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December 5, 2018
Project No. 50-056

Nicholas Whipps, Esq.
Wittwer Parkin, LP
147 South River Street
Suite 221
Santa Cruz, CA 95060

Subject: Review of the Construction Noise and Vibration Section of the Mitigated Negative Declaration, Temecula Wine Country (Koll Custom Homes), Riverside County

Dear Mr. Whipps:

This report is a review of the noise and vibration section of the Mitigated Negative Declaration (MND) for the Temecula Wine Country development by Koll Custom Homes along Noglaes Road in Riverside County.

Our comments occur in the order in which the items appear in the MND.

Comment 1: Page 3; 5. Noise – The paragraph states “The proposed Project will comply with all applicable Noise Element policies and specifically Policy N1.3 and N1.4.” N1.4 says to determine compatibility by undertaking site surveys. No sound surveys have been performed to our knowledge.

Comment 2: Page 42; Noise Effects On or By a Project – b) Substantial temporary or periodic increase in ambient noise ... Less Than Significant. What are the thresholds of significance? Ambient + 3 dB? Ambient + 5 dB? What is the ambient? Site surveys, per Policy N1.4 have not been performed to quantify the ambient. Thus, the impact cannot be determined. The ambient must be quantified in terms of the Community Noise Equivalent Level. Although the County does not have quantified limits on construction noise, CEQA uses increases in the noise environment to establish whether or not a project creates a significant impact. The County’s thresholds of significance that is used on all other projects should be used for this project.

Comment 3: Page 44; NIOSH is not appropriate for use in residential environments. NIOSH is used for hearing loss thresholds by employees in the industrial sector where a person is exposed to high noise levels throughout the course of the work day. NIOSH or OSHA thresholds are not designed to be used for environmental noise impacts to neighbors. Eighty-five dBA is much too loud for residential environments. That would be like standing 15 ft. from 10 lawn mowers for 8 hours. Eighty-five dBA should be a maximum (L_{max}) or 1% of the hour (L_1) limit. If some type of standard needs to be developed, at a least a realistic set of guidelines or standards should be used.

Comment 4: Page 45; Construction noise levels should be calculated for the residential properties to the west (280 ft.), to the south (85 ft.) and to the east (50 ft.). The closest house is 270 ft. from the site, not 350 ft. as stated in the MND.

Comment 5: Page 46; If the ambient is approximately 50 dB CNEL, and the ambient + 4 dB is limited to 60 dB CNEL, then the construction noise limit would be and hourly L_{eq} of 55 dBA for 8 hours.

Comment 6: The beginning of the report states Less Than Significant With Mitigation, but the results state that the construction noise is Less Than Significant Without Mitigation as long as construction is maintained within the specified hours. This is a conflict within the MND document.

A quantitative analysis of construction noise should be performed with limits based on CEQA/increases in the ambient as no absolute limits are being applied. If absolute limits are to be applied, standards from other municipalities could be used. The analysis could incorporate the methods of the Federal Transit Administration, Chapter 12, "Construction Noise and Vibration". Although this document was prepared for transit related operations, it is commonly used for all types of projects as it is one of the most comprehensive modern guidelines and methodological resources available. Chapter 12 of the FTA manual is attached to this report.

In addition, construction noise and vibration reduction measures should be incorporated into the MND. A construction noise and vibration plan should be developed in detail to ensure neighbors won't be bothered, annoyed or harmed from the construction of a project. A sample of a typical construction noise and vibration plan is also attached to this report.

In conclusion, the construction noise section should be more comprehensive to adequately represent realistic noise impacts to the surrounding neighbors. The analysis of noise increases over the ambient noise environment, per the requirements of CEQA, needs to be quantified for each of the receptors in the area. Noise mitigation measures, where necessary, should be designed in detail and required in the environmental documents along with a mitigation monitoring program.

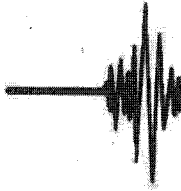
If you have any questions or would like additional information, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

A handwritten signature in dark ink, appearing to read "Jeffrey K. Pack", is written over a horizontal line.

Jeffrey K. Pack
President



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CONSTRUCTION NOISE AND VIBRATION MITIGATION PLAN

SAMPLE

Prepared for

Prepared by
Jeffrey K. Pack

June 6, 2017
Project No.

JEFFREY K. PACK

ACOUSTICAL CONSULTANT

Curriculum Vitae

EDUCATION

Berklee College of Music, Boston, Massachusetts, 1984
Bachelor of Music; Professional Music

University of Southern California, Los Angeles, 1981
Bachelor of Science; Geological Sciences

West Valley College, Saratoga, California, 1979
Associate in Science; Science and Mathematics

EXPERIENCE

7/81 to
Present

President and Principal Consultant

Edward L. Pack Associates, Inc.
San Jose, California

Mr. Pack has experience in architectural, environmental, and industrial acoustics, including interior design of office buildings, hospitals, medical buildings, hotels, recording studios, auditoriums and residences, HVAC noise control, mechanical equipment enclosures, roadway and railroad noise barriers, transportation noise assessments and industrial facility noise control. Transportation noise assessments involve the analysis of automobile, truck, railroad and aircraft noise as they impact residential, commercial and industrial land uses. His responsibilities are involved with both the administrative and technical aspects of Edward L. Pack Associates and his duties also include presentations at public hearings, expert witness testimony, conducting seminars in acoustics, directing and monitoring construction corrective work in residential and commercial buildings and the design and construction direction of noise enclosures for mechanical equipment. Measurements, analyses, and evaluations are made to develop the specific recommendations required for the correction of noise and vibration problems.

He has extensive experience in the field of interior acoustics associated with auditoriums, multi-purpose rooms, gymnasiums, classrooms, churches, public meeting halls, TV and audio/visual recording studios, hospitals, and other acoustically critical spaces. Mr. Pack is an expert in architectural acoustics designing noise isolating walls, windows and floor/ceilings, particularly in multi-family housing for compliance with State and local building codes.

Jeffrey K. Pack, (cont'd)

5/86 to
5/94

President

The Techtonics Company
Sunnyvale, California

Mr. Pack designed, developed, and manufactured acoustic and electronic drum triggering devices, acoustic stringed instrument transducers, including piezoelectric pick-ups for guitars, violins, violas, cellos and basses from inception through final shipping. As President, duties included management of production personnel, purchasing, sales, marketing, and advertising. Retail stores and distributors carrying The Techtonics Company products are located worldwide.

2/93 to
3/94

Adjunct Professor

Cogswell Polytechnical College
Cupertino, California

Adjunct professor of acoustics, which included teaching noise control engineering, audio engineering, architectural acoustics, and sound reinforcement system design.

7/84 to
12/87

Owner

Mirage Music Technologies
San Jose and Hermosa Beach, California

Mr. Pack designed and constructed speaker cabinets, taught music, designed sound reinforcement systems, worked as a DJ for private and public events, worked as a performing musician.

His prior experience includes teaching assistant for Oceanography 210 at USC, 4 years as private drum and percussion instructor, conducting seminars in acoustics and noise control, and in music education as the South Bay Area Alumni Representative for the Berklee College of Music. Other engineering experience included geologic structure mapping, mineralogy, and geologic engineering.

AFFILIATIONS

Acoustical Society of America
American Institute of Physics
Audio Engineering Society
National Council of Acoustical Consultants
Sigma Gamma Epsilon Geological Society

Comment 1: Page 3; 5. Noise – The paragraph states “The proposed Project will comply with all applicable Noise Element policies and specifically Policy N1.3 and N1.4.” N1.4 says to determine compatibility by undertaking site surveys. No sound surveys have been performed to our knowledge.

Response 1 - Policy N1.3 – states the following: “Consider the following uses noise-sensitive and discourage these uses in areas in excess of 65CNEL”. Residential Uses are considered noise-sensitive. The proposed Project will ultimately result in the development of 8 single-family residences. The zoning and land use designation for the subject property and surrounding vicinity encourages single family residential development. The area is comprised of single family residential uses and light agricultural uses. The road that provides access to this area is Los Nogales Road. This section of Los Nogales is unpaved and is not currently a through street due to the road being blocked at Camino del Vino; therefore traffic is minimal and traffic generated noise is minimal. The County of Riverside DEIR No. 521 for the County’s General Plan did conduct noise surveys throughout the County. Although a noise survey was not conducted specifically for the subject site but was conducted on De Portola Road which is an area similar to the Project site in that the area is comprised of large residential lots, surrounding agricultural uses and is within the Southwest Area Plan and the Rancho California Zoning Area. Results for this area are shown on Table 4.15 D: Short Term Ambient Noise Monitoring which determined that at the start time of 12:55 pm, for this location the Leq (dBA) was 46.3 dBA. Noise sources included very low traffic at slow speeds on De Portola Road, community noise, farmer working and talking nearby. Table 4.15-F Long-Term Ambient Noise Monitoring determined that the lowest decibel reading for the De Portola Road survey area was at 12:00 a.m. at 39.8 dB and the highest decibel reading was at 11:00 a.m. at 53.2 dB. These are exterior noise levels. The noise level inside a residence would be reduced. The Noise Element Table N-1 considers that 50 – 60 dBA is generally acceptable for single-family residential development. Given, these survey results it can be deduced that decibel levels would be similar in the Project vicinity and can be concluded that the Project site is not located in an area in excess of 65 CNEL.

Policy N1.4 states the following: Determine if existing land uses will present noise compatibility issues with proposed projects by undertaking site surveys.

You state in your comment letter that no sound surveys were undertaken. The policy states “site surveys”. Site surveys were undertaken and it was determined that existing land uses will not present a noise compatibility issue with the proposed Project and its anticipated noise generation.

The proposed use is considered a noise sensitive use and will be located in area of sensitive uses, a residential area. The proposed project will not be developed in an area that is in excess of 65 CNEL as noted above. In that 65 CNEL exceeds the allowable noise level for a residential area as stated in the Noise Element of the County’s General Plan the project complies with this policy. Policy N1.4 - The existing uses in the project vicinity are comprised of residential and agricultural uses. The existing uses will not present noise compatibility issues with the proposed residential development. The project is compatible with this Policy.

Comment 2: Page 42; Noise Effects On or By a Project – b) Substantial temporary or periodic increase in ambient noise ... Less Than Significant. What are the thresholds of significance?

Ambient + 3 dB? Ambient + 5 dB? What is the ambient? Site surveys, per Policy N1.4 have not been performed to quantify the ambient. Thus, the impact cannot be determined. The ambient must be quantified in terms of the Community Noise Equivalent Level. Although the County does not have quantified limits on construction noise, CEQA uses increases in the noise environment to establish whether or not a project creates a significant impact. The County's thresholds of significance that is used on all other projects should be used for this project.

Response 2 - 33. (b) States the following: A substantial temporary permanent increase in ambient noise levels in the project vicinity above levels existing without the project? We determined that the impact is Less than Significant with Mitigation Incorporated. Mitigation Measure NOI, is as follows:

Prior to the issuance of grading and building permits, respectively, the following notes shall be added to grading and building plans to include the following:

- "During grading and construction, the Building and Safety Department shall verify that the following measures are implemented to reduce construction noise and vibrations, emanating from the proposed Project:
- During all Project site demolition, excavation and grading onsite, construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturer standards.
- The contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the Project site.
- Equipment shall be shut off and not left to idle when not in use.
- The contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise/vibration sources and sensitive receptors nearest the Project site during all Project construction.
- The contractor shall limit the use of heavy equipment or vibratory rollers and soil compressors along the Project boundaries to the greatest degree possible.
- All construction activities and haul truck deliveries shall adhere to County of Riverside Ordinance No. 847, which prohibits construction activities that make loud noise from occurring between 6:00 p.m. and 6:00 a.m. during the months of June through September, and between 6:00 p.m. and 7:00 a.m. during the months of October through May, and on Sundays and Federal holidays."

The definition of ambient Noise in the Noise Element is "The composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location." The initial study references that the typical decibel level for an area defined as Quiet Urban Daytime is approximately 50 dBA which concurs with our response to comment #1 stating that a Noise Survey conducted for EIR No. 521 for Riverside County's General Based on this noise survey and the analysis of the proposed project staff determine that the noise level in the Project area would not exceed the 65dBA threshold.

As illustrated and discussed in the Initial Study earthmoving equipment tend to be the noisiest of equipment and has a decibel ranging to about 95dB (A) at 50 feet from the source. Based on the standards of the National Institute for Occupational Safety and Health (NIOSH) noise is attenuated by 6 dBA for every doubling of distance. For a structure located 350 feet away the noise level would be 80 dBA and for a structure located 270 feet (distance referenced in Comment #2) the noise level would be 83 dBA which is still outside of the 85 dBA threshold established by NIOSH. With the incorporated mitigation, which would reduce the potential for excessive construction noise on surrounding residential areas, the anticipated temporary noise generation from the site would not generate a substantial increase in ambient noise levels at either the typically accepted thresholds of either 5 dB.

Comment 3: Page 44; NIOSH is not appropriate for use in residential environments. NIOSH is used for hearing loss thresholds by employees in the industrial sector where a person is exposed to high noise levels throughout the course of the work day. NIOSH or OSHA thresholds are not designed to be used for environmental noise impacts to neighbors. Eighty-five dBA is much too loud for residential environments. That would be like standing 15 ft. from 10 lawn mowers for 8 hours. Eighty-five dBA should be a maximum (L_{max}) or 1% of the hour (L_1) limit. If some type of standard needs to be developed, at a least a realistic set of guidelines or standards should be used.

Response 3 – Because our General Plan nor the Municipal Code have established numeric maximum acceptable construction source noise levels at potentially affected receivers the worst case scenario was evaluated. The threshold level was based on the National Institute for Occupational Safety and Health (NIOSH) which determined that the threshold for construction related noise starts at 85dBA for more than 8 hours per day. It was determined that given the distance from the nearest residence (270 feet) the level of noise would be reduced to approximately 83dBA, still less than the threshold of 85dBA. Also, with construction activities only being allowed within certain time frames and the incorporation of mitigation measures as stated above noise impacts will be reduced to less than significant.

Comment 4: Page 45; Construction noise levels should be calculated for the residential properties to the west (280 ft.), to the south (85 ft.) and to the east (50 ft.). The closest house is 270 ft. from the site, not 350 ft. as stated in the MND.

Response 4 – Noise levels for construction activities would be calculated from the closest residence and not the property line in that the level of noise would be evaluated from the structure housing the residents.

Comment 5: Page 46; if the ambient is approximately 50 dB CNEL, and the ambient + 4 dB is limited to 60 dB CNEL, then the construction noise limit would be and hourly L_{eq} of 55 dBA for 8 hours.

Response 5 - Based on Ordinance No. 847, private construction noise located within one-quarter (1/4) of a mile from an inhabited dwelling is exempt from this Ordinance, provided that construction does not occur during the hours of 6:00 pm – 6:00am during the months of June through September, and between the hours of 6:00 p.m. and 7:00a.m during the months of October through May.

Comment 6: The beginning of the report states **Less Than Significant with Mitigation**, but the results state that the construction noise is **Less Than Significant without Mitigation** as long as construction is maintained within the specified hours. This is a conflict within the MND document.

A quantitative analysis of construction noise should be performed with limits based on CEQA/increases in the ambient as no absolute limits are being applied. If absolute limits are to be applied, standards from other municipalities could be used. The analysis could incorporate the methods of the Federal Transit Administration, Chapter 12, "Construction Noise and Vibration". Although this document was prepared for transit related operations, it is commonly used for all types of projects as it is one of the most comprehensive modern guidelines and methodological resources available. Chapter 12 of the FTA manual is attached to this report.

In addition, construction noise and vibration reduction measures should be incorporated into the MND. A construction noise and vibration plan should be developed in detail to ensure neighbors won't be bothered, annoyed or harmed from the construction of a project. A sample of a typical construction noise and vibration plan is also attached to this report.

In conclusion, the construction noise section should be more comprehensive to adequately represent realistic noise impacts to the surrounding neighbors. The analysis of noise increases over the ambient noise environment, per the requirements of CEQA, needs to be quantified for each of the receptors in the area. Noise mitigation measures, where necessary, should be designed in detail and required in the environmental documents along with a mitigation monitoring program.

Response 6 – A quantitative analysis where appropriate, based on the scope of the project and the relative noise impacts it would create. Based on this analysis certain construction measures were incorporated to minimize potential for noise to impact surrounding areas.

SOLID WASTE:

The County next defers disclosure and mitigation of solid waste impacts:

WASTE 1, requires that the applicant prepare a Waste Recycling Plan (WRP) identifying materials that will be generated during construction and methods and measures taken to recycle, reuse, or reduce the amount of materials generated. Condition of approval 90.

WASTE 1, requires the developer to provide evidence showing that the Project is in compliance with the approved WRP.

The County must disclose these impacts and proposed mitigation prior to Project approval.

Response – Issue Area 48 a-b regarding solid waste states that all three existing landfills, El Sobrante, Lamb Canyon and Badlands have sufficient capacity to accept waste from the Project and with the preparation of a Waste Recycling Plan as a component of the County Integrated Waste Management Plan will be in compliance with federal, state and local statutes. The Waste Recycling Plan (WRP) is required to be submitted prior to issuance of building permits and must identify the projected amounts of materials that will be generated by the construction and development of the Project site. The WRP requires that the Project will recycle, reuse, compost, and/or salvage a minimum of 65% of weight of the material and/or waste generated on site. The amount of materials to be recycled, reused, or composted must be verified through the submittal of receipts or letters with the date and certified weight of the materials recycled, prior to the issuance of final building permit issuance. With the incorporation of standard conditions of approval, sufficient capacity exists at the County's landfills, and the applicant will be preparing a WRP the proposed Project will have less than significant impacts in regards to solid waste. No mitigation measures are required.

CATCH-ALL REFERENCE TO "EARLIER ANALYSES":

The County appears to have attempted to add generic form language regarding reliance, if any, on earlier analyses:

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration as per California Code of Regulations, Section 15063 (c) (3) (D). In this case, a brief discussion should identify the following:

Earlier Analyses Used, if any: Location Where Earlier Analyses, if used, are available for review.

The County has not referenced earlier analyses in its MND, but has added this language, pretending that this language functions in some way of a disclosure of any earlier analysis it has used, or possibly could use in the future, to support its reasoning in the MND. Instead of providing a generic, unverifiable statement regarding reliance on prior analyses, the County must provide a full list of prior documents used, if any. Otherwise, any reliance on other documents should be viewed as post-hoc justification, which is prohibited under California Code of Civil Procedure § 1094.5 and CEQA.

Response – The General Plan EIR is included in the earlier analysis since the project being consistent with the General Plan relies generally on the CEQA document prepared for it even if it isn't specifically reference related to this project.

The MND does not state whether there will be any road closures or blockages as a result of the Project that may impact accessibility or otherwise create traffic bottlenecks. If such impacts are planned, please describe their duration and extent, as well as any mitigation to reduce these impacts to less than significant.

Response – Transportation/Traffic 43. (g) of the MND stated the following: The proposed Project will ultimately allow for the construction of 8 single-family residences. Short-term impacts will occur to the local roadway system during grading and construction. However, compliance with Ordinance No. 457 regulating construction hours of operation and Ordinance No. 499 requiring an encroachment permit from Riverside County Department of Transportation to assure that the safety of the traveling public is protected during construction will ensure that less than significant impacts will occur during construction. At this time it is unknown what closures, if any, may occur to complete the improvements proposed for the project. Such closures if they are necessary will be coordinated with the Transportation Department through the encroachment permit and a traffic control plan to ensure traffic on any affected roads will be handled adequately. Given the relatively low amount of traffic currently on Los Nogales, and potential partial closure to Los Nogales Road does not have the potential to result in substantial traffic impacts.

UTILITIES:

Septic

The Project proposes installation of septic systems. However, the County admits it has not studied the risk of septic seepage into nearby soils and waters. Instead, the County states its intention to defer the discussion of these impacts, and any proposed mitigation, until after Project approval:

In addition, the Environmental Health Department has conditioned that prior to issuance of building permits the applicant shall submit a detailed soil percolation report and groundwater detection borings to ensure adequacy of the soil for the onsite septic systems.

CEQA requires the County to investigate and disclose these impacts, and institute mitigation, prior to project approval, not after. The County must evaluate and mitigate these impacts now, not later.

Response - In communication with staff from the County of Riverside's Environmental Health Department, they stated that because sewer connection is not available and septic systems are utilized within the surrounding neighborhood staff can determine that the soils on the subject site would be acceptable for the installation of septic systems in a general sense. However, prior to issuance of building permits, additional testing and clearance from the Environmental Health Department would be required as stated in the Advisory Notification Document (AND) and the design of the system shall be in accordance with the current Local Agency Management Program (LAMP) guidelines to ensure that the exact placement of septic systems and the soils at these locations meets necessary standards for adequate percolation.

