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*Via Electronic Mail and USPS (w/exhibits and references)*

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**Re: Centennial Project Draft Environmental Impact Report**

Dear Mr. Sackett:

These comments are submitted on behalf of the Center for Biological Diversity (“Center”), the Center for Food Safety and the California Native Plant Society regarding the Draft Environmental Impact Report (“DEIR”) for the proposed Centennial 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 States. 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 Center for Food Safety (“CFS”) is a nonprofit, public interest advocacy organization dedicated to protecting human health and the environment by curbing the proliferation of harmful food production technologies and promoting sustainable agriculture, including impacts to water resources. In furtherance of this mission, CFS uses legal actions, groundbreaking scientific and policy reports, books and other educational materials, and grassroots campaigns on behalf of its 850,000 farmers and consumer members across the country.

The California Native Plant Society (“CNPS”) is a non-profit environmental organization with 10,000 members in 35 Chapters across California and Baja California, Mexico. CNPS’

mission is to protect California’s native plant heritage and preserve it for future generations through application of science, research, education, and conservation. CNPS works closely with decision-makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices.

### **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.)

The DEIR contains a number of misleading statements regarding the project description. For instance, the DEIR states “the Project anticipates and would complement the planned SR-138 improvements, as intended by the West EOA.” (DEIR at 4-9.) The DEIR does not cite any portion of the West EOA that evidences an “intent” for the development of Centennial. Instead, the Antelope Valley Area Plan (“AVAP”) merely defines the West EOA as specific lands including “large contiguous landholdings that have been proposed for master-planned developments . . .”<sup>1</sup> (AVAP at IMP-4.) The AVAP cautions that “any master-planned community within the West EOA will require further planning activities in addition to this Area Plan.” (*Ibid.*) The AVAP further states that it requires the preparation of a specific plan even for extremely small developments of only five residential dwelling units. (*Ibid.*) Nowhere does the AVAP state that it expects or “intends” the development of a city of nearly 60,000 people in this remote area.

The DEIR’s Project Description also misleadingly claims that “No new environmental impacts occur” as a result of permitting assessor dwelling units (“ADUs”) on the project due to “variations in household occupancy.” (DEIR at 4-18-19.) Obviously, a household that contains an ADU will on average have a significantly higher occupancy than a household that does not

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<sup>1</sup> Los Angeles County Department of Regional Planning, Antelope Valley Area Plan (June 2015), available at [http://planning.lacounty.gov/assets/upl/project/tnc\\_draft-20150601.pdf](http://planning.lacounty.gov/assets/upl/project/tnc_draft-20150601.pdf).

contain an ADU. And with a higher occupancy comes greater environmental impacts – e.g., air pollution and GHG emissions arising from the additional occupants commuting to jobs.

The DEIR needs to clarify whether the additional persons living in ADUs were calculated in assessing the Project’s impacts. While it is unclear, it appears that the DEIR excluded persons living in ADUs from its analysis by claiming that “[t]here is also no basis for estimating whether or when an ADU would be built by any given homeowner, and CEQA does not require speculation.” (DEIR at 4-19.) This claim is inconsistent with the rest of the DEIR – the DEIR includes estimates regarding the number of residents who would work onsite even though predicting such fact and location-specific phenomena is uncertain. Yet, at the same time, the DEIR avoids “speculation” regarding how many people or developers would build ADUs, even though the DEIR could easily determine ADU rates in neighboring communities.

The Project Description does not adequately disclose whether grazing will be allowed on areas designated as “open space.” The DEIR states that there will be “continued grazing in some areas.” (DEIR at 4-24.) However, the actual Natural Resource/Open Space Management Plan (“OSMP”) appears to permit grazing throughout the open space designation. (Appx. 4.0-A at 3-97.) The DEIR should be clear that the OSMP allows grazing throughout areas designated as “open space” if that is what the DEIR permits. The DEIR also vaguely states that grazing might be allowed “in perpetuity if determined necessary to maintain grassland values based Grassland Mitigation Plan.” (DEIR at 4-44.) The DEIR needs to be clear who determines whether grazing is “necessary.”

The DEIR does not contain a firm timeframe as to when construction on the various phases will take place. Instead, the DEIR states that the various project phases would be timed depending upon (1) the state of the economy; (2) market demand for uses on the site; and (3) the timing of regional and off-site infrastructure conditions and needs. (DEIR at 4-91.) This indicates that the developer(s) and/or builders will be able to pick and choose which portions of the development are most profitable at any given time, and only develop those portions. For instance, if only residential – and not commercial development – is profitable, then the developer(s) and/or builders could avoid such commercial development.

This lack of clarity renders the Project description unstable, such that the FEIR 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, at 655; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 83-86.)

More importantly, the lack of any firm phasing plan for the Project renders the Project’s various calculations and commitments regarding traffic, air pollution, and GHGs unreliable. Even if the DEIR’s extremely optimistic internal trip capture rates are correct, they will not be met if the developer(s) build the residential project pieces first and then either abandon or only later build the commercial portions. And even if the commercial portions were eventually built, the Project would still result in a “carbon debt” for the years in which the commercial portions were not built.

The DEIR contains a similarly unstable description for school sites. In particular, the DEIR states that “any rejected school site shall revert to residential land use at the density of the

surrounding residential designation; however, the maximum number of units allowed by the *Centennial Specific Plan* would not be exceeded.” (DEIR at 4-26.) Neither the DEIR’s Project Description (nor the text of the Specific Plan) explain the process for “rejecting” a school site. The developer may have an incentive to have school sites “rejected” so it can build more homes. Again, this means that the air quality, traffic, and quality of life benefits of having schools close to residences will not necessarily be realized. Instead, the Project could result in more traffic, air pollution, and GHGs as residents are forced to drive many miles to send their children to schools in other areas. Additionally, the public and local government would need to add expense limited resources in adding schools for residents of the Project.

The Project Description also provides that the Project “must” meet certain mobility performance standards, including minimum percentages of different types of non-single occupancy vehicle (“SOV”) trips. (DEIR at 4-29 – 4-31.) The Project Description fails to describe how such minimum standards will be met. On a practical level, it is unclear what types of mechanisms the project proponent could use to mandate this minimum percentage. Will the project proponent or HOA require residents to report how often they take SOV trips and prohibit them from taking more than a certain amount? Such a system would be unprecedented and likely unworkable. In short, the Project Description should not include promises regarding the attributes of the Project or behavior of the residents that are not enforceable or feasible.

The Project Description further states that the Project will include a “transit management authority” or “TMA.” While the DEIR’s Project Description does specify *when* the TMA will be formed, it does not specify how much funding it will receive or identify its funding source. (See DEIR at 4-36.) The DEIR also does not specify which entity will fund the “transit centers” near the “village cores.” (DEIR at 4-37.) These omissions are especially problematic because the Project Description elsewhere states that “funding for the local transit system would come from a combination of Proposition A and property taxes.” (DEIR at 4-37.) The Project Description needs to be clearer whether it will contain a self-funded public transportation system or whether the broader region will bear the cost of this system.

The DEIR states that Caltrans has not yet identified a “preferred alternative” for the Northwest State Route 138 Improvement Project (the “138 Improvement Project”). However, the 138 Improvement Project EIR has since been certified.<sup>2</sup> As such, the DEIR should be updated to reflect this.

The DEIR also is unclear as to whether areas designated as “open space” will remain undeveloped. Notably, while 5,624 acres are designated as “open space,” only 3,681 acres are designated as “SEA 17 to be preserved in perpetuity within the Project site boundaries.” (DEIR at 4-44.) This suggests that the remaining 1,943 acres will *not* be preserved in perpetuity. The DEIR is unclear as to whether the project proponent and/or County can revert any of the “open space” to developable space. Elsewhere in the DEIR, the DEIR states that the Project would “permanently preserve 5,624 acres of on-site open space...” (DEIR at 5.8-59.) If this statement regarding permanent preservation is accurate, the DEIR should include conditions of approval requiring conservation easements for all 5,624 acres.

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<sup>2</sup> Northwest State Route 138 Corridor Improvement Project Final Environmental Impact Report/Environmental Impact Statement and Section 4(f) Evaluation (June 2017), available at [http://www.dot.ca.gov/d7/env-docs/docs/NW\\_138-FED-06\\_28\\_17.pdf](http://www.dot.ca.gov/d7/env-docs/docs/NW_138-FED-06_28_17.pdf).

## **II. The DEIR Fails to Adequately Assess the Project's Traffic Impacts.**

The DEIR fails to adequately assess or mitigate the Project's traffic impacts. The report from Griffin Cove Transportation Consulting, PLLC attached as Exhibit A outlines many of deficiencies in the traffic analysis (the "Griffin Letter"). We request that the Final EIR provide specific responses to all of the comments raised in the Griffin Letter.

### **A. Centennial is undisputedly a sprawl project.**

One point that needs emphasis is that Centennial is a classic "sprawl" project and contains all of the worst elements of sprawl. As the Griffin Letter explains:

Stantec Table 3-5 (p. 3.9) shows that the overall average trip length for project-generated traffic will be 25.5 miles, with "external" trips (i.e., those that have an origin or a destination outside the project) having an average trip length of 45.9 miles. Although trip lengths have no effect on the level of service at any of the intersections and roads within the study area, *these extraordinary values demonstrate clearly that the project exemplifies the worst elements of "sprawl," with its related issues of fuel consumption and pollutant emissions.*

The County should not approve this 20th century sprawl project centered around the automobile. County residents deserve better than to have their air further impaired with disease-causing pollutants and their streets further clogged with cars. And by locking in significant greenhouse gas emissions for the next century, approval of the Project would be a huge step backward in the County and state's efforts to combat the climate crisis.

### **B. The DEIR does not accurately describe the baseline conditions.**

The DEIR misstates the traffic baseline by including other Tejon projects such as Tejon Mountain Village and Grapevine Specific Plan. (*See* DEIR at 5.10-34.) The DEIR improperly suggests these are "approved" projects. While both projects do have certified EIRs, Grapevine is currently subject to litigation brought by CBD and CFS. And both projects have numerous other discretionary agency approvals that they must undergo before breaking ground; for example, both projects will likely require consultation and with U.S. Fish and Wildlife Service for impacts to endangered species and "take" permits. The DEIR's misinformation regarding the traffic baseline undermines its analysis.

The DEIR also uses the outdated 2012 SCAG RTP/SCS in its analysis of growth projections. The DEIR should instead reference the 2016-2040 RTP/SCS, which was adopted on April 7, 2016.

### **C. The DEIR understates the traffic impacts of the Project.**

The DEIR optimistically claims that "Because of the balanced land use plan, all jobs could be filled by workers in the community and all service needs could be met by on-site retail and other service land uses." (DEIR at 5.10-49.) While this sentence identifies a desirable goal, the DEIR does not cite any evidence showing how all jobs would or could actually be filled by onsite residents. At best, this statement constitutes unfounded speculation; at worst, it is a

misleading attempt to downplay the enormous traffic impacts of Project, given that DEIR itself estimates average trip lengths of 45.9 miles.

In addition, as explained in the Project Description section of this letter, the DEIR's various traffic analysis are dependent upon buildout of the Project with both the residential and commercial portions. Yet, the DEIR does not require buildout in any particular order, and even allows the project proponent to avoid building entire portions of the Project if the project proponent so desires based upon "market conditions." Accordingly, the purported "23,675 jobs" generated by the Project may never materialize, thereby requiring *all* the residents to still commute many dozens of miles to their jobs. This lack of stability in the Project renders all of the traffic analyses fundamentally unreliable.

The DEIR also contains unreasonable and unsubstantiated assumptions regarding the frequency of non-automobile trips by residents. For example, the DEIR assumes that people will make 3 mile bike trips within 15 to 20 minutes. The DEIR does not cite evidence that people will in fact make such trips on a regular basis. Nor does the DEIR appear to account for the fact that the Project is located in an arid and extremely hot area that contains hilly topography, which may make everyday cycling less desirable to the average resident. While CBD fully supports cycling as a form of transportation for commuting, currently only 0.6 percent of commuters in the U.S. bike to work.<sup>3</sup> The DEIR does not explain how the Project will be substantially different in the amount of cycling done by residents.

The DEIR contains other unfounded assumptions regarding the traffic impacts of the Project. For example, the DEIR states that the "Existing plus Project analysis" assumes that "***existing background traffic conditions do not change***, other than changes directly due to the Project, over the approximate 20-year time frame required to build the Project." (DEIR at 5.10-53, emphasis added.) The DEIR again repeats this unfounded assumption later, claiming that "the amount of traffic that would be generated under future conditions in developed areas outside the Project site would not change with or without the Project." (DEIR at 5.10-88.) These statements are inconsistent with the Final EIR for the Northwest State Route 138 Improvement Project – this EIR stated that Highway 138 is "anticipated to experience traffic volumes ***in excess of its existing capacity***." (138 Improvement Project EIR at 4, emphasis added.) Indeed, the stated purpose of the 138 Improvement Project is to accommodate "foreseeable increases in travel and goods movement" in the area of the Centennial. (*Ibid.*) The DEIR for the Project later changes course and states that traffic on SR-138 "is forecasted to exceed available capacity in several locations under cumulative conditions with and without the proposed Project." (DEIR at 5.10-88.) In short, the DEIR cannot both maintain that traffic will increase and will stay the same.

The DEIR also uses an outdated measure to analyze whether impacts are significant. In particular, the DEIR claims that if the 138 Improvement Project moves forward, then SR-138 "would operate within acceptable performance criteria . . ." (DEIR at 5.10-90.) The DEIR extensively uses "Level of Service" or "LOS" to analyze the Project's impacts. (*See, e.g.*, Table 5.10-25 & Table 5.10-28, Table 5.10-30.) This fixation on LOS is misplaced given that the State of California recently directed agencies to analyze projects using the Vehicle Miles Travelled

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<sup>3</sup> Alliance for Biking and Walking, "Bicycling and Walking in the United States 2016 Benchmarking Report," available at <http://www.bikewalkalliance.org/download-the-2016-benchmarking-report>.

(“VMT”) measure instead of LOS. In the Updated Guidance Document, the OPR stated, “vehicle miles traveled is the most appropriate measure to replace level of service.”<sup>4</sup>

In addition, while the DEIR approvingly notes Caltran’s plans to widen SR-138 are based upon the North County Combined Highway Corridors Study (DEIR at 5.10-35), this 2004 study should have no bearing upon whether the County now approves this growth-inducing and traffic-generating sprawl project. Indeed, the 2004 study did not take into account the impacts of further expanding freeways on air pollution and climate change. In fact, these detrimental impacts to expanding freeways are never mentioned in the report.<sup>5</sup>

#### **D. The DEIR’s Traffic Mitigation Measures Are Inadequate.**

The County is required to adopt all feasible mitigation measures to lessen the traffic impacts of the Project. Nonetheless, the DEIR does not adequately analyze whether certain mitigation measures are feasible and instead short-circuits the process by assuming that certain impacts are “significant and unavoidable.” More specifically, the DEIR states: “If improvements at Project access points on SR-138 are not constructed, impacts would be significant and unavoidable.” (DEIR at 5.10-130.) The problem with this statement is that the DEIR does not consider whether such access points *can* be constructed, or whether it is feasible to do so. CEQA requires that if such improvements at project access points are “feasible,” then the DEIR must include these measures as a condition of project approval. The DEIR cannot assume that impacts are “unavoidable” merely if such improvements are not constructed. The DEIR attempts to substantiate its claims by noting that the County lacks jurisdiction over state highway facilities. (DEIR at 5.10-130.) While this is generally true, the DEIR does not require the project proponent to fund such highway facilities. The County does have the power to require the project proponent to fund them as a condition of the Project. Again, the County is prohibited from approving the Project until it has required the project proponent to comply with all feasible mitigation measures within its power to lessen the Project’s environmental impacts.

Other traffic mitigation measures identified in the DEIR are illusory and unenforceable. For instance, MM 10-2 merely requires the project proponent to submit a traffic study to the County. (DEIR at 5.10-145.) This is not a mitigation measure. Similarly, MM 10-6 states that the project proponent shall comply with the terms of the Centennial Transportation Improvement Plan (“CTIP”). (DEIR at 5.10-145.) Yet, as noted above, the DEIR does not require the project proponent to even enter into a CTIP; it only requires the project proponent to *seek* to enter into a CTIP. MM 10-3 also just requires the project proponent to “seek” to enter into a CTIP. (*Ibid.*) As such, MM 10-6 is not binding upon the project proponent. Likewise, MM 10-7, 10-8, and 10-9 contain language allowing the project proponent to either comply with the CTIP or contribute its “fair share” towards infrastructure improvements. (DEIR at 5.10-146.) At most, these measures commit the project proponent to paying some unspecified amount of money to alleviate the Project’s impacts, with no assurances that such “fair share” payment will adequately mitigate such impacts.

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<sup>44</sup> [https://www.opr.ca.gov/docs/Revised\\_VMT\\_CEQA\\_Guidelines\\_Proposal\\_January\\_20\\_2016.pdf](https://www.opr.ca.gov/docs/Revised_VMT_CEQA_Guidelines_Proposal_January_20_2016.pdf)

<sup>5</sup> North County Combined Highway Corridors Study, SR-14, SR-138, and I-5, Final Report (June 2004), available at [http://media.metro.net/board/Items/2004/07\\_July/NORTH%20%20COUNTY.pdf](http://media.metro.net/board/Items/2004/07_July/NORTH%20%20COUNTY.pdf).

The DEIR elsewhere again states that the project proponent would either enter into an agreement with Caltrans to fund transportation facility mitigation measures or it would pay its “fair share” towards MM implementation. (DEIR at 5.10-1.) The DEIR does not explain what constitutes a “fair share” and does not commit the project proponent to paying for the MMs in the event that Caltrans lacks the funds to do so. MM 11-3 merely requires the project proponent to “seek” to enter into an agreement with the County and Caltrans called the CTIP to fund mitigation measures for the project. (DEIR at 5.10-52.)

The DEIR therefore impermissibly puts the burden of significant impact reduction on Caltrans and their improvement of State facilities.

Moreover, the DEIR does not analyze the environmental impacts of the traffic mitigation measures. The DEIR specifically calls for widening significant portions of SR-138 to a four-lane highway in order to mitigate impacts of the Project. (See DEIR at 5.10-84.) Yet, the DEIR does not consider the environmental impacts of these mitigation measures, which undoubtedly will result in habitat destruction, growth-inducing impacts, and impaired wildlife connectivity.

### **III. The DEIR Fails to Adequately Assess the Project’s Noise Impacts.**

#### **A. The DEIR fails to adequately assess noise impacts from traffic.**

Traffic created and facilitated by the Project will cause direct, indirect, and cumulative environmental impacts, including increased traffic-related noise. The DEIR recognizes that Project-related vehicular traffic will cause significant impacts to sensitive receptors. However, the mitigation that the DEIR proposes does not meet CEQA’s enforceability standards and must be revised. The mitigation measures regarding roadway noise impacts do not provide decision-makers or the public with any concrete information, as required by 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”).) Mitigation must be binding and enforceable to be valid. (Guidelines § 15126.4, subd. (a)(2)). The project proponent cannot defer formulating enforceable mitigation that would reduce impacts until after project approval. (CEQA Guidelines § 15126.4, subd. (a)(1)(B); *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal. App. 4th 214, 240.) “[A]n agency goes too far when it simply requires a project applicant to obtain a [] report and then comply with any recommendations that may be made in the report.” (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 793.)

