

Maxwell, Sue

---

**From:** Maxwell, Sue  
**Sent:** Wednesday, May 29, 2019 11:29 AM  
**To:** George Johnson (GAJohnson@RIVCO.ORG); Young, Alisa; COB-Agenda (COB-Agenda@rivco.org); District 4 Supervisor V. Manuel Perez (District4@RIVCO.ORG); District2; District3; District5; Supervisor Jeffries - 1st District (district1@rivco.org)  
**Cc:** Leach, Charissà (cleach@RIVCO.ORG); Harris, Dionne; Russell Brady (rbrady@RIVCO.ORG)  
**Subject:** June 4, 2019 Public Comment Opposing Newland Homes Los Olivos Development (Cecelia Webster and Legal Counsel)  
**Attachments:** CZ07937-TR37294 BOS Memo.pdf

Good morning,

Please see attached Memo and correspondence received via COB for proposed June 4, 2019 hearing.

Attachment has been printed and will be filed with Agenda back-up.

Thank you kindly,

*Sue Maxwell*

Board Assistant

Clerk of the Board of Supervisors

4080 Lemon Street, 1<sup>st</sup> Floor, Room 127

Riverside, CA 92501

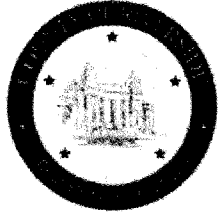
(951) 955-1069 Fax (951) 955-1071

Mail Stop #1010

[cob@rivco.org](mailto:cob@rivco.org)

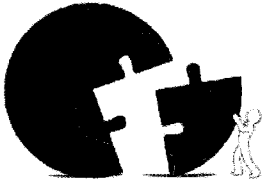
<http://rivcocob.org/>

<https://www.facebook.com/RivCoCOB/>



NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain **information that is privileged, confidential and exempt from disclosure** under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

21.2  
6/4/19  
2019 C-1112342



# RIVERSIDE COUNTY PLANNING DEPARTMENT

*Charissa Leach, P.E.  
Assistant TLMA Director*

## Memorandum

**DATE:** May 29, 2019  
**TO:** Riverside County Board of Supervisors  
**FROM:** Dionne Harris, Project Planner  
**RE:** **June 4, 2019, Board of Supervisors – Change of Zone No. 7937, Tentative Tract Map No. 37294 and Plot Plan No. 26249.**

---

The Planning Department has received comments on May 28, 2019 and May 29, 2019, in opposition of the project (Change of Zone No. 7937, Tentative Tract Map No. 37294 and Plot Plan No. 26249). The Planning Department is working on preparing a response to these comments. Please see the enclosed comments from the Law Office of Edward E, Yates representing Cecelia Webster and directly from Cecelia Webster.

Attachments:  
Comment Letter from Law Office of Edward E. Yates  
Comment Letter from Cecelia Webster

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

Desert Office · 77588 El Duna Court, Suite H  
Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7040

Law Office of Edward E. Yates  
20 Skylark Drive, # 12  
Larkspur, CA 94939  
Ph: 415-990-4805  
eyates@marinlandlaw.com

Law Office of Dotty E. LeMieux  
8 Willow St.  
San Rafael CA 94901  
Ph: 415-485-1040  
coastlaw@earthlink.net

May 2, 2019

Riverside County Board of Supervisors  
4080 Lemon St,  
Riverside, CA 92501  
By email to: [dharris@rivco.org](mailto:dharris@rivco.org),

**Re: Riverside County Use Permit, Environmental Assessment 43201 and Mitigated Negative Declaration, Newland Homes Los Olivos Development.**

Dear Board Chair and Members of the Board,

We represent Cecelia Webster in regard to Riverside General Plan and California Environmental Quality Act ("CEQA") compliance regarding Newland Homes Los Olivos Development ("Project"). Ms. Webster has been active in Riverside County for over 25 years advocating for compliance with the Riverside General Plan and municipal code, and for meaningful flood and environmental protection in the County. Ms. Webster is extremely concerned about these same issues regarding the Project. Ms. Webster lives in the Project general area and uses and enjoys the area for its environmental benefits.

This letter provides comments on and our client's objection to adoption of a Mitigated Negative Declaration (MND) for Environmental Assessment 43201. This letter also references and incorporates by reference Ms. Webster's related comments, including those on floodplain management, traffic and General Plan consistency. Ms. Webster's letter sets out how the Project violates several general plan provisions, particularly on floodplain management

The MND does not comply with CEQA because it does not provide substantial evidence that the project will not cause significant environmental impacts to biological resources and flooding hazards and other resources areas. The MND cynically misleads the decision makers and the public regarding a key environmental feature of the site, a crucial stream that runs through the project and which is part of the critically important Santa Margarita River Watershed. The MND refers to the stream as a "drainage" and continues to downplay and mislead the reader about the stream's biological importance and the Project's impacts to the stream. The County also appears to not have done independent scrutiny of the Project, heavily relying on the Developer's own self-serving consultant analysis. This lack of scrutiny is glaringly apparent regarding the highly flawed drainage assessment and the Project's potential to increase flooding. Further, the MND does not properly determine Project consistency

with local plans, e.g. General Plan provisions on floodplain management.

Because the County has not provided substantial evidence for its conclusions that there will be no significant impacts and because the MND misleads the public and the decision makers, the County must prepare an Environmental Impact Report (EIR), as required by CEQA. At this point, based on this and other misleading omitted and/or newly discovered information, recirculation of the MND is required.

**1. THE COUNTY MUST PREPARE AN EIR IF THERE IS A FAIR ARGUMENT BY THE PUBLIC THAT THERE IS A SIGNIFICANT ENVIRONMENTAL IMPACT**

First, under CEQA, the County must provide substantial evidence for its conclusions and the County must prepare an EIR if construction of the Project “may have a significant impact on the environment.” (Pub. Res. Code § 21151(a).) There is a “*low threshold*” requirement for initial preparation of an EIR [that] reflects a preference for resolving doubts in favor of full environmental review when the question is whether any such review is warranted.” (*League for Protection of Oakland’s Arch. Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 905.) The County, therefore, has the responsibility to ensure that there is no fair argument of substantial evidence in the record of significant impacts.

The low threshold triggers an EIR rather than a negative declaration whenever substantial evidence in the record supports a “fair argument” that significant impacts may occur, *even if there is also substantial evidence supporting a different conclusion.* (*Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1000-1003; Guidelines § 15064(f)(l).)

**2. THE MND MISLEADS THE PUBLIC AND THE DECISION MAKERS AND PROVIDES NO EVIDENCE TO COUNTER WILDLIFE AGENCIES OPINION OF LACK OF CONSISTENCY WITH THE MULTI-SPECIES HABITAT CONSERVATION PLAN (MSHCP).**

**A. Impacts to Biological Resources Were Not Assessed and County Reliance on RCA’s MSHCP Determinations Do Not Equate to Assessment.**

The MND and County responses to public comments rely heavily on the applicant’s own consultant’s opinions and on a supposed determination by the Western Riverside County Regional Conservation Authority (RCA) for its conclusions regarding project consistency with the MSHCP. The MND simply rejects the public’s questions and states only that the project is consistent with the MSHCP. Yet, there is no evidence of such consistency except for the applicant’s consultant saying it is so. (See Hernandez Environmental Services responses to Cecelia Webster comments, March 31, 2019, pp. 5 and 6 (“Applicant’s Biological Resources Response.”)) Thus, the MND fails to properly determine consistency with local plans and to assess impacts to the biological resources.

As Ms. Webster points out, the record includes U.S. Fish and Wildlife Service and California Department of Fish and Wildlife (Wildlife Agencies) review and analy-

sis, with joint expert comments that the project is not consistent with the MSHCP, also meaning that the Project may have significant impacts to biological resources. (Applicant's Biological Resources Response p. 7.)

The County downplays the Wildlife Agencies' comments by referring to meetings held with them. Despite repeated requests for the contents of these meetings and evidence that the Wildlife Agencies changed their opinions, no attempt was made to justify these statements. The transcript of the Planning Commission (PC) hearing of April 3<sup>rd</sup> provides the only supposed evidence in the record regarding the wildlife agency opinions. Applicant's representative stated: "And through the meetings we demonstrated the consistency, with the project being consistent with the conservation goals of the MSHCP, especially with the cell area. And through that discussion, they, the parties agreed I believe at that time, that the project is consistent with the MSHCP."

No subsequent evidence regarding communication with the Wildlife Agencies is provided. Thus, the wildlife agencies' letter remains as evidence of environmental impacts. CEQA considers such expert agency opinion as substantial evidence and neither the MND or Staff Report contains data or analysis to refute such evidence. (See *Brentwood Ass'n for No Drilling, Inc. v. City of Los Angeles* (1982) 134 CA 3d 491, 504 [holding that when qualified experts present conflicting evidence on the nature or extent of the Project's impacts, the agency must accept the evidence tending to show that the impact might occur].) In the scenario at hand, there is no evidence or expert opinion by the County; simply the Applicant's consultant saying the RCA's consistency determination takes care of all biological impact questions. (Applicant's March 28, 2019 Biological Resources Response, pp. 4-6.)

The Applicant and the RCA may disagree with the Wildlife Agencies, but *the RCA has no expertise in assessing biological resources*, and Ms. Webster has pointed out in the record that *RCA failed to ensure that outside expert review by Dudek was based on accurate information*. Neither the applicant nor the County has provided any data or analysis to rebut the Wildlife Agencies' expert opinion or the lack of substantial evidence to support the BRA's and MND's own conclusions. (MND, pp 16-20.) This in itself triggers the County's duty under CEQA to prepare an EIR. (Code of Civ. Pro. § 1094.5; Pub. Res. Code §§ 21080(d), 21100, 21151; 14 CCR § 15064(a)(1) (hereinafter "CEQA Guidelines").)

Even if the wildlife agencies fully concurred with the County, the consultant's opinion and the MND contain **no analysis** regarding potential impacts to the area but instead make limited findings that the project does not conflict with the MSHCP. That consistency finding does not substitute for impact assessment because CEQA does not only require consistency with local plans, it also requires that the existing environmental conditions and project environmental impacts be assessed. **The MND does not do so.**

B. The County's Heavy Reliance on Applicant's Consultants Demonstrates Lack of Independent Judgment.

Disturbingly, the County has apparently delegated all its review authority under CEQA to the Applicant as there is absolutely no evidence that the County has overseen or approved any of the Applicant's consultants responses to comments. A negative declaration must be prepared "directly by, or under contract to, a public agency." (§ 21082.1 (a).) Any draft negative declaration circulated by the lead agency must reflect its independent judgment. (§ 21082.1(c)(2).) Moreover, the final negative declaration must reflect the lead agency's independent judgment (§ 21082.1(c)(1); see also Guidelines, § 15025, subd. (b)), and the lead agency must make a finding that it does so. (§ 21082.1 (c)(3).)

