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From: Nate Hausman <natejhausman@gmail.com>
Sent: Monday, September 19, 2011 3:03 PM
To: COB
Cc: Pamela Epstein
Subject: Comment Letter RE: Travertine Point Project Specific Plan No. 375
Attachments: SC_Travertine_Point_Comment_Letter.9-19-11.pdf; ATT00001.htm

Dear Clerk of the Board,

Attached is a comment letter related to the Riverside Board of Supervisor's upcoming agenda item on Specific Plan 375. I am submitting the attached comment letter on behalf of the San Diego and San Gorgonio Chapters of Sierra Club. Kindly reply to let me know that you have received it. Please do not hesitate to contact me at (858)569-6005 or natejhausman@gmail.com if you have any questions.

Thank you.

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September 19, 2011

Chairman Buster and Members of the Board of Supervisors
County of Riverside
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Submitted via Electronic Mail

RE: Travertine Point Project Specific Plan No. 375, GPA 00910 and CZ 07623, Final Environmental Impact Report No. 514 (SCH #2007101145)

Dear Chairman Buster and Members of the Board:

The San Diego Chapter of Sierra Club submits the following letter on the Travertine Point Specific Plan (the "Project") and its associated Final Environmental Impact Report ("FEIR"). The San Diego Chapter of the Sierra Club ("Sierra Club") has over 15,000 members and covers San Diego County and Imperial County. Members of Sierra Club recreate near the Project site and derive educational, scientific, aesthetic, recreational, other benefits from its conservation. Sierra Club urges the Board of Supervisors to deny approval of the proposed Travertine Point Specific Plan (the "Project") pending compliance with the California Environmental Quality Act ("CEQA").¹ Sierra Club further requests that the County of Riverside re-circulated a revised FEIR for the Project that fully complies with CEQA.²

1. The Project May Cause "Take" of Birds in Violation of the Migratory Bird Treaty Act

The Travertine Point project spans an area that is part of the Pacific Flyway, a vastly important corridor for migratory birds.³ The Salton Sea has been characterized as a "crown jewel of avian biodiversity"⁴ and provides sanctuary for over 380 bird species.⁵ The Migratory Bird Treaty Act

¹ Public Resources Code § 21000 *et seq.*; *see also* State CEQA Guidelines, California Code of Regulations, title 14, § 15000 *et seq.* (hereafter "CEQA Guidelines").

² This comment letter is intended to supplement, not to replace, previous comment letters submitted by Sierra Club, and others on behalf of Sierra Club, including a letter from Shute, Mihaly, and Weinberger, LLC to the Board dated August 10, 2010, a letter from Sierra Club to the Board dated August 15, 2010, and a letter from Worden Williams, APC to Mr. Matt Straite, Contract Planner, dated January 10, 2011. Those letters are hereby incorporated by reference.

³ FEIR at 6.4-25; The Importance of the Salton Sea and Other Terminal Lakes in Supporting Birds of the Pacific Flyway, California Department of Water Resources, 1,

<http://www.water.ca.gov/saltonsea/historicalcalendar/docs/TerminalLakes.pdf> (last visited Sept. 13, 2011)

⁴ <http://www.saltonsea.ca.gov/about/about.htm> (last visited September 14, 2011); *see also* http://en.wikipedia.org/wiki/Salton_Sea (last visited September 14, 2011).

(MBTA)⁶ makes it unlawful “at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take . . . any migratory bird, any part, nest, or egg of any such bird”⁷ Similarly, Sections 3503 and 3515 of the California Fish and Game Code protect all native birds and their nests and make it unlawful to “take (i.e. pursue, kill, harm, harass) any migratory bird and their active nests.”⁸ The FEIR has identified special-status migratory birds protected under the MBTA that will likely be adversely affected by the Project including the burrowing owl, Le Conte’s thrasher, and grey vireo.⁹ Many other avian species have been documented on the Project site that could be impacted as well.¹⁰

The FEIR lists several “edge effects” that are likely to have an adverse impact on the migratory bird species in the project area: noise, lighting, drainage, release of toxins, and introduction of non-native plants and predators.¹¹ Such effects are likely to result in a “take” of migratory birds in violation of the MBTA and the California Fish and Game Code. The FEIR for the Project focuses its analysis on the CEQA threshold of significance for wildlife impacts—if the Project would “have a substantial adverse effect on a special-status species,” “threaten to eliminate a plant or animal community,” or “cause a fish or wildlife population to drop below self-sustaining levels”¹²—but fails to analyze whether the Project will result in “take” of any protected migratory birds in contravention of the MBTA. The FEIR is entirely devoid of any examination of these likely violations where other EIRs prepared for projects in southern California have contemplated impacts. For example, the EIR for the Sunrise Powerlink Project, a 117-mile transmission line that will carry renewable energy from the Imperial Valley to San Diego,¹³ discussed mitigation measures under the MBTA. The Travertine Point FEIR should do so as well.¹⁴

The poisoning and subsequent death of water fowl has been held to be a “taking” under the MBTA even though the responsible party lacked knowledge and intent.¹⁵ Given the magnitude of the Travertine Point Project, the high likelihood of spills, contamination and excessive dust create a very real danger to the species inhabiting the area. However, the FEIR fails to address these concerns under the MBTA and as such, the document fails to adequately inform the reviewing agency and the concerned public of the consequences of moving forward with the Project.

⁵ <http://www.sci.sdsu.edu/salton/Salton%20Sea%20Description.html> (last visited Sept. 14, 2011); *see also* FEIR at 6.4-26 (“The location of the project site on the shore of the Salton Sea results in usage of the site by a large number of birds; in all, more than 450 species and subspecies of birds have been observed in the area.”).

⁶ 16 U.S.C.A. § 703.

⁷ 16 U.S.C.A. § 703; Migratory Bird Treaty Act § 2.

⁸ FEIR 6.4-6.

⁹ FEIR 6.4-166; *see also* <http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html#1> (last visited Sept. 13, 2011).

¹⁰ *See* FEIR at 6.4-25.

¹¹ FEIR at 6.4-168-169.

¹² FEIR at 6.4-5.

¹³ http://www.sdge.com/sunrisepowerlink/powerlink_story.html (last visited Sept. 15, 2011).

¹⁴ Sunrise Powerlink Project Final EIR/EIS D.2-237, *available at* <http://www.cpuc.ca.gov/environment/info/asp/sunrise/toc-feir.htm> (last visited Sept. 15, 2011).

¹⁵ *See United States v. Corbin Farm Service*, 444 F. Supp. 510, 536 (1978) (finding that a pesticide dealer had violated the MBTA when the death of water fowl occurred after the application of a registered pesticide to an alfalfa field); *United States v. FMC Corp.*, 572 F.2d 902 (1978) (holding defendant liable under MBTA for the deaths of migratory birds after it failed to prevent pesticide contamination in a local pond).

2. Failure to Provide Adequate, Concrete Mitigation Measures Violates CEQA

Under CEQA, an EIR must identify feasible and adequate mitigation measures to compensate for significant environmental impacts.¹⁶ The Project's FEIR relies primarily on pre-construction relocation mitigation measures to address biological impacts. However, the FEIR completely fails to address the highly probable adverse impacts to specific species removed. The burrowing owl is one such species that has been targeted for removal and relocation. The FEIR mitigation measures for this particular bird read:

If during construction, active burrowing owl burrows are located during the breeding season, the protective fencing shall remain in place around the borrows until the young have fledged. Once the young have fledged, or if grading will occur during the non-breeding season, owls may be excluded from all active burrows through the use of exclusion devices placed in occupied burrows, in accordance with CDFG protocols. Specifically, with the approval of CDFG, exclusion devices utilizing one-way doors shall be installed in the entrances of all active burrows. The devices shall be left in the burrows for at least 48 hours to ensure that all owls have been excluded from the burrows. Each of the burrows shall then be excavated by hand and refilled to prevent reoccupation.¹⁷

The simple averment that removal or forced relocation will not create any significant harm to the species involved is unfounded and illogical. An EIR cannot substitute wishful thinking for tried-and-true, enforceable mitigation measures. The FEIR wholly lacks any evidence that relocation will not irreversibly harm the burrowing owl population. In fact, evidence to the contrary is readily available:

Passive relocation has been criticized as a relocation method because relocated or displaced owls are tenacious about returning to their familiar burrows and are inclined to move back to the impact site if the impact site is still visible to the owl and/or if the impact site is not completely graded. Burrowing owls are put at increased risk when they are introduced to a new environment. The owls are naturally preyed upon by numerous diurnal and nocturnal avian and mammalian species and evicting owls from their familiar burrow, territory, and home range without a safe opportunity to become familiar with their new habitat increases the potential for predation. Thus, many burrowing owls likely die during passive relocations used for permanent owl eviction.¹⁸

Additionally, the FEIR is lacking adequate mitigation measures when compared to similar construction projects in the same region. The EIR for the Sunrise Powerlink Project also identified the burrowing owl as a potentially impacted species.¹⁹ And while the Sunrise

¹⁶ CEQA Guidelines, § 15126.4; 40 C.F.R. §§ 1508.14(f), 1508.20.

¹⁷ FEIR at 6.4-120.

¹⁸ Genesis Solar Energy Project EIS 4.21 -9, available at http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/palmsprings/genesis.Par.75675.File.dat/Vol1_Genesis%20PA-FEIS_ch4-EnviroConseq.pdf (last visited Sept. 15, 2011).

¹⁹ Sunrise Powerlink Project Final EIR/EIS D.2-120.

Powerlink EIR likewise identifies “passive relocation” as a potential mitigation measure,²⁰ it takes the process significantly further and provides for monitoring of the removed owls in their new habitat:²¹ “Following passive relocation, the area of impact and the preserved foraging habitat with alternative burrows are surveyed daily for one week to confirm owl use of alternative burrows before excavation of burrows in the impact zone.”²² The Travertine Point FEIR contains no such protective measures.

The FEIR also fails to adequately provide mitigation measures for the “edge effects” of the construction project. Nighttime lighting presents a significant danger to migratory birds. Not only are collisions likely to result, but lighting close to the ground is apt to disturb nesting birds, foraging mammals, and flying insects. While the FEIR does mention these potential adverse impacts, the mitigation measures provided to deal with such risks are substandard:

Lighting: For proposed development adjacent to or within a conservation area, lighting shall be shielded and directed toward the developed area. Landscape shielding or other appropriate methods shall be incorporated in project designs to minimize the effects of lighting adjacent to or within the adjacent conservation area in accordance with the guidelines to be included in the Implementation Manual.²³

These provisions are so broad and general that they lack enforceability. In addition, there is no distinction between nighttime lighting mitigation measures and daytime lighting (glare) mitigation measures. When these provisions are compared to mitigation measures provided in the EIRs of projects in the same region, it becomes clear that they are thoroughly inadequate. The following passage is part of the mitigation measures for nighttime only lighting provided for in the Blythe Solar Power Project FEIS.²⁴

To reduce lighting impacts, lighting at the facility would be restricted to areas required for safety, security, and operation. Exterior lights would be hooded and lights would be directed on site so that light or glare would be minimized. Low-pressure sodium lamps and fixtures of a non-glare type would be specified. Switched lighting would be provided for areas where continuous lighting is not required for normal operation, safety, or security; this would allow these areas to remain un-illuminated (dark) most of the time and thereby minimizing the amount of lighting potentially visible off site.²⁵

The FEIR’s approach to mitigation measures is ill-informed and overly broad. It leaves numerous generic statements undefined and hence provides no measure of enforceability.

²⁰ *Id.* at D.2-121.

²¹ *Id.*

²² *Id.*

²³ FEIR at 6.4-95.

²⁴ Blythe Solar Power Project PA/FEIS 4.21-9, available at

http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/palmsprings/blythe_feis0.Par.91095.File.dat/Vol1_Blythe%20PA-FEIS_0cover-ch1_ch2.pdf (last visited Sept. 15, 2011).

²⁵ *Id.*

Proposed mitigation measures under CEQA must be “fully enforceable.”²⁶ Mitigation measures may not be so indefinite or undefined that it is impossible to ascertain their effectiveness.²⁷ The FEIR’s attempt to scrape by on the bare minimum violates CEQA’s mitigation requirements²⁸ and produces a document that is inadequate and misleading.

3. The FEIR’s Water Analysis Lacks Substantial Evidence.

Senate Bills 221²⁹ and 610³⁰ were enacted in response to continuing concerns over California’s water supply and demand. The analysis provided in the FEIR fails to meet the required standards. The two bills, passed as companion measures, “seek to promote more collaborative planning between local water suppliers and cities and counties.”³¹ In order to aid the efficient use of California’s water supply, the California legislature required that detailed information be included in the administrative record to serve “as the evidentiary basis for an approval...by the city or county on such projects.”³² Written water supply verifications for actions must be supported by substantial evidence.³³ The bills acknowledge that “it is not possible to guarantee a permanent water supply for all water users in California in the amounts requested”³⁴ and that a necessary “fail safe” needed to be enacted in order “to ensure that collaboration on finding the needed water supplies to serve a new large subdivision occurs when it should – before construction begins.”³⁵

The Travertine Point development will include over 500 dwelling units and therefore triggers the application of SB 221 and SB 610.³⁶ An FEIR and a Water Supply Assessment and Water Supply Verification have been provided for the project per the requirements of SB 610, but both of these documents fall short of adequately identifying future sources of water supply to meet the demands of the project at full build out as required by SB 221. The Project is projected to require approximately 8,369.4 afy of water supplied by the Coachella Valley Water District.³⁷ The revised FEIR states that “about 41 percent of total project water demand will be supplied from groundwater, with the remaining 59 percent of water demand to be supplied by alternative sources, the Colorado River and potentially recycled and/or desalinated drain water.”³⁸ The explanation of the remaining 59 percent falls short of SB 221’s substantial evidence requirement and does not provide the written verification for “projected water supplies that are not currently available to the public water system.”³⁹ The FEIR’s analysis does not meet the level of

²⁶ Pub. Res. Code § 21081.6(b); Guidelines § 15126.4(a)(2).

²⁷ See, e.g., *San Franciscans for Reasonable Growth v. City & County of San Francisco*, 151 Cal.App.3d 61, 79 (1984).

²⁸ See CEQA Guidelines, § 15126.4.

²⁹ Cal. Govt. Code §§ 65867.5, 66455.3 and 66473.7.

³⁰ Cal. Water Code § 10910.

³¹ *Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001*, Cal. Dept. of Resources, p. iii.

³² *Id.*

³³ See Cal. Gov. Code § 66473.7 (c).

³⁴ Senate Bill 610 § 1 (a)(3).

³⁵ See FN 1.

³⁶ FEIR at 6.20-72.

³⁷ FEIR at 6.20-1.

³⁸ FEIR at 6.20-2.

³⁹ Cal. Gov. Code § 66473.7(d).

verification required by SB 221 nor does it adhere to the legislature's intent of ensuring a reasonably reliable water source for projects prior to their construction.⁴⁰

a. The FEIR Selectively Relies on Dated Information Contained in Past Coachella Valley Urban Water Management Plans.

The FEIR inconsistently relies upon statistics in the Coachella Valley Water Management Plan (CVWMP) from 2000, 2002, and 2005. For example, the FEIR claims that the Project will increase water consumption in the Coachella Valley by 1.28 percent in 2030 and .94 percent in 2035.⁴¹ Yet, the FEIR bases these percentages on the 2002 CVWMP's water demand figures⁴²—figures which deviate significantly from the 2010 CVWMP's demand projections.⁴³ In so far as the FEIR's calculation relies upon outdated figures from the 2002 CVWMP, its analysis is fatally flawed. The FEIR must be revised to consistently use the current information in the 2010 CVWMP.⁴⁴

In different places throughout Section 6.20, the FEIR selectively cites the 2000, 20002, and 2005 CVWMP. Key areas that need to be amended to consistently reflect the more recent figures are:

- (1) The Project's projected water demand and its impact on the Coachella Valley⁴⁵
- (2) The Whitewater River grounds recharge⁴⁶
- (3) Historical and Future Non-Potable Water Demand⁴⁷
- (4) The Past, Current, and Projected Domestic Water Consumption⁴⁸
- (5) Water Usage for Dry, Wet, and Normal Years.⁴⁹

The EIR must effectuate the fundamental purpose of CEQA: to "inform the public and responsible official of the environmental consequences of their decisions before they are made."⁵⁰ For the public and policy-makers to be informed of the environmental consequences, they must be presented with reliable and current information from the most recent CVWMP.

b. The FEIR's Water Usage Analysis is Ambiguous and Misleading.

⁴⁰ See, generally, FEIR Chapter 6.20; see also Cal. Gov. Code § 66473.7 (c).

⁴¹ FEIR at 6.20-2.

⁴² FEIR at 6.20-33; see also FEIR at 6.20-137.

⁴³ See 2010 Urban Water Management Plan, Coachella Valley Water District, p. 3-15 Table 3-20 (Final Report released July, 2011).

⁴⁴ See, e.g., *Bakersfield Citizens for Local Control v. City of Bakersfield*, 22 Cal. Rptr. 3d 203 (Cal. Ct. App. 2004) (holding an EIR to be inadequate where it relied upon "outdated" information); Cal. Wat. Code § 10910(c)(2) ("If the projected water demand associated with the proposed project was accounted for in the *most recently* adopted urban water management plan, the public water system may incorporate the requested information from the urban water management plan in preparing the elements of the assessment required to comply with subdivisions (d), (e), (f), and (g) (emphasis added); see also *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, 40 Cal. 4th 412, 434 (2007).

⁴⁵ FEIR at 6.20-2; FEIR at 6.20-33; FEIR at 6.20-137 (citing the 2002 CVWMP).

⁴⁶ FEIR at 6.20-26 (citing the 2000 CVWMP).

⁴⁷ FEIR Table 6.20-65 (citing the 2005 CVWMP).

⁴⁸ FEIR at 6.20-146 (citing the 2005 CVWMP).

⁴⁹ FEIR at 6.20-81—6.20-135 (citing the 2005 CVWMP).

⁵⁰ *Laurel Heights Improvement Ass'n v. Regents of University of California (Laurel Heights I)*, 47 Cal. 3d 376, 1123 (1988).

The FEIR's discussion of potable and non-potable water usage for the Project is both vague and opaque. While the FEIR states the project will use 3,472.0 afy of potable water and 4,897.4 afy of non-potable water, the FEIR elsewhere treats these two classes of water as one in the same despite their different character and availability.⁵¹ The FEIR makes blanket statements about increased water usage for the Coachella Valley for the Project,⁵² but fails to adequately account for the re-purposing of displaced, non-potable water currently used for agriculture on the site with the new potable water demand for the Project. Because the FEIR combines potable and non-potable water, it is difficult to decipher the true impact of the increased potable water demands of the Project on available supplies.

c. The Project Could Contribute to Groundwater Overdraft.

The 2010 CVWMP states that currently the "CVWD's only direct source of urban potable water is local groundwater,"⁵³ The 2010 CVWMP further notes, however, that the Coachella Valley is experiencing overdraft causing "groundwater levels to decline in many portions of the East Valley from La Quinta to the Salton Sea." In fact, the rate of groundwater level decline in the Coachella Valley Groundwater Basin has increased for the last three decades in part due to increased urbanization.⁵⁴ Overdraft of the Coachella Valley presents risks such as land subsidence and water quality degradation.⁵⁵ Yet, the Project leaves open the possibility that if other supplies are inadequate, groundwater may be relied upon more heavily "on a temporary basis with the groundwater production recharged when the imported supply becomes available."⁵⁶ This outcome will contribute to increased overdraft conditions and its concomitant hazards.⁵⁷ The FEIR provides no analysis of land subsidence, saline intrusion, freshwater acidification, soil salinization, or ecosystem destruction—all potential impacts associated with groundwater overdraft.⁵⁸

Conditions 1, 2, 3, and 4 used to analyze the demand and supply of water for the project all call for extraction from groundwater at some point in the scenarios presented, and state that while it is an over-extraction, it is understood that the water will be replenished at some point.⁵⁹ The FEIR recognizes that groundwater levels have been in the decline due to increased urbanization and groundwater usage, yet still relies on groundwater for a significant part of the project.⁶⁰ The

⁵¹ FEIR at 6.20-1.

⁵² See, e.g., FEIR 6.20-2 ("Total water demand of the project...represents approximately 1.28 percent of the UWMP total demand in 2030...").

⁵³ *Id.* at 5-2.

⁵⁴ FEIR at 6.20-24.

⁵⁵ FEIR at 6.20-25; see also 2010 Urban Water Management Plan, Coachella Valley Water District, Final Report, 4-10.

⁵⁶ FEIR at 6.20-2.

⁵⁷ 2010 Urban Water Management Plan, Coachella Valley Water District, Final Report, ES-8, p. 26 ("Cost of overdraft includes increased subsidence with its impacts on individual homes, commercial structures, and infrastructure (streets, highways, water and sewer lines, and other utilities), water quality degradation, and increased pumping costs.").

⁵⁸ See, e.g., <http://en.wikipedia.org/wiki/Groundwater> (last visited Sept. 17, 2011).

⁵⁹ FEIR at 6.20-80.

⁶⁰ FEIR at 6.20-23; see also, 2010 Urban Water Management Plan, Coachella Valley Water District, Final Report 4-9 ("[T]he amount of water in the subbasin has decreased over the years due to pumping to serve urban, rural and agricultural development in the Coachella Valley has withdrawn water at a rate faster than its rate of recharge.").

FEIR does not say how far the proposal will go in over-extracting or whether the surplus that will be put back into the ground will be enough to replenish to levels prior to extraction. As explained in *Vineyard v. City of Cordova*, a EIR must contain sufficient fact for decision makers to “evaluate the pros and cons of supplying the amount of water that the [project] will need.”⁶¹ The FEIR’s discussion of groundwater falls short by failing to present the full scope of the risks of the Project.

d. The Project’s Reliance on Colorado River Water and Desalinization Is Unrealistic and Speculative.

The FEIR claims that 41 percent of the project’s water supply will come from groundwater and 59 percent of the demand for water will be supplied by alternative sources including “the Colorado River and *potentially* recycled and/or desalinated drain water.” The heavy reliance on the alternative water sources the Project proposes, however, is unreasonable.⁶² The Colorado River Basin is currently experiencing the worst drought in over a century.⁶³ Moreover, the agreement under which the water allocation for the Coachella Valley was established has been challenged in court on various grounds and is still being litigated.⁶⁴ Banking on substantial allocations of Colorado River water to service the Project is exceedingly unreliable.