As mentioned, traffic will be one the main Project-generated noise. Despite this, the DEIR fails to provide a satisfactory description of mitigation measures for reducing traffic created noise to less than significant. The DEIR states that methods for reducing traffic related noise are out of the control of the project proponent and require alterations to private property. (DEIR 5.12-1.) MM 12.1 proposes combatting significant noise impacts from traffic by requiring the project proponent to submit a noise assessment (DEIR 5.12-48), which may or may not be used to formulate mitigation and which may or may not be effective. Furthermore, the DEIR does not provide standards outlining how the decision-maker would be able to determine whether any future mitigation measures would be deemed effective, and any mitigation would be

proposed only after project approval. CEQA requires more. The DEIR then suggests the project proponent/other parties may be required implement noise reduction measures but provides no guidelines to show whether any future mitigation would be effective. (DEIR 5.12-1.) The burden of mitigation measures rests on the project proponent, not on private parties to install their own noise cancelling features. Additionally the mitigation measures provided fail to include any tangible actions to be taken outside of conducting an acoustical analysis and including appropriate noise-reduction features. (DEIR 5.12-1.) The mitigation measures provided fail to meet basic CEQA requirements.

The DEIR provides conflicting statements about mobile source noise levels: the DEIR states that project-generated traffic would potentially create noise levels in excess of the State and County Standards but then later states that mobile equipment noise levels would not exceed County standards and would be less than significant. (DEIR 1-20.) This ignores the fact that mobile equipment cannot be distinguished from “traffic” noise as both come from mobile sources.

The DEIR also states without support that, although Project-generated traffic noise would be significant, noise increases of 3.3 dBA and 3 dBA are barely perceptible to most people. (DEIR 5.12-1.) This is both unsupported by substantial evidence and discounts the noise perceptibility of wildlife.

#### **B. The DEIR fails to adequately assess General Plan consistency and noise.**

The DEIR states that maximum noise levels are prescribed by the County Code (“Noise Ordinance”). (DEIR 5.12-1). The DEIR attempts to underscore the noise related impacts of the project by stating that “the land uses proposed as part of the Project are routinely constructed in Southern California and are able to meet the applicable noise standards through use of common, feasible methods and materials[.]” (DEIR 5.12-1.) However, other land uses and their impacts are irrelevant to the current Project. Additionally, the DEIR states that the construction period for the Project is approximately 20 years but goes on to state, without any additional information, that despite this two-decade construction project, noise level due to construction would be relatively short-term and temporary. (DEIR 5.12-2.)

MM 12-3 vaguely states that noise generated from stationary construction equipment would be mitigated by requiring stationary equipment to operate at greater than 450 feet (DEIR 5.12-2) but fails to give adequate information as to what this means: 450 feet from other equipment? 450 feet from sensitive receptors? It is unclear. The DEIR also states that equipment staging and maintenance areas should be located 500 feet from sensitive receptors, but only if feasible (DEIR 5.12-49), which creates no binding requirement on the project proponent. MM 12-3 would limit the hourly daytime noise level to 60 dBA or less, which the DEIR states would be less than significant. (DEIR 5.12-2.) However, Table 5.12-2 indicates that the County Code limits noise levels for noise-sensitive areas and residential properties at all times of the day to 50 dBA or less. (DEIR 5.12-6.) It is also unclear how Table 5.12-2 can be reconciled with Table 5.12-3 (DEIR 5.12-8) as deserving separate analyses because many of the construction noises will come from stationary sources.

#### **C. The DEIR fails to adequately assess cumulative impacts and noise.**

CEQA defines “cumulative impacts” as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (Guidelines § 15355.) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project “when added to other closely related past, present, and reasonably foreseeable probable future projects.” (CEQA Guidelines § 15355(b).) And while an agency is not expected to foresee the unforeseeable, it is expected to use its “best efforts to find out and disclose all that it reasonably can.” (CEQA Guidelines § 15144; see also *City of Richmond*, supra, 184 Cal.App.4th at 96; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 428 [hereinafter *Vineyard*].)

The purpose of analyzing cumulative environmental impacts is to assess adverse environmental change “as a whole greater than the sum of its parts.” (*Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 625.) Absent meaningful cumulative analysis there would be no control of development and “piecemeal development would inevitably cause havoc in virtually every aspect of the [] environment.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721.)

The DEIR impermissibly relies on the aforementioned mitigation measures to conclude that there would be no cumulative noise impacts related to construction, stationary sources, and mobile source noise from traffic. (DEIR at 7-21.) The DEIR states that the potential for overlapping construction activity from this Project and SR-138 activities is low because of “the mobile nature of construction activities (moving from area to area on a site or alignment).” (*Id.*) This statement runs contrary to common sense; construction typically occurs within a confined area for the duration of that particular project.

#### **IV. The DEIR Fails to Adequately Disclose, Analyze, or Mitigate the Project’s Impacts to Population, Housing, and Employment.**

The DEIR states that the Project would provide an estimated jobs/housing ratio of 1.22 through development of commercial and business park uses on site. (DEIR at 1-17.) The DEIR also claims that development of job opportunities at the site reduces vehicle trips and their associated emissions. (DEIR at 5.9-23.) However, there is no guarantee that those living in the area will work on site or that those working on site will live in the area. Moreover, there is no guarantee that the jobs being offered will provide adequate income to support the housing that the Project will be building. The DEIR relies on the assumption that local employment opportunities will meet most of Project residents’ employment needs. (DEIR at 5.9-3.) However, this conclusion overlooks the current state of Kern County’s job market. As the DEIR recognizes, Kern County is experiencing remarkably high rates of unemployment, and there is no evidence that this is a temporary phenomenon. (DEIR 5.9-22.) According to the DEIR, Kern County has an unemployment rate of 9.2 percent as of 2016—almost two times higher than the California average. (*Id.*) Employers in Kern County have been shedding rather than creating jobs, and these unemployed Kern County residents will likely welcome any new jobs the Project creates. It is therefore likely that workers residing offsite will flood the Project’s job market.

The DEIR states that the Project would substantially increase population and housing relative to the existing Project site conditions, which by the DEIR’s own admission, is

considered significant. (DEIR at 5.9-31). However, the DEIR attempts to negate this significance by stating that the Project would be growth accommodating and not growth inducing, citing consistency with regional growth plans. (DEIR at 5.9-31.) The DEIR cannot override their own finding of a significant impact by citing consistency with growth plans in the region, a separate and unrelated threshold standard. The increase in population and housing on the Project site is significant and unavoidable (DEIR at 5.9-33) and CEQA requires a discussion of mitigation measures relative to this significant impact.

There is also a much higher chance than the DEIR suggests that Project residents will work in the higher-paying, larger Los Angeles job market. It is quite possible that the main demographic that could afford Project housing will be current Los Angeles residents looking for housing outside of Los Angeles. The DEIR states that SCAG projects that Los Angeles County will experience substantial growth between 2012 and 2040 (DEIR 5.9-2); SCAG actually indicates that the average annual growth rate of population has been decreasing, and a rate faster than both California and the United States (SCAG Table 2.) “The SCAG region’s population is projected to grow slower than that of the previous years.” (SCAG at 12.) Moreover, SCAG indicates that the age of residents in regional households are increasing while the working age population of 16-64 years old have shown decline which “may result in a potential shortage of works and slower job growth unless the older population extends their retirement age.” (SCAG Table 4, SCAG at 14.) This means few residents are of peak employment age living in the city, meaning the regional ability to fill employment (likely retail) of the Project are limited.

The DEIR fails to address cumulative impacts regarding population, housing, and employment and instead counteracts earlier disclosures regarding significant, stating that the impacts would be less than significant and do not require mitigation because of their relationship to County and regional plans. (DEIR 7-19.) Yet the DEIR then immediately follows this by stating that the existence of the Project creates a significant adverse indirect growth-inducing impact. (*Id.*)

## **V. The DEIR Fails to Adequately Analyze the Project’s Growth-Inducing Impacts.**

EIRs are required to provide a detailed discussion regarding the growth-inducing impacts of a project. (Guidelines §§ 21100(b)(5); 21156.) In addition, *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.*) Applied here, these factors militate in favor of a highly detailed analysis – (a) the Project is extremely large and will result in the installation of a city in a remote and undeveloped area; (b) the Project will result in direct impacts on thousands of acres of undeveloped land as well as indirect impacts such as further infrastructure growth; (c) forecasting the effects on the physical environment is generally feasible.

Despite *Napa Citizens*, the DEIR’s growth-inducing impacts section is only nine pages in length, and the “analysis” portion is less than four pages. More importantly, the analysis is riddled with inconsistencies and faulty assumptions, as discussed below:

The DEIR for the current Project references an EIR that was conducted for AVAP in 2015 as though the AVAP EIR is relevant and supersedes an analysis for the current Project. (DEIR at 6-2.) Whatever previous environmental review has occurred is irrelevant for the current Project. Additionally, alleged consistency with planned growth in the region (*Id.*) does not negate a need for consideration of growth-inducing impacts for the Project. Yet, despite these statements indicating consistency with anticipated growth, the DEIR by its own admission states that the Project would substantially increase population and housing relative to existing site conditions and that it is reasonably foreseeable that future *unplanned* development may occur. (*Id.*)

The DEIR suggests that the Ranchwide Agreement entered into in 2008 will limit growth. (DEIR at 6-4.) As a preliminary matter, given that the Ranchwide Agreement is extensively referenced in the DEIR, a copy of the Agreement must be included as an exhibit or appendix to the DEIR. The existence of this agreement does not negate a need to consider growth-inducing impacts for the current Project, especially considering at least one the projects covered under the Agreement is currently under litigation. CEQA requires that the DEIR analyze impacts that are indirect and impacts to on adjacent properties – not just the developer’s own property.

In addition, the Ranchwide Agreement is not a binding and enforceable mitigation measure under CEQA, such that the DEIR cannot rely upon it to mitigate growth-inducing impacts, impacts to biological resources, or any other impacts. Indeed, per section 3.9 of the Ranchwide Agreement, the only party that can enforce the Agreement is the Tejon Ranch Conservancy, which is partially controlled by the project proponent.

The DEIR claims that the Project’s infrastructure facilities are not sized to accommodate growth beyond that which is proposed for the Centennial Project. (DEIR at 6-7.) This statement oversimplifies growth-inducing impacts; a project would not build more infrastructure than the project requires, but the mere existence of those facilities makes increasing and connecting to those facilities much easier than if they did not exist in the first place. The DEIR does admit that future nearby landowners could propose to connect to or build upon the Project’s infrastructure to serve future development in the surrounding area. (DEIR at 5.8-22.)

The DEIR contains inconsistencies relating to significant impacts between and among sections of DEIR. Additionally, the DEIR does not adequately analyze impacts and develop mitigation measures for those impacts. For a finding of significant impact, CEQA requires that mitigation measures be identified to reduce the impact to less than significant. (Guidelines Appendix G p.327.) For example, in the Population section, the DEIR states that there will be significant and unavoidable increases in population and housing (DEIR at 5.9-3) but fails to address any mitigation measures. “The project would not result in significant growth-inducing impacts” (DEIR 6-9) immediately followed by “existence of project...could result in a significant impact on the environment...which is considered and an adverse indirect growth-inducing impact.” (*Id.*) Not only is this a clear inconsistency, which frustrates CEQA’s informational and public-participation goals, but this finding of significance nor mitigation measures are discussed in the Population section to which the DEIR is referring. [*See Laurel Heights Improvement Assn v. Regents of or the University of California* (1988) 47 Cal.3d 376, 390, 392 (“CEQA’s fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials.”).] The DEIR states that there will be no

changes by the Project that would affect population generation or otherwise lead to additional indirect growth (DEIR at 6-1) then later admits that there will be growth inducing impacts to the eastern fringes of project site. (DEIR at 6-2.) DEIR also states that the Project would not lead to substantial growth on the Project site. (DEIR at 5.9-27.)

Inconsistencies also exist between the growth-inducing impacts and other sections of the DIER. For example, as previously pointed out, the DIER states that there will be significant and unavoidable growth inducing impacts regarding population but none regarding traffic. This is a clear inconsistency and fails to consider that increases in population will necessarily implicate growth-inducing impacts regarding traffic. (DEIR at 9.4.)

The DEIR repeatedly attempts to understate the projects impacts by relying on the non-CEQA term “growth-accommodating.” (DEIR at 5.9-33.) CEQA requires an analysis of growth-inducing impacts; the term “growth accommodating” has no basis in CEQA and the assertion that the Project is growth accommodating is not supported by substantial evidence.

The DEIR does not acknowledge its role in causing growth-inducing impacts, particularly regarding the Northwest State Route 138 Improvement Project (the “138 Improvement Project”), for which the final EIR was certified in June 2017.<sup>6</sup> The 138 Improvement Project will turn the existing 2-lane highway into a 6-lane freeway, thereby impairing wildlife connectivity and paving over habitat. The 138 Improvement Project EIR routinely references Centennial as one of the key projects expected to cause growth in the area, thereby necessitating the 138 Improvement Project. (*See* 138 Improvement Project EIR at 31, 47, 83, 336.) The 138 Improvement Project EIR further states that the purpose of the project is to “[a]ccommodate foreseeable increases in travel and goods movement within northern Los Angeles County.” (*Id.* at 3.) In short, the specter of Centennial appears to be of the key reasons that the 138 Improvement Project was approved. The DEIR admits as much, stating that “the Project anticipates and would complement the planned SR-138 improvements.” (DEIR 4-9.) Accordingly, the DEIR must analyze, disclose, and mitigate growth-inducing impacts arising from the 138 Improvement Project.

## **VI. The DEIR Fails to Adequately Analyze the Project’ Impacts on Visual Resources.**

The Aesthetics section of the DEIR contains numerous deficiencies and inaccuracies. The DEIR concludes that there will be a less than significant impact to the Pacific Crest Trail (“PCT”) because MM 13-4 will construct a wall that would screen structures and residences (DEIR at 5.13-21.) Basic common sense indicates that it would be almost worse to put up a large wall in a scenic trail – it is difficult to conceive how this measure would mitigate the impact to hikers on the trail when compared the current environmental setting. Furthermore, the DEIR only claims that the U.S. Forest Service, Pacific Crest Trail Association, Tejon Conservancy, and Tejon Ranch Company are in ongoing discussions regarding an alternative realignment for the PCT, without giving any more on whether this is binding or how these discussions contribute to mitigating significant impacts. (DEIR at 5.13-11.)

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<sup>6</sup> Northwest State Route 138 Corridor Improvement Project, Final Environmental Impact Report / Environmental Impact Statement and Section 4(f) Evaluation.

The DEIR provides an unclear analysis regarding scenic highways. The DEIR seem to be indicating that, although many of the roads are considered scenic drives on the AVAP, inclusion of the site in the West EOA counteracts these considerations. (DEIR at 5.13-2.) This is incorrect – the DEIR must analyze all direct and indirect impacts of the Project and cannot generally cite to other plans in justifying the Project. Regardless, the DEIR is wrong in claiming that the Project would not substantially damage scenic resources within a state scenic highway. (DEIR at 5.13-24.) The DEIR States:

The greatest change in scenic views would occur on SR-138 as development occurs on both sides of this road, as it passes through the site. Existing views of undeveloped land and agricultural land would be replaced with business parks and commercial structures, as well as residential development that would be constructed onsite. While distant views of the mountains will remain, the view of passing motorists will consist of urban structures that would be different than the existing rural environment. (*Id.*)

The DEIR states that there will be significant and unavoidable impacts regarding new sources of light and glare (5.13-2), counteracted by MM 13.6, referred to as a Dark Sky Plan (DEIR at 5.13-2.) The DEIR does not set forth adequate measures to mitigate the substantial light pollution caused by the Project. While the DEIR proposes a number of mitigation measures such as directing light downward and using time control devices (DEIR at 5.13-31), there is no way to mitigation the light impacts of installing thousands of people in an undeveloped wildlife area. The DEIR fails to cite any studies or biological opinions indicating that the mitigation measures proposed are sufficient to mitigate impacts on wildlife.

The DEIR states that construction will last 20 years and result in a significant and unavoidable impact to visual character, yet provides no mitigation measures to combat this. (DEIR at 5.13-14.)

The DEIR also states that converting the site from a rural to an urban condition, which would partially to wholly obstruct existing views, would result in a significant and unavoidable impact to the visual character of the Project site and surrounding area. (DEIR at 5.13-19.) The only mitigation measure discussed, though, are inadequate. MM 7-13 (DEIR at 1-58), discusses a landscaping plan including use of non-invasive species; MM 13-1 (DEIR at 5.13-19) discusses preservation of existing rock outcroppings, but only to the extent feasible,<sup>7</sup> and implementing designs that emulate natural contours of existing topography (although none of the visuals provided, especially Exhibit 5.1-4 with its use of extensive glass windows, seem to emulate this); MM 13-2 (DEIR at 5.13-19) discusses clustering development to minimize impacts to dense stands of oak trees, steep slopes, and existing natural drainages; and MM 13-3 (DEIR at 5.13-9) indicates that off-site electrical lines *may* be placed underground. None of these mitigation measures are sufficient and do not impose real requirements on the Project.

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<sup>7</sup> What is “feasible” is not defined, therefore, this mitigation measure is also illusory and lacks enforceable performance standards because the project proponent may decide on its own that compliance is not “feasible.”

## **VII. The DEIR Fails to Adequately Analyze the Project's Impacts to Fire Services.**

The DEIR concludes that MM's 16-1 through 16-3 would reduce the impact to fire services to less than significant. However, these mitigation measures do not take into consideration the environmental analysis or impacts of building new facilities; instead, the DEIR defers analysis stating that actual square footage of each fire station would be determined at the time of Project development. (DEIR 5.16-12.) The DEIR also fails to conduct an analysis of environmental impacts from the construction of water systems/access to existing bodies of water or the construction of internal roadways to accommodate emergency ingress and egress. (DEIR 5.16-13, 5.16-14.)

The DEIR states that the Project would introduce urban development into an undeveloped area that is subject to wildfire hazards. (DEIR at 5.16-14.) The DEIR also states that portions of the Project are within a very high fire hazard safety zone but never discloses where this area is in relation to the Project. (*Id.*) This fails to inform the public as to the fire dangers associated with the Project. Additionally, building houses in "high" and "very high" Fire Zones will require compliance a "Fuel Modification Plan." (DEIR at 5.16-14.) Nonetheless, the DEIR does not provide any information regarding the specifics of this fuel modification plan, nor does the DEIR analyze the environmental impacts on biological resources of implementing such a plan.

The DEIR should include areas impacted by fuel modification plans as part of the development "footprint" of the Project, and be analyzed as such. Moreover, no fire clearance/thinning activities should occur within the boundaries of any federally designated critical habitat, open-space, natural area or wildlife movement corridor. Finally, fuel modification plans must ensure that no invasive species are planted as part of the plans.

## **VIII. 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-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 alternatives.

### **A. The DEIR does not adequately analyze and compare the proposed alternatives.**

The first project objective – which is to "Implement the Antelope Valley Area Plan..." – impermissibly restricts the alternatives analysis because it too narrowly frames the goal of the

project as somehow flowing from a need to respond to the existence of this area plan. (DEIR 8-69.)