10. Identification of the permanent repository to receive any recovered fossil material. *Pursuant the County "SABER Policy", paleontological fossils found in the County should, by preference, be directed to the Western Science Center in the City of Hemet. A written agreement between the property owner/developer and the repository must be in place prior to site grading.
11. All pertinent exhibits, maps and references.
12. Procedures for reporting of findings.
13. Identification and acknowledgement of the developer for the content of the PRIMP as well as acceptance of financial responsibility for monitoring, reporting and curation fees. The property owner and/or applicant on whose land the paleontological fossils are discovered shall provide appropriate funding for monitoring, reporting, delivery and curating the fossils at the institution where the fossils will be placed, and will provide confirmation to the County that such funding has been paid to the institution.
14. All reports shall be signed by the project paleontologist and all other professionals responsible for the report's content (e.g. PG), as appropriate. One original signed copy of the report(s) shall be submitted to the County Geologist along with a copy of this condition and the grading plan for appropriate case processing and tracking. These documents should not be submitted to the project Planner, Plan Check staff, Land Use Counter or any other County office. In addition, the applicant shall submit proof of hiring (i.e. copy of executed contract, retainer agreement, etc.) a project paleontologist for the in-grading implementation of the PRIMP.

SERVICES:

The County does not discuss fire district response times. As mentioned above, the Project proposes the placement of residential uses within a Very High Fire Hazard Severity Zone, and adjacent to agricultural uses. Please evaluate the potential impacts of construction in this area as it relates to the provision of emergency fire services.

Response - As stated above in HAZARDS, because the Project site is located in a Very High Fire Hazard Severity Zone and is located with a State Responsibility Area specific State regulations are required. In addition all development projects are subjected to fees as established in Ordinance No. 659 to address any incremental impacts to fire services from rising to a level of significance. In a letter dated February 28, 2018 Dexter Galang from the Cal Fire – Riverside Unit, stated that Station 96, located at 37700 Glen Oaks Road, in Temecula approximately 6 miles from the Project site will serve the proposed development. The average response time from Station 96 to the Project site is approximately 12 minutes. The station is staffed 24 hours a day, 7 days a week, with a 3 person crew, and providing Paramedic Service. Because the site is located in a Moderate Fire Hazard Severity Zone and is in a State Responsibility Area, the Riverside County Fire Department has a cooperative agreement with the California Department of Forestry and Fire Protection (CAL FIRE). The letter reiterates that all construction shall be in accordance with the California Fire Code, Riverside County Ordinances and Riverside County Fire Marshall Standards. With the ultimate development of 8 residential dwellings, and compliance with the County of Riverside's development standards in terms of Planning, Transportation, Fire, and Building codes the proposed project will not result in a significant safety hazard to and people or property within the Project site or vicinity.

TRANSPORTATION:

The Project site has been identified as having a high probability of containing significant paleontological resources. (Exhibit C). The only proposed mitigation for impacts to these resources is MM PALEO-1, which states, "The applicant shall prepare a Paleontological Resource Impact Mitigation Program (PRIMP), which shall be reviewed and approved by the County of Riverside Geologist prior to issuance of a grading permit."

This constitutes impermissible deferral of mitigation. 14 Cal. Code Regs. § 15126.4(a)(1)(B) ("Formulation of mitigation measures should not be deferred until some future time."). MM PALEO-1 contains no standards, or any other information, which interested members of the public and decisionmakers could use to determine whether this mitigation measure has the potential to reduce these impacts to less than significant. Instead, this measure reads as a promise to formulate and review this mitigation measure sometime in the future, after Project approval. This mitigation measure must be revised to ensure it is enforceable, comprehensible, and disclosed to the public for review and comment prior to Project approval.

Response - The mitigation measure requires that a PRIMP be prepared and reviewed and approved by the County of Riverside Geologist prior to issuance of a grading permit. As stated in the Advisory Notification Document Planning-PAL. 1, County Paleontological Report (PDP) No. 1593, submitted for this case (TR37254/BGR170265), was prepared by CRM tech and is entitled: "Paleontological Resource Impact Mitigation Program (PRIMP), Tract 37254 (BGR 170265), dated December 11, 2015. PDP01593 satisfies the requirement for a PRIMP and is herein accepted for the purpose of monitoring grading activities for TR37254, and mitigation of the presence of significant paleontological resources. All grading activities shall be monitored for these resources in accordance with PDP01593. Therefore, the PRIMP report that has been accepted by the County's Geologist has been completed prior to Project approval. However, to clarify, the PRIMP does not need to be completed prior to project approval.

The preparation of a PRIMP is required when the area proposed for development has a high potential for paleontological resources. Pursuant to the Safeguard Artifacts Being Excavated in Riverside County (SABER) policy the following information is required to be contained in the PRIMP at a minimum and in addition to other industry standards and Society of Vertebrate Paleontology standards, are as follows:

1. Description of the proposed site and planned grading operations.
2. Description of the level of monitoring required for all earth-moving activities in the project area.
3. Identification and qualifications of the qualified paleontological monitor to be employed for grading operations monitoring.
4. Identification of personnel with authority and responsibility to temporarily halt or divert grading equipment to allow for recovery of large specimens.
5. Direction for any fossil discoveries to be immediately reported to the property owner who in turn will immediately notify the County Geologist of the discovery.
6. Means and methods to be employed by the paleontological monitor to quickly salvage fossils as they are unearthed to avoid construction delays.
7. Sampling of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates.
8. Procedures and protocol for collecting and processing of samples and specimens.
9. Fossil identification and curation procedures to be employed.

Response - Ultimate development of the Project site will require that the floodplain is kept free of all fill, building and obstruction in order to maintain the natural drainage patterns of the Project site. Advisory Notification Document (AND) grading requirements have been incorporated to ensure that the natural contours of the land will not be substantially altered and the existing drainage patterns will remain.

NOISE:

As with air quality impacts, the County assumes that the nearest sensitive receptor rests 350 feet away from the Project. In arriving at this conclusion, the County ignores the proposed agricultural uses of the Project. Residential uses will directly border the Project's agricultural uses, meaning that sensitive receptors will be required to pass through and regularly come into proximity with noises emanating from these uses. Please assess the potential of the agricultural uses of the Project to create significant noise and vibration disturbances on these sensitive receptors.

Response - To ensure that noise is kept at a level that does not jeopardize the health, safety or general welfare of Riverside County residents, Ordinance No. 847 was established to regulate noise. All development projects are subject to the County's Ordinance No. 847 Regulation Noise in Riverside County. Exemptions to this Ordinance are permitted and include the exemption of agricultural operations on land located in the Agricultural General Plan Land Use Designation and within the A-1, A-2, A-P, A-D, or C/V zoning classifications. This exemption includes, without limitation, sound emanating from all equipment used during such operations, whether stationary or mobile. Given that the Project site is surrounded by properties with the General Plan Land Use Designation of Agriculture and property located to the north, east and west of the Project site has a zoning classification of C/V noise emanating from existing agricultural operations would be exempt from the Noise Ordinance; therefore, resulting in the sensitive receptors of the Project site being subjected to the possibility of excessive noise. However, because the Project is proposing a change of zone to WC-R the Project site will be required to comply with the noise standards of the Noise Ordinance which will ensure that noise levels emanating from the Project site do not exceed the allowable noise levels as stated in the Ordinance No. 847.

PALEONTOLOGICAL RESOURCES:

The County's discussion of water quality impacts fails to explain how its proposed mitigation would reduce these impacts to less than significant. The County reasons:

when grading and building plans are submitted for the future residential development of the site, standard conditions of approval will ensure that any water quality standards or waste discharge requirements are not violated by requiring the land divider to provide adequate drainage facilities and disposing of any off-site drainage flows. Therefore, less than significant impacts would occur.

Please explain how the installation of land dividers and drainage facilities would mitigate impacts to water quality, rather than redirect these impacts to other water bodies. Furthermore, the County, again, has neglected to disclose or address impacts from the agricultural uses on the Property. Runoff from active fields have a high probability of permanently decreasing the water quality of Long Valley Wash, as well as other neighboring properties.

Response - Because the Project site will result in the soil disturbance of more than one acre a SWPPP will be required. The mitigation measure requiring the installation of cisterns as a Best Management Practice (BMP) as required in the WQMP and the condition of approval requiring the enlargement of existing drainage facilities have been incorporated to ensure that polluted runoff from the impervious surfaces will be minimized. The Long Valley Wash is to be 100% avoided and remain free and clear of all debris and materials.

ALTERATION OF EXISTING DRAINAGE:

The County does not adequately disclose how it proposes to reduce on-site hydrology impacts. It states:

The Project will be designed and conditioned to ensure that ultimate development of the Project site will result in less than significant impacts in regards to the alteration of the existing drainage courses and surface run-off and absorption rates. (AND 15. BS GRADING 3, 7, 11, 13, AND 15. FLOOD 1, 2, and 3, AND 15. TRANS 2, 3, and 5)

First, the ending of this statement ("AND 15. BS GRADING 3, 7, 11, 13, AND 15. FLOOD 1, 2, and 3, AND 15. TRANS 2, 3, and 5") is gibberish when taken out of context, and no context for this text is provided. Otherwise, the County only provides a conclusory statement, unsupported by reasoning tied to evidence in the record, that the Project's hydrology impacts will be less than significant. And this discussion provides no real discussion of the Project's

impacts to hydrology patterns. Please provide additional discussion regarding impacts to hydrology, as well as the County's reasoning as to how the proposed mitigation, if any, would reduce these impacts to less than significant.

level of less than significance. The details of the cisterns would be based on actual building location and the location and sizing will be based on the needs as dictated by the actual building proposed and as guided by this mitigation. With further review of these details with building permits to ensure cisterns are adequately designed, there is no other potential impacts that could occur from the details of these cisterns that isn't already addressed from general disturbance and development of the site.

DEFERRED DISCLOSURE OF ENVIRONMENTAL IMPACTS:

It is illegal to defer disclosure or mitigation of impacts until after project approval. 14 Cal. Code Regs. § 15126.4(a)(1)(B). Yet, the County states:

If deemed necessary Advisory Notification Document 15. TRANS 2 states that the land divider shall protect downstream properties from damages caused by the alteration of the

drainage patterns by constructing drainage facilities, enlarging existing facilities, and/or by securing a drainage easement. (emphasis added)

It is now, and not at some later date, that the County must disclose Project impacts. The County must disclose in its MND whether the Project would cause downstream impacts to neighboring properties, and to require mitigation accordingly.

Response – Anticipated drainage impacts of the Project have been analyzed in detail pursuant to the WQMP prepared for this project. Although the above drainage situation is not anticipated to occur, the Conditions/Mitigation is included on the Project as control and guidance if through final engineering revised drainage design may be necessary to meet this standard.

WATER QUALITY IMPACTS:

The County's analysis of greenhouse gases suffers from the same fundamental flaw as does its analysis of air quality impacts. The County explained:

No specific greenhouse gas analysis was performed for this project. However, similar to air quality, other studies have been performed in the area that could be utilized as a reference to compare the project to. The same 34-unit project that was used in the air quality analysis will be used for greenhouse gas reference.

This analysis fails to provide an adequate discussion of Project-related impacts. It is impossible to understand the Project's impacts related to greenhouse gases when the County uses a study for an entirely different project. Please provide a Project-specific analysis of greenhouse gas impacts.

Response -

Because emissions are not dependent on a specific location but merely the anticipated amount of emissions and its relation to daily emission thresholds established for the SCAB, the MND analyzed what potential emissions the project could have by comparing its 8 units on 50 acres to 34 units on 20 acres. Air quality thresholds were not exceeded for the reference project with more units during operation and construction. Therefore, the county is making a reasonable and logical assumption that the proposed Project would result in less emissions than the reference project and less than significant impacts would occur with this Project.

HYDROLOGY AND WATER QUALITY:

Cisterns

The County proposes the installation of 10,000-gallon cisterns to mitigate the potential of the Project to increase flooding severity. Flooding is often exacerbated by an increase in impervious surfaces. However, cisterns are not typically installed in a manner that would capture surface-level runoff and are instead typically installed above-ground. Above-ground cisterns may be installed to capture runoff from above-ground surfaces, such as eaves and gutters. Even if installed below-ground *and* all grading directs impervious surface runoff to the cistern, below-ground cisterns are still very difficult to maintain or replace. Please provide more information regarding this proposed mitigation, adequate to determine whether this mitigation measure would sufficiently mitigate Project-related runoff impacts.

Response - The placement of the cisterns is a mitigation measure to help in the reduction of rain water flowing off the site. In addition, several conditions of approval require that the land divider is responsible for the protection of downstream properties, and if need be will be required to enlarge existing facilities and/or adequately dispose of off-site drainage flowing onto or through the site. If, the cisterns are not adequate in size to reduce the flow larger cisterns may be required. With the incorporation of the mitigation measure and the Advisory Notification Document requirements run-off would be reduced to a

impacts would be less than significant with conditions of approval and adherence to state regulations. No mitigation is necessary to reduce impacts to a less than significant level.

Standard conditions of approval and compliance with the California Code of Regulations title 14 section 1270 et seq. will ensure the protection of the public and property. The majority of the project vicinity is in a SRA. The adoption of the Wine Country Community Plan and associated EIR No. 524 determined that the Wine Country area would be developed with residential, commercial and agricultural uses, subject to specific state and local government policies and development standards as they pertain to wildfire areas. In addition, all new construction after July 1, 1991 in potential wildland fire area are required to meet the statewide standards. (DEIR No. 524 section 4.08)

ARCHAEOLOGICAL RESOURCES:

The County concluded impacts to archaeological resources would be less than significant prior to mitigation, reasoning that compliance with Public Resources Code § 5097.98 would prevent any impacts to these resources from occurring. However, Section 5097.98 only provides procedures for notification and disposition once resources have been disturbed and impacts to these remains have occurred. It provides no mitigation to prevent these impacts from occurring,

such as periodic surveying. Please explain why it would be infeasible to impose pre-disturbance surveying or other mitigation measures aimed at avoidance of archaeological resources.

Response - The project site was surveyed by a County approved archaeologist in April and May 2007 and determined that one archaeological resource was present. (pg. 23 MND) Given that the site has been graded and used for row crops the potential for finding artifacts is rare. A technical study titled Phase II Resource Testing and Evaluation Site 33-015916 prepared in 2016 evaluated the significance of the archaeological resources that were collected and was determined that they are not significant pursuant to CEQA. (pg. 24) However, Advisory Notification Document (AND) Planning – 9 requires that should any archaeological resources be encountered all work shall be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finds. This is a standard requirement and is not considered mitigation.

GREENHOUSE GASES:

ground surface. The soil sampling equipment was cleaned with a phosphate-free detergent prior to sampling and between locations to minimize the potential for cross contamination. All fourteen of the discrete soil samples were reported as Non-Detect for all pesticide constituents of concern. The report stated that no further investigation was recommended. The project has been conditioned by Environmental Health regarding soils and possible contamination due to agricultural uses stating that if contamination or the presence of a naturally occurring hazardous materials is discovered at the site, assessment, investigation and/or clean up may be required.

FIRE HAZARDS:

The County's analysis of fire hazards likewise fails to account for the placement of agricultural uses directly adjacent to residential uses. The Project is located in a Very High Fire Hazard Severity Zone and will contain higher than normal levels of plant-based fuels for residential uses. Yet, the County proposes no mitigation. Instead, the County states that inadequately disclosed and undisclosed, discretionary conditions of approval would reduce these impacts to less than significant. It is impossible to use the County's MND to assess whether these undisclosed conditions of approval would adequately mitigate the Project impacts.

Crucially, the County has not adequately disclosed potential impacts under CEQA. The County concludes, without support, that the Project's impacts would be less than significant *prior to mitigation*. In arriving at this conclusion, the County seems to have falsely distinguished between "conditions of approval" and "mitigation." CEQA provides no such distinction, and simply defines mitigation as including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Please provide legal support for the proposition that discretionary conditions of approval do not qualify as mitigation. Under these circumstances, please explain how it could be possible that approval of mixed agricultural-residential uses in a Very High Fire Hazard Severity Zone could not be considered a significant impact prior to mitigation, and how this conclusion satisfies the County's disclosure requirements under CEQA.

Response - Due to the site being located within a State Responsibility Area (SRA), specific standards are applied to development projects to ensure safety of residences and residents. These conditions of approval and regulations are related to availability of access onto and out of the project site, fire hydrants, interior sprinklers, turning radius, fuel modifications, and construction materials. The MND states that

HAZARDS AND HAZARDOUS MATERIALS:
Agricultural Soils

The County has determined the Project will have a less than significant impact on the environment in regards to hazards and hazardous materials. A project may have a significant effect on the environment in this regard, for instance, if it "release[s] hazardous materials into the environment," or routinely transports, uses, or disposes of hazardous materials.

The County's analysis of hazards and hazardous materials states, in conclusory fashion, that "The proposed Project will not create a substantial hazard to the public or the environment," since, "the Project will result in the construction of eight (8) residential lots." This conclusion is not supported by evidence in the record. The County's own description for the Project states that half of all Project acreage will be devoted to agricultural uses; thus, the Project involves more than simply the construction of eight houses. Absent mitigation in the form of a condition of approval prohibiting the use of pesticides and other toxic substances commonly associated with farming, the Project will almost certainly release toxic and carcinogenic substances into the environment, directly adjacent to residential uses and an environmentally sensitive riparian habitat.

Response – While the initial study does rely on the core of the project proposing the construction of eight residential lots, it does expand by stating that "the Project will not introduce activities that will cause substantial hazard to the public. Regular operation and cleaning of the residential units will not present a substantial health risk to the community." Beyond the basic limits of what the project consists of, standard conditions of approval and compliance with state and federal regulations will ensure the exposure of toxic materials to workers, residents and the public will further ensure that impacts will be less than significant.

Furthermore, the Project envisions disturbing soils that have been devoted to agricultural uses for decades. Agricultural lands are known to contain a wide variety of highly toxic chemicals, many of which can persist in the soil for decades. (Exhibit B). The County does not claim to have studied Project soils for the presence of contaminants, and it does not disclose the results of these studies, if any were conducted.

The County must evaluate the potential for the Project to expose workers, residents, and members of the public to toxic and carcinogenic substances. Failure to consider, study, and disclose these effects and provide adequate mitigation is fatal to the MND.

Response - A Phase I Environmental Site Assessment was prepared by Earth – Strata, Inc., dated May 15, 2015 which determined that no further investigation was recommended for this site. Additionally, a Phase II Environmental Site Assessment was prepared by Earth – Strata, Inc., dated January 5, 2016. At the time of this investigation of the Project site, fourteen discrete soil samples were performed at 0.5 feet below

Furthermore, the County failed to discuss Project-related impacts on sensitive species or require adequate mitigation to ensure these species will not be negatively impacted by the Project. While the County touts its requirement that the riparian areas of Long Valley Wash will be avoided, it provides no buffer between this riparian habitat and the Project. Buffers are standard practice, and failure to provide a habitat buffer will cause this habitat to come into direct contact with the Project and its impacts, and will decrease the overall value, desirability, and viability of this riparian land as habitat for protected and other sensitive species. For

instance, there is no mitigation that would prevent pesticide use from running off into these riparian areas. And the lack of a buffer would result in much greater indirect disturbance of this habitat, for instance, if farm machinery is used near or directly adjacent to this habitat.

Response – Condition of approval 060 Planning EPD.6 states the following:

Prior to grading permit issuance, all project maps and exhibits shall clearly depict and label the MSHCP Riparian/Riverine habitat being avoided to EPD's satisfaction. The MSHCP Riparian/Riverine feature shall be labeled as 'MSHCP Riparian/Riverine to be avoided'. The Riparian/Riverine habitat being depicted on project maps and exhibits shall correspond with the exhibit titled, "Riparian/Riverine Areas Map" found within the document "Western Riverside County Multiple Species Habitat Conservation Plan consistency Analysis Tentative Tract Map 37254 " dated May 17, 2017, completed by Principe and Associates. Although, a "barrier" is not specifically provided, with the incorporation of the mitigation measures and conditions of approval it was determined that impacts would be less than significant.

. In terms of pesticide use, all pesticides in California are subject to controls under state and federal rules to ensure protection of people, plant and animal species and water. In addition, the Advisory Notification Document requires compliance with applicable Federal, State, and County Regulations including but not limited to, the National Pollutant Discharge Elimination System and the Clean Water Act.

The County states the Project may require a Section 404 Clean Water Act Permit. If the Project requires a Section 404 Permit, it will also be required to undergo Section 7 Endangered Species Act Consultation and obtain a No Jeopardy determination prior to Project approval. Failure to adequately consult with the U.S. Fish and Wildlife Service would constitute a violation of the Endangered Species Act.

Response – The comment is noted. MM BIO-2 states: prior to issuance of the grading permit, a CADFW 1600 and USACE 404 permit may be required and proof that consultation and approvals from those entities will need to be provided if construction activities may temporarily impact the drainage area.