With respect to other alternative water sources, the Project relies on desalinated agricultural drain water,⁶⁵ but no desalinization facility currently exists in the Coachella Valley to treat drain water on such a scale.⁶⁶ Inclusion of such a desalinization facility is noticeably absent from the Project description in Chapter 3.0 of the FEIR.⁶⁷ Presently, a desalinization facility is only in the planning stages and numerous permits and approvals would have to be obtained before construction.⁶⁸ This means that significant quantities of water sought to be used for the Project are contingent upon a theoretical source not yet built. The 2010 CVWMP notes that “desalination of drain water is “the most expensive alternative for providing new supplies” and that “[t]his approach will only be implemented as other sources of supplies reach practical limits.”⁶⁹ To the extent the Project relies on desalinated water to achieve its water supply, it must analyze the impacts of obtaining water from the theoretical desalinization facility, and also analyze where the Project will obtain water if the facility is never built.⁷⁰

The FEIR also relies on the construction of a dual-piping water system proposed in the CVWMP for its calculation of the reduction in groundwater demands by 59 percent; however, the dual-

⁶¹ *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, 40 Cal.4th 412, 431 (2007) (internal citation omitted).

⁶² FEIR at 6.20-2.

⁶³ 2010 Urban Water Management Plan, Coachella Valley Water District, Final Report, 5-4.

⁶⁴ *Id.*

⁶⁵ FEIR at 6.20-21 (“CVWD will need to construct both conveyance and treatment facilities in order to [provide both treated and untreated Colorado River water, and desalinated agricultural drain water directly to its urban water distribution system.]”).

⁶⁶ 2010 Urban Water Management Plan, Coachella Valley Water District, Final Report, 4-31.

⁶⁷ *See, generally*, FEIR, Chapter 3.0.

⁶⁸ FEIR at 6.20-32.

⁶⁹ 2010 Urban Water Management Plan, Coachella Valley Water District, 2010 Update, ES-18.

⁷⁰ *Stanislaus Natural Heritage Project v. County of Stanislaus*, 48 Cal.App.4th 182 (1996).

pipe system also has not been constructed and remains purely hypothetical.⁷¹ The FEIR claims the piping system is expected to be “constructed throughout the project,”⁷² but this leaves up for guessing, among other things, at what project phase the dual-piping system will begin servicing the Project. The FEIR goes on to claim that the system is expected to “result in the project meeting or exceeding the water conservation goals outlined in the CVWMP.”⁷³ This claim is disingenuous at best, however, because there is no certainty that the piping system will be constructed, when it might be finished, or how it will be funded. Moreover, the piping system must be described as part of the Project, and as an integral Project component, the EIR must provide far more detail regarding the system.

While the Coachella Valley Water District (CVWD) has approved the Project’s Water Supply Assessment and Water Supply Verification, no formal “will-serve” letter has been presented promising water for the Project, nor is there any verification from the CVWD that it has fully accounted for the Project in its 2010 CVWMP.⁷⁴ The California Supreme Court in *Vineyard v. City of Cordova* held that “future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations (“paper water”) are insufficient bases for decision making under CEQA.”⁷⁵ The FEIR’s reliance on already strained water sources, unrealistic allocations, and ill-defined future infrastructure plans renders the document’s water supply analysis inadequate.

e. The FEIR’s Emphasis on Water Conservation Measures Rings Hollow.

The FEIR repeatedly states that the project will follow the conservation measures in the CVWMP, however, it never identifies if they are feasible or how they will be enforced. For example, the FEIR states, “The Travertine Point Specific Plan project will adhere to the goals of the CVWMP by incorporating conservation programs such as efficient landscaping practices, exercising options for alternative water sources, etc.,” but it offer no more than that.⁷⁶ The FEIR fails to explain how the measures will be implemented. The FEIR further claims that there are conservation features for both indoor and outdoor use, which yield project demand as 0.5 afy, approximately half of the CVWD’s overall average of approximately 1.07 afy. The FEIR then concludes that is within the allowable per connection demand necessary to manage the groundwater basin;⁷⁷ however, it does not disclose any calculations or analysis as to how these conservation measures will yield these estimates.

As for financing the project to meet the goals of the CVWMP, the FEIR merely states it will participate in paying the Supplemental Water Supply Charge to offset some costs, but does not

⁷¹ FEIR at 6.20-135.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ In a letter to David Black of the Imperial County Planning and Development, dated June 10, 2011, the CVWD states that a “second parallel transmission main will service future growth in the region including projects like the Travertine Point development” (emphasis added), but no formal letter has issued that the CVWD definitively will provide water to service the Project. Letter from Mark L. Johnson to David Black (June 10, 2011).

⁷⁵ *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, 40 Cal.4th 412, 432 (2007).

⁷⁶ FEIR at 6.20-137.

⁷⁷ FEIR at 6.20-136.

give a tangible dollar amount or percentage as to the costs incurred and how they will be covered.⁷⁸

f. The FEIR's Water Analysis Fails to Account for Impacts During the Full Buildout Period of the Project.

The FEIR states that its water demand figures for the Project are a "conservative analysis."⁷⁹ The FEIR explains:

The proposed project anticipates a start date in 2016 with the first occupancy of residential in units in 2017. The project forecast a 35-year developed period. However, to meet the requirements of SB610, this WSA uses a 20-year buildout period. While this analysis uses a 20-year buildout of the proposed project, it should be noted that the actual project development schedule is for a 35-year period, and that the 20-year scenario is used to illustrate total project demand within the [sic] required 20-year WSA time frame established by SB610. As the actual development will occur over a longer period of time, the 20-year demand forecast are considered conservative.⁸⁰

Far from providing a "conservative analysis," this compressed analysis skews the Project's true impacts and fails to account for impacts occurring during the buildout period extending beyond 20 years. While it may show greater demand over a shorter timeframe, basing projections on a condensed build-out scenario distorts Project impacts. Merely compressing the full buildout analysis into a 20-year timeframe does not account for climate change impacts or cumulative impacts on water sources that could occur over the course of the whole 35-year buildout period. For example, the Salton Sea Authority's regional development plan calls for constructing housing and related infrastructure in the area for hundreds of thousands of new residents. But presumably not all of this development will occur in the next twenty years. Thus, cumulative demand on water supply will be greater 35 years from now (at actual, projected Project build out) than 20 years from now (at conclusion of the condensed build out timeline). But the EIR does not state whether there will be adequate water supply in conjunction with cumulative projects expected 35 years from now or only in conjunction with projects expected within the next twenty years. In *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, the California Supreme Court held, "An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project."⁸¹ In so far as the compressed analysis distorts the full impacts of providing water to the entire project, the FEIR's analysis runs counter to binding CEQA case law.

As outlined above, gaping holes exist in the FEIR's biology and water availability analysis. The FEIR underestimates Project impacts, fails to provide adequate mitigation measures for significant impacts, and provides insufficient analysis for informed decision-making. In light of the document's fundamental flaws, the above comments are intended to be illustrative of our

⁷⁸ FEIR at 6.20-137.

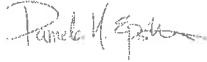
⁷⁹ FEIR at 6.20-69.

⁸⁰ FEIR at 6.20-69, fn. 86.

⁸¹ *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, 40 Cal.4th 412 at 431.

concerns, rather than an exhaustive list of the document's defects and deficiencies. Sierra Club respectfully asks the Board of Supervisors to deny the proposed Travertine Point Specific Plan pending full compliance with CEQA.

Respectfully Submitted,



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MEMO

To: Matt Straite
Riverside County Planning

From: Derek Wong, AICP

Date: June 14, 2011

**Re: Draft Peer Review of Travertine Point Financial Feasibility Analysis,
Travertine Point Specific Plan No. 375**

PMC has performed a peer review of the Financial Feasibility Analysis (Analysis) prepared for the Travertine Point Master Planned Community. The Analysis, dated May 6, 2011, was prepared by the firm GDC LLC and evaluates the economic viability of the proposed Travertine Point Specific Plan Project over the 40-year build out, including the project's ability to successfully fund the significant infrastructure and other public facilities needed to serve the project.

PMC's review included a multi-step approach that included the following:

- Review of the GDC LLC report
- Familiarization with the Travertine Point Specific Plan
- Spot check of data references through outside research
- Preparation of the peer review report on our findings

This memorandum is intended to assist the County of Riverside to determine whether the report's assumptions are accurate, the modeling is conducted per industry standards, and if the conclusions can be supported by the report's documentation.

In summary, the report uses industry standards to evaluate the financial feasibility of long term, master-planned developments using three methods: (1) internal rate of return; (2) infrastructure cost burden; and (3) residual land value. Each evaluation method tests for different measures of economic viability in terms of developer's return on investment, and the projected revenues to fund infrastructure and other public facilities.

As housing construction and sales are the primary factors in each evaluation, one of the most significant variables supporting the report's finding of financial feasibility is the assumption of the average housing sales price. The Analysis uses an average sales price

Matt Straite
June 14, 2011

based on assumed appreciation of the housing market over the next 20-years (mid-point of Travertine development). Lower sales prices that were modeled by GDC LLC in the report showed that the project would not be financially feasible. This appears to show that the assumed housing sales price is a significant component in the calculations.

In various sections of the report, the Analysis concludes that even under very conservative assumptions, the end results using the three standard methods indicate that the project is marginally financially feasible given the long build out timeline for Travertine Point, as well as unproven master-planned communities where the project would be located. While the calculated measures for each evaluation method showed figures that would indicate financial feasibility for other developments under different conditions, the unique risks and constraints for Travertine Point place the project as being marginally feasible.

The Analysis uses some data derived from the Fiscal Impact Analysis prepared by DPF, and from a competitive market analysis prepared by the Concord Group for residential product lines, prices and trends. Two alternative scenarios of average residential sales prices using Concord Group data showed that the Travertine project would be not financial feasible under today's market prices. Based on Coachella Valley appreciation trends found by the Concord Group, the Analysis uses a higher home sales price to show marginal financial feasibility. While the Analysis acknowledges the current glut of available and entitled real estate in the Inland Empire, the effect of the housing price provides a barometer of the sensitive timing of development and financial feasibility.

As the project is anticipated to take 40-years to develop, combined with the statement in the Analysis that significant infrastructure will need to be constructed in the first several years, there should be some emphasis on the market absorption assumptions of improved land sales for both residential and non-residential. The Analysis uses the absorption assumptions from the 2008 Concord Group study, now approaching several years old. Generally, significant investment in infrastructure up front, as assumed for Travertine Point, requires substantial upfront sales of property to generate a reasonable return to the developer and an incentive to continue with the project.

Emphasis of the report in determining financial feasibility is placed on residential feasibility. Since about 90 percent of the acreage is for residential use, the feasibility calculations focus on housing. Although the Analysis does not indicate why the Cost Burden Analysis method was not conducted for non-residential acreage, there is mention in other sections of the report that the larger, long term, multi-phase developments are simply too massive to provide objective reliable results. In this case, non-residential development would encompass five million square feet.

As an alternative, the Analysis uses comparables for commercial, office and industrial uses from nearby communities to conduct the Residual Land Value calculation which is another evaluation standard. Comparables in the competitive market area can provide a

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reasonable estimation in-lieu of the actual project land uses. The Analysis indicates that adjustments to the comparable data have been made to reflect the unique circumstances of Travertine Point. However, from a review of Exhibit 24 showing the comparable data, it was difficult to decipher what adjustments were in fact made to reflect the project's circumstances. Data references were made to include Coachella Valley brokers and real estate developers, but no reference to the types of adjustments made.

Conclusion: We have reviewed whether the report's assumptions are accurate, the modeling is conducted per industry standards, and if the conclusions can be supported by the report's documentation. Overall, the Financial Feasibility Analysis meets compliance with these questions through utilization of existing sources. The evaluations employed are industry standard for assessing financial feasibility, while the assumptions are drawn from various sources obtained from the report authors, either internally from the development team, or from other real estate professionals and sources.

Given the higher risk and uncertain nature of the Travertine Point project, the report states several times that the calculations show that the project is financially feasible but marginally. The use of a higher home price at the mid-point of the phased development to conduct the calculations tends to indicate that the investment returns could be lower or the project possibly becoming unfeasible should this price threshold not be met, or costs increase, especially during the critical early phases when infrastructure is built. In addition, the home price used in the Analysis must fit the market for "moderate priced housing for people and their families in the Coachella Valley".

As financial feasibility is determined for the complete 40-year build out under a static condition (one point in time at full build out), a concern would be the financial feasibility during the early years of development characterized by large upfront investment in infrastructure by the developer while absorption and home prices at that time can be uncertain given current trends in the regional housing and employment markets and in particular the effects on the Inland Empire.

**MARK C. JORGENSEN
DESERT ECOLOGIST
POST OFFICE BOX 7
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**Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501**

SUBJECT: TRAVERTINE POINT SPECIFIC PLAN, Project SP00375

Board of Supervisors:

I am writing to express my opposition to the proposed development project at Travertine Point in southern Riverside County, bordering Anza-Borrego Desert State Park. The proposed location of a new community being designed to house up to 30,000 residents is completely out of character for this portion of Riverside County, and the concept should be rejected by the Board of Supervisors.

My concerns are with virtually every aspect of the proposed project. My first knowledge of this proposed development was while I was Superintendent of the adjacent Anza-Borrego Desert State Park, prior to my retirement. The thought of contacting park staff and consulting on impacts to park values was an afterthought by the project proponents. Their initial plan stated they were deeply concerned with potential impacts to their neighbors, but they failed to recognize their project bordered Anza-Borrego Desert State Park for almost a year into their planning process. This clearly made the point that they were going full speed ahead with planning a new city, with disregard for environmental impacts, neighboring State Wilderness values, as well as the presence of the Santa Rosa/San Jacinto Mountains National Monument.

The findings in the Specific Plan and Final EIR #514 are inadequate to mitigate the massive impacts the planned community would have if built. The fact that so many of the expected impacts to the natural and cultural resources of the project site and surrounding lands are unmitigable, makes rejection of this proposal a clear mandate for the Board of Supervisors.

The list of potential impacts which in my opinion are not satisfied by mitigation is a long one, including: water, archeology, desert bighorn sheep, golden eagle, prairie falcon, osprey, impacts to the view shed, diminished wilderness values, native palm oasis, native palo verde/smoke tree community, utility poles, dogs, incidental trails, and incursion on neighboring lands by motorized vehicles.

Water Where will all the water for 30,000 people, shopping center, schools, and landscaping come from? This question has never been answered in the plans, EIR, or in personal meetings with the proponents. It makes no sense to construct a new "city" in this remote area, when Riverside County provides hundreds of better sites for urbanization in-fill.

Archeology Significant archeological sites exist on and adjacent to the proposed Travertine Point development. Petroglyphs, Native American trails, rock trail markers, fish traps, shoreline food processing sites, and agave roasting pits abound in this region. Once impacted or destroyed, these cultural features are irreplaceable. Rock art exists on Travertine Point itself, just yards from existing date palms, and a fantastic field of rock art has been documented on nearby State Park and National Monument lands. What will be the impacts to these valuable cultural features? One site possesses hundreds of petroglyphs on at least forty-eight boulders. Putting a city adjacent to this site will no doubt spell doom to the site, and the many prehistoric trails and trail markers on the landscape.

Desert Bighorn Sheep The Endangered population segment of bighorn sheep residing in the Peninsular Ranges have used the proposed site and adjacent ranges for their subsistence for thousands of years. Designated Critical Habitat exists in this area, yet appears to have been disregarded by the planning and mitigation process. What is the mitigation for lost bighorn habitat? Aerial and ground surveys in this region have yielded numerous bighorn sightings, including a helicopter survey conducted by the California Department of Fish & Game which documented bighorn on the slopes of Coolidge Peak, adjacent to Travertine Point. The alluvial fans and lower slopes of the Santa Rosa Mountains are well known as bighorn sheep habitat, used by the subpopulation of the southern Santa Rosas. I see nothing substantive in the mitigation plans to date.

Birds I find the treatment of project management and proposed mitigation relative to impacted bird species to be wholly inadequate. The site is used by nesting and foraging golden eagles, prairie falcons, and even a resident osprey which feeds on the shoreline of the Salton Sea, and has used the project site for roosting for several years. You can't approve a project for a small city of 30,000 residents, removing hundreds of acres of quality habitat, with little to no thought of serious mitigation programs.

Visual Impacts and Diminished Wilderness Values The impacts to the view shed of this region will be permanently impaired. Bordering the proposed development along several miles of the project, are both State Wilderness lands administered by Anza-Borrego Desert State Park, and National Monument lands administered by the U. S. Bureau of Land Management. Wilderness by definition exists in its natural state, unimpacted by the hands of humans. A city of 30,000 residents with shopping centers, roadways, powerlines, substations, schools, lights, hum of lawnmowers, traffic, dogs, and associated urban activities are in total opposition to the concept of wilderness, state parks, and National Monuments. This is the wrong place in Riverside County for such a development.

Native Palm Oasis The presence of an ancient native palm oasis within Anza-Borrego Desert State park will no doubt attract numerous residents and visitors, should this proposed development ever be approved and constructed. Native Cahuilla foot trails lead hikers to this secluded oasis, where the native California fan palms have survived nestled in Travertine Palm Wash for thousands of years. Indian trails and ancient petroglyphs mark this oasis as an ancient destination, not one to be heavily impacted and abused by a new city nearby. What mitigation measures are to be put in place to totally safeguard such a noble desert oasis?

Native Palo Verde and Smoke Tree Plant Community The Plan and EIR do not adequately provide for the integrity of the native blue palo verde and smoke tree community which has evolved and thrived in the rugged gullies and arroyos of Travertine Palms Wash. This native plant assemblage cannot be disregarded or conveniently overlooked. Planning so far seems to take these highly adapted desert trees for granted. The plan states these trees cannot properly be saved, since large-scale flood control devices need to be put in their place. The existence of the palo verdes and smoke trees should be an indication to planners that large-scale flooding does occur, and possibly leaving the trees in place and planning development elsewhere might be a grand idea. I find the Plan and EIR to be grossly inadequate with regards to safeguarding the native plant communities and the manner in which both address protection of the natural environment from the introduction and subsequent control of invasive non-native plant species.

Impacts on the Neighboring Environment Placement of utility poles, introduction of pets such as domestic dogs and cats, proliferation of incidental trails, and the probability of incursions by motorized off-highway vehicles on neighboring lands will cumulatively have a profound negative impact on the adjacent State Park, Anza-Borrego Foundation, and National Monument lands. Mitigation plans needs to be heavily bolstered should the proposal ever be approved. All utilities should be mandated underground, regulations on pets should be strict, and use of OHV's strongly prohibited. Above-ground utility poles are one of the most visually offensive issues in the open desert environment. The nearby Salton Sea housing boom is an excellent example of the visual blight that occurs when planners allow power and telephone poles to be erected above-ground. Literally thousands of poles were erected in a recent two-year period, when undergrounding could have meant so much to the quality of life and value of the neighborhoods.

In summary, I find the development proposal unacceptable for the Travertine Point area. I ask the Riverside County Board of Supervisors to reject the project and recommend it be redesigned for a more acceptable location in the County. I would expect the Board to be enticed by the income from property taxes and developer fees but I'm asking the Board to reject this project for the many reasons I have illustrated above and for its profound negative impact on the environment. This proposed housing development for 30,000 people is a mistake and it would be a wise move to strike it down before it moves any further.

Sincerely,

Mark C. Jorgensen
Borrego Springs

GARY WYATT
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Honorable Riverside County Board of Supervisors
Honorable Riverside County Planning Commission
County of Riverside Planning Department, TLMA
4080 Lemon Street, 9th floor
Riverside, CA 92502

June 29, 2011

Subject: Specific Plan 375, General Plan Amendment 910

Dear Honorable Members of the Riverside County Board of Supervisors,

As a concerned citizen, I am writing this letter in support of Specific Plan 375 and General Plan Amendment 910 for the proposed new town of Travertine Point.

For many years the Salton Sea Authority (SSA) has envisioned restoration of the Salton Sea and sought the political will and financial support to fund this important environmental restoration effort. The Salton Sea, if left to its demise, has the potential to become an environmental catastrophe for both the wildlife that thrives in the Sea's habitat and the air quality of both the Coachella and Imperial Valleys. The potential negative economic impact to agricultural resources, business, tourism, and personal property in these areas is unimaginable.

Although the SSA has worked diligently to bring the necessary attention to this issue at the state and federal levels it, becomes more apparent with each passing year that the financial burden of the Sea's restoration will rest on local funding solutions. The Salton Sea Authority, with the assistance of Riverside County EDA, is presently determining a laundry list of these local funding solutions.

Tax increment financing is one of these solutions for significant local contribution to the Sea's restoration. The SSA has investigated the formation of an Infrastructure Finance District (IFD) for Salton Sea Restoration. The SSA has long envisioned the type of green, sustainable development around the Salton Sea that the Travertine Point new town has planned. This type of development, within the boundaries of the IFD, will create significant increases in assessed values thereby providing a funding source for Salton Sea Restoration through IFD tax increment financing. The SSA estimates the cost of its preferred alternative for the Salton Sea Restoration at approximately \$3 billion spread over decades. Developments like Travertine Point could provide enormous capital to the IFD over time. It is our hope that Travertine Point will set the bar for the type of development that will occur in the southeast Coachella Valley and other areas around the Sea in both counties. These types of communities can play a vital role in saving the Sea.

If the Salton Sea is to be restored developments of this nature around the Sea must be approved. For this reason many in the Coachella and Imperial Valleys are paying close attention to both your approval of this project and its resultant impact on moving us closer to a solution for Salton Sea Restoration.

Please approve SP 375 as it is very important to our efforts to Save the Sea.

Respectfully,

Gary Wyatt, District 4
Imperial County Board of Supervisors



IMPACT SCIENCES

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MEMORANDUM

To: Matt Straite, Riverside County Planning **Job No.** 881.001
From: Daryl Koutnik, Ph.D. and Joe Gibson
Subject: Travertine Point Specific Plan EIR
Consistency of Significance Findings between Biology,
Cultural, and Parks and Recreation Issues
Date: July 21, 2011

ISSUE

Concerns have been raised regarding consistency of findings of significance for the issues of biology, cultural resources and parks in the Revised Draft EIR.

