

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

961 B



FROM: County Counsel

SUBMITTAL DATE: February 22, 2008

SUBJECT: Set aside and re-approval of the Stonehill Estates Project consisting of Change of Zone Case No. 6880, Tentative Tract Map No. 31644 and Agricultural Preserve Case and Map No. 908

RECOMMENDED MOTION: That the Board of Supervisors take the following actions with respect to the above-referenced project:

1. Set aside its approval of the project, including its adoption of Ordinance No. 348.4304, an Ordinance of the County of Riverside Amending Ordinance No. 348 Relating to Zoning; its adoption of the air quality mitigation and overriding consideration portions of Revised Resolution No. 2005-200, a Resolution of the Board of Supervisors of the County of Riverside Approving Tentative Tract Map No. 31644; and its adoption of Resolution No. 2004-137, a Resolution of the Board of Supervisors of the County of Riverside Diminishing Mira Loma Agricultural Preserve No. 8 Pursuant to Notice of Nonrenewal; and
2. Re-approve the project by re-adopting Ordinance No. 348.4304, which is attached hereto and incorporated herein by this reference; by adopting Second Revised Resolution No. 2005-200, which is attached hereto and incorporated herein by this reference; and by re-adopting Resolution No. 2004-137, which is attached hereto and incorporated herein by this reference.

BACKGROUND: On July 18, 2007, judgment was entered against the County in Center for Community Action and Environmental Justice v. County of Riverside, Riverside Superior Court consolidated Case Nos. RIC 435510 and 462544. The judgment directs the Board of Supervisors to take the actions referenced in item 1, above. The County and Board have decided not to appeal this judgment. Second Revised Resolution No. 2005-200 fully addresses the deficiencies identified by the Court in its judgment and justifies re-approval of the project.

FORM APPROVED COUNTY COUNSEL
BY: *Minh C. Tran* DATE: 2/25/08
MINH C. TRAN

Minh C. Tran
JOE RANK
COUNTY COUNSEL
Minh C. Tran *for*

Policy
 Policy

Consent
 Consent

C.E.O. RECOMMENDATION:

APPROVE
BY: *Tina Grande*
Tina Grande

County Executive Office Signature

Department Recommendation:
Per Executive Office:

3.85

The Honorable Board of Supervisors

RE: Set aside and re-approval of the Stonehill Estates Project consisting of Change of Zone Case No. 6880, Tentative Tract Map No. 31644 and Agricultural Preserve Case and Map No. 908

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The project was continued from the January 29, 2008 Board of Supervisors Public Hearing in order to for the applicant to respond to the public testimony presented at this hearing. The Board of Supervisors closed the public hearing and delayed action on the above-referenced project.

2
3 **SECOND REVISED RESOLUTION NO. 2005-200**
4 **APPROVING**
5 **TENTATIVE TRACT MAP NO. 31644**
6 **(STONEHILL ESTATES)**

7 **WHEREAS**, a public hearing was held before the Riverside County Board of Supervisors in
8 Riverside, California on June 7, 2005, and before the Riverside County Planning Commission in
9 Riverside, California on March 30, 2005, to consider Tentative Tract Map No. 31644 and related Change
10 of Zone Case No. 6880, and Environmental Impact Report ("EIR") No. 462 (referred to alternatively
11 herein as the "Project"); and,

12 **WHEREAS**, on June 7, 2005, the Board of Supervisors closed the public hearing and voted
13 unanimously to approve the Project; and,

14 **WHEREAS**, on July 12, 2005, the Board of Supervisors adopted Resolution No. 2005-200
15 approving Tentative Tract Map No. 31644 [AR 893-916, 971-972]; and,

16 **WHEREAS**, beginning July 18, 2005, a Notice of Determination was posted [AR 992]; and,

17 **WHEREAS**, on August 17, 2005, Citizens for Community Action and Environmental Justice
18 ("CCA EJ") filed a Petition for Writ of Mandate in Riverside County Superior Court, Case No. RIC
19 435510, asking the Court to set aside the County's approval of the Project based on several alleged
20 deficiencies under the California Environmental Quality Act ("CEQA"); and,

21 **WHEREAS**, on June 30, 2006, the Court issued its decision in the action, rejecting the majority
22 of CCA EJ's objections and finding the County's CEQA compliance inadequate in only two respects; and,

23 **WHEREAS**, the inadequacies were: (1) the County failed to make the findings required by
24 CEQA Guidelines §15091 with regard to the following long-term air quality mitigation measures
25 suggested during public testimony: an increased buffer between homes and diesel sources, relocation of a
26 truck route, and disclosure of health risks to potential home buyers; and (2) the County failed to provide
27 legally sufficient reasons for its override of the Project's adverse environmental impacts not mitigated to a
28 level of significance; and,

WHEREAS, on August 25, 2006, the Court entered a Judgment Granting Peremptory Writ of
Mandate, requiring the County to do the following: (1) set aside its approval of the Project on the

FORM APPROVED COUNTY COUNSEL
BY: *Minh C. Tran* DATE: *8/25/08*
MINH C. TRAN

1 grounds stated above; (2) proceed consistently with the Court's decision in connection with any
2 reconsideration or reapproval of the Project; and (3) file an initial return to the Peremptory Writ of
3 Mandate specifying the actions taken to comply therewith; and,

4 **WHEREAS**, the Court expressly held in its Judgment dated August 25, 2006, that the County "is
5 not required to recertify the EIR, unless it is revised and must then be recirculated in connection with any
6 reconsideration or reapproval of the Project"; and

7 **WHEREAS**, the Court's Judgment dated August 25, 2006, was not appealed; and

8 **WHEREAS**, on November 21, 2006, this Board set aside its approval of the Project as ordered by
9 the Court, and re-approved the Project pursuant to revised findings adopted in Revised Resolution 2005-
10 200; and,

11 **WHEREAS**, on December 18, 2006, CCAEJ filed a new Petition for Writ of Mandate in
12 Riverside County Superior Court, Case No. RIC 462544 (the "Second Petition"), challenging the Board's
13 re-approval of the Project on various grounds; and,

14 **WHEREAS**, the Court consolidated Case No. RIC 435510 with Case No. RIC 462544; and

15 **WHEREAS**, on June 8, 2007, the Court announced its decision on petitioner's Second Petition in
16 the consolidated cases, requiring the County to set aside its approval of the Project on the sole ground that
17 the County did not hold a further noticed public hearing in connection with its re-approval of the Project
18 on November 21, 2006; and

19 **WHEREAS**, in announcing its decision, the Court expressly reaffirmed, among other things, the
20 following: (1) the two inadequacies identified in the Court's Judgment dated August 25, 2006 (i.e.,
21 findings with regard to certain specified long-term air quality mitigation measures and overriding
22 considerations), are the only two matters left at issue in the consolidated cases; (2) the EIR need not be
23 recertified in connection with any reapproval of the Project; and (3) the Court did not make any findings
24 regarding the adequacy of the findings that the Board made on the air quality mitigation measures or
25 overriding considerations in Revised Resolution 2005-200, dated November 21, 2006; and

26 **WHEREAS**, on July 18, 2007, the Court entered a Judgment Granting Second Petition for Writ of
27 Mandate in the consolidated Case Nos. RIC 435510 and 462544, requiring the County to set aside its
28

1 approval of the Project on the ground that the County did not hold a further noticed public hearing in
2 connection with its re-approval of the Project on November 21, 2006; and,

3 **WHEREAS**, the Court's Judgment dated July 18, 2007, was not appealed; and

4 **WHEREAS**, the intent of this resolution is to comply with the Court's Judgment and Peremptory
5 Writ of Mandate by addressing the remaining CEQA inadequacies identified by the Court, and by
6 conducting a further noticed public hearing in connection with the re-approval of the Project; and,

7 **WHEREAS**, it is not the intent of this resolution to re-certify EIR No. 462, consistent with the
8 Court's judgments in the consolidated cases; and

9 **WHEREAS**, the CEQA inadequacies are specifically addressed on pages 12 through 31 and
10 pages 34 through 38 of this revised resolution; and,

11 **WHEREAS**, all the procedures of CEQA and the Riverside County CEQA Implementation
12 Procedures have been met, and Environmental Impact Report ("EIR") No. 462, prepared in connection
13 with the Project, is sufficiently detailed so that all the potentially significant effects of the Project on the
14 environment and measures necessary to avoid or substantially lessen such effects have been evaluated in
15 accordance with the above-referenced Act and Rules; and,

16 **WHEREAS**, on January 29, 2008, the Board held a further noticed public hearing for the Project
17 in accordance with the Court's Judgment and Peremptory Writ of Mandate, at which the matter was
18 discussed fully with testimony and documentation presented by the public; now, therefore,

19 **BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED** by the Board of Supervisors
20 of the County of Riverside, in regular session assembled on February 26, 2008, that:

21 A. Tentative Tract Map No. 31644 proposes to subdivide the approximately 132-acre project
22 site into 427 residential lots, with a minimum lot size of 7,200 square feet.

23 B. Tentative Tract Map No. 31644 is associated with Change of Zone Case No. 6880, which
24 was considered concurrently at the public hearing before the Planning Commission.
25 Change of Zone Case No. 6880 proposes to change the existing zoning classification of A-
26 2-10 (Heavy Agriculture with a 10-acre minimum lot size) and W-1-10 (Watercourse,
27 Watershed and Conservation Areas with 10-acre minimum lot size) to R-1 (One Family
28 Dwelling).

1 C. Tentative Tract Map No. 31644 is also associated with Agricultural Preserve Case and
2 Map No. 908, which was considered and approved at a hearing before the Board of
3 Supervisors on March 30, 2004 pursuant to Resolution No. 2004-137.
4

5 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the following environmental
6 impacts associated with the Project are potentially significant unless otherwise indicated, but each of these
7 impacts will be avoided or substantially lessened by the identified conditions of approval, mitigation
8 measures and features incorporated into the Project:

9 A. Geology/Soils

10 1. Impacts:

11 Based on the Geotechnical analysis conducted for the site, and the past use of the
12 site as a dairy, the Project site has the potential to exhibit significant impacts
13 related to methane generation. Development of the Project site may result in
14 methane levels after grading that exceed Riverside County thresholds of 5,000
15 parts per million.

16 2. Mitigation:

17 The mitigation measures for Option 1 as described in the methane mitigation
18 protocol for residential and commercial structures are as follows: On lots where
19 methane is detected above 5,000 ppm, mitigation shall include installation of a
20 minimum 60-mil high density polyethylene HDPE membrane barrier (or
21 equivalent), a subslab passive venting system, sealing of utility or other
22 penetrations through the membrane, seal of utility conduits where they enter the
23 structure, and construction of a utility "dam" at any point where a "dry" utility
24 trench approaches the structure. "Liquid Boot", applied to a minimum 60 mil dry
25 thickness per manufacturer's recommendations, may be substituted for the HDPE
26 membrane.
27
28

1 If a post-tensioned slab is utilized, a visqueen vapor barrier may be substituted for
2 the membrane described above, unless the maximum methane reading is above
3 12,500 ppm, in which case the membrane must be used, regardless of slab type.

4 For places within the building footprint with methane levels above 5,000 ppm, and
5 without conditioned air, the mitigation measure shall consist of a visqueen vapor
6 barrier, subslab passive venting system, sealing of utility conduits where they enter
7 the structure, and construction of a utility "dam" at any point where a "dry" utility
8 trench approaches the structure.

9 The mitigation measures for Option 2 (no sampling) as described in the methane
10 mitigation protocol for residential and commercial structures are as follows: On all
11 residential lots, the following shall be installed if Option 2 is selected: A minimum
12 60-mil high density polyethylene HPDE membrane barrier (or equivalent), a
13 subslab passive venting system, and utility conduits shall be sealed where they
14 enter a structure, and construct a utility "dam" at the point where a "dry" utility
15 trench approaches a structure. "Liquid Boot" applied to a minimum 60-mil dry
16 thickness per manufacturer's recommendations, may be substituted for the HDPE
17 membrane.

18 Regardless of which Option described above is followed by the developer, the
19 following mitigation measure shall apply: Any underground utility vaults located
20 on-site shall have air vents installed per the utility purveyor's specifications.