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.”)). The DEIR states that this alternative is not consistent with the AVAP without giving any more information. (DEIR at 8-30.) It is likely that the DEIR intends to argue that the existence of the AVAP somehow *mandates* development; yet, this is not correct. Additionally, if the reasons for rejection the No Project Alternative is for feasibility reasons, case law indicates the standard for feasibility is high and the project proponent has not demonstrated lack of feasibility for other locations.

The DEIR provides insufficient and confusing reasons given for eliminating the Public Input Alternative from further consideration. The impetus for this alternative seems to be to design a wildlife reserve and proposes to set aside the majority of the Tejon Ranch property as open space. (DEIR at 8-13.) Yet, the DEIR rejects this alternative, claiming that this alternative does not provide enough acreage to include on-site natural open space areas and leaves a substantial amount land undeveloped. (*Id.*)

In analyzing Alternative B – Previously Proposed Project, The DEIR impermissibly tries to break up the “footprint” by land use type (i.e. residential, commercial, etc.) in order to argue that the proposed project has decreased its footprint/site acreage from the previously proposed project site. Although the proposed Project may have a smaller designation for *commercial* uses, the overall footprint of the project is larger. The DEIR itself admits this when it states that the proposed Project expands site boundary by approximately 647 acres (DEIR at 8-9.) Table 8-1 additionally indicates that the proposed project site will consist of 12,323 acres while the previously proposed project site consisted of 11,676 acres. The current project increases the project site by 647 acres. (DEIR at 8-15.) The DEIR also confusingly states that Alternative B is a larger alternative than the proposed Project (DEIR at 8-16.)

In analyzing Alternative C – Additional Drainage Avoidance, the DEIR fails to explain why this alternative is not considered the preferred alternative given that it has fewer environmental impacts than the proposed Project, meets the project goals, and creates no more significant and unavoidable impacts than the proposed Project. (DEIR at 8-44). And in analyzing Alternative E – Density Clustering/East of Aqueduct, the DEIR similarly fails to explain why this alternative is not considered the preferred alternative given that it has fewer environmental impacts than the proposed Project, meets the project goals, and creates no more significant and unavoidable impacts than the proposed Project. (DEIR at 8-59 – 8-60.) The DEIR lists Alternative E as the environmentally superior option but provides no explanation for why the project proponent chose not to make this their preferred 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.)

In analyzing Alternative D – Infrastructure Relocation, it is unclear why Alternative D was even considered or what value it adds at all to the project/public reviewing the DEIR. (DEIR at 8-51.)

**B. The DEIR should have considered accommodating development in disturbed areas.**

In analyzing all of the alternatives, 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 (other than the first objective, which as previously stated, is impermissibly narrow).

**C. The DEIR should have considered a wider range of alternatives, including those with a significantly smaller development footprint.**

The DEIR should have analyzed a wider range of alternatives. 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.

The DEIR improperly refused to consider any alternatives for projects with a significantly smaller development footprint. The DEIR states:

Because the proposed Project was substantially reduced compared to the previously proposed project (Alternative B) in both development footprint and land use intensity to avoid and/or reduce environmental impacts, further consideration of a reduced development scenario (e.g., reduced grading footprint; reduced dwelling units; reduced nonresidential square footage) was not considered reasonable. (DEIR 8-10.)

The implication here is that is if the project footprint is somewhat reduced from an (1) extremely large project to (2) a very large project, then any project smaller than a very large project is “unreasonable,” such that the County is excused from considering any smaller project alternatives. Neither the CEQA Guidelines nor case law support this proposition, nor does the EIR cite any authority supporting this striking assertion.

The DEIR again trots out the unfounded claim that the Project is “required” to be very large in order to support “the goals and policies of the AVAP.” (DEIR 8-10.) Contrary to the DEIR’s misleading assertions, the AVAP does not mandate that a very large version of Centennial go forward; it envisions that some level of development *may* occur in the area, provided that such development is approved by applicable authorities and complies with applicable laws, including CEQA and the state and federal Endangered Species Acts. Indeed, the sentences following this claim undermine it – the DEIR states that the Project would require significant amendments to applicable land use plans (e.g., amendment to the AVAP Highway Plan and adoption of a Specific Plan). (*Id.*) If the Project is “required” by the AVAP, then why does the project necessitate amendments to land use plans?

The DEIR also claims that “any reduction” in the proposed project size would not be “supportive of the project objectives.” (*Id.*) The DEIR does not provide any evidence indicating that a smaller version of the project is not feasible. Such conclusory claims are insufficient under CEQA. (*See Concerned Citizens*, 42 Cal.3d at 935 (“To facilitate CEQA’s informational role, the EIR must contain facts and analysis, not just the agency’s bare conclusions or opinions.”)). Such conclusory claims are especially inappropriate here when the County is considering whether to approve the installment of a city in a remote and undeveloped area.

By refusing to include any alternatives that provide for a significantly reduced project size, the DEIR sets up a false “all or nothing” decision for the County and prohibits the County from considering or approving a smaller version of the Project that does not have such profound environmental impacts on California’s grasslands, air quality, and carbon footprint. The DEIR’s failure to include any alternatives with a significantly reduced footprint also violates CEQA’s mandate that a reasonable *range* of alternatives be considered.

The project could be significantly down-sized and still be considered “feasible.” 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 proponent or the community at large.

#### **IX. The DEIR Fails To Adequately Analyze, Disclose, And Mitigate The Project’s Greenhouse Gas Emissions.**

Climate change and the finite nature of fossil fuel energy sources require the increased development of renewable sources of energy, such as solar and wind. (Cameron 2012) However, these developments, especially when done on a large scale, can have negative impacts on local species and their habitats. (Subramanian 2012; Lovich 2011) Renewable energy development projects need to ensure that the solution to environmental harm does not become part of the problem. (Cameron 2012; Walston 2016) Distributed solar, as opposed to utility scale, is one way to avoid energy developments that convert prime habitat into unusable areas for species.

(McDonald 2009) When solar becomes part of already existing infrastructure and development, its footprint and impact is reduced. (Elkind 2009)

#### **A. Electricity generation is a key contributor to greenhouse gas pollution.**

The generation and consumption of electricity pose many negative impacts to human and environmental health. Therefore, it is necessary to both reduce consumption through conservation and efficiency, and also transition to less damaging forms of generation. Electricity generation accounts for 20% of California's greenhouse gas emissions. Without energy efficiency measures, California's combined electricity demand is projected to grow by 1.41 percent from 2010-2020, while efficiency measures could reduce that to a projected .91 percent. (CEC 2011) Electricity generated from fossil fuels contributed to air pollution from carbon dioxide and fine particulate matter, and water pollution from direct spills or impacts to groundwater through drilling, mining and injection activities. (Heberger 2015) The generation of electricity is highly water intensive, which is problematic in persistent drought conditions. (Larson 2007) In order to reduce the negative impacts to water supplies, water and energy utilities should work together to design more efficient systems for both resources. (Tarroja 2016) Wildlife and their habitats are impacted by electricity generation and transmission. (Cameron 2012) The land-use footprint of energy production is significant and will continue to grow with population unless conservation and distributed generation siting measures are put in place. (Trainor 2016)

The concept of energy efficiency as a resource has the potential to decrease energy production requirements and associated costs and negative impacts. Energy efficiency reduces the need for resource consumption and is thereby in itself a consumable resource with positive impacts rather than negative. (Hopper 2009) Shifting from non-renewable fossil fuels to renewable energy sources will reduce greenhouse gas emissions, air and water pollution and impacts to wildlife and habitat provided these renewable sources are sited appropriately in the vicinity of the demand they serve. (McDonald 2009; Hernandez 2015) As mentioned above, distributed solar, often referred to as rooftop or on-site solar, is a good example of appropriately sited renewable energy that maximizes system and cost efficiency and protects open space, wildlife and habitat. (Elkind 2009; Powers 2009) Legislation that supports the appropriate siting of renewable energy, such as the California Green Building Standards Code, which requires solar-ready roofs and solar-ready pre-wiring, is needed to ensure that renewable energy is able to realize its full potential. (LA Dept. Public Planning 2013) Building codes that support and encourage passive solar design contribute to even greater energy efficiency. (LA DPP 2013) Another building design concept that offers a variety of benefits from greater energy security to cost efficiency and environmental protection is the zero energy building. Such buildings produce enough renewable energy to meet annual needs, and when combined into communities, the zero energy design means that these areas are no longer reliant upon nonrenewable energy grids that harm human and environmental health, contribute to climate change and are vulnerable to outages and natural disasters. (Peterson 2015) The California Public Utilities Commission has committed to the goal of zero net energy for all new residential construction by 2020 and for all new commercial construction by 2030. (CPUC 2008)

**B. The DEIR does not adequately disclose or analyze the Project's GHG impacts.**

The DEIR's GHG analysis underestimates the amount of GHGs generated by the Project by relying upon the unrealistic assumptions that most residents will find onsite employment. (*See* DEIR at 5-21-64.) The DEIR's GHG emissions analysis also fails to consider the GHG emissions if the Project is not built in the order proposed, which is likely given the flexibility in the DEIR for the developers to modify the Project based upon market conditions and other factors. (*See* DEIR at 4-91.)

**C. The DEIR should take a more aggressive approach to reducing the Project's energy demands and increasing use of renewable energy onsite.**

The DEIR should take a far more aggressive approach to reducing GHGs arising from the Project. Mitigation measures to reduce vehicle miles traveled, energy use, waste, water consumption as well as use of solar power could lower the Project's impact on climate change (as well as air pollution and water use). CAPCOA has 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 mitigation measures to be incorporated into the Project.

In general, the EIR should consider mitigation measures that will ensure the Project will use energy efficiently and conservatively. In doing so, it should analyze incorporating "green building" in the development. Green buildings are those buildings that lower energy consumption, use renewable energy, conserve water, harness natural light and ventilation, use environmentally friendly materials and minimize waste. (Commission for Environmental Cooperation 2008.)

Specific mitigation measures for the GHG emissions generated by the Project's energy consumption include, but are not limited to:

- Requiring that all developers 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 mitigation 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.

**D. The DEIR 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.<sup>8</sup> Here, the DEIR fails to provide substantial evidence that such additional reductions needed to achieve zero net energy are infeasible – for instance, the DEIR 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.

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<sup>8</sup> 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-aca-excerpts.pdf](http://planning.lacounty.gov/assets/upl/case/tr_53108_appendix-2-0-cdfw-final-aca-excerpts.pdf).

(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 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.<sup>9</sup> 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.*)

In short, if the County does decide to approve an iteration of this Project, we urge the County to require that it be zero net energy and include sufficient safeguards to ensure that any offsets are in fact “additional,” as defined by California law.

#### **E. The DEIR fails to adopt all feasible mitigation measures to reduce the Project’s GHG emissions.**

Mitigation of a project’s environmental impacts is one of the “most important” functions of CEQA. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) 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.)

In the GHG context, the CEQA Guidelines specifically requires lead agencies to “consider feasible means, supported by substantial evidence and subject to monitoring or reporting...” (14 Cal. Code Regs. § 15126.4(c).) These measures can include (1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency’s decision; (2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F; or (3) Off-site measures, including offsets that are not otherwise required, to mitigate a project’s emissions.

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<sup>9</sup> 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).

As a preliminary matter, many of the proposed mitigation measures are styled as “Project Design Features” or “PDFs.” (See DEIR at 5.21-41.) Mitigation measures must be binding and enforceable. (Pub. Res. Code § 21081.6(b); Guidelines § 15126.4(a)(2)). In addition, CEQA prohibits an agency from incorporating proposed mitigation measures into the description of the project in order to conclude that the project’s impacts will be less than significant. (See *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655-56.) The PDFs should be incorporated into the DEIR as mitigation measures so that they are binding, enforceable, and subject to monitoring under CEQA.

While we are heartened the Project includes some mitigation measures to reduce the Project’s GHG impacts, there are significant areas in which the measures could be much stronger. Below are a few of the instances in which the mitigation measures/PDFs should be strengthened:

- The Project should generate more than the proposed 50 percent of renewable energy onsite. (See DEIR at 5.21-88; MM 21-2.) Given the extremely sunny climate of the Project site, this percentage could be higher, especially if the Project is to achieve zero net energy. In addition, the DEIR should specify that most or all of this energy will come from distributed rooftop solar. As currently written, the DEIR does not appear to consider impacts on raptors and wildlife – including the critically endangered California condor – of employing wind energy onsite.
- EV chargers should be more widely available for residents of multifamily units as well as people travelling to the Project area for work, shopping, etc. EV chargers in commercial parking lots should have “Level 3” DC fast charging instead of slower Level 2 charging. As currently written, PDF 21-11 and PDF 21-12 could provide for some technology other than EV-charging for multifamily and business uses. (See DEIR at 5.21-43.) Alternatives to EV-charging should be in addition to – and not in lieu of – EV charging stations. In addition, the Project should require more charging stations per 50,000 square feet of commercial area as well as more charging stations for multifamily units.

The DEIR does not explain why stronger mitigation measures – including zero net energy standards – are infeasible. Instead, the DEIR generally states that “the Project’s climate change impacts would remain significant and unavoidable.” (DEIR at 5.21-94.) This is not sufficient under CEQA. The DEIR must provide evidence supporting this claim. (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.”).)

**F. The DEIR fails to adequately analyze the Energy Conservation Mitigation Measures set forth in Appendix F of the CEQA Guidelines.**

The DEIR is required to analyze whether the energy conservation mitigation measures in Appendix F of the CEQA Guidelines could be adopted as part of the Project. (See *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 209 (an EIR is defective when it fails to include a detailed statement setting forth the mitigation measures proposed to reduce wasteful, inefficient, and unnecessary consumption of energy in accordance

with Appendix F of the CEQA Guidelines) [hereinafter “CCEC”].) Nonetheless, the DEIR does not appear to contain any analysis of Appendix F.

**X. The DEIR’s Water Quality Analysis Is Inadequate.**

**A. The DEIR’s analysis of baseline water quality conditions is inadequate.**

The DEIR contains inconsistent information regarding the baseline hydrology conditions for the Project. In the Hydrology section, the DEIR states that 55 percent of the Project site is in the Gorman Drainage Area. (DEIR at 5.2-18.) Yet in the Water Quality section, the DEIR states that only 4 percent of the site drains into Gorman Creek. (DEIR at 5.4-4.) The DEIR needs to explain how these statements are consistent or reassess the Project area hydrology.

The Project does not adequately analyze the impacts on water quality and biological resources of residential use of pesticides and chemicals associated with the Project. In particular, the DEIR fails to include an analysis – including appropriate surveys – of the aquatic and riparian wildlife present in Gorman Creek, Oso Creek, and Quail Lake. Moreover, because Gorman Creek is within the Santa Clara River watershed (DEIR at 5.2-15), the DEIR should analyze the baseline and potential impacts to aquatic and riparian wildlife in the Santa Clara River.

**B. The DEIR does not adequately disclose the water quality impacts of the Project.**

The DEIR claims that that it will not have any significant impacts to water quality. This likely inaccurate because the Project will install a city adjacent to a lake and multiple creeks, which are home to special status wildlife. The Project will result in the discharge of metals, nutrients, pesticides, organic compounds, sediments, trash and debris, oxygen demanding substances, and oil and grease. These substances will runoff from the site and drain into the adjacent lake and creeks.

The Project similarly fails to analyze the impacts on water quality and biological resources of commercial use of chemicals associated with the Project. The DEIR does not list which chemicals will be permitted for use within the Project area, which suggests that any otherwise legal chemicals – including those used for industrial activities – will be permitted onsite. Many of these chemicals can be extremely harmful to wildlife. The DEIR contains no analysis of using such industrial chemicals in a largely undeveloped area surrounded by creeks and wildlife, including the Angeles National Forest. In general, the DEIR claims that adherence to existing regulations will ensure that impacts are not significant. Yet, this is insufficient under CEQA. (*See Californians for Alternative to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17.) This lack of detail and appropriate mitigation makes it impossible for the public to ascertain the true environmental impacts of the Project

**C. The DEIR’s water quality mitigation measures are vague and inadequate.**

While the DEIR provides a list of Best Management Practices (“BMPs”) that may reduce impacts, 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 project proponent is required to comply.

The DEIR fails to adequately analyze the impacts to water quality and wildlife – including from pesticides – of adding tens of thousands of people to an undeveloped area.

Moreover, the DEIR claims that it will implement “integrated pest management” or “IPM” and generally references “guidelines established by the University of California Division of Agriculture and Natural Resources Statewide Integrated Pest Management Program. (DEIR at 5.4-30.) The DEIR does not appear to explain or describe those Guidelines, nor does it contain these Guidelines as enforceable mitigation measures or conditions of project approval.

Because the project proponent is under no legal duty to adhere to each of the Guidelines, the County cannot and should not rely on this measure to reduce harm to individuals, water quality, or wildlife 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, including amphibians such as the California treefrog, California toad, and black-bellied salamander. 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 Project will include 28 on-site detention and retention basins. (DEIR at 5.4-45.) While erosion control measures are important, the DEIR analyze whether these basins may attract or harbor invasive bullfrogs, which are known to harm native wildlife populations.

## **XI. 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 is a key component to species survival. (Dobson 1997.) Habitat destruction 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 entangled, 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 Project Site is unsuitable for development and will the Project will cause significant impacts.**

The proposed project site is primarily undisturbed habitat for numerous sensitive species and provides crucial linkages for imperiled terrestrial animals and avian species. For this reason alone, the proposed project area is unsuitable for development and particularly for the intensive type of suburban sprawl proposed in the DEIR where a new city of approximately 20,000 houses along with significant commercial and industrial development and all the requisite infrastructure will be constructed. The Centennial proposal reflects 20<sup>th</sup> century development concepts that have created unsustainable communities that impact and fragment crucial open space, wildlife connectivity and imperiled species habitat. We urge the County to withdraw this proposal and focus on crafting sustainable development within the County in order to meet human development goals while sustaining the ability of natural systems to continue to provide the natural resources and ecosystem services upon which our local economy and society depend.

The DEIR's conclusion that "Project impacts are considered less than significant after mitigation." (DEIR at 5.7-195) are not supported by the DEIR. We discuss the reasons below:

In general, the DEIR goes to great lengths in interpreting the collected data to downplay the uniqueness of the proposed Centennial area. Three ecoregions – the Sierra Nevada, the Mojave Desert, and the South Coast – converge in the proposed project area.<sup>10</sup> Few other

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<sup>10</sup> Conservation Biology Institute and South Coast Wildlands 2006. Proposed Reserve Design for Tejon Ranch - A Threatened California Legacy. Pgs. 43 [http://www.scwildlands.org/reports/ProposedReserve\\_TejonRanch.pdf](http://www.scwildlands.org/reports/ProposedReserve_TejonRanch.pdf)

locations in California have the distinction of three ecoregions converging.<sup>11</sup> These ecoregions are the manifestation of the convergence of California's two largest earthquake faults – the San Andreas Fault, the largest fault in California that runs southeast to northwest through the proposed project site, and the Garlock fault, the second largest fault in California that runs northeast to southwest and intersects the San Andreas fault at the “Big Bend” considered to be the most significant tectonic area in California.<sup>12</sup> This unique location and geological structure that gives rise to the unique soil horizons create the conditions that support unique biological and botanical resources that occur on the proposed project site. Those unique features coupled with the historic and contemporary land management has kept much of the botanical resources in place.