31444 . . . to subdivide approximately 220 acres into 38 residential lots with a 5-acre minimum lot size and Tentative Tract No. 32819 . . . to subdivide approximately 84 acres into 12 clustered residential lots with a 1.5 acre minimum lot size, and to the west Tentative Tract Map No. 32949 has been approved to subdivide a 40.4 acre site into 6 residential lots with a 5-acre minimum lot size.” The overall theme in these projects is, *inter alia*, the loss of arable land, yet the County appears not to disclose the impacts of these projects across any of the impact factors it addresses in its MND.

Response - The projects referred to are already approved projects noted to relate the proposed project with other existing and planned land uses. While these are pending projects to be considered for cumulative impacts of the project, these other projects that are consistent with the Wine Country Community Plan were addressed in a cumulative impact sense with the Environmental Impact Report that was prepared for the Wine Country Community Plan.

BIOLOGICAL RESOURCES:

The County provides summary treatment of the biological resources surveying it conducted on the Project site. The County discloses that it conducted onsite species surveys during a burrowing owl survey, which did not identify “threatened, endangered, candidate, sensitive or special status species . . .” The County further bases its conclusions regarding the presence of protected wildlife “on a review of pertinent biological literature.”

In contrast, the U.S. Fish and Wildlife endangered and threatened species database identifies dozens of protected species that are likely to occur on the Project site, including 12 federally listed threatened and endangered species and 28 migratory and sensitive bird species. (Exhibit A). In contrast, the County has not disclosed whether it has even attempted to survey for any of these species, at what times of year it conducted this survey, whether the burrowing owl surveys were intended to or suited for identification of any other species, or whether the surveyors were trained in and qualified to identify any other sensitive species. The County’s description of these surveys suggests these surveys only conducted a cursory search for owl burrows, and not much else.

Response - The County did not conduct surveys, the biological reports were prepared by Principe and Associates. The biological report PDB06518 states that 4 surveys were conducted between March 30 and April 20, 2017.

The Reports state all the species searched for as well as their search methodology. Methodology involved conducting a complete visual and walk-over field survey to determine if suitable habitats on the site and in the buffer zone. Survey transect were spaced to allow 100% visual coverage of the ground surface (pg. 12 of PDB06518). Full description of the species searched for and methodology are provided in the reference biology report. (PDB06518)

Furthermore, the County has stated Project-related impacts would be significant if they resulted "in a substantial alteration of the present or planned land use of an area." The Project is currently zoned for agricultural use and has remained in agricultural use for decades. Please provide further information as to how the Project, which will subdivide the Project parcel, increases the permissible residential density, and proposes transitioning half of the total Project acreage to residential use, does not substantially alter the present or planned use for the Project site.

Response – As is noted in the MND, the site is surrounded by scattered residential development that would be similar in character to what the Project is proposing. While the site has been previously been used for agricultural uses, since the proposed use is similar to other surrounding uses it is not a substantial shift from the existing use to the proposed use. The project is still retaining the southern portion of the site to be planted in vineyard that minimizes any change from the previously existing agricultural uses. Furthermore, although the project includes a General Plan Amendment to change the site from the Winery District to the Residential District of the Temecula Valley Wine Country Policy Area, the site is still staying with the policy area and the effective difference in land use is 5 residential lots to a maximum of 10 residential lots, which is not a substantial change in planned land use.

The County has failed to discuss or disclose the potential cumulative land use impacts arising from the Project and similar past, present, and future projects that have likewise converted farmlands to housing. For instance, the County elsewhere references a 34-unit housing project, as well as projects "to the north of the subject site, Tentative Tract Map No.

proposed Project would result in less emissions than the reference project and less than significant impacts would occur with this Project.

In addition, the County states "The proposed project is also further from the nearest sensitive receptors (approximately 350 feet) compared to the reference project (approximately 82 feet)." However, as the County recognizes, "Land uses considered to be sensitive receptors include . . . residences . . ." The County's sensitive receptor analysis ignores the fact that one-half of the Project will involve the construction of residential homes, and the other half of the Project involves the operation of agricultural activities. Absent a condition restricting such uses, agricultural activities should be presumed to include the use of diesel-emitting farm equipment and the application of pesticides and other toxic agricultural chemicals that may become airborne and affect residents of the Project, as well as nearby residents.

Response – The comment is suggesting that the MND analyze the impacts to future residents of the project itself. CEQA generally does not require that impacts of the project on itself, but rather impacts of the project on the existing environment. Beyond this requirement of CEQA, the project site is located in an area that promotes agricultural uses, directly south of the project site is a vineyard. Use of pesticides would be subject to state and federal regulations to limit exposure of future residents of the project to pesticides and other chemicals. Although farming activities would involve the use of diesel fueled farm equipment, the use of this equipment is not constant to be considered a potential for substantial impacts to future residents of the project.

LAND USE:

The County describes the Project as constructing eight residential units. However, elsewhere, the County states the Project may be permitted to include as many as ten units. Please provide more information as to the potential for the Project to construct ten units, as well as any related impacts, such as how much agricultural acreage may be lost if the Project applicant chooses to construct ten, as opposed to eight, residential units.

Response - With approval of the General Plan Amendment, the Project site would be located in the Wine Country Residential District which would allow for one dwelling unit per 5 acres. Thereby allowing 10 lots on the 51 acre project site. However, the project at hand is not just for the General Plan Amendment but also for the subdivision of a 50 acre site into 8 residential lots which provides for more specificity of potential impacts. Ten units was referenced as a worst case scenario in terms of air quality and noise impacts in that the site could be developed with 10 units pursuant to the General Plan Amendment. Regardless, if 10 units were to be proposed for development instead of the currently proposed Tentative Tract Map, that would be subject to further, more detailed analysis based on the particulars of what is proposed for it relative to air quality, agricultural acreage, traffic, etc.

based on the development standards of the WC-R zoning classification, topography of the site, access ways and septic and expansion area location.

As the County is aware, Prime Farmland may lose its protected status if it does not remain in continual use. However, in the MND, the County does not describe whether the farmland would remain in continual use during construction. If the County proposes that the Project applicant maintain farmland during the construction phase of the project, please disclose this in the MND, and provide for this continual use as a condition of approval.

Response - Planting of the vineyards will occur prior to building construction as is required by the project's conditions of approval. The continued operation of the previous agricultural use is not a development standard or requirement of the zoning or land use designation of the project site. The project grading the site and resulting in an interim condition where agricultural uses are not occurring is not the single factor in retention of a prime farmland designation on the site since the underlying soil and other conditions on the site which result in this designation would still be present. While the project may result in an interim condition where agricultural uses may not occur on the site, it is required for the southern portion of the site to be planted in vineyard so that over the long term that portion of the site would remain in agricultural use and would better ensure the retentions of the prime farmland designation for this portion at least.

AIR QUALITY:

The County disclosed air quality modeling for another, unrelated project in place of conducting a project-specific air quality assessment, explaining, "Although a project specific air quality analysis was not performed, such analysis has been performed for other projects within the County that are also located within the South Coast Air Basin."

The County is required by CEQA to disclose all direct or indirect effects "*which are caused by the project.*" 14 Cal. Code Regs. § 15358; Pub. Res. Code § 210003.1(b) (emphasis added). The County cannot avoid the requirement that it analyze and disclose the impacts of the Project by disclosing and analyzing the impacts of another, entirely different project. Because of this, commenters are left entirely in the dark as to the impacts of the Project on the environment, are unable to assess whether these impacts may be significant, or whether the project requires additional mitigation. The County cannot substitute its analysis of impacts of another project in place of a full, reasoned analysis of the Project.

Response - Because emissions are not dependent on a specific location but merely the anticipated amount of emissions and its relation to daily emission thresholds established for the SCAB, the MND analyzed what potential emissions the project could have by comparing its 8 units on 50 acres to 34 units on 20 acres. Air quality thresholds were not exceeded for the reference project with more units during operation and construction. Therefore, the county is making a reasonable and logical assumption that the

Importantly, the County fails to disclose or adequately address cumulative impacts as these relate to the loss of unique farmland. "Cumulative impacts' refer to two or more effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects." 14 Cal. Code Regs. § 15355. Elsewhere in the MND, the County discusses two other projects currently under consideration or recently approved. The County must disclose the impacts of these other projects on agricultural resources, in conjunction with the impacts from the Project. Please disclose the amount of unique farmland that has been lost in recent years, as well as all development plans that would result in the further loss of this farmland.

The Project is currently covered under a Williamson Act Contract. The Project requires that this contract be terminated in order to commit each lot to residential uses. Please explain how the loss of over 51 acres of land from protection under a Williamson Act Contract is less than significant.

Response – The Wine Country Community Plan Program EIR No. 524 stated that the intent of the Project (Wine Country Community Plan) is to encourage the preservation and expansion of land designated within the Agricultural foundation Component. However, implementing projects could be located on prime farmland (or another designation indicating agricultural suitability) and would still allow for development consistent with the Southwest Area Plan policies allowing for development of non-agricultural uses on 25% of a project site. EIR No. 524 also states that under the Wine Country Community Plan that active agricultural land would also be allowed to convert 25 percent of its land to non-agricultural uses. The proposed Project is consistent with the Wine Country Policy Plan in that 75% of the Project site is devoted to vineyards, the remaining 25% will be devoted to non-agricultural uses. The Wine Country Community Plan EIR determined that this conversion to non-agricultural uses would not result in greater cumulative agricultural resource impacts than addressed in the Riverside County and the City of Temecula General Plan EIRs.

The County states that half of the Project would be devoted to residential uses, while the remaining half of the acreage of the Project would be committed to agricultural uses. While the County claims the agricultural half of the Project would be entirely devoted to agriculture, it provides limited explanation regarding the "residential" half of the project. Please describe the proposed uses of the remaining half of the property, and provide a description of the proposed size and footprint of each proposed residence, as well as a description of any proposed accessory structure or residence.

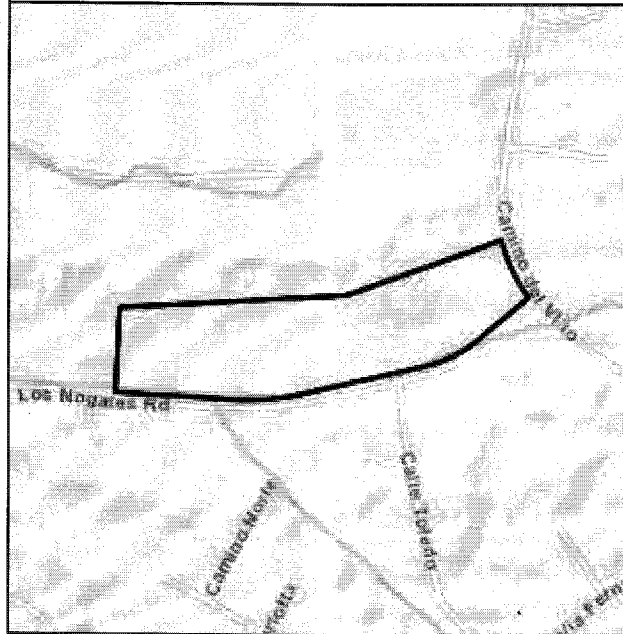
Response - The size of the building pad is located on the Tentative Tract Map which shows a buildable area of approximately 1.7 acres. We have not received details regarding what each individual owner will be building on site as that is not a requirement for a Tentative Tract Map. The County does not limit square footage of a structure. Future development will have to comply with the applicable development standards of the proposed WC-R zone. The analysis of the project takes these standards into account and are based on reasonable and typical development on properties of this size and in this area. This will be



Riverside County Parcel Report

APN(s) 927450002

MAPS/IMAGES



PARCEL	
APN	927-450-002-7
Previous APN	927-450-001
Owners	Not Available Online
Address	927-450-002 NOT AVAILABLE
Mailing Address	927-450-002 17800 CASTLETON DR NO 300 CITY OF INDUSTRY CA 91748
Legal Description	927-450-002 Recorded Book/Page: RS 50/68 Subdivision Name: Lot/Parcel: G3 Block: Tract Number: 0
Lot Size	927-450-002 Recorded lot size is 48.52 acres
Property Characteristics	927-450-002 Year Constructed: 0000 Number of Baths: 0 Number of Bedrooms: 0 Construction Type: SPECIAL CONSTRUCTION

Garage Type:
Property Area (sq ft): 0
Roof Type: UNKNOWN
Number of Stories:
Pool: NO
Central Cool: NO
Central Heat: NO

Supervisory District	CHUCK WASHINGTON, DISTRICT 3
Township/Range	T7SR2W SEC 25 RHO
Elevation Range (ft.)	1384 - 1492
Thomas Bros. Maps Page/Grid	Page: 960 GRID: D2 Page: 960 GRID: C2
Indian Tribal Land	Not in a Tribal Land
City Boundary	Not in a city
City Spheres of Influence	Not in a city sphere
Annexation Date	N/A
LAFCO Case	N/A
Proposals	N/A
March Joint Powers Authority	Not in the jurisdiction of the March Joint Powers Authority
County Service Area	

County Service Area	WINE COUNTRY #149 - ROAD MAINT
PLANNING more...	
Specific Plans	Not in a Specific Plan
Land Use Designations	AG
General Plan Policy Overlays	TEMECULA VALLEY WINE COUNTRY POLICY AREA - WINERY DISTRICT
Area Plan (RCIP)	Southwest Area
General Plan Policy Areas	Not in a General Plan Policy Area
Zoning Classifications (ORD. 348)	Zoning: C/V-10 CZ Number: 7466
Zoning Overlays	Not in a Zoning Overlay
Historical Preservation Districts	Not in a Historical Preservation District
Agricultural Preserve	RANCHO CALIFORNIA NO. 11 MAP NO. 389
Airport Influence Areas	NOT IN AN AIRPORT INFLUENCE AREA
Airport Compatibility Zones	NOT IN AN AIRPORT COMPATIBILITY ZONE
Zoning Districts/Areas	RANCHO CALIFORNIA AREA
Community Advisory Councils	Not in a Community Advisory Council
Residential Permit Statistics	N/A Expected Units: BRS Permit Units: Final Issued Active Current Permits: Cumulative Total: % of Expected:

ENVIRONMENTAL more...

CVMSHCP (Coachella Valley Multi-Species Habitat Conservation Plan) Plan Area	NOT IN THE COACHELLA VALLEY MSHCP FEE
CVMSHCP (Coachella Valley Multi-Species Habitat Conservation Plan) Conservation Area	NOT COACHELLA VALLEY CONSERVATION
CVMSHCP Fluvial Sand Transport Special Provision Areas	NOT IN A FLUVIAL SAND TRANSPORT
WRMSHCP (Western Riverside County Multi-Species Habitat Conservation Plan) Plan Area	WESTERN RIVERSIDE COUNTY
WRMSHCP (Western	

WRMSHCP (Western Riverside County Multi-Species Habitat Conservation Plan) Cell Group	Not in a Cell Group
WRMSHCP Cell Number	Not in a Cell Number
HANS/ERP (Habitat Acquisition and Negotiation Strategy/Expedited Review Process)	Project: N/A Conserve: Status: Notes: Intake Num: LMS Case:
Vegetation (2005)	Agriculture Mapping Unit California Buckwheat Alliance Mixed Tree and Shrub Willow Super Alliance (More than 2 species of Salix spp. with varying heights) Willow Mapping Unit

FIRE

Fire Hazard Classification (Ord. 787)	HIGH MODERATE
Fire Responsibility Area	SRA

DEVELOPMENT FEES

CVMSHCP (Coachella Valley Multi-Species Habitat Conservation Plan) Fee Area (Ord 875)	NOT IN THE COACHELLA VALLEY MSHCP FEE
WRMSHCP (Western Riverside County Multi-Species Habitat Conservation Plan) Fee Area (Ord 810)	WESTERN RIVERSIDE COUNTY
Western TUMF (Transportation Uniform Mitigation Fee Ord. 824)	IN OR PARTIALLY WITHIN A TUMF FEE AREA.
Eastern TUMF (Transportation Uniform Mitigation Fee Ord. 673)	NOT IN THE EASTERN TUMF FEE AREA
Road & Bridge Benefit District	NOT IN AN ROAD/BRIDGE BENEFIT DISTRICT
DIF (Development Impact Fee Area Ord. 659)	SOUTHWEST AREA, AREA 19
SKR Fee Area (Stephen's Kagaroo Rat Ord. 663.10)	In or partially within the SKR Fee Area
Development Agreements	Agreement # Not in a Dev Agreement Amendment #

Expiration Date Line

Tax Rate Area & District Name

TRANSPORTATION more...

Circulation Element Ultimate Right-of-Way Not in a Circulation Element Right-of-Way

Road Book Page 129

Transportation Agreements Control Script failed for control Label1 , Control Script failed for control Label2 , Control Script failed for control Label3 , Source=Comments_Line

CETAP (Community and Environmental Transportation Acceptability Process) Corridors Not in a CETAP Corridor

HYDROLOGY

Flood Plain Review *MAYBE REQUIRED, CONTACT RIVERSIDE OUTSIDE FLOODPLAIN, REVIEW NOT

Flood Control District RIVERSIDE COUNTY FLOOD CONTROL

Watershed SANTA MARGARITA

Water District EASTERN MUNICIPAL WATER DISTRICT

GEOLOGIC

Fault Zone NOT IN A FAULT ZONE

Faults NOT IN A FAULT LINE

Liquefaction Potential Moderate

Subsidence Susceptible

Paleontological Sensitivity HIGH SENSITIVITY (HIGH A): BASED ON GEOLOGIC FORMATIONS OR MAPPABLE ROCK UNITS THAT ARE ROCKS THAT CONTAIN FOSSILIZED BODY ELEMENTS, AND TRACE FOSSILS SUCH AS TRACKS, NESTS AND EGGS. THESE FOSSILS OCCUR ON OR BELOW THE SURFACE

MISCELLANEOUS

School Districts TEMECULA VALLEY UNIFIED

Communities Rancho California

Lighting (Ord. 655) Zone: B

2010 Census Tract 432.39

Farmland OTHER LANDS OTHER LANDS PRIME FARMLAND UNIQUE FARMLAND

Special Notes NO SPECIAL NOTES

- 094147 - CO FREE LIBRARY
- 094147 - CO STRUCTURE FIRE PROTECTION
- 094147 - CO WASTE RESOURCE MGMT DIST
- 094147 - CSA 149
- 094147 - CSA 152
- 094147 - ELS MURRIETA ANZA RESOURCE
- 094147 - ELSINORE AREA ELEM SCHOOL
- 094147 - EMWD
- 094147 - EMWD IMP DIST B
- 094147 - FLOOD CONTROL ADMIN
- 094147 - FLOOD CONTROL ZN 7
- 094147 - GENERAL
- 094147 - GENERAL PURPOSE
- 094147 - MT SAN JACINTO JR COLLEGE
- 094147 - MWD EAST 1301999
- 094147 - RCWD JT WATER
- 094147 - RCWD R DIV DS
- 094147 - RIV CO REGIONAL PARK & OPEN SF
- 094147 - RIVERSIDE CO OFC OF EDUCATION
- 094147 - SO. CALIF, JT(19,30,33,36,37,56)
- 094147 - TEMECULA PUBLIC CEMETERY
- 094147 - TEMECULA UNIFIED
- 094147 - TEMECULA UNIFIED B&I

Tax Rate Area &

PLUS PERMITS & CASES**Administrative Cases**

Case	Case Description	Status
N/A	N/A	N/A

Building and Safety Cases

Case	Case Description	Status
BFE170061	AG GRADING EXEMPTION PREVIOUSLY FARMED	REVOKED
BGR170265	ROUGH GRADE FOR TR37254	PLAN CHECK

Code Cases

Case	Case Description	Status
CV1704079		Open
CV1800159		Closed - Field
CV1800160		Closed - Field

