

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

805B



FROM: TLMA - Planning Department

SUBMITTAL DATE:
October 28, 2009

SUBJECT: APPEAL OF PLOT PLAN NO. 22925 / ENVIRONMENTAL IMPACT REPORT NO. 510 – Applicant: Hogle-Ireland – Engineer/Representative: Rick Engineering - First Supervisorial District – March Zoning District – Lake Mathews / Woodcrest Area Plan: Community Development: Light Industrial (CD: LI) (0.25-0.60 Floor Area Ratio) – Location: southerly of Alessandro Boulevard, easterly of Gem Lane, and westerly of Brown Street – 54.39 Gross Acres - Zoning: Industrial Park (I-P) - **REQUEST:** The **Plot Plan** proposes a commercial and industrial development comprised of 8 buildings consisting of: four (4) office buildings totaling 258,102 square feet, two (2) industrial warehouse/distribution buildings totaling 409,312 square feet, one (1) retail building with 10,000 square feet, one (1) light industrial/multi-tenant building with 42,222 square feet, 285,696 square feet of landscaping area, 1,779 parking spaces, and three (3) detention basins. The Environmental Impact Report has been prepared to inform decisions makers and the public of the potential significant environmental effects associated with the development of the proposed plot plan per the California Environmental Quality Act (CEQA).– APN(s): 297-080-007, 008, 009, 010.

RECOMMENDED MOTION:

DENIAL of the **APPEAL** filed on October 28, 2009, and uphold the Planning Commission's decision on September 30, 2009 to:

TENTATIVELY CERTIFY ENVIRONMENTAL IMPACT REPORT NO. 510, based on the findings incorporated in the EIR and the conclusion that the project will not have a significant effect on the environment and;

APPROVE PLOT PLAN NO. 22925, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.

Ron Goldman
Planning Director

RG:db

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the appeal is denied, and the matter is approved as recommended, and staff is directed to prepare the necessary documents for final action.

Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley
Nays: None
Absent: None
Date: March 16, 2010
xc: Planning, Applicant, Appellant, Co.Co.

Kecia Harper-Ihem
Clerk of the Board
By: Deputy

Prev. Agn. Ref.

District: First

Agenda Number:

16.1

REVIEWED BY EXECUTIVE OFFICE

DATE: 11/3/09
The Grande
Departmental Concurrence

ATTACHMENTS FILED WITH
THE CLERK OF THE BOARD

Policy Policy
Consent Consent
Dept's Recomm.: Per Exec. Ofc.:

COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY

George A. Johnson · Agency Director

Planning Department

Ron Goldman · Planning Director

Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

4/15/10 Date

KG Initial

TO: Office of Planning and Research (OPR)
P.O. Box 3044
Sacramento, CA 95812-3044
 County of Riverside County Clerk

FROM: Riverside County Planning Department
 4080 Lemon Street, 9th Floor
P. O. Box 1409
Riverside, CA 92502-1409

38686 El Cerrito Road
Palm Desert, California 92211

SUBJECT: Filing of Notice of Determination in compliance with Section 21152 of the California Public Resources Code.

PLOT PLAN NO. 22925 / ENVIRONMENTAL IMPACT REPORT NO. 510

Project Title/Case Numbers

Jeffery Childers

County Contact Person

951-955-3626

Phone Number

2008061136

State Clearinghouse Number (if submitted to the State Clearinghouse)

Hogle-Ireland

Project Applicant

1500 Iowa Street Suite 110, Riverside, CA 92507

Address

The project is located in the March Area in the Lake Mathews/Woodcrest Area Plan in Western Riverside County; more specifically, northerly of March Joint Powers Authority property and the former March Air Force Base, southerly of Alessandro Boulevard, easterly of Gem Lane, and westerly of Brown Street.

Project Location

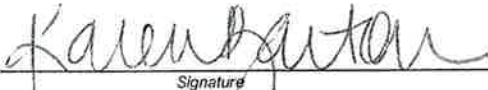
A commercial and industrial development comprised of 8 buildings consisting of: four (4) office buildings totaling 258,102 square feet, two (2) industrial warehouse/distribution buildings totaling 409,312 square feet, one (1) retail building with 10,000 square feet, one (1) light industrial/multi-tenant building with 42,222 square feet, 285,696 square feet of landscaping area, 1,779 parking spaces, and three (3) detention basins.

Project Description

This is to advise that the Riverside County Board of Supervisors, as the lead agency, has approved the above-referenced project on 04.06.10, and has made the following determinations regarding that project:

1. The project WILL have a significant effect on the environment.
2. A Environmental Impact Report No. 510 was prepared for this project and certified pursuant to the provisions of the California Environmental Quality Act (\$2,768.25 plus \$64.00)
3. Mitigation measures WERE made a condition of the approval of the project.
4. A Mitigation Monitoring and Reporting Plan/Program WAS adopted.
5. A statement of Overriding Considerations WAS adopted for the project.

This is to certify that the Final Environmental Impact Report, with comments, responses, and record of project approval is available to the general public at: Riverside County Planning Department, 4080 Lemon Street, 9th Floor, Riverside, CA 92501.



Signature

Board Assistant

Title

April 6, 2010

Date

Karen Barton, Board Assistant to Kecia Harper-Ihem, Clerk of the Board of Supervisors

Date Received for Filing and Posting at OPR: _____

Y:\Planning Case Files-Riverside office\PP22925\DH 7-13-09\PP22925 NOD Form.doc Revised 01/15/08

Please charge deposit fee case#: ZEA/n/a ZCFG4826 .

03.16.10 16.1

04.06.10 3.71

FOR COUNTY CLERK'S USE ONLY

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

* REPRINTED * R0711085

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 600-6100

38686 El Cerrito Road
Palm Desert, CA 92211
(760) 863-8277

Received from: HOGLE IRELAND INC
paid by: VI 011622
paid towards: CFG04826 CALIF FISH & GAME: DOC FEE
CALIFORNIA FISH AND GAME FOR EA41468
at parcel #: \$64.00
appl type: CFG3

By _____ Jul 11, 2007 15:33
MGARDNER posting date Jul 11, 2007

Account Code	Description	Amount
658353120100208100	CF&G TRUST: RECORD FEES	\$64.00

Overpayments of less than \$5.00 will not be refunded!

Additional info at www.rctlma.org

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

O* REPRINTED * R0909929

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 694-5242

38686 El Cerrito Rd
Indio, CA 92211
(760) 863-8271

Received from: HOGLE IRELAND INC \$2,768.25
paid by: CK 22702
CALIFORNIA FISH AND GAME FOR EA41468
paid towards: CFG04826 CALIF FISH & GAME: DOC FEE
at parcel:
appl type: CFG3

By _____ Jul 13, 2009 10:16
SBROSTRO posting date Jul 13, 2009

Account Code	Description	Amount
658353120100208100	CF&G TRUST	\$2,768.25

Overpayments of less than \$5.00 will not be refunded!

COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY

George A. Johnson · Agency Director

Planning Department

Ron Goldman · Planning Director

805B

October 28, 2009

SUBJECT: Appeal for Plot Plan No. 22925, Environmental Impact Report No. 510

SECTION: Development Review – Riverside Office

TO: Clerk of the Board of Supervisors

FROM: Planning Department

11.24.09

The attached item(s) require the following action(s) by the Board of Supervisors:

- | | |
|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Approve | <input checked="" type="checkbox"/> Set for Hearing |
| <input type="checkbox"/> Deny | <input checked="" type="checkbox"/> Publish in Newspaper: Press Enterprise |
| <input type="checkbox"/> Place on Policy Calendar | <input checked="" type="checkbox"/> APPEAL |
| <input type="checkbox"/> Place on Consent Calendar | <input checked="" type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day |
| <input type="checkbox"/> Place on Administrative Action | <input checked="" type="checkbox"/> Certify Environmental Impact Report |
| <input type="checkbox"/> Place on Section of Initiation Proceeding | <input checked="" type="checkbox"/> Notify Property Owners |
| <input type="checkbox"/> File: NOD and Mit. Neg. Declaration | <input checked="" type="checkbox"/> Labels provided |
| <input type="checkbox"/> Labels provided: | Controversial: <input type="checkbox"/> YES <input type="checkbox"/> NO |
| <input type="checkbox"/> If Set For Hearing: | |
| <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day | |

Designate Newspaper used by Planning Department for Notice of Hearing: Press Enterprise

PLEASE SCHEDULE FOR 11/24/09 AGENDA

Clerk Of The Board

Please charge your time to case number(s): ZPP22925
ZEIR00510

Documents to be sent to County Clerk's Office for Posting:

Notice of Determination
Fish & Game Receipt (CFG4826)

Do not sent these documents until the Board has taken final action on all of the referenced applications

Revised: 10/29/09

Y:\Planning Case Files-Riverside office\PP22925\APPEAL\11A coversheet APPEAL PP22925.doc

Riverside Office · 4080 Lemon Street, 9th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-3157

Desert Office · 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7555

Ruf
10/29/09

COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY
Planning Department
Ron Goldman · Planning Director

11.24.09

APPLICATION FOR APPEAL

DATE SUBMITTED: October 28, 2009

Appeal of application case No(s): PLOT PLAN NO. 22925 / EIR NO. 510

Name of Advisory Agency: Riverside County Planning Commission
List all concurrent applications

Date of the decision or action: September 30, 2009

Appellant's Name: Jonathan Evans E-Mail: jevans@biologicaldiversity.org

Mailing Address: 351 California ST, Suite 600
San Francisco City CA State 94104 ZIP

Daytime Phone No: (415) 436-9682 Fax No: (415) 436-9683

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> Clerk of The Board for: Appeals before the Board of Supervisors. Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> Change of Zone denied by the Planning Commission Commercial WECS Permit Conditional Use Permit Hazardous Waste Facility Siting Permit Public Use Permit Variance Specific Plan denied by the Planning Commission Substantial Conformance Determination for WECS Surface Mining and Reclamation Permit 	Within 10 days after the notice of decision appears on the Board of Supervisors Agenda. <div style="text-align: center; color: red;"> RIVERSIDE COUNTY CLERK OF THE BOARD OF SUPERVISORS PAID DATE: <u>10/28/2009</u> AMOUNT: <u>483.28</u> REC'D BY: <u>W. Williams</u> </div>

Riverside Office · 4080 Lemon Street, 9th Floor
 P.O. Box 1409, Riverside, California 92502-1409
 (951) 955-3200 · Fax (951) 955-3157
 Form 295-1013 (8/27/07)

Desert Office · 38686 El Cerrito Road
 Palm Desert, California 92211
 (760) 863-8277 · Fax (760) 863-7555

Murrieta Office · 39493 Los Alamos Road.
 Murrieta, California 92563
 · Fax (951) 600-6145

2009-10-096747

APPLICATION FOR APPEAL

<ul style="list-style-type: none"> • Land Division (Tentative Tract Map or Tentative Parcel Map) • Revised Tentative Map • Minor Change to Tentative Map • Extension of Time for Land Division (not vesting map) 	Within 10 days after the notice of decision appears on the Board of Supervisor's Agenda.
<ul style="list-style-type: none"> • Extension of Time for Vesting Tentative Map 	Within 15 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • General Plan or Specific Plan Consistency Determination • Temporary Outdoor Event 	Within 10 days after date of mailing or hand delivery of decision of the Planning Director.
<ul style="list-style-type: none"> • Environmental Impact Report 	Within 10 days of receipt of project sponsor or Planning Director determination, or within 7 days after notice of decision by Planning Commission appears on the Board's agenda.
<ul style="list-style-type: none"> • Plot Plan • Second Unit Permit • Temporary Use Permits • Accessory WECS 	Within 10 calendar days after the date of mailing of the decision.
<ul style="list-style-type: none"> • Letter of Substantial Conformance for Specific Plan 	Within 7 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • Revised Permit 	Same appeal deadline as for original permit.
<ul style="list-style-type: none"> • Certificate of Compliance • Tree Removal Permit 	Within 10 days after the date of the decision by the Planning Director.
<ul style="list-style-type: none"> • Revocation of Variances and Permits 	Within 10 days following the mailing of the notice of revocation by the Director of Building and Safety, or within 10-days after the notice of decision of the Planning Commission appears on the Board of Supervisor's agenda.

PLEASE STATE THE REASONS FOR APPEAL.

Please state the basis for the appeal and include any supporting evidence if applicable. If appealing one or more specific conditions of approval, indicate the number of the specific condition(s) being protested. In addition, please include all actions on related cases, which might be affected if the appeal is granted. This will allow all changes to be advertised and modified at the same time. AN APPEAL OF ONE OR MORE CONDITIONS OF APPROVAL SHALL BE DEEMED AS AN APPEAL OF THE ACTION AS A WHOLE, AND THE APPEAL BODY MAY APPROVE OR DENY THE ENTIRE MATTER, AND CHANGE ANY OR ALL OF THE CONDITIONS OF APPROVAL.

RECEIVED RIVERSIDE COUNTY
 2009 OCT 28 AM 10:05

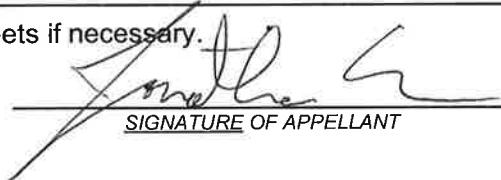
APPLICATION FOR APPEAL

See attached appeal letter.

Use additional sheets if necessary.

Jonathan Evans

PRINTED NAME OF APPELLANT



SIGNATURE OF APPELLANT

October 27, 2009

DATE

- THE APPEAL FILING PACKAGE MUST CONSIST OF THE FOLLOWING:
1. One completed and signed application form.
 2. Public Hearing Notice Label Requirements mailing address labels for notification of the appeal hearing.
 3. All appropriate filing fees (the base fee, plus other fees specifically for the Department of Building and Safety, Fire Department, Flood Control District and/or Transportation Department conditions, if applicable).

PLEASE NOTE: Obtain surrounding property owners label package/instructions (Form 295-1051) from a County Public Information Services Center or download it from the Planning Department web page.