The DEIR however obfuscates the uniqueness of the proposed project site, particularly of the grasslands and wildflower fields that the proposed project will destroy the very heart of by focusing so closely on highly detailed mapping instead of the value of the intact grassland as a whole. As a metaphorical analogy, the DEIR loses the forest by focusing only on individual trees. Indeed one of the reports included in Appendix 5-7-b as Plant 2 states:

“The perennial bunchgrass community on the site covers approximately 5,500 continuous acres distributed across a distinct geomorphic feature consisting of weathered ridges and terraces from old and very old alluvium. The stand has minimal intrusion of introduced annual grasses and a high richness of bunchgrass species. Six different species occur within the greater stand. Four of these are either dominant or subdominant and form a complex matrix with semi-predictable distribution patterns across the ridges and terraces based on landscape position” (at PDF pg. 641)

Interestingly, in 2008, the Center attended a Los Angeles County Significant Ecological Area Technical Advisory Committee meeting and received from the County a prior final version of the Vollmar report than the version that is included in the DEIR. We submit the version that we received from the County as Exhibit B. The reason that we submit it is because the conclusions reached are different from the conclusions included in the DEIR's version, and this discrepancy we will discuss further below.

The proposed mitigation strategy is inadequate because it tries to justify the development of habitat for the rare species and plant communities and proposes to mitigate the impacts through set aside of lands that have little data documenting adequacy of supporting the botanical and biological resources that are proposed to be impacted. In other words, the information provided in the DEIR is unclear that the proposed mitigation will actually mitigate the species- and habitat- specific impacts. Additionally, three of the proposed mitigation areas already have conservation easements on them because California's Wildlife Conservation Board paid the Tejon Ranch Company \$15.8 million dollars to place conservation easements over 62,003 acres of the ranch and 12,145 of those acres are now proposed to be used as mitigation (DEIR at exhibit 5.7-10) for the proposed Centennial project. California taxpayers should not be paying for mitigation of a private company's development. In addition the “on-site” mitigation areas

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<sup>11</sup> <https://calswap.wordpress.com/2013/06/>

<sup>12</sup> <http://www.sci.sdsu.edu/salton/San%20AndreasFaultSyst.html>

appear to only be included in the proposed project area so that they can be set aside as “mitigation”.

This shell game of “mitigation” is obvious and only allows wholesale destruction of habitat that should be avoided. When the 12,145 acres of already conserved lands are subtracted out of the proposed mitigation lands, the project effectively only proposes 15,267 acres (11,402 acres of off-site mitigation and 3,866 acres of “on-site” mitigation) (DEIR at exhibit 5.7-10). Because the proposed project area is 12,323 acres with 3,866 acres being “on-site” mitigation, the actual impact area (recognizing the impact level varies) would be 8,457 acres. The DEIR proposes an unrealistic mitigation of impacts for resident rare and common species, including landscape connectivity of only 1.8:1 (conserved:developed). Because habitat is already inhabited and used by the same species for which mitigation is sought, this mitigation strategy ensures a *net decrease* in habitat for impacted species. To actually provide mitigation that lessens species’ habitat losses, mitigation ratios must be actually address the impacts to each species and unique habitat type and must be high enough to fully mitigate the impacts to those species.<sup>13</sup> A *minimum* 3:1 (conserved:developed) mitigation is more appropriate for this very threatened landscape and rare species. A 3:1 ratio (conservation:development) also helps to assure that project impacts are mitigated appropriately but also that the net losses of habitat for rare species are decreased. It would also help to allay fears that the proposed mitigation actions, for which plans will be written in the future will actually work (see discussion below on missing plans). This strategy is also essential to prevent future listings under Endangered Species Acts – both state and federal.

### **C. The DEIR fails to adequately describe the environmental baseline.**

#### **Field Surveys**

The DEIR and appendices document the intermittent survey efforts on various areas of the proposed project site between 1999 and 2015, however, most of the surveys were not comprehensive in nature i.e. they did not cover the whole project site but instead often focused on specific habitats. While this may be appropriate for certain species, as the County recognizes, this area has been understudied by biologist and botanists due to lack of access. Because of the geographic uniqueness of the area, it is surprising that the diversity of animal species in particular is so low, but not surprising that the diversity of plants is high. While the DEIR is unsuccessful in synthesizing the data into a comprehensive overview of the biological resources, as mentioned above, the synthesis also downplays the landscape-scale uniqueness of the landscape.

#### **Botanical Resources**

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<sup>13</sup>Moilanen, A., A.J.A. van Teeffelen, Y. Ben-Haim and S. Ferrier. 2008. How much compensation is enough? A framework for incorporating uncertainty and time discounting when calculating offset ratios for impacted habitat. *Restoration Ecology* 17(4): 470-478 <http://www.academia.edu/download/42103667/pdf.pdf> ; Norton, D.A. 2008. Biodiversity offsets: two New Zealand case studies and an assessment framework. *Environmental Management* 43(4):698-706. <http://docketpublic.energy.ca.gov/PublicDocuments/Regulatory/11-AFC-2%20Hidden%20Hills/2013/FEB/TN%2069406%2002-04-13%20Intervenor%20Center%20for%20Biological%20Diversity's%20Testimony,%20Exhibit%20List%20and%20Exhibits/Exhibit%20502.%20Norton%202009.%20Env%20Mgt.pdf>

Section 5.7, entitled “Biological Resources,” in the EIR devotes significant effort to characterizing the onsite grasslands, which includes Native Perennial Grasslands (“NPG”) and Wildflower Fields (“WFF”). The high quality of the NPG and WFF on the site were first documented in the Vollmar Consulting 2003/2004 study. The project proponent subsequently hired Natural Resource Consultants (“NRC”) to conduct a follow-up study in 2006/2007 that was intended to be a more rigorous and objective as a basis for quantifying the quality and potential impacts to these habitats.

The following comments from our review of the EIR need to be more fully addressed in the DEIR:

- 1) Because plants communities are often highly correlated with soil types and their underlying geological formations, the Vollmar Consulting study (Appendix 5-7b, Plant-2) included geologic formation as a fundamental parameter for understanding the distribution and quality of NPG on the site that is lacking in the subsequent grassland analysis and in the DEIR itself. The influence of geology and soils on plant community distribution and variations in plant species diversity and richness within a plant community on a local scale is broadly acknowledged as a foundational concept in vegetation ecology. During the 2003 field surveys conducted by Vollmar Consulting, the team anecdotally observed a clear difference in the size and quality of NPG and WFF stands in different areas of the Project site supporting grasslands. In particular, the team observed that the Continental Deposits and Terrace Deposits geologic formations in eastern portion of the site between Highway 138 and the northern Project site boundary appeared to support much larger contiguous stands of NPG and WFF and also supported a much higher number of native grass and forb species. This distribution appears to be due to the unique combination of geology and topography within these geologic formations in this portion of the Project site. This specific area supports a landform with generally east-west trending ridges and associated valleys that provide a maximum diversity of landscape positions and thin upper slope and ridge top soils able to support a high diversity and cover of native grass and forb species. These conditions are not replicated elsewhere in the local region. On the south side of Highway 138, the mapped Continental Deposits generally slope north. North of the project site, the mapped Continental Deposits and Terrace Deposits generally slope south. Both areas (especially to the north) generally lack the extensive and well-developed ridges that support high diversity NPG and WFF in the central eastern portion of the Project site. The western portion of the Project Site supports a different set of geologic formations with soils that are generally less weathered and windblown which reduces habitat suitability and quality of the NPG and WFF habitats. This distribution of different geologic formations on the proposed project site brings into question the evaluation of the grasslands in the areas proposed to be developed versus the areas that would provide mitigation for the developed areas.
- 2) The Vollmar Consulting report describes in detail the unique geologic and topographic characteristics in the central eastern portion of the Project site and how these characteristics relate to the exceptional quality of the NPG and WFF in this area. For

reasons that are unclear, NRC opted not to include geology or soils as part of their study. This omission strongly compromises the study results and also prevents the ability to differentially characterize the quality of the NPG and WWF in different areas of the Project site. The analysis should be redone with the data stratified by geologic formation (as well as the other parameters already included). This approach would strongly improve the accuracy of the habitat model to predict the cover of native perennial bunch grasses (“NPBG”) in different landscape positions. The current study achieved only a 37% predictive accuracy in NPBG cover with four cover classes. A re-analysis including geology would show that the central eastern portion of the Project site in fact supports much higher quality NPG and WWF in terms of native grass and forbs species richness and diversity than other portions of the site.

- 3) Paragraph 2 on Page 5.7-25 (Delineation of Grasslands section) in the DEIR’s Biological Resources section states that there is no accepted definition of NPG but that a commonly accepted standard is to identify native grasslands as areas with 10-20 percent cover of native grasses. The paragraph then goes on to state that, given historical uncertainty, the standard definition was not used but that a specific definition was developed for the NRC analysis that incorporates regional and site-specific information. However, the DEIR never provides a formal definition of what constitutes NPG for the purposes of the study and mitigation analysis. The DEIR needs to be revised to include a formal definition of both NPG and WWF and those definitions need to be used in the analysis of impacts and mitigation.
- 4) The Vollmar Consulting and NRC studies differ in their approach to cover with the former using relative cover and the latter using absolute cover. While either approach can be justified, the Vollmar Consulting report records and analyzes the high cover of bare soil in high quality NPG areas which makes relative cover an important metric. Also, the ‘bare soil’ areas can have a high cover of native forbs (WWF) during favorable rain years (such as 2003). The NRC study should have also considered relative cover values as a metric of the relative contribution and prominence of native grasses (as well as native forbs) within the grassland habitats.
- 5) As a general comment, characterization and mapping of WWF within the Project site is largely missing and appears to be well below the level of analysis required to accurately assess impacts and mitigation within an EIR. WWF is a recognized sensitive plant community as the DEIR notes (at pg. 5.7-158) – requiring the same level of consideration as the sensitive NPG – but there is almost no analysis or discussion of the distribution, species richness, stand size, habitat acreage calculation, etc. of this plant community within the proposed project site. The Vollmar Consulting study found exceptional species richness of native forbs within the Project site, especially within NPG habitat on the Continental Deposits and Terrace Deposits in the central eastern portion of the site. During the 2003 plot sampling, all forb species within each plot were recorded. A total of over 70 native species were recorded, an exceptionally high number within a local California grassland community. The study also found that the level of native forb richness and cover was positively correlated with increasing NPG cover. The NRC study and Project EIR treats the WWF habitat very differently. On Page 5.7-41 in the EIR, a

statement reads as follows: “Wildflowers are typical for this type of vegetation (both native perennial and non-native annual grasslands), and their density varies from year to year.” This statement, which is consistent with the overall poor treatment of WFF habitat in the DEIR, implies the wildflowers generally occur in the native and non-native grasslands throughout the site with no real distinction. In fact, the Vollmar Consulting study found very distinct distribution patterns in the richness and cover of native wildflowers with the non-native grasslands having a generally low cover and richness and the NPG having a generally high cover and richness. The NRC study needs to be revised to include a much more rigorous analysis of the WFF habitat, including a consideration of geology as well as the other parameters used in the analysis of NPG. Such an analysis would show that the central eastern portion of the Project site within the Continental Deposits and Terrace Deposits supports exceptional WFF habitat with much larger contiguous stands and a much higher species richness than WFF habitat in the western portion of the site.

- 6) Table 5.7-3 and 5.7-11 summarize the different vegetation types and acreages within the Project Site. In both tables, all vegetation types are presented at the Alliance level (based on Keeler-Wolf) - except for “Grass and Herb-dominated Vegetation Types.” Instead, this type is identified as “Native Perennial Grassland/California Annual Grassland.” This lumping is done in spite of the fact that grasslands occur over more than 9,000 acres (70%) of the Project site and include at least two distinguishable sensitive plant community types subject to EIR review – NPG and WFF. NRC completed a detailed study of NPG (but not WFF) that yielded a map of predicted distribution. Also, the data were collected in a manner that alliance level vegetation types for NPG and WFF can be described and mapped. As currently treated, the lumping has the effect of dismissing NPG and WFF as an inextricable component of the overall grassland habitat on the site. This approach is carried through on Exhibit 5.7-1 that shows undifferentiated ‘grasslands’ within the Project site. Nowhere in the DEIR is there a map showing the distribution of NPG (or WFF) within the Project site. Also, there is no definition in the DEIR of what constitutes NPG for the purposes of this Project though the standard definition is explicitly rejected as described above. The DEIR needs to be revised to provide specific definitions of NPG and WFF and a map needs to be prepared showing the specific distributions of these vegetation types based on these definitions. Based on the Vollmar Consulting study, it appears that the distribution of WFF is closely correlated with the distribution of NPG and it may be appropriate to map both vegetation types together where NPG occurs. The current treatment of inexplicably lumping the NPG, WFF and non-native grasslands together effectively devalues the uniqueness of the NPG and WFF as separate and sensitive plant alliances. Accurate alliance mapping is absolutely necessary in order to apply the appropriate avoidance and minimization measures. If impacts are still proposed, adequate mitigation can only be proposed if the impacts are accurately analyzed.
- 7) The treatment of NPG and WFF are further downgraded in the mitigation sections of the EIR. The mitigation for impacts to NPG and WFF is lumped under generic ‘grassland’ mitigation within the proposed preserves (see Table 5.7-12). However, based on the discussion above of the uniqueness of the NPG and WFF within the central eastern

portion of the Project site due to the regionally unique geomorphic setting, and the apparent flaw in the NRC study in omitting geologic/soils as a parameter in the analysis, it is not at all clear that the proposed mitigation preserves replace the NPG and WFF habitat values that will be lost on the proposed project site. The mitigation analysis needs to be revised based on a revised NRC analysis that includes geology in the analysis and a subsequent revised analysis of NPG and WFF habitat within the Project site. The results of the revised NRC analysis can then be compared to habitat conditions within the proposed preserves to determine if, in fact, they support similar resource values as the Project site. Based on the data in Appendix 5.7b, the results may show that the central eastern portion of the proposed project site actually supports very unique NPG and WFF habitat that is of higher quality in terms of species richness than the NPG and WFF habitats on most or all of the proposed preserves.

- 8) The Vollmar Consulting study notes that one of the exceptional characteristics of the NPG habitat in the central eastern portion of the Project site is the size of the contiguous stands. As part of the study, the team research and visited other known stands of NPG in California and found that the stand within the Project site far exceeded the size (and in many cases the quality) of all other known occurrences at the time. Since the Vollmar Consulting study was completed, extensive NPG habitat has been documented along the lower flanks for the Tehachapi Mountains to the north and northeast of the Project site. However, as noted above, these stands seem to be very different from the NPG within the proposed project site. The slopes are mostly south-facing and there is a general a lack of the ridge tops and broad slope/landscape position diversity that drives the exceptional native species richness within the Project site. The concept of NPG stand size is briefly touched in in the DEIR on Page 5.7-159. This section notes that NPG has been reduced to perhaps 0.1 percent of its historical (pre-European) extent, making it one of the rarest and most endangered vegetation types in California. It also notes:

*“from either a statewide or regional perspective, the quality and extent of native perennial grasslands on the site is excellent.* Most of the remaining stands in the southern California area are generally small (less than 100 acres) and isolated in widely scattered areas”. (Emphasis added.)

Given this reality, the loss of several thousand acres of what constitutes some of the highest quality remaining NPG habitat in the state should be considered a non-mitigable significant impact, regardless of the acreage of preserved habitat set aside as mitigation. This section of the DEIR does discuss the roughly 22,000 acres of NPG habitat mapped along the lower flanks of the Tehachapi Mountains north and northeast of the Project site. However, the NPG (and WFF) habitat on the Continental Deposits and Terrace Deposits within the proposed project site appears to be very different from the other NPG habitats in the region due to the unique geomorphic setting within the Project site as discussed above.

#### **D. The DIER does not adequately mitigate the Project’s impacts on rare plants.**

The DEIR reports numerous rare plant species and substantial impacts to some of those species from the proposed project. Many of these plants are associated with the unique

grasslands on the site. Numerous populations of the California androsace, crownscale, round-leaved filaree, Mojave spineflower, sylvan scorzonella, and adobe yampah, will be impacted by the proposed project and it is appropriate that the County is recognizing that despite not being under Endangered Species Act protections but because they are rare in the County and in a botanically underexplored area, mitigation is necessary. However, the DEIR relies on Mitigation Measure 7-1 for all these species to mitigate the impacts from the development of the proposed project to less than significant levels. Unfortunately MM 7.1 defers surveys of mitigation lands to confirm the presence and populations numbers or absence of the species to the future (DEIR at 5.7-173). It also requires a Special Status Plant Species Restoration Plan, which actually needs to be included as part of the DEIR, so that the public can be informed about the methodology that is being proposed and comment on it (see section on missing plans below). While the criteria laid out in the second paragraph on pg. 5.7-174 is helpful, it still does not inform the public and decision-makers on how those criteria will be addressed successfully and if the plan is actually feasible. We have seen poor plans implemented multiple times and fail. We have seen agencies allow the developer to then walk away from the mitigation, after spending significant funds on an ill-conceived plan that was never available for public review.

Furthermore the DEIR states that “Adoption of this plan shall be used as the performance standard” (at pg. 5.7-174) which is unfathomable. Adopting a plan is not mitigation. There needs to be a *requirement for implementation* and safeguards that require successful mitigation to actually be achieved. We are particularly concerned about this issue because the track record for enhancing/re-establishing or establishing new populations of rare plants is abysmal, particularly the long term, with a success rate of mitigation-related transplantation, relocation, and reintroduction attempts being only being 8%.<sup>14</sup>

MM 7-1 also states “An overview of the plan objectives is provided in the Biological Resource Mitigation Program to be submitted and approved by the County prior to issuance of grading permits.” However, we were unable to locate a Biological Resource Mitigation Program in the DEIR. Such a Program’s availability during the environmental review process is key for decision-makers and the public to be able to understand the strategy proposed for mitigation. Instead the DEIR appears to be relegating this foundational program to a behind-closed-door review and adoption after the project is permitted.

The DEIR is mute on the management of the mitigation lands for plants, which of course is key to effective mitigation. The Mitigation Preserve Review (Appendix 5.7-c) does not include the current management of the on- and off-site mitigation areas. We are concerned that the Ranch Wide Management Plan<sup>15</sup>, which focuses on cattle grazing as the primary management tool, will be the management document for the mitigation lands which is not appropriate.

#### **E. The DIER does not adequately mitigate the Project’s impacts on Oaks.**

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<sup>14</sup>Fiedler, P.L. 1991. *Mitigation Related Transplantation, Relocation, and Reintroduction Projects Involving Endangered and Threatened and Rare Plant Species in California. Final Submitted to the California Department of Fish and Game – Endangered Plant Program. June 14, 1991. Pgs.144.*  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=3173>

<sup>15</sup> <http://www.tejonconservancy.org/rwmp.htm>

Results from the oak surveys on the proposed project site indicate that not only does the site have great diversity of oaks – ten different species– but that it is a living laboratory of oak hybridization (Appendix 5-7-b, Plant-10).