In *Friends of La Vina v. County of Los Angeles* (1991) 232 Cal.App.3d 1446, disapproved on other grounds in *Western States Petroleum Assn. v. Superior Court*, supra, 9 Cal.4th at pages 570, note 2, 576, note 6, a county directed the applicant to hire a private consultant to prepare necessary EIR documentation. The consultant prepared an initial version of a draft EIR. The consultant revised his version several times in response to the county's review and comments. The county then released the draft EIR. (232 Cal.App.3d at pp. 1450-1451.) The court held this procedure did not violate CEQA: "[A]n agency may comply with CEQA by adopting EIR materials drafted by the applicant's consultant, so long as the agency independently reviews, evaluates, and exercises judgment over that documentation and the issues it raises and addresses." (Id., at p. 1452.) *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1397.

C. The MND Fails to Reflect RCA Property Purchases and Developer Demonstrated Inaccuracies Regarding Project Ownership and Title.

Furthermore, the County failed to recognize the new evidence of the purchase of RCA lands, solely because that purchase had not been finalized in 2017, when the project was initially submitted for approval. Again, the transcript of the April 3<sup>rd</sup> PC hearing provides evidence on this failure as County Planning Department staff, Mr. Baez, admitted that the County had not bothered to look closely at ownership of the property or whether the RCA designations related to the actual property.

The Planning Commission and Mr. Baez's exchange does not address the key fact that the purchase of 67 acres of new RCA conservation land just 260 feet south of the project was completed on June 7, 2018 - the Taylor-Berger/Baez deed-of-sale requirement was in hand and had been met, while Applicant was still in the HANS process; meeting in July and August 2018 with County, RCA, US Fish and Wildlife Service and the California Department of Fish and Wildlife (the Wildlife Agencies) to try and resolve the Agencies' objections to the project (oral testimony from Jeremy Krout, Applicant's Representative, 4/3/2019 Planning Commission hearing; at 00:13:40 on hearing video record).

Given that critical information relevant to MSHCP Reserve Assembly and project site suitability for conservation was omitted from EA43201 and HANS review, consistency of the project with the MSHCP should be reanalyzed, and the revised environmental documents recirculated.

### 3. THE RECORD CONTAINS SUBSTANTIAL EVIDENCE THAT THERE IS A FAIR ARGUMENT OF SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES AND FLOODING HAZARDS.

#### A. The MND Failed to Adequately Describe the Affected Environment.

CEQA requires that review documents include descriptions of the physical environmental conditions in the vicinity of the Project to determine whether an impact is significant. (Guidelines §§ 15063, 15071(b); Courts have held that generalized references are not sufficient and that the description must be of the location and extent of riparian habitat on or near the Project property. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713). CEQA requires that in MNDs, an agency must use the correct baseline environmental conditions. (See also *Comm. for a Better Env't v. South Coast Air Qual. Mgmt. Distr.* (2010) 48 C.4th 310).

The MND states that the “the project site contains approximately .56 acres (452 linear feet) of ephemeral drainage feature and associated riparian habitat that is regulated under Section 1602 of the Fish and Game Code and approximately .56 acre of “waters of the U.S.” that is under the jurisdiction of the Federal Clean Water Act (CWA).” (MND, p. 19). Despite identifying this area as containing riparian habitat, the MND contains no specific description of this riparian area (“Riparian Area”), thereby making it impossible to determine project impacts that may adversely affect the riparian area. The MND, contains no required description of the riparian area and instead repeatedly refers to it simply as a “drainage.” This underplaying of the main environmental feature of the site demonstrates a clumsy and heavy-handed attempt by the County to mislead the public and the decision makers regarding what appear to be potentially significant impacts to biological resources.

The MND’s curt dismissive summary stands in stark contrast to the information in the applicant’s own General Biological Assessment (“BRA” 2018 EA43201 Appendix C), identifying the “drainage” as a tributary to the Warm Springs Creek in the Santa Margarita Watershed that is considered “Western Riverside MSHCP riparian riverine resources.” (*General Biological Assessment and Western Riverside County MSHCP Consistency Analysis for The Tentative Tract, Map 37294 APN 480-100-009, 480-100-075 & 480-100-076 County of Riverside, California*).

The 12.5 -acre site contains one drainage feature that flows from north to south across the easternmost portion of the site. The drainage is an unnamed tributary to Warm Springs Creek, which is tributary to Murrieta Creek which ultimately flows to the Santa Margarita River and into the Pacific Ocean. The flows within the drainage appear to be predominantly ephemeral; however, urban runoff from the surrounding homes does feed the drainage.

The project site contains approximately 0.56 acres ( 452 linear feet) of

ephemeral drainage feature and associated riparian habitat that would be regulated under Section 1602 of the Fish and Game Code (Appendix F). The project site also contains approximately 0.56 acre of "waters of the United States" (WUS) that would be under the jurisdiction of the Federal CWA. The onsite drainage feature and associated riparian/wetland habitat would also be considered Western Riverside MSHCP riparian riverine resources. (BRA, pp. 20-21.)

The MND, though, does not attach the BRA but instead simply mischaracterizes the watercourse by downplaying the importance of the stream and riparian area. The MND's dismissal of the riparian area as simply a "drainage" is completely contradicted by the BRA.

The drainage is an unnamed tributary to Warm Springs Creek, which is tributary to Murrieta Creek which ultimately flows to the Santa Margarita River. The drainage contains enough vegetation to provide cover for animal species trying to move upstream or downstream. In addition, conservation lands located in Criteria Cell 5672 are downstream of the site and the drainage provides a linkage to these areas. It is likely that the onsite drainage serves a function in local wildlife movement. Further, the onsite drainage is considered a Biological Constraint Area that will connect to Linkage 18 south of the project site. (BRA, p. 26-27).

This failure to provide substantial evidence, disclose known information and assess potential project impacts to those wetland and riparian areas violates CEQA's rules for considering all environmental impacts, including those on riparian biological resources. (See, e.g., *Mira Monte Homeowners Ass'n v. County of Ventura* (1985) 165 Cal.App.3d 358, 364).

B. The MND Failed to Adequately Discuss the Impacts of Potential Erosion on the Ephemeral Watercourse and Riparian Habitat.

Despite not providing sediment and erosion analysis and mitigation to riparian resources, the MND concludes that there will be absolutely no impacts to the riparian area because no project activities would occur within the onsite drainage. (MND, p. 17.) However, the MND included no local characterization of geological strata, land stability, and erosion conditions, the MND lacks evidence to conclude that there will be no significant impacts to the ephemeral watercourse and riparian area the County describes disparagingly as a "drainage." As such, the MND cannot identify adequate mitigation measures which would allow the County to satisfy CEQA with an MND. (Pub. Res. Code § 21080(c)(2); Guidelines § 15070(b)). The MND lacked essential data necessary regarding flooding, sediment deposition and polluted runoff into the watercourse/riparian area, and thus did not evaluate reasonably foreseeable impacts to water quality and resources due to the project's enormous grading and reduction of impermeable surfaces.



The MND also claims that unidentified Best Management Practices (BMPs) and adopted standards of the Grading Ordinance mitigate for any potential impacts from this Project. Yet the MND provides absolutely no support for that conclusion. The MND simply repeats over and over that the project will not be sited in the drainage or will not disturb the area. (MND, p17, 19.)

The County dismissed such potential impacts in the MND, claiming that standard conditions require implementation of BMPs during construction to minimize erosion and prevent sediment dispersal. The County dismissed Ms. Webster's comments that changes to the floodplain will impact the stream by changing water flow patterns; See ProActive Engineering April 2, 2019 responses to Cecelia Webster ("Applicant's Hydrological Resources Response"). The MND, though, does not explain how it knows important details of basic floodplain analysis such as "effective versus ineffective floodplain" - introduced into the record for the first time on page 11 of this April 2 second Proactive Engineering response to Ms. Webster's original March 13, 2019 comments. This lack of existing conditions disclosure is apparent, as no modeling was done, no data was presented, and no sediment/runoff characterization or analysis was prepared regarding the project's impacts on the riparian area. Instead, the MND relies on unknown BMPs. Yet, the MND still claimed no impacts to the riparian area or any wildlife there.

Finally, the applicant's response to MSHCP comments denying any connectivity blatantly misconstrues its own BRA, which concludes there is wildlife corridor connectivity between the Project site and other wildlife corridors in the MSHCP area. "Further, the onsite drainage is considered a Biological Constraint Area that will connect to Linkage 18 south of the project site. (BRA, p. 27). CEQA considers such commonsense evidence from members of the public as a fair argument of significant impact (*Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690, 721).

C. The MND Failed to Adequately Discuss the Impacts of the Projects' Creation of Vast New Impermeable Surfaces on the Riparian Area.

CEQA requires an EIR when such uncertainty exists, including to groundwater recharge impacts. "The very uncertainty created by the conflicting assertions made by the parties as to the environmental effect of City's expanded groundwater extraction underscores the necessity of the EIR to substitute some degree of factual certainty for tentative opinion and speculation." (*County of Inyo v. Yorty* (1973) 32 C.A.3d 795, 814).

The MND claims that despite the Project creating 216,911 square feet of impervious surfaces, the project would not interfere with groundwater recharge as related to drinking water supply. The only support for this statement is that it will not develop 3.5 acres of open space - that is already there - and there will be some unidentified residential landscaping areas that will supposedly make up for the 216,911 square feet of impervious surfaces. (MND, pp 43).

This conclusion is simply preposterous and is not supported by any data or rational analysis. The MND included no local characterization of geological strata or groundwater/aquifer conditions and does not even address the clear possibilities that the groundwater recharge would be adversely affected, and the ephemeral stream's groundwater supply would be depleted. As such, the MND lacks evidence to conclude that there will be no significant impacts to the stream due to potential groundwater depletion.

A reviewing court will not defer to the agency's determination that mitigation measures will work when their efficacy is not apparent and there is no evidence in the records showing that the measures will be effective. (*Communities for a Better Env't v. City of Richmond* (2010) 184 Cal.App.4th 70, 95). While courts do defer to agencies regarding the effectiveness of mitigation, there must be substantial evidence in the record to support the determination. (See *Citizens for Open Gov't v. City of Lodi* (2012) 205 Cal.App.4th 296, 305). There is no evidence in the record because Riverside County did not provide any data or analysis for how such massive new impervious surfaces will not create a reduction in groundwater supply to the ephemeral stream on the site.