**PLANNING COMMISSION
MINUTE ORDER SEPTEMBER 30, 2009
RIVERSIDE COUNTY ADMINISTRATIVE CENTER**

- I. AGENDA ITEM 6.4: APPEAL OF PLOT PLAN NO. 22925 / TENTATIVE PARCEL MAP NO. 35365 / ENVIRONMENTAL IMPACT REPORT NO. 510** – Intent to Certify an Environmental Impact Report – Applicant: Hogle-Ireland – Engineer/Representative: Rick Engineering - First Supervisorial District – March Zoning District – Lake Mathews / Woodcrest Area Plan: Community Development: Light Industrial (CD: LI) (0.25-0.60 Floor Area Ratio) – Location: southerly of Alessandro Boulevard, easterly of Gem Lane, and westerly of Brown Street – 54.39 Gross Acres - Zoning: Industrial Park (I-P) - APN(s): 297-080-007, 008, 009, 010. (Quasi-Judicial)

II. PROJECT DESCRIPTION

The Plot Plan proposes a commercial and industrial development comprised of 8 buildings consisting of: four (4) office buildings totaling 258,102 square feet, two (2) industrial warehouse/distribution buildings totaling 409,312 square feet, one (1) retail building with 10,000 square feet, one (1) light industrial/multi-tenant building with 42,222 square feet, 285,696 square feet of landscaping area, 1,779 parking spaces, and three (3) detention basins. The Parcel Map is a Schedule E subdivision of 54.39 gross acres into 6 industrial and commercial parcels. The Environmental Impact Report has been prepared to inform decisions makers and the public of the potential significant environmental effects associated with the development of the proposed plot plan per the California Environmental Quality Act (CEQA).

III. MEETING SUMMARY

The following staff presented the subject proposal:

Project Planner, Jeffery Childers, at 951-955-3626 or email jchilder@rctlma.org.

The following spoke in a neutral position of the subject proposal:

Kent Norton, Other Interested Person, 621 Carnegie Drive, Ste. 100, San Bernardino, California 92408

The following spoke in opposition of the subject proposal:

Jonathan Evans, Appellant, 351 California St., Ste. 600, San Fransisco, California 94104

No one spoke in favor of the subject proposal.

IV. CONTROVERSIAL ISSUES

The City of Riverside has submitted a letter in response to the Draft Environmental Impact Report public notification since the project is located adjacent and within the sphere of influence of the City. The letter made a number of requests for items to be added as mitigation measures. However, the technical studies provided no support for the requests to be added as additional mitigation, but were added as Conditions of Approval to the project.

The March Joint Powers Authority (MJPA) has also submitted a number of letters to the County in response to concerns regarding the need for right-of-way to be dedicated for the construction of Brown Street and the drainage crossings that will discharge onto the MJPA controlled property. The applicant has met a number of times with MJPA to resolve these issues and the comments submitted in the April 29, 2009 letter have been added as mitigation measures where applicable and specific conditions of approval.

V. PLANNING COMMISSION ACTION

The Planning Commission, by a vote of 5-0, recommended to the Board of Supervisors;

**PLANNING COMMISSION
MINUTE ORDER SEPTEMBER 30, 2009
RIVERSIDE COUNTY ADMINISTRATIVE CENTER**

PLANNING COMMISSION 9/30/09
AGENDA ITEM NO. 6.4 PAGE 2

DENIAL of the **APPEAL**;

REMOVAL of **PARCEL MAP NO. 35365** from the agenda and continued off calendar;

CERTIFICATION of **ENVIRONMENTAL IMPACT REPORT NO. 510**, based on the findings incorporated in the EIR and the conclusion that the project will not have a significant effect on the environment; and,

APPROVAL of **PLOT PLAN NO. 22925**, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.

VI. CD

The entire discussion of this agenda item can be found on CD. For a copy of the CD, please contact Chantell Griffin, Planning Commission Secretary, at (951) 955-3251 or E-mail at cgriffin@rctlma.org.

Agenda Item No.: 6.4
Area Plan: Lake Mathews/Woodcrest
Zoning District: March Area
Supervisorial District: First
Project Planner: Jeffery Childers
Planning Commission: September 30, 2009

EIR Number: 510
Plot Plan No. 22925
Applicant: Hogle-Ireland, Inc.
Engineer/Representative: Rick Engineering, Inc.
Owner: Amstar/Kaliber, LLC.

COUNTY OF RIVERSIDE PLANNING DEPARTMENT STAFF REPORT

PROJECT DESCRIPTION AND LOCATION:

Plot Plan No. 22925 proposes a commercial and industrial development comprised of 8 buildings consisting of: four (4) office buildings totaling 258,102 square feet, two (2) industrial warehouse/distribution buildings totaling 409,312 square feet, one (1) retail building with 10,000 square feet, one (1) light industrial/multi-tenant building with 42,222 square feet, 285,696 square feet of landscaping area, 1,779 parking spaces, and three (3) detention basins.

Environmental Impact Report No. 510 has been prepared to inform decisions makers and the public of the potential significant environmental effects associated with the development of the proposed plot plan per the California Environmental Quality Act (CEQA).

The project is located in the Lake Mathews/Woodcrest Area Plan in Western Riverside County; more specifically, northerly of March Joint Powers Authority property and the former March Air Reserve Base, southerly of Alessandro Boulevard, easterly of Gem Lane, and westerly of Brown Street.

JULY 27, 2009:

The project was Tentatively Approved during the Director's Hearing on July 13, 2009 and placed on the Consent Calendar for July 27, 2009. The Resolution for the Environmental Impact Report has been approved by Staff and the case is ready for action on the August 10, 2009 Director's Hearing.

JULY 13, 2009:

The project was Tentatively Approved during the Director's Hearing on July 13, 2009. However, the Resolution for the Environmental Impact Report has not been approved by Staff at this time and shall be reviewed and approved prior to the August 10, 2009 Director's Hearing.

BACKGROUND:

The case also includes a Schedule E Tentative Parcel Map that proposes the subdivision of 54.39 gross acres into 6 industrial and commercial parcels.

ISSUES OF POTENTIAL CONCERN:

The City of Riverside has submitted a letter in response to the Draft Environmental Impact Report public notification since the project is located adjacent and within the sphere of influence of the City. The letter made a number of requests for items to be added as mitigation measures. However, the technical studies provided no support for the requests to be added as additional mitigation, but were added as Conditions of Approval to the project.

The March Joint Powers Authority (MJPA) has also submitted a number of letters to the County in response to concerns regarding the need for right-of-way to be dedicated for the construction of Brown

ABR 9/2/09

Street and the drainage crossings that will discharge onto the MJPA controlled property. The applicant has met a number of times with MJPA to resolve these issues and the comments submitted in the April 29, 2009 letter have been added as mitigation measures where applicable and specific conditions of approval.

SUMMARY OF FINDINGS:

- | | |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Existing General Plan Land Use: | Community Development: Light Industrial (CD:LI) (0.25 - 0.60 Floor Area Ratio) |
| 2. Surrounding General Plan Land Use: | Community Development: Light Industrial (CD:LI) (0.25 - 0.60 Floor Area Ratio) to the east, Community Development: Business Park (CD:BP) (0.25 - 0.60 Floor Area Ratio) to the south, Community Development: Medium Density Residential (CD:MDR) (2-5 dwelling units per acre) to the west and the City of Riverside to the north. |
| 3. Existing Zoning: | Industrial Park (I-P) |
| 4. Surrounding Zoning: | Controlled Development Areas (W-2) to the east, Rural Residential (R-R) to the south, Residential Agriculture – 1 acre minimum to the west, and the City of Riverside to the north. |
| 5. Existing Land Use: | Vacant |
| 6. Surrounding Land Use: | Vacant land to the north, east, and south with single family residences to the east. |
| 7. Project Data: | Total Acreage: 54.39 Gross Acres
Total Proposed Building Area: 719,636 sq. ft.
Total Parking: 1,779 spaces |
| 7. Environmental Concerns: | See Environmental Impact Report No. 510 |

RECOMMENDATIONS:

DENIAL of the **APPEAL** filed on August 31, 2009;

TENTATIVE CERTIFICATION of **ENVIRONMENTAL IMPACT REPORT NO. 510**, based on the findings incorporated in the EIR and the conclusion that the project will not have a significant effect on the environment; and,

APPROVAL of **PLOT PLAN NO. 22925**, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.

CONCLUSIONS:

1. The proposed project is in conformance with the Community Development: Light Industrial (CD:LI) (0.25 – 0.60 Floor Area Ratio) Land Use Designation, and with all other elements of the Riverside County General Plan.
2. The proposed project is consistent with the Industrial Park (I-P) zoning classification of Ordinance No. 348, and with all other applicable provisions of Ordinance No. 348.

3. The public's health, safety, and general welfare are protected through project design.
4. The proposed project is conditionally compatible with the present and future logical development of the area.
5. The proposed project is consistent with the provisions of the Riverside County Comprehensive Airport Land Use Plan.
6. The proposed project will not preclude reserve design for the Multi-Species Habitat Conservation Plan (MSHCP).
7. The Environmental Impact Report has determined that most potentially adverse impacts can be mitigated to a level of less than significant by the recommended mitigation measures. However, the project will require the Riverside County Board of Supervisors to adopt Findings for Overriding Considerations for the significant and unavoidable impact to Air Quality (Project Specific and Cumulative).

FINDINGS: The following findings are in addition to those incorporated in the summary of findings, and in the attached environmental assessment, which is incorporated herein by reference.

1. The project site is designated Community Development: Light Industrial (CD:LI) (0.25 – 0.60 Floor Area Ratio) on the Lake Mathews/Woodcrest Area Plan.
2. The proposed use, a commercial and industrial development, is a permitted use in the Community Development: Light Industrial (CD:LI) (0.25 – 0.60 Floor Area Ratio) land use designation.
3. The proposed use, a commercial and industrial development, is consistent with the Community Development: Light Industrial (CD:LI) (0.25 – 0.60 Floor Area Ratio) land use designation.
4. The project site is surrounded by properties which are designated Community Development: Light Industrial (CD:LI) (0.25 - 0.60 Floor Area Ratio) to the east, Community Development: Business Park (CD:BP) (0.25 - 0.60 Floor Area Ratio) to the south, Community Development: Medium Density Residential (CD:MDR) (2-5 dwelling units per acre) to the west and the City of Riverside to the north.
5. The zoning for the subject site is Industrial Park (I-P).
6. The proposed use, a commercial and industrial development, is a permitted use, subject to approval of a plot plan in the Industrial Park (I-P) zoning classification.
7. The proposed use, a commercial and industrial development, is consistent with the development standards set forth in the Industrial Park (I-P) zone.
8. The project site is surrounded by properties which are zoned Controlled Development Areas (W-2) to the east, Rural Residential (R-R) to the south, Residential Agriculture – 1 acre minimum to the west, and the City of Riverside to the north.

9. Additional commercial and industrial uses have been constructed and are operating in the project vicinity.
10. The adjacent property under the control of the March Joint Powers Authority is master planned for similar industrial and warehousing development.
11. Environmental Impact Report No. 498 identified the following potentially significant impacts:
 - a. Air Quality
 - b. Biological Resources
 - c. Cultural Resources
 - d. Geology, Soils, and Seismicity
 - e. Hydrology and Water Quality
 - f. Land Use
 - g. Noise
 - h. Transportation

These listed impacts will be fully mitigated by the measures indicated in the environmental impact report, conditions of approval, and attached letters. Air Quality could not be mitigated to a level of less than significant; as such, the adoption of overriding findings is recommended as it has been determined that the benefits of the project outweigh and render acceptable those impacts identified in EIR00510.

INFORMATIONAL ITEMS:

1. As of this writing no letters in support or opposition have been received.
2. The project site is not located within:
 - a. A 100-year flood plain;
 - b. An area drainage plan;
 - c. A dam inundation area;
 - d. An agricultural preserve;
 - e. An area susceptible to subsidence;
 - f. A Riverside County Fault Zone; or,
 - g. A high fire area.
3. The project site is located within:
 - a. The City of Riverside Sphere of Influence;
 - b. The March Air Reserve Base influence area;
 - c. The Stephens Kangaroo Rat Fee Area;
 - d. The boundaries of the Lake Mathews/Woodcrest Area Plan;
 - e. An area of Low paleontological sensitivity;
 - f. An area of moderate liquefaction potential; and,
 - g. The Moreno Valley and Riverside Unified School Districts.
4. This project was received on July 11, 2007 and reviewed by the Land Development Committee 3 times on the following dates August 16, 2007, January 3, 2008 and October 23, 2008.
5. Deposit Based Fees charged for this project, as of the time of staff report preparation, total \$113,379.

6. The subject site is currently designated as Assessor's Parcel Numbers: 297-080-007, 008, 009, and 010.

JC
Y:\Planning Case Files-Riverside office\PP22925\DH 7-13-09\PP22925-Staff Report 5-11-09.doc



San Bernardino Valley
Audubon Society



via Hand Delivery

Riverside County Board of Supervisors
4080 Lemon ST, 1st Floor
P.O. Box 1409
Riverside, CA. 92502-1409
Attn: Clerk of the Board

October 27, 2009

RE: Appeal of the Riverside County Planning Commission's Approval of the
Alessandro Commerce Centre (EIR #510, Plot Plan #22925, TPM #35365)

Honorable Chairman and Board Members:

This appeal is filed on behalf of the Center for Biological Diversity, San Bernardino Valley Audubon Society, and the Sierra Club (collectively "Conservation Groups") on the Alessandro Commerce Centre ("Project"), located south of Alessandro Blvd. between Gem Lane and Brown Street.

Despite the diligent work by County staff, the EIR and Plot Plan do not meet the legal standards required under state and federal law. As set forth more fully in our attached comments on the Notice of Preparation of an Environmental Impact Report, comments on the Draft Environmental Impact Report, comments on the Final Environmental Impact Report, and Complaint for Declaratory and Injunctive Relief, there are many legal deficiencies that must be rectified in order to comply with the law. Moreover, the Project's location poses a fundamental and irreconcilable threat to the integrity of the Stephens' Kangaroo Rat Habitat Conservation Plan and must be rejected.

First, the project contains numerous issues that run afoul of the California Environmental Quality Act. Public Resources Code §§ 21000 *et seq.* For example, the EIR fails to adequately analyze the impacts to biological resources, air quality, land use and planning, public health, aesthetic resources, and global warming. The EIR also fails to adequately analyze numerous mitigation measures and fails to provide adequate findings regarding a reasonable range of Project Alternatives. All of these issues must be corrected prior to the proper certification of the Environmental Impact Report.

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Montana • Illinois • Minnesota • Vermont • Washington, DC

Jonathan Evans, Staff Attorney
351 California St., Ste. 600 • San Francisco, CA 94104
tel: (213) 598.1466 fax: (415) 436.9683 email: jevans@biologicaldiversity.org
www.BiologicalDiversity.org

Importantly, the Environmental Impact Report fails to make a good faith analysis and require feasible mitigation regarding the Project's greenhouse gas emissions and impacts on climate change. The Environmental Impact Report fails to account for the greenhouse gas emission reduction requirements necessary to achieve the goals of Executive Order S-03-05 and avoid dangerous anthropogenic influences on climate change. Moreover, the Environmental Impact Report ignores the substantive mandate of CEQA to implement feasible mitigation measures that will reduce the Project's significant negative impacts to air quality, including global warming. Public Resources Code § 21002.