However, neither the Oak Woodland Mitigation Plan nor the Oak Maintenance Plan are available for public review as part of the DEIR. MM 7-11 gives some guidance on requirements for the plan. Yet, it does not include performance criteria for the to-be-developed Monitoring Plan (at 5.7-186). If oaks are impacted from the proposed project construction, we support mitigating with local propagules. However, we failed to see any criteria that required that the mitigation reflect the species-specific or hybrid-specific impact (i.e. if 50% of the impact occurred to blue oaks, then 50% of the required mitigation be of the successful establishment of blue oaks), or that the ultimate creation of mitigation woodlands replicate the species/hybrid make-up of the oak woodlands that will be destroyed.

Absent the actual plans, decision-makers and the public can not actually evaluate the effectiveness of the plans in achieving adequate mitigation.

Appendix 5-7-b, Plant-11 recommended including Alternative G – Reduction of Oak Woodland Impact Alternative. However, this Alternative was not included in the Alternatives analysis. It should be included and analyzed in the revised and recirculated EIR for all the benefits that it would provide, not only to oaks but to the species that depend on them.

#### **F. The DIER does not adequately mitigate the Project’s impact on wildlife**

As stated above, while the site does support numerous rare and common wildlife species over the 12,323 acres site, the paucity of on-site wildlife species is striking. This may be attributed to current management of the site, and that and other factors must be taken into consideration when evaluating the potential impacts from the proposed development. Based on the wildlife reported on site in the DEIR, we have the following concerns:

##### ***State fully Protected Species***

Four rare species that were documented on the project site or directly adjacent are fully-protected species under California law (Fish and Game Code §5050)<sup>16</sup>, meaning that individuals of the species may not be “taken” (as defined in the Fish and Game Code) at any time, unless and Natural Communities Conservation Plan is prepared and implemented. These species include California condor (Appendix 5-7-b, Birds-6 and Birds-10), golden eagle (Appendix 5-7-b, Gen-6 and other places), bald eagle (Appendix 5.7-b, Gen-6, and Birds-1)- although it was not identified in the DEIR, and the white-tailed kite (Appendix 5.7-b, Gen-6 and Birds-1) , Therefore all mortal impact must be avoided.

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<sup>16</sup>CDFW 2017 California’s Fully Protected Species List.  
[http://www.dfg.ca.gov/wildlife/nongame/t\\_e\\_spp/fully\\_pro.html](http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/fully_pro.html)

*a. California Condor*

The California condor recovery efforts, despite setbacks, are a success<sup>17</sup> and California condors continue to expand their populations in the wild and re-inhabit historic habitat, including Tejon Ranch and the proposed project area.

The DEIR documents the presence of California condors on the proposed project site in surveys from 1999 to 2004 (Appendix 5-7-b, Birds-1) and through telemetry data from the 1990s to the present (Birds-6 and Birds-10). The telemetry data confirms flyovers of the proposed project site by telemetered birds and the DEIR reports an observed landing of a condor (at pg.5.7-119). Despite the DEIR's statement that "All California condors are wing-tagged and fitted with radio transmitters" (at pg. 5.7-148), the DEIR is wrong - not all California condors are radio-telemetered, and although a subset do have GPS units, some condors only have wing tags. The most recent publicly available data set that we have accessed - cellular GPS from March 31, 2017 - continues to show consistent use of the proposed project site by California condors.

The Cogan report (2009)<sup>18</sup> includes not only location data on condor sightings and GPS locations, but also flight lines of condors over the Tejon Ranch, including the proposed project area. These data provide additional information on how condors have used the proposed project area.

The DEIR downplays the potential serious impact that the proposed project may have on the California condor. The DEIR erroneously concludes that "Project implementation is not expected to result in any impacts on these two species and no mitigation is required" (at pg. 5.7-119) - the two species referenced are condors and bald eagles. This conclusion is in direct conflict with the data and analysis in Appendix 5-7-b, Birds-6 which states "indirect effects associated with the development and operation of the site, as defined by CEQA, could potentially occur." (at PDF pg. 1611). The report continues, stating "these effects can be substantially reduced and/or eliminated through project design features and implementation of various mitigation and conservation measures, including the provision for additional radio telemetry transmitters to be affixed to free-flying condors that may reduce the potential for mortality of individual condors, provide more insight into overall condor health and mortality issues, and ultimately aid in the recovery of the species." (at PDF pg. 1611) Yet the DEIR ignores this recommendation and fails to include it as part of the mitigation package to help reduce impacts to California condor.

The DEIR does include MM 7-6 which addresses construction-related safeguards for condors (microtrash, litter, vehicle fluids, and food waste removal), and the implementation of APLIC standards for antennae and phone/utility lines. It also requires the removal of "dead cattle that are found or reported within 1,000 feet of the boundary of a residential or commercial development" (at pg. 5.7-178) but fails to provide a timeline for how quickly the removal must

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<sup>17</sup> USFWS 2015. California Condor Recovery Program 2015 Annual Condor Population Status Update. Pgs. 6. <https://www.fws.gov/cno/es/pdf%20files/Ca-Condor-Recovery-Prog2015PopulationStatus.pdf>

<sup>18</sup> Cogan, Christopher B. 2009. California Condor Activity in the Tejon Ranch Region. Center for Biological Diversity Report, 12 June 2009. San Francisco, CA, USA. 22pp. [http://www.biologicaldiversity.org/species/birds/California\\_condor/pdfs/CondorActivityInTheTejonRanchRegion.pdf](http://www.biologicaldiversity.org/species/birds/California_condor/pdfs/CondorActivityInTheTejonRanchRegion.pdf)

happen after reporting occurs. It also fails to address the long-term impacts of microtrash, litter, vehicle fluids, and food waste as 55,000+ people move into the area if the project moves forward.

While the whole of Tejon Ranch is critical to the survival and recovery of the California condor, this species is in such dire circumstances and requires such large swaths of habitat that each acre of occupied habitat contributes to its ongoing recovery. The development of natural foraging habitat reduces the amount of contiguous habitat and could cause a range contraction – just what the California condor can’t afford. The erroneous determination in the DEIR that project implementation will not result in any impacts to condors is not supported in the DEIR or its appendices. Because of the inadequacy of impact analysis and resulting mitigation measures for the critically imperiled California condor, the County needs to vastly improve the avoidance, minimization and mitigation measures in a supplemental and recirculated DEIR.

*b. Golden eagles*

Golden eagles were documented foraging on the project site (DEIR at pg. 5.7-150) and the DEIR states that “nesting has not yet been documented on the Project site”. However, apparently no aerial nest surveys were done in the area. Currently in other areas in California, USFWS is requiring surveys within 10 miles of a proposed project site in order to document nest sites. The DEIR goes on to state “Project implementation would result is the loss of approximately 6,416 acres of foraging habitat for these raptors that would be considered adverse, but less than significant” (at pg. 5.7-150), where “these raptors” include golden eagles, northern harrier and white-tailed kites. The fact remains that significant amounts of foraging habitat will decrease carrying capacity of the landscape and could result in a potential loss of habitat needed to support a nesting pair of golden eagles, which would impact reproductive capacity of golden eagles and result in “take”. In addition, numerous other known causes of golden eagle mortality will be introduced into the area from the development, including potential poisoning, collisions, electrocutions and others<sup>19</sup>. The erroneous determination in the DEIR that project implementation will not result in any impacts to golden eagles is not supported in the DEIR or its appendices. Instead the DEIR relies on MM 7-6 which suffers the same inadequacies discussed above regarding condors. Indeed MM 7-6 addresses construction impacts primarily associated with condors (microtrash, litter and vehicle fluids), which thankfully golden eagles are not as vulnerable to, but fails to address the impacts that eagles are vulnerable to, including poisoning, collisions and electrocutions.

Scientific literature on this subject is clear - the presence of humans detected by a raptor in its nesting or hunting habitat can be a significant habitat-altering disturbance even if the human is far from an active nest.<sup>20</sup> Regardless of distance, a straight-line view of disturbance affects raptors, and an effective approach to mitigate impacts of disturbance for golden eagles involves calculation of viewsheds using a three-dimensional GIS tool and development of

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<sup>19</sup> USFWS 2016. U.S. Fish and Wildlife Service. 2016. Bald and Golden Eagles: Population demographics and estimation of sustainable take in the United States, 2016 update. Division of Migratory Bird Management, Washington D.C., USA. Pgs 115. <https://www.fws.gov/migratorybirds/pdf/management/EagleRuleRevisions-StatusReport.pdf>

<sup>20</sup> Richardson, C.T. and C.K.Miller 1997. Recommendations for protecting raptors from human disturbance: a review. Wildlife Society Bulletin 25(3):634-638 [http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN200071\\_20130729T152048\\_CBD's\\_Comments\\_on\\_PSA\\_Final\\_Attachment\\_15.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN200071_20130729T152048_CBD's_Comments_on_PSA_Final_Attachment_15.pdf)

buffers based on the modeling.<sup>21</sup> Golden eagles have also been documented to avoid industrialized areas that are developed in their territory.<sup>22</sup> Additionally, the DEIR does not actually clearly analyze the impacts to and mitigations for the golden eagle under the Bald Eagle and Golden Eagle Protection Act, which prohibits, except under certain specified conditions, the take, possession, and commerce of such birds. Due to the potential impact to golden eagles from the proposed project development, the project proponent needs to apply for a “take” permit for golden eagles under the Bald Eagle and Golden Eagle Protection Act.

*c. Bald Eagle*

Bald eagles have been documented to use Quail Lake which is directly adjacent to the proposed project area. (DEIR at 5.7-121.) No estimation of the amount of suitable foraging, roosting or nesting habitat is present on the site or how much will be impacted is provided in the DEIR. As with the California condor, the DEIR determines that the proposed project is not expected to result in any impacts to golden eagles (at pg. 5.7-148), yet the DEIR provides no support for this conclusion. Instead it relies on MM 7-6 which suffers the same inadequacies discussed above regarding condors. Indeed MM 7-6 addresses construction impacts primarily associated with condors (microtrash, litter and vehicle fluids), which thankfully bald eagles are not as vulnerable to, but fails to address the impacts that bald eagles are vulnerable to, including poisoning, collisions and electrocutions.

No mention is made in the DEIR about limiting access in and around roosting/nesting sites. The scientific literature supports restrictions from 250 meters to 400 meters<sup>23</sup> and maybe more depending on numerous factors that affect behavior. A larger management zone from 1,360-1400 m has been prescribed in the scientific literature for non-breeding bald eagles roosting sites.<sup>24</sup> CEQA requires that this issue be addressed.

As with the golden eagle, the DEIR does not actually clearly identify the impacts to and mitigations for the bald eagle under the Bald Eagle and Golden Eagle Protection Act.

*d. White-tailed kite*

The white-tailed kite is documented on the proposed project site. (DEIR at 5.7-150) The DEIR states “Project implementation would result is the loss of approximately 6,416 acres of

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<sup>21</sup> Camp R.J., D.T. Sinton and R.L.Knight. Viewsheds: a complementary management approach to buffer zones. Wildlife Society Bulletin 25(3): 612-615 [http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN200060\\_20130729T145348\\_CBD's\\_Comments\\_on\\_PSA\\_Final\\_Attachment\\_4.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN200060_20130729T145348_CBD's_Comments_on_PSA_Final_Attachment_4.pdf); Richardson, C.T. and C.K.Miller 1997. Recommendations for protecting raptors from human disturbance: a review. Wildlife Society Bulletin 25(3):634-638

<sup>22</sup> Walker, D., M. McGrady, A. McCluskie, M. Madders and D.R.A. McLeod 2005. Resident Golden Eagle Ranging Behaviour Before and After Construction of a Windfarm in Argyll. Scottish Birds 25: 24-40. <http://www.natural-research.org/projects/documents/SB25-EAGLESDOC.pdf>

<sup>23</sup> Stalmaster, M.V. and J.R. Newman 1978. Behavioral responses of wintering bald eagles to human activity. Journal of Wildlife Management 42(3): 506-513; Craig, G.R. 2002. Recommended buffer zones and seasonal restrictions for Colorado raptors. Prepared By Colorado Division of Wildlife, Updated December 19, 2002. Pgs 7. <https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/RaptorBufferGuidelines2008.pdf>

<sup>24</sup> Buehler, D.A., T.J. Mersmann, J.D. Fraser, and J.K.D. Seegar. 1991. Nonbreeding bald eagle communal and solitary roosting behavior and roost habitat on the northern Chesapeake Bay. Journal of Wildlife Management 55(2): 273-281.

foraging habitat for these raptors that would be considered adverse, but less than significant...” (DEIR at 5.7-150.) “These raptors” include golden eagles, northern harrier and white-tailed kites. The fact remains that significant amounts of foraging habitat will decrease carrying capacity of the landscape and could result in a potential loss of habitat needed to support a nesting pair of white-tailed kites, which would impact their reproductive capacity and result in “take”. Therefore the DEIR is inadequate in disclosing all the environmental impacts. This deficiency needs to be included in a supplemental EIR.

*e. Swainson’s hawk*

Antelope Valley is the southernmost portion of the current California Swainson’s hawk breeding range. Recent data indicate that conversion of agricultural land and open space to other uses including solar power projects and other types of development is threatening the Antelope Valley Swainson’s hawk population and its possible future expansion and identifies the remaining breeding territories in the Antelope Valley as tenuous and likely to be extirpated<sup>25</sup>. However, during numerous surveys on the proposed project site, Swainson’s hawks were documented from 2000 through 2016. (DEIR at 5.7-148). While all of the Swainson’s hawks documented on the proposed project site were identified as migrating birds, some were also noted to be foraging. (DEIR at 5.7-148.)

While the DEIR states “Project implementation would result in the loss of habitats used by migrating Swainson’s hawks, occasional non-breeding birds in summer, and potentially suitable nesting habitats in the eastern portions (i.e., alfalfa fields and surrounding trees) of the Project site” (at pg. 5.7-149), it then concludes, without any support in the DEIR that “these impacts are considered adverse but less than significant and no mitigation is required.” (at pg. 5.7-149). MM 7-2 does require pre-construction protocol surveys on the project site for Swainson’s hawks nests, but the DEIR fails to provide any analysis of impacts to this highly imperiled Antelope Valley breeding population of Swainson’s hawks, much less any avoidance, minimization or mitigation if impacts are identified.

*f. Ringtail*

One of the fully protected species whose range overlaps with the proposed project site<sup>26</sup> is the ringtail (*Bassariscus astutus*) however, no surveys were implemented, no estimate of on-site habitat is provided, and no analyses of impacts discussed and for this secretive species. While ringtail are not common within the general area of the proposed project (CDFG 1980), the DEIR still needs to evaluate potential habitat for this unique and fully protected species in a revised and recirculated DEIR

***Threatened, Endangered and Candidate Species***

*a. Willow Flycatcher, Least Bell’s Vireo and Western Yellow-billed Cuckoo*

While all three of these bird species were identified on the proposed project site, all were determined to be migrants. (DEIR at 5.7-148). The DEIR determines that the flycatcher species

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<sup>25</sup> [http://www.wildlifeprofessional.org/western/tws\\_abstract\\_detail.php?abstractID=764](http://www.wildlifeprofessional.org/western/tws_abstract_detail.php?abstractID=764)

<sup>26</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2582>

that was present on site was not a federally endangered southwestern willow flycatcher because of the time of year that the birds were detected and their subsequent disappearance from the proposed project site. However, all subspecies of willow flycatchers (*Empidonax traillii*) are listed as state endangered species<sup>27</sup>, which the DEIR fails to mention. The DEIR also appears to downplay the presence of the birds on the proposed project site by dismissing the importance of the habitat resources for these threatened or endangered migratory birds. Based on that erroneous perspective, the DEIR concludes that “the Project site is not considered to be occupied by the western yellow-billed cuckoo, southwestern willow flycatcher, or least Bell’s vireo.” (at 5.7-148) Clearly this statement directly conflicts with the survey results, where these species were documented to occupy the site, granted without documented nests on site. However, in order for these migratory birds to reach breeding sites, migration habitat must be present in order to provide adequate resources (food, roost sites etc.) to sustain them. The DEIR then erroneously states that “Project implementation is not expected to impact these three listed species and no mitigation would be required.” (DEIR at 5.7-148) but fails to provide any analysis of the impacts in order to reach that conclusion.

Ultimately the DEIR does recognize the fact that these highly imperiled birds do occur on site and states “Since all three of these listed species are migratory, however, and may occur as breeders in the future, MM 7-5 is included to conduct pre-construction protocol surveys for the western yellow-billed cuckoo, southwestern willow flycatcher, and least Bell’s vireo to confirm absence prior to disturbance.” (DEIR at 5.7-148.) However MM 7-5 actually fails to requires surveys for the western yellow-billed cuckoo. (DEIR 5.7-177.) Furthermore, the DEIR fails to evaluate the impacts to these migratory species that may occur on-site as breeders in the future from development itself and the influx of 55,000+ human residents and their pets. While dogs are proposed to be required to be on leash in conserved areas (DEIR at 5.7-169), and DEIR recognizes the impact that free-roaming cats can have on the native fauna (DEIR at 5.7-169), the only requirement for domestic pets is that they be spayed (DEIR at 5.7-169). While we support spaying pets for all the benefits it provides, the DEIR must incorporate a requirement to keep domestic cats indoors at all times to reduce the impacts not only to threatened and endangered birds, but to other species as well.

*a. Tricolored Blackbird*

The tri-colored blackbird is currently a candidate species under the California Endangered Species Act, due to historical and continuing loss of nesting substrate and upland foraging area, continuing declines in the populations and Significant, large-scale reproductive failures in tricolored blackbird colonies nesting in agricultural areas of the San Joaquin and Sacramento valleys. The DEIR states “The tricolored blackbird was observed nesting in large numbers along the north-central edge of the Project site and was also observed in Oso Creek (BonTerra Consulting 2008; Impact Sciences 2004a)” and “Five distinct breeding colony locations were detected in the bulrush vegetation on the shores of Quail Lake” (DEIR at 5.7-113).

In analyzing the impact that the proposed project could have on the nesting colonies, the DEIR states “A review of the Quail Lake and the on-site colony subset identified a potential

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<sup>27</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>

post-Project reduction of approximately 20 percent of potentially suitable foraging habitat at each location. In a given year, if these two areas were used for nesting, the reduced availability of suitable foraging land could result in substantial reduction in nesting success.” (DEIR at 5.7-149)

While the DEIR suggests numerous enhancement factors of tri-colored blackbird nesting habitat at several sites (at 5.7-149 to 150), there is no requirement or obligation committed to for such enhancements in the DEIR. MM 7-7 is proposed for construction of open space buffer features, including restricting permanent impacts to a minimum distance of 400 feet from the nesting area and project design features that incorporates a buffer of greater than 1,000 feet along the northern shore of Quail Lake to minimize impacts to adjacent foraging grounds and “at the east end of the Lake, east of the mouth of the aqueduct, where a small section of shoreline is close to the project impact footprint, land uses include a regional park within a low density development zone so that lands immediately beyond the required 400 foot buffer (if nesting is identified) remain permeable and retain some potential for foraging for this species.” (at 5.7-150). MM 7-7 also includes the following:

The Project shall include enhancement, restoration, and/or preservation of potentially suitable tricolored blackbird breeding and foraging habitat. Potentially suitable areas for enhancement and preservation include lower Oso Canyon in close proximity to Cement Plant Road, as well as any other created water bodies as part of the Project Drainage Plan, where feasible. Enhancement factors shall include the creation of bulrush marsh habitat or other substrate known to support breeding tricolored blackbirds; a persistent nearby standing water during the breeding season; and available adjacent foraging habitat with an appropriate food source. (DEIR at 5.7-179)

The MM fails to provide critical metrics – how much enhancement/restoration/creation/preservation will be done? What is the timeline for doing so? What are the success criteria?