Specifically, the concern has been raised as to the level of significance conclusion for Public Services – Parks and Recreation (Section 6.16.7.2) for the following threshold was determined to have significant and unavoidable impacts:

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

A similar significance finding was made for Cultural Resources (Section 6.5.7.2 regarding indirect impacts) for the following threshold:

- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the State CEQA Guidelines.

Contrarily, the RDEIR found that Biological Resources (Section 6.4.7.1), with the implementation of appropriate mitigation, would have less than significant impacts with the development of the proposed project.

ANALYSIS REGARDING DETERMINATION OF SIGNIFICANCE

The proposed project site is located near and adjacent to regional recreation and conservation areas that may be accessed by a series of trails leading to the Anza-Borrego Desert State Park (ABDSP), the Santa Rosa and San Jacinto (SRSJ) National Monument, and the Santa Rosa and Coachella Valley Multi-species Habitat Conservation Plan (CVMSHCP) San Jacinto Mountains (SRSJM) Conservation Area. Concerns have been raised that residents of the proposed project site

would have easy access to the trailheads, which would cause an increase in the use of sensitive areas and an acceleration of the physical deterioration of these sensitive areas associated with increased use. Residents using these trails could also cause irreversible indirect damage if they were to use motorized vehicles such as motor-cross bikes, 4x4 vehicles, and all-terrain vehicles (ATVs) on the trails within these areas. Indirect impacts to fauna and flora, along with potential impacts to cryptobiotic soils within the surrounding desert landscape (see Section 6.4, Biology, for a discussion on fauna, flora and cryptobiotic soils), could occur due to the increased use and access into sensitive areas as provided by these trails.

The proposed specific plan would develop a trail network within its boundaries that would extend to all areas of the community. As proposed, over 14 miles of a backbone trail would be developed. It would follow the spine circulation system, as well as the drainage corridors and open space areas, and connect neighborhoods, parks, schools, shopping, dining, and service use. These trails would link the foothills to the west of the project site to the Salton Sea east of the project site.

The ABDSP is located adjacent to the southwest corner of the specific plan site. A portion of the proposed trail network that would run through the Imperial County portion will connect to an existing trail system that leads to the ABDSP including existing classified State Wilderness areas (Travertine Palms), located just southwest of the project site adjacent to Planning Areas 5-6 and 5-9. State Wilderness Areas are designated using the National Park Service wilderness model, where the handiwork of humans is virtually non-existent, and natural processes prevail. State Wilderness units are usually over 5,000 acres in extent. Paved roads, motorized vehicles, power lines, pipelines, radio towers, and buildings are not to be found within such wild areas. One of the primary purposes of wilderness is to provide visitors with a true "wild" experience; one in which nature and natural processes predominate without manmade intrusions distracting the visitor's senses of sight, sound, smell, and touch. With the development of trails as proposed, access to the State Wilderness areas by project residents could increase, and this area could experience more use and intrusion in the Travertine Palms wilderness area. Impacts would consequently be potentially significant.

The SRSJ National Monument is located to the west of the proposed project site. Although there are trails located within the SRSJ National Monument and directly east of the southern portion of the Coachella Valley Multiple Species Habitat Conservation Plan Area-SRSJM Conservation Area, no trails would connect with trailheads leading into the proposed specific plan. However, the possibility does exist that human intrusion from the proposed project could increase authorized and unauthorized recreational activities on these lands, thus causing physical damage. Impacts would consequently be potentially significant.

The proposed specific plan provides a Wilderness Trail Access Control feature that would be developed at the trailheads in the southwest portion of the proposed project site that would connect to a trail leading into the ABDSP. This trailhead feature would consist of a non-fenced, non-gated access control feature using natural materials found on site to discourage motorized vehicle passage.

The proposed project would also implement a Wall and Fence Concept Plan where view fences would be developed along the western side of the proposed project separating the residential

uses from drainage corridors and the adjacent lands. These fences would provide some deterrence to reduce human intrusion onto adjacent lands.

Lastly, the proposed project includes trail development standards; however, these are directed more towards the trails system that would be developed within the boundaries of the project site, and not directed at the possible impacts and indirect impacts to adjacent areas.

Mitigation measure 6.16-4 through 6.16-6 in Section 6.16, Public Services – Parks and Recreation (see Subsection 6.16.7.2) provide measures that would reduce the impacts of increased use of adjacent conservation and parks areas. These measures would prohibit the use of motorized vehicles on trails that connect to ABDSP or the SRSJM National Monument, require that trails along the western boundary of the project site terminate no closer than 500 feet to the project boundary, provide signs discouraging off-trail access, and require that entities that provide and maintain on-site trails provide signage and educational materials that describe appropriate and prohibited activities at all trailheads leading to ABDSP or the SRSJM National Monument. Such measures would reduce the impacts of increased human presence in adjacent conservation and parks areas.

Even with features that would help reduce intrusion of residents and motorized vehicles on these sensitive areas of land adjacent to the proposed project, residents would not be sufficiently deterred from using trails within the areas to the point where physical deterioration of the area would not be accelerated. Therefore, impacts would be potentially significant.

For cultural resources, Impact 6.5.7.1 discusses the potential for impacts to cultural resources on both project and adjacent lands, and notes that implementation of the proposed project would increase the population and use of the Specific Plan area. The proximity of residential areas and the resulting increased use of open space areas near identified sites containing cultural resources could result in significant impacts to cultural resources sites, including illicit collection of cultural artifacts and vandalism.

The Revised Draft EIR notes that areas to the west of the project site are within the SRSJM Conservation Area of the CVMSHCP. The CVMSHCP, while not intended for the preservation of cultural resources, provides management policies that would selectively limit human intrusion into the CVMSHCP conservation area. These policies include signage, fencing, and gates; patrolling; law enforcement; and the installation of barriers. The proposed project would contribute funding for these management measures through the payment of local development mitigation fees established in the CVMSHCP. The proposed project would be consistent with standards provided in the CVMSHCP for development adjacent to conservation areas, which include a requirement for barriers to prevent unauthorized access.

The Revised Draft EIR notes that as these areas containing significant cultural artifacts are open to the public, it is not feasible to prevent all access and trespass; unauthorized intrusions and collection of cultural artifacts would be potentially significant. The Revised Draft EIR notes that no feasible mitigation is available to reduce potential indirect impacts to cultural resources to a less than significant level. Impacts would therefore be significant and unavoidable.

For biological resources, Impact 6.4.7.1 discusses the potential for impacts to biological resources on both project and adjacent lands, and notes that the proposed project would increase both human and domestic animal presence in the area, including increased use of open space. The Revised Draft EIR states that increased human and domestic animal presence could interfere with wildlife habitat, including vegetation and cryptobiotic soils, and disturb wildlife species behaviors, and would be considered a significant impact to biological resources. The Revised Draft EIR identified several mitigation measures, specifically 6.4-25 through 6.4-45, that would reduce impacts to less than significant.

The determination of significance is demonstrated for each individual issue as noted above. While there may be overlapping circumstances, the RDEIR separates the issues on their own merit and determined the potential impacts independently.

The indirect and off-site impacts related to Parks and Recreation and Cultural Resources can be reduced through implementation of mitigation measures but not fully averted. The use of signage, fencing and buffer areas/setbacks may deter most people but they do not provide absolute ability to keep people from accessing off-site areas. As such, the potential for intrusion to off-site areas and over use exists, as does the ability for individuals to "pocket" cultural artifacts and remove them from the area. In addition, archaeological and paleontological resources may be damaged or destroyed through the increased human use of the open space. As such, the impacts are considered significant and unavoidable.

The potential to impact biological resources is to have less certainty and probability. While individuals could disturb off-site plant species, the likelihood of them removing such species or eliminating the species from existence is extremely low. Similarly, the potential impact to wildlife species is tempered by the ability of those species to move away when startled by human presence. Hence, the impact is considered less than significant.

EXPERT QUALIFICATIONS

Dr. Daryl Koutnik is the principal biologist for Impact Sciences, Inc. and has over 25 years of experience in the management and conduct of biological resources field studies for environmental compliance and planning. He has directed, managed, and performed biological resources inventories, special-status plant and animal identification, environmental impact assessments, biological constraints analyses, plant and wildlife studies, habitat restoration plans, and mitigation and monitoring plans for a wide variety of private and public sector projects. Prior to joining Impact Sciences, Dr. Koutnik has worked in and managed the environmental review section of the Los Angeles County Department of Regional Planning for more than 14 years. His formal educational background culminated with a doctor of philosophy degree in botany from the University of California at Davis.

Mr. Joe Gibson is a principal with Impact Sciences and has over 35 years of experience completing environmental studies. As project manager, Mr. Gibson has overseen all of the environmental studies on the Travertine point Specific Plan Project EIR. Mr. Gibson is considered an expert of CEQA implementation and has provided expert witness testimony on such in the past. Further, Mr. Gibson is an expert in matters concerning parks and trail use; he has been a director for the Conejo Recreation and Park District (CRPD) for over 13 years and also sits on the

board of directors for the Conejo Open Space and Conservation Agency (COSCA). Together, these agencies manage over 15,000 acres of open space and over 150 miles of trails adjacent to the western Santa Monica Mountains. He has served as a board member of the California Association of Recreation and Park Districts (CARPD) since 2002, and currently serves as the Associations president. Mr. Gibson holds a bachelor's degree in environmental geosciences from Indiana University.



Carolyn Syms Luna
Director

RIVERSIDE COUNTY

PLANNING DEPARTMENT

Memorandum

DATE: June 21, 2011
TO: Mr. Matt Straite, Contract Planner
FROM: Adam Rush, Principal Planner
RE: Agricultural Conversation Acreage

Dear Mr. Straite,

Per your request, the total amount of agricultural land converted pursuant to the adoption of a series of General Plan Amendments from October 7, 2003 to December 31, 2010 has been calculated and compared to the conversion restrictions adopted as part of the General Plan Administrative Element (Chapter 10).

Background:

The General Plan Administration Element allows up to 7% of all land designed as Agriculture to change from one Foundation and Land Use Designations to any other Foundation and Land Use Designation during a 2 ½-year period, i.e., the "Agriculture Foundation Amendment Cycle" The Administration Element provides the right for the Board of Supervisors, at the conclusion of each 2 ½ year period, to consider if changes to the Agriculture Foundation should be reviewed every 2 ½ years or whether a 5 year amendment cycle, like those for other Foundations, would be more appropriate. At this time, the Board of Supervisors has not taken any specific action to alter the 2 ½ review cycle and therefore these review cycles have commenced, every 2 ½ years, since the adoption of the RCIP General Plan. The 7% conversion can occur anytime within the 2½-year Agriculture Foundation Amendment Cycle and is to be calculated separately for each of the following three areas:

- a. The area covered by the Palo Verde and Desert Center Area Plans and the Eastern Desert Land Use Plan;
- b. The area covered by the Eastern Coachella Valley and Western Coachella Valley Area Plans; and,
- c. The area covered by all other Area Plans.

Agriculture Foundation Amendment Cycle vs. Specific Plan No. 375:

Specific Plan No. 375, e.g., the Travertine Pointe Specific Plan, proposes per GPA No. 910, to remove 2,541 acres from the Agriculture Foundation into amended land use designations consistent with the amended Foundation Components of the Specific Plan. The Specific Plan is located within area "b.", the area covered by the Eastern Coachella Valley and Western Coachella Valley Area Plans. Pursuant

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(760) 863-8277 · Fax (760) 863-7555

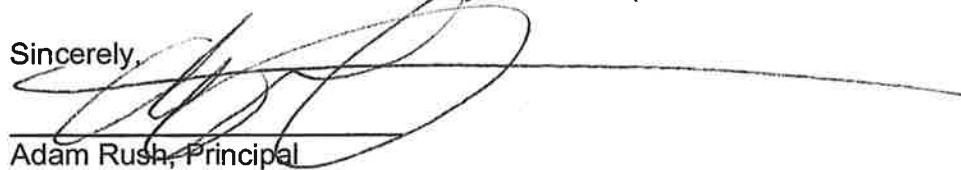
to a County of Riverside GIS Analysis, 920.10 acres of property located within the Agriculture Foundation component has been removed and converted to another Foundation consistent with the Administration Element of the General Plan from October 1, 2003 to December 31, 2010 among all three sub-areas as listed above. This amount is compared to the 202,320.05 acres designated as Agriculture pursuant to the adoption of the 2003 RCIP General Plan and well below the 7% threshold in any sub-area during the first 2 ½ - year cycle and the County is currently within our third, 2 ½ - year, review cycle.

Therefore, the adoption of GPA No. 910 will not result in the 7% threshold being exceeded, within the third Agriculture Foundation review cycle (2009 – 2011).

Based upon the threshold not being met, the Planning Department is not required to request that the Board of Supervisors convene the Agricultural Task Force as identified in Chapter 10 of the General Plan.

Please let me know if there are any additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Rush', is written over a horizontal line. The signature is stylized and extends to the right of the line.

Adam Rush, Principal

Barton, Karen

From: Nate Hausman <natejhausman@gmail.com>
Sent: Friday, November 11, 2011 12:07 PM
To: COB
Cc: Pamela Epstein
Subject: Comment Letter RE: Recirculated Travertine Point Project Environmental Impact Report
Attachments: Travertine Comment Letter on Recirculated EIR.11-11-11.pdf

Dear Clerk of the Board,

Attached is a comment letter related to the Riverside Board of Supervisor's on Travertine Point Project Specific Plan 375 and its accompanying Revised, Recirculated Environmental Impact Report. I am submitting the attached comment letter on behalf of the San Diego Chapter of Sierra Club. Kindly reply to let me know that you have received it. Please do not hesitate to contact me at (858)569-6005 or natejhausman@gmail.com if you have any questions.

Thank you.

Nate Hausman
Sierra Club Post-Bar Law Clerk
San Diego Chapter
858-569-6005



San Diego Chapter
8304 Clairemont Mesa Blvd., Ste. 101
San Diego, CA 92111
<http://www.sandiego.sierraclub.org>
858-569-6005

November 11, 2011

Chairman Buster and Members of the Board of Supervisors
County of Riverside
4080 Lemon Street, 4th Floor
PO Box #1409
Riverside, CA 92501
cob@rcbos.org

Submitted via Electronic Mail

RE: Travertine Point Project Specific Plan No. 375, GPA 00910 and CZ 07623, Final
Environmental Impact Report No. 514 (SCH #2007101145)

Dear Chairman Buster and Members of the Board:

The San Diego Chapter of Sierra Club submits the following letter on the Travertine Point Specific Plan and the recirculated, revised Environmental Impact Report ("EIR") for the Project.¹ The San Diego Chapter of the Sierra Club ("Sierra Club") has over 15,000 members and supporters and covers San Diego and Imperial Counties. Members of Sierra Club recreate near the Project site and derive educational, scientific, aesthetic, recreational, other benefits from its conservation. Sierra Club urges the Board of Supervisors to deny approval of the proposed Travertine Point Specific Plan (the "Project") pending compliance with the California Environmental Quality Act ("CEQA").

1. The EIR Fails to Provide Accurate and Full Information Regarding Landfill Availability and Provides Inadequate Solid Waste Mitigation Measures.

CEQA requires an EIR to describe the proposed project and provide full and accurate information because "a curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision makers balance the proposal's benefit against its environmental costs, consider mitigation measures, asses the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance."² An agency should not approve projects as proposed if there are feasible alternatives or mitigation measures, which would substantially lessen the project's significant environmental effects.³ To comply with this requirement, an EIR

¹ This comment letter is intended to supplement, not to replace, previous comment letters submitted by Sierra Club, and others on behalf of Sierra Club. This letter does not represent an exhaustive list of the Project EIR's defects and deficiencies.

² *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 192-933 (Ct. App. 1977).

³ Cal. Pub. Res. Code § 21002.

must identify the significant effects of a proposed project and set forth mitigation measures that decision makers can adopt at the findings stage of the process.⁴ Proposed mitigation measures must be “fully enforceable.”⁵ Mitigation measures may not be so indefinite or undefined that it is impossible to ascertain their effectiveness.⁶

In this instance, the EIR provides both an incomplete picture of the Project and its impacts and relies on speculative events and indefinite mitigation to reach a “less than significant” impacts determination for solid waste.⁷ The EIR notes that “the proposed project as a whole is estimated to generate approximately 59.5 tons per day (tpd) of solid waste at buildout, which is equivalent to 21,706.7 tons of solid waste per year.”⁸ The EIR further states:

Given the extended duration of project development (over 35 years), the expansion efforts may not coincide with disposal needs of the project and may result in periods of capacity shortfall during which the use of other disposal sites may be required. This could require the applicant to identify sites outside of either Riverside or Imperial County for disposal of construction debris at such times. While the potential for such to occur exists, the ability to identify any such out-of-county sites at this time is speculative at best. Therefore, the project’s increase in construction waste would result in significant impacts.⁹

While the EIR acknowledges Project demands will displace landfill capacity, nowhere does it assess or quantify the actual displacement impacts to area landfills. Instead, the EIR inexplicably finds that the effects of the Project will be less than significant based on speculative predictions about future expansions of landfills and closure dates for landfills, all of which are uncertain.¹⁰ This does not comply with CEQA, which requires analysis of environmental impacts to focus on existing physical conditions, not speculative future occurrences.¹¹ An agency cannot determine significant effects would not occur where the success of mitigation is uncertain.¹²

a. The EIR’s Solid Waste Analysis for Imperial County is Incomplete.

The EIR fails to fully articulate all the potentially significant environmental effects of the Imperial County portion of the project, including displacement of landfills and use of the Salton Sea City Landfill by other counties. The Imperial County portion of the proposed project is estimated to generate 4.1 tpd of solid waste at buildout, which is equivalent to 1,499.9 tons of solid waste per year.¹³ The EIR notes that the solid waste produced by the project will be disposed of at the Salton City Landfill, accounting for 8.2 percent of the current daily intake

⁴ See CEQA Guidelines, § 15126.

⁵ Pub. Res. Code § 21081.6(b); Guidelines § 15126.4(a)(2).

⁶ See, e.g., *San Franciscans for Reasonable Growth v. City & County of San Francisco*, 151 Cal.App.3d 61, 79 (1984).

⁷ EIR at 6.22-25.

⁸ EIR at 6.22-1.

⁹ EIR at 6.22-22.

¹⁰ EIR at 6.22-25.

¹¹ See CEQA Guidelines, § 15125.

¹² *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296, 311 (Ct. App. 1988).

¹³ EIR at 6.22-1.

capacity (50tpd) of the Salton City Landfill (or 0.07 percent after expansion).¹⁴ Recently the Salton City Landfill has been approved for expansion, which will allow 6,000 tpd of Municipal Solid Waste; however, this expansion is intended to serve the disposal needs of other counties.

While expansion of the Salton City Landfill has been approved, the EIR does not consider how the solid waste stream from the project will displace the expanded landfill capacity intended to be reserved for waste coming from other counties. Since the project is estimated to take over 35 years to complete, the EIR must consider the effects on the landfill during the construction period as well as operation, taking into account displacement before expansion and after expansion. For example, if the Project forces the landfill to reach capacity before expansion has occurred, where will the waste be disposed of? The site was scheduled for closure on December 31, 2017; however, the site has likely already reached its maximum capacity.¹⁵ If after expansion another county using the Salton Sea City Landfill has development projects that contribute to the landfill and further displace capacity, how will this affect the Travertine Project's solid waste disposal? These issues and effects must be considered in the EIR to provide decision makers with full and accurate information.

The EIR acknowledges that the Project would generate demolition debris during construction and solid waste during operation that would displace available space and require more space than is currently available.¹⁶ The EIR, however, neglects to put forth any quantification on the actual landfill displacement impacts. Without this information, the Project's impact on "decreasing current capacities"¹⁷ and the amount of "future space"¹⁸ required for solid waste disposal remains unknown.

b. The EIR's Mitigation Measures for Solid Waste in the Imperial County Portion of the Proposed Project Are Insufficient.

The only mitigation measure proffered in the EIR to lessen the effects of solid waste disposal displacing landfill space for Imperial County is recycling. While the EIR attempts to show that the Project will employ multiple mitigation measures, the mitigation measures all boil down to a recycling effort of unknown efficacy. Because the EIR's analysis does not explain how recycling methods will lessen the impact of the Project's solid waste generation, the EIR cannot possibly conclude that significant impacts will be substantially lessened or avoided.¹⁹

The Waste Recycling Plan (WRP) aims to identify the types of waste generated by construction, methods to recycle, reuse, and/or reduce debris, facilities used, and target recycling or reduction rates.²⁰ However, the EIR does not say how much recycling will take place, how much solid waste generated by the project will be reduced, or how the recycling programs will be implemented. These considerations also apply to the green waste recycling program, and the

¹⁴ EIR at 6.22-26.

¹⁵ <http://www.calrecycle.ca.gov/Profiles/Facility/Landfill/LFProfile1.asp?COID=13&FACID=13-AA-0011>

¹⁶ *Id.*

¹⁷ EIR at 6.22-26.

¹⁸ *Id.*

¹⁹ *Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 731 (Ct. App. 1990).

²⁰ EIR at 6.22-27

Source Reduction Recycling Element.²¹ In addition, outlining which landfills will be used to deposit the refuse generated and noting that the Project will comply with local, state and federal guidelines in disposing materials and waste are not forms of mitigation.²² The recycling measures do not ensure that the waste generated from the Project will not cumulatively contribute to solid waste generation in excess of Imperial County's landfill capacity. Furthermore, without any substantiation, the EIR astonishingly finds that cumulative impacts to the existing landfill resulting from waste generated by the Project are less than significant. The EIR's conclusion here must be supported with evidence.

c. The EIR's Solid Waste Analysis for Riverside County is Inadequate.