Second, the Project as proposed threatens the viability of the Stephens' Kangaroo Rat Habitat Conservation Plan by permanently dividing the Sycamore Canyon Core Reserve dedicated for the protection of endangered wildlife protected under federal law. Permitting the approval of a Project that jeopardizes the integrity of the Stephens' Kangaroo Rat Habitat Conservation Plan will leave Riverside County and the Project applicant open to liability for take of endangered species under the Endangered Species Act. 16 U.S.C 1531 *et seq.*

As set forth more fully in the attached Complaint for Declaratory and Injunctive Relief it is a violation of the Endangered Species Act to disregard the existence and viability of the March Stephens' Kangaroo Rat Preserve, which is located adjacent to the site and plays a critical role in the population viability of the Stephens' Kangaroo Rat Habitat Conservation Plan. The attempt to "trade out" the habitat on the March Stephens' Kangaroo Rat Preserve in exchange for lands within the Potrero Core Reserve violates the Endangered Species Act, 16 U.S.C 1531 *et seq.*, National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, and Administrative Procedures Act, 5 U.S.C. § 701 *et seq.* The County's reliance on the alleged "trade out" would be both ill advised and misplaced. At a minimum the County should not approve this Project that improperly relies upon an illegal trade out and stay the project approval pending the outcome of the litigation.

CONCLUSION

The Conservation Groups urge the Board of Supervisors to deny Project and its EIR due to the existing legal violations and irreconcilable conflicts with the Stephens' Kangaroo Rat Habitat Conservation Plan. At a minimum, approval of the Project should be stayed pending the outcome of the federal litigation surrounding the March Stephens' Kangaroo Rat Preserve, which will be permanently impacted as a result of this project

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The Conservation Groups reserve the right to provide supplemental arguments and material at the Board of Supervisors' hearing and intend to do so. The Conservation Groups appreciate the County's consideration of this appeal. Should you have any questions or concerns regarding this appeal please contact Jonathan Evans via the contact information listed above.

Sincerely,



Jonathan Evans
Staff Attorney
Center for Biological Diversity



Drew Feldman
Conservation Chair
San Bernardino Valley Audubon Society



George Hague
Conservation/Endangered Species Chair
Moreno Valley Group
San Gorgonio Chapter
Sierra Club

EXHIBITS

Center for Biological Diversity 2008, Comments RE: Environmental Impact Report No. 510, Plot Plan 22925, (Alessandro Commerce Centre), August 26, 2008.

Center for Biological Diversity 2009, Comments RE: Draft Environmental Impact Report for the Alessandro Commerce Centre, SCH # 2008061136 (EIR # 510, TPM # 35365, Plot Plan # 22925), April 10, 2009

Center for Biological Diversity 2009, Comments RE: Final Environmental Impact Report for the Alessandro Commerce Centre, SCH # SCH # 2008061136 (EIR # 510, TPM # 35365, Plot Plan # 22925), July 10, 2009

Center for Biological Diversity 2009, Complaint for Declaratory and Injunctive Relief in the U.S. District Court for the Southern District of California, Case No. 09 CV 1864 JAH POR, filed August 27, 2009.

Center for Natural Lands Management 2007, ANNUAL REPORT OF MANAGEMENT ACTIVITIES FOR THE 2006-07 FISCAL YEAR ON THE MARCH STEPHENS' KANGAROO RAT PRESERVE

Center for Natural Lands Management 2008, ANNUAL REPORT OF MANAGEMENT ACTIVITIES FOR THE 2007-08 FISCAL YEAR ON THE MARCH STEPHENS' KANGAROO RAT PRESERVE

Fresh and Easy, Neighborhood News, Volume 2, Issue 1

Fresh and Easy, Fresh and Easy Riverside Distribution Center, Draft Subsequent Environmental Impact Report, August 2009 (partial).

1380

91-5271221 6119
1811310166

CENTER FOR BIOLOGICAL DIVERSITY
351 CALIFORNIA STREET STE 600
SAN FRANCISCO, CA 94104
PH 415-436-9682

021086227, 2009
DATE

PAY TO THE ORDER OF RIVERSIDE COUNTY \$ 983.28

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**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: George Harker

Address: 26711 Ironwood Ave
(only if follow-up mail response requested)

City: Morocco Valley **Zip:** 92555

Phone #: _____

Date: Nov 24-09 **Agenda #** 16-2

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:
_____ **Support** _____ **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: ~~George Harker~~
Ilene Anderson

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Ilene Anderson

Address: PMB 447, 8033 Sunset Blvd
(only if follow-up mail response requested)

City: Los Angeles **Zip:** 90046

Phone #: 323-654-5943

Date: 11/24/09 **Agenda #** 16-2

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:
_____ **Support** _____ **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** **Oppose** _____ **Neutral**

I give my 3 minutes to: _____



OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (951) 955-1060
FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR
Assistant Clerk of the Board

November 9, 2009

PRESS ENTERPRISE
ATTN: LEGALS
P.O. BOX 792
RIVERSIDE, CA 92501

E-MAIL: legals@pe.com
VIA FAX: (951) 368-9018

RE: NOTICE OF PUBLIC HEARING: APPEAL OF PLOT PLAN NO. 22925 EIR 510

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **one (1) time on Thursday, November 12, 2009.**

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office in duplicate, **WITH TWO CLIPPINGS OF THE PUBLICATION.**

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

Mcgil

Cecilia Gil, Board Assistant to
KECIA HARPER-IHEM, CLERK OF THE BOARD

Gil, Cecilia

From: PE Legals [legals@pe.com]
Sent: Monday, November 09, 2009 9:07 AM
To: Gil, Cecilia
Subject: RE: FOR PUBLICATION: APPEAL PP 22925

Received for publication on Nov. 12

Thank You! ~Maria G. Tinajero • The Press Enterprise Legal Adv. • 1.800.880.0345 (Phone) • 951.368.9018 (fax) • Please Note: Deadline is 10:30 AM two (2) business days prior to the date you would like to publish.

From: Gil, Cecilia [mailto:CCGIL@rcbos.org]
Sent: Monday, November 09, 2009 8:39 AM
To: PE Legals
Subject: FOR PUBLICATION: APPEAL PP 22925

Good Morning!

Attached is a Notice of Public Hearing, for publication on Thursday, November 12, 2009. Please confirm. THANK YOU!

Cecilia Gil

Board Assistant to the
Clerk of the Board of Supervisors
951-955-8464

**THE COUNTY ADMINISTRATIVE CENTER IS CLOSED EVERY FRIDAY UNTIL FURTHER NOTICE.
PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING.**

NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY ON AN APPEAL OF THE APPROVAL OF THE PLANNING COMMISSION ON A PLOT PLAN IN THE MARCH ZONING DISTRICT – LAKE MATHEWS / WOODCREST AREA PLAN, FIRST SUPERVISORIAL DISTRICT AND NOTICE OF INTENT TO CERTIFY AN ENVIRONMENTAL IMPACT REPORT

NOTICE IS HEREBY GIVEN that a public hearing at which all interested persons will be heard, will be held before the Board of Supervisors of Riverside County, California, on the 1st Floor Board Chambers, County Administrative Center, 4080 Lemon Street, Riverside, on **Tuesday, November 24, 2009, at 1:30 P.M.** to consider the appeal filed by Jonathan Evans, on behalf of the Center for Biological Diversity, San Bernardino Valley Audubon Society, and the Sierra Club (collectively "Conservation Groups"), on the Planning Commission approval of the application filed by Hogle-Ireland – Rick Engineering for **Plot Plan No. 22925**, which proposes a commercial and industrial development comprised of 8 buildings consisting of: four (4) office buildings totaling 258,102 square feet, two (2) industrial warehouse / distribution buildings totaling 409,312 square feet, one (1) retail building with 10,000 square feet, one (1) light industrial / multi-tenant building with 42,222 square feet, 285,696 square feet of landscaping area, 1,779 parking spaces, and three (3) detention basins ("the project"). The Environmental Impact Report has been prepared to inform decision makers and the public of the potential significant environmental effects associated with the development of the proposed plot plan per the California Environmental Quality Act (CEQA). The project is located at southerly of Alessandro Boulevard, easterly of Gem Lane, and westerly of Brown Street in the March Zoning District – Lake Mathews / Woodcrest Area Plan, First Supervisorial District.

The Planning Commission approved the project, found that the environmental effects have been addressed and recommended the certification of **Environmental Impact Report No. 510**.

The proposed project case file may be viewed from the date of this notice until the public hearing, Monday through Thursday, from 8:00 a.m. to 5:00 p.m. at the Clerk of the Board of Supervisors at 4080 Lemon Street, 1st Floor, Riverside, California 92501, and at the Riverside County Planning Department, 4080 Lemon Street, 9th Floor, Riverside, CA 92501.

FOR FURTHER INFORMATION REGARDING THIS PROJECT, PLEASE CONTACT JEFFERY CHILDERS, PROJECT PLANNER, AT (951) 955-3626 or e-mail at jchilder@rctlma.org.

Any person wishing to testify in support of or in opposition to the proposed project may do so in writing between the date of this notice and the public hearing, or may appear and be heard at the time and place noted above. All written comments received prior to the public hearing will be submitted to the Board of Supervisors and the Board of Supervisors will consider such comments, in addition to any oral testimony, before making a decision on the proposed project.

If you challenge the above item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence to the Planning Commission or Board of Supervisors at, or prior to, the public hearing. Be advised that as a result of the public hearing and the consideration of all public comment, written and oral, the Board of Supervisors may amend, in whole or in part, the proposed project and/or the related environmental document. Accordingly, the designations, development standards, design or improvements, or any properties or lands within the boundaries of the proposed project, may be changed in a way other than specifically proposed.

Please send all written correspondence to:

Clerk of the Board
4080 Lemon Street, 1st Floor
Post Office Box 1147
Riverside, CA 92502-1147

Dated: November 9, 2009

Kecia Harper-Ihem
Clerk of the Board
By: Cecilia Gil, Board Assistant

Gil, Cecilia

From: Meyer, Mary Ann [MaMeyer@asrclkrec.com]
Sent: Monday, November 09, 2009 8:53 AM
To: Gil, Cecilia
Subject: RE: FOR POSTING: APPEAL for PP 22925

received and posted

From: Gil, Cecilia
Sent: Monday, November 09, 2009 8:40 AM
To: Meyer, Mary Ann
Cc: Marshall, Tammie
Subject: FOR POSTING: APPEAL for PP 22925

Good Morning!

Can you please have this Notice of Public Hearing POSTED? Please confirm. THANK YOU MUCH!

Cecilia Gil

Board Assistant to the
Clerk of the Board of Supervisors
951-955-8464

**THE COUNTY ADMINISTRATIVE CENTER IS CLOSED EVERY FRIDAY UNTIL FURTHER NOTICE.
PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING.**

CERTIFICATE OF MAILING

(Original copy, duly executed, must be attached to
the original document at the time of filing)

I, Cecilia Gil, Board Assistant, for the County of Riverside, do hereby certify
(NAME and TITLE)

that I am not a party to the within action or proceeding; that on November 9, 2009, I
mailed a copy of the following document:

Notice of Public Hearing for: Appeal on Plot Plan No. 22925

to the parties listed in the attached labels, by depositing said copy with postage thereon fully
prepaid, in the United States Post Office, 3890 Orange St., Riverside, California, 92501.

Board Agenda Date: November 24, 2009 @ 1:30 PM

SIGNATURE: Mcgil DATE: November 9, 2009
Cecilia Gil

PROPERTY OWNERS CERTIFICATION FORM

Alessandro Commerce Centre

APN's 297-080-007 - 010

I, Mickey Zolezio, certify that on
(Print Name)

8/31/2009 the attached property owners list
(Date)

was prepared by County of Riverside / GIS
(Print Company or Individual's Name)

Distance Buffered : 800'

Pursuant to application requirements furnished by the Riverside County Planning Department; Said list is a complete and true compilation of the owners of the subject property and all other property owners within 600 feet of the property involved, or if that area yields less than 25 different owners, all property owners within a notification area expanded to yield a minimum of 25 different owners, to a maximum notification area of 2,400 feet from the project boundaries, based upon the latest equalized assessment rolls. If the project is a subdivision with identified off-site access/improvements, said list includes a complete and true compilation of the names and mailing addresses of the owners of all property that is adjacent to the proposed off-site improvement/alignment.

I further certify that the information filed is true and correct to the best of my knowledge. I understand that incorrect or incomplete information may be grounds for rejection or denial of the application.

