the current Project.

Finally, the DEIR dedicates an entire section within the land use analysis to a discussion of the 1992 Specific Plan as though consistency with this outdated and irrelevant document provides any binding or necessary information on the current Project. (DEIR at 5.9-54.)

C. The DEIR does not adequately explain the Project's consistency with other general plan policies.

In Table 5.1-1, 2, and 3, the DEIR attempts to claim consistency with all applicable general plan policies. Unfortunately, these tables do not explain in any detail how the Project is consistent with these various policies, and instead generally refers to mitigation measures. (*See* DEIR at 5.9-13 (the DEIR should provide more explanation of applicable traffic mitigation fees); *see also* DEIR at 5.9-15 (stating that Project is consistent with the General Plan's goal of excellence in environmental resource management because impacts would be mitigated).]

The DEIR additionally could provide more specifics about how the Project will comply with Title 31 Green Building Code Standards. (DEIR at 5.9-11.)

IX. The DEIR Fails to Adequately Address its GHG Emissions.

Action to address climate change becomes ever more urgent with each passing day. The National Oceanic and Atmospheric Administration ("NOAA") and National Aeronautics and Space Administration ("NASA") confirmed that 2014 was the hottest year ever recorded. (NASA 2015.) Climate change will affect California's climate, resulting in such impacts as increased temperatures and wildfires, and a reduction in snowpack and precipitation levels and water availability.

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, (9th Cir. 2008) 538 F.3d 1172, 1217 ("the impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis" that agencies must conduct).) One source or one small project may not appear to have a significant effect on climate change, but the combined impacts of many sources can drastically damage California's climate as a whole. Therefore, it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." (Pub. Res. Code § 21002.) While we are heartened to see the EIR does include measures to reduce the Project's GHG emissions, we urge the EIR be revised to include all possible steps to limit and mitigate the Project's GHG emissions.

For example, rather than committing only 50% of homes to 3-kilowatt solar panel systems, we urge the EIR to require all buildings within the development to have 3 kilowatt solar panel systems or the equivalent. (DEIR at 5.7-22.) Rooftop solar power is the most energy efficient, least-environmentally damaging form of renewable energy available for the Project and is ideal for the Project's location.

CAPCOA has also identified existing and potential mitigation measures that could be applied to projects during the CEQA process to reduce a project's GHG emissions. (CAPCOA 2008). The California Office of the Attorney General also has developed a list of reduction mechanisms to be incorporated through the CEQA process. (CAPCOA 2008 at Table 16.) These resources provide a rich and varied array of measures to be incorporated into the Project. Potential measures include ease of access to public transit, alternative construction materials, and onsite energy generation. Specific measures for the GHG emissions generated by the Project's energy consumption include, but are not limited to:

- Requiring that the Applicant seek ***and obtain*** the U.S. Green Building Council's LEED or comparable standards for energy- and resource efficient building during pre-design, design, construction, operations and management;
- Designing buildings for passive heating and cooling, and natural light, including building orientation, proper orientation and placement of windows, overhangs, skylights, etc.;
- Designing buildings for maximum energy efficiency including the maximum possible insulation, use of compact florescent or other low-energy lighting, use of energy efficient appliances, etc.;
- Reducing the use of pavement and impermeable surfaces;
- Requiring water re-use systems;
- Installing light emitting diodes (LEDs) for traffic, street and other outdoor lighting
- Limiting the hours of operation of outdoor lighting;
- Maximizing water conservation measures in buildings and landscaping, using drought tolerant plants in lieu of turf, planting shade trees;
- Ensure that the Project is fully served by full recycling and composting services;
- Ensure that the Project's wastewater and solid waste will be treated in facilities where GHG emissions are minimized and captured;
- Installing the maximum possible photovoltaic array on the building roofs and/or on the project site to generate all of the electricity required by the Project, and utilizing wind energy to the extent necessary and feasible;
- Installing solar water heating systems to generate all of the Project's hot water requirements;
- Installing solar or wind powered electric vehicle and plug-in hybrid vehicle charging stations to reduce emissions from vehicle trips;

The Project should further utilize the following measures related to construction:

- Utilize recycled, low-carbon, and otherwise climate-friendly building materials such as salvaged and recycled-content materials for building, hard surfaces, and non-plant landscaping materials;
- Minimize, reuse, and recycle construction-related waste;
- Minimize grading, earth-moving, and other energy-intensive construction practices;
- Landscape to preserve natural vegetation and maintain watershed integrity;

- Utilize alternative fuels in construction equipment and require construction equipment to utilize the best available technology to reduce emissions.

New construction, like this Project, has a unique opportunity to fully embrace and incorporate the use of renewable energy in its design, construction and operation. We urge the County to take full advantage of those opportunities, if it chooses to move forward with the Project.

X. Conclusion

Given the possibility that the Center will be required to pursue appropriate legal remedies in order to ensure enforcement of CEQA, we would like to remind the County of its duty to maintain and preserve all documents and communications that may constitute part of the "administrative record." As you may know, the administrative record encompasses any and all documents and communications which relate to any and all actions taken by the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further contains all correspondence, emails, and text messages sent to or received by the County's representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the County's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Thank you for the opportunity to submit comments on the Project. We look forward to working to assure that the Project and environmental review conforms to the requirements of state law and to assure that all significant impacts to the environment are fully analyzed, mitigated or avoided. In light of many significant, unavoidable environmental impacts that will result from the Project, we strongly urge the Project not be approved in its current form. Please do not hesitate to contact the Center with any questions at the number listed below. We look forward to reviewing the County's responses to these comments in the Final EIR for this Project once it has been completed.