Fire Cases

Case	Case Description	Status
N/A	N/A	N/A

Planning Cases

Case	Case Description	Status
AG01056	DIMINISHMENT OF 48.52 NET/51.54 GROSS AC FROM RANCHO CALIFORNIA AGRICULTURE PRESERVE NO. 11 AND CANCELLATION OF CONTRACT	LDC REVIEW
AGN00173	NOTICE OF NONRENEWAL FOR RANCHO CALIFORNIA AGRICULTURAL PRESERVE NO. 11, AMENDMENT RECORDED NO. 3, MAP NO. 389	
CFG04591	CALIF FISH & GAME FOR EA41199	PAID
CFG06216	CFW FEES FOR EA42839 (TR37254)	APPLIED
CZ07466	PROPOSE TO CHANGE ZONE FROM C/V-20 TO C/V-2.5	ABANDONED
CZ07885	CHANGE ZONE FROM C/V 10 TO WC-W	PC
EA41199	EA FOR PM35656 CZ07466	APPROVED
EA42839	TR36975 CZ07885	LDC REVIEW
GEO01977	GEOLOGIC REVIEW FOR PM35656	APPROVED
GEO02466	GEO REVIEW FOR TR36975	APPLIED
GPA01202	FOUNDATION GENERAL PLAN ADMENDMENT	PC
PAR00776	FOR CZ FROM CV-10 TO CV 2.5/AND PROCESS A TR33788	APPROVED
PAR01436	PAR FOR 6 LOTS, 5 SFR LOTS, CLUSTERED SUBDIVISION	APPROVED
PDA04313	HISTORICAL/ARCHAEOLOGICAL RESOURCES SURVEY REPORT	APPLIED
PDA04967	PHASE II CULTURAL RESOURCES TESTING & EVALUATION	APPLIED
PDB05003	MSHCP BIOLOGICAL HABITAT ASSESSMENT REPORT:5/1/07 SURVEY:5/25/07	APPROVED
PDB06247	NESTING SEASON SURVEY BURROWING OWL DATE OF SURVEY: 6/20/15, 6/27/15, 7/8/15, 7/15/15 DATE OF REPORT: 7/17/15 BY: PAUL PRINCIPE	APPROVED
PDB06248	MSHCP CONSISTENCY ANALYSIS DATE OF SURVEY: DATE OF REPORT: 9/11/15 BY: PAUL PRINCIPE	APPROVED
PDB06518	NESTING SEASON SURVEY BURROWING OWL DATE OF SURVEY: 3/30/17, 4/6/17, 4/13/17, 4/20/17 DATE OF REPOR: 4/25/17 BY: PAUL A. PRINCIPE	APPLIED
PDB06519	WRC MSHCP CONSISTENCY ANALYSIS DATE OF SURVEY: DATE OF REPORT: 5/17/17 BY: PAUL PRINCIPE	APPLIED
PM35656	SUBDIVIDE 48.52 ACRES INTO 3 TEN ACRE LOTS 1 REMAIN	APPROVED
TR33788	SUBDIVIDE 51.54ACRES INTO 10 SFR LOTS 2.5ACRE EA + 1 5ACRE LOT FOR COMML VINEYARD. SCHEDULE D.	WITHDRAWN
TR36975	SCH D MAP/SUBDIV 51AC INTO 5 SFR 5 AC LOTS W/1 26AC LOT FOR VINEYARD.	WITHDRAWN
TR37254	SCHED D 8 LOTS FROM 51.52 AC	PC

Survey Cases

Case	Case Description	Status
FPM35656	SUBDIVIDE 48.52 AC INTO 3 TEN AC LOTS 1 REMAINDER	APPLIED
MAP33788		ISSUED
MAP35656		ISSUED
MAP36975		ISSUED
MAP37254		ISSUED

Transportation Cases

Case	Case Description	Status
IP090063	PM35656 N/LOS NOGALES W/CAMINO DEL VINO	SIGNED

DEPARTMENT of ENVIRONMENTAL HEALTH PERMITS**Septic Permits**

Record Id	Application Date	Plan Check Approved Date	Final Inspection Date	Approved Date
N/A	N/A	N/A	N/A	N/A

Well Water Permits

Record Id	PE	Permit Paid Date	Permit Approved Date	Well Finaled Date
N/A	N/A	N/A	N/A	N/A

*** DISCLAIMER ***

Maps, permit information and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

Response to Southwest Regional Council of Carpenters

AGRICULTURAL RESOURCES:

The County states the loss of nearly 26 acres of unique farmland, alone, would not create a significant impact, because "there is a number of areas designated as Unique and Prime Farmland that will remain in the area and the current proposed change represents a small portion to the total farmland area just locally." As shown on the Farmland Mapping and Monitoring Program maps, which the County references, there is some farmland nearby identified as unique and prime, primarily within one mile to the east and west of the Project site. Relatively little prime and unique farmland exists outside of this two-mile stretch, and the Project site sits at the heart of this land. Regardless, the MND fails to put this loss into full perspective and the County does not disclose the geographical radius it references when it states that the Project site represents small portion of total unique and prime farmland. In reference to the FMMP, the Project appears to represent a large percentage of unique and prime farmland in the area, and construction on the Project site would serve to break the continuity of what little of this farmland remains.

Response - Within 2 miles of the exterior boundary of the Koll Homes project site (parcel), there is 1,781 acres of farmland of local importance, 911 acres of prime farmland, 447 acres of farmland of statewide importance, and 1,177 acres of unique farmland. The south 26 acres of the Project site is only about 2.8% of prime farmland in this area, and will remain as an agricultural use (vineyards). To ensure the continuance of this acreage to agricultural uses an agricultural easement in perpetuity is required for these 26 acres and is included in the conditions of approval. The north 26 acres that will be the residential pads is only 2.2% of the unique farmland within 2 miles of the project site. Based on these amounts, the project would not have the potential for a significant impact to farmland.

Exhibit B



Cornell Waste Management Institute

Department of Crop & Soil Sciences
<http://cwmi.css.cornell.edu>

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by:
Hannah Shayler
Murray McBride
Ellen Harrison

Sources and Impacts of Contaminants in Soils

Soils Overview

Soils are formed by the decomposition of rock and organic matter over many years. Soil properties vary from place to place with differences in bedrock composition, climate, and other factors. At times, the amounts of some soil elements and other substances may exceed levels recommended for the health of humans, animals, or plants. Certain chemical elements occur naturally in soils as components of minerals, yet may be toxic at some concentrations. Other potentially harmful substances may end up in soils through human activities.

In some regions of the United States, naturally occurring concentrations of certain chemicals may be higher than those in other areas. For example, typical levels of arsenic in the soils of some regions of New York State can exceed recommended values. At times this results in groundwater arsenic concentrations above US Environmental Protection Agency (USEPA) limits for drinking water, requiring treatment to ensure a safe water supply. In New York State, the naturally occurring concentrations of potentially toxic elements in soils are otherwise generally not a problem.

Soil properties are affected by past land use, current activities on the site, and nearness to pollution sources. Human activities have intentionally added substances such as pesticides, fertilizers and other amendments to soils. Accidental spills and leaks of chemicals used for commercial or industrial purposes have also been sources of contamination. Some contaminants are moved through the air and deposited as dust or by precipitation.

CWMI Resources for Healthy Soils

<http://cwmi.css.cornell.edu/soilquality.htm>

- ◆ Sources and Impacts of Contaminants in Soils
- ◆ Guide to Soil Testing and Interpreting Results
- ◆ Best Practices for Healthy Gardens
- ◆ More Information about Arsenic and Lead

This document provides background information about soil contaminants and their impacts on human health and the environment. It is part of a series of CWMI resources intended to help people who are interested in soil testing, interpreting test results, and best practices for healthy soils.

What Happens to Contaminants in Soils?

Once contaminants are in soils, where they go and how quickly they travel depends on many factors. Some organic (carbon-based) contaminants can undergo chemical changes or degrade into products that may be more or less toxic than the original compound. Note that chemical elements (such as metals) cannot break down, but their characteristics may change so that they can be more or less easily taken up by plants or animals. Different contaminants vary in their tendency to:

- ◆ End up in water held in the soil or in the underlying groundwater (by leaching through the soil);
- ◆ Volatilize (evaporate) into the air; or
- ◆ Bind tightly to the soil.

The characteristics of the soil also affect the fate of contaminants and whether they can be readily taken up by plants or animals. Site management and land use (such as gardening practices) can affect some soil characteristics. Important soil characteristics that may affect the behavior of contaminants include:

- ◆ Soil mineralogy and clay content (soil texture);
- ◆ pH (acidity) of the soil;
- ◆ Amount of organic matter in the soil;
- ◆ Moisture levels;
- ◆ Temperature; and
- ◆ Presence of other chemicals.



Are Contaminants Biologically Available?

The bioavailable portion is the amount of a substance that can cause direct effects on plants, animals or humans because it can be taken up by their bodies. Usually, not all of a contaminant found in soil is biologically available. The bioavailability of a contaminant depends on many characteristics of the soil and of the site. Site conditions affect how tightly the contaminant is held by soil particles and its solubility (how much of it will dissolve in water). Greater solubility usually means that more of the contaminant is bioavailable, but this also means that the contaminant is more likely to leach out of the soil. Certain chemicals show an "aging effect" and can become less bioavailable the longer they remain in soils.

Most commonly available soil tests measure a large part of the total amount of a particular contaminant in the sample, not just the bioavailable portion. The bioavailable portion may be only a small fraction of the total amount. Changes in site conditions, such as soil acidity or organic matter content, can change the bioavailability of a contaminant. There is no easy way to know what portion may be bioavailable. Using bioassay tests to measure uptake of contaminants by plants or soil organisms is the most direct way to estimate bioavailability. Unfortunately, bioassay tests are slow and expensive and are not generally available. For this reason, only the total levels or chemically extractable amounts (commonly used to approximate the total amount) of a particular contaminant are usually measured.

How are Contaminants Distributed in Soils?

The distribution of contaminants released to soils by human activities is related to how and where they are added. For instance, the amount of contaminants in the soils of an industrially-contaminated site may vary depending on the activities conducted on the site. The movement of air and water will also affect how soil contaminants move throughout a site. Chemicals may be carried by winds and deposited on the surface of soils; tilling can then mix these surface deposits into the soil. The movement of groundwater or surface water may also affect how contaminants spread from the source.

Many pesticides and soil amendments used for agricultural, industrial, or commercial activities may be found in residential soils. This could happen if former industrial or agricultural lands are later used for residential properties, and contaminants remain in the soil.

Spills, runoff, or aerial deposition of chemicals used for agriculture or industry can also result in contamination of the soils of residential sites.

For example, arsenic and lead were once used as pesticides on a number of crops, including orchards, throughout the United States. Sodium arsenate was also commonly used on potato crops in eastern Long Island. Therefore, old orchards, farms, and adjacent areas are places where testing for arsenic and lead might be advisable. Within an orchard, the distribution of these contaminants may be very spotty since individual trees may have been treated, resulting in higher residues under each tree. Collecting multiple soil samples from such an area would help to determine the pattern of contamination.



What are Some Common Sources of Soil Contaminants?

Due to the wide array of contaminants, soils and site conditions, the levels of possible contaminants will depend on the specific conditions of a particular property. If the answer to any of the following questions is "yes," soil testing can help provide more information about the levels of a particular contaminant (or contaminants).

◆ **Lead Paint:** *Has lead paint been used on the outside of homes or other buildings on or near the property?*

Some paints manufactured before 1978 are likely to contain lead. As lead paint ages and peels off or is intentionally removed through activities such as stripping, scraping or sandblasting, lead can make its way into the soil surrounding homes or other buildings. The concentrations of lead in soil are usually highest right near a building, and tend to decrease with distance away from the contamination source. See more information from the Cornell Waste Management Institute (CWMI) at: <http://cwmi.css.cornell.edu/soilquality.htm>.

◆ **Pesticides:** *Are pesticide chemicals currently used on the property? Were pesticides used in the past, such as for old orchards or farms?*

Pesticides include chemicals used as insecticides, herbicides, fungicides, rodent poisons and some other kinds of poisons. When testing for pesticides in soil, there is no single test to see if there are pesticide residues. It is necessary to test for specific chemicals, and unfortunately, there are hundreds of pesticides from which to choose. The best way to proceed is to consider if and how pesticides might have been used on your property, and to try to get information on what might have been used and where. For example, chlordane, a persistent chemical, was often used for termite control around foundations in the past. Pesticide mixing areas are often "hot spots" of contamination. Fact sheets providing more information about specific pesticide chemicals and their uses are available from the National Pesticide Information Center at: <http://npic.orst.edu/npicfact.htm>.

◆ **Industrial / Commercial Site Use:** *Is the property near an industrial or commercial site that may be using chemicals or might have used chemicals in the past? Was the property formerly the site of industrial or commercial activity?*

The particular chemicals that may be present due to industrial or commercial activities will depend on the type of industry and the specific procedures used on site. If commercial or industrial activities are currently occurring on or near the property, or may have occurred in the past, it may be helpful to research what chemicals might have been used for a specific activity. The level of contamination will depend on many factors, such as how close to the property a particular activity occurred, and how long it has been since chemicals were used. The USEPA (<http://www.epa.gov/>) and the Agency for Toxic Substances and Disease Registry (ATSDR, <http://www.atsdr.cdc.gov/>) may have more information about specific chemicals and contaminated sites.

◆ **High Traffic Areas:** *Is the property located near a roadway with frequent traffic?*

A property's distance from roadways and traffic can affect the amounts of certain chemicals in the soil, especially lead. Lead compounds were used in gasoline until the late 1970s; after this time their use was phased out. Even though the use of leaded gasoline has now been discontinued, the highest concentrations of lead in soils are still generally found adjacent to busy roadways.

Polyaromatic hydrocarbons (PAHs) are chemicals associated with the incomplete combustion of fossil fuels and with coal tars and asphalt. The levels of PAHs and some other chemicals may also be higher in high traffic areas as compared to other areas. The lowest levels of contamination would be expected in the areas of the property farthest away from traffic.

◆ **Treated Lumber:** *Were decks, swing sets, play-scapes, or other structures on the property built from pressure treated wood?*

Arsenic, in the form of chromated copper arsenate or CCA, has been used in wood preservatives to make pressure-treated lumber. CCA-treated lumber is no longer available in the US for residential uses, but it can still be used for industrial purposes. Some of the arsenic in CCA-treated wood can move from the wood to nearby soil, although it does not travel far from the wood structure. The ATSDR provides more information to answer common questions about CCA and arsenic (<http://www.atsdr.cdc.gov/cabs/arsenic/>), while Pennsylvania State University offers additional information about garden use of treated lumber (<http://pubs.cas.psu.edu/freepubs/pdfs/uc173.pdf>). Also see more information from CWMI at: <http://cwmi.css.cornell.edu/soilquality.htm>.

◆ **Petroleum Spills:** *Is there a history of spills or leaks of fuel oil, gasoline or other petroleum products on or near the property?*

Petroleum leaks or spills from gas stations, fuel tanks, or other activities can result in elevated levels of contaminants such as benzene, toluene, and xylene in the soil. Some of these chemicals (especially volatiles) are unlikely to remain in the surface soil where they would be taken up by plants or be in direct contact with humans, unless the spill was very recent or large. However, this is not true for all contaminants or all spills, especially for some underground spills that may result in vapors that make their way to the surface soil. If the source is a leaking underground heating oil tank, it is unlikely that the surface soil would be contaminated with these chemicals. However, these spills should be reported to the NYS Department of Environmental Conservation (NYS Spill Hotline: 1-800-457-7362)

It is particularly important to find out if contaminants are a problem in areas where children play or in gardens where fruits or vegetables are grown for food.

◆ **Automobile or Machine Repair / Junk Vehicle Storage:** *Has automobile or other machine repair work been done that may have resulted in chemical spills or dumping on or near the property? Are junk vehicles stored on or near the property?*

Automobile or machine repair activities may result in accidental spills or intentional dumping of chemicals into residential or community soils. Many possible contaminants could be associated with these activities, including petroleum products, PAHs (particularly from motor oil), solvents like trichloroethylene (TCE), used tires and rubber products, metals (used engine oil may contain chromium, lead, molybdenum, or nickel from engine wear), or used batteries (which may release lead or mercury). Junk vehicles may also be a source of these chemicals or other contaminants, depending on their condition and how and where they are stored.

◆ **Furniture Refinishing:** *Has furniture been refinished on or near the property?*

Some chemical strippers used in furniture refinishing contain methylene chloride and other solvents, including toluene and methanol. These substances can contaminate the soil and groundwater if handled improperly during commercial operations or projects by a home hobbyist. Note that a variety of chemical strippers are available commercially, some of which do not contain these toxic substances.

◆ **Landfills / Garbage Dumps:** *Is the property near a landfill or garbage dump? Was it formerly the site of a landfill or garbage dump?*

Many different soil contaminants can leach from landfills or other garbage disposal sites, including petroleum products, solvents, pesticides, lead and other heavy metals. The chemicals that may be present in soils near locations used for waste disposal (currently or in the past) will depend on the specific conditions of a particular site, and on what types of materials were disposed of at that site.

◆ **Fires:** *Have materials been burned on or near the property? Has there been an accidental fire?*

The intentional or accidental burning of materials can produce and release PAHs, dioxins or other chemicals into soils, depending on what was burned and how long ago. Burning yard wastes, such as tree branches, is much less likely to release harmful contaminants than intentional or accidental fires that burn garbage, buildings or their contents, or other synthetic substances.

◆ **Fertilizers:** *Are fertilizers used for lawns or gardens on the property? Is the property near farmland or was it formerly used for agriculture?*

The use of some fertilizers based on waste materials, particularly sewage biosolids or fly ash, may result in the addition of heavy metals (such as copper, zinc, cadmium and lead) and PBTs (persistent, bioaccumulative, toxic chemicals) to soils. Products made from cement kiln dust may also contain heavy metals and dioxins. The use of animal manure or chemical fertilizers may result in higher levels of some soil contaminants. Phosphate fertilizers are known to contain some cadmium (from the rock phosphate), and manures are sometimes relatively high in copper or zinc.

How are People Exposed to Soil Contaminants?

Generally, people can be exposed to contaminants in soil through ingestion (eating or drinking), dermal exposure (skin contact) or inhalation (breathing). The route of human exposure to a soil contaminant will vary with the contaminant and with the conditions and activities at a particular site.

Many people, especially children, accidentally ingest small amounts of soil as part of their normal activities, such as performing yard work, gardening or playing. Young children usually ingest more soil than older children and adults because of their frequent hand-to-mouth behavior. Children and adults may also ingest soil while indoors if soil is transported into homes or other buildings, such as on shoes, clothing, or pets. Some contaminants, such as many pesticides, can pass through the skin and enter the body. People may also inhale contaminants bound to soil particles that become airborne (such as in windblown dust), or contaminants that vaporize from soil.

People can be exposed to contaminants in soil particles that stick to edible parts of garden produce or get taken up into garden plants from the soil. Animals raised for food may also take in contaminants from soil, and people may be exposed to these contaminants by eating animal products such as meat, eggs and milk. Drinking water may contain contaminants that were directly discharged into the water source or entered the surface water through runoff, or had leached from the soil into groundwater. In some situations, a contaminant may vaporize from the underlying groundwater and become part of the air that people breathe.

What are the Possible Health Effects of Exposure?

For any exposure to a contaminant, the likelihood that health effects will occur depends on the toxicity of the contaminant (how harmful it is to humans), how much of the contaminant is in contact with humans, and how long and how often the exposure occurs. Other potentially important factors include how healthy the person is, and his or her age, diet, gender, family traits and lifestyle. Differences in these factors may affect how people will respond to a given level of exposure to a particular contaminant. Children are generally more vulnerable because they ingest more soil, absorb more of the ingested contaminants, and eat, drink and breathe more in relation to their body size than adults. The bodies of unborn babies, infants, and children are also still developing and are more vulnerable to contaminants.

Information about the health effects of a particular contaminant may be available through the ATSDR (<http://www.atsdr.cdc.gov>), the USEPA (<http://www.epa.gov>), or other sources.

What are the Possible Effects on Ecosystem Health?

In addition to possible effects on human health, elevated levels of soil contaminants can negatively affect plant vigor, animal health, microbial processes, and overall soil health. Some contaminants may change plants' metabolic processes and reduce yields or cause visible damage to crops. Even relatively low concentrations of certain contaminants can alter soil chemistry and impact organisms that depend on the soil or plants for their nutrition and habitat. The effects on plants, animals, microbes, and soils within a given system will depend on the properties of the soil, the levels of contamination, the specific contaminants present, and the sensitivity of a particular organism to existing contamination.

For example, legume plants are able to fix nitrogen in the soil through a symbiotic relationship with *Rhizobium* bacteria in their root nodules. Such crops (including beans, lentils, peas, and peanuts) are often used to replenish nitrogen levels in depleted soils. However, these bacteria are sensitive to zinc contamination, which can disrupt the nitrogen fixation process. Nitrogen, a key nutrient for plant growth, may then no longer be available to the plant or to the rest of the system.

What Resources are Available to Help Locate Site History Information?

Finding site history information may be easier for some properties than others. Any information will help to address questions about the past and present uses of a site, and how the site history may have affected the current soil quality or the levels of contamination. Local libraries, historical societies, or map archives are good places to begin to track down site history information. Searchable Internet resources, such as <http://www.propertyshark.com>, may provide additional information.

Gathering information about soil conditions and past and present uses of a property can clarify whether soil testing is needed.

To assess whether contamination problems are likely at a particular site, try to find out:

- ◆ *What activities took place on this site?*
- ◆ *What chemicals were used?*
- ◆ *Where, and how much, were chemicals applied?*

What if a Property is Bought or Sold?

New York State Property Law requires a seller to disclose the results of any environmental testing (including soil and water tests) when a property is sold in the Property Condition Disclosure Statement. Property laws may differ in different states.