NAME: Mickey Zolezio

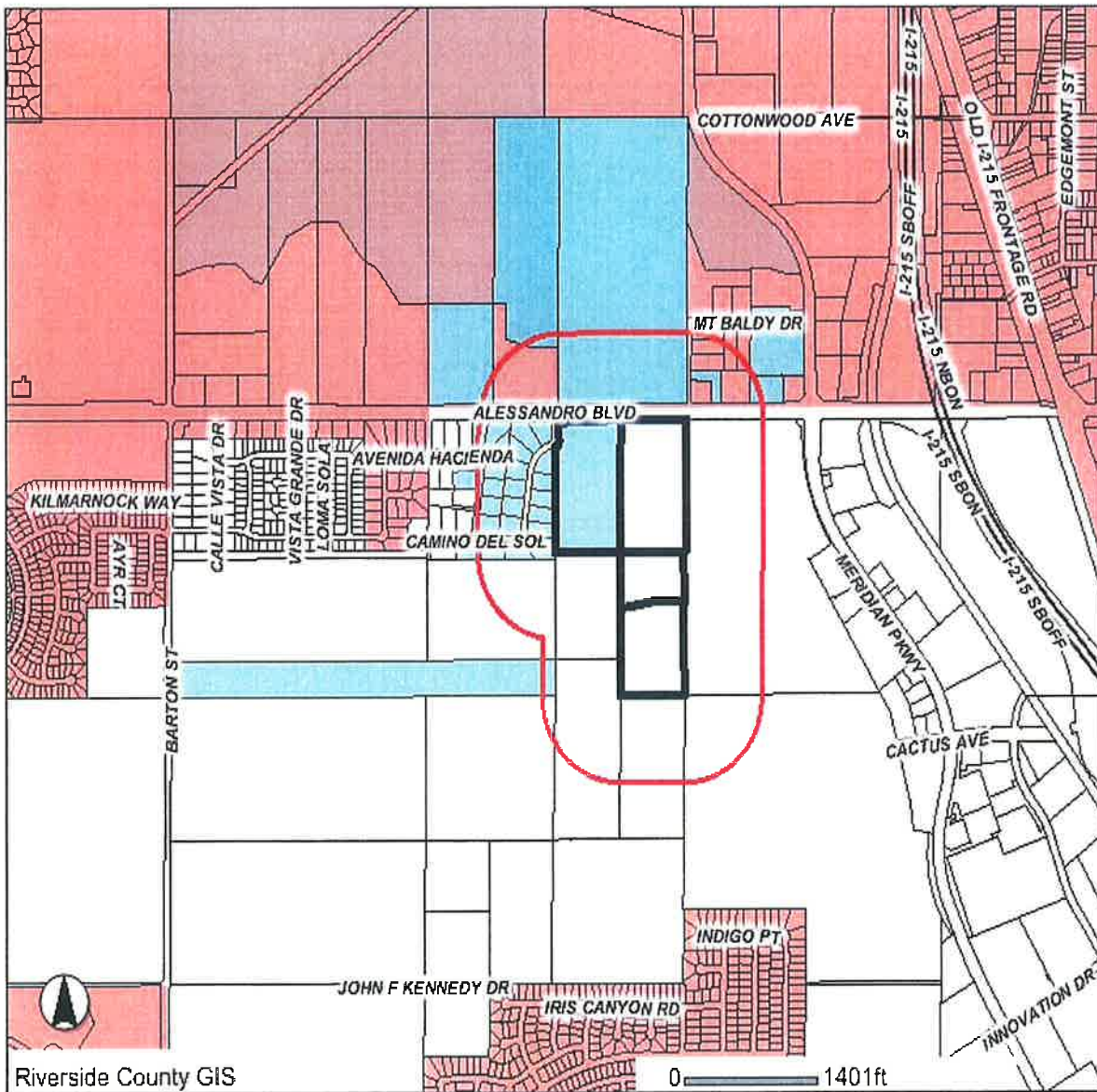
TITLE/REGISTRATION Senior GIS Analyst

ADDRESS: 4080 Lemon St. 2nd Floor

Riverside, CA 92501

TELEPHONE (8 a.m. – 5 p.m.): (951) 955-4649

Alessandro Commerce Centre



Selected parcel(s):

- | | | | | | | |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 263-060-021 | 263-060-030 | 263-060-033 | 263-250-052 | 263-250-054 | 263-250-064 | 297-061-004 |
| 297-061-005 | 297-061-006 | 297-061-007 | 297-061-008 | 297-061-009 | 297-061-010 | 297-061-011 |
| 297-061-012 | 297-062-001 | 297-062-002 | 297-063-001 | 297-063-002 | 297-072-001 | 297-072-002 |
| 297-072-003 | 297-072-004 | 297-072-005 | 297-073-001 | 297-073-002 | 297-073-003 | 297-073-004 |
| | 297-073-005 | 297-073-006 | 297-073-007 | 297-080-003 | 297-080-007 | |

IMPORTANT

This information is made available through the Riverside County Geographic Information System. The information is for reference purposes only. It is intended to be used as base level information only and is not intended to replace any recorded documents or other public records. Contact appropriate County Department or Agency if necessary. Reference to recorded documents and public records may be necessary and is advisable.

MAP PRINTED ON...08/31/2009

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951-368-9018 FAX

**PROOF OF PUBLICATION
(2010, 2015.5 C.C.P.)**

Press-Enterprise

PROOF OF PUBLICATION OF


Ad Desc.: Appeal PP 22925

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper of general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673 and under date of August 25, 1995, Case Number 267864; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

11-12-09

I Certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: Nov. 12, 2009
At: Riverside, California



BOARD OF SUPERVISORS
P.O. BOX 1147
COUNTY OF RIVERSIDE
RIVERSIDE CA 92502

Ad #: 10063600

PO #:

Agency #: _____

Ad Copy:

NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY ON AN APPEAL OF THE APPROVAL OF THE PLANNING COMMISSION ON A PLOT PLAN IN THE MARCH ZONING DISTRICT - LAKE MATHEWS / WOODCREST AREA PLAN, FIRST SUPERVISORIAL DISTRICT AND NOTICE OF INTENT TO CERTIFY AN ENVIRONMENTAL IMPACT REPORT

NOTICE IS HEREBY GIVEN that a public hearing at which all interested persons will be heard, will be held before the Board of Supervisors of Riverside County, California, on the 1st Floor Board Chambers, County Administrative Center, 4080 Lemon Street, Riverside, on Tuesday, November 24, 2009, at 1:30 P.M., to consider the appeal filed by Jonathan Evans, on behalf of the Center for Biological Diversity, San Bernardino Valley Audubon Society, and the Sierra Club (collectively "Conservation Groups"), on the Planning Commission approval of the application filed by Hogle-Ireland - Rick Engineering for Plot Plan No. 22925, which proposes a commercial and industrial development comprised of 8 buildings consisting of: four (4) office buildings totaling 258,102 square feet, two (2) industrial warehouse / distribution buildings totaling 409,312 square feet, one (1) retail building with 10,000 square feet, one (1) light industrial / multi-tenant building with 42,222 square feet, 285,696 square feet of landscaping area, 1,779 parking spaces, and three (3) detention basins ("the project"). The Environmental Impact Report has been prepared to inform decision makers and the public of the potential significant environmental effects associated with the development of the proposed plot plan per the California Environmental Quality Act (CEQA). The project is located at southerly of Alessandro Boulevard, easterly of Gem Lane, and westerly of Brown Street in the March Zoning District - Lake Mathews / Woodcrest Area Plan, First Supervisorial District.

The Planning Commission approved the project, found that the environmental effects have been addressed and recommended the certification of Environmental Impact Report No. 510.

The proposed project case file may be viewed from the date of this notice until the public hearing, Monday through Thursday, from 8:00 a.m. to 5:00 p.m. at the Clerk of the Board of Supervisors at 4080 Lemon Street, 1st Floor, Riverside, California 92501, and at the Riverside County Planning Department, 4080 Lemon Street, 9th Floor, Riverside, CA 92501.

FOR FURTHER INFORMATION REGARDING THIS PROJECT, PLEASE CONTACT JEFFERY CHILDERS, PROJECT PLANNER, AT (951) 955-3626 or e-mail at jchilder@rctlma.org.

Any person wishing to testify in support of or in opposition to the proposed project may do so in writing between the date of this notice and the public hearing, or may appear and be heard at the time and place noted above. All written comments received prior to the public hearing will be submitted to the Board of Supervisors and the Board of Supervisors will consider such comments, in addition to any oral testimony, before making a decision on the proposed project.

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Please send all written correspondence to: Clerk of the Board, 4080 Lemon Street, 1st Floor, Post Office Box 1147, Riverside, CA 92502-1147

Dated: November 9, 2009

Kecia Harper-Ihem
Clerk of the Board
By: Cecilia Gil, Board Assistant

11/12

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 COUNTY OF RIVERSIDE
 P.O. BOX 1147
 RIVERSIDE CA 92502


⑭ BILLED ACCOUNT NUMBER 045202 | REP NO LE04

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02/20	4158046 CO	ZC 7419 PP23535 Class : 10 Ctext Ad# 10168412 Placed By : Cecilia Gil	164 L	1.30		213.20
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Press-Enterprise

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Ad Desc.: ZC 7419 PP23535

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper of general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673 and under date of August 25, 1995, Case Number 267864; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

02-20-10

I Certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: Feb. 20, 2010
At: Riverside, California

BOARD OF SUPERVISORS

P.O. BOX 1147
COUNTY OF RIVERSIDE
RIVERSIDE CA 92502

Ad #: 10168412

PO #:

Agency #: _____

Ad Copy:

NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY ON A CHANGE OF ZONE AND PLOT PLAN IN THE BAUTISTA ZONING DISTRICT - SAN JACINTO VALLEY AREA PLAN, THIRD SUPERVISORIAL DISTRICT, AND INTENT TO FILE NOTICE OF EXEMPTION. NOTICE IS HEREBY GIVEN that a public hearing at which all interested persons will be heard, will be held before the Board of Supervisors of Riverside County, California, on the 1st Floor Board Chambers, County Administrative Center, 4080 Lemon Street, Riverside, on Tuesday, March 2, 2010 at 1:30 P.M. to consider the application submitted by Western Land Company - Jim Unland, for Change of Zone No. 7419, which proposes to change a portion of the sites existing zoning from Rural Residential (R-R) to Scenic Highway Commercial (C-P-S), or such other zones as the Board may find appropriate; and, Plot Plan No. 23535, which proposes a 9,825 square foot commercial retail building on 0.90 net acre parcel, 5,577 square feet of landscaping, and 50 parking spaces ("the project"). The project is located northerly of State Highway 74 (Florida Ave), westerly of 4th Street, southerly of C Street, and easterly of Fairview Avenue in the Bautista Zoning District - San Jacinto Valley Area Plan, Third Supervisorial District.

The Planning Commission approved the project and also determined that the project is exempt from the provisions of the California Environmental Quality Act. The project case file may be viewed from the date of this notice until the public hearing, Monday through Thursday, from 8:00 a.m. to 5:00 p.m. at the Clerk of the Board of Supervisors at 4080 Lemon Street, 1st Floor, Riverside, California 92501, and at the Central Files Division of Riverside County Planning Department at 4080 Lemon Street, 9th Floor, Riverside, California 92501.

FOR FURTHER INFORMATION REGARDING THIS PROJECT, PLEASE CONTACT JEFF HORN, PROJECT PLANNER, AT (951) 955-4641 or EMAIL at jhorn@rcflma.org.

Any person wishing to testify in support of or in opposition to the project may do so in writing between the date of this notice and the public hearing, or may appear and be heard at the time and place noted above. All written comments received prior to the public hearing will be submitted to the Board of Supervisors and the Board of Supervisors will consider such comments, in addition to any oral testimony, before making a decision on the project.

If you challenge the above item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence to the Planning Commission or Board of Supervisors at, or prior to, the public hearing. Be advised that as a result of the public hearing and the consideration of all

public comment, written and oral, the Board of Supervisors may amend, in whole or in part, the project and/or the related environmental document. Accordingly, the designations, development standards, design or improvements, or any properties or lands within the boundaries of the project, may be changed in a way other than specifically proposed. Please send all written correspondence to: Clerk of the Board, 4080 Lemon Street, 1st Floor, Post Office Box 1147, Riverside, CA 92502-1147
Dated: February 18, 2010
Kecia Harper-Ihem, Clerk of the Board
By: Cecilia Gil, Board Assistant 2/20

17-5 of 11/11/09

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FIRST CLASS



Riverside County Clerk of the Board
County Administrative Center
4080 Lemon Street, 1st Floor Annex
P. O. Box 1147
Riverside, CA 92502-1147

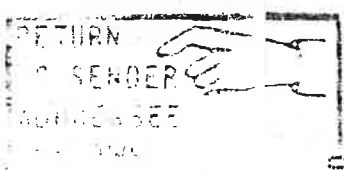
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PUBLIC HEARING NOTICE
This may affect your property

APN: 297061009 ASMT: 297061009
JUDY L TARRIS KRUEGER
14075 CAMINO DEL ORO
RIVERSIDE CA. 92508



9250832440 0035



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NOV 09 2009
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Riverside County Clerk of the Board
County Administrative Center
4080 Lemon Street, 1st Floor Annex
P. O. Box 1147
Riverside, CA 92502-1147

PUBLIC HEARING NOTICE
This may affect your property

RECEIVED RIVERSIDE, CA 92504
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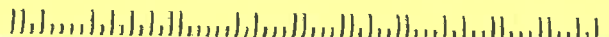
APN: 297061004 ASMT: 297061004
WATSON BARBARA K ESTATE OF
20600 AVENIDA HACIENDA
RIVERSIDE CA. 92508

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RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 92502114747 *0804-08508-09-41

92508-09-41



PUBLIC HEARING NOTICE LABEL REQUIREMENTS

PUBLIC HEARING NOTICE LABELS CERTIFICATION FORM

I, Jonathan Evans, certify that on August 31, 2009,
Print name Date

the attached property owner's list was prepared by:

Riverside TLMA GIS Dept. & J. Evans for the following project, Plot Plan 22925 / EIR 510,
Print Company Name and/or Individual's Name Project case number(s)

using a radius distance of 800 feet, pursuant to application requirements furnished by the Riverside County Planning Department. Said list is a complete and true compilation of the project applicant, the applicant's engineer/representative, if any, the owner(s) of the subject property, the school district or districts within whose boundary the subject project is located, every City within one mile of the subject property or within whose sphere of influence the subject property is located, if any, and, all other property owners within a 600 foot radius around the subject property, and all contiguously owned properties, if any, or if that area yields less than 25 different owners, all property owners within a notification area expanded to yield a minimum of 25 different owners, to a maximum area of 2,400 feet from the project boundaries, based upon the latest equalized assessment rolls. If the property is a subdivision with identified off-site access/improvements, said list includes a complete and true compilation of the names and mailing addresses of the owners of all the property that is adjacent to the proposed off-site improvement/alignment.

I further certify that the information field is true and correct to the best of my knowledge.