The solid waste analysis does not provide adequate information on the effects of the Project's solid waste generation on Riverside County landfills. The Riverside County portion is estimated to generate 55.4 tpd of solid waste at buildout, which is equivalent to 20,207.3 tons of solid waste per year.²³ The Project plan relies on the Coachella Valley Transfer Station, Edon Hill Transfer Station, the Lamb Canyon Landfill, and Bedlands Landfill for refuse generated from the Riverside County portion of the Project.²⁴ But these landfills and transfer stations are expected to close *before* the completion of the Project.²⁵

Given that Riverside County is recognized as one of the fastest growing counties in the state, proper management of construction debris is critical.²⁶ The EIR concedes that the construction of the project will likely increase the amount of solid waste disposed into the local solid waste transfer stations and solid waste landfills as compared to current conditions;²⁷ however, the EIR finds that the transfer stations would have adequate daily intake capacity to accept the construction material without providing any evidence or empirical support for this conclusion.²⁸ After concluding that the landfills and transfer stations will have adequate daily capacity, the EIR states that if the identified stations and landfills cannot take the solid waste it will go to other undetermined locations.²⁹ This simultaneously sows seeds of doubt that current landfill capacity may not, in fact, be sufficient to service the Project and provides inadequate information by failing to disclose the location or feasibility of landfills where capacity does exist to service the Project's solid waste demands.

The EIR also relies on the potential for expansion of landfills in Riverside County and concludes that while there will be increased demand for waste disposal service, with expansion and mitigation, impacts would be less than significant. These assertions are premised on

²¹ EIR at 6.22-28

²² *Id.*

²³ EIR at 6.22-1.

²⁴ *Id.*

²⁵ EIR at 6.22-5,7.

²⁶ EIR at 6.22-20.

²⁷ EIR at 6.22-22.

²⁸ *Id.*

²⁹ EIR at 6.22-28.

assumptions and uncertainties, and therefore violate CEQA, which requires environmental impact analysis to focus on current physical conditions.³⁰

The EIR's cumulative impacts analysis for solid waste in the Riverside County portion of the Project is unsubstantiated. Riverside is a rapidly growing city. The Riverside County buildout, as provided for in the general plan, would require the disposal of 4,148,156 tons of solid waste in landfills each year, including waste from the proposed project.³¹ The EIR states that "while all the currently active landfills have estimated closure dates that predate the County buildout year of 2040, expansions of Badlands and Lamb Canyon landfills are planned that *may* extend the life of these landfills."³² Again, these landfill expansions are purely hypothetical.

The EIR indicates that Riverside County has guaranteed disposal space at Eagle Mountain Landfill;³³ however, any solid waste disposal at the Eagle Mountain Landfill site is far from guaranteed.³⁴ In 2009, the 9th Circuit Court of Appeals rejected a land exchange necessary for the landfill's development.³⁵ On March 28, 2011, the U.S. Supreme Court denied review of the matter leaving the 9th Circuit's decision intact and the Eagle Mountain Landfill project suspended.³⁶ The Eagle Mountain Landfill developer has since filed for bankruptcy.³⁷ This is yet another instance where the project plan relies on landfill capacity that is utterly unrealistic for the Project's disposal of solid waste. The EIR cannot possibly conclude that cumulative impacts are less than significant based on such faulty assumptions and speculation.

d. The Mitigation Measures for Solid Waste in the Riverside County Portion of the Proposed Project are Insufficient.

The EIR fails to provide adequate mitigation measures to lessen the impact of solid waste generation on Riverside County landfills' capacities. The EIR's mitigation measures look only to on-site recycling methods to lessen the impact of displacing landfill space. The EIR states that the County will make every effort *feasible* to recycle, reuse, and/or reduce the amount of construction and demolition materials generated by development of the Project; however, it does not provide any specific implementation design.³⁸ Once again, the EIR's reliance on recycling as the sole form of mitigation is inadequate because it lacks any kind of specificity or

³⁰ EIR at 6.22-25; *see also*, *Sunnyvale W. Neighborhood Assn. v. City of Sunnyvale City Council*, 190 Cal. App. 4th 1351, 1372 (2010).

³¹ EIR at 6.22-38.

³² *Id.* (emphasis added).

³³ EIR at 6.22-39.

³⁴ *Joshua Tree Escapes Threat of Nearby Landfill*, Environmental News Service (March 28, 2011), available at <http://www.ens-newswire.com/ens/mar2011/2011-03-28-093.html>.

³⁵ *Id.*

³⁶ *Supreme Court Refuses to Hear Eagle Mountain Landfill Case, Helps Protect Joshua Tree National Park*, National Parks Conservation Association (March 28, 2011), available at http://www.npca.org/media_center/press_releases/2011/supreme-court-refuses-to-hear.html.

³⁷ *Developer of Eagle Mountain Dump Files for Chapter 11 Bankruptcy*, The Desert Sun (Nov. 2, 2011), available at <http://www.mydesert.com/article/20111102/BUSINESS/111020313/Developer-Eagle-Mountain-dump-files-Chapter-11-bankruptcy>.

³⁸ EIR at 6.22-28.

enforceability.³⁹ No information is provided about how the mitigation measures will be implemented, or what reductions, beyond those which would otherwise be achieved in the course of normal construction and operation, will result from these measures. Without more, the EIR cannot use these mitigation measures to reasonably conclude that the effects of the project are less than significant.

2. The EIR's Fails To Disclose Important Information Related to Water Availability.

In *Madera Oversight Coalition, Inc. v. County of Madera*, a California appellate court upheld a trial court decision that concluded that an EIR's discussion of the water supply was inadequate under CEQA because it failed to disclose important information related to the uncertainties of a project's water source.⁴⁰ Here, the Project EIR suffers from the same fatal deficiencies.⁴¹ The Project relies on desalinated agricultural drain water,⁴² but no desalination facility currently exists in the Coachella Valley to treat drain water on such a scale.⁴³ The EIR fails to provide any information on the contingency if the desalination facility is not built. Similarly, the EIR relies on the construction of a hypothetical, yet-to-be-built, dual-piping water system, but the EIR neglects to provide information about the consequences if this dual-pipe system never manifests.⁴⁴

The EIR uses four conditions to analyze the supply and demand of water for the Project under various scenarios, but the EIR does not assess the Project's impacts of these scenarios. For example, under "Condition 4 - Single Dry Year Supply and Demand," the EIR states, "[T]otal supply will meet demand projections in dry years, as CVWD [Coachella Valley Water District] would extract additional needed supplies from groundwater in storage to meet total demand projections."⁴⁵ Yet, the EIR fails to disclose the likelihood of this scenario and fails to provide the any information about the uncertainties associated with groundwater pumping. In fact, under all of the conditions examined, the EIR necessarily resorts to the further pumping of groundwater—a resource already in overdraft in the Coachella Valley—but the EIR does not analyze any of the impacts associated with overdraft, such as land subsidence and saline intrusion.⁴⁶ The degree of reliance upon groundwater pumping also presents serious economic uncertainties, which go un-analyzed in the EIR. The EIR simply fails to disclose important information about the uncertainty of the Project's water supply.⁴⁷

³⁹ *San Franciscans for Reasonable Growth v. City & County of San Francisco*, 151 Cal.App.3d 61, 79 (1984).

⁴⁰ *Madera Oversight Coalition, Inc. v. County of Madera*, 199 Cal.App.4th 48, 669 (2011).

⁴¹ As an example of the superficial nature of the EIR's water supply analysis, the section under the heading "Safe Drinking Water Act" lacks all mention of the Safe Drinking Water Act and instead discusses only the Clean Water Act. EIR at 6.2-6.

⁴² FEIR at 6.20-21 ("CVWD will need to construct both conveyance and treatment facilities in order to [provide both treated and untreated Colorado River water, and desalinated agricultural drain water directly to its urban water distribution system.]").

⁴³ 2010 Urban Water Management Plan, Coachella Valley Water District, Final Report, 4-31.

⁴⁴ FEIR at 6.20-135.

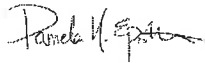
⁴⁵ EIR at 6.20-123.

⁴⁶ See, e.g., <http://en.wikipedia.org/wiki/Groundwater> (last visited Sept. 17, 2011).

⁴⁷ As an example of the superficial nature of the EIR's water supply analysis, the section under the heading "Safe Drinking Water Act" lacks any mention of the Safe Drinking Water Act and instead focuses only on the Clean Water Act. EIR at 6.2-6.

The EIR provides insufficient analysis to satisfy the CEQA threshold for informed decision-making. In light of the EIR's persistent and fatal flaws, Sierra Club respectfully asks the Board of Supervisors to deny certification of the Travertine Point Specific Plan and the recirculated, revised EIR as it is not in compliance with CEQA.

Respectfully Submitted,



Pamela N. Epstein, Esq., LL.M
Staff Attorney & Legal Program Manager
Sierra Club, San Diego Chapter
pepstein@sierraclubsandiego.org
8304 Clairemont Mesa Blvd., Ste 101
San Diego, CA 92111

The San Diego Chapter of the Sierra Club is San Diego's oldest and largest grassroots environmental organization, founded in 1948. The San Diego Chapter seeks to preserve the special nature of the San Diego and Imperial Valley area through education, activism, and advocacy.

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



16.3

1:30 p.m. being the time set for public hearing on the recommendation from Transportation & Land Management Agency/Planning regarding Public Hearing on Specific Plan No. 375 / General Plan Amendment No. 910 / Change of Zone No. 7623 – Black Emerald LLC – Innovative Land Concepts, Inc. – Lower Coachella Valley Zoning District – Eastern Coachella Valley Area Plan – 4th District. Recommendation for Tentative Certification of Environmental Impact Report No. 514; Tentative Approval of General Plan Amendment No. 910 which proposes to amend the Land Use to eliminate the Land Use designations of Agriculture: Agriculture (AG), Community Development: Commercial Tourist (CT), Public Facilities (PF), Indian Land, and Open Space – Water (OS-W) and would establish Business Park (BP), Commercial Retail (CR), Commercial Tourist (CT), Mixed Use (MU), Medium Density Residential (MDR), Medium High Density Residential (MHDR), High Density Residential (HDR), Very High Density Residential (VHDR), Highest Density Residential (HHDR), Public Facility (PF), Open Space – Recreation (OS-R), Open Space – Conservation (OS-C), and Open Space – Water (OS-W) designations as reflected on the Specific Plan Land Use Plan; Tentative Approval of Specific Plan No. 375 to arrange 4,918 acres into 5 planning districts, wherein uses will include residential, business park, mixed use commercial, regional commercial, resort/tourism, and open space uses, and is currently proposing 16,655 residential units; and Tentative Approval of Change of Zone No. 7623, which proposes to redesignate the site from Light Agriculture with a 5, 10 and 20 Acre Minimum (A1-5, A-1-10, A-1-20), Heavy Agriculture with a 10, and 20 Acre Minimum (A-2-10 and A-2-20), Controlled Development (W-2) to Specific Plan (SP), the Chairman called the matter for hearing.

Matt Straite, Contract Planner Supervisor, presented the matter.

The following people spoke on the matter:

Paul Quill
Rodney Bonner
Gail Sevens

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is continued to Tuesday, September 20, 2011 at 1:30 p.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on August 16, 2011 of Supervisors Minutes.

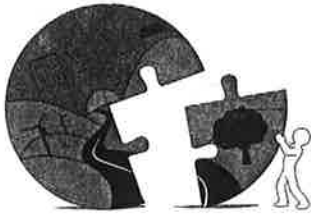
WITNESS my hand and the seal of the Board of Supervisors
Dated: August 16, 2011

(seal) Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

By: [Signature] Deputy

AGENDA NO.
16.3

xc: Planning, Applicant, COB



Carolyn Syms Luna
Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

Memorandum

DATE: August 16, 2011
TO: Board of Supervisors
FROM: Matt Straite
RE: **Agenda Item 16.3- Additional Conditions of Approval and additional items submitted after the Form 11 was published**

This Memo contains the following sections:

- **Section 1:** A new Condition of Approval.
- **Section 2:** Two additional letters submitted by the projects consultants to clarify issues raised at the hearing and by Commissioner Roth's comments. In addition, one new letter of support was received from Imperial County. All are attached.
 - Pamela Epstien, representing the Sierra Club, dated August 15, 2011
 - Traci Verardo-Torres representing the California State Parks Foundation dated August 15, 2011
 - Gail Sevrens representing the California Department of Parks and Recreation dated August 15, 2011
 - Dan Silver representing the Endangered Habitat League dated August 15, 2011
 - Erin Chalmers representing Shute Mihaly and Weinberger LLP dated August 10, 2011

Section 1: A Condition of Approval, shown below, was added to the project after the Form 11 was distributed. The Condition establishes procedures for the implementation of the project.

10.Planning.68 MUOZ Boundary

The zoning ordinance for the project permits the use of Mixed Use Overlay Zones (MUOZ) intended to foster different types of mixed use development. Mixed Use Overlay Zones are only permitted in Planning Areas with a Mixed Use Designation, specifically Districts 1, 2, and/or 4. The boundary of any MUOZ shall be legally defined by zoning ordinance in conjunction with approval of one or more Districts Refinement Plans (DRPs) as outlined in the SPECIFIC PLAN. Changes to the boundaries of any established MUOZ shall require a change of zone application to be approved.

Riverside Office · 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-1811

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

16-3

Section 2: Additional letters are attached

Page 1 of 17
Chairman Ashley and Members of the Board of Supervisors
Travertine Point Project FEIR
August 15, 2011



San Diego Chapter
8304 Clairemont Mesa Blvd., Ste 101
San Diego, CA 92111
<http://www.sandiego.sierraclub.org>
858-569-6005

August 15, 2011

Chairman Ashley and Member of the Board of Supervisors
Riverside County
4080 Lemon Street, 4th Floor
Post Office Box 1409
Riverside, CA 92501
cob@rcbos.org

Submitted via Electronic Mail and United States Mail

RE: Travertine Point Project Specific Plan No. 375, GPA 00910 and CZ 07623, Final Environmental Impact Report No. 514 (SCH # 20071014145)

Dear Chairman Ashley and Members of the Board:

This letter is submitted on behalf of the San Diego Chapter of the Sierra Club (the "Sierra Club" or the "Club") to strongly recommend the Board of Supervisors (the "BOS") to deny the proposed Travertine Point Specific Plan (the "Project") because the Final Environmental Impact Report ("FEIR") for the Project fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq. and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 et seq. ("CEQA Guidelines").

As detailed in the analysis, which follows, the Sierra Club is seriously concerned that the FEIR violates a number of key CEQA precepts, such as deferred and inadequate mitigation. The FEIR fails to identify numerous significant unmitigated impacts, underestimates Project impacts due to a failure to analyze the whole of the action, inadequately describes the Project, and fails to address a number of potential impact areas including, but not limited to, biological resources and water supply.

In light of the documents fundamental flaws, the comments contained herein should be viewed as illustrative of the problems with the document, rather than as a comprehensive catalogue of the document's defects. Most notably, a significant number of the conclusions contained in the FEIR are not supported by facts, reasonable assumption predicated on facts, or expert opinion.

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I. Importance of CEQA

An EIR is the “heart of CEQA.”¹ “The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.”² The EIR “is an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended ‘to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.’ Because the EIR must be certified or rejected by public official, it is a document of accountability.”³

Unfortunately, the Project FEIR fails entirely to live up to this mandate. Instead of honestly analyzing the Project, the County of Riverside (the “County”) has chosen to play a game of “hide the ball,” leaving the public and decision-makers with a profoundly distorted view of the Project and its consequences. To ensure compliance, CEQA forbids the County as the lead agency, from approving any project that may cause significant environmental effects if feasible alternatives or mitigation measures exist which could negate those impacts.⁴ The Courts have further instructed that CEQA should be “scrupulously followed” so that “the public will know the basis on which its responsible official either approve or reject environmentally significant action” and therefore, find themselves in a position to “respond accordingly to action with which it disagrees.”⁵ It therefore stands to reason that if the FEIR fails at the most basic level as an informational document, the result will be a legally deficient document for CEQA purposes. The defects found in the FEIR cited in this comment letter are so substantial that the County must revise and re-circulate if compliance with CEQA is to be achieved.

II. The FEIR’s Description of the Project is Vague, Shifting and Inconsistent.⁶

In order for an environmental document to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. An EIR must describe a proposed project with sufficient detail and accuracy to permit informed decision-making.⁷ Indeed, “[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.”⁸ As a result, Courts have found that, even if an EIR is adequate in all other respects, the use of a “truncated project concept” violates CEQA and

¹ *Laurel Heights Improvement Ass’n v. Regents of University of California (Laurel Heights I)*, 47 Cal. 3d 376, 392 (1988)

² Pub. Res. Code § 21061.

³ *Laurel Heights I*, 47 Cal. 3d at 392 (citations omitted).

⁴ *Mountain Lion Foundation v. Fish & Game Commission*, 16 Cal.4th 106, 134 (1997); Pub. Res. Code, § 21002.

⁵ *Laurel Heights I*, 47 Cal. 3d at 392.

⁶ The Sierra Club strongly supports the detailed analysis of the Project’s inadequate project description in the August 10, 2011 letter submitted by Shute, Mihaly and Weinberger.

⁷ See CEQA Guidelines § 15124

⁸ *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th 713, 730 (1994), quoting *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 193 (1997).

mandates the conclusion that the lead agency did not proceed in a manner required by law.⁹ Furthermore, “[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.”¹⁰ Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable.

The vague and ambiguous project description offered by the County’s FEIR deprives the public of its guaranteed rights under CEQA by adopting a piecemeal and inconsistent approach and thus underestimating the totality of environmental impact caused by the Travertine Specific Plan Project. A major failing in the FEIR’s project description is its lack of clarity as to how the Project will develop over time, the order of development, funding sources, and the Project’s reliance on future agency approvals. It is critical for the document to contain this information, as there is a dramatic difference to impacts and outcomes. It is the County’s responsibility pursuant to CEQA that the project description adequately assert the following: (1) the “precise location and boundaries of the proposed project,” (2) a “clear written statement” of the project’s objectives, including the underlying purpose of the project, as well as, (3) a general description of the project’s technical, economic, and environmental characteristics.¹¹

The FEIR represents the scope of the project with two irreconcilable descriptions. One version of the project provides for five phases spanning a 35-year period, including 16,655 dwelling unit, 5,029,500 square feet of commercial space, four different “districts,” and various open spaces.¹² The FEIR then asserts that large aspects of the project may never be constructed, for example the marina along the Salton Sea, the lynchpin for significant amount of the project’s development and associated impacts. The marina and its recreation and commercial development¹³ are premised on the restoration of the Salton Sea, “a potential future use that assumes the successful restoration of the Salton Sea as presently proposed by the Salton Sea Authority...”¹⁴ At present the restoration is questionable at best, especially given that the jurisdiction and decision-making authority vest not with the County, but rather, with the Salton Sea Authority. Reconciliation of a project description and CEQA requirements is problematic when a project lays the foundation for subsequent but perhaps uncertain-activity.¹⁵

The County proposes a haphazard approach to the project’s implementation, guided only by the flow of funding and exclusive of any observable planning considerations or recognition of required authorization from outside the County’s jurisdiction. This failure to accurately classify what is to be constructed and when hinders the public’s ability to provide accurate comment. Moreover, the proposed development in several instances are accompanied by vague, if any detail, or are in conflict with various aspect of the County’s General Plan, resulting in a

⁹ *Id.* at 730.

¹⁰ *Id.* (citation omitted)

¹¹ CEQA Cal. Code. Regs § 15124.

¹² *See, e.g.*, FEIR at 1.0-3, 1.0-13-18, 1.0-26, 3.0-98.

¹³ FEIR 3.0-13 (“the marina area will also provide specialty retail shops, restaurants, and an opportunity for lodging”).

¹⁴ FEIR 1.0-18

¹⁵ *See Laurel Heights I*, 47 Cal.3d at 253.

prejudicial abuse of discretion and the prevention of any meaningful environmental review or comment. The Court, when ruling on omissions or failures to include pertinent information in an EIR, cites the “relevant inquiry as whether there has been a ‘prejudicial abuse of discretion.’ The absence of information ... (does) not per se constitute prejudicial abuse of discretion. Prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision making and informed public participation thereby thwarting the statutory goals of the EIR process.”¹⁶

The FEIR’s failure to provide a stable and consistent description of the Project, and its failures to provide an accurate and complete account of the environmental setting, render its analysis of direct, indirect, and cumulative impacts inadequate. It is **not** the job of the public to hope they have correctly identified the County’s intentions regarding the meaning of the Project’s design and intention. Indeed, each of the deficiencies discussed above leads inexorably to a deficient analysis of impacts, as discussed herein.

III. The FEIR Fails to Adequately Disclose, Analyze, and Propose Mitigation for the Project’s Significant Environmental Impacts.

It is important to recognize the dramatic transformation of the current landscape embodied in this EIR – the region now is predominately designated as open space and agricultural lands. The aggressive urbanization described above includes commercial and residential aspects in stark contrast in the overall character of the region. The FEIR, acknowledges the significance, stating “[t]he proposed project would change the character of the project site from predominantly agricultural and open space to urban development.”¹⁷ This change in infrastructure zoning, expansion of roadways, and services is triggering action that will add significant developmental pressure. It is therefore, imperative that a thorough and complete analysis of the project is undertaken.

The discussion of a proposed project’s environmental impacts is fundamental to an EIR. *See* CEQA Guidelines § 15126.6(a) (“[a]n EIR shall identify and focus on the significant environmental effects of the proposed project”) (emphasis added). Through this analysis the EIR must “giv[e] due consideration to both the short-term and long-term effects.” CEQA § 15126.2(a). As explained in this comment letter, the FEIR’s environmental impacts analysis is deficient under CEQA because it fails to provide the necessary facts and analysis to allow the decision makers and the public to make informed decisions about the Project. An EIR must effectuate the fundamental purpose of CEQA: to “inform the public and responsible official of the environmental consequences of their decisions before they are made.”¹⁸ To do so, an EIR must contain facts and analysis, not just an agency’s bare conclusions.¹⁹ Thus, a conclusion regarding the significance of an environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA’s information objective.

¹⁶ *Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners*, 18 Cal.App.4th 729, 748, 22 Cal.Rptr.2d 618 (1993).

¹⁷ FEIR, p. 6.9-42.

¹⁸ *Laurel Heights I*, 6 Cal. 4th at 1123.

¹⁹ *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 568 (1990).

Additionally, an EIR must identify feasible measures to mitigate significant environmental impacts.²⁰ Under CEQA, “public agencies should not approve projects as proposed if there are feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.”²¹

As discussed above the FEIR’s failure to provide a stable and consistent description of the Project, precludes the County from conducting an accurate and complete assessment of the environmental setting, render its analysis of direct, indirect, and cumulative impacts inadequate. Indeed, each of the deficiencies discussed above leads inexorably to a deficiency in impacts analysis, as discussed herein.