If a property is being bought or sold and there are questions or concerns about soil contaminants, soil testing may provide information to help identify if and where problems occur, and to what degree contamination may be present.



Where Can I Get More Information?

Cornell Waste Management Institute Resources for Healthy Soils: <http://cwmi.css.cornell.edu/soilquality.htm>

- ◆ Sources and Impacts of Contaminants in Soils ◆ Guide to Soil Testing and Interpreting Results
- ◆ Soil Contaminants and Best Practices for Healthy Gardens ◆ More Information about Arsenic and Lead

Other Resources

Agency for Toxic Substances and Disease Registry, Department of Health and Human Services, Atlanta. Provides information to prevent harmful exposures and diseases related to toxic substances. Accessible at: <http://www.atsdr.cdc.gov/>

California Office of Environmental Health Hazard Assessment. A database with toxicity information on many chemicals. Accessible at: <http://www.oehha.ca.gov/risk/ChemicalDB/index.asp>

Cleanup Levels for hazardous waste sites. Links to many federal, state and international websites that address soil clean up levels. Accessible at: <http://cleanuplevels.com/>

National Pesticide Information Center. Provides information about pesticides and related topics. Accessible at: <http://npic.orst.edu/>

New York State Department of Environmental Conservation. Brownfield and Superfund Regulation, 6 NYCRR Part 375 - Environmental Remediation Programs. Accessible at: <http://www.dec.ny.gov/chemical/34189.html>

Penn State University. Agronomy Fact Sheets: Environmental Soil Issues. Information about lead in residential soils, garden use of treated lumber, and other issues. Accessible at: <http://cropsoil.psu.edu/extension/esi.cfm>

US Environmental Protection Agency. Office of Solid Waste and Emergency Response. Soil Screening Guidance: Quick Reference Fact Sheet, EPA/540/F-95/041. Accessible at: http://www.epa.gov/superfund/health/conmedia/soil/pdfs/fact_sht.pdf

US Environmental Protection Agency. US Office of Solid Waste and Emergency Response. Superfund Soil Screening Guidance: Technical Background Document, EPA/540/R95/128. Accessible at: <http://www.epa.gov/oerrpage/superfund/health/conmedia/soil/introtbd.htm>

US Environmental Protection Agency. Integrated Risk Information System (IRIS). Searchable database with information on the toxicity of numerous chemicals. Accessible at: <http://cfpub.epa.gov/ncea/iris/index.cfm>

Washington State University Cooperative Extension. Gardening on Lead- and Arsenic-Contaminated Soils. Additional information about arsenic and lead in garden soils. Accessible at: <http://cru.cahe.wsu.edu/CEPublications/eb1884/eb1884.pdf>

Special Thanks to Contributors and Supporters

We greatly appreciate the ongoing insights and feedback provided by the New York State Department of Environmental Conservation and the New York State Department of Health, our colleagues at Cornell University and Cornell University Cooperative Extension-NYC, collaborators in the New York City urban soils group, and the many others whose questions, concerns, and experiences have led to the development of these documents.

Reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. The Cornell Waste Management Institute makes no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service or the usefulness, completeness, or accuracy of any processes, methods or other information contained, described, disclosed, or referred to in this fact sheet.

Exhibit C

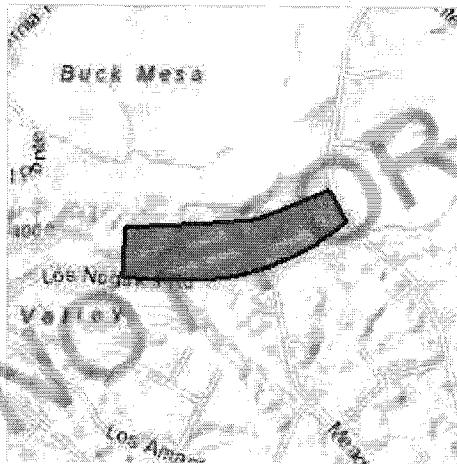
IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Riverside County, California



Local office

Carlsbad Fish And Wildlife Office

(760) 431-9440

(760) 431-5901

2177 Salk Avenue - Suite 250
Carlsbad, CA 92008-7385

<http://www.fws.gov/carlsbad/>

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population, even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species¹ and their critical habitats are managed by the Ecological Services Program of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact NOAA Fisheries for species under their jurisdiction.

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the listing status page for more information.
2. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME

STATUS

Stephens' Kangaroo Rat *Dipodomys stephensi* (incl. *D. cactus*) **Endangered**
 No critical habitat has been designated for this species.
<https://ecos.fws.gov/ecp/species/3495>

Birds

NAME

STATUS

Coastal California Gnatcatcher *Polioptila californica californica* **Threatened**
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/8178>

Least Bell's Vireo *Vireo bellii pusillus* **Endangered**
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/5945>

Southwestern Willow Flycatcher *Empidonax traillii extimus* **Endangered**
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/6749>

Insects

NAME

STATUS

Quino Checkerspot Butterfly *Euphydryas editha quino* (=E. e. wrighti) **Endangered**
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/5900>

Crustaceans

NAME

STATUS

Riverside Fairy Shrimp *Streptocephalus woottoni* **Endangered**
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/8148>

Vernal Pool Fairy Shrimp *Branchinecta lynchi* **Threatened**
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/498>

Flowering Plants

NAME	STATUS
California Orcutt Grass <i>Orcuttia californica</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/4923	Endangered
Munz's Onion <i>Allium munzii</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/2951	Endangered
San Diego Ambrosia <i>Ambrosia pumila</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/8287	Endangered
Slender-horned Spineflower <i>Dodecahema leptoceras</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/4007	Endangered
Spreading Navarretia <i>Navarretia fossalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/1334	Threatened
Thread-leaved Brodiaea <i>Brodiaea filifolia</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/6087	Threatened

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

1. The Migratory Birds Treaty Act of 1918.
2. The Bald and Golden Eagle Protection Act of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the USFWS Birds of Conservation Concern (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ below. This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see maps of where birders and the general public have sighted birds in and around your project area, visit E-bird tools such as the E-bird data mapping tool (search for the name of a bird on your list to see specific locations where that bird has been reported to occur within your project area over a certain timeframe) and the E-bird Explore Data Tool (perform a query to see a list of all birds sighted in your county or region and within a certain timeframe). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list can be found below.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)

Allen's Hummingbird *Selasphorus sasin*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9637>

Breeds Feb 1 to Jul 15

Bald Eagle *Haliaeetus leucocephalus*

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

<https://ecos.fws.gov/ecp/species/1626>

Breeds Jan 1 to Aug 31

Black Rail *Laterallus jamaicensis*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/7717>

Breeds Mar 1 to Sep 15

Black Skimmer *Rynchops niger*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/5234>

Breeds May 20 to Sep 15

Black Swift *Cypseloides niger*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/8878>

Breeds Jun 15 to Sep 10

Black Turnstone *Arenaria melanocephala*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds elsewhere

Black-chinned Sparrow *Spizella atrogularis*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9447>

Breeds Apr 15 to Jul 31

Burrowing Owl *Athene cunicularia*

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

<https://ecos.fws.gov/ecp/species/9737>

Breeds Mar 15 to Aug 31

California Thrasher *Toxostoma redivivum*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds Jan 1 to Jul 31

- Clark's Grebe** *Aechmophorus clarkii* Breeds Jan 1 to Dec 31
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
- Costa's Hummingbird** *Calypte costae* Breeds Jan 15 to Jun 10
 This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA
<https://ecos.fws.gov/ecp/species/9470>
- Golden Eagle** *Aquila chrysaetos* Breeds Jan 1 to Aug 31
 This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.
<https://ecos.fws.gov/ecp/species/1680>
- Gull-billed Tern** *Gelochelidon nilotica* Breeds May 1 to Jul 31
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9501>
- Lawrence's Goldfinch** *Carduelis lawrencei* Breeds Mar 20 to Sep 20
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9464>
- Le Conte's Thrasher** *toxostoma lecontei* Breeds Feb 15 to Jun 20
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/8969>
- Lewis's Woodpecker** *Melanerpes lewis* Breeds Apr 20 to Sep 30
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9408>
- Long-billed Curlew** *Numenius americanus* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/5511>
- Marbled Godwit** *Limosa fedoa* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9481>

- Mountain Plover** *Charadrius montanus* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/3638>
- Nuttall's Woodpecker** *Picoides nuttallii* Breeds Apr 1 to Jul 20
 This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA
<https://ecos.fws.gov/ecp/species/9410>
- Oak Titmouse** *Baeolophus inornatus* Breeds Mar 15 to Jul 15
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9656>
- Rufous Hummingbird** *selasphorus rufus* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/8002>
- Short-billed Dowitcher** *Limnodromus griseus* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9480>
- Tricolored Blackbird** *Agelaius tricolor* Breeds Mar 15 to Aug 10
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/3910>
- Whimbrel** *Numerius phaeopus* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/9483>
- White Headed Woodpecker** *Picoides albolarvatus* Breeds May 1 to Aug 15
 This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA
<https://ecos.fws.gov/ecp/species/9411>
- Willet** *Tringa semipalmata* Breeds elsewhere
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
- Wrentit** *Chamaea fasciata* Breeds Mar 15 to Aug 10
 This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in your project's counties during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the counties of your project area. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

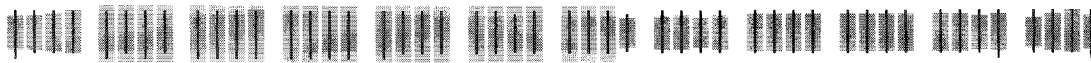
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information.

■ probability of presence ■ breeding season | survey effort — no data

SPECIES JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

Allen's Hummingbird

BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



Bald Eagle

Non-BCC Vulnerable (This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.)



Black Rail

BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



Black Skimmer

BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



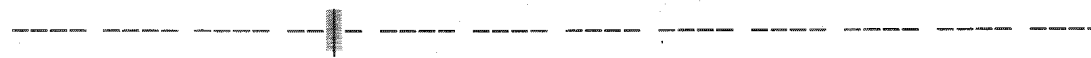
Black Swift

BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



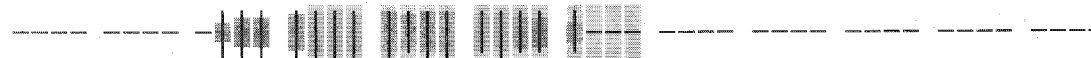
Black Turnstone

BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



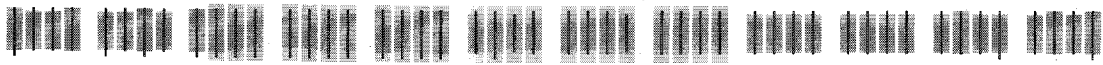
Black-chinned Sparrow

BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

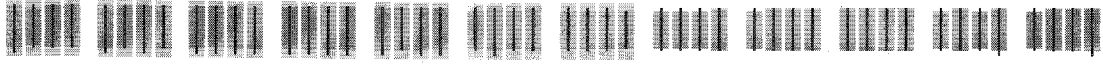


NOT FOR CONSULTATION

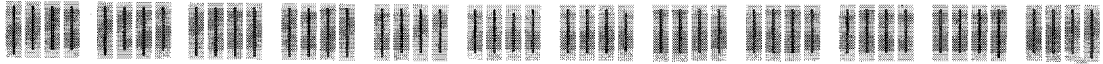
Burrowing Owl
 BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)



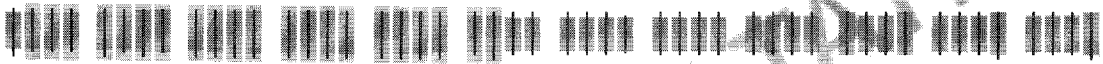
California Thrasher
 BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



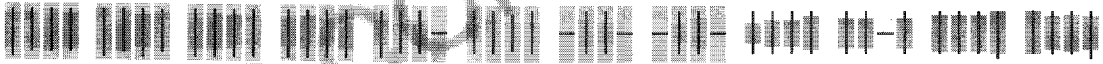
Clark's Grebe
 BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



Costa's Hummingbird
 BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)



Golden Eagle
 Non-BCC Vulnerable (This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.)

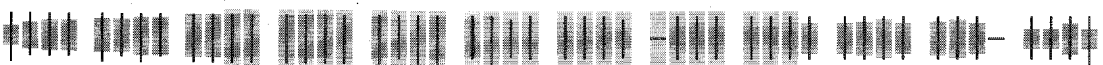


SPECIES JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

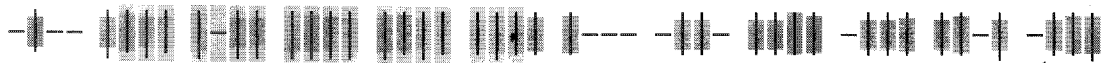
Gull-billed Tern
 BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



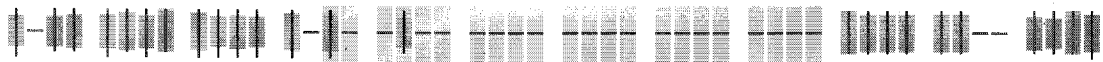
Lawrence's Goldfinch
 BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)



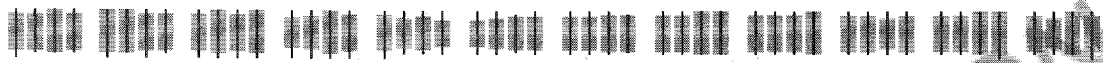
Le Conte's
 Thrasher
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



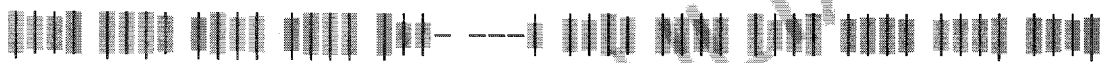
Lewis's
 Woodpecker
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



Long-billed Curlew
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



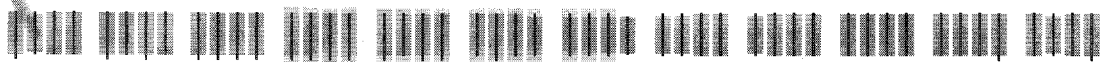
Marbled Godwit
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



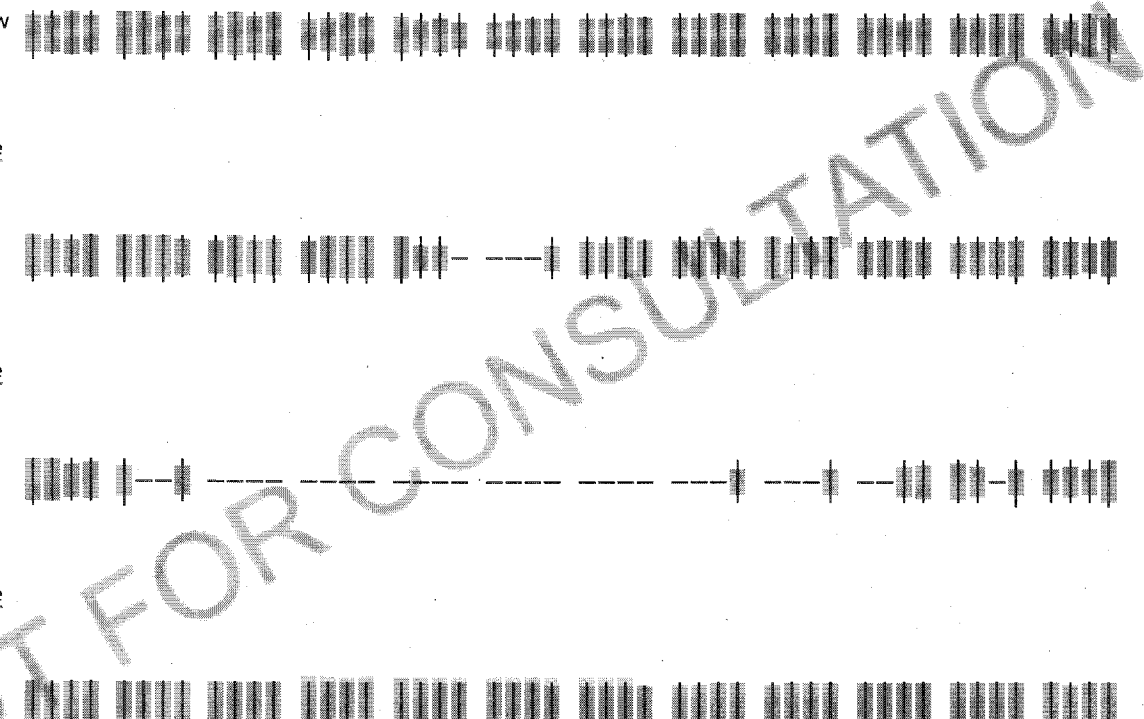
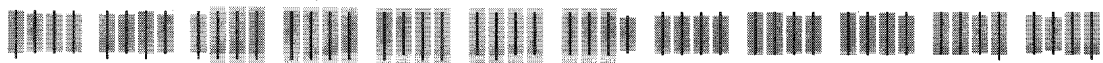
Mountain Plover
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)

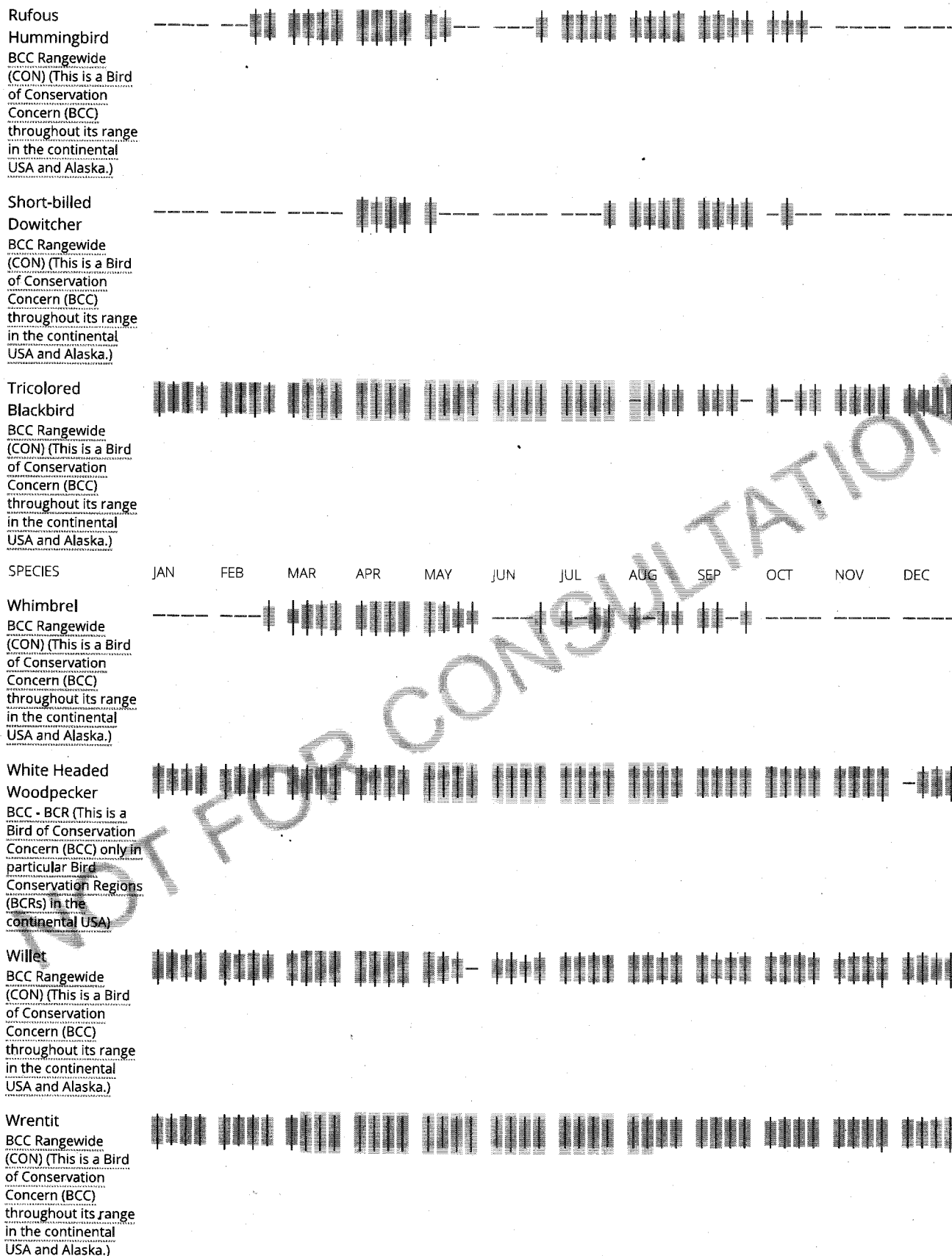


Nuttall's
 Woodpecker
 BCC - BCR (This is a
 Bird of Conservation
 Concern (BCC) only in
 particular Bird
 Conservation Regions
 (BCRs) in the
 continental USA)



Oak Titmouse
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)





NOT FOR CONSULTATION

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

Nationwide Conservation Measures describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. Additional measures and/or permits may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the counties which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (Eagle Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the E-bird Explore Data Tool.