Name: Jonathan Evans 

Title/Registration: Staff Attorney

Address: Center for Biological Diversity

Address: 351 California ST, Suite 600

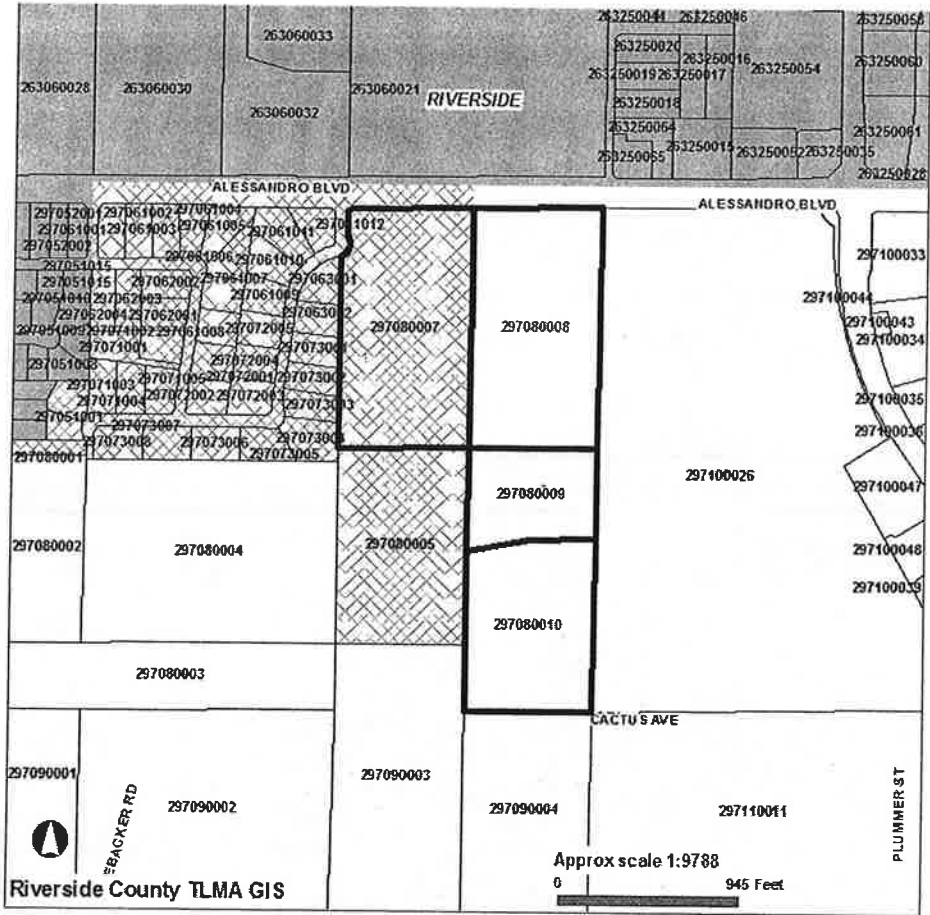
City: San Francisco State: CA Zip: 94705

Telephone No.: (415) 436-9682 Fax No.: (415) 436-9683

E-Mail: jevans@biologicaldiversity.org

Case No.: Plot Plan 22925 / Environmental Impact Report 510; APNs 297-080-007 through 297-080-010

Allesandro Commerce Centre: Plot Plan 22925 / EIR 51



Selected parcel(s):
297-080-007 297-080-008 297-080-009 297-080-010

CITY BOUNDARY/SPHERE

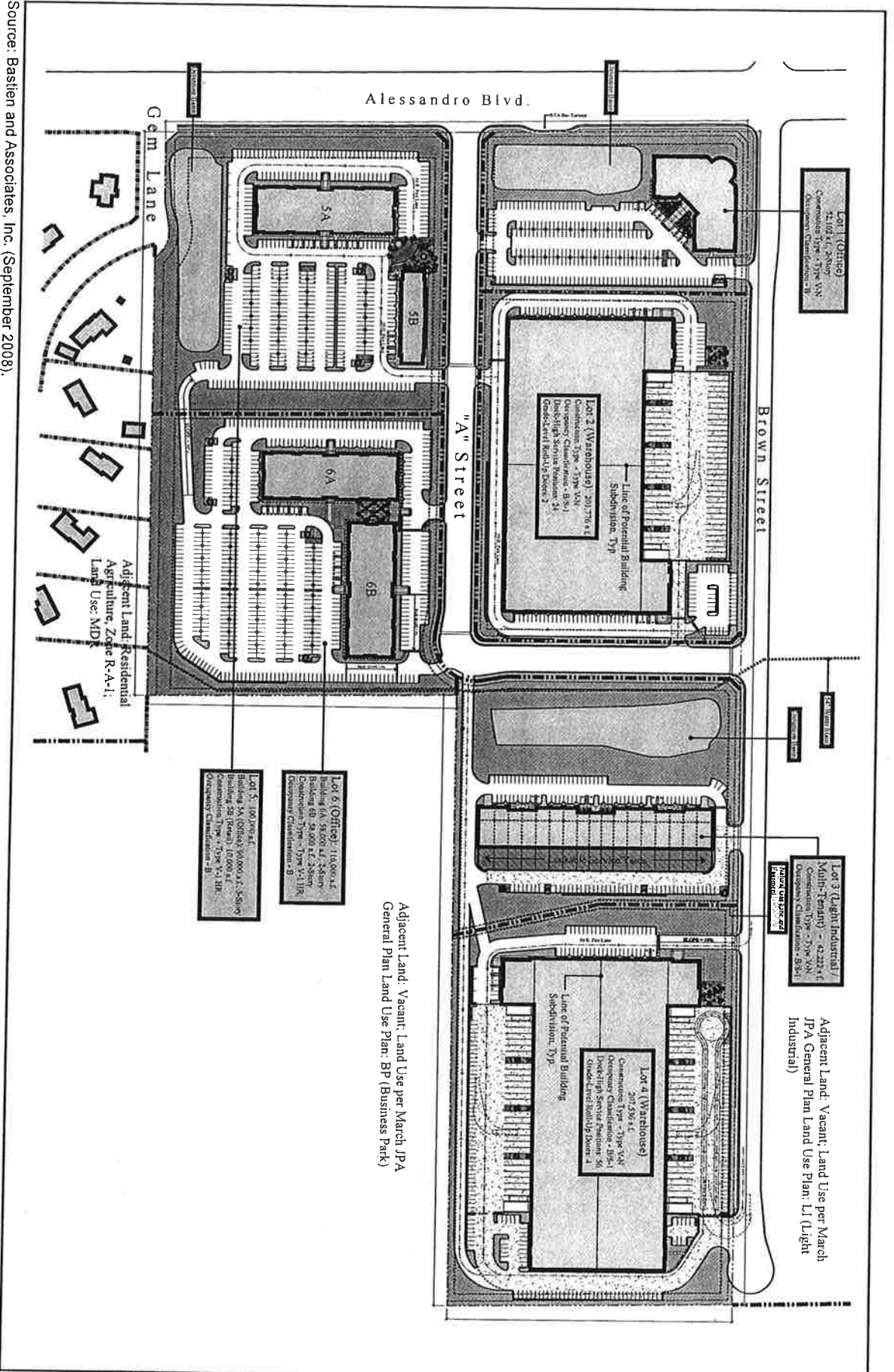
- SELECTED PARCEL
- PARCELS
- RIVERSIDE
- RIVERSIDE SPHERE OF INFLUENCE

IMPORTANT

This information is made available through the Riverside County Geographic Information System. The information is for reference purposes only. It is intended to be used as base level information only and is not intended to replace any recorded documents or other public records. Contact appropriate County Department or Agency if necessary. Reference to recorded documents and public records may be necessary and is advisable.

REPORT PRINTED ON...Thu Aug 27 2009 17:54:20 GMT-0700 (Pacific Daylight Time)

Plot Plan 22925 / Environmental Impact Report 510; APNs 297-080-007 through 297-080-010



Source: Bastien and Associates, Inc. (September 2008).



300 150 0 300
 Feet

Michael Brandman Associates

30470006 • 09/2008 | 3-4_site_plan_landscape.ai

Exhibit 3-4
Conceptual Site Plan

RIVERSIDE COUNTY EIR #510
 ALESSANDRO COMMERCE CENTRE

**Labels for
Owner/Applicant/Engineer**

Craig M. Reed
C/O REED PROP GROUP INC
305 N HARBOR BLV STE 215
FULLERTON CA. 92832

Kent Norton
Michael Brandman Associates
621 E. Carnegie Drive, Ste 100
San Bernardino, CA 92408

Craig M. Reed
Amstar/Kaliber, LLC
305 N. HARBOR, Ste 325
Fullerton, CA 92832

Pam Steele
Hogle-Ireland, Inc.
1500 Iowa Street, Suite 110
Riverside, CA 92507

Gabe L. Finke
Amstar
1050 17th Street
Suite 1200
Denver, CO 80265

Rick Engineering Company
1223 University Ave, Suite 240
Riverside, CA. 92507

**Label for City with applicable
Sphere of Influence**

City of Moreno Valley
Planning Department
14177 Frederick St.
Moreno Valley, CA 92553

City of Riverside
Planning Department
3900 Main Street - 3rd Floor
Riverside, CA 92522



APN: 297061012 ASMT: 297061012
RICARDO T ESPIRITU
14015 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297062001 ASMT: 297062001
RANDA EID
5168 WESTERN WAY
PERRIS CA 92571

APN: 297062002 ASMT: 297062002
ROSEMARY L CANTELLI
STEVEN W CANTELLI
14075 AVENIDA LUNA
RIVERSIDE CA. 92508

APN: 297063001 ASMT: 297063001
JORGE GONZALEZ
EMILIA SANCHEZ
14040 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297063002 ASMT: 297063002
NATHANIEL WILLIAM CAMPBELL
14080 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297072001 ASMT: 297072001
MICHAEL F VINSON
KAREN VINSON
P O BOX 51015
RIVERSIDE CA 92517

APN: 297072002 ASMT: 297072002
LOUIE M ALVARADO
OPHELIA ALVARADO
20630 CAMINO DEL SOL
RIVERSIDE CA. 92508

APN: 297072003 ASMT: 297072003
WAYNE D PAULSON
BECKY A PAULSON
14205 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297072004 ASMT: 297072004
KIM VANTRAN
KIM TRINH THI CHAU
14135 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297072005 ASMT: 297072005
NEIL H ODELL
CHRISTINE T ODELL
14105 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297073001 ASMT: 297073001
HERM A ESPIRITU
17318 S BARNHILL AVE
CERRITOS CA 90703

APN: 297073002 ASMT: 297073002
RELPHA MELOCOTON
14140 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297073003 ASMT: 297073003
PATRICIA LAURMAN
14212 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297073004 ASMT: 297073004
JAMES THOMSON
LORI J THOMSON
20735 CAMINO DEL SOL
RIVERSIDE CA. 92508



APN: 263060021 ASMT: 263060021
CORAC ALESSANDRO
C/O GARY EDWARDS
500 NEWPORT CENTER DR 630
NEWPORT BEACH CA 92660

APN: 263060030 ASMT: 263060030
GIBSON RIVERSIDE PROP
2410 YATES AVE
COMMERCE CA 90040

APN: 263060033 ASMT: 263060033
STATE OF CALIF
1416 9TH ST
SACRAMENTO CA 95814

APN: 263250052 ASMT: 263250052
SATAHA
C/O FURNITURE SUPERSTORE
11382 TESOTA LOOP
CORONA CA 92883

APN: 263250054 ASMT: 263250054
22 SYCAMORE CANYON PARTNERSHIP
C/O JACK M LANGSTON
4100 NEWPORT PL NO 750
NEWPORT BEACH CA 92660

APN: 263250064 ASMT: 263250064
CHRISTIAN E SINGLETARY
RU ANNA SINGLETARY
2023 CHICAGO AVE NO B8
RIVERSIDE CA 92507

APN: 297061004 ASMT: 297061004
WATSON BARBARA K ESTATE OF
20600 AVENIDA HACIENDA
RIVERSIDE CA. 92508

APN: 297061005 ASMT: 297061005
ALBERTO URENA
SOCRATES URENA
20620 AVENIDA HACIENDA
RIVERSIDE CA. 92508

APN: 297061006 ASMT: 297061006
ROBERT J GONZALES
LUPE R GONZALES
14050 AVENIDA LUNA
RIVERSIDE CA. 92508

APN: 297061007 ASMT: 297061007
MARILYN SUTTON
14080 AVENIDA LUNA
RIVERSIDE CA. 92508

APN: 297061008 ASMT: 297061008
BARRY Z ZIEGENFUS
BEATRIZ ZIEGENFUS
14110 AVENIDA LUNA
RIVERSIDE CA. 92508

APN: 297061009 ASMT: 297061009
JUDY L TARRIS KRUEGER
14075 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297061010 ASMT: 297061010
ARLEN W IRVIN
14055 CAMINO DEL ORO
RIVERSIDE CA. 92508

APN: 297061011 ASMT: 297061011
MARK T KOWALLIS
DIANNA T KOWALLIS
14035 CAMINO DEL ORO
RIVERSIDE CA. 92508





APN: 297073005 ASMT: 297073005
GLEN H MCMULIN
DOLORES V MCMULIN
20685 CAMINO DEL SOL
RIVERSIDE CA. 92508

APN: 297073006 ASMT: 297073006
HSBC BANK USA
C/O MIDLAND MORTGAGE CO
999 N W GRAND BLV STE 100
OKLAHOMA CITY OK 73118

APN: 297073007 ASMT: 297073007
JEFFREY C LLOYD
GRACE C LLOYD
20585 CAMINO DEL SOL
RIVERSIDE CA. 92508

APN: 297080003 ASMT: 297080003
MARCH JOINT POWERS AUTHORITY
C/O ELLEN STEPHENS FINANCE MANAGER
23555 MEYER DR
RIVERSIDE CA 92518

APN: 297080007 ASMT: 297080007
AMSTAR KALIBER
C/O REED PROP GROUP INC
305 N HARBOR BLV STE 215
FULLERTON CA 92832

Jonathan Evans c/o
Center for Biological Diversity
351 California ST, Suite 600
San Francisco, CA. 94104

George Hague
26711 Ironwood Ave.
Moreno Valley, CA. 92555



COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY
Planning Department
Ron Goldman · Planning Director

APPLICATION FOR APPEAL

DATE SUBMITTED: October 28, 2009

Appeal of application case No(s): PLOT PLAN NO. 22925 / EIR NO. 510

Name of Advisory Agency: Riverside County Planning Commission
List all concurrent applications

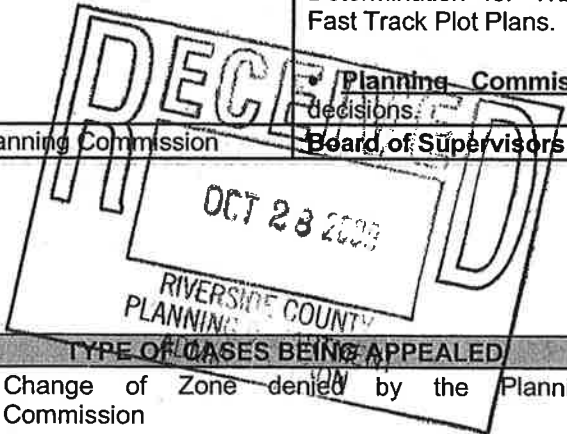
Date of the decision or action: September 30, 2009

Appellant's Name: Jonathan Evans E-Mail: jevans@biologicaldiversity.org

Mailing Address: 351 California ST, Suite 600
San Francisco City CA 94104 State ZIP