21 The Project must comply with County standards to remove manure and the
22 majority of the organic material, thereby reducing the site's capacity to experience
23 ground cracking from organic material.

24 B. Biological Resources

25 1. Impacts:

26 Development of the Project will adversely affect foraging habitat for raptors and
27 Burrowing Owl habitat due to their presence in the vicinity of the site.
28 Additionally, the Project may have cumulative impacts due to the loss of potential

1 habitat for birds and mammals of concern like the San Diego Black-tailed
2 Jackrabbit.

3 2. Mitigation:

4 Based on Burrowing Owl sightings on the Project site, there is a probability of owl
5 colonization of the site. A pre-construction survey for resident burrowing owls
6 will be conducted by a qualified biologist no more than 30 days prior to start of
7 grading. If owls are determined to be present within the construction footprint,
8 they will be captured and relocated to a conservation site designated by the County
9 of Riverside or California Department of Fish and Game ("CDFG") at time of
10 relocation. The pre-construction survey and any relocation activity will be
11 conducted in accordance with the CDFG Report on Burrowing Owl Mitigation,
12 1995.

13 Occupied burrows shall not be disturbed during the nesting season (February 1
14 through August 31) unless a qualified biologist approved by CDFG verifies
15 through non-invasive methods that either: a) the adult birds have not begun egg-
16 laying and incubation; or b) the juveniles from the occupied burrows are foraging
17 independently and are capable of independent survival. If a biologist is unable to
18 verify one of the above conditions, then no disturbance shall occur within 300 feet
19 of the burrowing owls nest during the breeding season to avoid abandonment of the
20 young.

21 If owls must be moved away from the disturbance area (after they have fledged and
22 are able to leave the burrow), passive relocation techniques shall be used rather
23 than trapping.

24 Passive relocation can be used to exclude owls from their burrows (outside the
25 breeding season or once the young are able to leave the nest and fly) by installing
26 one-way doors in burrow entrances. These one-way doors allow the owl to exit the
27 burrow, but not enter it. These doors shall be left in place 48 hours to ensure owls
28 have left the burrow. Artificial burrows shall be provided nearby. The Project area

1 shall be monitored daily for one week to confirm owl use of burrows before
2 excavating burrows in the impact area. Burrows shall be excavated using hand
3 tools and refilled to prevent reoccupation. Sections of flexible pipe shall be
4 inserted into the tunnels during excavation to maintain an escape route for any
5 animals inside the burrow.
6

7 If site-preparation activities occur during the nesting season of potentially
8 occurring native bird species, a pre-activity field survey shall be conducted by a
9 qualified biologist to determine if active nests of species protected by the
10 Migratory Bird Treaty Act ("MTBA") or CDFG are present in the construction
11 zone. Results of the pre-activity nesting survey shall be used to develop
12 appropriate mitigation measures to reduce possible Project related significant
13 impacts to those bird species that potentially breed in the area. If active nests are
14 located, no grading or heavy equipment activity shall take place within at least 500
15 feet of an active listed species or raptor nest, 300 feet of other sensitive bird nests
16 (non-listed), and 100 feet of most common songbird nests, until nest no longer is
17 active.

18 The purpose of the Western Riverside County Multiple Species Habitat
19 Conservation Plan ("MSHCP") is to conserve open space and habitat on a county-
20 wide, cumulative basis. To address the impacts associated with the cumulative
21 loss of habitat for special status birds by the loss of foraging habitat, Tentative
22 Tract Map No. 31644 shall be conditioned to pay Riverside County MSHCP
23 mitigation fees as set forth under Ordinance No. 810.2. If incidental take permits
24 have not been issued at the time of Project implementation, then the Project shall
25 be required to pay Ordinance No. 810 fees, which are also used to mitigate for loss
26 of open space and habitat.

27 C. Hydrology/Water Quality

28 1. Impacts:

1 Project development into urban uses has the potential to degrade water quality
2 standards by increasing project site urban runoff and/or contributing runoff which
3 would have additional sources of pollution such as pathogens, oil, grease and
4 sediment. The Project will have both a beneficial and negative effect on water
5 quality. The beneficial impact results from the dairy decommissioning and the
6 removal of a long-standing source of nitrate pollution. The negative effect will
7 result from the introduction of the above described pollutants associated with
8 urbanization.

9 2. Mitigation:

10 The Project must comply with the National Pollutant Discharge Elimination
11 System ("NPDES") program and obtain permits during construction which will
12 force the Project to incorporate measures preventing discharges related to
13 construction activities and pollution of receiving waters. Additionally, the Project
14 will be required through standard conditions of approval, to implement post-
15 construction best management practices required in a Water Quality Management
16 Plan ("WQMP"). All impacts to water quality and hydrology are considered less
17 than significant by complying with existing regulations. No further mitigation
18 measures are required.

19 D. Public Services - Schools

20 1. Impacts:

21 The residents from the Project will create an additional demand on the Jurupa
22 Unified School District ("JUSD"). The Project will generate approximately 234
23 K-6 students, 73 7-8 students, and 74 High School students. JUSD's developer
24 impact fee is \$3.43 per square foot.

25 2. Mitigation:

26 Per state law, the Project will be required to pay school impact fees. The Project's
27 fees will mitigate its school impacts. No further mitigation is required.

28 E. Recreation

1 1. Impacts:

2 The Project includes an approximately 5-acre neighborhood park, as well as trails
3 that will be included within the 50-foot buffer surrounding the Project site.
4 Additionally, the Project will include an internal paseo system that will link the
5 residences with the surrounding trails and park site. No significant impacts are
6 expected to parks or trails due to these project-included amenities.

7 2. Mitigation:

8 Impacts are considered less than significant since the Project design features a
9 neighborhood park, trails and paseos.

10 F. Transportation/Traffic

11 1. Impacts:

12 Implementation of the Project would add an estimated 4,106 total trips per day to
13 local roadways resulting in the exceedance of Level of Service "C" County
14 standards on various roadways within the Project area, and cause exceedance of
15 Level of Service "D" on some roadways within one mile of freeway ramps.

16 2. Mitigation:

17 To comply with County standards and reduce all potential impacts to LOS C (LOS
18 D near the freeway) or better, the following mitigation measures shall be
19 implemented as part of the Project: Construct partial width improvements of
20 Galena Street at its ultimate cross-section as a modified urban arterial highway
21 (172' to 189' right-of-way) adjacent to project northern boundary line.

22 Construct partial width improvements of Etiwanda Avenue at its ultimate cross-
23 section as a modified urban arterial highway (134' right-of-way) adjacent to
24 project eastern boundary line.

25 Construct partial width improvements of Bellegrave Avenue at its ultimate cross-
26 section as a modified major highway (114' right-of-way) adjacent to project
27 southern boundary line.

28 Install Stop sign at Project entrances on Bellegrave Avenue.

1 Install Traffic Signal at Project entrance on Etiwanda Avenue (warranted for
2 buildout conditions) using the following geometrics: Northbound: One left turn
3 lane. Two through lanes Southbound: Two through lanes, one shared through and
4 right turn lane. Eastbound: One shared left turn lane and one shared right turn lane.
5 Westbound: N/A Install Traffic Signal at Project entrance on Galena Street
6 (warranted for buildout conditions) using the following geometrics: Northbound:
7 One shared left turn and right turn lane. Southbound: N/A; Eastbound: Two
8 through lanes, one shared through and right turn lane; Westbound: One left turn
9 lane. One through lane. Sight distance at the Project entrance roadway shall be
10 reviewed by County Transportation with respect to sight distance standards at the
11 time of preparation of final grading, landscape and street improvement plans.
12 Signing/stripping shall be implemented in conjunction with detailed construction
13 plans for the Project site. The Project will participate in the cost of off-site
14 improvements through payment of the following "fair share" mitigation fees:
15 Transportation Uniform Mitigation Fee ("TUMF"), current at time of construction.
16 Road and Bridge Benefit District "Zone B" fee, current at time of construction.
17 These fees should be collected and utilized as needed by the County to construct
18 the improvements necessary to maintain acceptable levels of service.

19 G. Utilities

20 1. Impacts:

21 The Project will require the need for water, sewer and solid waste services. Jurupa
22 Community Services District ("JCSD") is the water and sewer provider, and it has
23 planned for this development in its Eastvale Master Water and Sewer Plan.
24 Therefore, the Project will not required the additional construction of new water
25 treatment or wastewater treatment facilities. Additionally, JCSD has planned for
26 this project in its water demand analysis, and has indicated that it has adequate
27 water supplies to serve the Project without jeopardizing its current and future
28 customers.

1 The Project will also generate additional solid waste. Based on state waste
2 generation factors, the Project's percentage of waste in comparison to the landfill
3 capacity at any of the landfills that would be used by the Project is less than one-
4 tenth of a percent.

5 2. Mitigation:

6 Impacts to water and sewer were found to be less than significant based on the fact
7 that JCSD has already contemplated serving the Project, and no significant
8 upgrades or additions are needed to water and sewer facilities due to the Project.
9 The Project's impacts to solid waste were also found to be less than significant, and
10 the following measures were included to help the County of Riverside comply with
11 state law in diverting solid waste from landfills:

12 The Jurupa Area Recreation and Parks District and/or the Lighting and
13 Maintenance District ("LMD") set up by the Riverside County Transportation
14 Department shall establish green waste recycling from yard maintenance. Grass
15 recycling (where lawn clippings from a mulching-type mower are left on the lawn)
16 and on-site composting shall be implemented to reduce the quantities of green
17 waste going to landfills. Additionally, homeowners shall be provided with
18 information from the Jurupa Area Parks District or the LMD on grass recycling and
19 composting.

20 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the following impacts
21 potentially resulting from the approval of the Project cannot be fully mitigated and will be only
22 partially avoided or lessened by the mitigation measures hereinafter specified; a statement of overriding
23 findings is therefore included herein:

24 A. Agricultural Resources

25 1. Impacts:

26 Development of the Project would result in the loss of approximately 47 acres of
27 Prime Farmland and approximately 57 acres of Farmland of Local Importance
28 through its conversion into non-agricultural uses. This conversion of agricultural

1 land to non-agricultural uses contributes incrementally to an already significant
2 cumulative impact experienced in the Project area. The Project will result in the
3 conversion of other agricultural uses to non-agricultural uses. The Project will also
4 require a diminishment from an Agricultural Preserve.

5 2. Mitigation:

6 No feasible mitigation measures were identified in EIR No. 462 that could be
7 implemented that would reduce the impacts from loss of agricultural lands to
8 below the level of significance. A statement of overriding considerations is
9 required.

10 B. Air Quality

11 1. Impacts:

12 a. The Project will result in temporary impacts from project construction
13 activities for reactive organic compounds ("ROC"), NO_x and CO which will
14 exceed South Coast Air Quality Management District ("SCAQMD") significance
15 thresholds. Project related long-term emission levels for ROC, NO_x in the winter
16 months, and ROC in the summer months will also exceed SCAQMD significance
17 thresholds. Implementation of the Project will result in an incremental addition of
18 pollutants from automobile traffic.

19 b. Additionally, since the Project site is located in an area utilized by
20 warehouses, and the truck traffic related to such uses will utilize the same
21 roadways future residents will use and live by, the Project residents will experience
22 exposures to diesel exhaust emissions. The Diesel Impact Analysis prepared for
23 the Project determined that the diesel exhaust emissions will cause an exceedence
24 of the estimated cancer risk threshold related to diesel exposure.

25 2. Mitigation:

26 a. In order to reduce the emissions from project construction equipment, the
27 following mitigation measures shall be implemented:
28

1 (i) Maintain equipment and vehicle engines in good condition and in
2 proper tune as per manufacturer's specifications.

3 (ii) Prohibit all vehicles from idling in excess of ten minutes, both on-
4 site and off-site.

5 (iii) Provide temporary traffic controls during all phases of construction
6 activities to maintain traffic flow (e.g., flag person).

7 (iv) Suspend use of all construction equipment operations during second
8 stage smog alerts. Contact SCAQMD at 800.288.7664 for daily forecasts.

9 b. In order to control dust emissions during construction activities, the
10 following control measures shall be implemented:

11 (i) Water active grading sites at least twice daily. Water unpaved roads
12 or surfaces at least twice daily. Water surfaces before grading.