Further, the County's Advisory Notification Document and Conditions of Approval for the project contain extensive studies and mitigation requirements that have been improperly deferred. The County claims that BMPs and the SWPPP process will mitigate all impacts. Such deferred study and mitigation have no support in law. If an agency is to defer data gathering and mitigation and not provide the public with this information before Project approval, CEQA requires that: 1) circumstances preclude studies and the adoption of mitigation measures prior to approval; 2) there are "performance standards" for measuring mitigation success; and 3) there exists an objective, detailed management plan with mitigation measures.

The MND meets none of these three requirements. Even if the County will later require some sort of floodplain and stormwater plans, this does not substitute either for a lack of impact analysis, or failure to identify specific performance criteria when the result of the agency permitting process is left undefined. (*San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App. 4th, 645, 670). Instead, the expected outcome of the mitigation measures must be identified. (See, e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App. 4th 200, 237).

**D. There is No Substantial Evidence in the Record Regarding Flooding Impacts Because the Drainage Study is Replete with Errors and Baseless Assumptions.**

An initial study that is materially deficient is not sufficient to support a negative declaration. (*Christward Ministry v. Superior Court* (1986) 184 CA 32, 180, 197). Further, any supporting information that is relied upon in the initial study must be in the record. (*Gentry v. City of Murrieta* (1995) 36 CA 4<sup>th</sup> 1359, 1379).

Previous letters by Ms. Webster demonstrate that the Project's large-scale

elimination of impervious surfaces sanctioned by the Use Permit will potentially produce flooding and threaten precious groundwater resources in water-scarce Riverside County. The Applicant has dismissed all these concerns and stated evidence by simply repeating that the drainage study showed no impacts. (Applicant's March 28, 2019 Hydrological Resource Response, p 1-4). But the MND itself does not cite the drainage study and does not provide any evidence that the drainage study included any actual impact analysis. (MND, pp 40-42). CEQA does not allow the applicant to skip the impact-analysis process and simply conclude that compliance with a BMP - especially unidentified BMPs - will mitigate unidentified impacts. Before mitigation is even considered, CEQA requires that any standard-based mitigation measure be based on project-specific analysis of the potential impacts and effects of compliance with the standards. (*Californians for Altern. to Toxics v. Dept. of Food & Agric.* (2005) 135 C.A.4th 1; *Ebbetts Pass Forest Watch v. Dept. of Forestry* (2008) 43 C.A.4th 936, 956).

Further, the Drainage Study is full of errors. Applicant's Drainage Report fails to accurately describe existing conditions that dictate stormwater drainage across 30260 Los Alamos Road, and onto the project site, including the existence of a horse arena (circa 2015), for which there is a Riverside County approved grading plan (BGR150086 AS-BUILT GRADING FOR HORSE RIDING ARENA-CV1002200 see Riverside County Parcel Report APN 480100008). In addition, there is a trench on the west side of the arena, to divert run-off water (to the north) and prevent erosion of the arena. Applicant's County-approved Drainage Report appears to be based on the RCFC 2008 topological map (EA 43201, Appendix K, Drainage Report, Exhibit A, Developed Condition Hydrology Map), which is clearly out of date, as is readily seen by comparison with the County's own 2016 GIS map.

These defects in the Drainage Report have been attested to by property owners upstream of the project site, who routinely manage this stormwater flow, but this factual error remains ignored, rather than rectified, by the County. Because the western watershed is more than 30% larger than that identified by Applicant, the County has failed to demonstrate that the flood control infrastructure, which supposedly will handle all stormwater from the watershed west of the project site, will be adequate to the task.

E. The MND Failed to Adequately Discuss the Cumulative Impacts of Past Projects, the Project and Future Projects, Specifically the Clinton Keith Road Project.

CEQA requires that an MND analyze the project's cumulative impacts. (Pub. Res. Code §§ 21080.5(d)(3)(A), 21083(b)(2); see 14 CCR §§ 15065(a)(1), 15063(a)(1). See also, *Citizens Ass'n for Sensible Development v. County of Inyo* (1985) 172 CA 3d 171). The County's failure to assess project's cumulative and secondary impacts renders the MND inadequate.

Cumulative impacts are the incremental effects from multiple projects that combine to affect the environment. "The cumulative impacts from several projects is

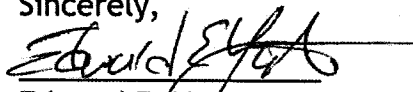
the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.” (14 CCR § 15355(b)). Cumulative impacts are “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts ... [they] can result from individually minor but collectively significant projects taking place over a period of time.” (14 CCR § 15355(b); accord, EPIC, supra, 170 Cal. App. 3d at p. 625).

The MND discloses that the Clinton Keith Road extension project is anticipated to impact the “drainage feature,” that is the stream on the Project site. (MND, p. 46). Yet the MND does not address the combined cumulative impacts on flooding and groundwater depletion of other residential development, the Project and the future Clinton Keith Road. The County has repeatedly relied on the Applicant’s contentions that the project will have no flooding impacts. It has not provided such evidence to the record because it has not provided the supposed drainage plan to the public or placed it in the public record. Thus, the MND has no support for its conclusions, and fails to adequately consider the direct and cumulative impacts of the Project on exacerbating existing flooding hazards.

#### 4. CONCLUSION

The MND clearly misleads the public and the decision makers and does not provided substantial evidence for its conclusions. Therefore, the County must prepare an Environmental Impact Report, as required by CEQA. If the County approves the MND and the Project applications, my client will consider her legal options at that time. Previous litigation by my client against the County - involving very similar circumstances - resulted in a settlement highly favorable to my client.

Sincerely,

  
Edward E. Yates

  
Dotty E. LeMieux

Cc:

Aaron Gettis agettis@rivco.org  
Lynette Clyde lcyde@rvico.org

May 29, 2019

Riverside County Board of Supervisors  
4080 Lemon Street, 5th Floor  
Riverside, CA 92501

Re: Los Olivos Development, Newland Homes, EA 43201 (CZ 7937, TR 37294, PP 26249)

Dear Riverside County Board of Supervisors,

**I am writing to object to approval of a Mitigated Negative Declaration (MND)** for the above referenced project. My intention in this letter is to summarize and make clear the defects (factual errors, omissions and misleading representations) in the Project's Environmental Documents (EA 43201; Initial Study and MND) and the additional material in the record before you, for the June 4th, 2019 public hearing.

Approval of this project would probably benefit my husband and me financially, given 4 of the acres we own right next to the Project site are designated MDR, and our property is not in the Flood Hazard Zone. However, **I am opposed to the Project** because of the environmental, rural community, and flooding impacts to residents and visitors in my neighborhood.

This letter is organized as follows:

Section Heading	Page
Objection I. The Project application to Riverside County Planning was premature, such that review of the planning application by the County and associated agencies such as WRC-RCA preceded by more than a year the point at which ownership/title of the project site was fit for conveyance, sub-division and sale .....	3
Objection II. The Project is Inconsistent with the Multipurpose Open Space (OS) Provisions of the Riverside County General Plan (GP) governing Groundwater Recharge, Floodplain and Riparian Area Management, and Wetlands (GP, December 8, 2015, Chapter 5, pages OS-12 thru OS-16, Policies OS 4.3, 4.6, 4.9, 5.1, 5.3, 5.6 and 6.2) - and Riverside County ORDINANCE NO. 348.4896 .....	4

Section Heading (Contd.)	Page
Objection III. EA43201 and County Staff failed to justify to the Planning Commission how the Project can be permitted to exceed the General Plan traffic model trip generation level required by the State Highway 79 Policy Area (SWAP 9.2) - and Riverside County ORDINANCE NO. 348.4896 .....	8
Objection IV. The Project is Inconsistent with the MSHCP and Riverside County ORDINANCE NO. 348.4896 .....	11
Objection V. The Drainage Report (EA 43201, Appendix K) for the Project is Defective; it Contains Material Errors and Omissions that have not been critically reviewed by County staff .....	16
Objection VI. The analysis of the floodplain in the eastern third of the Project site is grossly defective .....	22
Objection VII. The Applicant and County have failed to justify reliance on deferred mitigation regarding identification/location of water well(s) and septic system(s) on the project site, in compliance with state water laws .....	25
Objection VIII. Cumulative environmental impacts of the Project due to its overlap with the County's proposed Clinton Keith Road Extension are not addressed .....	28
Objection IX. The EA 43201 MND Does Not Represent the County's Independent Judgement .....	30
June 7, 1994 Minutes of the Board of Supervisors approving settlement between Cecelia Webster, County of Riverside and Board of Supervisors (Superior Court Case No. 218564) .....	31

***I. The Project application to Riverside County Planning was premature, such that review of the planning application by the County and associated agencies such as WRC-RCA preceded by more than a year the point at which ownership/ title of the project site was fit for conveyance, sub-division and sale.***

On June 2nd, 2017 Edward A. Richard as Trustee, declared “to the best of his knowledge” and signed as Property Owner an application to Riverside County Planning Department an application for MSHCP Habitat Acquisition and Negotiation Strategy (“HANS application”).

On June 11th, 2018 Edward A. Richard as Trustee, signed as sole Property Owner an Indemnification Agreement to defend, indemnify and hold harmless the County of Riverside et al. with respect to the County’s decisions to approve the Project.

On August 10th, 2018 Edward A. Richard as Trustee and Newland Homes LLC filed in Superior Court of California (County of Riverside), a complaint for QUIET TITLE and QUIET TITLE (ADVERSE POSSESSION) (Case No. MCC1800914). On page 1 of the Complaint, the plaintiffs identify the title problem to the most northerly six feet running across the entire EA43201 Project site *and extending east into the adjacent Riverside County TLMA parcel that the County purchased from Edward and Elinor Richard for \$425,000 in 2007 (even though it appears that the County of Riverside TLMA et al. are not mentioned or party to the Complaint)*. Without these most northerly six feet of the EA43201 Project, the entire project is unfeasible without major redesign. The Complaint notes that plaintiff Newland is under contract to purchase the Project site from plaintiff Richard.

On December 7th, 2018, after a trial in Riverside Superior Court, a judgement for Plaintiffs Richard and Newland was entered.

The Applicant and Planning Commission in written and oral testimony before the 4/3/2019 Public Hearing, emphasized the importance they attach to dates when title is obtained. Applicants submitted their HANS application to the County on June 29th, 2017 and the JPR for the Project was transmitted by RCA to the County on February 15th, 2018 - with the Wildlife Agencies’ negative review of the JPR following on March 5, 2018. Applicants’s representative Mr. Krout testified on 4/3/2019 that there were “Hans Meetings, a number of them, in July and August of 2018”.