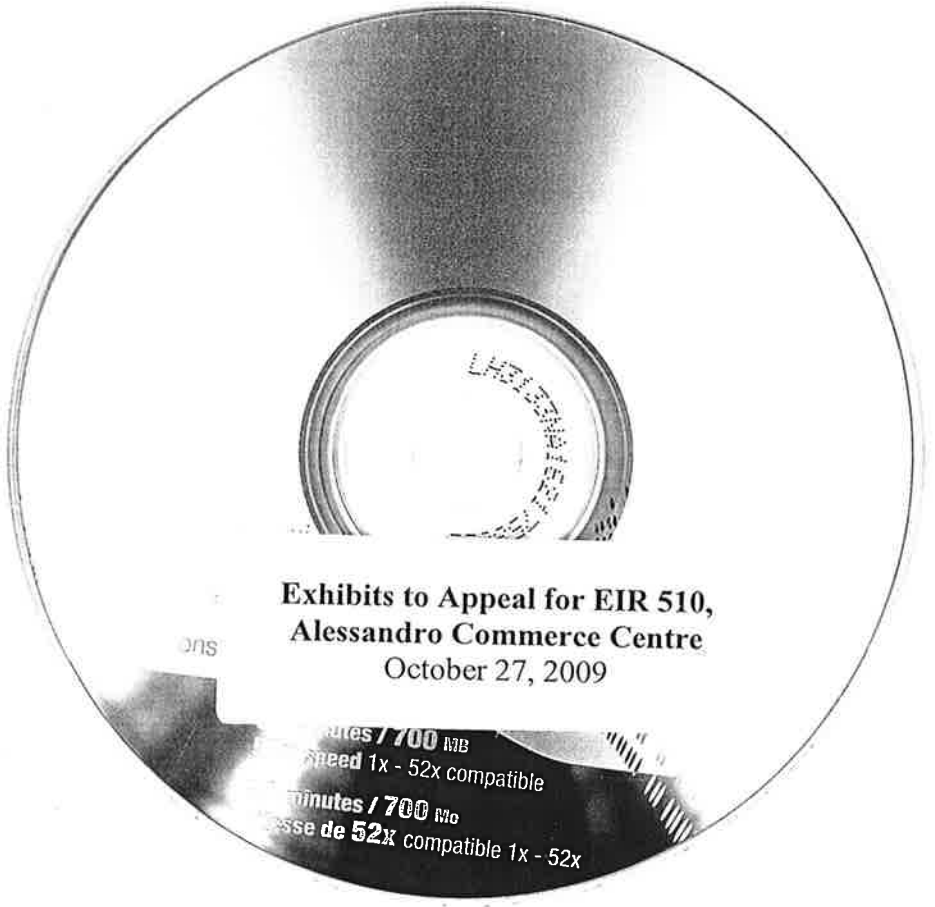
Daytime Phone No: (415) 436-9682 Fax No: (415) 436-9683

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> Clerk of The Board for: Appeals before the Board of Supervisors. Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors



TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> Change of Zone denied by the Planning Commission Commercial WECS Permit Conditional Use Permit Hazardous Waste Facility Siting Permit Public Use Permit Variance Specific Plan denied by the Planning Commission Substantial Conformance Determination for WECS Surface Mining and Reclamation Permit 	Within 10 days after the notice of decision appears on the Board of Supervisors Agenda. RIVERSIDE COUNTY CLERK OF THE BOARD OF SUPERVISORS PAID DATE: <u>10/28/2009</u> AMOUNT: <u>783.28</u> REC'D BY: <u>[Signature]</u>

EIR 510



Exhibits to Appeal for EIR 510,
Alessandro Commerce Centre
October 27, 2009

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**APPLICATION FOR
APPEAL**

**PLOT PLAN NO. 2292
EIR NO. 510**

**SURROUNDING
PROPERTY OWNERS
LABELS**

LABELS CERTIFIED
8/31/09

COUNTY OF RIVERSIDE
TRANSPORTATION AND LAND MANAGEMENT AGENCY
Planning Department
Ron Goldman - Planning Director

APPLICATION FOR APPEAL

DATE SUBMITTED: August 31 / ~~September 31~~, 2009

Appeal of application case No(s): PLOT PLAN NO. 22925 / EIR NO. 510

Name of Advisory Agency: Riverside County Planning Director
List all concurrent applications

Date of the decision or action: August 24, 2009

Appellant's Name: Jonathan Evans E-Mail: jevans@biologicaldiversity.org

Mailing Address: 351 California ST, Suite 600
San Francisco City CA State 94104 ZIP

Daytime Phone No: (415) 436-9682 Fax No: (415) 436-9683

ADVISORY AGENCY WHOSE ACTION IS BEING APPEALED	HEARING BODY TO WHICH APPEAL IS BEING MADE	APPEAL TO BE FILED WITH
Planning Director	<ul style="list-style-type: none"> Board of Supervisors for: Temporary Outdoor Events, Substantial Conformance Determination for WECS, Variances, and Fast Track Plot Plans. Planning Commission for: all other decisions. 	<ul style="list-style-type: none"> Clerk of The Board for: Appeals before the Board of Supervisors. Planning Department for: Appeals before the Planning Commission.
Planning Commission	Board of Supervisors	Clerk of the Board of Supervisors

TYPE OF CASES BEING APPEALED	FILING DEADLINE
<ul style="list-style-type: none"> Change of Zone denied by the Planning Commission Commercial WECS Permit Conditional Use Permit Hazardous Waste Facility Siting Permit Public Use Permit Variance Specific Plan denied by the Planning Commission Substantial Conformance Determination for WECS Surface Mining and Reclamation Permit 	<p>Within 10 days after the notice of decision appears on the Board of Supervisors Agenda.</p>

Riverside Office · 4080 Lemon Street, 9th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-3157
Form 295-1013 (8/27/07)

Desert Office · 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7555

Murrieta Office · 39493 Los Alamos Road.
Murrieta, California 92563
· Fax (951) 600-6145

APPLICATION FOR APPEAL

<ul style="list-style-type: none"> • Land Division (Tentative Tract Map or Tentative Parcel Map) • Revised Tentative Map • Minor Change to Tentative Map • Extension of Time for Land Division (not vesting map) 	Within 10 days after the notice of decision appears on the Board of Supervisor's Agenda.
<ul style="list-style-type: none"> • Extension of Time for Vesting Tentative Map 	Within 15 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • General Plan or Specific Plan Consistency Determination • Temporary Outdoor Event 	Within 10 days after date of mailing or hand delivery of decision of the Planning Director.
<ul style="list-style-type: none"> • Environmental Impact Report 	Within 10 days of receipt of project sponsor or Planning Director determination, or within 7 days after notice of decision by Planning Commission appears on the Board's agenda.
<ul style="list-style-type: none"> • Plot Plan • Second Unit Permit • Temporary Use Permits • Accessory WECS 	Within 10 calendar days after the date of mailing of the decision.
<ul style="list-style-type: none"> • Letter of Substantial Conformance for Specific Plan 	Within 7 days after the notice of decision appears on the Board of Supervisor's agenda.
<ul style="list-style-type: none"> • Revised Permit 	Same appeal deadline as for original permit.
<ul style="list-style-type: none"> • Certificate of Compliance • Tree Removal Permit 	Within 10 days after the date of the decision by the Planning Director.
<ul style="list-style-type: none"> • Revocation of Variances and Permits 	Within 10 days following the mailing of the notice of revocation by the Director of Building and Safety, or within 10-days after the notice of decision of the Planning Commission appears on the Board of Supervisor's agenda.

PLEASE STATE THE REASONS FOR APPEAL.

Please state the basis for the appeal and include any supporting evidence if applicable. If appealing one or more specific conditions of approval, indicate the number of the specific condition(s) being protested. In addition, please include all actions on related cases, which might be affected if the appeal is granted. This will allow all changes to be advertised and modified at the same time. AN APPEAL OF ONE OR MORE CONDITIONS OF APPROVAL SHALL BE DEEMED AS AN APPEAL OF THE ACTION AS A WHOLE, AND THE APPEAL BODY MAY APPROVE OR DENY THE ENTIRE MATTER, AND CHANGE ANY OR ALL OF THE CONDITIONS OF APPROVAL.



via hand delivery

Riverside County Planning Department
4080 Lemon ST, 9th Floor
P.O. Box 1409
Riverside, CA. 92502-1409
Attn: Jeffrey Childers
jchilders@rctlma.org

August 28, 2009

RE: Appeal of the Riverside County Planning Director's Approval of the Alessandro Commerce Centre (EIR #510, Plot Plan #22925, TPM #35365)

This appeal is filed on behalf of the Center for Biological Diversity, San Bernardino Valley Audubon Society, and the Sierra Club (collectively "Conservation Groups") on the Allesandro Commerce Centre ("Project"), located south of Allesandro Blvd. between Gem Ln and Brown St.

Despite the diligent work by County staff the EIR and Plot Plan do not meet the legal standards required under state and federal law. As set forth more fully in our attached comments on the Notice of Preparation of an Environmental Impact Report, comments on the Draft Environmental Impact Report, comments on the Final Environmental Impact Report, and Complaint for Declaratory and Injunctive Relief there are many legal deficiencies that must be rectified in order to comply with the law. Moreover, the Project's location poses a fundamental and irreconcilable threat to the integrity of the Stephens' Kangaroo Rat Habitat Conservation Plan and must be rejected.

First, the project contains numerous issues that run afoul of the California Environmental Quality Act. Public Resources Code §§ 21000 *et seq.* For example, the EIR fails to adequately analyze the impacts to biological resources, air quality, land use and planning, public health, aesthetic resources, and global warming. The EIR also fails to adequately analyze numerous mitigation measures and fails to provide adequate findings regarding a reasonable range of Project Alternatives. All of these issues must be corrected prior to the proper certification of the Environmental Impact Report.

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Montana • Illinois • Minnesota • Vermont • Washington, DC

Jonathan Evans, Staff Attorney
351 California St., Ste. 600 • San Francisco, CA 94104
tel: (213) 598.1466 fax: (415) 436.9683 email: jevans@biologicaldiversity.org
www.BiologicalDiversity.org

Importantly, the Environmental Impact Report fails to make a good faith analysis and require feasible mitigation regarding the Project's greenhouse gas emissions and impacts on climate change. The Environmental Impact Report fails to account for the necessary greenhouse gas emission reduction requirements necessary to achieve the goals of Executive Order S-03-05 and avoid Dangerous Anthropogenic Influence on climate change. Moreover, the Environmental Impact Report ignores the substantive mandate of CEQA to implement feasible mitigation measures that will reduce the Project's significant negative impacts to air quality, including global warming. Public Resources Code § 21002.

Second, the Project as proposed threatens the viability of the Stephens' Kangaroo Rat Habitat Conservation Plan by permanently dividing the Sycamore Canyon Core Reserve dedicated for the protection of endangered wildlife protected under federal law. Permitting the approval of a Project that jeopardizes the integrity of the Stephens' Kangaroo Rat Habitat Conservation Plan will leave Riverside County and the Project applicant open to liability for take of endangered species under the Endangered Species Act. 16 U.S.C 1531 *et seq.*

As set forth more fully in the attached Complaint for Declaratory and Injunctive Relief it is a violation of the Endangered Species Act to disregard the existence and viability of the March Stephens' Kangaroo Rat Preserve, which is located adjacent to the site and plays a critical role in the population viability of the Stephens' Kangaroo Rat Habitat Conservation Plan. The attempt to "trade out" the habitat on the March Stephens' Kangaroo Rat Preserve violates the Endangered Species Act, 16 U.S.C 1531 *et seq.*, National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, and Administrative Procedures Act, 5 U.S.C. § 701 *et seq.* The County's reliance on the alleged "trade out" would be both ill advised and misplaced. At a minimum the County should not approve this Project that improperly relies upon an illegal trade out and stay the project approval pending the outcome of the litigation.

CONCLUSION

The Conservation Groups urge the Planning Commission to deny Project and its EIR due to the existing legal violations and irreconcilable conflicts with the Stephens' Kangaroo Rat Habitat Conservation Plan. At a minimum, approval of the Project should be stayed pending the outcome of the federal litigation surrounding the March Stephens' Kangaroo Rat Preserve, which will be permanently impacted as a result of this project

///
///
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The Conservation Groups reserve the right to provide supplemental arguments and material at the Planning Commission hearing and intend to do so. The Conservation Groups appreciate the County's consideration of this appeal. Should you have any questions or concerns regarding this appeal please contact Jonathan Evans via the contact information listed above.

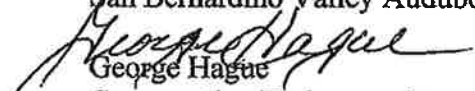
Sincerely,



Jonathan Evans
Staff Attorney
Center for Biological Diversity



Drew Feldman
Conservation Chair
San Bernardino Valley Audubon Society



George Hague
Conservation/Endangered Species Chair
Moreno Valley Group
San Gorgonio Chapter
Sierra Club

1 John Buse (CA Bar No. 163156)
2 Jonathan Evans (CA Bar No. 247376)
3 CENTER FOR BIOLOGICAL DIVERSITY
4 351 California ST, Suite 600
5 San Francisco, CA. 94104
6 Telephone: (415) 436-9682
7 Facsimile: (415) 436-9683
8 jbuse@biologicaldiversity.org
9 jevans@biologicaldiversity.org

10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT

12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 CENTER FOR BIOLOGICAL)
14 DIVERSITY and SAN BERNARDINO)
15 VALLEY AUDUBON SOCIETY,)

16 Plaintiffs,)

17 v.)

18 JIM BARTEL, Field Supervisor for the)
19 Carlsbad Office of the United States Fish)
20 and Wildlife Service, the UNITED)
21 STATES FISH AND WILDLIFE)
22 SERVICE, and KEN SALAZAR, Secretary)
23 of the Interior,)

24 Defendants.

Case No. 09 CV 1864 JAH POR

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

BY FAX

25 INTRODUCTION

26 1. This action challenges the U.S. Fish and Wildlife Service's ("Service") failure to
27 re-initiate self-consultation to prepare a new biological opinion under the Endangered Species
28 Act, 16 USC §§ 1531 *et seq.* ("ESA"), and conduct environmental review under the National
Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* ("NEPA"), prior to authorizing the release

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 of land dedicated in perpetuity for the conservation of the Stephens' kangaroo rat ("SKR") for
2 commercial development.

3 2. The SKR conservation land released for development (the "March SKR
4 Preserve") is located in Western Riverside County, California, west of March Air Reserve Base
5 (formerly March Air Force Base) near the City of Moreno Valley. Through formal consultation
6 under the ESA, the March SKR Preserve originated as mitigation for the widening of Highway
7 215 and the 215-60 interchange. The March SKR Preserve was continually expanded, again
8 through formal consultation with the Service, to serve as mitigation for incidental take associated
9 with base mission realignment projects, base housing, a golf course, and expansion of the
10 Riverside National Cemetery.
11

12 3. Due in part to its existing dedicated status for conservation, the Service relied on
13 the March SKR Preserve as a crucial habitat reserve during the development of the Stephens'
14 kangaroo rat Habitat Conservation Plan ("SKR HCP"). The March SKR Preserve became
15 roughly the southern half of the Sycamore Canyon-March Air Force Base Core Reserve
16 ("Sycamore Canyon-March Core Reserve") that was established through the SKR HCP, and
17 represents the majority of SKR habitat in the Sycamore Canyon-March Core Reserve.
18

19 4. The March SKR Preserve was released for commercial development ostensibly in
20 "exchange" for other SKR habitat in the Portrero Valley that is outside the boundaries of the
21 SKR HCP. Conversion of the March SKR Preserve threatens the viability and the conservation
22 value of the entire Sycamore Canyon-March Core Reserve—one of seven permanent core
23 reserves in the SKR HCP Core Reserve System. Moreover, elimination of the March SKR
24 Preserve threatens the viability of the SKR HCP because it lowers the persistence probability of
25 SKR in the overall reserve system.
26
27

1 an actual controversy between the parties within the meaning of the Declaratory Judgment Act.
2 28 U.S.C. § 2201.