13 (ii) Trucks hauling dirt, sand, gravel or soil are to be covered or should
14 maintain at least two feet of freeboard, in accordance with Section 23114 of the
15 California Vehicle Code.

16 (iii) Reduce on-site vehicle speed to less than 15 mph.

17 (iv) Sweep nearby or adjacent streets at the end of the day if visible soil
18 material is carried over from construction site.

19 (v) Suspend all grading and excavating operations when wind speeds
20 exceed 25 mph.

21 (vi) Hydroseed or apply soil stabilizers to inactive construction areas left
22 inactive for ten days or more, or replant vegetation in disturbed areas as soon as
23 possible.

24 c. In order to eliminate or reduce potentially significant impacts to air quality
25 due to long term emissions, the following measures shall be implemented:

26 (i) Local transit agencies shall be contacted to determine bus routing in
27 the Project area that can accommodate bus stops at the Project access points and
28

1 the Project shall provide bus passenger benches and shelters at these Project access
2 points.

3 d. The residents of the Project will be exposed to diesel exhaust, a carcinogen.
4 Although the Project has implemented design features to help reduce the impacts to
5 future residents, the Project is considered to have significant, unmitigated impacts.
6 The County circulated the draft EIR for public comment, and received *no*
7 *comments on the air quality issues during the draft EIR public comment period.*
8 [AR 1046-1068] After the draft EIR public comment period closed, at the
9 Planning Commission hearing on March 30, 2005, and at the Board of Supervisors
10 hearing on June 7, 2005, some members of the public raised concerns about the
11 impacts of diesel exhaust on prospective residents. In Riverside County Superior
12 Court Case No. RIC 435510, the Court found that the County failed to make the
13 findings required by CEQA Guidelines §15091 with regard to the following long-
14 term air quality mitigation measures suggested by these members of the public
15 (hereinafter referred to as the “commenters”): a 1,500-foot buffer between homes
16 and diesel sources, relocation of a truck route, and disclosure of health risks to
17 potential home buyers. Accordingly, the Board of Supervisors now makes the
18 following findings with respect to these proposed mitigation measures:

19 (i) *1,500-Foot Buffer*

20 Some of the commenters generally expressed a desire to incorporate as a design
21 element a 1,500-foot buffer between residences and “sources” of diesel exhaust.
22 [AR 197-198, 447-448, 451-455, 806-807, 948, 950-953] The commenters were
23 not specific as to whether the “sources” to which they were referring consisted of
24 diesel engine vehicles docked at the local warehouse facilities, or on the adjacent
25 arterial roads, or both. Some of the comments suggest the former, and at least one
26 of the comments suggests the latter. Accordingly, we address both.

27 The commenters incorrectly assert that the South Coast Air Quality Management
28 District (“AQMD”) recommends a 1,500-foot buffer zone between residential

1 development and sources of diesel exhaust. In fact, in its Guidance Document for
2 Addressing Air Quality Issues in General Plans and Local Planning, dated May 6,
3 2005, the AQMD does not make any recommendation for any buffer zone between
4 residential development and sources of diesel exhaust. [AR 3240, 3242-3243,
5 3282-3290]

6 The California Air Resources Board ("CARB"), in its Air Quality and Land Use
7 Handbook: A Community Health Perspective, dated April, 2005, recommends
8 avoiding siting new sensitive land uses within 1,000 feet of a distribution center.
9 [AR 3487] CARB's recommendation, however, is based on a hypothetical
10 distribution center at which trucks carrying transportable refrigeration units
11 ("TRUs") idle their diesel engines while docked at the distribution center to keep
12 the TRUs running. [AR 3495-3496] According to the CARB handbook, diesel
13 exhaust emissions from idling TRUs are the largest onsite particulate matter
14 emission source at distribution centers. [AR 3495]

15 In this case, the distribution center north of Galena from the Project (Plot Plan No.
16 16686) was conditioned to avoid TRUs by not allowing cold storage at the
17 warehouse. [AR 3647, 3672, 3682, 3688, 3806] Thus, the largest source of diesel
18 exhaust emissions upon which the CARB recommendation was based will not exist
19 at Plot Plan No. 16686. The closest TRU distribution center is 4,870 feet away.
20 [AR 3472]

21 The CARB recommendation of 1,000 feet is also based upon modeling that shows
22 that at 1,000 feet, the diesel particulate concentration drops off by about 80% of its
23 concentration at the source. [AR 3497] In this case, the closest distance between
24 any residence in the Project and the nearest truck dock at Plot Plan No. 16686 is
25 approximately 554 feet. [AR 3472] Based upon the CARB model, at that distance,
26 the concentration of diesel particulate emissions is expected to drop by about 65%.
27 [AR 3497] Because the degree of attenuation in diesel particulate concentrations at
28 554 feet is only 15% less than that at 1,000 feet, and because the trucks docking at

1 Plot Plan No. 16686 will not have TRU emissions that would otherwise comprise
2 the majority of diesel exhaust emissions from the type of distribution center upon
3 which CARB based its 1,000-foot recommendation, requiring a greater buffer zone
4 would not clearly lessen the adverse environmental impacts associated with
5 prospective homeowners exposure to diesel exhaust.

6 Moreover, the CARB guideline is not mandatory or rigid. CARB qualifies its
7 recommendations by explaining that they need to be balanced with other State and
8 local policies. [AR 3487]

9 To the extent that the commenters are asserting that a 1,500-foot buffer should be
10 installed between the residences and the *major arterial roadways*, such an assertion
11 is not recommended by CARB or AQMD, nor would such a proposal be feasible.
12 [AR 3240, 3242-3243, 3282-3290, 3494-3498]

13 As set forth in the Diesel Impact Analysis, diesel engine vehicles are expected to
14 use the major arterial roads adjacent to the Project (Bellegrave, Etiwanda, and
15 Galena) for access into and out of the area. [AR 1480] The Project site is
16 approximately 1,700 feet by 2,500 feet. [AR 1105] A 1,500-foot buffer from these
17 arterial roads would engulf the entire site and leave no space for residential
18 development. That would be inconsistent with the General Plan, which designates
19 the Project site as medium density residential. [AR 2785, 2827]

20 Neither AQMD nor CARB recommends any setback of residential housing from
21 arterial roads under these circumstances. CARB recommends a setback for
22 sensitive land uses of 500 feet from freeways and high traffic roadways of over
23 100,000 auto daily trips ("ADT"). [AR 3487] This project is located 4,990 feet
24 from State Route 60, and 5,070 feet from Interstate 15. [AR 3472] The arterial
25 roadways surrounding the Project (Bellegrave, Etiwanda and Galena) are projected
26 to have maximum vehicle trips per day of 18,900, 16,100 and 28,300, respectively.
27 [AR 1958, 1979]. Thus, the traffic on the bordering roadways is significantly less
28 than the levels that would trigger CARB's 500-foot setback recommendation.

1 In this case, the Project is designed with minimum setbacks of 125 feet between
2 houses and its adjacent-bordering roadways. [AR 7, 858] That greatly exceeds the
3 setbacks commonly observed throughout Southern California as well as in the
4 Eastvale and Mira Loma areas, as well as set backs currently being used in
5 planning decisions throughout the local area. [AR 3809-3812]

6 In November, 2002, the Center for Environmental Research and Technology at the
7 Bourns College of Engineering, University of California, Riverside ("CE-CERT")
8 issued The Mira Loma Air Quality Study to report on particulate pollution in the
9 Mira Loma area. [AR 2593-2762] Based on the conclusions of that study, as well
10 as independent AQMD data contained in the EIR we conclude that: (1) The
11 primary source of PM_{2.5} pollutants in the Mira Loma area is smog from Los
12 Angeles and Orange Counties, reacted with ammonia from local dairy farms;
13 (2) Concentrations of elemental carbon (a marker for diesel exhaust) in Mira Loma
14 are not elevated compared with other areas in Southern California; and (3) Current
15 diesel traffic in the Mira Loma area has a negligible impact on the PM_{2.5} levels.
16 [AR 1116, 1160-1162, 2600-2601] Thus, health risks from PM_{2.5} (including diesel
17 exhaust) are ubiquitous throughout the area, and diesel exhaust is a negligible
18 contributor that is no greater in Mira Loma than other areas in Southern California.
19 Moreover, CARB concludes that the risk posed to the average Californian from
20 diesel exhaust is 390 in a million. [AR 1480, 1489, 1503] The estimated risks in
21 the Diesel Impact Analysis performed for this project are based on multiple worst-
22 case assumptions, including potential truck counts [AR 1498, 1503], exposure
23 duration [AR 1498, 1503], emission factors [AR 1494], and risk factors [AR 1503].
24 The use of these worst-case assumptions was designed to produce conservative
25 (high) estimates of the risks posed by diesel particulate matter. [AR 1503] Using
26 these worst-case assumptions, the Diesel Impact Analysis estimates the risk posed
27 to future residents of the Project to range from 6.0 to 182.9 per million. [AR 1500]
28 Thus, even using conservative, worst-case assumptions, the estimated risk to future

1 residents from diesel exhaust emitted on local roadways is expected to be
2 significantly less than the state average.

3 Accordingly, increased setbacks between the Project's houses and the major arterial
4 roads would not clearly lessen the impact on prospective homeowners of diesel
5 exhaust from local truck traffic.

6 The Board of Supervisors has considered 1,500-foot setbacks, whether measured
7 from the closest truck docks or the major arterial roads, as a potential mitigation
8 measure, and has determined based upon each of the following economic,
9 environmental, social, and other considerations, independent of each other, that
10 1,500-foot setbacks are undesirable, unnecessary, and infeasible:

11 (1) Increased setbacks would require the developer to eliminate
12 lots, thereby reducing the amount of housing offered by the Project, and
13 diminishing the Project objective of providing housing and implementing
14 the General Plan land use designation. Alternatively, to maintain the same
15 number of residential units, increased setbacks would require higher density
16 or elimination of the five-acre park. Higher density was objectionable to
17 some of the commenters and is also less desirable to the County.
18 Elimination of the five-acre park is undesirable, because the park will
19 provide recreational opportunities for Project residents as well as other
20 members of the public, and will enhance the image of the community.

21 (2) Increased setbacks are not warranted under either the
22 SCAQMD or CARB guidelines. The SCAQMD, in its Guidance Document
23 for Addressing Air Quality Issues in General Plans and Local Planning,
24 dated May 6, 2005, does not make any recommendation for any buffer zone
25 between residential development and sources of diesel exhaust. [AR 3240,
26 3242-3243, 3282-3290] CARB, in its Air Quality and Land Use Handbook:
27 A Community Health Perspective, dated April, 2005, provides guidelines
28

1 for setbacks from sources of diesel exhaust, but as discussed above, the
2 circumstances warranting those setbacks are not present in this case.

3 (3) The Project site is approximately 1,700 feet by 2,500 feet.
4 [AR 1105] A 1,500-foot buffer from these arterial roads would engulf the
5 entire site and leave no space for residential development. That would be
6 inconsistent with the General Plan, which designates the Project site as
7 medium density residential. [AR 2785, 2827]

8 (4) Increased setbacks would not reduce the significance
9 determinations. As shown in the Diesel Impact Analysis prepared for the
10 Project, as well as in the EIR, sensitive receptor locations across the entire
11 site would still be exposed to cancer risks above AQMD significance
12 thresholds. Therefore, a 1,500-foot setback would not reduce the impacts
13 below significance levels.

14 (5) The Project is designed with minimum setbacks of 125 feet
15 between houses and its adjacent-bordering roadways. [AR 7, 858] That
16 greatly exceeds the setbacks commonly observed throughout Southern
17 California as well as in the Eastvale and Mira Loma areas, as well as set
18 backs currently being used in planning decisions throughout the local area.
19 [AR 3809-3812] The County has not required other similarly situated
20 projects, such as the Hillcrest Homes project (Tentative Tract Map Nos.
21 31768 and 31778), to incorporate greater than 125-foot setbacks from
22 distribution facilities or major arterial roadways, and the County has no
23 reason single out this project. The Hillcrest Homes project is located
24 immediately adjacent, and to the west, of this Project. [AR 3470-3471] It
25 is closer to Interstate 15 than this Project, and is bordered by Galena Street
26 on the north, and Wineville Road on the west. The traffic projections used
27 in the Diesel Impact Study for this Project estimate that there will be more
28 truck traffic on the roads abutting the Hillcrest Homes project. [AR 1497]

1 The Hillcrest Homes project was approved by the County on or after
2 September, 2005, and was not challenged in court. [AR 3470-3471] The
3 County's development standard for residential communities does not
4 require a setback between homes and major arterial roadways. See Riv. Co.
5 Code §§ 17.24.020 (development standards for R-1) and 16.08.080
6 (development standards for subdivision lots). Moreover, a review of other
7 recent approved subdivisions in the Eastvale and Mira Loma areas shows
8 setbacks of significantly less than 125 feet. [AR 3809-3812] Thus, this
9 Project is incorporating a greater setback than most other comparable
10 projects. Requiring residential projects to incorporate greater than 125 foot
11 setbacks from major arterial roadways will require developers to either
12 reduce the number of residential units in the project, or build higher density
13 communities.