A. FEIR Fails to Substantiate its Demand, Supply and Allocation Assumptions for Water Resources.

There is an inescapable dichotomy in California between the scarcity of water and the perceived need for burgeoning development. In a time of climate crisis, the importance of nature resources and water conservation is paramount. Given the additional pressure of population brought on by this project²² “drought” will be the prevailing climate. The overall prospect for providing Southern California with reliable water for its present population is unlikely to improve. In fact, it clearly has the potential to worsen given; California has been overdrawing its allotment of Colorado River water.

The FEIR fails to account for several ongoing legal and administrative proceedings that will have a fundamental affect on the viability of the project.²³ As a result of this failure the FEIR’s assumptions are without evidentiary support, and its analysis of the Project’s direct, indirect, and cumulative impacts is fatally flawed.

1. Unreliability of Identified Sources Violates California State Law

The sources of water identified in the FEIR are not reliable. The FEIR fails to accurately disclose that anticipated supplies are currently subject to limitations, while have a high probability to continue experiencing restrictions in allocations, and may actually experience increases in restriction. An EIR must include an adequate discussion of contingencies in case

²⁰ CEQA Guidelines § 15126.4; 40 C.F.R. §§ 1508.14(f), 1508.20.

²¹ Pub. Res. Code § 21002.

²² The Project is estimated to have approximately 15,000 units at an estimated two occupants per unit the project will bring at least 30,000. If one is to figure each unit on average is a single-family dwelling of four persons that is a total of 60,000, persons. The Project fails to provide any averages or calculations with respect to population estimates.

²³ The Project depends on allocations of Colorado River Water for viability, however those allocations established under the Quantitative Settlement Agreement (QSA) is subject to pending litigation in multiple forums. See *Quantitative Settlement Agreement Cases*, SUPERIOR COURT OF CALIFORNIA, <http://www.saccourt.ca.gov/coordinated-cases/qa/qa.aspx#case-info> (last visited Aug. 14, 2011). See also *infra* section A.1 (detailing lack of approval for construction or access to water main proposed by Riverside County).

anticipated water supplies for a land use project fail to materialize.²⁴ “[W]here, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies.”²⁵

The proposed Project will rely on groundwater from the Coachella Valley Water District (“CVWD”) to satisfy 41% of its water demand.²⁶ However, the FEIR's water master plan does not detail any reasonable water main entering the proposed project area with the capacity required to satisfy the stated project's estimated need for 8,369 acre-feet per year. FEIR 6.20-1. Absent a means to actually deliver water supplied by the CVWD, any further analysis of planned water usage within the project is entirely illusory. Conservation plans and alternative water supplies are laudable, but a project simply cannot be considered viable under CEQA if the methods for supplying *all* potable water remain undisclosed.

Whereas, the FEIR does reference a thirty inch water main that was under construction in the project area at the time the FEIR was prepared, it concedes that line will not be available to deliver water to the project. “CVWD has already funded and is in the process of finalizing the right of way for the installation of a 30-inch water main along the old Highway 86 from 56th Avenue to 86th Avenue; this transmission line is currently being designed and constructed and will not serve the proposed project.”²⁷ The FEIR speculates that it *may* have access to a second 30” main that *might be* constructed parallel to the first. FEIR 6.20-63 “A future transmission main is planned to parallel this 30-inch pipeline, and it would provide water service to the project site.”²⁸ The 'proposed' parallel line is purely speculative in that it has neither reached any significant planning stage, nor does the FEIR give any affirmative indication that the project will have approval from the CVWD to exploit it.²⁹ At present, no EIR has been initiated for the 'proposed' main. Aside from these two lines, the FEIR does not identify any other significant connection points between the proposed project area and the CVWD.³⁰

The California Court has clearly found that the construction of additional water delivery facilities is a significant impact of a proposed project.³¹ Therefore, a legally sufficient EIR must describe the necessary construction for such delivery facilities if it is to meet CEQA's requirement for an EIR to “serve and informational purpose.”³² In light of the fact that an additional line will certainly have to be constructed to supply the proposed 8,369 acre-feet-per-year to the Project, the FEIR has failed to meet its burden on CEQA standards. It must be revised and re-circulated to include description and analysis of the necessary water delivery facility construction.

²⁴ Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (Vineyard), 40 Cal. 4th 412, 432 (2007).

²⁵ *Id.* at 432.

²⁶ FEIR 6.20-2. The number is questionable, given the inaccurate project description

²⁷ FEIR 6.20-63.

²⁸ FEIR 6.20-63.

²⁹ FEIR 6.20-63.

³⁰ *See*, FEIR figure 3.0-18.

³¹ Santiago County Water Dist v. County of Orange (“Santiago Cty Water Dist”), 188 Cal.App.3d 818, 829 (1981).

³² *Id.* at 829.

2. FEIR's Description of Water Sources is Internally Contradictory

The FEIR outlines the water sources for the proposed project as a mix of groundwater sourced from the CVWD, canal water sourced from the Colorado River, reclaimed water, and desalinated drain water.³³ Conversely, the FEIR also provides for the project to exploit additional new water sources, including groundwater wells, *should* they be required.³⁴ The parameters or circumstances under which, the "new water sources" would be triggered is conspicuously absent. The sheer mention of additional sources without identification, evaluation and analysis contradicts the core of FEIR's impact examination. Those engaged in a review of the FEIR are left questioning not only what the "new sources" of water will be, but also, what amount of water could be drawn from the "new sources" and what myriad of environmental impacts are probable. Without answering these vital inquiries it is impossible for the public and decision-makers alike to comprehend and provide meaning commentary when significant relevant information is purposely omitted from the analysis.

The current agricultural users in the region rely on groundwater for irrigation.³⁵ However, the Project FEIR does not offer any information on drawdown to neighboring wells if and when wells within the project area are exploited to meet the Project's water needs. The document proffers *de minimus* information on the subject, prohibiting the reviewing public and decision makers from fully knowing what those additional sources might be or the circumstances that would make them necessary. It is especially surprising that additional sources would be required given that the FEIR itself concludes that the CVWD will be able to meet all the water needs of the Project. "Under all ... conditions, it was determined that adequate water supply exists, and will exist based on future projections."³⁶ The lack of description leaves this section of the EIR amorphous, in violation of CEQA's requirement that an EIR be and "accurate, stable, and finite" description.³⁷ The FEIR must be revised to adequately describe the additional water sources that may be utilized, the circumstances that would give rise to their use, and any associated impacts.

3. The FEIR fails to Adequately Identify and Analyze the Impact of Climate Change on Water Availability

The FEIR provides a misleading and significantly understated appraisal of the probable effects of climate change on the availability of water for the project area, largely stemming from the inaccurate assessment of the on the ground environmental conditions. As stated above the FEIR, the proposed project relies on a combination of groundwater and flows from 'other sources' to meet its 8, 369 acre-foot-per-year demand. The groundwater demand, comprising 41% of the total, will be sourced through the CVWD, which receives water from the State Water Project ["SWP"].³⁸ The balance of the water demand will be met through a mixture of surface water

³³ FEIR 6.20-2.

³⁴ FEIR 6.20-64.

³⁵ FEIR 6.20-60.

³⁶ FEIR 6.20-3; *see also* FEIR table 6-20-10 (illustrating 100% reliability of CVWD water sources).

³⁷ County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 192-193 (1977).

³⁸ FEIR 6.20-14.

from the Colorado River, reclaimed water from the project area, and possibly desalinated drain water.³⁹

The availability and reliability of each of these water sources is inexorably tied to the effects of climate change. Colorado River water availability is vulnerable to drought conditions and reduced snowfall, both associated with global climate change.⁴⁰ Groundwater stores, the principal source of water for the CVWD⁴¹, have been consistently in a prolonged state of overdraft lasting decades.⁴² The aquifers rely on groundwater replenishment through an exchange program with the SWP to meet the needs of the growing Coachella Valley population.⁴³ Because the SWP also heavily relies upon flows from the Colorado River to meet California's water needs, the health of the groundwater aquifer tapped by CVWD to meet nearly half the proposed project's needs⁴⁴ is also tied to health of the river.⁴⁵ Given the level of exposure of the project's water supply to the risks of global climate change through its reliance on river water flows, the FEIR's cursory analysis fails to meet the standards of CEQA as informational document.

The FEIR for the proposed project admits that climate change has the "potential to affect the availability of source water."⁴⁶ However, the current research on the state of the Colorado River would suggest that the effects of climate change on future water supplies for the project area are much more certain. According to the Intergovernmental Panel on Climate Change:

North American city water supply systems often draw water from considerable distances, so climate impacts need not be local to affect cities. By the 2020s, 41% of the supply to southern California is likely to be vulnerable to warming from loss of Sierra Nevada and Colorado River basin snow pack."⁴⁷

These findings suggest that within 20 years of the construction, a significant source of water flows to both the SWP, the CVWP, and the project directly will be compromised by global climate change. Setting aside predicted flows, current river conditions show an unprecedented decline in water availability. The Annual Operating Plan for the Colorado River for 2011 found that the flows through the Colorado River basin during 2010 were below average.⁴⁸ Inflows to reservoirs

³⁹ FEIR 6.20-21 ("The source of water supply for the project is groundwater basin, which is recharged by other sources of water such as Colorado River water, reclaimed water, and desalinated agricultural drain water.").

⁴⁰ See, IPCC Report on Global Warming, 633, IPCC, http://srren.ipcc-wg3.de/report/IPCC_SRREN_Full_Report (last visited August 1, 2011).

⁴¹ FEIR 6.20-22.

⁴² FEIR 6.20-27, 28.

⁴³ FEIR 6.20-28.

⁴⁴ FEIR 6.20-4, 185.

⁴⁵ This is an estimated number since the actual number is unknown, as discussed above. *Infra*.

⁴⁶ FEIR 6.20-42 (emphasis added).

⁴⁷ See IPCC Report on Global Warming, 633, IPCC, http://srren.ipcc-wg3.de/report/IPCC_SRREN_Full_Report (last visited August 1, 2011).

⁴⁸ 2011 Draft AOP 5, ("2011 Draft AOP") available at: http://www.usbr.gov/uc/water/rsrvs/ops/aop/AOP11_draft.pdf (last visited August 12, 2011)

were as little as 60% of the average.⁴⁹ The entire Colorado River system experienced a net loss of water totaling 0.995 million acre-feet.⁵⁰ Despite the existing conditions, and strongly supported scientific probability climate change imposing additional stress on an already stressed water source, the FEIR acknowledges only a *mere* 'possibility.' The impacts associated with climate change mandated analysis of their significance in terms of The FEIR is incomplete and fails to meet CEQA requirements because of the lack of information and analysis of how significant changes to the availability of Colorado River water will affect the Project, its environmental impacts, and analysis of possible alternative water sources should river flows become unreliable.

4. Inadequate Analysis of Water Usage

The full scope of the proposed Project could be one of any combination based on which contingent requirements are met during the planning and initial construction phases. The FEIR identifies 5 possible build-out levels contingent on outside factors such as the restoration of the Salton Sea and the amount of commercial build-out in the project area. Each of these different project sizes will, understandably, have different water needs. However, despite this amorphous project description, the FEIR's analysis of water consumption and supply is based on a single, consistent volume, approximately 8,369 acre-feet per year.⁵¹ The amorphous project description cannot be reconciled with the finite water demand in such a way as to satisfy CEQA's requirement that an EIR serve as an informational document. The reviewing public cannot make an informed decision about the potential impacts of a project when the project description does not even adequately describe the project's scope. The proposed Project will rely on groundwater from the Coachella Valley Water District ("CVWD") to satisfy 41% of its water demand.⁵² But the FEIR is unclear as to which level of build-out this percentage belongs. The FEIR is inadequate in this respect and should be revised to reflect potential water demands at each level of build-out.

B. Insufficient Evaluation and Analysis of Biological Resources.

The Project footprint encompasses open space desert landscape the site of sensitive environmental resources and habitats. The project footprint abuts the Anza-Borrego Desert State Park ("ABSDP"), which boasts 4,000,000 acres of designated State Wilderness areas (which, represents over 80% of all designated wilderness lands in California). The Sierra Club stands with other organizations, such as the California State Parks Foundation, arguing that the FEIR fails to adequately and properly analyze the project's impacts on biological resources. As continuously stated by this comment letter, it is difficult to assess the true and accurate level of irreparable damage and environmental impacts of the project, considering the vital environmental resources that are involved and the fact that the FEIR pointedly lacks an adequate level of detail.

⁴⁹ *Id.*

⁵⁰ *Id.* at 6-7.

⁵¹ FEIR 6.20-1.

⁵² FEIR 6.20-2.

The FEIR contains no detailed, quantitative analysis of project impacts on populations of special – status species or habitats. The document instead conveniently omits any discussion – let alone analysis – of important edge effects. The FEIR makes sweeping statements that the Project will result in less than significant impacts without any supplying substantiation or justification.

The FEIR relies on insufficient studies and information for its artificial biological resources analysis. Practically all of the FEIR’s findings of reducing many of the impacts to a “less than significant level” cannot be made; and, that in many cases, the proposed mitigation measures for some species cannot prevent or reduce the Project’s significant impacts.

1. Analysis of Impacts

Pursuant to CEQA, there is a mandatory finding of significance if a project *may* impact an endangered species or its habitat and an EIR is required.⁵³ The Endangered Species Act (“ESA”) protects both the presences of species and the habitat that is necessary for the species to grow and thrive, and modifying this habitat may be a “take.” Accordingly, unless and until the County adequately studies the relationship between the proposed Project on the myriad of species potentially found within its boundaries, including but not limited to the Peninsular Bighorn Sheep, golden eagle, burrowing owl, American badger, flat-tailed horned lizard, amongst many others, the County has failed to proceed in the manner required by law under both CEQA and the Federal Endangered Species Act, as well as the California Endangered Species Act.

It is the FEIR’s contention that the environmental impacts are not likely to be cumulatively considerable and therefore not significant and not necessitating analysis in light of two long-range planning documents the CVMSHCP and the yet to approved and authored Salton Sea Restoration Plan.⁵⁴

A full quantitative analysis of impacts to special-status species must be provided within the four corners of the EIR, and appropriate and effective avoidance and mitigation measures must be adopted. The EIR cannot simply defer to the CVMSHCP or a non-existence and potentially never drafted restoration plan. The analysis of environmental impacts in the CVMSHCP was programmatic, and therefore the implementation CVMSHCP does not disavow the County’s requirement under CEQA to conduct and disclose project-level, species-specific, direct and cumulative analyses in an EIR and to mitigation for those identified impacts.

The Endangered Species Act standards and definition are not analogous to the CEQA standards for review, public disclosure, analysis of alternatives, and analysis of direct and cumulative impacts. The CVMSHCP cannot substitute for CEQA review or provide assurances to other agencies, the public and decision makers that disclosure, analysis, avoidance, and mitigation will not be required for direct, indirect, and cumulative impacts under CEQA as the Project moves along its build-out time continuum.

⁵³ CEQA Guidelines § 15065 (emphasis added).

⁵⁴ FEIR 6.4-172

According to CEQA, if a project has the potential to significantly affect an endangered species or its habitat, an EIR must be prepared.⁵⁵ The County has not analyzed the environmental impacts of the proposed project. CEQA requires public agency decision makers to document and consider the environmental implications of a project before acting on it.⁵⁶ CEQA prohibits a lead agency from approving a project with a significant environmental effect if there are feasible alternatives or mitigation measures that can substantially reduce those impacts.⁵⁷

a. Improper Disclosure and Assessment of Impacts

The FEIR provides cursory data, at best, about the population of protected, threatened, or endangered species within the project site, either before or after build-out. The FEIR has abjectly failed to provide the public with the information necessary to make an informed opinion as to the project's likely impacts to biological resources. It is impossible for the public and decision makers to ascertain the extent of the direct, indirect, and cumulative impacts of the project on the biological resources with the paltry information provided in the FEIR.

As an example, the FEIR fails to account for the increased lighting and noise associated with the development of a city complete with possible Marina. The FEIR simply states noise and light impacts would not amount to a nuisance to surrounding wildlife without any substantiation whatsoever.⁵⁸ The fact that the FEIR does not offer a solid conclusion about the impact of lighting is particularly telling; proposed mitigation that 'is expected' to reduce impacts to less than significant levels is simply not acceptable under CEQA standards. The discussion, or lack thereof does not even come close to any kind of credible impacts analysis, and, in fact makes a mockery of CEQA's requirement to do so. The section of this letter provides examples of the most egregious short-comings in this area and should not serve as an exhaustive assessment:

Movement Corridors

The Project FEIR does not adequately analyze the potential impact of the proposed development on the movement of threatened, endangered, and protected wildlife. Rather, it substitutes an unsupported conclusion that the impact of the Project will be less than significant. The FEIR concedes that the project area contains a number of sensitive and protected species, many of them with wide habitat ranges. Listing among these species are the bighorn sheep, rosy boa, desert tortoise, pocket mouse, burrowing owls, and round-tailed ground squirrel among others.⁵⁹

The FEIR concludes that construction of the proposed project will impact the movement of animals by destroying habitat necessary to facilitate migration.⁶⁰ Despite this finding, however,

⁵⁵ CEQA Guidelines §15065.

⁵⁶ Friends of Mammoth v. Board of Supervisors, 8 Cal.3d 247, 254-256 (1972).

⁵⁷ Mountain Lion Foundation v. Fish and Game Commission, 16 Cal.4th 105, 134 (1997).

⁵⁸ FEIR 6.4-101 ("With the proposed dark-sky requirements in place, it is expected that the indirect impact of night lighting on adjacent open spaces would be less than significant.")

⁵⁹ FEIR 6.4-8,9.

⁶⁰ FEIR 6.4-151 ("Construction of the proposed project would result in the conversion of lands currently used by native wildlife for movement and nursery sites").

the FEIR ultimately concludes that the impact to animals will be less than significant because of the availability of open spaces to the west and south of the project area.⁶¹ This conclusion is also expanded to include nesting and nursery sites.⁶² Given the sheer number of species covered by the Project FEIR, the physiological and behavioral variety among those species, and the lack of study about population density, an unsupported conclusion about the ability of these species to coexist and share nursery space in close proximity to a dense housing development is glaringly insufficient.

The FEIR relies on the lack of established movement corridors to avoid discussion and analysis of the impacts of the proposed project.⁶³ The lack of established migration corridors is not panacea for the defects of the FEIR. The FEIR must still analyze the impacts of the proposed project on the species that are currently on the ground in the project area. The FEIR fails to analyze any effects that the proposed development, including increased human presence, lighting, and noise, will have on the movement of animals around the perimeter of the proposed Project. A project cannot simply assume that a project will not have a significant effect as a way of avoiding analysis. Conclusions, such as those here, must be supported by fact and observation. To proceed otherwise is to rob CEQA of its primary purpose as an information document. Bare conclusions do not instruct decision makers or allow critique of the decision-making process. Because of these failures, the FEIR's analysis of impacts to migration and movement is completely inadequate and must be revised to include studies and information to support the given conclusions.

Edge Effects

The FEIR failed to evaluate indirect impacts to sensitive habitats, including impacts associated with the establishment of modification zones, recreational activities, the introduction of non-native plants, the introduction of pets, lighting, noise and the loss and disruption of essential habitat due to edge effects.

The FEIR defers to the Coachella Valley Multiple Species Habitat Conservation Plan ("CVMSHCP") for a general description of mitigation measures for dealing with the impact of

⁶¹ FEIR 6.4-155 ("Wildlife seeking passage through such areas may be frightened by the increased human presence on the project site and would move to open space lands to the west and south....impacts to regional wildlife movement/migration areas resulting from operation of the proposed project site would not be considered significant.")

⁶² FEIR 6.4-152 ("Due to the availability of open space areas to the west and south, and the general availability of open space in the project vicinity, impacts to wildlife movement across the proposed project site and impacts to wildlife usage of the proposed project site as nursery sites would be considered less than significant.")

⁶³ FEIR 6.4-9 ("No specific areas within the conservation area have been delineated as biological corridors. Within the conservation area, Peninsular bighorn sheep move between ewe group areas, but these movement areas are not specifically defined."); FEIR 6.4-152 ("No specific areas are identified by the CVMSHCP as biological corridors within the Santa Rosa and San Jacinto Mountains Conservation Area... The proposed project is adjacent to both the conservation area and ABDSP, but it would not sever or constrict this linkage.").

'edge effects.'⁶⁴ However, the FEIR is faulty in that it does not describe the actual impacts of such 'edge effects' at the project site or propose any specific mitigation for reducing their impact to less than significant levels. The CVMSHCP provides only general guidelines for lighting, runoff, noise, invasive species and the implementation of protective barriers.⁶⁵ It does not, in any way, meet the requirements set forth for an EIR for CEQA as far as informing the public about the actual impacts of a proposed project and setting forth and committing to mitigation measures to reduce those impacts to less than significant levels.⁶⁶ Neither the Project's FEIR nor the CVMSHCP addresses impacts to particular species, animal or plant, or addresses the conditions present at the project site. The FEIR merely cribs from the CVMSHCP following its vague language without committing to any form of concrete analysis or mitigation. As a result, the FEIR is entirely deficient with regard to 'edge effects' and should be revised to include actual information and analysis of the probable edge effects resulting from the proposed construction.

Within the FEIR's discussion of edge effects, there are issues of deferred mitigation. The Courts have routinely rejected mitigation measures that rely on "tentative plans for future mitigation."⁶⁷ Mitigation measures that defer mitigation by "require[ing] a project applicant to obtain a biological report and then comply with any recommendations that have been made in the report" are *not* adequate.⁶⁸ In *Communities for a Better Environment v. City of Richmond*, the Court found that mitigation measures were insufficient partially because the lead agency did not attempt to determine what reduction the "nonexclusive, undefined, [and] untested" mitigation measures would have. In this case, the FEIR defers development of plans to limit toxic runoff from the project site to some undisclosed date in the future.⁶⁹ This is entirely improper under CEQA. In order for an EIR to function, as an informational document, all plans and standards have to be set out in a finite manner for public. Deferring formulation of a runoff management plan deprives the public of a meaningful chance for review. Further, the FEIR does not even set out the full scope of consideration for determining edge effects. Instead, the FEIR couches its analysis in general, vague language. Edge effects will be addressed through reserve management activities *such as* fencing."⁷⁰ As with the runoff control discussed above, vague language similarly deprives the public of an opportunity to review and comment on the full scope of the EIR.