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the Avian Knowledge Network (AKN). This data is derived from a growing collection of survey, banding, and citizen science datasets.

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: The The Cornell Lab of Ornithology All About Birds Bird Guide, or (if you are unsuccessful in locating the bird of interest there), the Cornell Lab of Ornithology Neotropical Birds guide. If a bird entry on your migratory bird species list indicates a breeding season, it is probable that the bird breeds in your project's counties at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are Birds of Conservation Concern (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the Eagle Act requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the BGEPA should such impacts occur.

Facilities

Wildlife refuges and fish hatcheries

REFUGE AND FISH HATCHERY INFORMATION IS NOT AVAILABLE AT THIS TIME

Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

THERE ARE NO KNOWN WETLANDS AT THIS LOCATION.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION

Good Afternoon Mr. Smalley:

In reviewing your additional statement of opposition dated April 1, 2018, it was broken down into three Key Points. The following is my response to those points:

Key Point #1: GPA 1202 and TR37254 justification is built on the false notion that residential development is the only option.

The findings do not propose that residential is the only option, simply that development as a winery is not as appropriate or desirable given the location and access limitations as well as surrounding existing land uses that the property makes more sense as the Wine Country – Residential district. To retain the Wine Country – Winery district on the site presents greater potential for winery development that would not be well served by existing infrastructure and has higher potential to be of concern to surrounding residential uses compared with the residential project proposed. Staff has proposed the findings necessary to support staff's and the Planning Commission's recommendation for approval of the General Plan Amendment. The hearing Body will listen to public comment and make their decision based on whether the findings are valid and meet the requirements necessary for the General Plan Amendment.

• GPA 1202 and TR37254 plan does not protect Wetlands in perpetuity.

Mitigation is provided that will ensure the wetlands are to be avoided as stated in:

MM BIO-1: 100% of the Riparian area will be avoided by ultimate design of the project; in addition,

MM BIO-5: Prior to recordation, an Environmental Constraints Sheet (ECS) shall be included with notes placed on the Final Map that requires avoidance of impacts to any blue-line, riverine, riparian or jurisdictional features mapped as part of the DBESP mitigation process shall match the final map. The area shown on the ECS as an area to avoid disturbance shall be labeled "Riverine/Riparian Avoidance Area." This will be documented in perpetuity.

• GPA 1202 and TR37254 plan does not address traffic generated by new wineries in the planning phase.

The proposed project is for an eight lot subdivision and will not result in the degradation of the existing Level of Service. As determined by our Traffic engineers a traffic study was not required due to a minimal amount of peak hour trips that would be added to surrounding roads. Due to no traffic study being required, there is no formal analysis necessary for this project of other wineries in the area and the traffic they would generate relative to this project. Traffic analysis for development within Wine Country was addressed in an overall and cumulative sense with the EIR that was prepared for the Wine Country Community Plan. The proposed change to Wine Country – Residential instead of Wine Country – Winery would have a reduced amount of potential traffic due to the higher amount of trips that could occur with development of wineries compared to the development proposed. The road serving lots 5-8 will now be gated and private and should not result in the concerns suggested.

Johnson Sedlack

ATTORNEYS at LAW

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Riverside County Planning Department
4080 Lemon St. 12th Floor
Riverside, CA 92501

Matter Reference Name: Agenda Item 4.1: EA 42839, GPA 1202, CZ 7885, TR 37254, Ag Preserve Case # 1056

April 1, 2018

The environmental documentation for this project is fatally flawed. The proposed Negative Declaration does not provide any **evidence** to support its conclusions. Mitigation measures that are proposed are **vague and unenforceable**. **There are no engineering drawings, or design drawings of any kind to support its conclusion that there is no impact on wetlands or waters of the United States and California and absolutely no evidence to support this claim.** The IS states that a CDFW 1600 permit and a USACOE 404 permit **may be required, or it may not**. There is no certainty that one will be required. Similarly, **there is no design for the stream crossing which was supposedly evaluated or could be used for evaluation.** Nor is there any discussion of the disturbance of the waters of the US and State of California by construction equipment prior to approval of the tract map, or to be approved as a result of the approval of the Tract Map. **The DBESP must be submitted prior to project approval so that the decision makers can base their decision on actual data, not just hope or speculation.** There is no attempt to evaluate the potential impact of doubling the possible density of the site by changing the density from one lot per ten acres to one lot per five acres.

There are **no biological studies** to evaluate the potential impact on wetland species, **including those already destroyed by illegal grading**, just an assertion that there are no impacts, **unsupported by any evidence**. Biological studies must be submitted prior to project approval so the decision makers have **evidence** upon which to base their decision, not just hope.

There are no earthwork quantities provided and no air quality analysis of the proposed grading and previous illegal grading which included illegal grading in wetlands and waters of the United States and State of California in Long Valley Wash.

There is no discussion or analysis of construction noise impacts to surrounding properties, just **vague, unspecified and unenforceable** statements about turning off equipment when not in use. Does this mean any time when not moving, or after 2 minutes or 5 minutes or

30 minutes, one hour, two hours or sometime that day? "Staging areas" is vague, uncertain and unenforceable and they must be **identified on the map** so that it is possible to determine if they are in compliance. Limitations on the use of equipment **"to the greatest degree possible is vague and unenforceable and therefore meaningless as mitigation.**

The environmental assessment claims that it could not convert farmland to non-agricultural uses in spite of the fact that the assessment claims that the property is in grape production now, and is in Rancho California Agricultural Preserve No. 11 (Instrument # 122118) and that it would be converted to **residential use** and grape production. It also claims that the project will not result in the conversion of agricultural land to non-agricultural uses because the land will be rezoned. **The act of rezoning does not change the impact it merely makes it legal but does not eliminate the change in land use or the impact.** Obviously, the land used for residential construction would no longer be in grape production thus there is a reduction in planted area and an agricultural impact. (EA Page 9)

The mitigation measure requiring the contractor to limit the use of heavy equipment "to the greatest degree possible" is vague and unenforceable.

The EA incorrectly states in 4c that the development of the property will not result in non-agricultural uses within 300' of agriculturally zoned property. This statement is incorrect as it will immediately abut agriculturally zoned property (see maps).

In Section 7, (Wildlife and Vegetation) the EA states in Paragraph (e) that the project will not have any significant impact on any riparian habitat in spite of **illegal grading that has already disturbed wetlands.** It also incorrectly states in Paragraphs (e and f) that **the project will not have any adverse effect on federally protected wetlands in spite of the fact that heavy equipment has been working within state and federally protected streambeds on the site even though the "Findings of Fact" state that the "Long Valley Wash and its associated Riparian Forest and Riparian scrub habitats will remain on the site in their existing conditions and will be 100% avoided."** (Page 13 Findings of Fact a). The EA on page 14 states that "the streambed and its associated Riparian Forest and Scrub habitats will be 100% avoided by the project." **This statement is incorrect as the project has already performed grading within the channel.**

The EA in Section 8 a) states that there will be no impact to cultural resources. This is inconsistent with the fact that the site was the site of the "Temecula Massacre" of the Pechanga Band of Luiseno Indians. None of the referenced Archaeological technical studies were attached to the Initial Study.

The Study references a "Preliminary Geotechnical Interpretive Report" (June 12, 2015) was not attached to the IS.

The Hydrology Section (24) of the EA states that there would be no substantial alteration

the existing drainage pattern in spite of the fact that heavy equipment has been working within the channel of the creek in spite of the requirements of Condition of Approval 60 EPD2 . Findings of Fact section e-f) states that “lots 1, 2 and 3 will be providing a bridge that crosses over the floodplain”. This statement is inconsistent with the map which shows three separate bridges providing access for each of lots 1-3 and a fourth bridge for the road crossing for realigned Los Nogales Road. **There are no design plans for any of the proposed bridges thus it is impossible to determine any potential impact.**

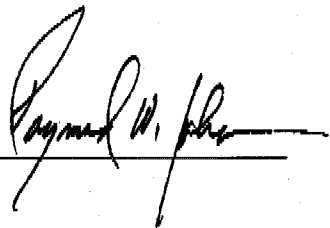
Section 27. Planning states that the project will be consistent with the site’s existing or proposed zoning. **The proposal specifically changes the existing zoning therefore it will not be consistent with the existing zoning and thus there is a change.** While the Initial Study claims that the density will be consistent with surrounding property, properties to the north, west and the east all have a 10 acre minimum lot size thus the project is not consistent and the Initial Study is inaccurate.

Section 43 f) states that the project will not result in the need for new or altered maintenance of roads. **This statement is obviously false as there will be a new roadway created as well as a new bridge for a relocated Los Nogales Road.**

Section 45. states that there will be no substantial adverse impact to tribal cultural resources. **This statement is based upon no evidence.** Cultural resource studies did identify a number of cultural artifacts on the site,

Based upon the inadequacies and incorrect statements in the proposed Negative Declaration an Environmental Impact Report must be prepared.

DATED: April 1, 2018



Raymond W. Johnson, Esq. AICP LEED GA

RAYMOND W. JOHNSON, Esq. AICP
Johnson & Sedlack
26785 Camino Seco
Temecula, CA 92590
(909) 506-9825

Career Summary: A highly motivated and skilled professional with over twenty-eight years experience in urban and environmental planning and environmental law in both the public and private sectors.

City Planning:

Current Planning

- Two years principal planner, Lenexa, Kansas (consulting)
- Two and one half years principal planner, Lee's Summit, Missouri
- One year North Desert Regional Team, San Bernardino County
- Ten years subdivision design: residential, commercial and industrial
- Fifteen years as applicants representative in various jurisdictions in: Missouri, Texas, Florida, Georgia, Illinois, Wisconsin, Kansas and California
- Five years as applicants representative in the telecommunications field

General Plan

- Developed a policy oriented Comprehensive Plan for the City of Lenexa, Kansas.
- Updated Comprehensive Plan for the City of Lee's Summit, Missouri.
- Created innovative zoning ordinance for Lenexa, Kansas.
- Developed Draft Hillside Development Standards, San Bernardino County, CA.
- Developed Draft Grading Standards, San Bernardino County.
- Developed Draft Fiscal Impact Analysis, San Bernardino County

Environmental Analysis

- Two years, Environmental Team, San Bernardino County
 - Review and supervision of preparation of EIR's and joint EIR/EIS's
 - Preparation of Negative Declarations
 - Environmental review of proposed projects
- Five years as an environmental consultant reviewing environmental documentation for plaintiffs in CEQA and NEPA litigation

Representation:

Raymond W. Johnson, Esq. AICP

- Represented various clients in litigation primarily in the fields of Environmental and Election law. Clients include:
 - Sierra Club
 - San Bernardino Valley Audubon Society
 - Center for Community Action and Environmental Justice
 - Endangered Habitats League
 - Citizens First of Temecula valley
 - Elsinore Murrieta Anza Resource Conservation District
 - Union for a River Greenbelt Environment
 - De Luz 2000
 - Save Walker Basin
 - South Menifee Ranches (election)
 - Kathleen Hamilton (election)
 - Rancho Lucerne Mutual Water Company
 - Pacific Golf Community Development LLC

Education:

- B. A. Economics and Political Science, Kansas State University 1970
- Masters of Community and Regional Planning, Kansas State University, 1974
- Additional graduate studies in Economics at the University of Missouri at Kansas City
- J.D. University of La Verne. 1997 Member, Law Review, Deans List, Class Valedictorian, Member Law Review, Published, Journal of Juvenile Law

Professional Associations:

- Member, American Planning Association
- Member, American Institute of Certified Planners
- Member, Association of Environmental Professionals

Mr. Johnson,

In reviewing your letter dated April 1, 2018 I determined to best address these concerns would be to break up the letter into separate components. I found that there are approximately 14 issues of concern. Our responses to each of these areas of concern are noted below:

- 1. The proposed Negative Declaration does not provide any evidence to support its conclusion that there is no impact on wetlands or waters of the United States and California.**

Response:

The project as designed will not impact the designated riparian areas or jurisdictional waters in its end condition. However, there is potential through the construction process of the project to temporarily impact the wetlands or jurisdictional waters depending on the final engineering of the project. Standard conditions of approval as well as the mitigation measures shown below are included to address this potential for temporary impacts during construction. A DBESP was not required during the review of the project since the project as proposed and conditioned is not designed to impact the riparian areas to make a DBESP necessary. A DBESP is required prior to grading to ensure that the drainage conditions at that time are reflected prior to any disturbance to the site and any identified riparian area is recognized and addressed appropriately at that time. Biological Resources sections 7(e) and (f) were concluded to have Less Than Significant Impacts with the incorporation of the following mitigation measures:

- MM BIO-1: 100% of the Riparian area will be avoided by ultimate design of the project.
- MM BIO-2: Prior to issuance of the grading permit, a CADFW 1600 and USACE 404 permit may be required and proof that consultation and approvals from those entities will need to be provided if construction activities may temporarily impact the drainage area.
- MM BIO-3: Prior to issuance of a grading permit, Determination of Biologically Equivalent or Superior Preservation (DBESP) will need to be submitted to, reviewed and approved by EPD and the Wildlife Agencies. All riverine, riparian and jurisdictional features shall be mapped. Once the DBESP is forwarded to the Wildlife Agencies a 60 day review period will start for their review.
- MM BIO-4: Prior to issuance of a grading permit, EPD shall verify on grading plans that no disturbance will occur within areas identified and mapped as riverine/riparian. EPD staff shall verify construction of clear span bridges do not disturb riverine/riparian avoidance area identified on the ECS.
- MM BIO-5: Prior to recordation, an Environmental Constraints Sheet (ECS) shall be included with notes placed on the Final Map that requires avoidance of impacts to any

blueline, riverine, riparian or jurisdictional features mapped as part of the DBESP mitigation process shall match the final map. The area shown on the ECS as an area to avoid disturbance shall be labeled "Riverine/Riparian Avoidance Area."

2. **There are no biological studies to evaluate the impact on wetland species, including those already destroyed by illegal grading. –**

Response:

Two Biological Studies are referenced in the Biological Resource Section of the Mitigated Negative Declaration:

- MSHCP Consistency Analysis prepared by Principe and Associates dated May 17, 2017 (PDB06519); and,
- Nesting Season Survey for Burrowing Owl prepared by Principe and Associates dated April 25, 2017 (PDB06518).

3. **There is no attempt to evaluate the potential impact of doubling the possible density of the site by changing the density from one lot per ten acres to one lot per five acres.**

Response:

Reference to potential impacts of 10 lots were developed is noted in the Greenhouse Gas section. Which stated that a 34 lot residential subdivision did not exceed 3,000 metric tons CO₂E/ year threshold so therefore, the proposed 8 units or 10 maximum units pursuant to the GPA would not exceed threshold. Reference to 10 lots was also discussed in the section regarding Noise Effects on or by the Project. To determine noise impacts the amount of vehicle trips generated by the proposed project was discussed. The 8 lot proposed subdivision would result in 76 average daily trips and 95 average daily trips if 10 lots were proposed.

If the project maintained the Wine Country – Winery district and implemented the Wine Country – Winery (WC-W) zone the following uses would be subject to a Plot Plan:

- Class V Winery – which may include, wine tasting area, retail wine sales, eight (8) Winegrowers Trade Events per year, Wine Country Hotel (20 guest rooms), Delicatessen, and restaurants.
- Wine Country Clustered Subdivision subject to development standards of Ord. No. 348 and Ord. No. 460.

Based on what would be allowed in the WC-W zoning classification, the impacts in regards to traffic, air quality, noise, aesthetics, would be much greater than a conceptual maximum allowance for 10 residential lots per the GPA alone. Therefore, a more detailed analysis of the GPA alone was not necessary due to the obvious greater potential impacts from the existing designation compared to the proposed designation. Furthermore, the current proposed project inclusion of an 8 lot residential subdivision provides greater specificity of what the physical impacts of an implementing project would be from the proposed GPA that is more accurate than a more speculative analysis based simply on the GPA component of the Project. It was determined by staff and CEQA that the analysis be based on the Project at hand, which includes the details of an 8 lot residential subdivision.

4. There are no earthwork quantities provided.

Response:

Grading is noted on the Map Exhibit which states grading will be balanced. There will be no import or export.

5. There is no air quality analysis of the proposed grading and previous illegal grading.

Response:

Because emissions are not dependent on a specific location but merely the anticipated amount of emissions and its relation to daily emission thresholds established for the SCAB, the MND analyzed what potential emissions the project could have by comparing its 8 units on 50 acres to 34 units on 20 acres. Air quality thresholds were not exceeded for the reference project with more units during operation and construction. Therefore, the county is making a reasonable and logical assumption that the proposed Project would result in less emissions than the reference project and less than significant impacts would occur with this Project.

6. There is no discussion or analysis of construction noise impacts to surrounding properties.

Response:

Section 33 (a-c) discusses short term noise impacts associated with grading and construction activities temporarily raising the ambient noise levels in the project vicinity above levels existing without the project, but will not result in a substantial permanent increase in ambient noise levels currently existing. Grading activities are regulated by the County Noise ordinance. Additionally, construction activities cannot occur between the hours of 6:00 pm and 6:00 am during the months of June through September and between the hours of 6:00 pm and 7:00 am during the months of October through May.

7. Claims that it could not convert farmland to not-agricultural uses in spite of the fact that the EA claims that the property is in grape production now, and in Rancho California Ag. Preserve No. 11 and that it could be converted to residential use and grape production. It also claims that the project will not result in the conversion of agricultural land to non-agricultural uses because the land will be rezoned. Obviously, the land used for residential construction could no longer be in grape production thus there is a reduction in planted area and an agricultural impact. The EA incorrectly states in 4c that the development of the property will not result in non-agricultural uses within 300' of agriculturally zoned property. This is incorrect as it will immediately abut agriculturally zoned properties.

Response:

The Wine Country Community Plan Program EIR No. 524 stated that the intent of the Project (Wine Country Community Plan) is to encourage the preservation and expansion of land designated within the Agricultural foundation Component. However, implementing projects could be located on prime farmland (or another designation indicating agricultural suitability) and

would still allow for development consistent with the Southwest Area Plan policies allowing for development of non-agricultural uses on 25% of a project site. EIR No. 524 also states that under the Wine Country Community Plan that active agricultural land would also be allowed to convert 25 percent of its land to non-agricultural uses. The proposed Project is consistent with the Wine Country Policy Plan in that 75% of the Project site is devoted to vineyards, the remaining 25% will be devoted to non-agricultural uses. The Wine Country Community Plan EIR determined that this conversion to non-agricultural uses would not result in greater cumulative agricultural resource impacts than addressed in the Riverside County and the City of Temecula General Plan EIRs.

The project proposes residential uses; however, 75% of the Project site will be planted with vineyards (63%) and olive trees (11.4%). This is not a requirement for the Winery District or Residential District. As stated in Section 4 (c) Ordinance No. 625 defines zoned for primarily agricultural purposes as A-1, A-P, A-2, A-D, and CV. The property to the south is zoned R-A-5 and the property to the north is WC-W, property to the east and west is CV; however because the project site will be developed with vineyards, which is considered an agricultural use an incompatibility with the areas zoned CV will not occur.

8. **In Section 7, (Wildlife and Vegetation) the EA states in Paragraph (e) that the project will not have any significant impact on any riparian habitat in spite of illegal grading that has already disturbed wetlands. It also incorrectly states in Paragraphs (e and f) that the project will not have any adverse effect on federally protected wetlands in spite of the fact that heavy equipment has been working within state and federally protected streambed on the site even though the "Findings of Fact" state that the "Long Valley Wash and its associated Riparian Forest and Riparian scrub habitats will remain on the site in their existing conditions and will be 100% avoided." (Page 13 Findings of Fact a). The EA on page 14 states that, "the streambed and its associated Riparian Forest and Scrub habitats will be 100% avoided by the project." This statement is incorrect as the project has already performed grading within the channel. The EA also refers to four proposed bridges (Page 14 Sec. 6.3.2 e) in spite of the fact that the project has only one proposed bridge crossing the channel.**

Response:

Please see response #1

Project is not designed to impact, but in case the eventual grading and bridge design does impact directly or indirectly through the construction process, then a DBESP will be required prior to grading as is standard practice. We recognize that some impacts may have occurred to the drainage area as a result of the agricultural grading recently performed on the site, which a stop-work order was issued on this, but these existing potential impacts will be addressed with proper permitting with CA F&W and ACOE as appropriate. The proposed plan does call out for the construction of 4 bridges that will cross the riparian area. A condition of approval is included prior to the issuance of building permits has been added by EPD that requires the building plans for the construction of the four bridges over Long Valley Wash to be reviewed and approved by EPD. Additionally construction of the bridges must follow the "Guidelines for Construction of Wildlife Crossings".