14 Reduction of the number of lots in a given project will lead to increased
15 urban sprawl, as the population continues to grow and housing demand
16 grows with it. Increased urban sprawl is undesirable, because each project
17 has its own adverse environmental impacts. Higher density residential
18 communities are undesirable, because long term residents value lower
19 density communities, and higher density can hurt a community's image.

20 The County must strike a balance between these competing interests. The
21 Riverside County General Plan designates the subject property as Medium
22 Density Residential, 2-5 dwelling units per acre, with lot sizes of 5,500-
23 20,000 square feet. [AR 2783-2785] This Project has an average lot size of
24 8,341 square feet, and an overall density of approximately 3.2 homes per
25 acre. [AR 5-7] The Project's lot sizes and density are squarely within the
26 General Plan objectives and strike a good balance between these competing
27 interests.
28

1 (6) Alternative land uses along Galena Street, such as
2 commercial or business park uses, would create more air emissions, and
3 worsen the impact on local air quality, as compared with the Project. [AR
4 1293-1295] Moreover, commercial uses are not consistent with the General
5 Plan for this property. [AR 2783, 2786]

6 (7) The Project contains several amenities that would make it
7 aesthetically more attractive than most residential projects in the area.
8 These amenities include a five-acre park, internal paseos, a sports trail, a
9 50-foot landscaped greenbelt around the perimeter of the Project, and
10 decorative stone entry markers. [AR 7, 849-867] These enhancements will
11 help create a more attractive community. To require the Project to set aside
12 a larger open space buffer around the perimeter would require the developer
13 to eliminate lots, and thereby require reductions or loss of these amenities in
14 order to maintain an economically viable and sustainable project. The
15 perimeter greenbelt, park, trails, paseos, and pedestrian bridge will be
16 maintained by a Local Maintenance District ("LMD") funded by
17 homeowner assessments. [AR 3813-3815] As currently configured, the
18 Project is expected to include an assessment on each lot of 0.78% of
19 assessed value to fund the LMD's maintenance of these amenities. [AR
20 3814] This will bring the total annual property tax to 1.78% of assessed
21 value. [AR 3814] If the project were required to eliminate lots in order to
22 set aside a larger open space buffer around the perimeter, the annual
23 homeowner assessment would rise exponentially, because the amount of
24 open space requiring maintenance would increase, while the number of
25 homeowners paying for that maintenance would decrease. Thus, reducing
26 lots in order to provide a 1,500-foot setback would result in either or both a
27 loss of attractive community amenities and significantly higher property tax
28 assessments.

1 (8) Because health risks from PM_{2.5} (including diesel exhaust)
2 are ubiquitous throughout the area, and because local diesel exhaust is a
3 negligible contributor, increased setbacks would not clearly lessen the
4 environmental impacts of the Project. Moreover, CARB concludes that the
5 risk posed to the average Californian from diesel exhaust is 390 in a
6 million. [AR 1480, 1489, 1503] As discussed in more detail above, even
7 using conservative, worst-case assumptions, the estimated risk to future
8 residents from diesel exhaust emitted on local roadways is expected to be
9 significantly less than the state average. [AR 1494, 1498, 1500, 1503]
10

11 (ii) *Truck Route Relocation*

12 The commenters appear to have incorrectly assumed that Galena Street is or will
13 be a designated truck route. The Riverside County General Plan does not
14 designate any of the roadways in the Mira Loma area as “truck routes.” [AR 3816-
15 3872, 3941]

16 The California Department of Transportation (“CalTrans”) has constructed new
17 on- and off-ramps for Interstate 15 at Galena Street, which have recently opened.
18 The General Plan contemplates that Galena Street will be a six-lane urban arterial
19 highway from Interstate 15 eastward past Etiwanda to Bain Street. [AR 1239,
20 3941] As a six-lane urban arterial highway, Galena Street will be at least 110 feet
21 from curb-to-curb, and will have a capacity of 43,100 auto daily trips (“ADT”) in
22 order to maintain an acceptable Service Level C. [AR 3828, 3942]

23 Some of the commenters suggested that commercial trucks be routed onto Harrel
24 Street, rather than Galena. None of the commenters proposed a specific route, but
25 based on the comments we presume they propose to establish a truck route
26 requiring the trucks that exit I-15 onto Galena Street to turn left from Galena Street
27 onto Wineville Road, proceed north on Wineville to Harrel, turn right onto Harrel,
28 proceed east to Etiwanda Avenue, at which point some trucks would turn left

1 (north) onto Etiwanda while others would turn right (south) onto Etiwanda and
2 proceed back to Galena Street.

3 The alternative route would alleviate some of the truck traffic on Galena Street to
4 the north of the Project. Nevertheless, this alternative is undesirable and infeasible.
5 First, trucks entering the distribution center north of Galena Street (Plot Plan No.
6 16686) must enter from Galena. [AR 3948] The alternative route would require
7 trucks destined for that facility to take a circuitous route adding approximately 3.4
8 miles to their travel (round trip) on local streets, and still not eliminating the truck
9 traffic from Galena. [AR 3945-3947, 3948] The additional 3.4 miles of travel on
10 local streets would result in approximately 0.55 lbs/day of additional diesel exhaust
11 emissions (a 19% increase) into the local air. [AR 3945-3946]

12 Harrel Street is a two-lane local street, and is not a part of the County's Circulation
13 Element. [AR 3816-3872, 3941] As such, it will have a capacity of 10,400 ADT
14 in order to maintain an acceptable Service Level C. [AR 3828] It is intended to
15 serve only that traffic originating from or destined for facilities on Harrel Street.

16 Commercial truck traffic on Galena Street between Wineville and Etiwanda is
17 expected to be approximately 3,342 trips per day. [AR 1497] As a six-lane urban
18 arterial highway, Galena Street will have a capacity of 43,100 ADT. [AR 3828]
19 Actual traffic on Galena Street is projected to be approximately 28,300 ADT. [AR
20 1958, 1979] As such, Galena Street will have more than sufficient capacity.
21 Harrel Street would not have sufficient capacity for the 3,342 trips per day from
22 commercial trucks. The County's Transportation Department considers
23 commercial trucks to generate two times more traffic congestion than a passenger
24 car. [AR 3943] Thus, 3,342 commercial truck trips are roughly equivalent to
25 6,684 ADT. The capacity of a local street such as Harrel Street is approximately
26 10,400 ADT to maintain a Service Level C. [AR 3828] Thus, the re-routed
27 Galena Street truck traffic alone would consume most of Harrel Street's capacity.
28

1 General Plan Policy C 23.1 is to implement street and highway projects to provide
2 convenient and economical goods movement in areas where large concentrations
3 of truck traffic exist. [AR 3870] Re-routing the Galena Street truck traffic onto
4 Harrel Street would be inconsistent with and frustrate this policy.

5 CARB recommends a setback for sensitive land uses of 500 feet from freeways
6 and high traffic roadways of over 100,000 ADT. [AR 3487] Galena Street is
7 projected to have maximum vehicle trips per day of 28,300. [AR 1958, 1979].
8 Thus, the projected traffic on Galena Street is significantly less than the levels that
9 would trigger any mitigation under the CARB guidelines.

10 Under the California Vehicle Code, the County may prohibit the use of any
11 highway by a commercial vehicle exceeding 14,000 pounds. [Cal. Veh. Code,
12 §35712.] The County may not, however, prohibit commercial vehicles from using
13 a County highway such as Galena Street by direct route to or from a state highway
14 such as Interstate 15 for the purpose of delivering or loading for transportation
15 goods, wares, or merchandise. [Cal. Veh. Code, §35711.]

16 Based on the conclusions of the Mira Loma Air Quality Study conducted by UC
17 Riverside, as well as independent AQMD data contained in the EIR, health risks
18 from PM_{2.5} (including diesel exhaust) are ubiquitous throughout the area, and
19 diesel exhaust is a negligible contributor that is no greater in Mira Loma than in
20 other Southern California areas. [AR 1116, 1160-1162, 2600-2601] Moreover,
21 CARB concludes that the risk posed to the average Californian from diesel exhaust
22 is 390 in a million. [AR 1480, 1489, 1503] The estimated risks in the Diesel
23 Impact Analysis performed for this project are based on multiple worst-case
24 assumptions, including potential truck counts [AR 1498, 1503], exposure duration
25 [AR 1498, 1503], emission factors [AR 1494], and risk factors [AR 1503]. The
26 use of these worst-case assumptions was designed to produce conservative (high)
27 estimates of the risks posed by diesel particulate matter. [AR 1503] Using these
28 worst-case assumptions, the Diesel Impact Analysis estimates the risk posed to

1 future residents of the Project to range from 6.0 to 182.9 per million. [AR 1500]
2 Thus, even using conservative, worst-case assumptions, the estimated risk to future
3 residents from diesel exhaust emitted on local roadways is expected to be
4 significantly less than the state average. Because of the ubiquitous nature of PM_{2.5}
5 (including diesel exhaust) concentrations throughout this area, and because
6 rerouting truck traffic to the alternative route would result in a net increase of
7 diesel exhaust emissions, adopting the alternative route would not clearly lessen
8 the impact of diesel exhaust from local truck traffic.

9 The Board of Supervisors has considered the alternative truck route as a potential
10 mitigation measure, and has determined based upon each of the following
11 economic, environmental, social, and other considerations, independent of each
12 other, that the alternative truck route is undesirable, unnecessary, and infeasible:

13 (1) The alternative route would add approximately 3.4 miles of
14 travel by trucks on local streets, which would result in 0.55 lbs/day (19%
15 increase) of additional diesel exhaust emissions into the local air. [AR
16 3945-3946]

17 (2) The alternative route would not clearly lessen the impact of
18 diesel exhaust emissions. Based on the conclusions of the Mira Loma Air
19 Quality Study conducted by UC Riverside, as well as independent AQMD
20 data contained in the EIR, health risks from PM_{2.5} (including diesel exhaust)
21 are ubiquitous throughout the area, and diesel exhaust is a negligible
22 contributor that is no greater in Mira Loma than in other Southern
23 California areas. [AR 1116, 1160-1162, 2600-2601] Moreover, even using
24 conservative, worst-case assumptions, the estimated risk to future residents
25 from diesel exhaust emitted on local roadways is expected to be
26 significantly less than the state average. [AR 1480, 1489, 1494, 1498,
27 1500, 1503] Because of the ubiquitous nature of PM_{2.5} (including diesel
28 exhaust) concentrations throughout this area, and because rerouting truck

1 traffic to the alternative route would result in a net increase of diesel
2 exhaust emissions, adopting the alternative route would not clearly lessen
3 the impact of diesel exhaust from local truck traffic.

4 (3) Galena Street will be a six-lane urban arterial highway
5 designed with sufficient capacity to handle the truck traffic within an
6 acceptable service level. [AR 1239, 3941, 1497, 1958, 1979, 3828] Harrel
7 Street is a two-lane local street that is not part of the County's General Plan
8 Circulation Element, and is intended to service only that amount of traffic
9 originating from or destined for facilities on Harrel Street. [AR 3816-3872,
10 3941, 3828] Harrel Street will not have sufficient capacity to handle re-
11 routed truck traffic from Galena Street.