Avian Species and the Public Trust Doctrine

⁶⁴ FEIR 6.4-167 ("The CVMSHCP addresses impacts to listed species associated with project operation in Riverside County in Chapter 4.5, Land Use Adjacency Guidelines.")

⁶⁵ Section 4.5 CVMSHCP,

<http://www.cvmshcp.org/Plan%20Documents/11.%20CVAG%20MSHCP%20Plan%20Section%204.0.pdf>
(last visited August 14, 2011)

⁶⁶ *Mountain Lion Foundation*, 16 Cal. 4th at 134.

⁶⁷ *Communities for a Better Environment v. City of Richmond*, 184 Cal.App.4th 70, 92 (2010).

⁶⁸ *Defend the Bay v. City of Irvine*, 119 Cal.App.4th 1261, 1275 (2004) (emphasis added).

⁶⁹ FEIR, 6.4-168 ("Proposed development adjacent to or within a conservation area *shall incorporate plans* to ensure that the quality and quantity of runoff discharged to the adjacent conservation area is not alternated in any adverse way when compared with existing conditions." (emphasis added)).

⁷⁰ FEIR, 6.4-168 (emphasis added).

The Project FEIR explicitly recognizes that the proposed project site is within the Pacific Flyway,⁷¹ a designated thoroughfare providing necessary passage for thousands of migratory birds. Yet, the FEIR fails to consider or analyze any possible impacts that the Project would have on the migratory patterns of birds that rely on the Salton Sea as a pivotal stopover on their route. The FEIR does not consider the direct impacts of building height, window glare, or project lighting on avian populations. Further, the FEIR fails to contemplate how indirect growth inducing effects will impact the Pacific Flyway as the Project encourages further build out along with shore of the Salton Sea (possible inclusive of a recreational/commercial marina).⁷² The FEIR's analysis of impacts to avian species is limited to nest sites during the construction and operation phases of the project.⁷³ This kind of narrow-tailored analysis is entirely inadequate and fails CEQA's requirement that an FEIR serve as an informational document.⁷⁴ Due to the absence of analysis of impacts to avian wildlife, the reviewing public cannot and will not be sufficiently informed of the Project's potential impacts to a vital migratory route.

Also significant is the FEIR's failure to analyze the proposed Project's impacts to avian wildlife in accordance with the Public Trust Doctrine. The California Court has found that the public's interest through the Public Trust Doctrine extends to wildlife, specifically migratory birds.⁷⁵ “[Wildlife] are natural resources of inestimable value to the community as a whole.”⁷⁶ The inclusion of fish and wildlife into the public trust is also statutorily established in Fish and Game Code Section 711.7. Therefore, Riverside County as a public agency “must consider the protection and preservation of wildlife”⁷⁷ when reviewing the FEIR for the Travertine Point project. The FEIR fails to adequately inform the reviewing agency, so that it can balance the interests of the public in the preservation of wildlife and economic development.

The possible impact on the Project could have significant impacts on ecosystems both immediate to the project site, and distributed along the Pacific Flyway; lands and wildlife held in trust to the people of California. The County of Riverside, therefore, must account for their impact on the Flyway through engaged study and continued consultation with U.S. Fish and Wildlife Services and the California Department of Fish and Game. The Project EIR must be revised to include analysis of avian movement and cohesion along the Pacific Flyway and the potential impacts of Project construction and operation.

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b. Inadequate Mitigation Violate CEQA Mandate

⁷¹ FEIR 6.4-25; *The Importance of the Salton Sea and Other Terminal Lakes in Supporting Birds of the Pacific Flyway*, CALIFORNIA DEPARTMENT OF WATER RESOURCES, 1, <http://www.water.ca.gov/saltonsea/historicalcalendar/docs/TerminalLakes.pdf> (last visited August 14, 2011).

⁷² FEIR, 8.3-2, 8.3-3, 8.3-7.

⁷³ FEIR 6.4-83, 6.4-104.

⁷⁴ CEQA Cal. Pub. Res. Code §21061

⁷⁵ Center for Biological Diversity, Inc. v. FPL Group, Inc. 166 Cal.App.4th 1349, 1361 (2008)

⁷⁶ *Id.* at 1363

⁷⁷ *Id.* at 1364

The conclusion that all biological resource impacts are mitigated to a less than significant level is incongruous once an examination of the mitigation measures contained therein are assessed. In accordance with CEQA, an EIR must identify feasible mitigation measures to mitigate significant environmental impacts.⁷⁸ Therefore, the County is obligated not to approve a project as proposed if there are “feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.”⁷⁹

The FEIR relies on pre-construction relocation mitigation measures in addressing biological impacts. These measures are insufficient and lack specificity regarding the methodology and process that will be employed. Compounding the inadequacy is the complete absence of any discussion regarding the multitude of potential problems associated with species relocation. For example, the following mitigation measure has been proposed for the Colorado Valley woodrat:

Where a Colorado Valley woodrat nest is found, it shall be determined by the biologist in which direction escape by any rat individuals occurring inside the nest will be encouraged. Vegetation around the nest in the opposite direction shall be cleared to discourage woodrat individuals from moving in that direction. Once vegetation in that direction is cleared, the nest shall be nudged with a front-end loader, encouraging any woodrats in the nest to exit the structure in the direction that leads toward adjacent habitat occurring within the Open Space–Conservation land use category of the proposed project or alternatively within areas near the project site (such as ABDSP and SRSJM National Monument, or other state or federally controlled open space lands as allowable by the administering agencies) including areas within conservation easements). Once any woodrats present in the nest have been encouraged to exit the nest, nest materials shall be carefully and slowly picked up with a front end loader (slowly enough that any woodrats remaining in the nest can escape), and the materials shall be moved to adjacent suitable habitat, as noted above, that will not be impacted by project development, where woodrats may scavenge nest materials to build new nests. Due to hantavirus hazards, the nest shall not be excavated by hand, and nest materials shall not be carried by hand.⁸⁰

Articulating a baseless assertion that the relocation of a species (in this instance the woodrat) is not inherently a significant harm is illogical. The resulting material misrepresentation leads to an erroneous conclusion. The FEIR lacks any supporting or compelling evidence that the traumatic removal of woodrats from their nest via large diesel equipment would result in no significant impacts. Rather the opposite holds true, rodents, such as the woodrat, have a predilection towards infanticide when threatened.⁸¹ The potential for a significant downward trajectory for the species within the project area and beyond is highly probable; yet, any discussion of this impact is absent from the FEIR.

⁷⁸ CEQA Guidelines § 15126.4; 40 C.F.R. §§ 1508.14(f), 1508.20.

⁷⁹ CEQA Pub. Res. Code § 21002.

⁸⁰ FEIR 6.4-114

⁸¹ C. van Schaik and C.H. Janson eds. *Infanticide by Males and its Implications*, Cambridge, UK: Cambridge University Press citing the desert woodrat as an infanticidal species.).

There are a number of other groundless conclusions and actions that defy credulity. The FEIR takes an ill-advised generic approach towards mitigation and relocation management. In an attempt to simplify or streamline the process the FEIR's formulaic mitigation is again relocation first to suitable onsite areas followed by areas offsite. Several issues arise out of this approach (1) the same suitable Sonoran Creosote brush covered open space areas will be utilized for several different species ignoring the obvious predator prey relationship (toad eggs,⁸² Rosy Boas snake,⁸³ and Pocketmouse,⁸⁴ noting that pocket mice are the main staple in a snakes diet); (2) the office site locations are not specified, precluding any proper assessment for viability.

Demonstrating a misinterpretation of the definition and spirit of CEQA's 'feasibility' principle the FEIR finds no difference in interchanging it with "where feasible," "best effort" and "as is determined to be feasible." With respect to landscaping within or adjacent to conservation area the FEIR "shall incorporate native plant materials to the *maximum extent feasible*...."⁸⁵ Without laying out standards and criteria for feasibility, how is the public to know when, how or what they are able to do with respect to landscaping. The FEIR concluded that trapping of burrowing owls is most successful during the summer and if suitable alternate burrowing owl burrows were not found onsite than "where feasible, artificial burrows ... shall be created...."⁸⁶ However, the document relies on the same flawed procedure of insufficient compelling evidence for why is trapping preferential in the summer months and what comprises the standards of "where feasible."

Whereas, the Sierra Club appreciates the inclusion of educationally based mitigation measures, such measures are a poor substitute for the type of enforceable mitigation measures that are necessary to minimize the significant impacts associated with the Project. A greater understanding of the local environment is essential and serves an important purpose, but will not prohibit or ensure changed/modified behavior.

The FEIR fails to provide for reasonable, feasible mitigation measures to avoid and minimize adverse impacts to biological resources. For affected sensitive habitat and vegetation types, the FEIR should have prioritized avoidance, followed by onsite habitat replacement at a mitigation ratio calculated to ensure success, followed by onsite restoration and enhancement, followed by off-site mitigation. The FEIR also failed to specify that the identification and purchase of mitigation areas, with establishment of effective long-term management.

V. The Above Described Defects in the FEIR Provide Good Cause for Revision and Recirculation of a New EIR.

It is clear from the magnitude of revisions that are required (in this and other comment letters submitted) for the FEIR to be adequate that recirculation will be necessary. A lead agency must revise and re-circulate "[w]hen significant new information is added to an environmental impact

⁸² FEIR 6.4-110; 6.5-5,6

⁸³ FEIR 6.4-11

⁸⁴ FEIR 6.4-113; 6.5-9

⁸⁵ FEIR 6.4-148, 149

⁸⁶ FEIR 6.4-95

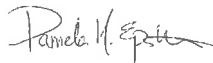
report” after public review and comment on the earlier DEIR.⁸⁷ The opportunity for meaningful public review of significant new information is essential “to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn there from.”⁸⁸ An agency cannot simply release a draft report “that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review.”⁸⁹

In order to cure the panoply of defects identified in this letter, the County must obtain substantial new information to correctly describe the Project and its environmental setting, adequately assess and propose mitigation for its significant direct, indirect, and cumulative environmental impacts, and identify effective mitigation capable of alleviating or avoiding those impacts. This new information will clearly necessitate recirculation. CEQA requires that the public having a meaningful opportunity to review and comment upon the significant new information in the form of a revised and recirculated EIR.

Conclusion

The Sierra Club looks forward to a revised EIR that fully address the above comments and provides the level of analysis and mitigation required by CEQA. Again, please add the Sierra Club to your mailing list for any and all correspondence related to this project. Thank you again for this opportunity to comment on the Travertine Point Specific Plan No. 375.

Respectfully Submitted,



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The San Diego Chapter of the Sierra Club is San Diego’s oldest and largest grassroots environmental organization, founded in 1948. Encompassing San Diego and Imperial Counties, the San Diego Chapter seeks to preserve the special nature of the San Diego and Imperial Valley area through education, activism, and advocacy. The Chapter has over 14,000 members. The National Sierra Club has over 700,000 members in 65 Chapters in all 50 states, and Puerto Rico.



⁸⁷ Pub. Res. Code § 21092.1.

⁸⁸ Sutter Sensible Planning, Inc. v. Sutter County Board of Supervisors, 122 Cal.App.3d 813, 822 (1981); City of San Jose v. Great Oaks Water Co., 192 Cal.App.3d 1005, 1017 (1987).

⁸⁹ Mountain Lion Coalition v. California Fish and Game Comm’n, 214 Cal.App.3d 1043, 1053 (1989).



CALIFORNIA STATE PARKS FOUNDATION

August 15, 2011

Mr. Matt Straite
Riverside County Planning Department
4080 Lemon Street, 9th Floor, P.O. Box 1409
Riverside, CA 92502-1409

SENT VIA ELECTRONIC MAIL and U.S. MAIL

RE: Final Environmental Impact Report No. 514, Project No. SP 375, GPA 00910, and CZ 07623 – Travertine Point Specific Plan - SCH#20071014145

Dear Mr. Straite:

On behalf of the California State Parks Foundation (“CSPF”) and its 120,000 members statewide, I appreciate the opportunity to comment on the proposed Travertine Point Specific Plan Project (“Project”).

CSPF is the only statewide, independent nonprofit organization dedicated to protecting, enhancing and advocating for California’s magnificent state parks. Over the last several years, we have provided leadership on statewide efforts to protect state parks from incompatible developments that impact and threaten public access, visitor enjoyment and the economic vitality of California’s 278 state parks. In addition to pursuing state legislation, we have been integrally involved in regional and local campaigns to protect state parks from transportation, utility, and commercial developments that were wholly incompatible with the recreational, natural and cultural resources goals of the affected state parks.

CSPF’s interest in this Project is related to its impacts to Anza-Borrego Desert State Park (“ABDSP”). ABDSP is a unique state treasure that supports over 400,000 acres of designated State Wilderness areas, representing over 80% of all lands so designated in California. ABDSP was designated in 1974 as a National Natural Landmark. In 1985, the Park was named a member of the International Biosphere Reserve Program by the United Nations in recognition of its stature as an internationally significant conservation area (ABDSP General Plan, 2005). It is the largest state park in California and the continental United States, with over 600,000 acres of pristine desert and mountain wilderness, hiking trails, and unparalleled vistas.

Visitors to ABDSP travel to the park to experience a unique park experience and can be best characterized in ABDSP vision statement,

ABDSP is a place of awe, inspiration, and refuge. The vast desert landscape and scenery are preserved in a pristine condition. The full array of natural and cultural resources are cared for so

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as to perpetuate them for all time while supporting those seeking enjoyment from these resources...Emphasis is placed on having park visitors experience the true, real, tangible desert environment...

ABDSP's General Plan approved by the California State Parks and Recreation Commission in 2005 deliberately sets aside ABDSP to provide visitors a specific and distinct park experience. In Fiscal Year 2009-10, almost 500,000 people visited ABDSP, generating \$486,000 from user and concession fees.

CSPF is concerned with the significant impacts to ABDSP, as well as impacts to the nearby Salton Sea, from the proposed Project. Both the FEIR and the Riverside Planning Department Staff Report on June 7 concluded unavoidable and significant impacts will occur to ABDSP. CSPF's concerns include concerns about the Project causing degradation of the natural character and resource protection purposes at ABDSP and degradation of biological resources.

Degradation of the natural character at ABDSP

As proposed, the project is in close proximity to ABDSP, specifically to the Santa Rosa Mountains State Wilderness. The Santa Rosa Mountains State Wilderness was designated by the California State Legislature in 1974 and is the first State Wilderness Area within ABDSP. In 1982, the Santa Rosa State Wilderness was expanded and eleven other roadless areas of ABDSP were adopted by the State Parks and Recreation Commission for inclusion into the State Wilderness system (ABDSP General Plan, 2005).

State Wilderness designation is distinct level of classification within state parks and other conservation lands in California. Public Resource Code Section 5019.68 defines a state wilderness as, "...an area of relatively undeveloped state-owned or leased land which has retained its primeval character and influence or has been substantially restored to a near-natural appearance". The proposed Project is inconsistent with the State Wilderness classification, as the proximity of newly-constructed facilities and infrastructure, much of it visible from the park, will alter the natural character of ABDSP, both short term and long term. Our specific concerns include the following areas.

Proximity

The proposed Project is within very close proximity of ABDSP and, in some places, trails will stop approximately 500 feet from park boundaries. We acknowledge and appreciate planning efforts to locate other Project-specific open space adjacent to park property. Placing designated open space adjacent to park borders is a positive step toward continued natural resource protection and safeguard of ABDSP assets. It also reflects an understanding that highly-developed residential and commercial infrastructure adjacent to sensitive lands create impacts that are damaging and permanent. However, the Project does not locate only open space at the borders of ABDSP. Medium density residential, mixed use and medium high density residential and public facilities planned for development along other edges of the park will increase the overall impact to ABDSP. Given the unique nature and designation of this park, additional

efforts must be made to designate more open space adjacent to park boundaries to decrease the overall impact to ABDSP.

Access and Use

Residents of the new town created by the Project are likely to increase use of ABDSP at the northeast border of the park, an area that is predominately a rugged desert environment. The northeast corner of the park is entirely within the Santa Rosa Mountains Wilderness and includes the highest mountains in the park. Currently there are no paved roads in that area, and only one trail, Travertine Palms Wash Trail. Due to the remoteness and rugged conditions of the area, this section of the park does not currently enjoy a visible staffing presence and access to the area by park staff is often limited to aerial, visual checks.

While public access is a key component of California's state park system, that access can and should be consistent with existing park standards and natural resource preservation goals. The Project acknowledges that its residents will indeed use ABDSP and will have considerable impacts. The FEIR finds "...the potential exists for indirect impacts to off-site areas from the intrusion of humans, pets, and motorized vehicles in these sensitive areas. Even with mitigation measures, impacts would be significant and unavoidable." (FEIR, p. 6.16-1) Mitigation measures suggested in the FEIR do not go far enough to ensure minimal impacts to the park. In particular, if open space is available within the proposed Project boundaries at the same time the residential units are constructed, the FEIR concludes that impacts to use at ABDSP will decrease because residents will opt to use the Project-provided parks and open space over ABDSP. The FEIR lacks evidence to support this conclusion. The type of recreation provided at local and regional parks is often considerably different than the opportunities at a large state park, and particularly different than experiences in a park as unique as ABDSP. Without evidence, the FEIR is attempting to determine the behavior and use patterns of future residents, which are difficult to predict with any certainty.

Mitigation measures that call for placing signs and interpretive material at trailheads within the Project that connect with trails leading into off-site areas within ABDSP (FEIR, p. 6.16-35) cannot be exclusively relied on to decrease unauthorized or illegal uses of the area. It is unclear in the FEIR what enforcement will be provided if residents do not comply with the posted instructions. Although the development of new trails is expected to prohibit illegal motorized vehicles to ABDSP, again, it is unclear what enforceable measures will be implemented to ensure that use does not occur. The lack of specificity on the issue of enforcement, particularly given the current limited staffing for the relevant area of ABDSP, is a critical deficiency in the FEIR.

Aesthetics

The proposed project would be visible from within ABDSP, changing the visual desert landscape of ABDSP. The FEIR finds, "The project site would be visible from designated wilderness zones in the northeastern portion of the park" (FEIR, p.6.1-43). As noted above, ABDSP includes State Wilderness

area, which is a distinct level of protection and a designation for an unspoiled natural environmental setting. Being able to view the significant residential and commercial infrastructure created by the proposed Project is at odds with this level of designation.

The current land use and ownership of the region is predominantly open space and agricultural lands. Addition of almost 5,000 acres of commercial and residential developments, which includes over 16,600 residential dwellings, will alter the nature and overall character of this desert region. The FEIR concludes, "The proposed project would change the character of the project site from predominantly agricultural and open space to urban development" (FEIR, p. 6.9-42). Changes in use designation, expansion of State Route-86S, and growth of existing services required by the Project site have the potential to lead to other development pressures and future proposals within the same area.

Noise

The actual impact of noise at ABDSP is unknown because the FEIR fails to analyze noise impacts at the park. This failure leaves the FEIR incomplete and insufficient with respect to its analysis of cumulative project impacts to ABDSP. Noise-related issues that should be specifically studied include:

- a) Changes to existing noise levels within the park
 - a. during construction and
 - b. when the Project facilities are occupied
- b) Impacts of those changed noise levels to park visitors
- c) Impacts of those changed noise levels to species within the park
- d) Changes to existing noise levels within the park, due to increased traffic on SR 86S

A complete noise analysis addressing the issues above is required to fully understand the impacts of the proposed Project to ABDSP.

Degradation of biological resources at ABDSP

ABDSP and its adjacent lands are rich in natural resources that are threatened by the proposed Project. Numerous species have been identified have the potential to be found within the boundaries of the proposed Project, species include Peninsular Bighorn Sheep, golden eagle, flat-tailed horned lizard, burrowing owl, Le Conte's thrasher, Palm Springs round tailed ground squirrel, American badger and more. Plant species include Sonoran creosote bush scrub, blue palo verde wash woodland, Mecca-aster, Orcutt's woody-aster, sand evening-primrose, slender cottonheads, California ditaxis and more.

The FEIR fails to prove that mitigation measures will reduce the impacts to species from loss of habitat, introduction and prevalence of toxins, and introduction of domestic animals and invasive species. Mitigation measures that propose to move species found at the project site prior to construction are insufficient and lack specificity on the methodology and process that will be employed to move plant or

wildlife species. The FEIR also lacks a full discussion of potential problems associated with species relocation. Conclusions that relocation of species do not carry inherent harm to plant or wildlife species are not sufficiently supported and the FEIR lacks compelling evidence to confirm that claim.

The introduction of use of toxins and invasive species, and loss of habitat from the proposed Project will have a substantial impact on the natural environment. Mitigation measures that focus on awareness of the local natural environment, including impacts to existing plant and wildlife species from invasive species and pets are important to initiate. However, the mitigation measure lacks any enforceability. While education is essential to creating an understanding of the potential conflicts and impacts, such efforts are not a certainty to expressly prohibit actions and behaviors that will create resource impacts. CSPF is particularly concerned with the impacts to Peninsular Bighorn Sheep. Currently, ABDSP provides critical habitat for the Federal and State Endangered species. The ABDSP General Plan states,

Peninsular Bighorn Sheep occur in the Peninsular Ranges, from the San Jacinto and Santa Rosa Mountains... It is estimated that 75% of the total U.S. population of Peninsular Bighorn Sheep reside within the Park boundary. Major threats to this species include disease, predation by Mountain Lions, and loss and fragmentation or disruption of important habitats (ABDSP General Plan, p. 54).

The FEIR acknowledges Peninsular Bighorn Sheep occur within the Santa Rosa Mountain range, as well as, "have the potential to occur on, or otherwise utilize, the project site" (FEIR, p. 6.4.75). The FEIR claims of reducing the impact to Peninsular Bighorn Sheep by preventing recreational trails leading into sensitive areas adjacent to the proposed Project, including ABDSP (FEIR, p. 6.4-129) do not prevent degradation of critical habitat. As already stated above, the lack of measures to enforce protection of the area will threaten habitat for Peninsular Bighorn Sheep.