RCA had acquired for conservation 67 acres of land 260 feet due south of the Project on June 7, 2018 (37 acre parcel closest to the Project) and July 3, 2018 (an additional 30 acres), with the acquisition completed *after RCA’s due diligence regarding title/title insurance for each of the parcels - and before Applicant even began their formal attempt to obtain clear title (“ANY CLOUD ON PLAINTIFF’S TITLE” in the Complaint filed in Superior Court, noted above)*.

The acts of title searches and obtaining title insurance are simple tasks constituting minimal due diligence in any real estate transaction. When did Newland and Richard learn of Richard’s title problems? What and when did they disclose the ownership

dispute to the County, after their discovery? Why didn't this problem with Richard's title emerge during the County's 2007 purchase of land from Richard - land having the same problematic title as in the 2018 Superior Court Complaint? The file reviewed by the Planning Commission contains neither consideration of the fundamental matter of Project site ownership and title, nor consistency of same with their/staffs'/Applicants' 4/3/2019 position that title for surrounding conservation lands must be in hand prior to the HANS/JPR process if they are to be considered by the County in review of EA 43201 and proposed MND.

**Conclusion to I.** The cloud on Applicants' title disclosed in Superior Court on August 10, 2018 must be addressed by the County in its review of the EA 43201 MND, prior to any approval, given that the County cannot review and award entitlements to persons lacking clear title to project sites. The failure of Applicant Richard to obtain clear title to the Project site prior to filing a development application invalidates County reviews of the application, since development approvals require that subdivision and sale of property be legally sound.

***II. The Project is Inconsistent with the Multipurpose Open Space (OS) Provisions of the Riverside County General Plan (GP) governing Groundwater Recharge, Floodplain and Riparian Area Management, and Wetlands (GP, December 8, 2015, Chapter 5, pages OS-12 thru OS-16, Policies OS 4.3, 4.6, 4.9, 5.1, 5.3, 5.6 and 6.2). Furthermore, Riverside County ORDINANCE NO. 348.4896 (Effective 1/10/19) SECTION 2.2. GENERAL PLAN CONSISTENCY states that "No discretionary permit shall be approved pursuant to this ordinance unless it is determined that the permit is consistent with the General Plan."***

Floodplains, watercourses and floodways "form a complex physical and biological system that not only supports a variety of natural resources, but also provides natural flood and erosion control. In addition, the floodplain represents a natural filtering system, with water percolating back into the ground and replenishing groundwater. When a watercourse is divorced from its floodplain... natural, built-in benefits are either lost, altered, or significantly reduced" (page OS-13, Floodplain and Riparian Area Management, para 1).

"The open space of floodplains adjacent to rivers and streams helps store and release floodwaters, thus reducing flood flow and peaks and their subsequent impacts during small and frequent flood events" (page OS-13, Floodplain and Riparian Area Management, para 2).

This Project violates GP OS Policies by proposing to build within a 100 year floodplain, and to destroy half of the 2 acres of floodplain on the Project site. The existing floodplain is a valuable water resource which currently (and historically)



provides stormwater retention, groundwater recharge and mitigation of downstream flooding for a ~2.5 square mile watershed. The proposed alteration of the floodplain will negatively impact these functions, exacerbate downstream flooding, and increase flooding hazards to public safety. Additionally, potential impacts to wildlife in the wetland/riparian area that are likely to result from loss of the adjacent floodplain have not been addressed.

**Groundwater Recharge Policies not addressed in EA 43201:**

**OS 4.3 Ensure that adequate aquifer water recharge areas are preserved and protected. (AI 3, 56,57)**

The existing floodplain is an aquifer water recharge area that merits preservation and protection. Approval of the Project will destroy half of the floodplain on the Project site. Therefore, approval of this project violates Policy OS 4.3 because it fails to preserve or protect a valuable water recharge area.

**OS 4.6 Retain storm water at or near the site of generation for percolation into the groundwater to conserve it for future uses and to mitigate adjacent flooding... (AI 57)**

1. Currently, stormwater from an ~20 acre watershed west of the project ponds on the project site and percolates into the groundwater. Approval of the Project will collect this stormwater and discharge it directly into the main channel of the watercourse on the east side of the project site 300 feet upstream, increasing stormwater runoff and contributing to flooding of adjacent properties.

2. Currently, the existing 2 acre floodplain on the eastern side of the property retains substantial amounts of stormwater, contributing to both recharge of the underlying aquifer and the mitigation of downstream flooding. Substantial evidence has been entered into the record to document how critical and effective a role the floodplain plays in mitigating flooding across Los Alamos Road and to rural residences, south of the project site (written comments and oral testimony by Webster to the PC on 3/27/19 and 4/3/19).

This project violates OS 4.6 because it will not retain stormwater, instead causing a substantial decrease in existing stormwater retention on the site, and will exacerbate rather than mitigate flooding of adjacent properties.

**OS 4.9 Discourage development within watercourses and areas within 100 feet of the outside boundary of the riparian vegetation, the top of the bank, or the 100 year floodplain, whichever is greater.**

Approval of the Project will be in the 100 year floodplain, immediately adjacent to riparian vegetation. The County, though, has not proposed project modifications or conditions to discourage or move Project development from the floodplain, even in part.

Therefore, approval of this project violates Policy OS 4.9 because it does not discourage floodplain development.

**Floodplain and Riparian Area Management Policies not addressed in EA 43201:**

- OS 5.1 Substantially alter floodways or implement other channelization only as a “last resort,” and limit the alteration to:**
- a. that necessary for the protection of public health and safety only after all other options are exhausted;**
  - b. essential public service projects where no other feasible construction method or alternative project location exists; or**
  - c. projects where the primary function is improvement of fish and wildlife habitat. (AI 25, 59, 60)**

“The floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot” (page OS-14).

Applicant and County have failed to identify the boundary of the existing floodway on the Project site. Absent this critical information, and given that Applicant proposes to build right up against the wetland/riparian area of the watercourse, the Project will almost certainly encroach into the existing floodway. Approval of the Project therefore violates OS 5.1 because it will likely cause substantial alteration of a floodway, but meets none of the requirements that would permit such an alteration.

- OS 5.3 Based on site specific study, all development shall be set back from the floodway boundary a distance adequate to address the following issues: (AI 59, 60, 133)**
- a. public safety;**
  - b. erosion;**
  - c. riparian wetland buffer;**
  - d. wildlife movement corridor or linkage;**
  - e. slopes;**
  - f. type of watercourse.**

The existing floodway boundary has not been identified, and no site specific study of OS 5.3 issues a-f has been provided. The Project violates OS 5.3 because Applicant and County have failed to identify or address the required issues; development is not set back from the floodway boundary by an adequate distance.

- OS 5.6 Identify and, to the maximum extent possible, conserve remaining upland habitat areas adjacent to riparian and wetland areas that are critical to the**

**feeding, hibernation, or nesting of wildlife species associated with these wetland and riparian areas. (AI 60,61)**

The Project violates OS 5.6 by failing to conserve any upland habitat areas adjacent to the riparian and wetland areas.

**Wetlands Policies not addressed in EA 43201:**

**OS 6.2 Preserve buffer zones around wetlands where feasible and biologically appropriate. (AI 61)**

This project proposes to build right up against the wetland. In approving this Project, the County is violating OS 6.2 by not requiring preservation of existing buffer zones around the wetland/riparian area. Both required General Plan mitigation measures are feasible but there is no evidence that the County considered such required buffer zones.

**Conclusion to II:** EA 43201 states merely that “The proposed project includes 3.5 acres of dedicated open space that would support the General Plan Multipurpose Open Space Policies”. But no evidence or analysis is provided to demonstrate that this Project actually complies with any OS Policies, making it highly likely that this Project will result in numerous significant environmental impacts that OS Policies are designed to avoid, necessitating preparation of an EIR.

**III. EA 43201 and County Staff failed to justify to the Planning Commission how the Project can be permitted to exceed the General Plan traffic model trip generation level required by the State Highway 79 Policy Area (SWAP 9.2). Furthermore, Riverside County ORDINANCE NO. 348.4896 (Effective 1/10/19) SECTION 2.2. GENERAL PLAN CONSISTENCY states that "No discretionary permit shall be approved pursuant to this ordinance unless it is determined that the permit is consistent with the General Plan."**

On July 26, 2017, County staff instructed Applicant and Applicant's engineer to:

1. Please show how this project complies with the Highway 79 Policy Area within the Southwest Area Plan policy 9.2. This typically requires 9% reduction in trips generated from residential development. The project is 12.6 gross acres in the Medium Density Residential designation, which would require 3.185 (9% reduction from 3.5 as is the midpoint which the General Plan Traffic Study is based), which results in 38 dwelling units for this project.

Applicant failed to respond to this 2017 requirement.

At the Planning Commission 4/3/2019 hearing, staff provided the following finding in their report:

**File No(s). Change of Zone No. 7937, Tentative Tract Map No. 37294 and Plot Plan No. 26249  
Planning Commission Staff Report: April 3, 2019  
Continued from: March 20, 2019  
Page 6 of 11**

**FINDINGS AND CONCLUSIONS**

**In order for the County to approve a proposed project, the following findings are required to be made:**

**Land Use Findings:**

3. The Project site is located within the Southwest Area Plan's Highway 79 Policy Area, which was created to address transportation infrastructure capacity within the policy area. Residential developments within this policy area are required to be consistent with SWAP 9.2, and reduce their density by 9% from the midpoint of the density range of the applicable land use designation to achieve a reduction in traffic generated from the area. The project site is located in Community Development: Medium Density Residential – 2-5 dwellings units per acre this 9% reduction would require the proposed project to be limited to 39 dwelling units. However, SWAP 9.2 also provides that individual projects may exceed the General Plan traffic model trip generation level if it can be shown that sufficient reductions have occurred on other projects. Certain Specific Plans and Tentative Tract Maps within the Highway 79 Policy Area have fully developed their residential component below the maximum allowed number of dwellings units allowed by the Specific Plan. County staff is maintaining a tracking sheet that identifies projects that have underdeveloped from what the General Plan and Highway 79 Policy Area would allow and has left excess capacity and a reduction in trips as well as identifying projects that have utilized this excess capacity for an up to date count on available capacity. At this time, the identified excess capacity in the policy area stands at 11 units, 9 of which would be utilized by this project.