3 9. Venue lies in this Court pursuant to 28 U.S.C. § 1391(e), ESA § 11(g)(3)(A), and
4 16 U.S.C. § 1540(g)(3)(A). The Service maintains its Carlsbad office in this judicial district,
5 Defendant Jim Bartel resides in this district in his official capacity as Field Supervisor for the
6 Service's Carlsbad office, and a substantial part of the events or omissions giving rise to
7 Plaintiffs' claims occurred within this district.
8

9
10 **PARTIES**

11 10. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY ("the Center") is a non-
12 profit corporation with over 43,000 members and offices in San Francisco, Los Angeles, and
13 Joshua Tree, California; Tucson and Flagstaff, Arizona; Portland, Oregon; Silver City, New
14 Mexico; and Washington, D.C. The Center is dedicated to the preservation, protection, and
15 restoration of biodiversity, native species, ecosystems, and public lands.
16

17 11. The SAN BERNARDINO VALLEY AUDUBON SOCIETY ("Audubon") is a
18 California non-profit public benefit corporation with 2000 members who are residents and
19 property owners within the Inland Empire of Southern California, including within the County of
20 Riverside, and who will be directly affected by this action. The purpose of Audubon is to educate
21 the public about the environment, planning and infrastructure issues, and to take action to protect
22 the region's natural heritage areas when necessary. Many Audubon members receive personal,
23 scientific, professional, and spiritual benefit from rare, sensitive, threatened and endangered
24 species that will be affected by the action that is the subject of this litigation. Audubon members
25 will be directly affected by the actions in this litigation, and its components, as described herein.

26 12. Members and staff of the Center and Audubon regularly use and enjoy, and
27 intend to continue to use and enjoy, lands within the Sycamore Canyon-March Core Reserve—
28

1 where the SKR is found—for recreation, observation, research, aesthetic enjoyment, and other
2 scientific, conservation, spiritual, or educational activities. The Center and Audubon's members
3 and staff also regularly research, study, and observe the federally listed SKR in and around the
4 Sycamore Canyon-March Core Reserve. The Center and Audubon's members and staff derive
5 spiritual, recreational, scientific, and aesthetic benefits from the continued existence of SKR
6 populations and its associated habitat upon which it depends throughout its range in southern
7 California, including within the Sycamore Canyon-March Core Reserve.

9 13. The Center and Audubon's members' recreational, aesthetic, educational,
10 scientific, spiritual, professional, and conservation interests are being adversely affected and
11 irreparably injured by the Service's continued violations of the ESA. The Service's
12 authorization to release the March SKR Preserve for commercial development and the
13 subsequent destruction of native fauna and flora has thus harmed the members and staff of the
14 Center and Audubon by threatening the interests in the March SKR Preserve, the SKR, and its
15 associated fauna and flora. Members and staff of the Center and Audubon have also been
16 harmed because they have not been provided an adequate opportunity to review and comment
17 on the environmental consequences of the release of the March SKR Preserve for development.
18 The recovery of the SKR in the wild would be promoted through protection of habitat on the
19 March SKR Preserve, and the relief sought in this action would redress the injuries to the
20 members and staff of the Center and Audubon.

23 14. The Center and Audubon bring this suit on their own behalf and on behalf of their
24 adversely affected members and staff who have been, and will continue to be, harmed by the
25 Service's failure to consult and analyze the loss of habitat that impacts to threatened and
26 endangered species on the March SKR Preserve.

1 15. Defendant JIM BARTEL is the Field Supervisor for the Carlsbad Office of the
2 United States Fish and Wildlife Service. The Field Supervisor is the federal official charged
3 with implementation of the ESA in the region, including the March SKR Preserve. The Field
4 Supervisor is the signatory on the authorizations that are the subject of this litigation. He is sued
5 in his official capacity.
6

7 16. Defendant U.S. FISH AND WILDLIFE SERVICE is an agency within the
8 Department of the Interior which has been delegated responsibility for implementing the ESA
9 including proposed and final listing and critical habitat decisions, the handling of petitions for
10 such listings, and the decisions to consult on the impacts to endangered species.
11

12 17. Defendant KEN SALAZAR is the Secretary of the Interior ("Secretary"). The
13 Secretary is the federal official charged with listing species as endangered or threatened and
14 supervising the consultation requirements under the ESA. He is sued in his official capacity.
15 The Secretary has delegated his obligation to oversee consultation requirements under the ESA
16 to the U.S. Fish and Wildlife Service.
17

18 STATUTORY BACKGROUND

19 THE ENDANGERED SPECIES ACT

20
21 18. The ESA is a federal statute designed to conserve endangered and threatened
22 species and the ecosystems upon which those species depend. ESA § 2(b), 16 U.S.C. § 1531(b).
23 To achieve these objectives, the Service is required to protect such imperiled species by listing
24 them as either "threatened" or "endangered" if they are facing extinction due to numerous
25 threats. ESA § 4(a)(1), 16 U.S.C. § 1533(a)(1).
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19: A species is "endangered" if it is "in danger of extinction throughout all or a significant portion of its range." ESA § 3(6), 16 U.S.C. § 1532(6). A species is "threatened" if it is "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." ESA § 3(20), 16 U.S.C. § 1532(20).

20: A species receives mandatory substantive protections under the Endangered Species Act if and only if it is listed as endangered or threatened. *See* 50 C.F.R. § 402.12(d). One of these protections; section 7(a)(2), provides that all federal agencies must avoid actions that (1) jeopardize listed species or (2) destroy or adversely modify designated critical habitat. 16 U.S.C. § 1536(a)(2).

21. Section 7 of the ESA requires a federal agency to initiate consultation with the Service whenever an action by that agency is likely to affect an endangered species or its critical habitat. 16 U.S.C. § 1536(a)(2). Federal agency actions include those projects "authorized, funded, or carried out by such agency." 50 C.F.R. § 402.14(a). The Service is required to self-consult prior to issuing incidental take permits under Section 10(a)(1)(b) of the ESA.

22. Consultation requires the Service to prepare a "Biological Opinion" that examines whether the action in question is likely to jeopardize the continued existence of a listed species or destroy or modify critical habitat and, if so, suggest reasonable and prudent alternatives to avoid those negative impacts. 16 U.S.C. § 1536(b)(3)(A); 50 C.F.R. § 402.12. Although consultation terminates with the issuance of the biological opinion, when new circumstances arise, the Service is required to re-initiate consultation. 50 C.F.R. § 402.16; *Mount Graham Red Squirrel v. Madigan*, 954 F.2d 1441; 1451 (9th Cir. 1992).

23. The Service's consultation regulations require re-initiation of consultation when discretionary federal involvement or control over the action has been retained and: (a) the

1 amount or extent of the take specified in the incidental take statement is exceeded; (b) new
2 information reveals effects of the action that may affect listed species or critical habitat in a
3 manner or to an extent not previously considered; or (c) the identified action is subsequently
4 modified in a manner that causes an effect to the listed species that was not considered in the
5 biological opinion. 50 C.F.R. § 402.16.

6
7 24. Re-initiation of consultation requires the Service to issue a new biological
8 opinion before a project can proceed. *Id.* In making these decisions the Service must “use the
9 best scientific and commercial data available” during the consultation process. 16 U.S.C. §
10 1536(a)(2); 50 C.F.R. § 402.14(d).

11 12 NATIONAL ENVIRONMENTAL POLICY ACT

13
14 25. NEPA is intended to ensure that federal agencies fully consider environmental
15 consequences before taking an action, and that the public is fully informed of these
16 consequences. “The NEPA process is intended to help public officials make decisions that are
17 based on understanding of environmental consequences, and take actions that protect, restore,
18 and enhance the environment.” 40 C.F.R. § 1500.1(c). Federal agencies must “to the fullest
19 extent possible . . . [e]ncourage and facilitate public involvement” in decision making. 40 C.F.R.
20 § 1500.2(d).

21
22 26. NEPA requires federal agencies to prepare a detailed environmental impact
23 statement (“EIS”) for all “major federal actions significantly affecting the quality of the human
24 environment.” 42 U.S.C. § 4332(2)(C). “Major federal action” includes actions with effects that
25 may be major and are potentially subject to federal control and responsibility. The EIS must,
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1 among other things, disclose the environmental impact of the proposed action; describe any
2 unavoidable environmental effects, and analyze alternatives to the proposed action. *Id.*

3 27. To determine whether an action's environmental impacts are significant and
4 whether an EIS must be prepared, federal agencies may prepare an environmental assessment.
5 40 C.F.R. § 1508.9. If the EA concludes that a project may have a significant impact on the
6 environment, then an EIS must be prepared. If not, the federal agency must provide a detailed
7 statement of reasons why the project's impacts are insignificant and issue a finding of no
8 significant impact ("FONSI"). *Id.* § 1508.13.

9 28. In either an EIS or EA, federal agencies must consider the direct, indirect, and
10 cumulative environmental impacts of their actions. Indirect effects are those "caused by the
11 action and are later in time or farther removed in distance but are still reasonably foreseeable."
12 40 C.F.R. § 1508.8. Cumulative impacts include impacts of "other past, present, and reasonably
13 foreseeable future actions regardless of what agency (Federal or non-Federal) or person
14 undertakes such other actions." 40 C.F.R. § 1508.7.

15 29. The NEPA regulations promulgated by the Council on Environmental Quality
16 ("CEQ") and binding on all federal agencies provide that an agency must consider the degree to
17 which the proposed action may adversely affect endangered and threatened species or their
18 critical habitat in evaluating the significance of an impact. 40 C.F.R. § 1508.27(b)(9).

19 30. The CEQ regulations also provide that each federal agency shall identify in its
20 NEPA procedures those classes of actions that normally do not require either an EIS or an
21 environmental assessment. 40 C.F.R. § 1507.3(b)(2)(ii). These "categorical exclusions" are
22 actions that do not individually or cumulatively have a significant effect on the human
23 environment. If an agency action falls within one of the defined categorical exclusions
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1 categories, no EIS or environmental assessment is required, unless one or more exceptions
2 apply. These exceptions are also defined in the agency's NEPA procedures. 40 C.F.R. § 1508.4.

3 31. The Service's NEPA procedures are contained in the Department of the Interior
4 Departmental Manual, Part 516, Chapter 2: "Initiating the NEPA Process." The Departmental
5 Manual states that Categorical Exclusions apply only if "(a) [t]he action or group of actions
6 would have no significant effect on the quality of the human environment; and (b) [t]he action or
7 group of actions would not involve unresolved conflicts concerning alternative uses of available
8 resources." However, as Appendix 2 to the Departmental Manual's Part 516 Chapter 2 details,
9 environmental documents must be prepared for exceptions to the Categorical Exclusions if, *inter*
10 *alia*, the action would affect ecologically significant or critical areas, have highly controversial
11 effects, establish a precedent for future action or represent a decision in principle about future
12 actions with potentially significant impacts, be directly related to other actions with individually
13 insignificant but cumulatively significant environmental effects, or have adverse effects on
14 species listed on the list of endangered or threatened species.

18 THE ADMINISTRATIVE PROCEDURE ACT

19 32. Section 702 of the Administrative Procedure Act ("APA") provides that any
20 "person suffering legal wrong because of agency action, or adversely affected or aggrieved by
21 agency action within the meaning of a relevant statute is entitled to judicial review thereof." 5
22 U.S.C. § 702.

24 33. Section 704 of the APA states that "agency action made reviewable by statute
25 and final agency action for which there is no other adequate remedy in a court are subject to
26 judicial review." 5 U.S.C. § 704.

1 34. "The reviewing court shall

- 2 1. compel agency action unlawfully withheld or unreasonably delayed; and
- 3 2. hold unlawful and set aside agency action, findings, and conclusions found to
- 4 be—
- 5 a. arbitrary, capricious, an abuse of discretion, or otherwise not in
- 6 accordance with law;
- 7 b. contrary to constitutional right, power, privilege, or immunity;
- 8 c. in excess of statutory jurisdiction, authority, or limitations, or short
- 9 of statutory right;
- 10 d. without observance of procedure required by law;
- 11 e. unsupported by substantial evidence in a case subject to sections 556
- 12 and 557 of this title or otherwise reviewed on the record of an
- 13 agency hearing provided by statute; or
- 14 f. unwarranted by the facts to the extent that the facts are subject to
- 15 trial de novo by the reviewing court."

16 5 U.S.C. § 706.

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20 **FACTUAL AND PROCEDURAL ALLEGATIONS**

21

22 35. The Stephens' Kangaroo Rat (*Dipodomys stephensi*), a rodent in the family

23 Heromyidae, occupies grassland and sparse coastal sage scrub habitats in the dry inland valleys

24 of the coastal side of the Peninsular Ranges of western Riverside and northern San Diego

25 counties. The SKR was listed as an endangered species to be protected under the federal ESA

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1 on September 30, 1988. (53 Fed. Reg. 38465) and listed as a threatened species under the
2 California ESA.

3 36. Agriculture and accelerating urban development have led to the SKR's decline,
4 as well as the degradation and fragmentation of its available habitat. Only 5% of its original
5 habitat remains. Currently its remaining habitat occurs as small isolated patches embedded in
6 rocky outcrops unsuitable for cultivation or as in patches in protected areas.

9 ESTABLISEMENT OF THE MARCH SKR PRESERVE

10 37. In June of 1990, the March SKR Preserve was first established as preservation
11 habitat for the SKR as mitigation for the widening of Highway 215 and the 215-60 interchange.
12 Those original 108 acres of occupied SKR habitat were dedicated to the preservation of the SKR
13 for a long term perpetual preserve between Van Buren and Allesandro boulevards in Riverside
14 County, California.

15 38. In October 1990, an interim Stephens' kangaroo rat Habitat Conservation Plan
16 (the "Short-term HCP") was adopted. The Short-term HCP established 10 Study Areas to be
17 evaluated as potential SKR reserves and defined limitations on the amount, location, and
18 duration of SKR incidental take, as a long-term HCP was being developed. The Sycamore
19 Canyon-March Core Reserve was identified as one of the Study Areas, which included a portion
20 of March Air Force Base—the March SKR Preserve.