12 (4) Because Galena Street will be a six-lane urban arterial
13 highway, it is expected to function as an east-west corridor in the area. To
14 require commercial trucks to detour off of Galena, north to Harrel, then
15 back south to Galena would create a circuitous and confusing route that
16 would disrupt the flow of traffic and be contrary to the General Plan
17 Circulation Policies and possibly contravene state law. [AR 3870]

18
19 (iii) *Home-Buyer Disclosures*

20 Some of the commenters proposed that the homebuilder should be required to
21 disclose to prospective buyers the air quality conditions in Mira Loma.

22 California law contains a comprehensive scheme for making disclosures to
23 homebuyers. Disclosures upon transfer of residential property are governed by
24 Civil Code sections 1102-1102.18. Transfers of residential subdivision units are
25 specifically exempted from these provisions, however, and instead are subject to
26 the public report provisions of Business and Professions Code section 11018.1.

27 The standard Real Estate Transfer Disclosure Statement required under Civil Code
28 section 1102.6 (applicable to transfers of other than residential subdivision units)

1 requires disclosure of several adverse conditions, including the presence of
2 “[s]ubstances, materials, or products which may be an environmental hazard such
3 as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, mold,
4 fuel or chemical storage tanks, and contaminated soil or water on the subject
5 property.” Civ. Code, §1102.6. The statement does not require the disclosure of
6 local air quality, although the list is not exclusive.

7 Based upon an inquiry of the Office of the Commissioner of the Department of
8 Real Estate, the Department of Real Estate is not aware of any precedent for
9 requiring the disclosure of local air quality in connection with subdivision public
10 reports. [AR 3949]

11 To require that new subdivision developers in the Mira Loma area warn
12 prospective buyers of unhealthful air quality would not only be unprecedented, but
13 would likely result in negative publicity that would unnecessarily stigmatize the
14 community. The fact is that the entire South Coast Air Quality Basin, along with
15 many other areas of the State including the San Francisco Bay area, Ventura
16 County, San Diego County, Orange County, and most of Los Angeles and San
17 Bernardino Counties are non-attainment areas under the State’s Ambient Air
18 Quality Standards. [AR 3986-3989] This means that air quality throughout the
19 more populated areas of the State fails to meet the basic health standards set by
20 CARB. As such, air quality breathed by most Californians is unhealthful. [AR
21 1503]

22 Moreover, CARB concludes that the risk posed to the average Californian from
23 diesel exhaust is 390 in a million. [AR 1480, 1489, 1503] The estimated risks in
24 the Diesel Impact Analysis performed for this project are based on multiple worst-
25 case assumptions, including potential truck counts [AR 1498, 1503], exposure
26 duration [AR 1498, 1503], emission factors [AR 1494], and risk factors [AR
27 1503]. The use of these worst-case assumptions was designed to produce
28 conservative (high) estimates of the risks posed by diesel particulate matter. [AR

1 1503] Using these worst-case assumptions, the Diesel Impact Analysis estimates
2 the risk posed to future residents of the Project to range from 6.0 to 182.9 per
3 million. [AR 1500] Thus, even using conservative, worst-case assumptions, the
4 estimated risk to future residents from diesel exhaust emitted on local roadways is
5 expected to be significantly less than the state average.

6 No good cause exists to single out the Mira Loma area for requiring disclosures of
7 unhealthful air quality to new homebuyers. The major source of PM_{2.5} in the Mira
8 Loma area is a result of long-range transport from Los Angeles and Orange County
9 mixing with the large ammonia sources from the dairy land. [AR 2600] Contrary
10 to the sentiment of some of the commenters, diesel traffic in the immediate area
11 has an insignificant impact on ambient PM_{2.5} concentrations in the Mira Loma
12 area. [AR 2600] According to the Mira Loma Air Quality Study by UC Riverside,
13 the increased number of warehouse and distribution facilities in the Mira Loma
14 area appears to have a negligible impact on PM_{2.5} pollution in Mira Loma, and
15 relative to other sources of air pollution in Mira Loma, the truck exhaust
16 attributable to the warehouses and distribution centers is, relatively speaking, a
17 very small source of pollution. [AR 2601] Thus, UC Riverside concludes that as
18 the dairies upwind of Mira Loma are displaced by residential, commercial, and
19 industrial development, and as Los Angeles and Orange County emissions
20 continue to decline in response to air quality efforts throughout the South Coast Air
21 Basin, it is likely that the chemical ingredients responsible for much of the PM_{2.5} in
22 the area will diminish. [AR 2602]

23 Additionally, air quality in the Mira Loma area has continually improved in recent
24 decades. [AR 3990] CARB's historical air quality monitoring data shows that
25 particulate matter concentrations since 1989 have consistently declined from an
26 annual average of 94.0 ug/m³ in 1989 to 50.4 ug/m³ in 2005 — a 46% decrease.
27 [AR 3990] To now require that sellers disclose to their buyers unhealthful air
28 quality in Mira Loma would be an unnecessary overreaction.

1 Moreover, requiring new homebuilders of residential subdivision units in Mira
2 Loma to warn their buyers of unhealthful air quality could set a standard for all
3 residential real estate transactions in the community that would unnecessarily
4 disrupt the local residential real estate market. Remorseful buyers, for example,
5 might assert a failure to disclose unhealthful air quality as grounds for rescinding
6 real estate contracts.

7 Notably, as discussed above, the risks estimated in the Diesel Impact Analysis are
8 based on multiple worst-case assumptions regarding potential truck counts [AR
9 1498, 1503], exposure duration [AR 1498, 1503], emission factors [AR 1494], and
10 risk factors [AR 1503]. The use of these worst-case assumptions was designed to
11 produce conservative (high) estimates of the risks posed by diesel particulate
12 matter. [AR 1503] Once homes are constructed and available for sale, actual
13 conditions may be significantly different. The duty to disclose under the law
14 depends on actual conditions, rather than hypothetical worst-case scenarios. The
15 homebuilder's disclosure obligations under law will be addressed in its public
16 report which must be reviewed and approved by the state Department of Real
17 Estate.

18 Accordingly, requiring the project to disclose local air quality conditions to
19 prospective homebuyers will not clearly lessen the impact on prospective
20 homeowners of diesel exhaust from local truck traffic.

21 The Board of Supervisors has considered homebuyer disclosures as a potential
22 mitigation measure, and has determined based upon each of the following
23 economic, social, and other considerations, independent of each other, that
24 homebuyer disclosures are undesirable, unnecessary, and infeasible:

- 25 (1) Such disclosures are not the current practice in the real estate
26 community, and are not required by law. [AR 3949, 3968] The
27 homebuilder's disclosure obligations will be addressed in its public report
28

1 which must be reviewed and approved by the state Department of Real
2 Estate. (Bus. & Prof. Code, §11018.1.)

3 (2) Such disclosures would likely result in negative publicity
4 that would unjustifiably stigmatize the Mira Loma community. Most of
5 Southern California has unhealthful air quality under U.S. EPA standards.
6 [AR 1503, 3986-3989, 3990] Even using conservative, worst-case
7 assumptions, the estimated risk to future residents from diesel exhaust
8 emitted on local roadways is expected to be significantly less than the state
9 average. [AR 1480, 1489, 1494, 1498, 1500, 1503] No good cause exists
10 to stigmatize the Mira Loma area.

11 (3) The major source of PM_{2.5} in the Mira Loma area is from
12 long-range transport from Los Angeles and Orange County mixing with the
13 large ammonia sources from the dairy land. [AR 2600] Contrary to the
14 sentiment of some of the commenters, diesel traffic in the immediate area
15 has an insignificant impact on PM_{2.5} in the Mira Loma area. [AR 2600] As
16 the dairies upwind of Mira Loma are displaced by residential, commercial,
17 and industrial development, and as Los Angeles and Orange County
18 emissions continue to decline in response to air quality efforts throughout
19 the South Coast Air Basin, it is likely that the chemical ingredients
20 responsible for much of the PM_{2.5} in the area will diminish. [AR 2602]

21 (4) Requiring new homebuilders of residential subdivision units
22 in Mira Loma to warn their buyers of unhealthful air quality could set a
23 standard for all residential real estate transactions in the community that
24 would unnecessarily disrupt the local residential real estate market.

25
26 Therefore, the Project, when considered with the rest of the development
27 occurring in the Eastvale area, is considered to have a significant impact to
28

1 air quality and this impact cannot be avoided or mitigated to a level below
2 significance.

3 C. Noise

4 1. Impacts:

5 Project development will result in short term noise impacts related to construction
6 activities. Increased traffic from Project development will contribute to noise
7 levels which could exceed County of Riverside General Plan noise standards.

8 2. Mitigation:

9 Although the Noise Study recommends 7 and 6 foot walls, to reduce noise impacts
10 to the Project from traffic sources along Bellegrave Avenue, Etiwanda Avenue and
11 Cantu-Galleano Ranch Road, a barrier shall be constructed to the height of 13 feet
12 from pad elevation along Bellegrave, Etiwanda and Cantu Galleano Ranch Road.
13 This barrier may be a combination of earthen berm and wall.

14 Prior to issuance of building permits, an interior noise study shall be submitted to
15 the County Public Health Department. In order to meet County interior noise
16 standards for homes along the perimeter frontages, livable upstairs space shall
17 include structural materials to attenuate noise a minimum of 30 dBA.

18 With the incorporation of the mitigation measures listed above, the Project will be
19 mitigated against noise generated from adjacent roadways. However, because the
20 noise environment currently exceeds County standards and will continue to exceed
21 those standards at build-out without incorporation of the Project, and since the
22 Project will be adding to that noise environment, the Project will have cumulative
23 impacts associated with noise.

24 **BE IT FURTHER RESOLVED** by the Board of Supervisors that it has considered the following
25 alternatives identified in EIR No. 462 in light of the environmental impacts which cannot be avoided or
26 substantially lessened and has rejected those alternatives as infeasible for the reasons hereinafter stated:

27
28 A. No Project Alternative/No Build Alternative (Continued Agriculture/Dairy)

1. The No Project Alternative would result in no additional development; the Project site would remain in its present condition.
2. The No Project Alternative would maintain existing zoning classifications and environmental conditions.
3. The No Project Alternative would eliminate loss of farmland impacts.
4. The No Project Alternative would result in significant impacts to water quality by the ongoing agricultural activities such as irrigation of agricultural lands, use of fertilizers, and the spreading of animal wastes.
5. The No Project Alternative would eliminate air quality, biological, cultural, noise, public services, recreation, traffic and utilities impacts associated with the Project.
6. Because the No Project Alternative would eliminate or reduce the above-referenced environmental impacts, it is considered to be "Environmentally Superior" to the Project.
7. The No Project Alternative would not implement Riverside County General Plan land use designations and policies.
8. The No Project Alternative would not provide housing opportunities within close proximity to employment centers to the north and south of the Project site.
9. It is uneconomical to maintain the Project site in its current agricultural state over the long-term given its location within a developing area. Pressure to develop the land for higher economic uses will continue. Therefore, the No Project Alternative may postpone rather than preclude use of the property for more intensive land uses and may result in the ultimate, albeit later development of the property in a haphazard, piecemeal fashion.

B. Low Density Residential (1/2 acre lot size)

1. The Low Density Residential Alternative would result in the development of half the number of residential dwelling units as those proposed as part of the Project, approximately 213 units all with a ½ acre minimum lot size.

- 1 2. The Low Density Residential Alternative would reduce impacts to air quality,
2 noise and traffic as a result of fewer residents generating a lower number of daily
3 vehicle trips.
- 4 3. The Low Density Residential Alternative would have the same impacts as the
5 Project to biology, geology/soils, hydrology/water quality, schools, recreation and
6 utilities.
- 7 4. The Low Density Residential Alternative would result in the same conversion of
8 130 acres of designated farmland to non-agricultural uses as the Project.
- 9 5. The Low Density Residential Alternative would incrementally reduce the above-
10 referenced environmental impacts, but it would not eliminate any of the significant
11 environmental impacts associated with the Project.
- 12 6. The Low Density Residential Alternative would meet the basic goals and
13 objectives of the Project.
- 14 7. The Low Density Residential Alternative is an Environmentally Superior
15 Alternative to the Project, but it does not meet the Project objective of
16 implementing the General Plan Land Use Designations.