9. **The EA in Section 8 (a) states that there will be no impact to cultural resources. This is inconsistent with the fact that the site was the site of the "Temecula Massacre" of the**

Pechanga Band of Luiseno Indians. None of the reference Archaeological Technical studies were attached to the Initial Study. –

Response:

In regards to the protection of cultural and tribal resources, specifically the December 1846 Temecula Massacre, staff had not received any mention of this event and its occurrence on the Project site from the notified tribes or any other source. Additionally, the County's Chief Engineering Geologist and the County's Archeologist have been in direct contact with The Temecula Band of Luiseno Mission Indians (Pechanga) who stated that the 1846 Temecula Massacre did not occur on the Project site based on their professional research and tribal information. Additionally, representatives from Pechanga will be contacting the organization that has depicted this massacre site erroneously on their Website to have it removed.

Since the project involves a General Plan Amendment, SB 18 Tribal Consultation was required. The Native American Heritage Commission (NAHC) provides a list to the County of the tribes whose historical extent includes the project site. Notified tribes are given 90 days in which to request consultation regarding the proposed project. No consultation requests were received at the end of the 90 day noticing period. Additionally, AB 52 notices regarding this project were mailed to all requesting tribes. The Pala Band of Mission Indians requested consultation. Pala concluded their consultation and stated they had no concerns. Six other tribes that were notified did not require consultation. However, during earth moving activities the project has been condition that a Native American Monitor be retained on site to ensure protection if any tribal resources are encountered.

Archaeological technical studies are not include as attachment due to confidentiality of sites.

- 10. The Study references a "Preliminary Geotechnical Interpretive Report" (June 12, 2015) was not attached to the IS.**

Response:

Due to the size of most technical reports and to save on unnecessary reproduction, they are not always attached directly to the Initial Study, but are available upon request. The report is attached here for reference.

- 11. The Hydrology Section of the EA states that there would be no substantial alteration to the existing drainage pattern in site of the fact that heavy equipment has been working within the channel of the creek. Section 24 e-f is inconsistent with the map which shows three separate bridges and a fourth bridge that crossing the realigned Los Nogales Road. There are no plans for the proposed bridges.**

Response:

The Tentative Tract Map as proposed is a concept that is designed to avoid impacts to the drainage area with the inclusion of span bridges. Final engineering will propose a specific design to meet this intended design.

- 12. Section 27. Planning states that the project will be consistent with the site's existing or proposed zoning. The proposal specifically changes the existing zoning therefore it will not be consistent with the existing zoning and thus there is a change. While the Initial Study claims**

that the density will be consistent with surrounding property, properties to the north, west and the east all have a 10 acre minimum lot size.

Response:

The three parcels directly to the west of the project site are comprised of 4.8 acre parcels. Two of the parcels are developed one is vacant. The property to the northwest of the Project site was approved for a subdivision (TR32819) of 84.69 acres into 15 residential lots with a minimum lot size of 1.5 acres, including one lot proposed for commercial development. Tentative Tract Map No. 31444, directly north of the Project site was approved to allow for the development of 31 residential lots, five acre minimum and a winery. As stated in Section 27, the project as proposed is not consistent with the current zoning but would be consistent with the proposed zoning. This on its own does not result in a significant impact. The difference in minimum lot sizes from surrounding zoning does not on its own result in a land use inconsistency or incompatibility. The uses are still residential primarily with larger lot sizes allowed, thus there is not a significant impact

- 13. Section 43 f) states that the project will not result in the need for new or altered maintenance of roads. This statement is obviously false as there will be a new roadway created as well as a new bridge for a relocated Los Nogales Road.**

Response:

The road proposed to serve lots 5-8 will be private and will be maintained by the Home owners association and will not be paved. The portion of Los Nogales, a public road will remain unpaved.

- 14. Section 45. States that there will be no substantial adverse impact to tribal cultural resources. This statement is based upon no evidence. Cultural resource studies did identify a number of cultural artifacts on the site.**

Response:

As it is noted in the Initial Study, the Phase II Cultural Resources Testing and Evaluation Report, dated May 25, 2016 stated in the Management Summary that in 2007 a Site (# is confidential) was recorded as consisting of two complete manos, two mano fragments, a metate fragment, two hammerstones, and one possible stone ball. In 2016 the site was resurveyed at intensive-level and hand excavated some test units. None of the eight previously recorded surface artifacts were found. Three different surface artifacts, were found. These consist of a complete unifacial granitic mano, a secondary, interior milky-quartz flake, and two granitic fragments that fit together to form approximately two-thirds of a bifacial mano. No artifacts were recovered and no evidence of cultural activity or intact subsurface archaeological deposits were identified in the test units. The summary stated that the data obtained from the Site is very limited and consists of common artifacts for the area. Since the artifacts, were not found in an intact cultural deposit, they did not contribute to any new information or understanding of the lifeways of the people that inhabited the area. The Site (#is confidential) does not qualify as a "historical resource."

No further cultural resource investigation was recommended. Condition of approvals requires that Native American Monitor be on-site during all initial ground disturbing activities and excavation to ensure protection of any resources if unearthed.



April 2, 2018

Sent Via Email

Deborah Bradford, Project Planner
Riverside County Planning Department
P.O. Box 1409
Riverside, CA 92502-1409
DBradfor@rivco.org

Re: Temecula Valley Wine Country Policy Area Zoning Amendment, Environmental Assessment No. 42839

Dear Ms. Bradford:

This law firm represents the Southwest Regional Council of Carpenters (Southwest Carpenters) and submits this letter on the above-referenced project on its behalf. Southwest Carpenters represents 50,000 union carpenters in six states, including in Southern California, and has a strong interest in reducing the environmental impacts of development projects, such as the County of Riverside's (County) proposal to construct eight residential units in the Temecula Valley Wine Country Policy Area (Project).

The County released a revised Mitigated Negative Declaration (MND) on or after March 8, 2018. The County has determined the Project will not have a significant effect on the environment after certain potentially significant impacts are mitigated. The Project, if approved, would consist of a subdivision of 51.54 acres of vineyard into eight separate lots, the construction of residential housing and the operation of vineyards on half the acreage of each lot. To be approved as proposed, the Project will require the approval of General Plan Amendment No. 1202 and the rezoning of the Project from Wine Country – Winery District to Wine Country – Residential District, which would permit the construction of residential zoning on lots that would range in size from 6 to 8.5 acres. Although not discussed in the project description, elsewhere, the County describes the Project as including a deed restriction on each lot to ensure at least half of each lot be kept in agricultural uses in perpetuity, and a proposed road realignment. The Project does not fully describe or otherwise evaluate the environmental impacts that may arise from the proposed road realignment. The County must describe and evaluate all aspects of the proposed Project prior to approval.

Additionally, the Tribes were notified of the proposed project. Consultation was requested from the Pala Band of Mission Indians, exhibits were provided. Consultation was completed. The Soboba Band, Cahuilla, Ramona Band, Pechanga Band and the Colorado River Indian Tribes did not request consultation. Because the project includes a GPA, Senate Bill 18 (SB18) consultation was required. Twenty-eight (28) tribes were notified. Responses were received from the Agua Caliente Band of Cahuilla Indians and the Augustine Band of Cahuilla Indians, both deferred to Tribes located closer to the project. No other responses were received and no sacred sites were identified.

This statement has been based on evidence provided by the Phase II Cultural Report, evaluation by the County's Archaeologist, and communication and consultation with the Tribes.

Ms. Deborah Bradford, Project Planner
Re: Temecula Valley Wine Country Policy Amendment
April 2, 2018
Page 2

The County has found the Project may have a significant impact as to the following environmental factors:

- Agriculture & Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Hydrology/Water Quality
- Noise
- Paleontological Resources
- Transportation/Traffic and
- Tribal Cultural Resources

The County has determined the Project will not significantly impact all other environmental factors, including greenhouse gas emissions, hazards and hazardous materials, and utilities and service systems.

The comments, below, focus on various environmental impacts of concern, as well as the County's compliance with the provisions of the California Environmental Quality Act (CEQA). Southwest Carpenters believes the County's analysis of certain impacts is deficient, and that the Project as proposed has the potential to cause a significant impact on the environment, notwithstanding the County's proposed mitigation.

1. Agricultural Resources

The County states the loss of nearly 26 acres of unique farmland, alone, would not create a significant impact, because "there is a number of areas designated as Unique and Prime Farmland that will remain in the area and the current proposed change represents a small portion to the total farmland area just locally." As shown on the Farmland Mapping and Monitoring Program maps, which the County references, there is some farmland nearby identified as unique and prime, primarily within one mile to the east and west of the Project site. Relatively little prime and unique farmland exists outside of this two-mile stretch, and the Project site sits at the heart of this land. Regardless, the MND fails to put this loss into full perspective and the County does not disclose the geographical radius it references when it states that the Project site represents small portion of total unique and prime farmland. In reference to the FMMP, the Project appears to represent a large percentage of unique and prime farmland in the area, and construction on the Project site would serve to break the continuity of what little of this farmland remains.

Importantly, the County fails to disclose or adequately address cumulative impacts as these relate to the loss of unique farmland. "Cumulative impacts" refer to two or more effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects." 14 Cal. Code Regs. § 15355. Elsewhere in the MND, the County discusses two other projects currently under consideration or recently approved. The County must disclose the impacts of these other projects on agricultural resources, in conjunction with the impacts from the Project. Please disclose the amount of unique farmland that has been lost in recent years, as well as all development plans that would result in the further loss of this farmland.

The Project is currently covered under a Williamson Act Contract. The Project requires that this contract be terminated in order to commit each lot to residential uses. Please explain how the loss of over 51 acres of land from protection under a Williamson Act Contract is less than significant.

The County states that half of the Project would be devoted to residential uses, while the remaining half of the acreage of the Project would be committed to agricultural uses. While the County claims the agricultural half of the Project would be entirely devoted to agriculture, it provides limited explanation regarding the "residential" half of the project. Please describe the proposed uses of the remaining half of the property, and provide a description of the proposed size and footprint of each proposed residence, as well as a description of any proposed accessory structure or residence.

As the County is aware, Prime Farmland may lose its protected status if it does not remain in continual use. However, in the MND, the County does not describe whether the farmland would remain in continual use during construction. If the County proposes that the Project applicant maintain farmland during the construction phase of the project, please disclose this in the MND, and provide for this continual use as a condition of approval.

2. Air Quality

The County disclosed air quality modeling for another, unrelated project in place of conducting a project-specific air quality assessment, explaining, "Although a project specific air quality analysis was not performed, such analysis has been performed for other projects within the County that are also located within the South Coast Air Basin."

The County is required by CEQA to disclose all direct or indirect effects “*which are caused by the project.*” 14 Cal. Code Regs. § 15358; Pub. Res. Code § 210003.1(b) (emphasis added). The County cannot avoid the requirement that it analyze and disclose the impacts of the Project by disclosing and analyzing the impacts of another, entirely different project. Because of this, commenters are left entirely in the dark as to the impacts of the Project on the environment, are unable to assess whether these impacts may be significant, or whether the project requires additional mitigation. The County cannot substitute its analysis of impacts of another project in place of a full, reasoned analysis of the Project.

In addition, the County states “The proposed project is also further from the nearest sensitive receptors (approximately 350 feet) compared to the reference project (approximately 82 feet).” However, as the County recognizes, “Land uses considered to be sensitive receptors include . . . residences . . .” The County’s sensitive receptor analysis ignores the fact that one-half of the Project will involve the construction of residential homes, and the other half of the Project involves the operation of agricultural activities. Absent a condition restricting such uses, agricultural activities should be presumed to include the use of diesel-emitting farm equipment and the application of pesticides and other toxic agricultural chemicals that may become airborne and affect residents of the Project, as well as nearby residents.

3. Land Use

The County describes the Project as constructing eight residential units. However, elsewhere, the County states the Project may be permitted to include as many as ten units. Please provide more information as to the potential for the Project to construct ten units, as well as any related impacts, such as how much agricultural acreage may be lost if the Project applicant chooses to construct ten, as opposed to eight, residential units.

Furthermore, the County has stated Project-related impacts would be significant if they resulted “in a substantial alteration of the present or planned land use of an area.” The Project is currently zoned for agricultural use and has remained in agricultural use for decades. Please provide further information as to how the Project, which will subdivide the Project parcel, increases the permissible residential density, and proposes transitioning half of the total Project acreage to residential use, does not substantially alter the present or planned use for the Project site.

The County has failed to discuss or disclose the potential cumulative land use impacts arising from the Project and similar past, present, and future projects that have likewise converted farmlands to housing. For instance, the County elsewhere references a 34-unit housing project, as well as projects “to the north of the subject site, Tentative Tract Map No.

31444 . . . to subdivide approximately 220 acres into 38 residential lots with a 5-acre minimum lot size and Tentative Tract No. 32819 . . . to subdivide approximately 84 acres into 12 clustered residential lots with a 1.5 acre minimum lot size, and to the west Tentative Tract Map No. 32949 has been approved to subdivide a 40.4 acre site into 6 residential lots with a 5-acre minimum lot size.” The overall theme in these projects is, *inter alia*, the loss of arable land, yet the County appears not to disclose the impacts of these projects across any of the impact factors it addresses in its MND.

4. Biological Resources

The County provides summary treatment of the biological resources surveying it conducted on the Project site. The County discloses that it conducted onsite species surveys during a burrowing owl survey, which did not identify “threatened, endangered, candidate, sensitive or special status species . . .” The County further bases its conclusions regarding the presence of protected wildlife “on a review of pertinent biological literature.”

In contrast, the U.S. Fish and Wildlife endangered and threatened species database identifies dozens of protected species that are likely to occur on the Project site, including 12 federally listed threatened and endangered species and 28 migratory and sensitive bird species. (Exhibit A). In contrast, the County has not disclosed whether it has even attempted to survey for any of these species, at what times of year it conducted this survey, whether the burrowing owl surveys were intended to or suited for identification of any other species, or whether the surveyors were trained in and qualified to identify any other sensitive species. The County’s description of these surveys suggests these surveys only conducted a cursory search for owl burrows, and not much else.

Please provide a full description of the species surveys the County conducted on the Project site, including a list of all species searched for, the search methodology, and the qualifications of the person(s) who conducted this search. If these surveys were deficient and failed to consider or search for any protected species, the County must conduct more thorough, comprehensive surveys or otherwise presume the presence of all protected species.

Furthermore, the County failed to discuss Project-related impacts on sensitive species or require adequate mitigation to ensure these species will not be negatively impacted by the Project. While the County touts its requirement that the riparian areas of Long Valley Wash will be avoided, it provides no buffer between this riparian habitat and the Project. Buffers are standard practice, and failure to provide a habitat buffer will cause this habitat to come into direct contact with the Project and its impacts, and will decrease the overall value, desirability, and viability of this riparian land as habitat for protected and other sensitive species. For

instance, there is no mitigation that would prevent pesticide use from running off into these riparian areas. And the lack of a buffer would result in much greater indirect disturbance of this habitat, for instance, if farm machinery is used near or directly adjacent to this habitat.

• The County states the Project may require a Section 404 Clean Water Act Permit. If the Project requires a Section 404 Permit, it will also be required to undergo Section 7 Endangered Species Act Consultation and obtain a No Jeopardy determination prior to Project approval. Failure to adequately consult with the U.S. Fish and Wildlife Service would constitute a violation of the Endangered Species Act.

5. Hazards and Hazardous Materials

A. Agricultural Soils

The County has determined the Project will have a less than significant impact on the environment in regards to hazards and hazardous materials. A project may have a significant effect on the environment in this regard, for instance, if it “release[s] hazardous materials into the environment,” or routinely transports, uses, or disposes of hazardous materials.

The County’s analysis of hazards and hazardous materials states, in conclusory fashion, that “The proposed Project will not create a substantial hazard to the public or the environment,” since, “the Project will result in the construction of eight (8) residential lots.” This conclusion is not supported by evidence in the record. The County’s own description for the Project states that half of all Project acreage will be devoted to agricultural uses; thus, the Project involves more than simply the construction of eight houses. Absent mitigation in the form of a condition of approval prohibiting the use of pesticides and other toxic substances commonly associated with farming, the Project will almost certainly release toxic and carcinogenic substances into the environment, directly adjacent to residential uses and an environmentally sensitive riparian habitat.

Furthermore, the Project envisions disturbing soils that have been devoted to agricultural uses for decades. Agricultural lands are known to contain a wide variety of highly toxic chemicals, many of which can persist in the soil for decades. (Exhibit B). The County does not claim to have studied Project soils for the presence of contaminants, and it does not disclose the results of these studies, if any were conducted.

The County must evaluate the potential for the Project to expose workers, residents, and members of the public to toxic and carcinogenic substances. Failure to consider, study, and disclose these effects and provide adequate mitigation is fatal to the MND.

B. Fire Hazards

The County's analysis of fire hazards likewise fails to account for the placement of agricultural uses directly adjacent to residential uses. The Project is located in a Very High Fire Hazard Severity Zone and will contain higher than normal levels of plant-based fuels for residential uses. Yet, the County proposes no mitigation. Instead, the County states that inadequately disclosed and undisclosed, discretionary conditions of approval would reduce these impacts to less than significant. It is impossible to use the County's MND to assess whether these undisclosed conditions of approval would adequately mitigate the Project impacts.

Crucially, the County has not adequately disclosed potential impacts under CEQA. The County concludes, without support, that the Project's impacts would be less than significant *prior to mitigation*. In arriving at this conclusion, the County seems to have falsely distinguished between "conditions of approval" and "mitigation." CEQA provides no such distinction, and simply defines mitigation as including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Please provide legal support for the proposition that discretionary conditions of approval do not qualify as mitigation. Under these circumstances, please explain how it could be possible that approval of mixed agricultural-residential uses in a Very High Fire Hazard Severity Zone could not be considered a significant impact prior to mitigation, and how this conclusion satisfies the County's disclosure requirements under CEQA.

6. Archaeological Resources

The County concluded impacts to archaeological resources would be less than significant prior to mitigation, reasoning that compliance with Public Resources Code § 5097.98 would prevent any impacts to these resources from occurring. However, Section 5097.98 only provides procedures for notification and disposition once resources have been disturbed and impacts to these remains have occurred. It provides no mitigation to prevent these impacts from occurring,

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such as periodic surveying. Please explain why it would be infeasible to impose pre-disturbance surveying or other mitigation measures aimed at avoidance of archaeological resources.

7. Greenhouse Gases

The County's analysis of greenhouse gases suffers from the same fundamental flaw as does its analysis of air quality impacts. The County explained:

No specific greenhouse gas analysis was performed for this project. However, similar to air quality, other studies have been performed in the area that could be utilized as a reference to compare the project to. The same 34-unit project that was used in the air quality analysis will be used for greenhouse gas reference.

This analysis fails to provide an adequate discussion of Project-related impacts. It is impossible to understand the Project's impacts related to greenhouse gases when the County uses a study for an entirely different project. Please provide a Project-specific analysis of greenhouse gas impacts.

8. Hydrology and Water Quality

A. Cisterns

The County proposes the installation of 10,000-gallon cisterns to mitigate the potential of the Project to increase flooding severity. Flooding is often exacerbated by an increase in impervious surfaces. However, cisterns are not typically installed in a manner that would capture surface-level runoff and are instead typically installed above-ground. Above-ground cisterns may be installed to capture runoff from above-ground surfaces, such as eaves and gutters. Even if installed below-ground *and* all grading directs impervious surface runoff to the cistern, below-ground cisterns are still very difficult to maintain or replace. Please provide more information regarding this proposed mitigation, adequate to determine whether this mitigation measure would sufficiently mitigate Project-related runoff impacts.

B. Deferred Disclosure of Environmental Impacts

It is illegal to defer disclosure or mitigation of impacts until after project approval. 14 Cal. Code Regs. § 15126.4(a)(1)(B). Yet, the County states:

If deemed necessary Advisory Notification Document 15. TRANS 2 states that the land divider shall protect downstream properties from damages caused by the alteration of the

drainage patterns by constructing drainage facilities, enlarging existing facilities, and/or by securing a drainage easement. (emphasis added)

It is now, and not at some later date, that the County must disclose Project impacts. The County must disclose in its MND whether the Project would cause downstream impacts to neighboring properties, and to require mitigation accordingly.

C. Water Quality Impacts

The County's discussion of water quality impacts fails to explain how its proposed mitigation would reduce these impacts to less than significant. The County reasons:

when grading and building plans are submitted for the future residential development of the site, standard conditions of approval will ensure that any water quality standards or waste discharge requirements are not violated by requiring the land divider to provide adequate drainage facilities and disposing of any off-site drainage flows. Therefore, less than significant impacts would occur.