21 39. In 1991, a larger 1,000-acre "SKR Management Area" at the March SKR
22 Preserve was established as mitigation for incidental take associated with base mission
23 realignment projects, base housing, a golf course, and various other projects on the Western
24 portion of the March Air Force Base. The SKR Management Area incorporated the original
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1 108-acre area from the Highway 215 construction and interchange project. Again in 1993, an
2 additional 83.5 acres (including 66.5 acres of occupied habitat) was included in the March SKR
3 Preserve as mitigation for the expansion of the Riverside National Cemetery on the March Air
4 Force Base.

5
6 40. In 1994, the Service's Carlsbad Field Office Supervisor drafted a memorandum
7 to the California Desert District Manager of the Bureau of Land Management outlining the
8 importance of the March SKR Preserve for the Long-Term Stephens' Kangaroo Rat Habitat
9 Conservation Plan ("SKR HCP" or hereinafter "HCP") "as critical to the establishment of a
10 viable, long-term SKR reserve system in western Riverside County." The Service emphasized
11 that if the March SKR Preserve is "removed from the currently proposed long term SKR-HCP,
12 then the Service no longer has assurance of the survival and recovery of the species in the plan
13 area." The 1994 memorandum also provided that, *inter alia*, the acquisition of properties in the
14 "Portrero Basin and the Badlands" and an *additional* "core reserve" were required to provide
15 adequate compensation for the release of the March SKR Preserve for development.
16

17 41. Besides the federally endangered SKR, the March SKR Preserve is host to a wide
18 range native fauna and flora many of which have been recognized as sensitive, rare, threatened
19 or endangered under state and federal law. For example, another native species found on the
20 March SKR Preserve is the least Bells' vireo, protected as endangered under the federal ESA.
21

22 23 THE LONG TERM STEPHENS' KANGAROO RAT HCP

24 42. The Long-Term SKR HCP was adopted in 1996 and an incidental take permit
25 was issued to the Riverside County Habitat Conservation Authority ("RCHCA")—the
26 implementing agency for the SKR HCP—to allow the take of up to 30,000 individual animals
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28

1 and up to 15,000 acres of occupied habitat within the SKR HCP plan area boundary in western
2 Riverside County, California. At that time, approximately 30,000 acres of remaining occupied
3 SKR habitat were thought to occur within the boundaries of the SKR HCP.

4
5 43. To mitigate for the loss of 15,000 acres of occupied SKR habitat within the HCP
6 boundary, the HCP established a conservation program that requires the RCHCA to ensure the
7 preservation of at least 15,000 acres of occupied SKR habitat within the HCP planning area.

8 The Biological Opinion for the SKR HCP identifies seven permanent Core Reserves as part of
9 the Core Reserve System "which shall contain when completed, at least 15,000 acres of
10 occupied SKR habitat, in other words 50% of the SKR habitat within the plan area."

11 Furthermore, the Biological Opinion for the HCP states that "[t]his reserve system will be
12 permanently set aside, maintained, managed and funded either by Federal, state or local
13 governmental entities for the conservation, preservation, restoration and enhancement of the
14 SKR and its habitat."
15

16 44. When the Long-Term SKR HCP was approved in 1996, the March SKR Preserve
17 along with the publicly owned lands in Sycamore Canyon were designated the Sycamore
18 Canyon-March Core Reserve, to be managed for the conservation and recovery of the species.
19 As referenced from previous correspondence including the 1994 letter to the Bureau of Land
20 Management, *supra*, and the 1999 Biological Opinion on the Disposal and Reuse of the March
21 Air Force Base, *infra*; the Service has long recognized that without the March portion of the
22 reserve, the viability of the Sycamore Canyon-March Core Reserve is jeopardized. The March
23 SKR Preserve contains the majority of occupied SKR habitat in the Sycamore Canyon-March
24 Core Reserve, and the Core Reserve itself contains one of the four largest blocks of contiguous
25 SKR habitat within the planning boundary and within the entire range of the species.
26
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1 45. The Service and RCHCA prepared a joint Environmental Impact Statement /
2 Environmental Impact Report ("EIS/EIR") under NEPA and the California Environmental
3 Quality Act ("CEQA") for the Authorization for Incidental Take and Implementation of the
4 Long Term SKR HCP. While the EIS/EIR mentioned the potential for releasing the March SKR
5 Preserve for future development, its analysis of the HCP's effects on SKR conservation assumed
6 that the March SKR Preserve would be maintained as an HCP Core Reserve.

7
8 46. When first established in 1996, the overall SKR HCP Core Reserve System
9 already contained approximately 12,460 acres of occupied SKR habitat. The HCP contemplated
10 that the remaining 2,540 acres (for a total of 15,000 acres occupied by SKR) needed to complete
11 the Core Reserve System would be preserved by the RCHCA through: (1) exchange of 8,156
12 acres of Bureau of Land Management ("BLM") lands for the same acreage within the Lake
13 Mathews Core Reserve, releasing the BLM parcels for sale; (2) acquisition, in fee or by
14 conservation easement, of approximately 1,153 acres of occupied SKR habitat on private lands
15 within each of the Core Reserves; and (3) preservation of an additional 2,540 acres of occupied
16 SKR habitat within the HCP boundary. To date, these actions have not been completed. The
17 BLM land exchange has not occurred, the RCHCA was unable to secure the preservation of the
18 required amount of private land within each of the Core Reserves, and the RCHCA has failed to
19 secure the preservation of an additional 2,540 acres of occupied SKR habitat within the HCP
20 boundaries. In short, the acquisition of 15,000 acres of occupied habitat within the HCP
21 boundaries has not been achieved.
22
23

24
25 **RELEASE OF THE MARCH SKR PRESERVE FOR DEVELOPMENT**

26 **IN EXCHANGE FOR THE PORTRERO PRESERVE**

1 47. Despite the importance of the March SKR Preserve, the SKR HCP referenced the
2 potential conversion of the existing March SKR Preserve to commercial development in
3 connection with the realignment of the March Air Force Base from military to civilian uses. The
4 SKR HCP anticipated that the March SKR Preserve could be released for development only if a
5 stringent set of conditions were met. These conditions included the exchange of the March SKR
6 Preserve for other suitable SKR habitat in the HCP area, amendment of the SKR HCP to
7 incorporate mitigation provisions defined in the Service's Biological Opinion on the release of
8 the March SKR Preserve, and the completion of additional environmental review under NEPA
9 and CEQA. To date, the Service has not completed a formal biological opinion on the release of
10 the entire March SKR Preserve for development, completed environmental review under NEPA
11 or CEQA in connection with the release, or completed an adequate amendment to the SKR HCP
12 for the material change resulting from the development proposed on the March SKR Preserve.
13

14
15 48. In 1996 the Air Force issued an Environmental Impact Statement ("EIS") for the
16 March Air Force Base Final Reuse Plan, and the March Joint Powers Authority Redevelopment
17 Agency certified a final Environmental Impact Report on the Final Reuse Plan, which initiated
18 the realignment process. The adequacy of the EIS and EIR was predicated upon formal ESA
19 section 7 consultation with the Service and amendment to the HCP for the release of the March
20 SKR Preserve, leaving responsibility for the mitigation of impacts to SKR with the federal
21 government and not the RCHCA.
22

23 49. In 1999, approximately three years after the completion of the SKR HCP, the
24 Service issued a Biological Opinion for the Formal Section 7 Consultation on the Disposal and
25 Reuse of the March Air Force Base, which states that the Sycamore Canyon-March Core
26 Reserve is the "northernmost of the four largest reserves which make up the cornerstones of the
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1 HCP [and] captures a different habitat assemblage than the other reserves in the HCP, mainly an
2 all grassland reserve with relatively small topographic features enabling a larger contiguous area
3 for occupation of SKR." In the 1999 Biological Opinion, the Service outlined replacement
4 criteria that must be met if, in the future, the March SKR Preserve was released for
5 development. In detailing the nondiscretionary "Terms and Conditions" for the release of the
6 March SKR Preserve, the Service stated that their decision was based upon the belief "that no
7 more than 105 acres of SKR will be incidentally taken as a result of the proposed action." The
8 1999 Biological Opinion expressly provided that "reinitiation of consultation and review of the
9 reasonable and prudent measures provided" would be required if this level of incidental take of
10 SKR habitat was exceeded.

12 50. In the 1999 Biological Opinion, the Service recognized that the viability of the
13 Sycamore Canyon-March Core Reserve could be jeopardized if the March SKR was reduced or
14 eliminated because the Sycamore Canyon population of SKR is dependent on the conservation
15 of and connectivity to the larger SKR population in the March SKR Preserve. The 1999
16 Biological Opinion projected that the removal of the March SKR Preserve and associated open
17 space would lower the probability of persistence of SKR within the Sycamore Canyon portion to
18 42% and would lower the long term viability of the overall reserve system below the 95%
19 viability threshold established in the SKR HCP. The Service thus acknowledged that the loss of
20 all occupied SKR habitat in the March SKR Preserve will not only directly take the SKR in that
21 occupied habitat but will have direct, indirect, and cumulative impacts on the SKR within the
22 entire Sycamore Canyon-March Core Reserve, and on the entire SKR Core Reserve System as a
23 whole.

1 51. By letters dated December 29, 2003 and May 22, 2006, the Service approved a
2 series of actions termed a "trade-out" that would allow the release of over 1,300 acres of
3 occupied SKR habitat within the March SKR Preserve and permit the take of all SKR on those
4 preserve lands. In "exchange" for this take authorization, the Service expected RCHCA to
5 create a new SKR HCP Core Reserve at the Potrero Preserve including at least 2,488 acres of
6 occupied SKR habitat outside the SKR HCP plan area. In these letters the Service further
7 alleged that the land acquisition portion of the SKR HCP had been completed, yet no mapping
8 or line-item accounting for the total SKR occupied habitat has been reported.

9
10 52. In December 2003, the Service, RCHCA, and California State Wildlife
11 Conservation Board purchased property from Lockheed Martin in the Portrero Valley ("Potrero
12 Preserve"). The Potrero Preserve contains 2,488 acres of known occupied SKR habitat.
13 However, the Potrero Preserve is outside of the boundaries of the Long-term SKR HCP planning
14 area.
15

16 53. In a February 5, 2009 letter to the City of Riverside, the RCHCA memorialized a
17 June 25, 2007 reduction of the northerly Sycamore Canyon Core Reserve, which eliminated
18 acreage available within that core reserve for SKR and SKR management. This reduction of
19 area available for SKR within the Sycamore Canyon Core Reserve was due, in part, to the fact
20 that "the SKR Management Area of the former March Air Force Base" was released for
21 development. No ESA section 7 consultation, environmental review, or amendment to the HCP
22 was performed to authorize the elimination of habitat in the Sycamore Canyon Core Reserve.
23

24 54. On January 20 and July 3, 2009, Environmental Impact Reports for two separate
25 commercial development projects were submitted to the California State Clearinghouse. The
26 Allesandro Commerce Centre and Allesandro Business Center, respectively, propose large scale,
27

1 industrial warehouse projects for areas that have been mapped as occupied SKR habitat within
2 or adjacent to the March SKR Preserve and Sycamore Canyon-March Core Reserve within the
3 City and County of Riverside. The projects are pending approval at the local agencies. The
4 development footprints for these projects will sever the last remaining biological linkage
5 connecting SKR between the Sycamore Canyon Preserve and the March SKR Preserve. The
6 Environmental Impact Reports for both projects conclude that the respective projects will not
7 adversely affect SKR based on the release of the March SKR Preserve, and they do not address
8 the existing biological resources present at the March SKR Preserve.

10 55. To date, the Center for Natural Lands Management is actively managing the
11 March SKR Preserve as habitat and open space for the conservation of native flora and fauna
12 with a special emphasis on maintaining the habitat needs of the SKR.

14
15 **FIRST CLAIM FOR RELIEF**

16 **(Violation of the Requirements § 7 of the ESA and**
17 **Administrative Procedures Act)**

18 56. Each and every allegation set forth in this Complaint is incorporated herein by
19 reference.

20 57. The Service's consultation regulations require re-initiation of consultation when
21 discretionary federal involvement or control over the action has been retained and: (a) the
22 amount or extent of the take specified in the incidental take statement is exceeded; (b) new
23 information reveals effects of the action that may affect listed species or critical habitat in a
24 manner or to an extent not previously considered; or (c) the identified action is subsequently
25 modified in a manner that causes an effect to the listed species that was not considered in the
26 biological opinion. 50 C.F.R. § 402.16. The Service's actions being challenged satisfy all three
27 of the provisions of 50 C.F.R § 402.16.

1 58. First, the development of all occupied SKR habitat at the March SKR Preserve
2 will likely result in a net loss of SKR and SKR occupied habitat *within the HCP boundaries* that
3 exceeds the amount of take authorized in the SKR HCP and its accompanying 1996 Biological
4 Opinion. Furthermore, the release of the March SKR Preserve exceeds the amount of take of
5 SKR habitat permitted by the 1990 Biological Opinion for the Highway 215 expansion, the 1991
6 Biological Opinion for the March Land Use Strategy Plan, the 1993 Biological Opinion for the
7 Riverside National Cemetery, 1996 Biological Opinion for the SKR HCP, and the 1999
8 Biological Opinion for the Disposal and Reuse of March Air Force Base. To date, there has
9 been no biological opinion that examines the loss of the total March SKR Preserve or the
10 potential for the complete loss of all viable SKR habitat within the Sycamore Canyon-March
11 Core Reserve on the species as a whole.

12 59. Moreover, in the 1999 Biological Opinion for the Disposal and Reuse of March
13 Air Force Base, the Service found that the potential removal of the southerly March Air Force
14 Base portion of the Sycamore Canyon-March Core Reserve would lower the probability of
15 persistence of SKR within the Sycamore Canyon portion to 42% and reduce the overall viability
16 of the reserve system below the 95% viability threshold established in the SKR HCP. The loss
17 of the occupied SKR habitat within the March SKR Preserve will not only directly take the SKR
18 in that occupied habitat but will have direct, indirect, and cumulative impacts on the SKR within
19 the entire Sycamore Canyon-March Core Reserve and within the entire Core Reserve System as
20 a whole. The loss of this habitat will likely have significant impacts on the survival and
21 conservation of the species as a whole.

22
23 60. Second, the potential loss of all viable SKR populations within the entire
24 Sycamore Canyon-March Core Reserve constitutes new information that will affect the SKR in
25 a manner and to an extent not previously considered in the Biological Opinions covering take of
26 SKR. The RCHCA's reduction of the Sycamore Canyon Core Reserve, and pending approvals
27