### ***California Species of Concern***

Numerous species of concern are located on the proposed project site and have potential to be significantly impacted. Species specific issues are discussed below:

#### ***a. Badger***

Badgers were identified to occur throughout the project area (DEIR at 5.7-153). Literature on the highly territorial badger indicates that badger home territories range from 340 to 1,230 hectares (840 to 3,040 acres)<sup>28</sup>. Therefore, the proposed project could displace *several* badger territories. While surveys prior to construction are clearly essential as required by MM 7-2, even passive relocation of badgers into suitable habitat may result “take”. Studies need to be provided on both on- and off-site badger territories if animals are to be passively relocated in

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<sup>28</sup> Long, C.A. 1973. *Taxidea taxus*. Mammalian Species 26:1-4; Goodrich, J.M. and S.W. Buskirk 1998. Spacing and ecology of north American badgers (*Taxidea taxus*) in a prairie-dog (*Cynomys leucurus*) complex. Journal of Mammology 79(1): 171-179.  
<http://cosb.us/Solargen/feir/v2/b026refs/Goodrich%20and%20Buskirk%201998%20%20Spacing%20and%20Ecology%20of%20North%20Amer.pdf>

order to increase chances of persistence. At a minimum, the revised or supplemental DEIR should identify suitable habitat nearby if the project is relying on passive relocation as a mitigation strategy.

*b. Silvery legless lizard*

The DEIR admits that no surveys were performed for the silvery legless lizard although one was incidentally encountered (at 5.7-110). The impact analysis of the proposed project on this species states “Of the roughly 7,000 acres impacted by the Project, it is estimated that no more than 700 acres of potentially suitable habitat occurs for both species, though is likely much less for the legless lizard. These two species are expected to be relatively abundant in the region; therefore, the loss of roughly 700 acres associated with Project implementation would be considered adverse, but less than significant for the silvery legless lizard and coast horned lizard and no mitigation is required.” (at 5.7-147) Failing to identify the extent of the occupied habitat and then determining that the impacts are less than significant is baseless.

MM 7-2, which is proposed to minimize impacts to this species is proposed to be a single pass of a biologist doing 50-meter belt transects. Common sense suggests that the proposed protocol would assure that no silvery legless lizards would be found on the proposed project site, but it certainly would not prevent impacts to the species. MM 7-3 addresses moving silvery legless lizards out of harms way – a “feel good” strategy that has no basis in scientific literature for success. In fact, relocation of reptiles in general has a poor record of success<sup>29</sup> and we are unaware of any data on the success of silvery legless lizard translocations.

*c. Migratory Birds and Sensitive Birds*

Numerous migratory birds have been documented on the site. The DEIR does not quantify the number of birds (rare, migratory or otherwise) that use/traverse the project site from the avian point count surveys, nor does it evaluate the impact to birds by the elimination of almost over 10,000 acres of habitat. The revised DEIR needs to analyze likely impacts to birds from the proposed project based on the point counts. The failure to provide the baseline data from which to make any impact assessment violates CEQA. This failure to analyze impacts is not only a CEQA violation, but for migratory birds, may also lead to a violation of the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 -711, because migratory birds may be “taken” if the proposed project is constructed. This project should actually include an Avian (and Bat) Protection Plan which would provide the information needed to determine key avoidance measures for birds, and provides adaptive management measures to mitigate any remaining impacts to less than significant levels. We request that at a minimum, the supplemental DEIR include such a plan.

Numerous sensitive birds occur on the proposed project site some of which are discussed below in more detail:

*1. Burrowing owl*

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<sup>29</sup> Dodd, C.K. and R.A.Seigel 1991. Relocation, repatriation and translocation of amphibians and reptiles: are they conservation strategies that work? *Herpetologica*, 47(3): 336-350  
[http://www.seaturtle.org/PDF/DoddCK\\_1991\\_Herpetologica.pdf](http://www.seaturtle.org/PDF/DoddCK_1991_Herpetologica.pdf)

The DEIR states that “One pair of burrowing owls was observed on the site in 2001 (Impact Sciences 2004a); one individual was observed just off the site to the north during surveys in 2006 (BonTerra Consulting 2008).” (DEIR at 5.7-115.) The lack of burrowing owls on the site is surprising based on the results from the 2006-7 burrowing owl census which identified the western Mojave desert including the Antelope Valley as important and abundant burrowing owl habitat – particularly the grasslands.<sup>30</sup> Interestingly, the DEIR identifies MM 7-2 to benefit burrowing owl because MM 7-2 requires preconstruction surveys that follow the California Department of Fish and Wildlife’s (CDFW’s) 2012 burrowing owl survey protocol (DEIR at 5.7-176), however MM 7-2 (or any other MM) does not identify requirements if burrowing owls are located where development will occur. While “passive relocation” is often implemented to minimize immediate direct take of burrowing owls, ultimately the burrowing owls’ available habitat is reduced, and “relocated” birds are forced to compete for resources with other resident burrowing owls and may move into less suitable habitat, ultimately resulting in “take”. Additional mitigation measures need to be provided that explicitly include long-term monitoring of any burrowing owls that are moved whether through passively relocated birds or actively relocated birds, in order to evaluate their survivorship.

## 2. Northern Harrier and Loggerhead Shrike

While the DEIR acknowledges that impacts to these sensitive species that occur on site, it does not actually fully analyze what those impacts are. Instead the DEIR brushes off impacts and proposes to mitigate through acquisition of open space, which of course the birds are already using.

### ***Pronghorn***

Pronghorn are the namesake of the Antelope Valley. The southern-most herd in California is located on the proposed project site and is already critically imperiled.<sup>31</sup> A recent evaluation of the status of the pronghorn population on the proposed project site concludes the following:

- “1. Small population size: Although almost 100 individuals were originally translocated to Tejon Ranch, the population declined to a perilous size of less than 50 animals. This population appears to be critically endangered due to its current population size and its historic trend of remaining small and isolated.
2. Low growth rates: The herd currently has a low potential for sustained growth, with observed maximum per-capita growth rates falling far below the biologically possible value in other ranges. Recently, livestock foraging has been accelerated and standing vegetative biomass has declined to the detriment of pronghorn neonate protective cover, and abundant nutritious forage. This loss is exacerbated by the Centennial Project, for the forage on these rangelands will eventually be lost when the project is completed.

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<sup>30</sup> Wilkerson, R. L. and R.B. Siegel 2011. Distribution and abundance of western burrowing owls (*Athene cunicularia hypugaea*) in southeastern California. *The Southwestern Naturalist* 56(3):378–384  
[http://www.elkhornsloughctcp.org/uploads/files/1408734389Wilkerson%20and%20Siegel.%202011.%20Distribution%20and%20abundance%20of%20Western%20Burrowing%20Owls%20\(Athene%20cunicularia%20hypugaea\)%20in%20Southeastern%20California..pdf](http://www.elkhornsloughctcp.org/uploads/files/1408734389Wilkerson%20and%20Siegel.%202011.%20Distribution%20and%20abundance%20of%20Western%20Burrowing%20Owls%20(Athene%20cunicularia%20hypugaea)%20in%20Southeastern%20California..pdf)

<sup>31</sup> Kohlmann, S. G., and J.D. Yoakum. 2009. A literature review and analysis of pronghorn populations at Tejon Ranch, California. *Tierra Resource Management*, San Ramon, California, USA.pgs. 89

3. Climatic variability: Pronghorn at the Tejon Ranch exist under a highly variable precipitation regime. There is a robust relationship between autumn fawn ratios and the autumn precipitation 2 years prior. Predicted autumn precipitation of 3.4 inches must be achieved for positive population growth (>20 fawns / 100 does in late summer), but was not reached in 35 years out of 61 years of weather data (57%).
4. Habitat quality: The expansive perennial grasslands of a high quality are probably the reason why this population is still marginally persistent. Losing a portion of these grasslands or a persistent degradation by overgrazing could severely impact this highly vulnerable population.
5. Landscape connectivity. Pronghorn at Tejon Ranch are currently isolated from other herds. Given the small population size and stochastic vulnerability of this herd, the establishment of a metapopulation through migration corridors is of critical importance. If Tejon Ranch pronghorn can cross over the crest of the Tehachapi Mountains and Interstate 5, a viable possibility for population linkage may exist.
6. Genetics: Genetic variability is influenced by small founding population, persistently small population size, and isolation by geographic features (e.g., mountain ridges, unsuitable habitat) or human induced barriers (e.g., fences, fragmented landscapes). All these factors are prevalent at the Tejon Ranch pronghorn population. Genetic variation within the Tejon Ranch pronghorn population has not been studied, but can be considered critically in danger of having lost genetic variability.”

The DEIR totally downplays the importance and status of the pronghorn on the proposed project site despite the fact that the proposed project will likely extirpate this population. However, the DEIR completely fails to analyze the proposed project’s impacts to this iconic and charismatic animal.

Interestingly, in 2017, pronghorn have been documented to be re-inhabiting portions of the Antelope Valley in the region of the State’s Poppy Preserve and near the Petersen mitigation bank (CDFW, personal communication). The pronghorn could have only originated from the Tejon herd, and successfully navigated across State Highway 138 and easterly across the valley. Documentation of persistence occurred in late July 2017. This persisting occurrence confirms that the Antelope Valley, through contemporary conservation improvements, can host a resident population of pronghorn. However, if the Tejon herd is impacted by the proposed project development, pronghorn will once again likely be extirpated from their namesake valley.

### **Wildlife Connectivity**

The evaluation of the wildlife connectivity in the DEIR (at pg. 5.7-57) is not useful because it shows no wildlife movement on the proposed project site, and instead identifies the locations of bridges across the aqueduct. The studies in Appendix 5-7 are too general to be useful in informing the connectivity situation on the proposed project site. The discussion of connectivity follows suit and is inadequate because it fails to identify connectivity for different guilds of species. For example, connectivity for mountain lions and bears is going to be very different than for rodents or plants.

Based on the inadequacy of the description of the current connectivity, the DEIR fails completely to be able to evaluate the impact of the proposed project on the wildlife connectivity in the area. The revised and recirculated DEIR must thoroughly address this key issue.

### **Significant Ecological Areas**

Los Angeles County started identifying Significant Ecological Areas (SEAs) as a component of its General Plan in 1976. SEAs are “identified as having irreplaceable biological resources.”<sup>32</sup> Developments within SEAs require a higher level of environmental review by the SEA Technical Advisory Committee. The County initiated a revision of the SEAs over a decade ago. The SEAs in the vicinity of the proposed project area were updated through the AVAP. In 2014, the County released the Draft Plan and EIR for the AVAP for public comment. In that Plan, the proposed project area was rezoned to include rural lands (RL1 – 1 du/net acre), residential (H-5 – 0-5 du/net acre), light industrial (IL) and open space conservation (OS-C). It also included an SEA overlay over a majority of the proposed project area (Exhibit C). The Los Angeles County Board of Supervisors adopted the Final EIR, but, among other things, they removed the SEA designation from the proposed project site, without any environmental review or analysis. The legality of this action is currently being challenged.

But the point here is that for years the proposed project site was known to meet the five of the six criteria that the County required in order to qualify as and SEA<sup>33</sup>:

- On a regional basis, biotic communities, vegetative associations, and habitat of plant or animal species that are either unique or are restricted in distribution.
- Within the County, biotic communities, vegetative associations, and habitat of plant or animal species that are either unique or are restricted in distribution
- Habitat that at some point in the life cycle of a species or group of species, serves as concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or in the County.
- Biotic resources that are scientific interest because they are either an extreme in physical/geographical limitations, or represent unusual variation in a population or community.
- Areas that would provide for the preservation of relatively undisturbed examples of the original natural biotic communities in the County

The DEIR confirms that the proposed project area still qualifies as an SEA and should be placed into that designation.

### **Regional Conservation Investment Strategy**

Currently, as the County is aware, a new type of non-regulatory conservation program has been put in place in California called the Regional Conservation Investment Strategy Program.<sup>34</sup> The program allows for California Department of Fish and Wildlife (“CDFW”) or any public agency to develop a regional conservation investment strategy (“RCIS”) for the protection of focal plant and wildlife species and other important conservation elements. A

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<sup>32</sup> <http://planning.lacounty.gov/sea>

<sup>33</sup> <http://planning.lacounty.gov/sea>

<sup>34</sup> <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

regional approach to advance mitigation planning can ensure that compensatory mitigation actions ultimately provide conservation benefit for affected species. One of the pilot RCIS is in the Antelope Valley at the bequest of the Desert Mountains Conservation Authority.<sup>35</sup> Currently, the Antelope Valley RCIS process has completed an administrative draft and will be submitting it to the CDFW for review and approval. The administrative draft identifies that most of the proposed project site are a core areas (Western Antelope Valley Core and Pine Canyon Core), with large areas of the highest biological value and intactness. It also identifies the proposed project site as having the best “least cost corridor” for wildlife movement, where least cost means the animals have the easiest time moving through the area. While the administrative draft of the Antelope Valley is not a publicly available document, as a stakeholder in the process, we were given access to the administrative draft document, as was Los Angeles County. The County needs to incorporate the results of results of the RCIS process, which is wholly based on recent, best available science, into a revised and recirculated DEIR.

### **DEIR Fails to Provide Key Plans**

Many of the plans that are identified in the DEIR that are necessary to adequately minimize or mitigate impacts are simply not provided in the DEIR for public review. For example:

- Special Status Plant Species Restoration Plan (at 5.7-174)
- Biological Resource Mitigation Program (at 5.7-174)
- Wildlife Relocation Plan (at 5.7-176)
- Native Perennial Grassland and Wildflower Field Mitigation Plan (at 5.7-182)
- Oak Woodland Mitigation Plan (at 5.7-185)
- Streambed and Wetland Habitat Creation and Enhancement Plan (at 5.7-188)
- Landscaping Plan (at 5.7-190), and
- Implementation Plan, including fire risk abatement measures (at 5.7-194)

While the CEQA lead agency has the responsibility of assuring that mitigation meets all the LORS and conditions, the Center has not always found that to be the case. Studies of mitigation compliance have borne this out as well. Making all of the required plans available as part of the public process is important to assure the public that their public trust resources are being protected – without public disclosure of these plans during the environmental review process there is no way to evaluate whether the CEQA lead, in this case the County, has put in place adequate plans to prevent degradation of our natural heritage, clean air and water. The County must supply these essential plants as part of the public process that enables public input on the various “mitigation” plans that are being proposed as conditions of this proposed project.

### **G. The DEIR Fails to Adequately Identify and Analyze Biological Resources under Climate Change.**

The DEIR fails to identify or analyze the impacts of the proposed project on the biological landscape that is already responding to climate change. In fact, climate change is not mentioned in the biological section of the DEIR, and the climate change section does not discuss impacts to biological resources. The DEIR addresses risks associated with global climate change

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<sup>35</sup> <http://dmca.ca.gov/Attachment%204.pdf>

in context of including the need for climate change mitigation strategies (e.g., reducing greenhouse gas emissions) but not for the need of climate change adaptation strategies (e.g., conserving intact wild lands and the corridors that connect them). All climate change adaptation strategies underline the importance of protecting intact wild lands and associated wildlife corridors as a priority adaptation strategy measure.

The habitat destruction and fragmentation, loss of connectivity for terrestrial wildlife, and introduction of predators and invasive species associated with the proposed project in the proposed location may run contrary to an effective climate change adaptation strategy. Siting the proposed project in the proposed location impacting the best native grasslands remaining in California and world class wildflower fields, occupied habitat and important habitat linkage areas for numerous sensitive species, and other fragile biological resources could undermine a meaningful climate change adaptation strategy with a poorly executed climate change mitigation strategy. The way to maintain healthy, vibrant ecosystems is not to fragment them and reduce their biodiversity.

Lacking any requirement for a management plan for the conserved lands management, the DEIR makes it impossible to evaluate if the conserved lands would be managed to benefit species conservation particularly under on-going climate change. The Ranchwide Management Plan<sup>36</sup> focuses primarily on grazing management, not sensitive species conservation as it is, and when coupled with on-going climate change is inadequate to achieve the proposed mitigation goals for the proposed project.

The revised and recirculated EIR needs to add a section in the Biological Resources section on climate change and address the impacts of the proposed project on biological resources under climate change scenarios.

#### **H. The DEIR fails to adequately mitigate the Project's impacts on wetlands.**

While the Center supports habitat restoration in general, in the absence of the plan, it is impossible to evaluate or determine the efficacy of proposed minimization and mitigation to actually adequately mitigate impacts

Disturbed lands that could be restored should first be considered for the proposed project site, because impacts to the suite of imperiled species and plant communities would be considerably less. It makes no sense to impact fully functioning habitat for unique and imperiled species when an alternative disturbed site is available. It makes even less sense and is much more expensive to impact fully functioning habitat and mitigate it by "restoring" disturbed areas. Restored habitat has never been documented to support the full functioning ecosystem processes of undisturbed habitat.<sup>37</sup>

#### **I. The DEIR cannot rely upon the Ranchwide Agreement to mitigate the Project's impacts.**

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<sup>36</sup> <http://www.tejonconservancy.org/rwmp.htm>

<sup>37</sup> Longcore, T., R. Mattoni, G. Pratt and C. Rich 1997 On the perils of ecological restoration: Lessons from the El Segundo blue butterfly. *2nd Interface Between Ecology and Land Development in California* J.E. Keeley, Coordinator. Occidental College, April 18-19, 1997. <http://www.urbanwildlands.org/Resources/perils.pdf>

As mentioned above, none of the terms or provisions in the Ranchwide Agreement are binding and enforceable mitigation measure under CEQA. The Ranchwide Agreement is a private agreement between the project proponent and other conservation groups that is not enforceable by the County. As such, the County cannot rely upon any of the conservation proposed in the Agreement in order to mitigate the impacts of this Project. Again, per section 3.9 of the Ranchwide Agreement, the only party that can enforce the Agreement is the Tejon Ranch Conservancy, which is partially controlled by the project proponent.

## **XII. The DEIR Fails To Mitigate The Project's Land Resource Impacts.**

### **A. The DEIR fails to analyze or address the potential for off-site land use changes associated with the project.**

The DEIR claims that, “there would be no other changes in the environment... that would indirectly result in conversion of Farmland to nonagricultural use...” (DEIR at 5.5-18.) However, the DEIR offers no evidence to support this conclusion. In fact, as shown in Exhibit 5.5-1 of the DEIR, the eastern side of the project is in the vicinity of farmland of local importance (incorrectly labeled “L” in exhibit 5.5-1), as well as Prime Farmland. While the DEIR admits that the Project would result in a significant impact if it provides incentive for other agricultural landowners to convert farmland to non-agricultural use (DEIR at 5.5-18), the DEIR makes no mention of how nearby farmland might be impacted by the Project. These impacts could be considerable, given for example, that a large area of land identified as Prime Farmland would be bordered on three sides by the Project, with the potential to make farming activities and access to this location unviable. The DEIR also fails to consider the strong economic incentives for surrounding landowners to convert farmland to commercial and residential uses as a result of the Project. By claiming that the Project would not result in the indirect conversion of Farmland to nonagricultural use without offering analysis to support this assertion, the DEIR fails to allow decision-makers and the public to make an informed decision on the extent that Project development will impact land resources. (*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.”))