17 C. Business Park Alternative

- 18 1. The Business Park Alternative would result in the development of the entire 130
19 acres for research and development-type uses, such as businesses, small
20 distribution centers, printing shops and offices.
- 21 2. The Business Park Alternative would be compatible with the Riverside County
22 General Plan, as the site has a Business Park Overlay.
- 23 3. The Business Park Alternative would result in similar impacts as the Project uses
24 agricultural resources.
- 25 4. The Business Park Alternative would result in similar biology, geology and soils,
26 hydrology and water quality impacts as the Project.

1 Nevertheless, the Board recognizes that the agricultural, air quality, and noise impacts are significant
2 under CEQA thresholds, and that the Board must balance, as applicable, the economic, legal, social,
3 technological, or other benefits of the Project against those unavoidable environmental risks when
4 determining whether to approve the Project, and must state in writing its specific reasons to support its
5 action. As such, the Board has determined and finds that each of the following benefits, independent of
6 the other benefits, outweighs and renders acceptable each and every one of those unavoidable adverse
7 environmental effects:

8 A. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
9 the fact that the Project would implement the Riverside County General Plan for the
10 subject property. The surrounding area has been changing over the last several years from
11 an agricultural to a suburban area. The Jurupa Area Land Use Plan of the County's
12 General Plan reflects this change, and designates the land use at this property as Medium
13 Density Residential (2-5 dwelling units per acre, lot sizes from 5,500 to 20,000 square
14 feet). [AR 2783, 2785] The Medium Density Residential designation for this property
15 was adopted as part of the Riverside County Integrated Project ("RCIP"). The process of
16 adopting the RCIP was extensive, thorough, and comprehensive, and involved extensive
17 review and input from multiple agencies within the County, multiple regional
18 governmental agencies, and the public. The Board has determined and finds that it is
19 important to follow the land use designations adopted as a result of that process. The
20 subject property's historic use and current entitlement is as a dairy, which is not consistent
21 or compatible with the General Plan's land use designation. [AR 1103] To leave the
22 subject property as a dairy, or undeveloped, or to alter the Project in the manners proposed
23 to avoid the adverse environmental impacts, would be inconsistent and incompatible with
24 the General Plan. The Board has determined and finds that it is more important in this case
25 to follow the implement the land use designation adopted as a result of the RCIP. The
26 Project proposes to develop 427 dwelling units on approximately 137 acres (3.1 dwelling
27 units per acre), which meets the County's criteria for the Medium Density Residential land
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1 use designation, and thus implements the General Plan for this property. [AR 7, 2783,
2 2785]

3 B. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
4 the fact that the Project includes aesthetic enhancements that surpass requirements under
5 the County's development standards. These enhancements include a 50-foot setback
6 between the peripheral lots and the bordering arterial roadways, within which an attractive
7 landscaped greenbelt containing a sidewalk and sports trail (decomposed granite) will be
8 included. [AR 7, 849-867] The Project will also include 125-foot setbacks from the
9 peripheral homes to the bordering arterial roadways. [AR 7, 858] These enhancements
10 will improve the appearance of the property and the image of the community. To leave the
11 subject property as a dairy, or undeveloped, or to alter the Project in the manners proposed
12 to avoid the adverse environmental impacts, would result in a loss of these desirable
13 aesthetic enhancements to the community. The Board has determined and finds that it is
14 more important in this case to obtain the benefit of these aesthetic enhancements for the
15 community than to forego the Project out of regard for the agricultural, air quality, and
16 noise impacts.

17 C. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
18 the fact that the Project would replace a dairy, thereby eliminating the ongoing discharge
19 of urine, manure, wash water, and their associated pollution, into the local and regional soil
20 and groundwater. [AR 1118-1119, 1198-1199, 2959-2960, 2983-2984, 3056, 3082] The
21 Project lies within the Upper Santa Ana Valley Groundwater Basin, Chino Sub-Basin.
22 [AR 1199] One of the most significant water quality problems confronting the region is
23 the concentration of total dissolved solids and nitrates in groundwater. [AR 2983] Wastes
24 from dairies and other animal confinement facilities play an overwhelmingly significant
25 role in this pollution. [AR 2984, 3056, 3082] Manure and the wash water used to wash
26 cows prior to milking contain significant quantities of salt (total dissolved solids and
27 nitrates). [AR 2984] Dairy operations within the Santa Ana River Basin contribute large
28 amounts of salts to the basin as a result of the discharge of manure and wash water to the

1 soil, and percolation into the groundwater. [AR 2984] Dairy operations and waste
2 disposal practices can also affect surface water quality as a result of runoff from the dairy
3 into creeks and other water bodies. [AR 2984] The subject property is located on both
4 sides of Day Creek Channel, which runs into the Santa Ana River. [AR 1196-1198] By
5 replacing a dairy with residential development, the Project would eliminate this source of
6 groundwater and surface water pollution. The Board has determined and finds that it is
7 more important in this case to obtain the benefits to local water quality resulting from
8 elimination of a dairy than to forego the Project out of regard for the agricultural, air
9 quality, and noise impacts.

10 D. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
11 the fact that the Project would replace a dairy, thereby eliminating a significant source of
12 ammonia and PM_{2.5} air pollutants. According to the Mira Loma Air Quality Study
13 conducted by the University of California, Riverside, the major source of PM_{2.5} in the Mira
14 Loma area is from long-range transport from Los Angeles and Orange Counties mixing
15 with the large ammonia sources from the local dairy land. [AR 2600] Further, large
16 reductions in ammonia emissions would have the most immediate impact in reducing the
17 ammonium nitrate loading in the area. [AR 2600] The subject property's historic use and
18 current entitlement is as a dairy. By replacing the dairy with residential development, the
19 County will achieve a significant reduction in the generation of ammonia emissions and
20 the corresponding ammonia nitrate particulate matter pollution. The Board has determined
21 and finds that it is more important in this case to obtain the reduction in ammonia and
22 ammonia nitrate particulate matter pollution than to forego the Project out of regard for the
23 agricultural, air quality, and noise impacts.

24 E. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
25 the fact that the Project would provide 427 housing units within 14 miles of areas projected
26 by the Southern California Association of Governments to be jobs-rich and very jobs-rich.
27 [AR 2843-2845] In so doing, the Project will help balance the region's jobs/housing
28 balance. A geographic balance between housing and jobs within a region confers many

1 benefits, including reduced driving and congestion, fewer air emissions, lower costs to
2 businesses and commuters, lower public expenditures on facilities and services, greater
3 family stability, and higher quality of life. [AR 2847-2849] To leave the subject property
4 as a dairy, or undeveloped, or to alter the Project in the manners proposed to avoid the
5 adverse environmental impacts, would eliminate or diminish this benefit. The Board has
6 determined and finds that it is more important in this case to provide additional housing in
7 an area projected to be jobs rich and very jobs rich, than to forego the Project out of regard
8 for the agricultural, air quality, and noise impacts.

9 F. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
10 the fact that the Project would add a publicly accessible 5.14 acre park in the interior of the
11 development. [AR 7] This park would provide recreational opportunities for the local
12 community as well as for the future residents of the Project, and would improve the image
13 of the community. To leave the subject property as a dairy, or undeveloped, or to alter the
14 Project in the manners proposed to avoid the adverse environmental impacts, would result
15 in a loss of this desirable enhancement to the community. The Board has determined and
16 finds that it is more important in this case to obtain the benefit of this publicly accessible
17 park for the community than to forego the Project out of regard for the agricultural, air
18 quality, and noise impacts.

19 G. The agricultural, noise, and air quality impacts are outweighed and rendered acceptable by
20 the fact that the Project would generate construction jobs. The Board recognizes that these
21 construction jobs would be temporary, during the construction of the Project. As such, the
22 benefit is less than if they were permanent jobs. Nevertheless, to leave the subject property
23 as a dairy, or undeveloped, would result in a loss of even these temporary jobs. The Board
24 has determined and finds that it is more important in this case to obtain the benefit of these
25 construction jobs than to forego the Project out of regard for the agricultural, air quality,
26 and noise impacts.

27 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the Project will implement
28 applicable elements of the Riverside County Comprehensive General Plan as follows:

1 A. Land Use Element

2 The Project is consistent with the Riverside County General Plan, Jurupa Area Plan, which
3 designates the site as Medium Density Residential with a Business Park Overlay. Factors
4 pertaining to circulation, hazards, nuisances, aesthetics, design, sewer and water
5 availability and utilities have been addressed pursuant to General Plan Policies through
6 Project design, mitigation measures and/or the conditions of approval. The Project is
7 participating in regional transportation improvements and other major circulation
8 improvements in the area pursuant to the General Plan Circulation Element.

9 B. Regional Element

10 The Regional Element requires major land use projects to be consistent with Southern
11 California Association of Governments Subregional population forecasts or to provide
12 mitigation of regional public services and facilities impacts. The Project population of
13 1,281 persons comprises 0.08% of the forecasted population for the Subregion in 2015 and
14 0.06% in 2025. For the unincorporated areas of Western Riverside County, the Project
15 will constitute 0.26% of the forecasted population in 2015 and 0.17% in 2025. The Project
16 falls within 14 miles of areas projected to be jobs-rich and very-jobs-rich. The 427
17 housing units will contribute to the overall jobs/housing balance.

18 C. Public Facilities and Services Element

19 The Project through its design, mitigation measures and/or conditions of approval will
20 provide adequate circulation, water, sewer, fire protection, schools, and other services to
21 comply with public facilities and services element requirements.

22 D. Environmental Hazards and Resources Element

23 EIR No. 462 assessed the full range of concerns associated with the Project, and proposed
24 mitigation for each of the potentially significant impacts. Overriding findings are required
25 for agricultural resources, air quality impacts and cumulative noise impacts.

26 E. Multiple Species Habitat Conservation Plan ("MSHCP")

27 EIR No. 462 is consistent with the MSHCP as follows:
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1. The Project is not within the Criteria Area set forth in and established by the Western Riverside County MSHCP.
2. The Project is consistent with the Riparian/Riverine Areas and Vernal Pools requirements of the MSHCP. Pursuant to Section 6.1.2 of the MSCHP, an assessment of the potentially significant effects on Riparian/Riverine Areas and Vernal Pools which includes identification and mapping of such areas located on the Project site is required. The Project has been reviewed and assessed as indicated in the Biological Resources Evaluation for the IDI Hoekstra site, dated February 2004 which was performed by Ecological Sciences, Inc. and it has been determined that the Project site does not have any riparian or Riverine habitat or vernal pools. Therefore, no further surveys or conservation measures are required.
3. The Project is consistent with the Narrow Endemic Plant Species requirements of the MSHCP. Pursuant to Section 6.1.3 of the MSHCP, habitat assessments and/or focused surveys for certain Narrow Endemic Plant Species are required for properties within mapped survey areas. The survey area maps have been reviewed and the Project is within mapped survey areas for San Diego ambrosia, San Miguel savor and Brand's phacelia. The Project has been reviewed and assessed as indicated in the Biological Resources Evaluation for the IDI Hoekstra Site, dated February 2004 which was performed by Ecological Sciences, Inc. and it has been determined that no suitable habitat exists onsite for these plant species. Therefore, no further surveys or conservation measures are required.
4. The Project is consistent with the Urban/Wildlands Interface Guidelines established by the MSHCP. Pursuant to Section 6.1.4 of the MSHCP, projects in close proximity to the MSHCP Conservation Area are required to incorporate mechanisms to address indirect effects to the MSHCP

1 Conservation Area. The Project is not located in close proximity to the
2 MSHCP Conservation Area. Therefore, no further analysis is required.