Please explain how the installation of land dividers and drainage facilities would mitigate impacts to water quality, rather than redirect these impacts to other water bodies. Furthermore, the County, again, has neglected to disclose or address impacts from the agricultural uses on the Property. Runoff from active fields have a high probability of permanently decreasing the water quality of Long Valley Wash, as well as other neighboring properties.

D. Alteration of Existing Drainage

The County does not adequately disclose how it proposes to reduce on-site hydrology impacts. It states:

The Project will be designed and conditioned to ensure that ultimate development of the Project site will result in less than significant impacts in regards to the alteration of the existing drainage courses and surface run-off and absorption rates. (AND 15. BS GRADING 3, 7, 11, 13, AND 15. FLOOD 1, 2, and 3, AND 15. TRANS 2, 3, and 5)

First, the ending of this statement ("AND 15. BS GRADING 3, 7, 11, 13, AND 15. FLOOD 1, 2, and 3, AND 15. TRANS 2, 3, and 5") is gibberish when taken out of context, and no context for this text is provided. Otherwise, the County only provides a conclusory statement, unsupported by reasoning tied to evidence in the record, that the Project's hydrology impacts will be less than significant. And this discussion provides no real discussion of the Project's

impacts to hydrology patterns. Please provide additional discussion regarding impacts to hydrology, as well as the County's reasoning as to how the proposed mitigation, if any, would reduce these impacts to less than significant.

9. Noise

As with air quality impacts, the County assumes that the nearest sensitive receptor rests 350 feet away from the Project. In arriving at this conclusion, the County ignores the proposed agricultural uses of the Project. Residential uses will directly border the Project's agricultural uses, meaning that sensitive receptors will be required to pass through and regularly come into proximity with noises emanating from these uses. Please assess the potential of the agricultural uses of the Project to create significant noise and vibration disturbances on these sensitive receptors.

10. Paleontological Resources

The Project site has been identified as having a high probability of containing significant paleontological resources. (Exhibit C). The only proposed mitigation for impacts to these resources is MM PALEO-1, which states, "The applicant shall prepare a Paleontological Resource Impact Mitigation Program (PRIMP), which shall be reviewed and approved by the County of Riverside Geologist prior to issuance of a grading permit."

This constitutes impermissible deferral of mitigation. 14 Cal. Code Regs. § 15126.4(a)(1)(B) ("Formulation of mitigation measures should not be deferred until some future time."). MM PALEO-1 contains no standards, or any other information, which interested members of the public and decisionmakers could use to determine whether this mitigation measure has the potential to reduce these impacts to less than significant. Instead, this measure reads as a promise to formulate and review this mitigation measure sometime in the future, after Project approval. This mitigation measure must be revised to ensure it is enforceable, comprehensible, and disclosed to the public for review and comment prior to Project approval.

11. Services

The County does not discuss fire district response times. As mentioned above, the Project proposes the placement of residential uses within a Very High Fire Hazard Severity Zone, and adjacent to agricultural uses. Please evaluate the potential impacts of construction in this area as it relates to the provision of emergency fire services.

12. Transportation

The MND does not state whether there will be any road closures or blockages as a result of the Project that may impact accessibility or otherwise create traffic bottlenecks. If such impacts are planned, please describe their duration and extent, as well as any mitigation to reduce these impacts to less than significant.

13. Utilities

A. Septic

The Project proposes installation of septic systems. However, the County admits it has not studied the risk of septic seepage into nearby soils and waters. Instead, the County states its intention to defer the discussion of these impacts, and any proposed mitigation, until after Project approval:

In addition, the Environmental Health Department has conditioned that prior to issuance of building permits the applicant shall submit a detailed soil percolation report and groundwater detection borings to ensure adequacy of the soil for the onsite septic systems.

CEQA requires the County to investigate and disclose these impacts, and institute mitigation, prior to project approval, not after. The County must evaluate and mitigate these impacts now, not later.

B. Solid Waste

The County next defers disclosure and mitigation of solid waste impacts:

WASTE 1, requires that the applicant prepare a Waste Recycling Plan (WRP) identifying materials that will be generated during construction and methods and measures taken to recycle, reuse, or reduce the amount of materials generated. Condition of approval 90. WASTE 1, requires the developer to provide evidence showing that the Project is in compliance with the approved WRP.

The County must disclose these impacts and proposed mitigation prior to Project approval.

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14. Catch-All Reference to "Earlier Analyses"

The County appears to have attempted to add generic form language regarding reliance, if any, on earlier analyses:

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration as per California Code of Regulations, Section 15063 (c) (3) (D). In this case, a brief discussion should identify the following:

Earlier Analyses Used, if any: Location Where Earlier Analyses, if used, are available for review.

The County has not referenced earlier analyses in its MND, but has added this language, pretending that this language functions in some way of a disclosure of any earlier analysis it has used, or possibly could use in the future, to support its reasoning in the MND. Instead of providing a generic, unverifiable statement regarding reliance on prior analyses, the County must provide a full list of prior documents used, if any. Otherwise, any reliance on other documents should be viewed as post-hoc justification, which is prohibited under California Code of Civil Procedure § 1094.5 and CEQA.

Conclusion

Southwest Carpenters thanks the County for providing an opportunity to comment on the Mitigated Negative Declaration. Moving forward, please send all future notices relating to this Project to Nicholas Whipps at nwhipps@wittweparkin.com. Thank you for your consideration of these comments.

Very truly yours,
WITTWER PARKIN LLP

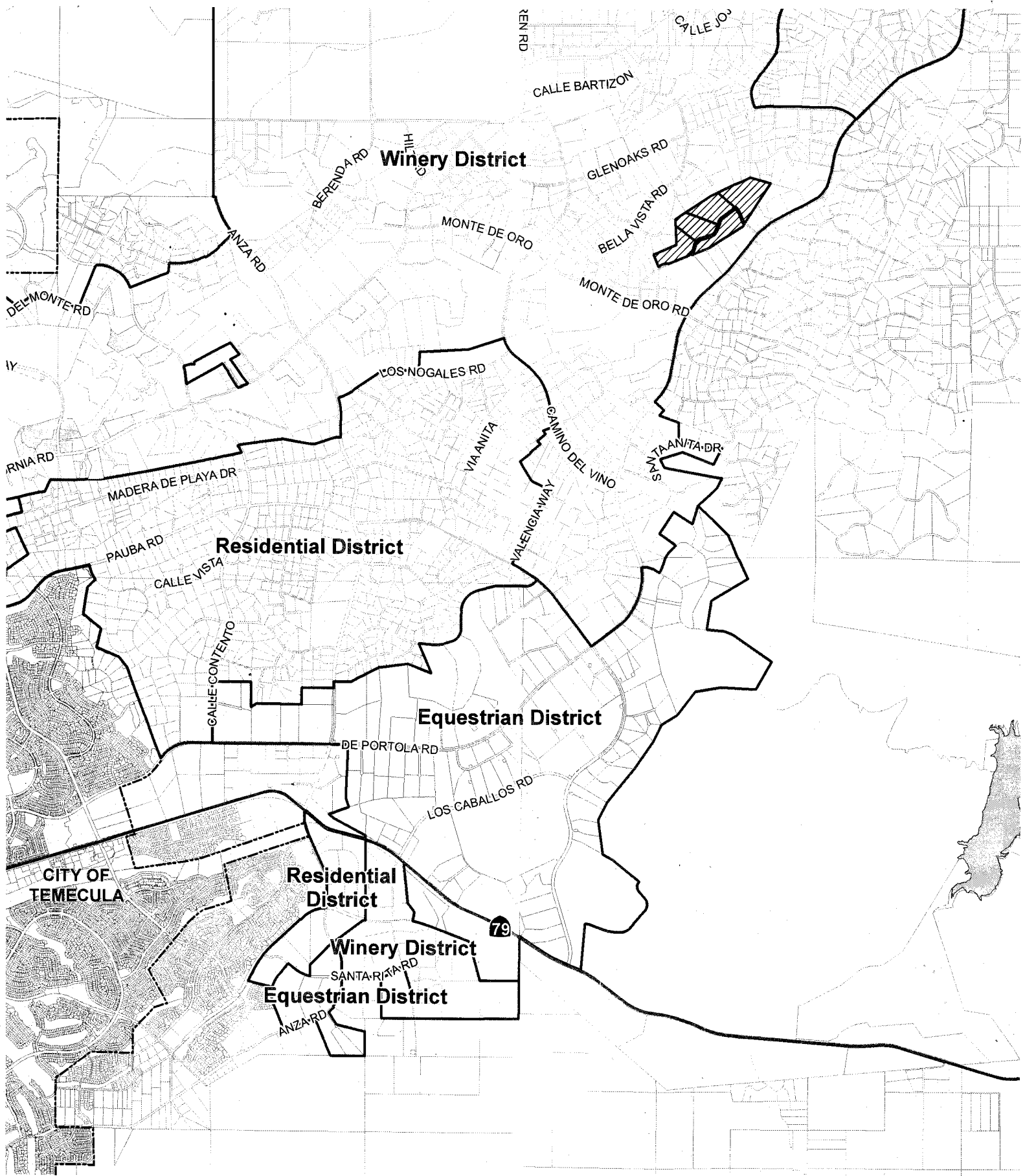


Nicholas Whipps

Attachments:

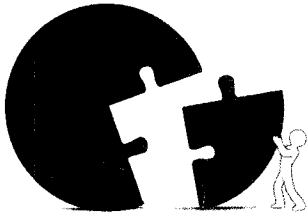
- Exhibit A – Information for Planning and Consultation Resources List
- Exhibit B – Sources and Impacts of Contaminants in Soil
- Exhibit C – Riverside County Parcel Report APN(s) 927-450-002

Exhibit A



Data Source: River

ing Wineries (Less than 20 acres gross)  Highways



RIVERSIDE COUNTY PLANNING DEPARTMENT

Charissa Leach, P.E.
Assistant TLMA Director

DATE: January 8, 2019

TO: Clerk of the Board of Supervisors – January 29, 2019 BOS meeting

FROM: Planning Department – Riverside – Deborah Bradford, Project Planner 5-6646

SUBJECT: CZ7885, GPA1202, TR37254, Agricultural Preserve No. 1056, Resolution No. 2019-~~XXX~~ 029
(Charge your time to these case numbers)

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

- | | |
|---|--|
| <input type="checkbox"/> Place on Administrative Action | <input checked="" type="checkbox"/> Set for Hearing (Legislative Action Required: CZ, GPA, SP, SPA) |
| <input type="checkbox"/> Receive & File | |
| <input type="checkbox"/> EOT | |
| <input type="checkbox"/> Labels provided If Set For Hearing | <input checked="" type="checkbox"/> Publish in Newspaper: |
| <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day | **SELECT Advertisement** |
| <input type="checkbox"/> Place on Consent Calendar | <input checked="" type="checkbox"/> **SELECT CEQA Determination** |
| <input type="checkbox"/> Place on Policy Calendar (Resolutions; Ordinances; PNC) | <input checked="" type="checkbox"/> 14 day notice |
| <input type="checkbox"/> Place on Section Initiation Proceeding (GPIP) | <input checked="" type="checkbox"/> Notify Property Owners (app/agencies/property owner labels provided) |

Designate Newspaper used by Planning Department for Notice of Hearing:
(3rd Dist) Press Enterprise

- **Please note: We need a 14 day notice due to the Agricultural Preserve diminishment/cancelation.**

Thank you,
Deborah

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

Desert Office · 77-588 Duna Court, Suite H
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7040

21.2

PROPERTY OWNERS CERTIFICATION FORM

I, VINNIE NGUYEN certify that on December 12, 2018,

The attached property owners list was prepared by Riverside County GIS,

APN (s) or case numbers 927-450-002 for

Company or Individual's Name RCIT - GIS,

Distance buffered 800'

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

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

TITLE: GIS Analyst

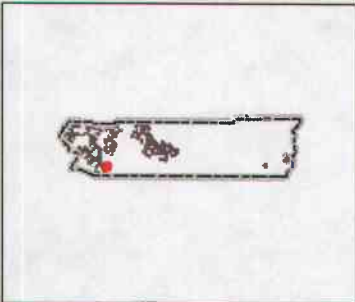
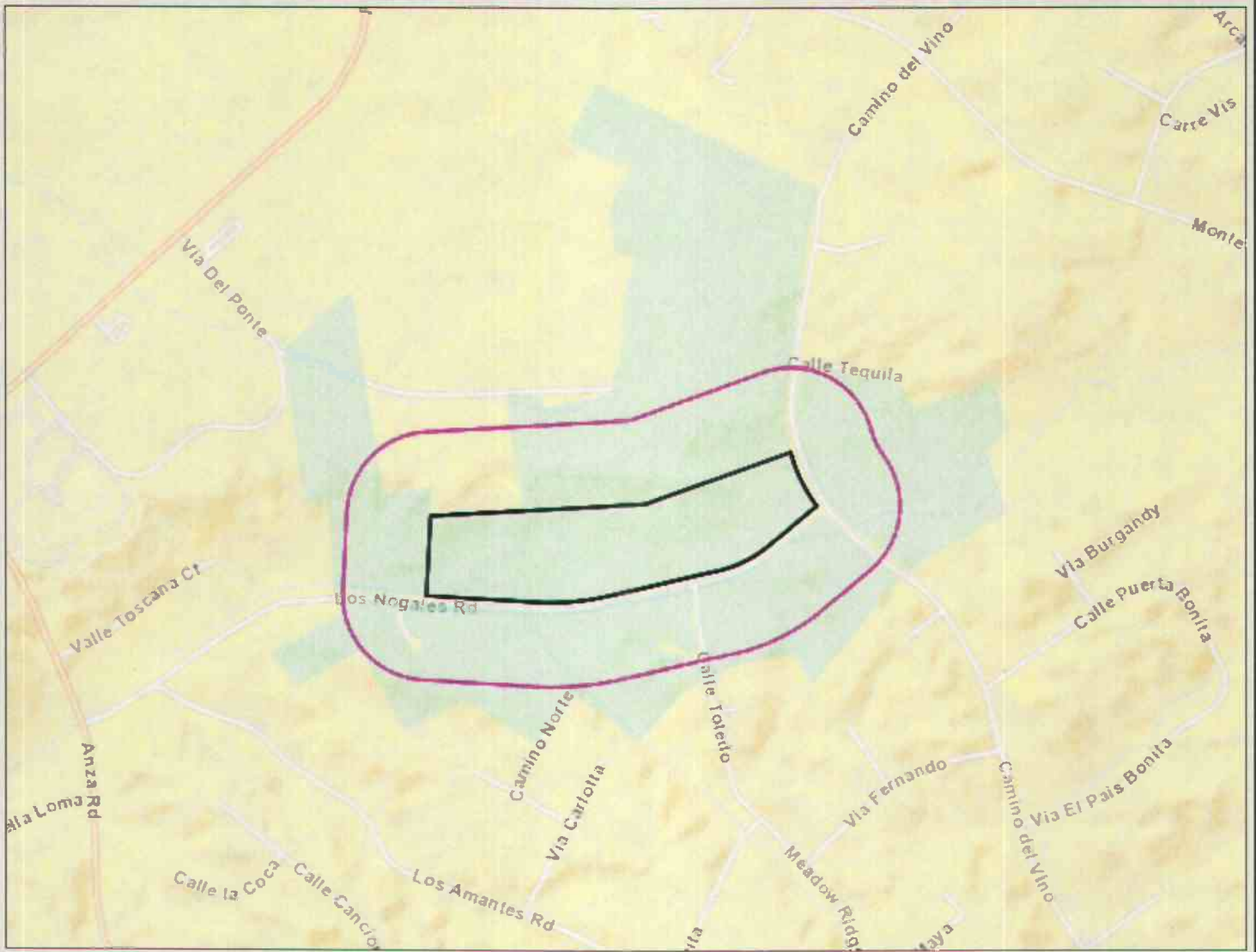
ADDRESS: 4080 Lemon Street 9TH Floor

Riverside, Ca. 92502

TELEPHONE NUMBER (8 a.m. – 5 p.m.): (951) 955-8158

Riverside County GIS Mailing Labels

CZ07885 / GPA01202 / TR37254 (800 feet buffer)



Legend

- County Boundary
- Cities
- World Street Map

Notes



IMPORTANT Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

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 DANA POINT CA 92629

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 ALBERT H ABBOTT
 SANDRA M ABBOTT

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 C/O C/O EUSTON HOMES
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942210015
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 PATRICIA A MCMILLAN
 MICHAEL J CAVALETTO RANCHES

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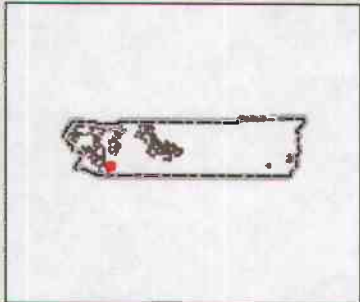
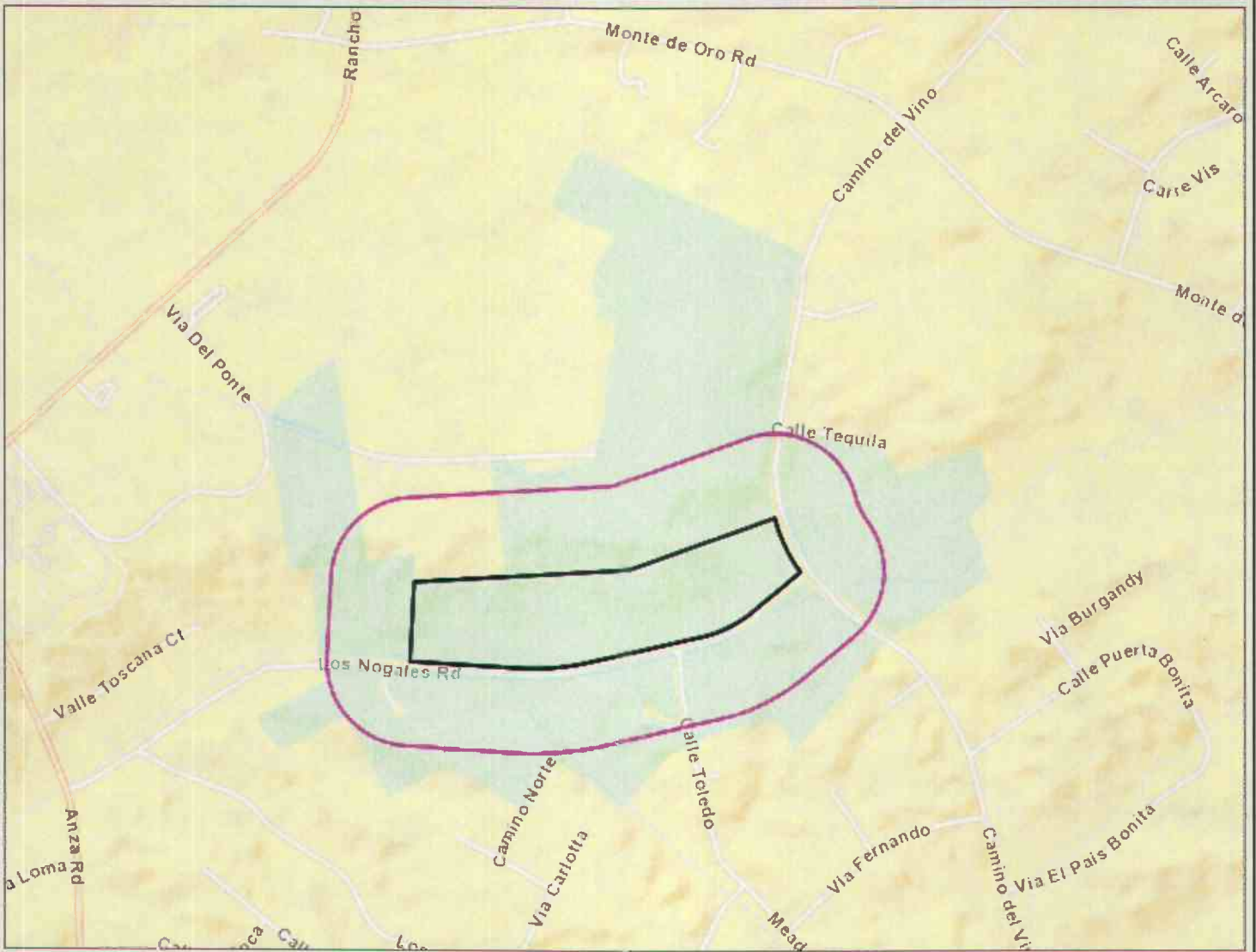
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CZ07885 / GPA01202 / TR37254 (800 feet buffer)



Legend

- County Boundary
- Cities
- World Street Map

Notes



0 1,505 3,009 Feet

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HEAVENSTONE CORP
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SANDRA S HUTCHENS
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941230006
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SANDRA M ABBOTT

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941320002
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910 CAMINO DEL MAR NO A
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