Sincerely,

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References
(Attached on CD)

American Lung Association (ALA), *State of the Air 2013*.

Baines, D. and M. Andrew, *Marking of deer fences to reduce frequency of collisions by woodland grouse*, Biological Conservation 110, 169-176 (2003).

Brock, R. E. and D. A. Kelt, *Influence of roads on the endangered Stephens' kangaroo rat (Dipodomys stephensi): are dirt and gravel roads different?*, Biological Conservation 118, 633-640 (2004).

Brooks, M. L. et al., *Effects of Invasive Alien Plants on Fire Regimes*, BioScience 54:5, 677-688 (2004).

CAPCOA. 2008. California Air Pollution Control Officer's Association. *CEQA & Climate Change, Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*.

CAPCOA, *California Emissions Estimator Model User's Guide* (2016).

Channell, R. and M.V. Lomolino, *Dynamic biogeography and conservation of endangered species*, Nature 403, 84-86 (2000).

Chaplin-Kramer, R. et al., *Spatial patterns of agricultural expansion determine impacts on biodiversity and carbon storage*, PNAS 112:24, 7402-7407 (2015).

Dobson, A. P., A.D. Bradshaw and A.J.M. Baker, *Hopes for the Future: Restoration Ecology and Conservation Biology*, Science 277, 515-522 (1997)

Fischer, J. and D.B Lindenmayer, *An assessment of the published results of animal relocations*, Biological Conservation 96, 1-11 (2000).

Fish and Wildlife Services (FWS), *Coastal California Gnatcatcher Presence/Absence Survey Protocol* (1997).

Gelbard, J. L. and J. Belnap, *Roads as conduits for exotic plant invasions in a semiarid landscape*, Conservation Biology 17:2, 420-432 (2003).

Hansen, A.J. et al., *Effects of Exurban Development on Biodiversity: Patterns, Mechanisms and Research Needs*, Ecological Applications 15(6), 1893–1905 (2005).

Hayes et al., *Herbicides: Feminization of male frogs in the wild*, Nature 419, 895-896 (2002). http://palgrave.nature.com/nature/journal/v419/n6910/full/419895a.html

Litmans, B. and J. Miller, *Silent Spring Revisited: Pesticide Use and Endangered Species*, Center for Biological Diversity (2004).

Longcore, T. and Catherine Rich, *Ecological Light Pollution*, Front. Ecol. Environ. 2(4): 191-198 (2004).

Miller, J., *Poisoning Our Imperiled Wildlife*, a Center for Biological Diversity Report (2006).

Minnich, R. A. and R. J. Dezzani, *Historical declined of coastal sage scrub in the Riverside-Perris Plain, California*, Western Birds 29, 366-391 (1998).

Nilsson, C. and K. Berggren, *Alterations of Riparian Ecosystems Caused by River Regulation: Dam operations have caused global-scale ecological changes in riparian ecosystems*, BioScience 50:9 783-792 (2000).

Paige, C., *A Landowner's Guide to Wildlife Friendly Fences*, Landowner/Wildlife Resource Program, Montana Fish, Wildlife and Parks, Helena MT (2008).

Perez, G. L. et al., *Effects of the Herbicide Roundup on Freshwater Microbial Communities: A Mesocosm Study*, Ecological Applications 17:8, 2310-2322 (2007).

Poessel, S. A. et al., *Roads influence movement and home ranges of a fragmentation-sensitive carnivore, the bobcat, in an urban landscape*, Biological Conservation 180, 224-232 (2014).

Powers, B., *CEC cancels gas-fed peaker, suggesting rooftop photovoltaic equally cost-effective*, Natural Gas & Electricity 8-13 (2009).

Relyea, R. A., *The Lethal Impacts of Roundup on Aquatic and Terrestrial Amphibians, Ecological Applications*, 15:4, 1118-1124 (2005).

Scheffers, B. R. et al., *The Broad Footprint of Climate Change from Genes to Biomes to People*, Science 354:6313 (2016).

Servheen, C., Rebecca Shoemaker and Pat Basting, Measuring the Success of Wildlife Linkage Efforts, *Proceedings of the International Conference on Ecology and Transportation*, eds. C. Leroy Irwin, Debra Nelson, and K.P. McDermott, Raleigh, NC, 409 – 421 (2007).

Shochat, E. et al., *Invasion, Competition, and Biodiversity Loss in Urban Ecosystems,* Bioscience 60(3), 199-208 (2010).

Slabbekoorn, H. and Erwin A. P. Ripmeester, *Birdsong and anthropogenic noise: implications and applications for conservation*, Molecular Ecology 1:72-83 (2008).

South Coast Wildlands, *South Coast Missing Linkages: A Wildland Network for the South Coast Ecoregion* (2008).

Swihart, R. K. and N. A. Slade, *Road crossing in Sigmodon Hispidus and Microtus Ochrogaster*, Journal of Mammalogy 65:2, 357-360 (1984).

Walston, L. J. et al., *A preliminary assessment of avian mortality at utility-scale solar energy facilities in the United States*, Renewable Energy 92, 405-414 (2016).

Ware, H. E. et al., *A phantom road experiment reveals traffic noise is an invisible source of habitat degradation*, PNAS 112:39, 12105-12109 (2015).

Wheeler, S., *Smart Infill: Creating more livable communities in the Bay Area, A guide for Bay Area Leaders*, Greenbelt Alliance (2002).