- 3 5. The Project is consistent with the Database Updated/Additional Surveys
4 requirements of the MSHCP. Pursuant to Section 6.3.2 of the MSHCP,
5 habitat assessments and/or focused surveys for certain additional plant and
6 animal species are required for properties within mapped survey areas. The
7 survey area maps have been reviewed and the Project is within mapped
8 survey areas for the Delhi Sands Flower Loving Fly and the Burrowing
9 Owl. Focused Surveys for the Delhi Sand Flower Loving Fly were
10 conducted in 2000, 2001 and 2003 for the Project in accordance with
11 accepted protocol and it was determined that the Fly does not occupy the
12 Project site. In addition, the Biological Resources Evaluation for the IDI
13 Hoekstra Site dated February 2004 which was performed by Ecological
14 Sciences, Inc. indicated that the Burrowing Owl did occupy the site but did
15 not identify the number or pairs of owls. Therefore, a Wintering Burrowing
16 Owl Survey was conducted and completed on January 30, 2005 to
17 specifically identify the number of pairs of Owls. This survey indicated that
18 four pairs and one single Owl occupy the Project site. Based on the
19 observations and conclusions contained in the Wintering Burrowing Owl
20 Survey and additional information provided by County staff, the Project site
21 has low "long term conservation value" for the Burrowing Owl for the
22 following reasons:

- 23 i. Surrounding land use practices include a variety of existing
24 and proposed residential, agricultural and industrial uses that
25 are not compatible with conservation onsite. Cantu-Galleano
26 Ranch Road, industrial development, and disturbed open
27 space are located north of the Project site. Dairy pastures
28 and residences are currently located to the west. Etiwanda

1 Avenue and the Jurupa Valley High School are located east
2 of the site. Bellegrave Avenue and residential development
3 are located south of the site. In addition, several large
4 residential development projects are proposed to the west
5 and warehouse facilities are proposed to the north. As
6 ongoing development continues in the site vicinity, potential
7 breeding and foraging habitat for the Owl would be
8 incrementally fragmented and isolated, resulting in a lower
9 long term conservation value for the Owl.

10 ii. The Project site and surrounding area are not identified in the
11 MSHCP as being within the Criteria Area or any linkage
12 area. Thus, conservation onsite would not assist in achieving
13 the objectives in the MSHCP for this species. Specifically,
14 conservation onsite would provide no beneficial contribution
15 towards meeting Objectives 1 through 4 of the Species
16 Account in the MSHCP for the Burrowing Owl as the
17 Project site is not located within the MSHCP Conservation
18 Area and does not have any potential for inclusion in the
19 MSHCP Conservation Area.

20 iii. Other areas within Western Riverside County within close
21 proximity and that provide connectivity to existing
22 conservation areas or other lands proposed for conservation,
23 would better serve the Owl as these lands are managed to
24 prevent incompatible human and/or domestic animal/pet
25 intrusion (for example, illegal dumping of trash and OHV
26 use) which can have a significant effect on any potential long
27 term conservation on the site.
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1 Accordingly, no further surveys or conservation measures are required at this time. However,
2 prior to issuance of any grading permit for the Project, a 30-day preconstruction survey for the Burrowing
3 Owl is required by the MSHCP. If it is determined that the Owl continues to occupy this site, then
4 passive relocation will be allowed at that time as indicated in the MSHCP. A condition for this pre-
5 construction survey has been imposed due to the presence of this species on the Project site.

6 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the state CEQA Guidelines
7 (Section 15126 (d)) requires an EIR to discuss how a project could directly or indirectly lead to economic,
8 population, or housing growth. A project may be growth-inducing if it removes obstacles to growth, taxes
9 community service facilities or encourages other activities which cause significant environmental effects.

10 The discussion is as follows:

11 A. Economic, Population Or Housing Growth

12 The Project will add approximately 1,281 residents to the Project area.

13 B. Removal Of An Impediment To Growth

14 The Project could potentially influence continued development within adjacent properties
15 by providing or extending roadways, water and sewer service, utility and energy services
16 to the immediate area. The Project could result in the removal of an impediment to growth.

17 C. Precedent-Setting Effects

18 There are no precedent-setting effects of the Project as of much of the surrounding lands
19 have already been developed.

20 **BE IT FURTHER RESOLVED** by the Board of Supervisors that Tentative Tract Map No.
21 31644 is consistent with the Riverside County General Plan.

22 **BE IT FURTHER RESOLVED** by the Board of Supervisors that it has reviewed and considered
23 EIR No. 462 in evaluating the Project and that EIR No. 462 is an accurate and objective statement that
24 complies with the California Environmental Quality Act and reflects the County's independent judgment.

25 **BE IT FURTHER RESOLVED** by the Board of Supervisors that it has considered the comments
26 and documents submitted by the public and any public agencies prior to and at the noticed public hearing
27 held on January 29, 2008, and makes the following findings with regard thereto:
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1 1. On or about January 28, 2008, the Board received a comment letter from Johnson &
2 Sedlack, on behalf of the Center for Community Action and Environmental Justice
3 ("CCA EJ"). [AR 4274-4278] At the January 29, 2008, public hearing, Ms. Rachel Lopez
4 presented further comments on behalf of the CCA EJ. In both its letter and oral comments,
5 CCA EJ asserted that a new EIR must be prepared due to alleged changed circumstances
6 and their environmental impacts. Notably, CCA EJ did not present any evidence to
7 demonstrate that substantial changed circumstances exist that will result in new or more
8 significant environmental impacts that will require major revisions to the EIR. Although
9 CCA EJ's comment letter does not identify any projects posing changed circumstances,
10 Rachel Lopez identified the following in her oral comments at the hearing: (1) Shopping
11 centers on Limonite and Hamner, and Pats Ranch Road and Limonite; (2) Distribution
12 centers, one of them being the UPS distribution center; (3) the Galena off ramp on
13 Interstate 15; (4) the resort in Hillcrest developments; (5) the six warehouses that are
14 projected and are open at this point that will be behind the Mira Loma Village; (6) a
15 development of 100 homes at Etiwanda and Iberia; (7) the inland port idea being
16 discussed by the Southern California Association of Governments ("SCAG"). The EIR for
17 this project evaluated the cumulative impacts that this Project, as well as other "past,
18 present, and reasonably anticipated future projects" will have on the environment,
19 including upon traffic and air quality. [AR1269-1288] The cumulative impact analysis
20 contained in the EIR evaluated all projects that were developed or pending approval by the
21 County within a two-mile radius of the Project site. [AR 1269-1270] These include a mix
22 of 12 commercial, industrial, office, and residential projects, including the residential
23 projects TR 31768 and 31778 (the Hillcrest project referred to by CCA EJ), which adjoin
24 this Project. The cumulative impacts analysis was not challenged by CCA EJ or found
25 inadequate by the Court in the consolidated actions. Moreover, the EIR specifically
26 evaluated traffic impacts under a number of different scenarios, including traffic generated
27 not only by the Project, but also traffic generated by all the other approved and pending
28 projects in the project area, plus the opening of the Galena interchange. [AR 1248-1251]

1 With regard to air quality, the EIR was supported by a Diesel Impact Analysis Report [AR
2 1477-1688], which evaluated air quality impacts on Project residents not only under
3 conditions as they existed at the time the report was prepared, but forecast out to 2015,
4 which is when the Mira Loma industrial area is expected to be built out. [AR 1494] The
5 EIR discussed the forecast 2015 impacts, which accounted for significant increases in local
6 truck traffic and emissions under the industrial build-out scenario. [AR 1175-1176, 1494-
7 1498] Additionally, the Board notes that no substantial changes have occurred in this
8 Project, as the proposed tentative map is unchanged from the tentative map initially
9 approved in 2005. The Board makes the following additional findings as to each of the
10 projects identified by CCAEJ: (1) Shopping centers on Limonite and Hamner, and Pats
11 Ranch Road and Limonite. The shopping center at Limonite and Hamner is more than two
12 miles from the Project, is located on the other side of Interstate 15 from the Project, and
13 has direct access to and from Interstate 15 using the Limonite interchange. The shopping
14 center at Pats Ranch Road and Limonite is located more than two miles from the Project,
15 approximately 1,200 feet from Interstate 15, and has direct access to and from Interstate 15
16 using the Limonite interchange. Thus, any traffic to these shopping centers from outside
17 the immediate area would have most direct and convenient access from Interstate 15 off of
18 the Limonite interchange. This Project has most direct and convenient access to Interstate
19 15 using the Galena Street interchange, and the shopping centers are not expected to
20 generate significant traffic past this Project. Because of this Project's distance from these
21 shopping centers and their direct and close access to Interstate 15 from Limonite Avenue,
22 these shopping centers do not constitute a substantial change in circumstances that would
23 pose new significant environmental impacts warranting major revisions to the EIR.
24 (2) Distribution centers, one of them being the UPS distribution center. The UPS
25 distribution center (PP 16937) was already approved and under development and operation
26 at the time the EIR was prepared, and was considered in the EIR's cumulative impacts
27 evaluation. [AR 1270-1271] Other existing and proposed industrial warehouses within
28 two miles of the Project were also considered in the cumulative impacts analysis (see,

1 PP14480, PP15401, PP15889, PP16030, PP16686). [AR 1270-1271] (3) The Galena off
2 ramp on Interstate 15. Traffic and related emissions resulting from the opening of the
3 Galena interchange were addressed in the EIR. [AR1250-1251, 1254-1255, 1173] (4) The
4 resort in Hillcrest developments. The Hillcrest Homes developments located adjacent to
5 this Project are TR31768 and TR31778. They were considered in the cumulative impacts
6 analysis in the EIR. [AR 1270] Another Hillcrest Homes development (Specific Plan 335)
7 is located west of Interstate 15, approximately 1.5 miles west of this Project. It is bordered
8 by Galena Street on the north, Interstate 15 on the east, Bellegrave on the south, and
9 Hamner on the west. The homes in that development will have close and direct freeway
10 access from Galena Street and Limonite Avenue, without having to pass this Project.
11 Because of the development's distance from this Project, its separation from this Project by
12 Interstate 15, and its close and direct freeway access from Galena Street and Limonite
13 Avenue, it does not constitute a substantial change in circumstances that would pose new
14 significant environmental impacts warranting major revisions to the EIR. (5) The six
15 warehouses that are projected and are open at this point that will be behind the Mira Loma
16 Village. CCAEJ does not identify the six warehouses to which it refers. Two warehouses
17 in that area (PP15401 and PP15889) were evaluated in the EIR's cumulative impacts
18 discussion. [AR1270-1271] Any others would be located more than a mile north and east
19 of the Project, on the north side of State Route 60, and would have close and direct access
20 to State Route 60 from Etiwanda Avenue. Trucks traveling to and from those warehouses
21 would have no reason to travel past the Project, and are not expected to do so. Moreover,
22 as discussed above, the EIR was supported by a Diesel Impact Analysis Report [AR 1477-
23 1688], which evaluated air quality impacts on Project residents not only under conditions
24 as they existed at the time the report was prepared, but forecast out to 2015, under
25 conditions when the Mira Loma industrial area is expected to be built out. [AR 1494] The
26 EIR discussed the forecast 2015 impacts, which accounted for significant increases in local
27 truck traffic and emissions under the industrial build out scenario. [AR 1175-1176, 1494-
28 1498] (6) A development of 100 homes at Etiwanda and Iberia. The County has no record

1 of a recent or proposed residential development at Etiwanda Avenue and Iberia Street. The
2 northwest quadrant, northeast quadrant, and southwest quadrant have been designated and
3 zoned industrial, and applications for industrial buildings at these properties were either
4 approved or pending since prior to the initial approval of this Project and the certification
5 of the EIR. [AR 4873-4877, 4880-4884, 4888-4892] The southeastern quadrant is
6 designated and zoned residential, but the residential development in that location (Mira
7 Loma Village, No. 1) was built in or around 1955. [AR 4894-4896] The intersection of
8 Etiwanda Avenue and Iberia Street is approximately 1.4 miles north of this Project, and is
9 located on the other side of State Route 60 from this Project. Thus, even if such a project
10 existed, because of its distance from this Project, and its separation from this Project by
11 State Route 60, it does not constitute a substantial change in circumstances that would pose
12 new significant environmental impacts warranting major revisions to the EIR. (7) The
13 inland port idea being discussed by the Southern California Association of Governments
14 ("SCAG"). The SCAG inland port idea is only a concept. SCAG is evaluating several
15 potential sites for this concept. [AR 4847-4851] The leading three candidate sites are in
16 Colton, at San Bernardino International Airport, and at the Southern California Logistics
17 Airport, near Victorville. [AR 4847-4849] None of these sites are near this Project, and
18 all of them are outside this County. Whether the inland port will be developed, and if so,
19 where and with what impacts, are highly uncertain and speculative. Because of the
20 considerable uncertainties regarding its development, and its distance from this Project, it
21 does not constitute a substantial change in circumstances that would pose new significant
22 environmental impacts warranting major revisions to the EIR. Accordingly, the Board
23 finds that there has been no substantial change of circumstances under which the Project is
24 being undertaken; that there has been no change of circumstances that involves new or
25 more significant environmental impacts; that there has been no change of circumstances
26 that would warrant major revisions to the EIR; that traffic and air quality impacts
27 associated with many of the alleged new projects were covered in the EIR; and that a new
28 EIR is not warranted based on alleged changed circumstances.