### **B. The DEIR’s proposed mitigation measures for impacts to land use changes are vague and inadequate.**

While the DEIR acknowledges that the conversion of 642 acres of Prime Farmland to non-agricultural uses is a significant impact under CEQA, mitigation measures proposed in the DEIR are vague and are not demonstrated to mitigate these impacts. Although Project Design Feature 5-1 of the DEIR allows continued grazing on portions of the Project site and accommodates some small-scale agricultural and agricultural-related uses, it fails to directly address or mitigate the conversion of hundreds of acres of Prime Farmland to non-agricultural uses. Agricultural preservation easements would help to directly address this issue by preserving Prime Farmland. However, the use of an agricultural preservation easement is not included in any Project Design Features and is only cursorily mentioned in section 5.5-13 of the DEIR. The DEIR purports to put an agricultural preservation easement on 489 acres of Prime and Unique farmland outside of the Project site on the Tejon Ranch property, but provides no details as to the location or feasibility of this easement. The implementation of an adequate agricultural

preservation easement, would in theory, help to mitigate the significant land-use impacts associated with the Project. As such, a thorough analysis of this proposed mitigation measure is necessary to properly evaluate the impacts of the proposed Project. (*Napa Citizens for Honest Gov't v. Napa County Bd. Of Supervisors* (2001) 91 Cal.App.4th 342, 360 (“the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified.”))

### **C. The DEIR fails to demonstrate that impacts to farmland are unavoidable.**

The DEIR claims that impacts to 642 acres of Prime Farmland cannot be mitigated “[f]or the same reasons as described in the AVAP EIR.” (DEIR at 5.5-1.) The DEIR needs to provide evidence and analysis describing why these impacts to these specific 642 acres of Prime Farmland cannot be mitigated. The DEIR cannot generally cite to an EIR for a different project in order to claim impacts cannot be mitigated.

Similarly, the DEIR generally cites to the AVAP EIR’s impacts to 6,169 acres of Important Farmland in justifying the Project’s conversion of 642 acres of Prime Farmland. (DEIR at 5.5-13-14.) The DEIR does not explain how impacts to a large amount of “Important” Farmland have any bearing upon the Project’s impacts to 642 acres of “Prime” Farmland. Important Farmland and Prime Farmland are separate classifications. Again, the DEIR cannot claim these impacts cannot be mitigated by generally referencing “the same reasons described in the AVAP EIR...” (DEIR at 5.5-14.) The DEIR offers no evidence that the AVAP EIR specifically concluded that impacts to these 642 acres of Prime Farmland are unavoidable. Accordingly, the DEIR lacks any evidence to support its conclusion that there are no feasible mitigation measures to reduce impacts to 642 acres of Prime Farmland. (*See* DEIR at 5.5-18.)

### **XIII. The DEIR’s Hydrological Analysis Is Flawed.**

The DEIR’s assertions that the Project will not result in significant hydromodification impacts rely heavily on an analysis that utilizes the Erosion Potential (Ep) methodology, which the DEIR describes as “alternate” methodology identified in the County LID Manual. (DEIR at 5.2-23.) As part of this methodology, flow conditions and volumes for peak events were analyzed for existing locations or “nodes” and compared to estimated post-development flow conditions and volumes at these same locations (as summarized in Tables 5.2-7 and 5.2-8 of the DEIR). However, the DEIR fails to offer a rationale for how and why these node locations were picked for analysis over other locations at the Project site. In fact, many of the chosen nodes appear to be strategically located downstream of proposed infiltration basin locations, which would serve to reduce flow discharge and runoff volumes during storm events. As such, the DEIR fails to accurately disclose post-development changes in flow conditions, particularly those that are upstream of chosen nodes. Post-development flow discharge and runoff volumes could significantly increase at upstream locations due to the development of impervious surfaces at the site.

As described in the DEIR, increases in stream discharge and runoff volumes, particularly during major storm events, are likely to result in hydromodification impacts including channel erosion, modification, or sedimentation. (DEIR at 5.2-23.) Since the Project would result in a significant impact if it would “alter the course of a stream or river” (LA County Environmental

Threshold 2-1, 2-2), an analysis of hydromodification impacts under CEQA should evaluate these potential impacts across all locations at the Project site. Moreover, the DEIR fails to evaluate potential hydrologic or hydromodification impacts for streams located in the northernmost portions of the Project. The DEIR justifies the decision to exclude these streams from analysis by stating that, “East Tributaries 7, 8, and 9... do not have defined channels in either the existing or proposed condition” (DEIR at 5.2-24). However, it remains to be seen how these tributaries might be consistently mapped and delineated in DEIR figures without the existence of defined channels.

#### **XIV. The DEIR Fails To Adequately Analyze And Mitigate The Air Quality Impacts Of The Project.**

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. Aquatic species and habitats are 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 these 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 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 from 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 particulates are dangerous because they are small enough to escape out 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 that 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. (BAAQMD 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. Public transportation options should be converted or retrofitted to clean fleets. A life-cycle assessment of the entire project should be conducted to inspect the totality of the resultant air pollution, from manufacturing of the materials to their transport to the site, and beyond. (BAAQMD 2016; Ghattas 2013)

The Project would affect several areas that are in violation of the Clean Air Act's National Ambient Air Quality Standards ("NAAQS"). The South Coast air basin is in extreme nonattainment for the 2008 8-hour ozone standard, moderate nonattainment for the 2012 PM 2.5 standard, serious nonattainment for the 2006 PM 2.5 standard, and moderate nonattainment for the 1997 PM 2.5 standard.<sup>38</sup> The San Joaquin Valley air basin is in extreme nonattainment for 2008 8-hour ozone standard, moderate nonattainment for 2012 PM 2.5 standard, and serious nonattainment for the 2006 PM 2.5 standard, and 1997 PM 2.5 standard.<sup>39</sup> The Mojave Desert Air Basin is in severe 15 nonattainment for the 2008 8-hour ozone standard, and moderate nonattainment for the 1997 PM 10 standard.<sup>40</sup> State and local air agencies determined that attainment required massive emission reductions from all pollution sources, even in the absence of any growth in emissions associated with new projects, if these areas are to attain the standards. The EIR fails to adequately address the project's significant increase in emissions in the San Joaquin, South Coast, and Mojave Desert air basins and adequately analyze to what extent the ambitious reductions required under the State Implementation Plans will be hindered by the project.

The EIR fails to adequately analyze the project's impacts because of the difficulty of determining, in the absence of adequate modeling, whether the project, and other potential projects interfere with attainment of NAAQS. From an air quality perspective, a new project of the magnitude of the Centennial project, coupled with other potential projects (e.g. Grapevine,

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<sup>38</sup> U.S. EPA, Nonattainment Areas for Criteria Pollutants (Green Book), available at <https://www.epa.gov/green-book>

<sup>39</sup> U.S. EPA, Nonattainment Areas for Criteria Pollutants (Green Book), available at <https://www.epa.gov/green-book>

<sup>40</sup> U.S. EPA, Nonattainment Areas for Criteria Pollutants (Green Book), available at <https://www.epa.gov/green-book>

Newhall Ranch, Tejon Mountain Village), has the potential to interfere with the air plans' tasks of reducing ambient pollutant concentrations to levels no greater than federal air standards for PM and ozone.

The EIR must assure that the Project would not conflict with AVAQMD, SCAQMD, MDAQMD, and SJVAPCD air quality management plans ("AQMP"), the Southern California Association of Governments ("SCAG") 2012–2035 Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS"), and the SCAG 2016–2040 RTP/SCS. The EIR must assure that the combined population growth projections and development that are cumulatively expected as part of the range of approved projects conform to the assumptions in the AQMPs and RTP/SCS. A leapfrog project of this scale, combined with other massive new development projects such as Grapevine, Newhall Ranch, Tejon Mountain Village, threatens to exceed the projections, assumptions, and mitigations incorporated into those plans. The EIR must provide substantial evidence that the cumulative development in the South Coast, Antelope Valley, Mojave Desert, and San Joaquin Valley Air Basins, combined with this project, will not exceed the projections underlying those plans. Conclusory statements that the projects do not conflict with those standards does not provide the public or decisionmakers with the information necessary to make an informed decision on the environmental impacts, mitigation measures, or alternatives related to the Project.

The EIR must also assure that the analysis is not segmented to avoid analyzing the Project's whole impacts on affected air quality thresholds or air quality management plans. The EIR must not minimize the whole of the Project's impacts or emissions by only applying a portion of the emissions from the Project in different areas because those emissions cannot be controlled within the air district. The total emissions from the Project must be analyzed against the thresholds and air quality management plans for the South Coast air basin and Antelope Valley air basin. The EIR must also prepare proper modeling to analyze the potential for drift and project emissions from mobile sources as they would be affecting the Mojave Desert and San Joaquin Valley Air Basin.

The EIR must adequately analyze the potential health risks from the Project's air pollution. 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 no context to decisionmakers or the public of the Project's actual effects on public health. An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 653.) Numbers or general descriptions without translation for the public or application to the project do not meaningfully inform the public. Because the project will be built over many years and decades the EIR must analyze the potential for project construction at later phases to affect the residents of the development that will already be living and working there. A sensitive receptor baseline that does not account for the future residents of the Project area overlooks the whole of the project and employs a flawed baseline to minimize impacts to public health and the affected environment.

### **A. The DEIR underestimates the air quality impacts of the Project.**

The DEIR estimates that approximately 23,675 employment opportunities will be created in relation to the Project, and that the resident population will be approximately 57,150 persons. According to the latest US census figures, the average percent of the U.S. population in the civilian workforce is 63.3 percent, meaning that a reasonable estimate for the employed population of the proposed Project is 36,176 persons. Given the specific skills and experience needed for many of the jobs that are proposed to be generated by the Project, such as those in research and development, it is highly unlikely that the entirety of generated employment opportunities would be filled by persons residing in the community. However, even assuming this unlikely scenario, the Project would still result in an estimated 12,501 persons commuting externally for employment. As such, the Project traffic study (Appendix 5.10-A) predicts that the majority of daily trip generation will be external to the Project site. Given that the Project is located more than 40 miles from major centers of population and employment, the impacts of these external trips on air quality (in addition to noise and carbon emissions) would be significant. However, the DEIR fails to adequately analyze these impacts or to propose meaningful mitigation measures.

Regarding air quality, the DEIR admits that “the primary source of long-term emissions would be from vehicle operations” (DEIR at 5.11-1), and that as a result long-term operational emissions of VOC, NO<sub>x</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub> would exceed AVAQMD and SCAQMD CEQA significance thresholds. While the DEIR cites MM 11-4, 11-5, and 11-6 in response to air quality impacts, these mitigation measures are inadequate and fail to address air quality problems related to external automobile trips.

The Project impacts areas where attainment planning for air quality standards is most challenging and understates the magnitude of the problem and impacts. Both ozone and Particulate Matter (“PM”) 2.5 and their gaseous precursors are by their nature capable of being transported by prevailing winds within air basins and between adjoining air basins. Because of its location, emissions from the Project affect not only the South Coast air basin and Antelope Valley air basin but also the adjacent San Joaquin Valley air basin and the Mojave Desert air basin. The DEIR must fully analyze the Project’s potential impacts and vehicle trips on adjacent areas and air basins, not only through the transport of those emissions via wind, but also through the emissions resulting from the vehicles themselves as they enter those air basins. It is not simply enough to assert that the Project will only affect air basins where it is physically located when vehicle trips and weather patterns with take emissions into adjacent air basins such as the San Joaquin Air Basin or Mojave Air Basin. The DEIR must also analyze the Project’s potential to exceed significance thresholds for other air basins such as the thresholds set up by the San Joaquin Valley Air Pollution Control District and Mojave Desert Air Quality Management District.

The Project impacts three of the most heavily polluted areas in the country. Los Angeles County in the South Coast air basin and Antelope Valley air basin, Kern County in the San Joaquin Valley air basin and San Bernardino County in the Mojave Desert Air Basin rank among the nation’s worst in overall ozone and PM 2.5 pollution. (American Lung Association 2016.) The Project cannot avoid the Project’s air quality impacts by avoiding the potential emissions from vehicle trips associated with the Project by improperly narrowing the geographic breadth of

the analysis or avoiding the trips that would occur beyond the immediate area. The DEIR underestimates trip length by overestimating the capture rate for traffic and cannot be supported by substantial evidence because it ignores the jobs/housing imbalance in the Project area and how the inability of the immediate vicinity to provide jobs for the over 57,150 new residents. (DEIR 1-23.) A comprehensive analysis of air quality impacts is acutely important where, as here, the Project is in an area already experiencing adverse air quality. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 723-724.) The DEIR fails to project an accurate trip length in generating air quality emissions, including greenhouse gases and criteria pollutants, considering the leapfrog nature of this project that is located far from existing job and commercial centers. This inconsistent and incomplete data fails to provide the public and decision-makers with the necessary information required under CEQA. This grave threat to both wildlife and natural resources must be fully analyzed and accounted for in the EIR. Successfully addressing the area's unique pollution problems is made more difficult by projected growth in population and activity levels, increasing the amount of pollution generated within the area, the geographic extent of the polluted area, and the size of the population exposed to these extraordinarily high pollution levels.

#### **B. The DEIR's proposed mitigation measures are inadequate.**

MM 11-4 states that "facilities shall be installed to support future electric vehicle charging at each non-residential building with 30 or more parking spaces." (DEIR at 5.11-80.) MM 11-4 then specifies different guidelines for "when a single charging space is required" opposed to "when multiple charging spaces are required." However, the DEIR fails to specify under what situation multiple charging spaces might be required, leaving the possibility that in large parking lots, only one charging station might be available for hundreds of cars. MM 11-6 suffers from the same vague language regarding charging space requirements, but exacerbates the problem by applying only to parking structures and lots with 20 or more parking spaces. CEQA requires that mitigation measures "must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." (CEQA Guidelines § 15126.4(a)(2).) The vague mitigation measures fail to meet CEQA's requirements. The DEIR makes no mention of making electric charging stations accessible to residential buildings, which given the substantial investment associated with installing electric vehicle service equipment at a personal residence, would present a significant obstacle to the adoption and use of electric vehicles at the project site. Thus, the DEIR does almost nothing to facilitate the use of electric vehicles, which would otherwise help to mitigate the substantial air quality impacts and GHG emissions associated with the Project.

MM 11-5 describes proposed requirements to make bicycle parking accessible within the community, which is consistent with proposed measures that promote bicycle use in other sections of the DEIR. While the use of transportation by bicycle should be encouraged, high temperatures in the area – including maximums that meet or exceed 100 °F – would provide an obstacle to the widespread adoption of bicycle transportation within the community. Furthermore, given the considerable distance between the Project and major population centers, bicycle transport would not address concerns related to trips external to the Project site.

The EIR fails to disclose and analyze many feasible mitigation measures that would reduce the significant impacts of the project. CEQA requires that an EIR propose "feasible"

mitigation measures “to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.” (Pub. Res. Code §§ 21000(b)(3), 21002.1(b); CEQA Guidelines § 15126.4(a)(1); *Napa Citizens for Honest Gov’t v. Napa County Bd. of Supervisors*, 91 Cal. App. 4th 342, 360 (2001).) “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).) 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.)

Fortunately, many mitigation measures to 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 this project and should be evaluated for their feasibility in reducing both greenhouse gases 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).) 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. The Center therefore suggests 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.

## **XV. The DEIR Fails To Adequately Disclose And Analyze The Seismic Risk Of The Project.**

The DEIR erroneously claims that “the overall seismic risk at the Project site is the same as Southern California in its entirety” (DEIR at 5.1-15). In fact, due to its location at the junction of the San Andreas and Garlock fault systems, the Project is located in an area that is categorized as having the highest level of earthquake hazard in the state, according to probabilistic seismic hazard maps prepared by the United States Geological Survey and California Geological Survey. (USGS 2003.) While the DEIR claims that “the Project would not expose people or structures to potential adverse effects (including the risk of injury or death) from surface rupture of a known

earthquake fault ...” (DEIR at 5.1-1.), this assertion hinges largely upon the implementation of Project Design Feature (PDF) 1-1, which institutes a 100-foot setback from fault lines located in the area of development. However, the DEIR provides no evidence to support the claim that a 100-foot setback, which could be reduced to 50-feet with County approval, would be sufficient to mitigate the seismic risk associated with a project located adjacent to one of the most hazardous fault zones in the country. Since the Project would result in a significant impact if it would expose people or structures to potential substantial adverse effects from strong seismic groundshaking, according to County threshold criteria, such an analysis is necessary to properly evaluate the seismic risk associated with the Project.

In addition to the failure to evaluate whether proposed mitigation measures would be effective in reducing seismic risk to non-significant levels, the existing analysis of seismic risk at the Project site is flawed. The DEIR evaluates seismic hazard for the center of the Project site, rather than for the areas of the Project that would be most affected by a seismic event. While portions of the Project are located immediately adjacent to the San Andreas fault zone, Table 5.1-1 of the DEIR estimates peak ground acceleration (PGA), a measure of ground motion that is indicative of potential damage to buildings and infrastructure, for a distance of 0.7 miles from the San Andreas fault. Since peak ground acceleration and other measures of ground motion are generally observed to attenuate exponentially with distance from fault rupture, this approach may significantly underestimate ground motion at the most-affected areas of the Project site. Since the DEIR proposes locating structures as close as 100-feet from major faults, a proper evaluation of seismic risk should analyze the seismic hazard for these near-fault areas of the Project site, particularly considering the considerable maximum earthquake magnitude (8.2) and ground acceleration potential for the Project site. In fact, the DEIR acknowledges that “in the event of a major seismic event, no structure is completely safe from damage.” (DEIR at 5.1-15.)

Other than proposed Project Design Feature 1-1, which has not been demonstrated to effectively mitigate concerns regarding seismic risk, the DEIR attempts to allay seismic hazard concerns by agreeing to conform with applicable building codes and to incorporate geotechnical recommendations presented in existing and future geotechnical reports. However, a promise to comply with existing laws is not sufficient to demonstrate that impacts are less than significant. (*See Californians for Alternative to Toxics v. Dept. of Food & Agric.* (2005) 136 Cal.App.4th 1, 17.) Additionally, a dependence on recommendations from future geotechnical reports inappropriately defers necessary analysis at the Project level to the various phases. (*Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 204-206 (analysis of significant effects may not be deferred to later developments under the specific plan, nor to later tiered EIRs.))

The DEIR also defers proper consideration of sensitive land uses including schools, hospitals, and public assembly sites, in relation to the seismic hazard associated with the Project site. For example, the DEIR states that “the California Department of Education’s (CDE’s) Title 5 requirements would be implemented by local school districts and would ensure that school site location decisions and building designs meet all applicable seismic and public safety concerns...” (DEIR at 5.1-16.) Applicable CDE requirements state that school siting should place a “emphasis upon an engineering investigation made of the site to preclude locating the school on terrain that may be potentially hazardous....including whether the site is situated on or near a pressure ridge, geological fault or fault trace that may rupture” (CDE, Title 5, § 14011.

Procedures for Site Acquisition State-Funded School Districts). Given that the Project site is located in an area of high seismic hazard and that the inclusion of schools, hospitals, and public assembly sites is essential to the viability of the Project as a whole, the DEIR should properly evaluate whether the Project can accommodate sensitive land uses in accordance with existing regulations regarding seismic risk.