The above conclusion lacks any specificity regarding the basis for staff's conclusion, that 11 excess capacity housing units are currently available in the SH-79 Policy Area, and that 9 of them could be allocated to this Project. In contrast to the staff report for this Project, previous presentations to the Planning Commission for other projects have provided detailed information; e.g., the February 7, 2018 PC hearing on Change of Zone No. 7833, Tentative Tract Map No. 36504, below:

Planning Commission Staff Report: February 7, 2018  
Page 6 of 9

2. The project site is located within the Highway 79 Policy Area of the Harvest Valley/Winchester Area Plan. The Highway 79 Policy Area and applicable policies (policies C 2.7 and SWAP 9.2 as shown below) requires developments to reduce their density by 9% from the density analyzed in the General Plan.

C 2.7 provides the following: Maintain a program to reduce overall trip generation in the Highway 79 Policy Area (Figure C-2) by creating a trip cap on residential development within this policy area which would result in a net reduction in overall trip generation of 70,000 vehicle trip per day from that which would be anticipated from the General Plan Land Use designations as currently recommended. The policy would generally require all new residential developments proposals within the Highway 79 Policy Area to reduce trip generation proportionally, and require that residential projects demonstrate adequate transportation infrastructure capacity to accommodate the added growth.

SWAP 9.2 provides the following: Maintain a program in the Highway 79 Policy Area to ensure that overall trip generation does not exceed system capacity and that the system operation continues to meet Level of Service standards. In general, the program would establish guidelines to be incorporated into individual Traffic Impact Analysis that would monitor overall trip generation from residential development to ensure that overall within the Highway 79 Policy Area development projects produce traffic generation at a level that is 9% less than the trips projected from the General Plan traffic model residential land use designations. Individually, projects could exceed the General Plan traffic model trip generation level, provided it can be demonstrated that sufficient reductions have occurred on other projects in order to meet Level of Service standards. As applied to the project area and its general plan land use designations, this 9% reduction would require the proposed project to be limited to 516 dwelling units. The Tentative Tract Map proposes 527 dwelling units, which exceeds the typical maximum allowed by the policy area by 11 units. However, SWAP 9.2 also provides that individual projects may exceed the General Plan traffic model trip generation level if it can be shown that sufficient reductions have occurred on other projects.

When this policy area was created with the 2003 General Plan, the buildout assumptions and resulting traffic generation assumptions for already adopted Specific Plans were based on the total allowed units within a given Specific Plan. These assumptions have not changed. For Specific Plans approved prior to the adoption of the 2003 General Plan where no further amendments were proposed, they were allowed to develop to their approved, entitled maximum number of dwelling units and not subject to the requirement to reduce their number of units by 9% based on implementation guidance developed by staff. Certain approved Specific Plans within Highway 79 Policy Area (policy area) have been identified that both have not been amended since the adoption of the 2003 General Plan (therefore entitled to the maximum number of units they were approved for) and that developed below the maximum allowed number of units they were entitled to develop and are completely built out. Four of these Specific Plans (Specific Plan Nos. 184, 213, 238, and 284) accounts for a total of 576 units that are undeveloped within the Highway 79 Policy Area that were assumed to be developed in the traffic analysis for the 2003 General Plan. Of these 396 units, 426 have already been allocated to Tentative Tract Map No. 36785, 115 have already been allocated to Specific Plan No. 312 Amendment No. 2 and 24 units have already been allocated to Tentative Tract Map No. 32323, leaving 20 units remaining from this collection of Specific Plans available. Based on this review, there is a demonstrated reduction in units and

Webster to Supervisors re EA 43201 MND, June 4, 2019 Hearing

Change of Zone No. 7833, Tentative Tract Map No. 36504

Planning Commission Staff Report: February 7, 2018

Page 7 of 9

traffic from these other projects that offset the additional 11 units proposed by this project than what would typically be allowed by the policy area utilizing the individual 9% reduction method. Although the application of a 9% reduction in density on an individual project basis has been the typical practice to achieve consistency with the policy area, the policy area also allows for a demonstration that sufficient reductions have occurred on other projects. Based on the above undeveloped units under similar ownership and Specific Plan units elsewhere in the policy area, this demonstrates that although the project individually exceeds the limit on units, there are reductions in units elsewhere in the policy area that are assumed to be developed within the traffic analysis for the General Plan that more than balance out the individual exceedance this project proposes. Therefore, based on the above, the project is consistent with the Highway 79 Policy Area.

The staff report above, for SP312A2/TTM 32323, provides the number and project origin of excess capacity housing units which have been identified in the SH-79 Policy Area (576), and the numbers of units that have been allocated to various projects to date (576; 426 to TTM 36785, 115 to SP 312A2, 24 to TTM 32323, and 11 to TTM 36504).

Following description of the Highway 79 Policy Area Excess Capacity “tracking sheet” that County Staff described to the Planning Commission on 4/3/2019, I obtained a draft spreadsheet from County TLMA (showing a different number of excess capacity units allotted to SP312A2 than were represented to the Planning Commission on February 17, 2018 (for Tract 36504, shown above) and, separately, to the Planning Commission on June 7, 2017 for Tract Map 32323; the number given to me was 106, rather than 115.

**Conclusion to III:** There are no excess capacity housing units currently available in the SH-79 Policy Area for allocation to this, or any other, project. Therefore, approval of this Project violates the General Plan/Highway 79 Policy Area requirement for mandatory trip reductions, because the Project exceeds the permitted number of housing units for the site by 9-10 units.

***IV. The Project is Inconsistent with the MSHCP***

1. The California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service (the Wildlife Agencies) disagreed with County's and RCA's determination, that the Project is consistent with the MSHCP.

**Wildlife Agencies' letter, March 5, 2018 (previously entered into the record)**

"The above analysis indicates that the Reserve Assembly requirements in Cell Group Z will not be achieved even if the remaining undeveloped area is conserved. It seems therefore that the entire project area should come into conservation."

"The JPR analysis states adjustments to Proposed Core 2 and or Cell Group Z will need to be made by the RCA and concludes the development of the Project site would not impede reserve assembly because it is not connected to existing conservation."

"We disagree with the RCA's conclusion that the proposed Project development is consistent with MSHCP Reserve Assembly requirements. The Regional Map included in the JPR packet does not show a barrier to connectivity between the existing conservation and the proposed Project site. We are also unclear how the RCA proposes to adjust Proposed Core 2 and or Cell Group Z. We request that either a Criteria Refinement for Cell Group Z be completed or the mechanism for adjusting Proposed Core 2 and or Cell Group Z be identified and implemented prior to project approval."

There is no evidence in the record that refutes the Wildlife Agencies' expert opinion as to the potential value of the project site to the MSHCP, or that retracts their objections to approval of the Project prior to remedy of the Cell Group Z shortfall. And there is no evidence that the County, as Permittee, has resolved the conservation acreage shortfall in Cell Group Z:

**Charles Landry, Executive Director RCA (personal communication 5/9/2019)**

"To the RCA's knowledge, no final decisions have been made by the County to address the Cell Group Z shortfall."

Therefore, there is no factual basis for County and Applicants' assertion in EA 43201 that the Project site would "neither contribute or further impede the conservation goals for Cell Group Z" (page 17), because how those goals will be met is still problematic, and a land donation from the Project site would certainly contribute to solving the shortfall. Rather, evidence in the record indicates that exclusion of the Project site from MSHCP Reserve Assembly participation will negatively impact MSHCP Reserve Assembly goals for Cell Group Z. The Project is therefore inconsistent with the MSHCP.

2. The County/RCA failed to accurately describe and consider existing conditions surrounding the project site, that were relevant and material to the Project's MSHCP Consistency Analysis and JPR (Joint Project Review), and to MSHCP Reserve Assembly goals. Sixty-seven acres of RCA conservation lands just 260 feet south of the project site (the Rindahl/Kelly properties, aka Liberty Fields), were acquired in June and July of

2018. These RCA properties were not considered in evaluating the suitability of the project site for conservation or its potential contribution to Reserve Assembly; their existence is omitted entirely from EA 43201 and all project records. This omission from the record is important, because lack of potential connectivity to existing conservation lands was cited in EA 43201 as a major reason not to conserve any land on the project site.

Why were these RCA acquisitions omitted from the MSHCP Consistency Analysis for the Project? Two reasons were given during the 4/3/19 Planning Commission hearing. First, Applicants averred that they had completed the HANS process prior to RCA acquisition of the Rindahl/Kelly properties:

**Jeremy Krout (Applicant's Representative) 4/3/2019 Planning Commission hearing**

00:18:00 “..when we filed the application in June of 2017, that actually, the sites to the south, that she references in the letter were not owned by RCA at the time. We went through our full process, had the determination of consistency with the MSHCP. And later, in July of 2018, the sites to the south were conserved.”

This is factually incorrect. Applicants were still in the HANS process, meeting with the County, RCA, Dudek and Wildlife Agencies to resolve problems with the Project's MSHCP consistency analysis, in July and August of 2018, *after the RCA properties were purchased*:

**Jeremy Krout (Applicant's Representative) 4/3/2019 Planning Commission hearing**

00:13:40 “And then we had all HANS meetings with the Wildlife Agencies, and the County and RCA in March and May of 2018, followed by 2nd all HANS meetings, a number of them, in July and August of 2018.”

And no final letter from the RCA, finding that the Project was consistent with the MSHCP, had been transmitted to the County as of August 30, 2018:

**Email between Don Copland (County Biologist) and Dionne Harris (Project Planner)**

**From:** Copeland, Don

**Sent:** Thursday, August 30, 2018 2:22 PM

**To:** Harris, Dionne <DHarris@RIVCO.ORG>; Poonamallee, Matthew <MPoonama@RIVCO.ORG>

**Subject:** RE: TTM37294 (APN 480100009 and 480100075)

Do you have access to our Drive Y:\HANS - ERP\Cases 02300-02399\HANS02367

We don't have a final letter from RCA, we meet with them next week, I might ask about that.

**From:** Harris, Dionne

**Sent:** Thursday, August 30, 2018 11:11 AM



Webster to Supervisors re EA 43201 MND, June 4, 2019 Hearing

**To:** Copeland, Don <[dcopelan@RIVCO.ORG](mailto:dcopelan@RIVCO.ORG)>; Poonamallee, Matthew <[MPoonama@rivco.org](mailto:MPoonama@rivco.org)>  
**Subject:** FW: TTM37294 (APN 480100009 and 480100075)  
**Importance:** High

Hi Don and Matthew,

Can you provide me with any documentation on JPR's and RCA's determination?