- 1 2. In its January 28, 2008, comment letter, Johnson & Sedlack made several criticisms of the
2 EIR, and suggested the adoption of several proposed mitigation measures. In its Judgment
3 dated August 25, 2006, however, the Court held that the EIR was adequate. CCAEJ did
4 not appeal that judgment. Most of the additional comments do not relate to the two
5 inadequacies identified in the Court's Judgment dated August 25, 2006 (i.e., findings with
6 regard to certain specified long-term air quality mitigation measures and overriding
7 considerations). With regard to the comments that do relate to the two inadequacies
8 identified in the Court's Judgment dated August 25, 2006, the Board finds that the findings
9 in this Second Revised Resolution adequately address those issues.
- 10 3. The comments presented to the Board at the January 29, 2008, noticed public hearing have
11 been considered. Many of the comments were similar or identical in substance to
12 comments that have already been made to the Board and addressed in the findings in this
13 Second Revised Resolution. Additionally, many of the comments do not relate to the two
14 inadequacies identified in the Court's Judgment dated August 25, 2006 (i.e., findings with
15 regard to certain specified long-term air quality mitigation measures and overriding
16 considerations). With regard to the comments that do relate to the two inadequacies
17 identified in the Court's Judgment dated August 25, 2006, the Board finds that the findings
18 in this Second Revised Resolution adequately address those issues.
- 19 4. Rachel Lopez of the CCAEJ cited a Health Risk Assessment for the Union Pacific
20 Railroad Mira Loma Auto Facility Railyard ("UP HRA"), prepared by the California Air
21 Resources Board ("CARB"). A copy of this Health Risk Assessment was submitted to the
22 Board. [AR 4283] The UP HRA is consistent with the Diesel Impact Analysis Report
23 prepared for this Project. [AR 1477-1688] Notably, the UP HRA concludes that "[o]ff-
24 site diesel PM emissions are predominantly generated by mobile sources which, at 30.6
25 tons per year, provide about 86% of the combined on-site and off-site diesel PM emissions.
26 The majority of the off-site diesel PM emissions are from diesel-fueled heavy heavy-duty
27 (sic) trucks traveling on the I-15 and SR-60 Freeways." [AR 4305] The UP HRA
28 estimates that cancer risk posed to this Project from the UP Mira Loma Railyard is less

1 than 25 in a million. [AR 4310] Moreover, CARB estimates that the risk posed to this
2 Project by off-site diesel particulate emissions is between 25 and 50 in a million. [AR
3 4317] Like CARB's UP HRA, the Diesel Impact Analysis prepared for this Project also
4 estimated risks posed by diesel particulate emissions from diesel trucks using local roads
5 and area freeways. [AR 1484, 4305] Yet CARB's estimate of risk posed at this Project
6 site, using assumed 70-year residential exposures [AR 4311], is significantly less than the
7 risks estimated by the Diesel Impact Analysis. [AR 1500, 4317] CARB states that the
8 estimated diesel PM concentrations and risk levels produced by the UP HRA "are based on
9 several assumptions, many of which are designed to be health protective so that potential
10 risks to individual (sic) are not underestimated." [AR 4366] This tends to reaffirm that the
11 Diesel Impact Analysis prepared for this Project used worst case assumptions that
12 significantly overestimated the risk. CARB's UP HRA also demonstrates that the risk
13 posed to this Project site by diesel particulate emissions from local roadways is
14 significantly less than in other residential areas to the north and east of the Project site.
15 [AR 4317] Finally, CARB's UP HRA discusses several control measures and strategies
16 that are being implemented to significantly reduce diesel particulate emissions from
17 locomotives and trucks in the coming years in an effort to reduce the risk posed by diesel
18 particulate emissions. [AR 4318-4320]

- 19 5. The Board has considered the other written materials submitted to the Board by members
20 of the public at the public hearing on January 29, 2008. [AR 4279-4282, 4408-4483, 4484-
21 4838] The Board notes that much of this information pre-dates the initial approval of this
22 project in June, 2005. Also, the significance attributed to many of these materials by the
23 persons who submitted them is not clear, and was not explained by them. Many of the
24 documents contain information similar or identical in substance to information that has
25 already been submitted to the Board and addressed in the EIR and the findings in this
26 Second Revised Resolution. Many of the documents are general in nature, and do not
27 relate specifically or directly to this Project. Regarding the chart entitled "Sensitivity of
28 Concentrations to Downwind Distance," [AR 4279] the Board notes that although it is

1 dated 2002, the SCAQMD did not adopt the 500-meter buffer guideline (or any buffer) in
2 its 2005 land use planning guidance document. [AR 3240, 3242-3243, 3282-3290] Many
3 of the documents do not relate to the two inadequacies identified in the Court's Judgment
4 dated August 25, 2006 (i.e., findings with regard to certain specified long-term air quality
5 mitigation measures and overriding considerations). With regard to the documents that do
6 contain information relating to the two inadequacies identified in the Court's Judgment
7 dated August 25, 2006, the Board finds that the findings in this Second Revised Resolution
8 adequately address those issues.

9 **BE IT FURTHER RESOLVED** by the Board of Supervisors that it **RE-APPROVES** the
10 project, including Tentative Tract Map No. 31644, Change of Zone Case No. 6880 (Ordinance No.
11 348.4304).

12 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the custodian of the documents
13 upon which this decision is based is the County Planning Department and that such documents are located
14 at 4080 Lemon Street, Riverside, California. The documents upon which this decision is based include
15 the following, all of which shall be part of the administrative record of proceedings in this matter:

- 16 1. All documents upon which Resolution No. 2005-200 was based, comprising the
17 Administrative Record of Proceedings in Riverside County Superior Court Case No. RIC 435510,
18 and labeled AR 1-3239.
- 19 2. South Coast Air Quality Management District, *Guidance Document for Addressing*
20 *Air Quality Issues in General Plans and Local Planning*, May 6, 2005. [AR 3240-3469]
- 21 3. Tentative Tract Maps, Tracts 31768 and 31778. [AR 3470-3471]
- 22 4. Albert A. Webb Associates, Aerial Photograph Illustrating Surrounding Land Uses
23 and Distances to Freeways and Refrigerated Warehouse. [AR 3472]
- 24 5. California Air Resources Board, *Air Quality and Land Use Handbook: A*
25 *Community Health Perspective*, April, 2005. [AR 3473-3587]
- 26 6. Conditions of Approval for Plot Plan 16686. [AR 3588-3785]
- 27 7. Albert A. Webb Associates, Galena Commerce Center EIR No. 437 (for Plot Plan
28 16686), Section III – Air Quality, pp. III-3-1 through III-3-23. [AR 3786-3808]

- 1 8. Tentative Tract Maps, Tracts 32125 (3/15/2005), 32136 (9/27/2005), 32491
2 (10/4/2005), 32909 (8/1/2006). [AR 3809-3812]
- 3 9. Zimmerman Group, Inc., Exhibit A (DRAFT Preliminary List of CFD Eligible
4 Facilities), September 18, 2006. [AR 3813]
- 5 10. Zimmerman Group, Inc., Exhibit B (DRAFT CFD Proforma), September 18, 2006.
6 [AR 3814-3815]
- 7 11. Riverside County General Plan, Chapter 4: Circulation Element (available at
8 <http://www.rctlma.org/generalplan/gp/chapter04.html>) [AR 3816-3872]
- 9 12. Riverside County General Plan, Jurupa Area Plan (available at
10 <http://www.rctlma.org/generalplan/ap1/jurupa.html>) [AR 3873-3940]
- 11 13. County-wide Circulation Element Map (available electronically in higher
12 resolution at <http://www.rctlma.org/generalplan/index.html>) [AR 3941]
- 13 14. County of Riverside Roadway Design Requirements, Standard No. 114 (available
14 at <http://www.rctlma.org/trans/ord461index.html>) [AR 3942]
- 15 15. Highway Capacity Manual 2000, pp. 16-10 – 16-11. [AR 3943-3944]
- 16 16. Albert A. Webb Associates, Memo re: Tract Map No. 31644, Stonehill Estates —
17 Re-routing of Truck Traffic Along Galena Street, November 15, 2006. [AR 3945-3948]
- 18 17. Albert A. Webb Associates, Memo re: Tract Map No. 31644 Disclosure of Air
19 Quality, September 29, 2006. [AR 3949]
- 20 18. California Department of Real Estate, Subdivisions, Notice of Intention (Standard),
21 RE 628, Parts I – III. [AR 3950-3985]
- 22 19. California Code of Regulations, title 17, section 60210. [AR 3986-3987]
- 23 20. California Air Resources Board, 2004 Area Designations for State Ambient Air
24 Quality Standards, PM2.5 (available at <http://www.arb.ca.gov/design/adm/adm.htm>) [AR 3988]
- 25 21. California Air Resources Board, 2004 Area Designations for State Ambient Air
26 Quality Standards, PM10 (available at <http://www.arb.ca.gov/design/adm/adm.htm>) [AR 3989]

- 1 22. California Air Resources Board, PM10 Trends Summary: Riverside-Rubidoux
2 (1989-2005) (available at <http://www.arb.ca.gov/adam/cgi-bin/db2www/polltrends.d2w/Branch>)
3 [AR 3990]
- 4 23. County Counsel Submittal to the Board of Supervisors, County of Riverside, State
5 of California, November 16, 2006. [AR 3991]
- 6 24. Ordinance No. 348.4304, An Ordinance of the County of Riverside Amending
7 Ordinance No. 348 Relating to Zoning. [AR 3992]
- 8 25. Map No. 38.107, Change of Official Zoning Plat, Prado - Mira Loma District,
9 Riverside County Board of Supervisors, June 28, 2005. [AR 3993]
- 10 26. Revised Resolution No. 2005-200 Approving Tentative Tract Map No. 31644
11 (Stonehill Estates), adopted by Riverside County Board of Supervisors on November 21, 2006.
12 [AR 3994-4031]
- 13 27. Resolution No. 2004-137 Diminishment of Mira Loma Agricultural Preserve No.
14 8 Pursuant to Notice of Nonrenewal, with Exhibit A, Mira Loma Agricultural Preserve No. 8,
15 Map No. 908 (Diminishment). [AR 4032-4039]
- 16 28. Proof of Publication of Notice of Public Hearing. [AR 4040-4041]
- 17 29. Agenda of the Board of Supervisors Meeting, January 29, 2008. [AR 4042-4065]
- 18 30. Staff Report for Board of Supervisors Meeting, Item 15.3. [AR 4066-4273]
- 19 31. Letter from Johnson & Sedlack, January 28, 2008. [AR 4274-4278]
- 20 32. Materials submitted by member of public at January 29, 2008, Board of
21 Supervisors hearing. [AR 4279-4282]
- 22 33. California Air Resources Board, Health Risk Assessment for the Union Pacific
23 Railroad Mira Loma Auto Facility Railyard, November 6, 2007. [AR 4283-4407]
- 24 34. Assortment of articles submitted by member of public at January 29, 2008, Board
25 of Supervisors hearing. [AR 4408-4483]
- 26 35. Written materials submitted by member of public at January 29, 2008, Board of
27 Supervisors hearing. [AR 4484-4838]
- 28

1 36. Southern California Association of Governments, Inland Port Feasibility Study,
2 January 17, 2007. [AR 4839-4872]

3 37. Riverside County Geographic Information System (“GIS”) for parcels at northwest,
4 northeast, and southwest corners of Etiwanda Avenue and Iberia Street. [AR 4873-4893]

5 38. Tract Map for Mira Loma Village No. 1, filed September 21, 1955. [AR 4894-
6 4896]

7 39. Such other and further notices, comments, transcripts or minutes of proceedings,
8 evidence, proposed and final findings, decisions, or resolutions, and any other materials relevant to
9 the County’s actions taken or considered in connection with the re-approval of this project.

10 **BE IT FURTHER RESOLVED** by the Board of Supervisors that this Second Revised
11 Resolution supersedes Resolution No. 2005-200, adopted November 21, 2006.