**A. The DEIR fails to evaluate risk associated with earthquake-triggered landslides, despite evidence indicating significant risk from coseismic landsliding at the Project Site.**

While the Project is located in an area of high seismic hazard, and while the topography and geology of the area make the Project site highly susceptible to landsliding, the DEIR fails to evaluate or mitigate risks associated with earthquake-triggered landsliding. Dipping sedimentary units such as those found throughout the Project site, are at considerable risk of failure along existing planes of weakness, particularly during seismic events, as attested to by the observation of bedding plane shears in exploratory borings conducted at the Project site. (DEIR at 5.1-9.) The DEIR also notes that shallow landslides and slumps were observed during on-site geotechnical investigations. (DEIR at 5.1-5.19.) Of particular concern is the large landslide identified in the northwest corner of the Project site, which has an area of approximately one square mile and contains debris that are as much as 200 feet thick. (Appendix 5.1-A.) While the DEIR describes that land uses are configured to avoid placing structures in this vicinity, the existence of this landslide indicates that the Project area is susceptible to similar large landsliding events.

Landslide risk would be anticipated to be particularly high in the steeper topography located in the western portion of the Project site, although steeply sloping arroyos found throughout the Project site would also pose a risk of landsliding. Seismic events are highly likely to trigger landsliding via ground shaking. The 1994 (Mw) 6.7 Northridge earthquake triggered more than 11,000 landslides, 57 deaths, and billions of dollars of economic damage in the Los Angeles area (Harp and Jibson, 1995). According to Table 5.1-1 of the DEIR, the Project site is located within 25 miles of 8 dominant faults that could produce an earthquake magnitude greater than that of the Northridge event. Since the Project would result in a significant impact if it would “expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides” (County of Los Angeles Environmental Checklist, Threshold 1-4), an evaluation of the risk posed by earthquake-triggered landsliding is necessary.

**XVI. The DEIR Fails To Adequately Analyze And Mitigate The Project’s Impacts On Water Supplies.**

The DEIR’s analysis of the Project’s water supply fails to adequately consider all potential significant impacts. The DEIR fails to include adequate mandatory or enforceable water mitigation strategies.

**A. The DEIR Fails to Provide Assurance that the Project Has a Long-Term Water Supply**

The DEIR relies on the water shortage analysis from the driest three-year historic sequence of 1931-1933, which should be updated to reflect the new droughts from 2011 onward,

as this submission is dated 2009 (DEIR Appendix 5.18A p. 22). The modeling for future water delivery reliability was done from 1922-2003. (Centennial Water Supply Assessment 3-11). However, § 10632(a)(2) requires this estimate to be based off the driest three-year historic sequence for the agency's water supply. The DEIR should include the new drought information for two key reasons: the first being that climate change is going to continue to exacerbate weather abnormalities, making the 1931 drought too conservative an estimate, and the second being that the purpose of the legislation is having suppliers "carr[y] out their long-term resource planning responsibilities," which should mean including up-to-date drought data (Cal Wat Code § 10610.2(b)).

In addition, the water shortage response plan has been "designed based on the assumption that during a long-term drought the California Department of Water Resources will have a reduction in water deliveries, which is unlikely considering only government-mandated water conservation measures reduce demand, and then only for a temporary period of time." (DEIR at 28; *see also* Emily Guerin, 'Water use in California is increasing. Should we care' *KPCC.org*, Sept. 07 2016)... Further, "[r]educed water supplies coupled with increases in demand are likely to exacerbate competition for over-allocated water resources" (IPCC 2007 Working Group II: Impacts, Adaptation and Vulnerability 14.2.1)

Finally, the DEIR misguidedly relies on a water bank balance greater than zero. Water sustainability should be done based on a starting point of 0 AF; using the number of 6700 AF (minus 10%) as the beginning availability inflates the water availability analysis in the long-term and does not account for unforeseen water bank losses: for instance, earthquakes altering the water bank loss factor; reduced groundwater percolation recharge; water loss due to pollution. By not projecting sustainability analyses from 0 AF, the DEIR has an inflated margin of water availability that is entirely speculative.

For instance, the DEIR states that the water bank balance equal to the previous year's balance plus net transfers to or from the water bank minus 10% general loss. (DEIR 5.18 at 5-1). Phase 1 projections presumably demonstrate that groundwater is not needed to meet this demand, and therefore it is not included in the net amount of surplus water transferred. (*Id.*) This all assumes water is a static entity which can be reasonably relied on. Further, these projections are based on the 1931-33 drought, not the most recent drought, which has presumably altered the net amount of banked water, as well as the surface water upon which Phase 1 relies.

The DEIR supposes that it will bank water in wetter years when the actual deliveries are greater, and extracting stored water for use in drier years, to average a total of 2,607 AF available *if it is properly managed*. (*Id.*) The dry years, which would pull upon the reserves, "are assumed to follow years of long-term average water availability." (*Id.*) This assumption is untenable in the face of climate change, where prolonged droughts of escalating irregularity are projected to occur. (IPCC, *supra*). Finally, the DEIR assumes that responsible ('proper') management will ensure availability of the water bank. Management of water banks is infamously poor, and because of limited regulatory oversight, easily 'improperly' managed.

Thus the margin of error in these calculations is only 2,600 AF, or the equivalent of the use for 5200 residences (using the standard 0.5AF/household/year). Centennial is planning on allowing 19,333 dwelling units. This margin, then, accounts for water use of roughly 25% of the

entire project development. (Centennial DEIR, 1-4). By not starting at zero banked water, the DEIR is gambling with a significant amount of water.

Finally, Centennial states that the Antelope Valley groundwater basin is subject to an ongoing adjudication. (DEIR Appendix 5.18 at 4.-2). Because of the uncertainty surrounding the water rights, assumptions built upon access to the water must be revised in light of the decision.

#### **B. The DEIR fails to include mandatory or enforceable water mitigation strategies.**

The DEIR relies on a backstop of increased conservation to mitigate uncertainty rather than planning for it:

In the event that future water demands are determined to exceed available supplies, the Project Water Purveyor must implement measures to ensure that supplies will be adequate to meet future demand, including such measures as enhanced water budget based rates consistent with applicable legal requirements, increased enforcement, facility repairs or upgrades, or obtaining supplemental water supplies. No additional development will occur until water use report response measures have been implemented [...].(DEIR at 5.18-2).

If these provisions are to curb excessive water demands, they must be ‘mandatory’ measures. Currently DEIR Appendix 5.18 only requires that “customers are in the best position to implement no-waste policies” and urban water suppliers “may use any time of consumption reduction methods...that would reduce water use.” (DEIR Appendix 5.18A, at 26). These statements do not demonstrate actual mitigation strategies that can be implemented, nor their enforceability, in times of overconsumption of water. Section 10632(a)(4) of the Water Code states: “Additional, mandatory prohibitions against specific water use practices during water shortages, including, but not limited to, prohibiting the use of potable water for street cleaning.” As the DEIR is written, no mandatory prohibitions besides potable water for street cleaning is specifically mentioned. This provision would be meaningless if applicants could do what Centennial has done, which is deferring listing specific practices to the water suppliers.

#### **C. The DEIR Fails to Analyze the Environmental Impacts of the Project’s Use of the Nickel Water & Its Reliability**

The DEIR fails to discuss any potential environmental impacts of the Project’s use of the Nickel water. The Nickel water reliance is a significant source of its base water supply projection, with 51% of the water for years 1-10 coming from it. (Centennial Water Supply Assessment at 5-3). All aspects of the arrangement, from the withdrawal of the water from the Kern River (or from the Delta, the ground, or wherever else) to the transfer of the water to the Project to the use of the water at the Project site, must be disclosed and analyzed. Any prior environmental reviews regarding Nickel water, including all supporting documentation, must be disclosed and analyzed in the DEIR (and included in full). Other information that should be included and analyzed in the EIR is all information regarding prior use of Nickel water, including before and after any prior environmental review. The DEIR’s analysis, by placing the transfer in a vacuum, fails to consider all potential significant environmental impacts of this Project. It may be that the Project’s water supply, being a return on loaned water at an interest

rate is truly reliable, though located in one of the most drought-prone parts of drought-prone California. But this needs to be explained and supported by facts fully disclosed in the DEIR. The DEIR cannot rely solely on the Water Transfer Contract to conclude that the Project's water supply is completely reliable.

**D. The EIR must analyze climate change's effect on water supply in determining water supply impacts.**

Significantly for the state, as well as the Project area, is climate change's impact on water supply. The Intergovernmental Panel on Climate Change (IPCC) specifically identified the American West as vulnerable, warning, "Projected warming in the western mountains by the mid-21st century is very likely to cause large decreases in snowpack, earlier snow melt, more winter rain events, increased peak winter flows and flooding, and reduced summer flows . . . ." (IPCC 2007b.) Recently, researchers found that an increase in atmospheric greenhouse gases has contributed to a "coming crisis in water supply for the western United States. . . ." (Barnett 2008.) Using several climate models and comparing the results, the researchers found that "warmer temperatures accompany" decreases in snow pack and precipitation and the timing of runoff, impacting river flow and water levels. (Barnett 2008.) These researchers concluded with high confidence that up to 60 percent of the "climate related trends of river flow, winter air temperature and snow pack between 1950-1999" are human induced. (Barnett 2008.) This, the researchers wrote, is "not good news for those living in the western United States." (Barnett 2008.)

The California Center on Climate Change has also recognized the problem climate change presents to the state's water supply and predicts that if GHG emissions continue under the business-as-usual scenario, snowpack could decline up to 70-90 percent, affecting winter recreation, water supply and natural ecosystems. (Cayan 2007.) Climate change will affect snowpack and precipitation levels, and California will face significant impacts, as its ecosystems depend upon relatively constant precipitation levels and water resources are already under strain. (Cayan 2007.) The decrease in snowpack in the Sierra Nevada will lead to a decrease in California's already "over-stretched" water supplies. (Cayan 2007.) It could also potentially reduce hydropower and lead to the loss of winter recreation. (Cayan 2007.) All of this means "major changes" in water management and allocation will have to be made. (Cayan 2007.) Thus, climate change may directly affect the ability to supply clean, affordable water to the residents, or change how the Project will utilize water, and it may also impact other activities outside the Project area, such as agriculture.

Scientists indicate that climate change will also exacerbate the problem of flooding by increasing the frequency and magnitude of large storms, which in turn will cause an increase in the size and frequency of flood events. (NRDC 2007.) The increasing cost of flood damages and potential loss of life will put more pressure on water managers to provide greater flood protection. (NRDC 2007.) At the same time, changing climate conditions (decreased snowpack, earlier runoff, larger peak events, etc.) will make predicting and maximizing water supply more difficult. (NRDC 2007.) These changes in hazard risk and water supply availability must be considered during environmental review.

Water quality, in addition to water quantity and timing, will also be impacted. Changes in precipitation, flow, and temperature associated with climate change will likely exacerbate water quality problems. (NRDC 2007.) Changes in precipitation affect water quantity, flow rates, and flow timing. (Gleick 2000.) Shifting weather patterns are also jeopardizing water quality and quantity in many countries, where groundwater systems are overdrawn. (Epstein 2005.) Decreased flows can exacerbate the effect of temperature increases, raise the concentration of pollutants, increase residence time of pollutants, and heighten salinity levels in arid regions. (Schindler 1997.)

Accordingly, the DEIR must contain a realistic assessment regarding climate change's effects on the Project's planned water supplies.

## **XVII. The DEIR Fails Establish Consistency with Applicable Plans and Policies.**

Land use decisions must be consistent with all applicable land use policies, including the Los Angeles County General Plan ("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 DEIR fails to establish inconsistently with the General Plan, AVAP policies, and other policies as set forth below.

The DEIR claims the Project complies with the 2016-2040 RTP/SCS. However, the DEIR admits the "resident population of the Project at buildout is 82.46 percent of the projected resident population of traffic analysis zone (TAZ) 20280000 and TAZ 20281000 by 2035, **but exceeds the Southern California Association of Governments (SCAG) projections for 2040.**" (DEIR at 5.8-2.) While the DEIR dismisses this inconsistency by claiming the projects are "non-binding," the Project is nonetheless inconsistent with SCAG projections. As such, the DEIR is misleading when it repeatedly claims that the Project and the growth caused by the Project is expected, planned, or anticipated. More importantly, the inconsistency with SCAG projections renders the Project inconsistent with the Sustainable Communities Strategy, as required by SB 375.

The DEIR further acknowledges that while the AVAP EIR is subject to litigation brought by the Center, the DEIR "does not tier from, nor is it legally reliant upon, the EIRs for either the AVAP..." (DEIR at 5.8-3.) This statement is undermined by the hundreds of references to the AVAP or AVAP EIR throughout the DEIR. Indeed, as discussed above, the DEIR repeatedly generally cites to analyses in the AVAP EIR. (See DEIR at 1-11, 5.5-1, 5.5-14.)

### **A. The Project is inconsistent with the General Plan.**

The DEIR concludes it is consistent with the LA County General Plan's policy of promoting a balanced distribution of jobs and services. (DEIR at 5.8-20.) Yet, this conclusion is belied by the fact that average trip lengths will be 45.9 miles. In addition, as discussed above, the developer(s) or builder(s) could avoid any of the commercial or school development if they believe such an approach is warranted based upon "market conditions."

The LA County General Plan on page 92 explains that "Jobs-housing balance is reached by working toward increasing opportunities for people to work and live in close proximity, and

reduce long commutes that are costly both economically and environmentally.”<sup>41</sup> This Project will do the opposite of achieving “balance” by siting thousands of people many dozens of miles from employment opportunities. Similarly, the General Plan states on page 74:

Suburban sprawl is a land use pattern that extends urban infrastructure and residential development into undeveloped areas with limited or no infrastructure, such as roads, public utilities, and public transit.

The Project typifies this land use pattern because there is currently no development anywhere near the Project site and extremely limited infrastructure. As the General Plan further explains, sprawl results in the fragmentation of open space areas, loss of agricultural lands, and contributes to “traffic congestion, air pollution, and greenhouse gas emissions.” The Project will disproportionately add to all of these harms. As such, the Project is inconsistent with LU 3, which provides that development patterns should discourage sprawl.

### **B. The Project is inconsistent with the AVAP’s Land Use Element.**

The DEIR claims that the Project is consistent with the AVAP’s Goal LU 2, which requires land use patterns that protect environmental resources. The DEIR claims this goal will be met by compliance with SEAs and the Ranchwide Agreement. (DEIR at 5.8-24.) However, the SEAs were reduced with no corresponding environmental review, as explained in the Center’s litigation regarding the AVAP EIR. In addition, as discussed in the Biological Resources section, the County previously had considered the Project area as a SEA, but removed the designation. Moreover, as discussed above, the County cannot rely upon the private Ranchwide Agreement to fulfill its obligations under CEQA, the AVAP, or the General Plan. The DEIR is inconsistent with Policy LU 2 for similar reasons.

The Project is inconsistent with Goal LU 3, Policies LU 3.1 and 3.5 for the reasons discussed in section XV -- particularly that the Project site is sited in an area prone to natural hazards.

The Project is inconsistent with Goal LU 5, which requires that land use patterns decrease greenhouse gas emissions. (DEIR at 5.8-28.) As discussed in above, the Project will disproportionately add to the region’s GHG emissions by siting residents far from existing employment, schools, and city centers. The Project also is inconsistent with LU 5.1, which requires consistency with the Sustainable Communities Strategy. The Project is the antithesis of sustainable development and the DEIR even admits that the Project would exceed SCAG’s population projections in the 2016-2040 RTP/SCS. (See DEIR at 5.8-2.) The Project similarly is not consistent with Policy LU 5.2, Policy LU 5.3, and Policy LU 5.4 because the Project will not necessarily provide for local employment opportunities, given that the developer can avoid developing commercial portions of the Project based upon “market conditions.”

The Project is inconsistent with Policy LU 5.3, which requires the preservation of open space areas. (DEIR at 5.8-29.) The Project will result in approximately a reduction of approximately 6,000 acres of open space. The DEIR misleadingly states that the Project will

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<sup>41</sup> See Los Angeles County General Plan (Oct. 6, 2015), available at [http://planning.lacounty.gov/assets/upl/project/gp\\_final-general-plan.pdf](http://planning.lacounty.gov/assets/upl/project/gp_final-general-plan.pdf).

help implement the Ranchwide Agreement and thereby preserves over 240,000 acres of contiguous open space areas (in perpetuity)....” (DEIR at 5.8-29.) Again, any commitments in the Ranchwide Agreement are unenforceable by the County and therefore irrelevant to the project proponent’s mitigation here. Moreover, as discussed above, the DEIR only promises to preserve 3,681 acres “in perpetuity.” (DEIR at 4-44.)

**C. The Project is inconsistent with the AVAP’s Mobility Element.**

The DEIR is inconsistent with many of the goals and policies in the Mobility Element for the same reasons discussed throughout this letter – the Project will *not* require land use patterns that promote alternatives to the automobile (Goal M 1); (2) the Project will not minimize travel times or reduce vehicle trips (Policy M 1.1); (3) the Project will not reduce vehicle trips through effective transportation demand systems (Goal M 2). (See DEIR at 5.8-30.) Similarly, the Project will not effectively encourage trip reduction through carpools, vanpools or public transit (Policy M 2.2, Policy M 2.3, Policy M 2.4) because the DEIR contains no firm plans for actually reaching the goal of reducing single occupancy automobile use by 30 percent. (See DEIR at 5.8-31 & 5.21-66.)

**D. The Project is inconsistent with the AVAP’s Conservation and Open Space Element.**

The Project is inconsistent with the AVAP’s water resources policies for the reasons set forth in section XVI above. In particular, the Project is not guided by water supply constraints (Goal COS 1) and fails to identify sustainable water sources (Policy COS 1.1). (See DEIR at 5.8-41.) Likewise, although Policy COS 2.1 requires compliances with efficiency standards in the County Code, the DEIR only generally states that the Project’s “Green Development Program” will reduce water use. (DEIR at 5.8-42.) Moreover, the DEIR’s Water Resources section does not appear to add any further detail on whether the Project actual complies with the County Code.

The Project also is inconsistent with the previous version of the AVAP, which designated the Project site as an SEA. The DEIR should have required the implementation of Policy COS 4.4, which requires new development in SEAs to consider various factors, including preservation of biologically valuable habitats. (See DEIR at 5.8-45.)

As discussed in section XIV above, the Project would further impair air quality in the region by requiring residents to commute many miles to employment. Accordingly, the Project is not consistent with Air Quality COS 9, Policy COS 9.1, Policy COS 9.2, and Policy COS 9.3. (See DEIR at 5.8-51.)

**E. The Project is inconsistent with the AVAP’s Public Safety, Services, and Facilities Element.**

The Project is inconsistent with the policies in the Public Safety, Services and Facilities element for the reasons discussed in sections VII and XV. For example, the Project will not adequately protect residents from fire or seismic hazards, violates policies limiting development in active seismic areas, and fails to contain proper measures to prevent landslides. (See DEIR at 5.8-60-61.)

Because the DEIR improperly concludes that the Project is consistent with the General Plan and AVAP, the DEIR's conclusion that no mitigation is required is similarly flawed. (See DEIR at 5.8-71.)

### **XVIII. 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 project proponent'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)**

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