Thank you,

**Dionne Harris, MArch**  
***Urban Regional Planner II***

Moreover, Applicants are incorrect in believing that the filing dates of their HANS Application or JPR stop the clock in the review process, or that the JPR is set in stone. The environmental review process includes EA 43201, which is required to provide complete, accurate and current information on the Project's environment. And the end point is not a determination by the RCA, but approval by the Board of Supervisors:

**Charles Landry, Executive Director RCA (personal communication 5/9/2019)**

**"Under the MSHCP, neither the RCA nor the Wildlife Agencies provide final approval to development projects; only the Permittees (Cities/County) have this ability. Both the RCA and the Wildlife Agencies provide review of projects and provide a consistency analysis pursuant to the MSHCP. The Joint Project Review (JPR) document that is sent to the Wildlife Agencies and the Permittee by the RCA is sometimes later revised based on further coordination with the Wildlife Agencies, Permittee, and/or Applicant."**

Second, PC Taylor-Berger dismissed consideration of the Rindahl/Kelly properties as inappropriate, without a deed of sale. Given that the deed of sale was in hand, her point is moot. In addition, her assertion that it would be inappropriate to consider properties "proposed" for conservation in the MSHCP consistency analysis, is belied by the JPR itself. The Regional Map from the Project JPR is shown below; "proposed development" is shown in yellow, and "proposed conservation" in green. Thus, identification and evaluation of surrounding properties that are proposed for conservation or development is standard procedure, and is obviously important for MSHCP Reserve Assembly. Equally obvious is that the Regional Map used for this project is seriously out of date; e.g., half of Mcelhinney Middle School, which opened in August 2009, is designated "proposed conservation."

RCA acquisition of the Rindahl/Kelly properties (X1 on the Regional Map, below) began in January 2017, after the RCA quashed Mr. Kelly's development aspirations:

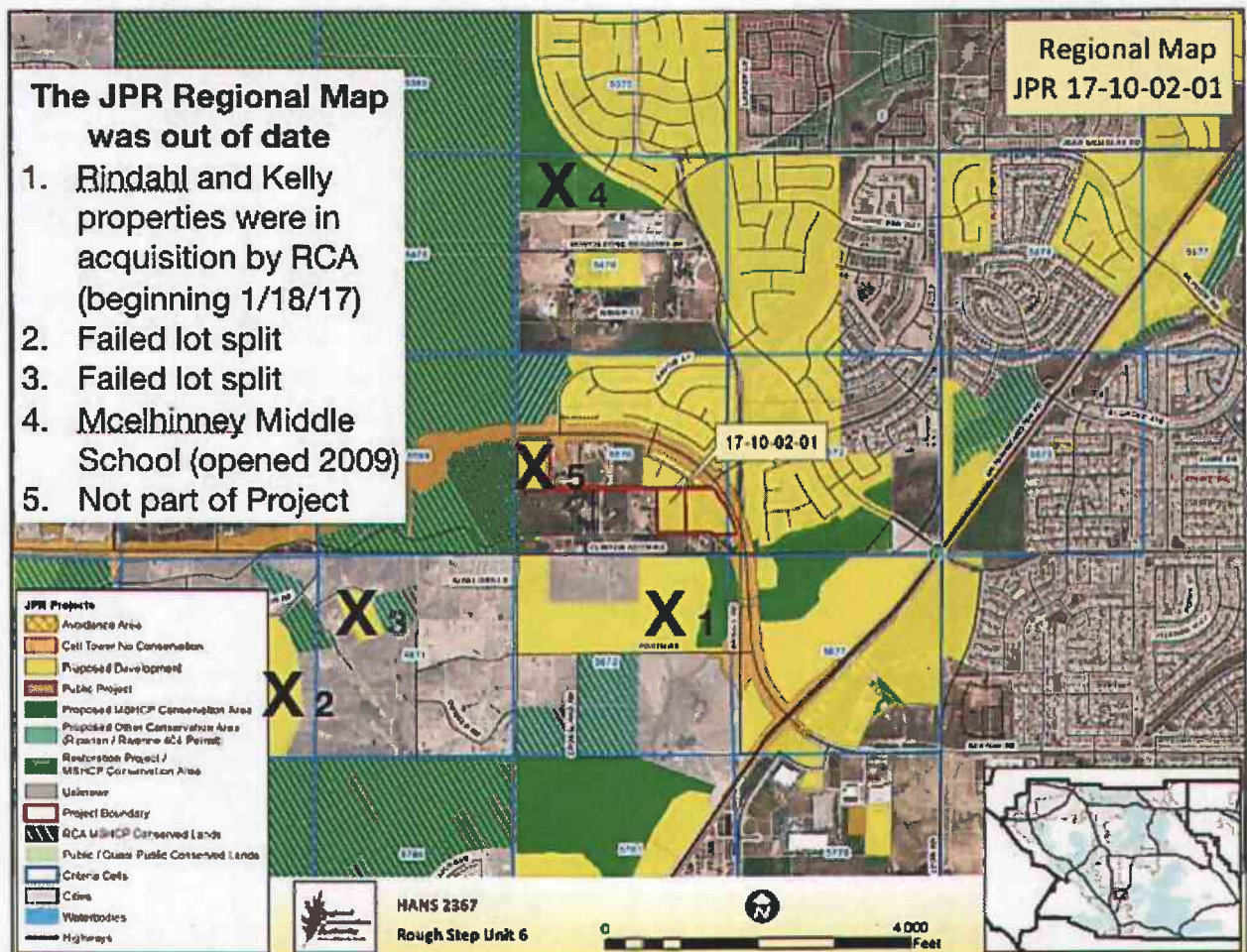
**May 4, 2016 - "Liberty Fields, JPR 16-04-20-01, would develop lands needed for conservation, therefore this project can't be found consistent with the Reserve Assembly goals of the MSHCP." *Liberty Fields, JPR 16-04-20-01, Dudek.***

January 18, 2017 - "The RCA and the owner/project applicant agreed to follow the provisions of Section 6.1.1.B.2.b of the MSHCP for Full Inclusion of Property in the WR MSHCP." *Liberty Fields HANS Appraisal, Project Summary and Appraisal Support Documentation, October 2017.*

April 2, 2018 - Agreement for Purchase signed by RCA and Liberty Fields owners (*prior to the 1st all HANS meeting for the Los Olivos project, 4/19/18*).

June 7, 2018 - Purchase of Rindahl property completed (*3 months prior to completion of the HANS process for the Los Olivos project*).

Both the proposed, and later existing, conservation status of these properties should have been considered during evaluation of the Los Olivos project site in regard to MSHCP Reserve Assembly. But RCA failed to communicate this information to Applicants, County, Dudek and the Wildlife Agencies.



**Conclusion to IV.** The RCA's and County's analysis and determination that the project is consistent with the MSHCP were based on grossly incomplete and inaccurate information, invalidating the determination. Misrepresentation of the nearby conservation lands as proposed development (in bright yellow) clearly and inevitably biased the analysis toward undervaluation of the property's conservation value to the MSHCP. Current information on the Project's environs are not provided in EA 43201, which entirely omits the existing conservation lands, and available evidence indicates that their existence was not disclosed to the Wildlife Agencies for their consideration. The Project JPR should be revised and resubmitted to the Wildlife Agencies for review, and EA 43201 should be revised and recirculated.

***V. The Drainage Report (EA 43201, Appendix K) for the Project is Defective; it Contains Material Errors and Omissions that have not been critically reviewed by County staff.***

1. Riverside County staff have advised the applicant that:

07/26/17  
14:16

Riverside County LMS  
CONDITIONS OF APPROVAL

Page: 7

TRACT MAP Tract #: TR37294

Parcel: 480-100-076

5. DRT CORRECTIONS REQUIRED

5.FLOOD RI. 1

DRT COMMENTS: 6/15/2017 (cont.)

REQUIRED

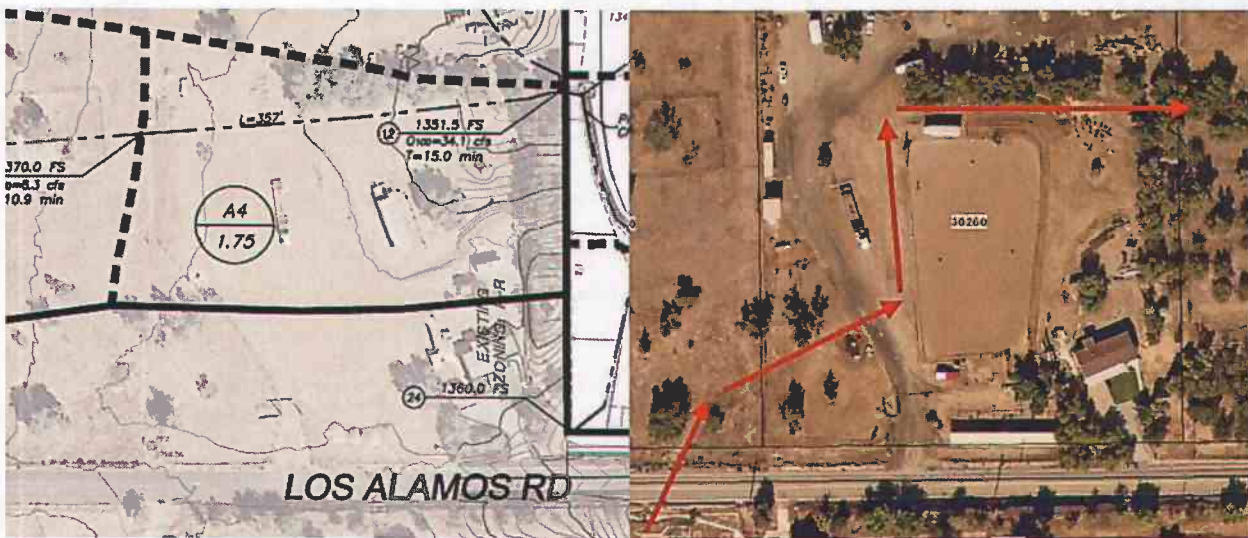
3. Stormwater runoff from a tributary drainage area of approximately 20 acres impacts the westerly boundary of the site. The exhibit indicates these flows would be collected

Yet applicants Drainage report (EA 43201, Appendix K) only accounts for 14.7 acres impacting the westerly boundary, a significant underestimation that has not been addressed by the County in its review. If the actual watershed feeding stormwater into the project is more than 30% larger than Applicant has designed, the entire project needs to be re-engineered. **The record is replete with Applicants testimony affirming their view that the County Flood Control statement of 6/15/2017 is not true, but there is no evidence in the record showing County's independent review of this discrepancy.**



2. Applicant's Drainage Report fails to accurately describe existing conditions that dictate stormwater drainage across 30260 Los Alamos Road towards the westerly boundary of the Project. Applicants ignore the existence of a County-TLMA culvert that transfers stormwater from several acres south of Los Alamos Road towards the Project.