CSPF believes the FEIR, overall, remains inadequate in its response to potentially significant park impacts and inappropriately defers critical analysis for land management, habitat preservation, biological resource management, noise and visual impacts to future five district level environmental analysis. This FEIR establishes the parameters for future analysis and sets a framework for the work of multiple, district level environmental review documents. As such, it is imperative that this FEIR contain a comprehensive analysis of impacts and mitigation measures appropriate to avoiding, minimizing or mitigating the potentially significant impacts considering construction is expected to extend for an estimation of 35 years, over five phases.

ABDSP is a state treasure that showcases the diversity and irreplaceable value of California's state park system and natural environment. Unfortunately, the above-referenced deficiencies in the FEIR make it difficult to fully assess the complete impact of the proposed Project to this important state park. CSPF

urges the recirculation of the environmental review documents for a comprehensive analysis of the proposed Project.

Thank you for the opportunity to comment on the proposed Project. Please do not hesitate to contact me at 916-442-2119 with any questions regarding this letter or CSPF's position.

Sincerely,



Traci Verardo-Torres
Vice President, Government Affairs
California State Parks Foundation

CC: Riverside County Board of Supervisors
Gail Sevrens, California Department of Parks and Recreation



DEPARTMENT OF PARKS AND RECREATION

Colorado Desert District
200 Palm Canyon Drive
Borrego Springs, CA 92004

Ruth Coleman, Director

August 15, 2011

Board of Supervisors
County of Riverside
County Administration Center
P.O. Box 1409
Riverside, CA 92502-1409

Via US Mail and electronic mail

Subject: Comments for the Board of Supervisors Meeting – Travertine Point Specific Plan - Final Environmental Impact Report No. 514, Project No. SP 375, GPA 00910, and CZ 07623 – Travertine Point Specific Plan - **SCH#20071014145**

Dear Board of Supervisors:

The Colorado Desert District of California State Parks includes Anza-Borrego Desert State Park (ABDSP), which the proposed project, Travertine Point, borders. We have the following comments concerning the proposed Travertine Point project.

- It appears you may have misinterpreted our letter (May 24, 2011, attached and incorporated herein by reference) concerning significant effects, and stated that open space (Conservation) was adequate and was already compensating for the land that will be built on. It appears that you interpreted our comments as regarding CVMSHCP mitigation for building within the HCP boundaries, while our comments actually intended to suggest mitigating for indirect impacts to State Park lands. The Final EIR states there will be significant impacts due to the "intrusion of humans, pets, and motorized vehicles in the adjacent State Park wilderness areas adjacent to the proposed project." Anza-Borrego Desert State Park is not part of CVMSHCP, therefore mitigation provided to CVMSHCP would not mitigate the impacts to the Park. California State Parks suggests mitigation be either in a form of endowment to provide for ranger patrol of the area (this area has never before been accessible to hikers and others, and therefore has not required patrol in the past) as well as maintenance and monitoring and repair of any areas damaged by users allowed access via the proposed project or acquisition of suitable land to be incorporated into the park with the intention of pursuing designation of the land as State Wilderness, or a combination of both.
- We reiterate our previous comment (May 24, 2011) which states "if the proposed project can not reduce the impacts to a level that is less than significant by reducing the project footprint adjacent to the ABDSP we suggest that the proposed project (if approved and constructed) acquire land

with similar resource values and convey the land to a qualified National, State, Regional, or Local government or qualified land trust with deed restrictions or conservation easement to ensure the land is managed in perpetuity as conservation land.” Our letter states no distance or size to the reduction of project footprint adjacent to the ABDSP, yet the project proponent stated at the May 25, 2011, meeting that the project could not afford to reduce the project footprint and that such requirement would prevent the project from taking place. State Parks feels that, given the relatively low cost of land in the area, that any project of this size must certainly have the small amount of funds required to carry out this mitigation and therefore requests demonstration by the project proponent that their project has such small reserve or contingent funds that it can not provide even this small level of mitigation for the impacts of their project to the State of California.

- One of the planning commissioners stated that the Parks probably or should already have built in a buffer into the Park boundary to account for any development along its borders. This is not the case: the land up to and immediately adjacent to the project is designated State Wilderness. Therefore, this project will impact State Wilderness, which was stated in the EIR. Therefore, this project must mitigate its impacts to State Park lands.
- Archeology – The FEIR states that if archaeological sites “cannot be avoided during project development, Phase II Testing and Evaluation is recommended to ascertain site integrity, data potential, and significance.” 1) This language does not put the primary emphasis on preservation as State and Federal Historic Preservation Statutes require and 2) the language considers only the archaeological data values of the cultural resources and does not consider that these measures likely will not mitigate for impacts to Tribal Cultural Values or impacts to the overall Colorado Desert Cultural Landscape.
- Archeology - All references to mitigation measures specify that they be implemented prior to “grading final.” At the point of grading final, the project is designed and it is costly and perhaps impossible to redesign the project to provide for avoidance of cultural resources and preservation of cultural landscapes. Cultural surveys to identify cultural resources and plan for individual site and landscape preservation must be completed at the earliest phase of project design so the findings can be incorporated into initial project design.
- Response 14-5 states that any impacts to the blue palo verde woodland community would be deemed significant, but fails to offer any mitigation to reduce the impacts to a level less than significant. Again, our recommendation is to require that these California Department of Fish and Game-designated sensitive plant communities be conserved in their entirety within the entire proposed project, not just within the Open Space conservation lands. The response states “the community location within the drainages provide a challenge to both protect the plant community and provide flood protection to adjacent residential or commercial development.” The location of residential and commercial development adjacent to

drainages containing blue palo verde woodland communities needs to be reconsidered and removed from the project proposal, if that is indeed the only option to protect these State sensitive plant communities.

- Response 14-6 discusses our concerns about the introduction of invasive exotic plant species (e.g., Sahara mustard) resulting from the actual construction of the proposed project, and admits that an increase in invasive species in native plant populations would be a significant impact; however, gives mitigation measures 6.4-30 and 6.4-40 as measures to minimize these impacts. These mitigation measures pertain to producing a plant palette that does not contain exotic invasive plants for planting during landscaping, not a plan for control of invasive plant species that may increase as a result of construction activities, as we suggested in our letter. Therefore these mitigation measures do not reduce the level of impacts to less than significant.

If you have any questions or concerns regarding these comments please contact me by telephone at 760-767-4037 or via email at gsevr@parks.ca.gov.

Sincerely,

Original Signed by

Gail Sevens
District Superintendent, Acting
Colorado Desert District
California State Parks

Cc: Matthew Straite, planner, mstraite@rctmla.org
Clerk of the Board of Supervisors, cob@rcbos.org
State Clearinghouse, fax 916-323-3018

BY FACSIMILE AND ELECTRONIC MAIL

August 15, 2011

The Hon. Bob Buster, Chairman
Board of Supervisors
County of Riverside
4080 Lemon St., 12th Floor
Riverside, CA 92501

RE: Item 16.3: Specific Plan No. 375, GPA No. 910 (Hearing Date: Aug. 16, 2011)

Dear Chairman Buster and Members of the Board:

Before the Board is a gigantic proposed “new town” (Travertine Point) of over 16,000 units located (for the time being) on the shore of the Salton Sea. The Endangered Habitats League (EHL) is deeply concerned over this proposal, and urges that the Board defer consideration *at this juncture* on the following grounds:

- A potential new city of this magnitude is of such importance that it should only be considered at the time of a *comprehensive* update to the General Plan. A piecemeal approval is inappropriate and deprives the public of an opportunity to place this and other proposals within a broader vision or context. A project of this scale has the potential to prejudice the consideration of alternative visions for the long-term future of Riverside County, a decision that is best made as part of a comprehensive planning process. For example, early approval of 16,000 housing units at this remote location may create burdens on infrastructure—particularly water supply and the supply of regional transportation capacity—that could preclude other opportunities for development in more efficient, sustainable locations. These trade-offs can only be considered on a regional scale.
- The current General Plan already suffers from severe over-capacity of housing. In other words, given anticipated population growth, it would take many decades for the other major developments your Board has already approved to be built out. There is no demographic need for this project. By worsening the over-capacity problem, the project further stretches limited infrastructure and service dollars, and scatters such investments in an inefficient and uncoordinated manner. The promised job-housing balance is illusory. Staff cannot provide a single example in the entire country where a new town (other than a “company town” tied to an

industry like mining) that has met the ambitious internal trip-capture assumptions upon which the rosy traffic, air quality and GHG emissions analyses rest. While it is true that the Project sets high standards for the phasing of housing and non-residential development, Riverside County has historically lagged in the rate of development of the latter. Nothing in the documentation in support of this project supports the conclusion that the Project will reverse this trend. To the contrary, non-residential development in the Coachella Valley has (and will continue) to concentrate along the more affluent SR 111 Corridor. Houses at Travertine Point will likely be occupied by service employees for these areas who are priced out of the more expensive local housing stock, resulting in long average trips lengths and consequent traffic, air quality and greenhouse gas emissions. Inevitably, the project applicant will come back to your Board with further specific plan amendments when unprecedented jobs/housing phasing standards are not met. It is better to make planning decisions based on realistic, empirically supported assumptions as part of a comprehensive review of where best to locate future housing as part of the comprehensive General Plan review.

- The Project depends for its success on the successful restoration of the Salton Sea, an artificial water body that faces a highly challenging and dubious future under the very best of circumstances. This “sea” is evaporating at a rate of roughly 450 million gallons a year, and there is no established source of new water supply. Massive restoration funding—the State has estimated about \$9 billion—will be required and has not been identified. It is thus possible—indeed probable—that the western shore of the Salton Sea may continue to recede and that severe salinity and pollution issues will remain unresolved. Approval of development plans that bank on a scenic shoreline, resort, and marina before resolution of these issues is simply foolhardy. This is an independent reason to defer decision on this project.

Aside from these compelling policy reasons, EHL objects to the Project because its environmental documentation does not meet the standards of the California Environmental Quality Act (CEQA). Other than the inadequacies identified by other commenters in the formal comment period, upon which EHL would rely, the cumulative impacts analysis improperly relies on regional forecasts based on adopted plans. It wholly fails to account for all pending and foreseeable development in Riverside County, including that encompassed by landowner-initiated General Plan amendments, the County-initiated General Plan Amendment, all pending specific plan applications, and other pending applications in nearby cities. Again, deferral of the decision on this Project until the General Plan is comprehensively updated, and incorporation of alternative concepts into the project description for that Update, would resolve this inadequacy in the cumulative impacts analysis.

For these reasons, EHL urges that your Board deny approval now and defer consideration of future land uses for this area as part of a comprehensive General Plan update when larger regional questions of housing supply, water availability, employment, and transportation can be addressed.

Sincerely,

Dan Silver, MD
Executive Director

**MARK C. JORGENSEN
DESERT ECOLOGIST
POST OFFICE BOX 7
BORREGO SPRINGS, CA 92004**

**Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501**

SUBJECT: TRAVERTINE POINT SPECIFIC PLAN, Project SP00375

Board of Supervisors:

I am writing to express my opposition to the proposed development project at Travertine Point in southern Riverside County, bordering Anza-Borrego Desert State Park. The proposed location of a new community being designed to house up to 30,000 residents is completely out of character for this portion of Riverside County, and the concept should be rejected by the Board of Supervisors.

My concerns are with virtually every aspect of the proposed project. My first knowledge of this proposed development was while I was Superintendent of the adjacent Anza-Borrego Desert State Park, prior to my retirement. The thought of contacting park staff and consulting on impacts to park values was an afterthought by the project proponents. Their initial plan stated they were deeply concerned with potential impacts to their neighbors, but they failed to recognize their project bordered Anza-Borrego Desert State Park for almost a year into their planning process. This clearly made the point that they were going full speed ahead with planning a new city, with disregard for environmental impacts, neighboring State Wilderness values, as well as the presence of the Santa Rosa/San Jacinto Mountains National Monument.

The findings in the Specific Plan and Final EIR #514 are inadequate to mitigate the massive impacts the planned community would have if built. The fact that so many of the expected impacts to the natural and cultural resources of the project site and surrounding lands are unmitigable, makes rejection of this proposal a clear mandate for the Board of Supervisors.

The list of potential impacts which in my opinion are not satisfied by mitigation is a long one, including: water, archeology, desert bighorn sheep, golden eagle, prairie falcon, osprey, impacts to the view shed, diminished wilderness values, native palm oasis, native palo verde/smoke tree community, utility poles, dogs, incidental trails, and incursion on neighboring lands by motorized vehicles.

2011-6-108298.

Water Where will all the water for 30,000 people, shopping center, schools, and landscaping come from? This question has never been answered in the plans, EIR, or in personal meetings with the proponents. It makes no sense to construct a new “city” in this remote area, when Riverside County provides hundreds of better sites for urbanization in-fill.

Archeology Significant archeological sites exist on and adjacent to the proposed Travertine Point development. Petroglyphs, Native American trails, rock trail markers, fish traps, shoreline food processing sites, and agave roasting pits abound in this region. Once impacted or destroyed, these cultural features are irreplaceable. Rock art exists on Travertine Point itself, just yards from existing date palms, and a fantastic field of rock art has been documented on nearby State Park and National Monument lands. What will be the impacts to these valuable cultural features? One site possesses hundreds of petroglyphs on at least forty-eight boulders. Putting a city adjacent to this site will no doubt spell doom to the site, and the many prehistoric trails and trail markers on the landscape.

Desert Bighorn Sheep The Endangered population segment of bighorn sheep residing in the Peninsular Ranges have used the proposed site and adjacent ranges for their subsistence for thousands of years. Designated Critical Habitat exists in this area, yet appears to have been disregarded by the planning and mitigation process. What is the mitigation for lost bighorn habitat? Aerial and ground surveys in this region have yielded numerous bighorn sightings, including a helicopter survey conducted by the California Department of Fish & Game which documented bighorn on the slopes of Coolidge Peak, adjacent to Travertine Point. The alluvial fans and lower slopes of the Santa Rosa Mountains are well known as bighorn sheep habitat, used by the subpopulation of the southern Santa Rosas. I see nothing substantive in the mitigation plans to date.

Birds I find the treatment of project management and proposed mitigation relative to impacted bird species to be wholly inadequate. The site is used by nesting and foraging golden eagles, prairie falcons, and even a resident osprey which feeds on the shoreline of the Salton Sea, and has used the project site for roosting for several years. You can't approve a project for a small city of 30,000 residents, removing hundreds of acres of quality habitat, with little to no thought of serious mitigation programs.

Visual Impacts and Diminished Wilderness Values The impacts to the view shed of this region will be permanently impaired. Bordering the proposed development along several miles of the project, are both State Wilderness lands administered by Anza-Borrego Desert State Park, and National Monument lands administered by the U. S. Bureau of Land Management. Wilderness by definition exists in its natural state, unimpaired by the hands of humans. A city of 30,000 residents with shopping centers, roadways, powerlines, substations, schools, lights, hum of lawnmowers, traffic, dogs, and associated urban activities are in total opposition to the concept of wilderness, state parks, and National Monuments. This is the wrong place in Riverside County for such a development.

Native Palm Oasis The presence of an ancient native palm oasis within Anza-Borrego Desert State park will no doubt attract numerous residents and visitors, should this proposed development ever be approved and constructed. Native Cahuilla foot trails lead hikers to this secluded oasis, where the native California fan palms have survived nestled in Travertine Palm Wash for thousands of years. Indian trails and ancient petroglyphs mark this oasis as an ancient destination, not one to be heavily impacted and abused by a new city nearby. What mitigation measures are to be put in place to totally safeguard such a noble desert oasis?

Native Palo Verde and Smoke Tree Plant Community The Plan and EIR do not adequately provide for the integrity of the native blue palo verde and smoke tree community which has evolved and thrived in the rugged gullies and arroyos of Travertine Palms Wash. This native plant assemblage cannot be disregarded or conveniently overlooked. Planning so far seems to take these highly adapted desert trees for granted. The plan states these trees cannot properly be saved, since large-scale flood control devices need to be put in their place. The existence of the palo verdes and smoke trees should be an indication to planners that large-scale flooding does occur, and possibly leaving the trees in place and planning development elsewhere might be a grand idea. I find the Plan and EIR to be grossly inadequate with regards to safeguarding the native plant communities and the manner in which both address protection of the natural environment from the introduction and subsequent control of invasive non-native plant species.

Impacts on the Neighboring Environment Placement of utility poles, introduction of pets such as domestic dogs and cats, proliferation of incidental trails, and the probability of incursions by motorized off-highway vehicles on neighboring lands will cumulatively have a profound negative impact on the adjacent State Park, Anza-Borrego Foundation, and National Monument lands. Mitigation plans needs to be heavily bolstered should the proposal ever be approved. All utilities should be mandated underground, regulations on pets should be strict, and use of OHV's strongly prohibited. Above-ground utility poles are one of the most visually offensive issues in the open desert environment. The nearby Salton Sea housing boom is an excellent example of the visual blight that occurs when planners allow power and telephone poles to be erected above-ground. Literally thousands of poles were erected in a recent two-year period, when undergrounding could have meant so much to the quality of life and value of the neighborhoods.

In summary, I find the development proposal unacceptable for the Travertine Point area. I ask the Riverside County Board of Supervisors to reject the project and recommend it be redesigned for a more acceptable location in the County. I would expect the Board to be enticed by the income from property taxes and developer fees but I'm asking the Board to reject this project for the many reasons I have illustrated above and for its profound negative impact on the environment. This proposed housing development for 30,000 people is a mistake and it would be a wise move to strike it down before it moves any further.

Sincerely,


Mark C. Jorgensen
Borrego Springs



**Friends of the
Desert Mountains**

45480 Portola Avenue
P.O. Box 1281
Palm Desert, CA 92261
760 568-9918 fax: 760 568-9908
www.desertmountains.org

July 14, 2011

County of Riverside
Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Re: Travertine Point Specific Plan Final EIR

Dear Supervisors:

The Friends of the Desert Mountains (FODM) is a California non-profit corporation that acquires land in the Coachella Valley area to protect its biological, cultural, scenic, and recreational resources. Our basic policy is not to comment on land use projects except when land we have acquired may be impacted. In this instance, the Friends acquired lands in Section 25, T8S, R8E by the project site and in Section 27 in the same vicinity. In addition, we have assisted state and federal agencies in the acquisition of more than 6,600 acres in the immediate area, with more in progress. These lands were acquired to protect the extraordinary cultural, archeological, geological, biological and scenic resources of the ancient Lake Cahuilla Shoreline and its surrounding historic landscapes, and reflect an investment of many millions of dollars.

During the course of the Travertine Point Project's EIR review process, the Friends submitted comments during the original NOP period, comment letters during both public comment periods for the Draft EIR and revised DEIR, as well as attended the May 25th Planning Commission meeting regarding the project. At that meeting we requested that the public hearing be kept open until the next Commission meeting to afford us the opportunity to review the FEIR which had just been released approximately 10 days prior to the meeting. Although the Commission did continue the item to its next meeting, it closed the public hearing, so we were unable to present comments on the FEIR to the Commission.

We have now reviewed the Final EIR for the proposed Travertine Point Specific Plan, and, unfortunately, the County has failed to address our ongoing concerns regarding the proposed project design and the impact it will have on the significant cultural and natural resources west of the proposed project area. The Friends believes that the EIR provides inadequate analysis of project impacts to offsite cultural, geologic, and other resources; inadequate mitigation for the impacts to offsite cultural, geologic, and other resources; insufficient support for the conclusion that mitigation measures that would reduce the level of impacts are infeasible; and for the conclusion that findings of overriding considerations are warranted. Specifically, our comments are as follows:

5011 707 SE 6415:55

A 501(c)(3) nonprofit corporation.
Federal Tax Identification #33-0241242



Let's be Friends.

2011-7-108779

The EIR provides inadequate analysis of the project impacts to offsite cultural, geologic, and other resources.

- We are unable to find any indication in the documents as to what specific efforts were made to research, identify, and assess the impacts to the offsite cultural, geological, and biological resources. We believe, therefore, that the County failed to meet the CEQA requirement of adequately identifying project impacts, including impacts to offsite resources.
- We did note the statement in the FEIR in section 6.5, Cultural Resources, that *"implementation of the proposed project would increase the population and use of the Specific Plan area. The proximity of residential areas and the resulting increased use of open space areas near identified sites containing cultural resources could result in significant impacts to cultural resources sites, including illicit collection of cultural artifacts and vandalism."* This, however, is a theoretical statement and we could not find an indication of what actual research or analysis had been undertaken to identify the resources that could be impacted. The FEIR does reference Impact 6.5.7.1, stating *"...the project site does contain a number of features that meet some of the basic criteria (age or association) to be considered a historical resource. There are no local or national architectural historical resources within a 0.5-mile radius of the project site. Excepting the water conveyance-related features documented as Æ-TRV-1H, no other historical sites of significance were identified in the site surveys completed in 2008. As the site was not surveyed 100 percent, there may be undiscovered historical sites that have not been previously documented. However, because the surveys completed in 2008 are considered representative, the potential for undiscovered historical sites is low."* This statement is troubling in two respects. First, it implies that there are no significant cultural and related resources adjacent to the project site, To the contrary, while the cultural, geologic, and historic resources associated with the adjacent Lake Cahuilla shoreline area are not currently listed in the National Register of Historic Places or listed as a National Historic Landmark, it is clear from the attached letter from Russell Kaldenberg. Exhibit A, that the adjacent area is of great significance. The EIR's failure to recognize this renders it inadequate in its analysis and assessment of impacts to offsite cultural and related resources. Second, the statement indicates that not even the project site was completely surveyed. This clearly indicates that the potential impacts have not been adequately assessed; thus, adequate mitigation measures could not be identified. Again, the CEQA document is flawed and inadequate.
- We have also attached as Exhibits B and C two articles illustrating the types of impacts that are likely to occur from the adjacency of an urban project of this huge scale.

The EIR provides inadequate mitigation for the impacts to offsite cultural, geologic, and other resources.

- The conversion of the project site from agriculture to urban development will have a significant adverse impact on offsite cultural and natural resources because of the likelihood of project residents' trespassing onto the adjacent vacant lands. We note that the FEIR, does conclude that these impacts will be significant, notwithstanding the lack of analysis and recognition of the



significance of the offsite resources as described above. We concur that the impacts will be significant; however, we believe the EIR fails to identify adequate mitigation measures; rather, the EIR identifies certain measures that are, in fact, not mitigation measures at all; and dismisses other mitigation measures as infeasible.

- The EIR suggests that siting a drainage channel along the western boundary of the project will act as an adequate buffer; however, this is mere assertion with no supporting evidence or documentation provided to demonstrate that such a narrow buffer – providing no real visual separation between medium high and medium density residential areas and the sensitive offsite open space areas – would be effective. The drainage channel on the western edge of the project boundary proposed as a buffer to the open space to the west is woefully inadequate as a means to restrict and deter access to the sensitive cultural, geological, and biological sites immediately west of the project, especially since it incorporates hiking and biking trails, ultimately bringing residents within visual contact with and access to the sensitive areas. We specifically commented in response to the DEIR that no trails should be sited along the western boundary of the project, and yet trails are specifically proposed in this area. That the trails are on the inner rather than the outer edge of the drainage channel does not negate the effect they will have of enticing users to venture across the visually insignificant barrier of the channel to trespass onto the sensitive offsite areas.
- Mitigation measures 6.16-4 through 6.16-6 in Section 6.16, Public Services – Parks and Recreation (see Subsection 6.16.7.2), provide measures that would, *“prohibit the use of motorized vehicles on trails that connect to Anza Borrego Desert State Park (ABDSP) or the Santa Rosa and San Jacinto Mountains (SRSJM) National Monument... and require that entities that provide and maintain on-site trails provide signage and educational materials that describe appropriate and prohibited activities at all trailheads leading to ABDSP or the SRSJM National Monument.”* Regarding the above referenced trails and trail heads that pertain to the National Monument, this is a mitigation measure based on a false assumption. In fact, there are no established trails for public access that are near the project site that connect to the National Monument. Under the MSHCP, no future trails are planned in this area at least until after the completion of a research component of the MSHCP regarding the effects of recreation on Peninsular bighorn sheep is completed. The proposed mitigation measure is irrelevant and actually counter-productive at this time.
- With respect to the “Wall and Fence Concept” described in the Final EIR as, *“view fences [that] would be developed along the western side of the proposed project separating the residential uses from drainage corridors and the adjacent lands, these fences would provide some deterrence to reduce human intrusion onto adjacent land”*, because the draft EIR and the Final EIR lack any diagrams or clear descriptions of what the “Wall and Fence Concept Plan” will look like, what materials it will be constructed out of, how tall, and where exactly it will be located along the western perimeter, the public does not have a clear idea of how, or if, it will help deter human intrusion onto adjacent lands. Thus, such a vague fencing plan cannot be accepted as an adequate mitigation measure.

- The Friends believes that under the County General Plan Land Use Policies a non-urbanized buffer must be included in the project to protect the adjacent open space areas. As stated in the Land Use Element, *"It is the intent of the General Plan that new and encroaching uses shall provide a mitigation or buffer between existing uses where potential adverse impacts could occur."* The General Plan also states under "Open Space, Habitat & Natural Resource Preservation" that *"Riverside County is known for its extraordinary environmental setting, which provides recreational, ecological, and scenic value. This open space, found in remote regions of the County as well as within Community Development areas, is one of the primary defining aspects of the County's livability and character. In some instances, it is this open space that provides the separations between communities, helping to enhance the distinctiveness of communities in the County."* The RCIP Vision states: *"We value the unusually rich and diverse natural environment with which we are blessed and are committed to maintaining sufficient areas of natural open space to afford the human experience of natural environments as well as sustaining the permanent viability of the unique landforms and ecosystems that define this environment."* The Friends believes that if the County is serious about implementing its vision and its land use policies directed at protecting sensitive resource areas, it will require an adequate buffer for this project.
- The Friends believes that an adequate buffer would be anywhere from ¼ mile to ½ mile. Significantly, with respect to the project's impacts to Anza-Borrego Desert State Park, the EIR provides that *"While the project would result in urban development adjacent to the state park, development would be mostly buffered from the park by a large expanse of land designated Open Space (Conservation) in the land use plan. The project would provide a buffer along the site's western boundary to ensure that the park is not affected by project development."* Indeed, the buffer along most of the edge of the State Park is well over ½ mile wide, such that the acres of project open space in the Imperial County portion of the project is 980 acres, which is 37% of the total project acreage in Imperial County. By contrast, the drain age channel buffer separating the medium and medium high density residential areas of the project from the sensitive Lake Cahuilla shoreline area resources in Riverside County is a total of only 160 acres, or a mere 4% of the project acreage in Riverside County. The maps in attached Exhibits D and E show what a ½ mile and a ¼ mile buffer, respectively, would look like. This would result in somewhere between 16% and 29% of the portion of the project in Riverside County being in open space. By siting various appropriate public facilities in the easternmost portion of this buffer area, as well as perhaps a regional commercial node, and by shifting some of the open space conservation area from Imperial County to Riverside County, the Friends believes the projects offsite impacts would receive a significant mitigation benefit, as is appropriate and necessary in light of the extraordinary significance of the offsite cultural, geologic, and related resources immediately west of the project. The buffer would also require adequate fencing to prohibit or deter residents from accessing the area to the west of the project site, and would exclude any trails that would bring people within proximity of the sensitive offsite areas to the west.
- In addition to an adequate buffer, the project needs to provide an adequate funding source to ensure that the offsite cultural resources are adequately monitored and managed to prevent impacts from incursions into the area by

project residents. Because the project is the source of the impacts to these extremely sensitive resources, it is the project's responsibility to avoid these impacts or mitigate them to a point that makes them less than significant. The project, therefore, should provide a monitoring and management endowment or an ongoing annual funding source to provide for adequate monitoring and management. The Friends also wants to make it clear that the Friends seeks no funding from the project whatsoever. The appropriate monitoring and management entity for protecting the offsite cultural resources should likely be some combination of BLM, CDFG, the County, State Parks, and the Torres Martinez Tribe, as these entities either own land on which the resources occur or have other relevant responsibilities. The determination of the appropriate amount of the endowment ongoing annual contribution should be made after completion of a cultural resources management plan. Utilizing grant funding sources, including a grant from Riverside County, the Friends initiated a management planning process for the Lake Cahuilla shoreline area in Riverside County, but not at the level of detail necessary to specifically address the management needs of the area resulting from the impacts of this project. A more detailed study is necessary.

- The assertion in the FEIR that paying the Coachella Valley MSHCP fees fulfills the project's obligation to mitigate the impacts to the offsite *cultural resources* is wholly erroneous. Under the terms of the Incidental Take Permits and the MSHCP itself, the mitigation fees can only be used to manage lands owned by the Coachella Valley Conservation Commission (CVCC) to protect their biological resource values. Not only does CVCC own no lands west of the project site to manage, it would be a Permit violation to use the mitigation fees to develop and implement a cultural resource management plan. Even were MSHCP fees available to manage the area's biological resources, the notion that somehow cultural resources could be adequately managed incidental to the management of biological resources cannot be taken seriously. Only a focused management plan for cultural resources backed by adequate dedicated management resources would suffice. Payment of the MSHCP is not a mitigation measure for impacts to cultural resources.

The Friends believes that the EIR, staff report, and other documents provide insufficient support for the conclusion that mitigation measures which would reduce the level of impacts are infeasible.

- The EIR indicates that 24 hour patrol of sensitive sites is financially infeasible and thus no mitigation can occur. This is a false choice comprised of two extremes: round the clock monitoring and patrol 365 days a year on the one hand and no patrol and monitoring on the other. Certainly, there is a huge continuum of other possible patrol and monitoring regimes in between, but the EIR failed to consider a reasonable combination of buffer, fencing, education, and patrols organized and scheduled to have a consistent, but not necessarily constant, presence in the area.
- The EIR and staff report also accept at face value the Travertine Point 2010 Financial Feasibility Analysis assertion that providing a meaningful buffer would

make the entire project financially infeasible. Did the County obtain any independent review of the Analysis or require that the Analysis consider different project designs and land use mixes, or direct a consultant to design a project with a buffer that would be financially feasible? Absent such an approach, an Analysis that simply concludes that only the project as proposed is financially feasible is suspect. If that is indeed the case, it suggests that perhaps the underlying problem is that the project is too much of a leapfrog development that requires the extension of far too much infrastructure or the development of too much new infrastructure to be viable. Areas of such extraordinary significance as the area to the west of the project site should not be sacrificed to make the project pencil out.

Findings of overriding considerations for this project are unwarranted.

- The conclusion in the EIR that impacts to the offsite cultural resources are significant and that no mitigation measures are feasible results in a requirement for findings of overriding considerations that would justify the significant adverse impacts to these irreplaceable and nationally significant resources associated with ancient Lake Cahuilla and the human use thereof. The Friends notes, however, that the County is under no obligation to make such findings, and should, instead, require appropriate project design changes and mitigation measures such as those proposed by the Friends to reduce the level of impacts to less than significant.

Sincerely,



Margaret Park
President



ASM
PARC
Planning & Research
Collaborative

Exhibit A

June 21, 2011

Bill Havert
Property Committee, Chair
Friends of the Desert Mountains
P.O. Box 821
Palm Desert, CA 92261

Subject: Cultural Importance of the Lake Cahuilla Shoreline in Riverside County

Dear Mr. Havert:

On behalf of ASM PARC, I am pleased to provide you with comments on the significance of the Lake Cahuilla shoreline. ASM PARC is developing a management plan for the Friends of the Desert Mountains on the shoreline as it known in Riverside County. We are also participating in a similar project in Baja California.

The Lake Cahuilla Shoreline is a visible vestige of the ancient formation of the Colorado River Delta, dating to some five million years ago, that separated the Salton Trough from the Gulf of California and created the largest freshwater lake in the desert southwest. Nowhere in the United States is this displayed so prevalently as along the eastern edges of the Santa Rosa Mountains, where the casual traveler driving along State Highway 86 can see the visible imprint of the shoreline left on the mountainside by the tufa-encrusted scars. This imprint is associated with not only the scientific resource that has been the subject of studies for nearly a century, but the cultural resources related to the late Holocene-era cultural history and traditions of the Cahuilla people, their neighbors, and precursors. Nowhere else within the United States is there such a rich tradition associated with the pluvial history and changing environment of the nation. In the rest of the west, the desiccation of the lakes occurred many thousands of years in the past and there are few oral histories associated with the lakes. This, of course, is not the case with Lake Cahuilla, as the Cahuilla remember that just a few generations ago, the lake was used by their peoples for habitation and resource utilization.

The existing archaeological record documents that for the past 3,000 years, and probably throughout the 10,000-year prehistory of the region, Native peoples used the lake's resources as a source of sustenance, including for fishing, birding, and freshwater clamming. The evidence of this activity can be seen throughout the area bounded by the shoreline; within a study area of five miles from the shoreline, archaeological resources include: aboriginal trails leading from the old shore into sites within the mountains; village sites with still recognizable house pits where people lived and left the remains of their existence; and lines of ingenious fish traps that display a detailed understanding of the natural history of native fish to harvest the lake's bounty. Ceramic pot drops (areas of broken prehistoric pottery), lithic procurement areas (places where rocks were

June 21, 2011

Bill Havert

Page 2 of 2

obtained to make stone tools), lithic scatters (areas where stone tools were made or where rock was prospected and left behind) and rock art sites (both petroglyphs and pictographs) are scattered throughout the shoreline area. Prehistoric cemeteries are also known to exist within the region. Stories are known about the relationship of the Cahuilla to the archaeological sites and the importance of keeping the sites from being disturbed.

Presently, with urban populations expanding and unimpeded access to the sites, this resource is in danger of impacts by land use decisions. The time has come to look at the Lake Cahuilla shoreline as a unit and determine a manner in which it can be preserved for cultural and scientific purposes. ASM PARC has studied the area for decades and knows of its importance to science and to the native peoples, not only in Riverside County, but in Imperial County and at its southern reach in Baja California Norte. We highly recommend that the shoreline remain as undeveloped as possible, with appropriate mitigation such as can be devised to preserve these important resources along the Santa Rosa Mountains interface. There are many methods available to reduce or eliminate impacts to these types of resources; however, none are foolproof and any mitigation measure has risks associated with its implementation. Increased access to the fragile resources known and predicted to exist along the shoreline present the greatest risk to their preservation.

It is my recommendation that any approved development needs to limit uncontrolled access to the Lake Cahuilla shoreline to the maximum extent legally feasible by using restrictive fencing, wide buffers, managed and well documented conservation easements, developed proactive educational programs, and patrols (such as law enforcement and citizen monitoring).

I have little doubt that the sites are eligible for inclusion in the National Register of Historic Places as places of importance to the local public, as well as for science and, the shoreline complex is probably eligible for designation as a National Historic Landmark.

Please do not hesitate to contact us should you need additional information.

Sincerely



Russell L. Kaldenberg, M.A., RPA
President

Exhibit B

Direct link to New York Times Article Below:

http://www.nytimes.com/2011/01/06/us/06rocks.html?_r=2&hp

January 5, 2011

Red Rocks of Nevada Smudged by Less Colorful Graffiti

By JENNIFER MEDINA

RED ROCK CANYON, Nev. — The jagged pink mountains here glitter, rare instances of natural beauty in a desolate landscape known more for its gleaming casinos. For years, hikers and rock climbers have flocked to Red Rock Canyon for the easily accessible climbs. History seekers come to look at the patch of land where Indian tribes roamed as far back as the 10th century.

Now graffiti vandals have found the place, too.

A hiker recently spotted red scrawls on the rocks a few yards off a popular trail. In letters stretching as high as two feet, the graffiti damaged pictographs that could be more than 1,000 years old.

“This is the most extensive damage we’ve ever seen,” said Mark Boatwright, an archaeologist with the Bureau of Land Management, which runs the National Conservation Area. “We know somebody really went out of their way to make this mess and stayed here doing it for quite a while.”

Just a few years ago, driving here from Las Vegas could take more than half an hour, including detours on dirt roads. These days, the closest cluster of housing is about seven miles away. And increasingly, officials are dealing with the kinds of troubles that were once confined to the city.

Similar problems have popped up in land reserves in other parts of Nevada, Colorado and Arizona, most frequently with graffiti that law enforcement officials suspect is produced by teenagers. In some cases, the police say, gangs may be using the out-of-the-way places for initiations.

So it is here, Mr. Boatwright believes, that members of the self-proclaimed Nasty Habits Crew wanted to mark the territory as their own. Over a stretch of rocks overlooking a cliff, the red and black graffiti advertises the gang’s name.

Even up close it is hard to see exactly what the damaged historical drawings depict — some are simply lines stacked on top of one another. And historians have never been able to pinpoint when

they were each created, although one school of thought maintains that some are markers from American pioneers making their way west who were simply trying to carve their name into the rock. But clearly, this was a sought-after spot, reached only by climbing over a series of boulders just off the path.

“It all increased shock value and notoriety, and that’s what these guys are after,” said Scott Black, a detective with the Las Vegas Police Department who specializes in graffiti. “It just makes the crimes more heinous, but they see these high-profile locations as a challenge.”

Last year in Gold Butte, Nev., hikers found what appeared to be a chalk- or rock-drawn penis on a large slab of red rock that is heavily decorated with petroglyphs, ancient pictures made by carving into the surface of the rock.

The population in nearby St. George, Utah, has increased rapidly in recent years. And the growth has brought more off-road vehicles to Gold Butte.

“It’s now this little hub for everyone who wants to have a little wild, off-road adventure,” said Nancy Hall, a volunteer who monitors the Gold Butte area. “With that popularity has come some kind of things that we really don’t want.”

Ms. Hall said there had also been problems with illegal dumping and target shooting; one rock has become riddled with pockmarks from bullets. Similar issues have cropped up at Agua Fria National Monument in central Arizona, where officials routinely find trash or bullet casings in wilderness areas. One official is assigned to cover nearly 70,000 acres of land there, making it almost impossible to catch someone in the act.

“There is a general lack of awareness that these are protected,” said Danielle Murray, a spokesman for the Conservation Lands Foundation, which checks on protected land throughout the country. Most of the areas have relatively little monitoring, unlike more well-worn public spaces like state and national parks. “If something like this happened in a national park like Yosemite, there would be a big outcry from everywhere.”

The proliferation of handheld GPS devices adds to the problem, Ms. Murray said. Not too long ago, it might have taken serious research to hunt down the ancient carvings. Now, it can take a matter of moments.

Certain trails here are particularly popular for school field trips, making it easy for vandals to know which areas are vulnerable. A few years ago another visitor used a rock to scratch off several charcoal drawings that historians believe depicted early Mormon pioneers.

“The park is getting closer and closer to the city,” said Pat Williams, a volunteer with Friends of Red Rock Canyon, which sends monitors to the area. “We want to say, listen we’re glad you love it here, but here’s the correct way to think about this place.”

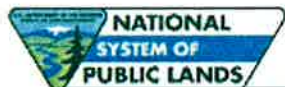
Bureau of Land Management officials expect that it will cost at least \$10,000 to remove the graffiti from the rocks, a process that will take months to avoid damaging the paintings and carvings.

And that includes a remnant of a bit of graffiti that Mr. Boatwright, the archaeologist, believes is left from the 1980s — it has faded to look more like a bleach mark than paint, but just to the right on one rock is a peace sign.

“That we say is historic, a sign of the times they lived in,” he said. “I suppose if you really want to twist it you could say this eventually might be a sign of the times, too.”

Exhibit C

Subject: Vandalism at ANOTHER location---last month it was Red Rock NCA, this month Agua Fria.



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Prehistoric Rock Art Damaged by Graffiti *BLM Offers Reward for Information Leading to Arrest*



(PHOENIX, AZ.) –The Bureau of Land Management (BLM) is offering a \$2,500 reward for information leading to the arrest and conviction of those responsible for damaging prehistoric rock art – a federal crime that carries a \$100,000 fine and a year in prison.

Several panels of federally protected petroglyphs within the Agua Fria National Monument were recently spray painted with obscenities and a series of faces in the pattern of jack-o-lanterns. The location of the crime is in a remote area of the National Monument east of Cordes Junction, Arizona off EZ Ranch Road. Officials believe that the vandals were on location at least twice between July and November.

If you have information about this crime, call Special Agent Angela Stevens and 602-417-9316.

Under the Archeological Resource Protection Act of 1979, it is illegal to damage ancient petroglyphs or any archeological site or feature. Other charges include vandalism and destruction of government property.



The BLM Arizona manages some of Arizona's best-preserved most significant systems of prehistoric sites in the American Southwest. The Agua Fria National Monument contains more than 400 archaeological sites, spanning some 2,000 years of human history. The first Indian settlers were Archaic people, moving seasonally to hunt game and gather wild plant foods in the area until about A.D. 1100. Adjacent to rapidly expanding communities, the 71,000-acre National Monument is approximately 40 miles north of central Phoenix.

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Exhibit D – 1/2 mile buffer

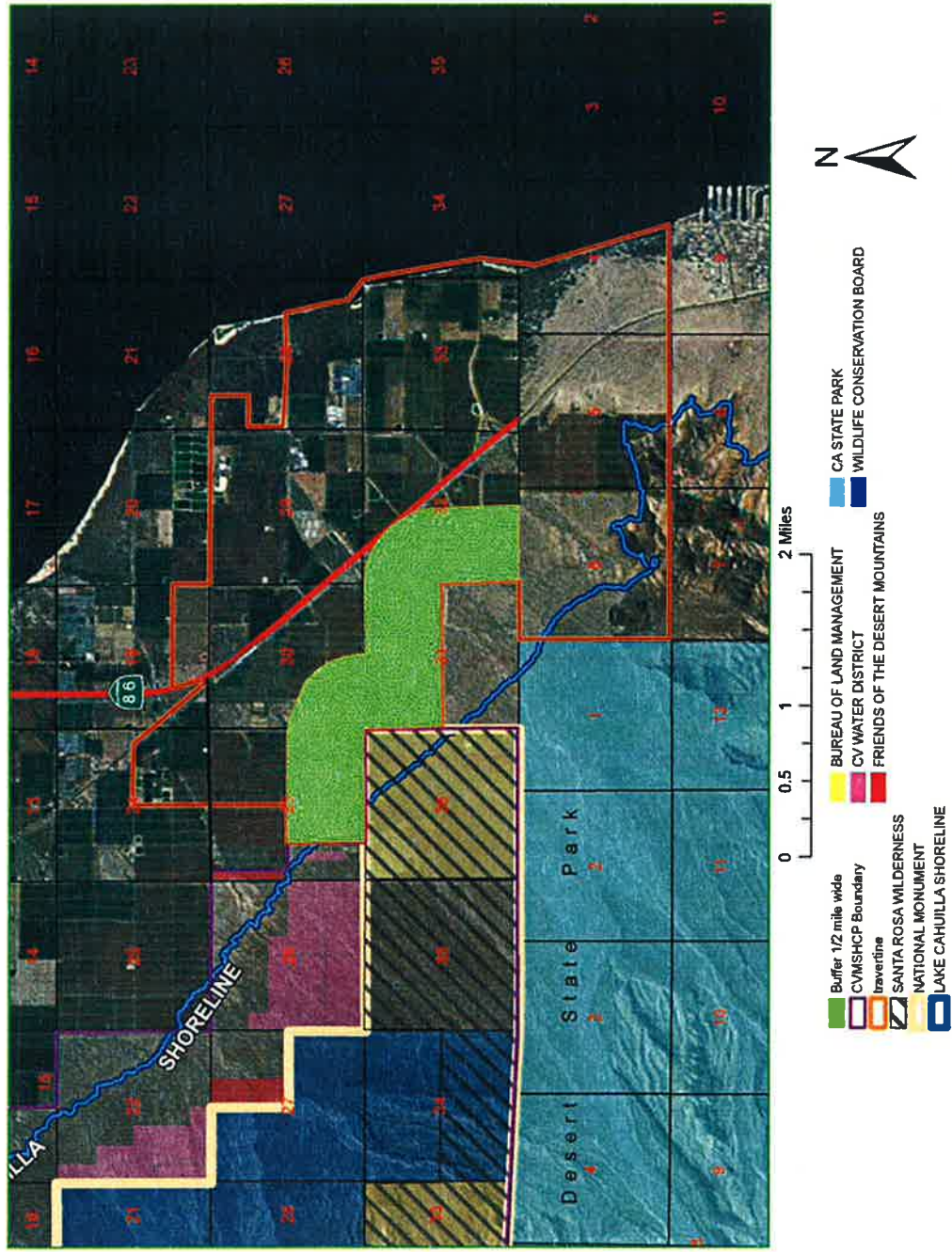


Exhibit E – 1/4 mile buffer