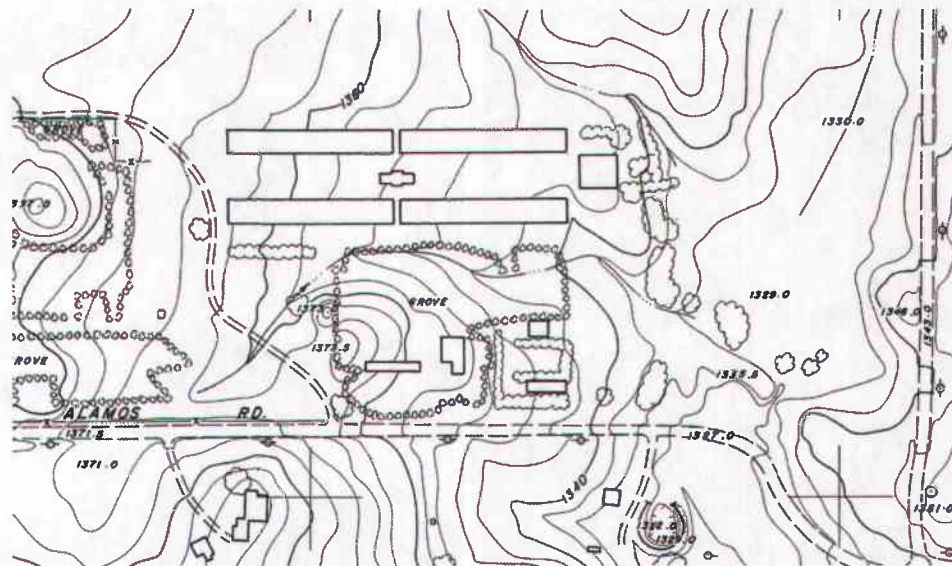
2A. The effects of a large horse arena (circa 2015), for which there is a Riverside County approved grading plan (BGR150086), cannot be simply ignored if the drainage report is to be credible. In addition, there is a trench on the west side of the arena, to divert run-off water from the south and west, to the north, and prevent erosion of the arena:



**EA 43201 Drainage Report**  
Applicant's map pre-dates  
grading for arena

**2016 County GIS Map, arrows**  
show stormwater flow from ~5  
acres south of Los Alamos Road

The arena's grading maintains the historic drainage of stormwater into the NW boundary of the Project, shown as an arrow in this 1975 Flood Control map:



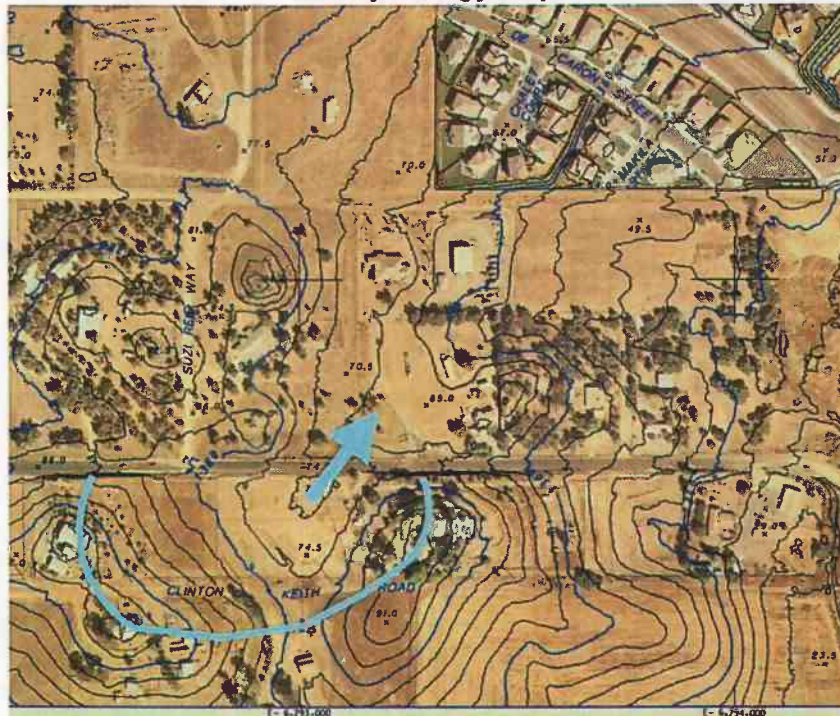


2B. Applicants fail to include in their drainage report flows of stormwater from south of Los Alamos Road via County Transportation Department culvert 12480/12481 into the 14.7 acre sub-watershed in Applicant's Drainage Report.



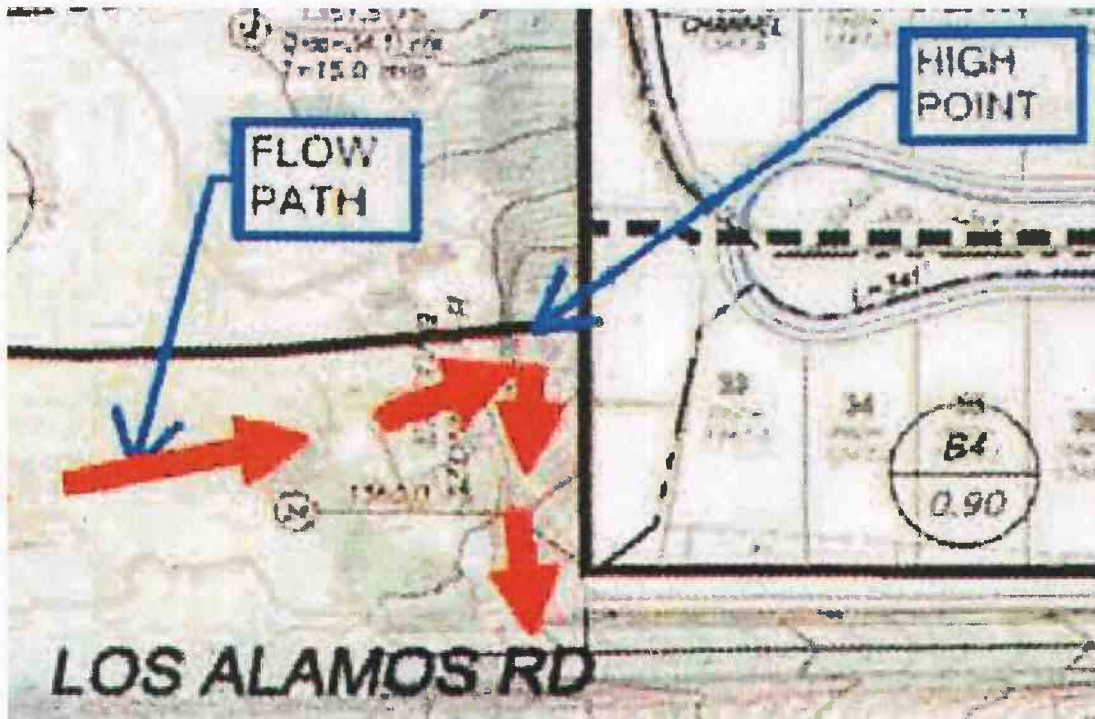
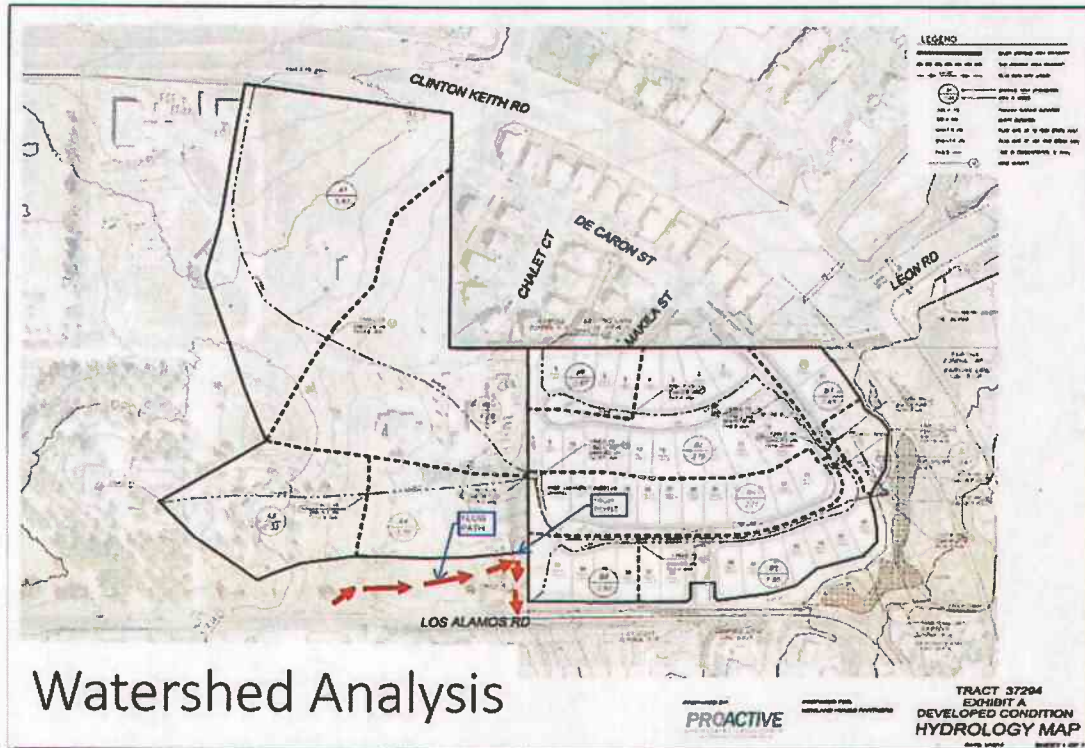
**Sub-watershed south of Los Alamos Road is missing from the Hydrology Map**

It is obvious that inclusion of the sub-watershed south of Applicant's 14.7 acre watershed produces a tributary drainage area of approximately 20 acres impacting the westerly boundary of the Project, as explained to Applicants in 2017 by County Flood Control:

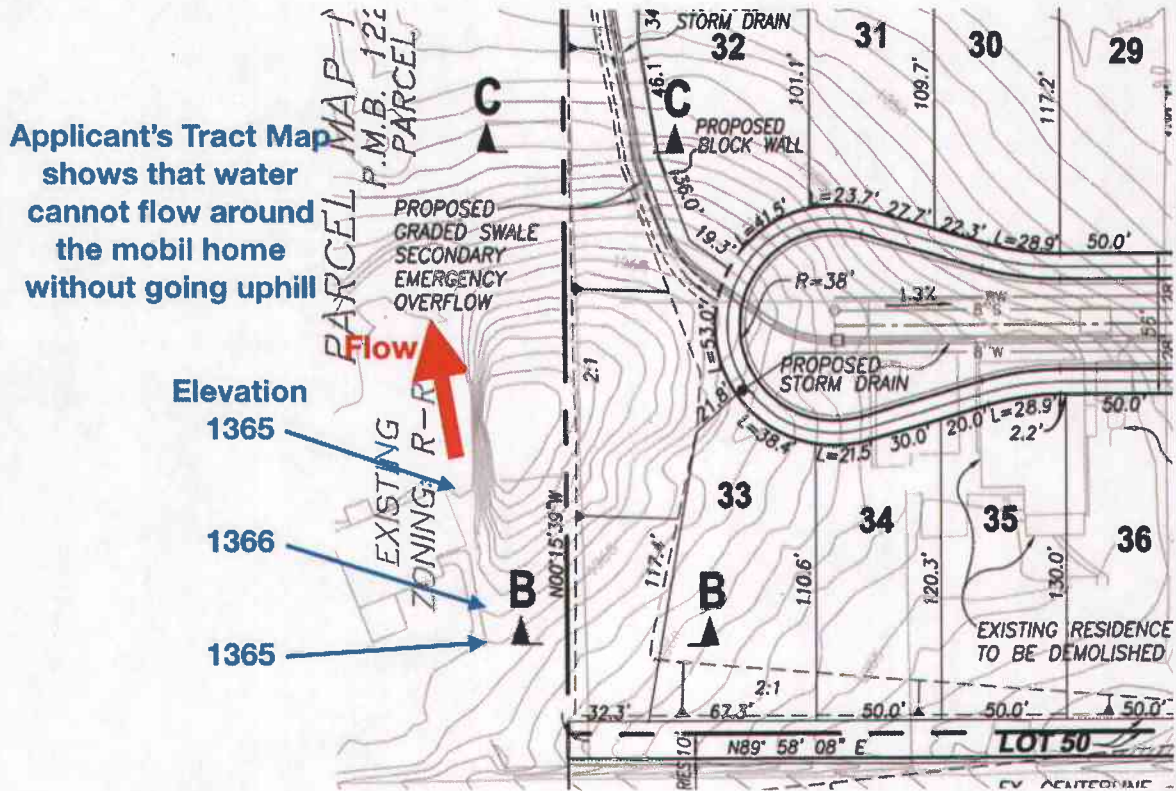




2C. County has relied entirely on Applicant's submissions, and the Planning Commission accepted their 4/3/2019 testimony (Mr. Krout) that stormwater flows towards and around a decades-old mobile home —



when, in fact, the contours on the Applicant's own Tract map show the land sloping downwards to the north of the mobile (at 1366' on SW corner of map detail, below), so stormwater moves northwards into the Applicant's 14.7 acre sub-watershed;



**Reflector marking Culvert that directs storm water from S of Los Alamos Road to the N, towards NW boundary of Project**



**Conclusion to V.** Given that RCTLMA culvert 12480/12481 exists and transfers water from several acres south of Los Alamos Road towards the Project's NW boundary, Applicant's April 2, 2019 statement to the Planning Commission that "the drainage south of Los Alamos Road does not flow north to the other side of Los Alamos" is false, and the drainage analysis of the watershed westerly of the Project is seriously defective. Because a substantial portion of the watershed west of the project site remains unaccounted for by the Applicant's Drainage Report, the County has no sound basis for approval of the Project, since there are clear reasons to doubt that the infrastructure proposed to handle stormwater from this western watershed will be adequate to the task.

***VI. The analysis of the floodplain in the eastern third of the Project site is grossly defective because: 1. The floodplain analysis in the EA 43201 record lacks key elements required by Riverside County Flood Control and Water Conservation District regarding “REQUIRED CONTENT AND FORMAT FOR HYDRAULIC REPORTS UTILIZING HEC-RAS OR HEC-2” (RCFC\_Hydraulic\_study\_reqs.pdf); and 2. The record fails to document any independent expert review of Applicant’s description of the existing floodplain by County staff in the context of accepted guidelines for Flood Risk Analysis (FEMA Floodplain Management NFIP Guidebook; FEMA Guidance for Flood Risk Analysis, including those reference in RCFC-WCD literature).***

1. The RCFC-WCD requirements for HEC-RAS that were ignored by Applicant include:

Areas of ineffective flow must be clearly shown.

A description of the Manning’s “n” values used and explanation for why they were chosen must be provided in the Narrative and Supporting documents.

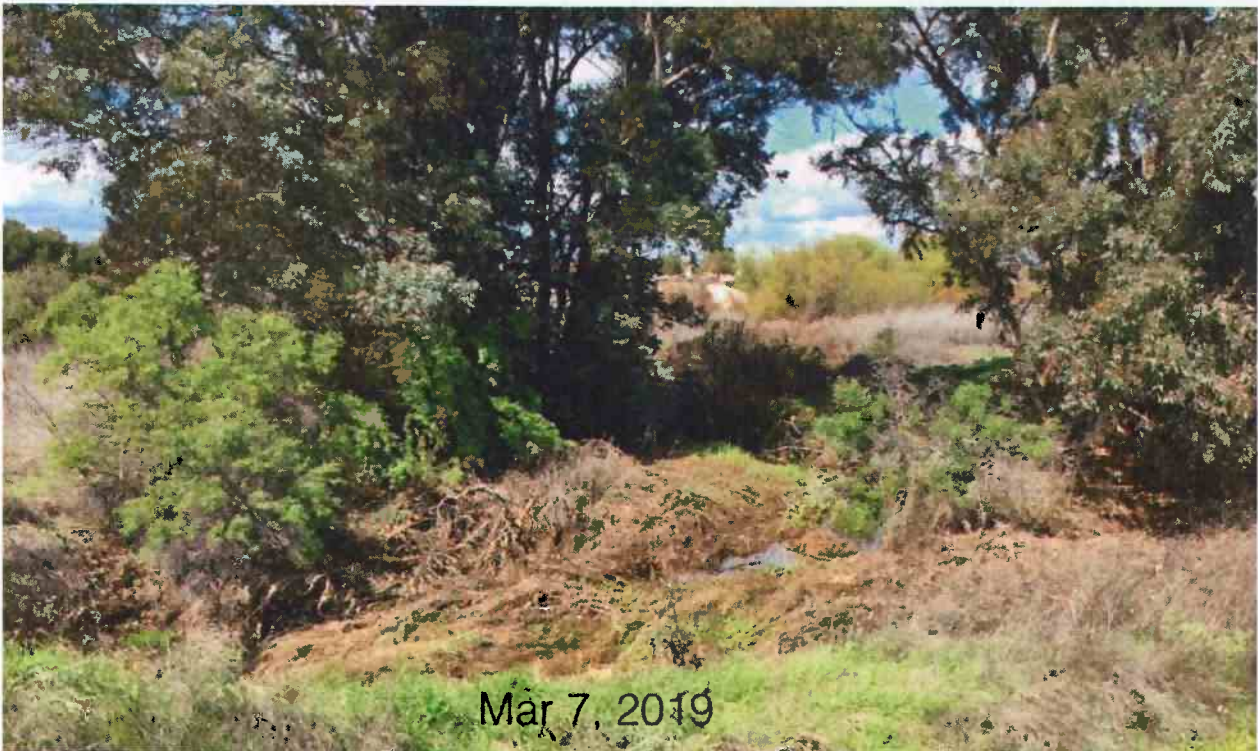
The requirement to determine if proposed water surface elevations are more than one foot higher than existing elevations, triggering “discussions” with RCFC-WCD, is rendered opaque by the Applicant’s failure to provide a “table comparing existing and proposed water surface elevations and velocities at each cross-section” as specified with respect to the requirement that “the report must be organized in a logical manner and a summary of the results and associated impact resulting from the project must be given in the text portion of the report.”

2. The absence of a floodplain analysis report that conforms to RCFC-WRC standards in the package to be reviewed by County staff and the Planning Commission indicates a failure to document independent and competent review by the County, which will invalidate any approvals by the Board concerning CEQA and hydrology/flooding. One clear example of the problems resulting from the inadequate floodplain report concerns the existence of massive multi-trunk eucalyptus trees on either side of the main water channel, shown in the 3 figures below. Trees on left, Project creek exiting over Los Alamos Road on right:



Feb 24, 1998





These mature trees serve to hold back water in the floodplain, along with the other vegetation that has grown explosively in the last decade (due to year-round run-off from upstream urban development), and these aspects of the floodplain are routinely handled with guidance from agencies such as FEMA and the USACE; Applicants have made no effort to address these fundamentals.

The non-compliance of the floodplain study with RCFC-WRC requirements renders impossible the required environmental assessment of the Project's potential impacts on the existing floodplain on the eastern third of the project site (~4 acres, between Leon and Los Alamos Roads). The Project site serves to reduce downstream flooding by serving as a multi-acre detention-basin system between Leon Road to the north and Los Alamos Road (and two residences) to the south. The detention-basin system consists of numerous physical barriers to the passage of water to the south, from the two 24-by-9 foot culverts at Leon Road that dump stormwater from a 2.5 square mile urban watershed onto the Project site. First, at Los Alamos Road, the raised road bed acts as a dam (with only an 18-inch round culvert serving to carry water under the road), so that even a fraction of an inch of rain results in formation of a temporary lake on the north side of the road. Second, visible from Los Alamos Road looking north (see photos above), are considerable mounds of earth and massive eucalyptus trees that serve to impede stormwater flow in the floodplain, thereby promoting infiltration/percolation of stormwater into the ground - i.e. reducing the amount of water available to contribute to the flooding hazard at Los Alamos Road and the two residences in the flood hazard zone south of the road. Third, the entire floodplain is thickly packed with vegetation, whose growth has exploded over the past decade in response to the year-round run-off from upstream tract houses required to regularly soak their lawns to keep them green, even in the record heat during an historic drought; this vegetation slows water flow in the floodplain, which can be correctly analyzed if appropriate Manning's "n" values are used as described above.

**Conclusion to VI.** The Applicants' proposal to place vast quantities of fill in an existing floodplain/flood hazard area is not supported by scientific evidence that meets the standards set forth by RCFC-WRC. County staff have failed to demand revisions of the file that are required to assure the Board that the Project will not be a site, or cause, of a flood emergency, and so the EA 43201 MND must be rejected.



***VII. The Applicant and County have failed to justify reliance on deferred mitigation regarding identification/location of water well(s) and septic system(s) on the project site, in compliance with state water laws.***

In 2017, Applicant was instructed by County as follows:

E HEALTH DEPARTMENT

5.E HEALTH. 1                      DRT - 6/12/17 DEH CORRECTIONS                      REQUIRED

This is for the review of a Schedule A subdivision of 12.6 acres into 48 single family residential lots. The following items need to be addressed:

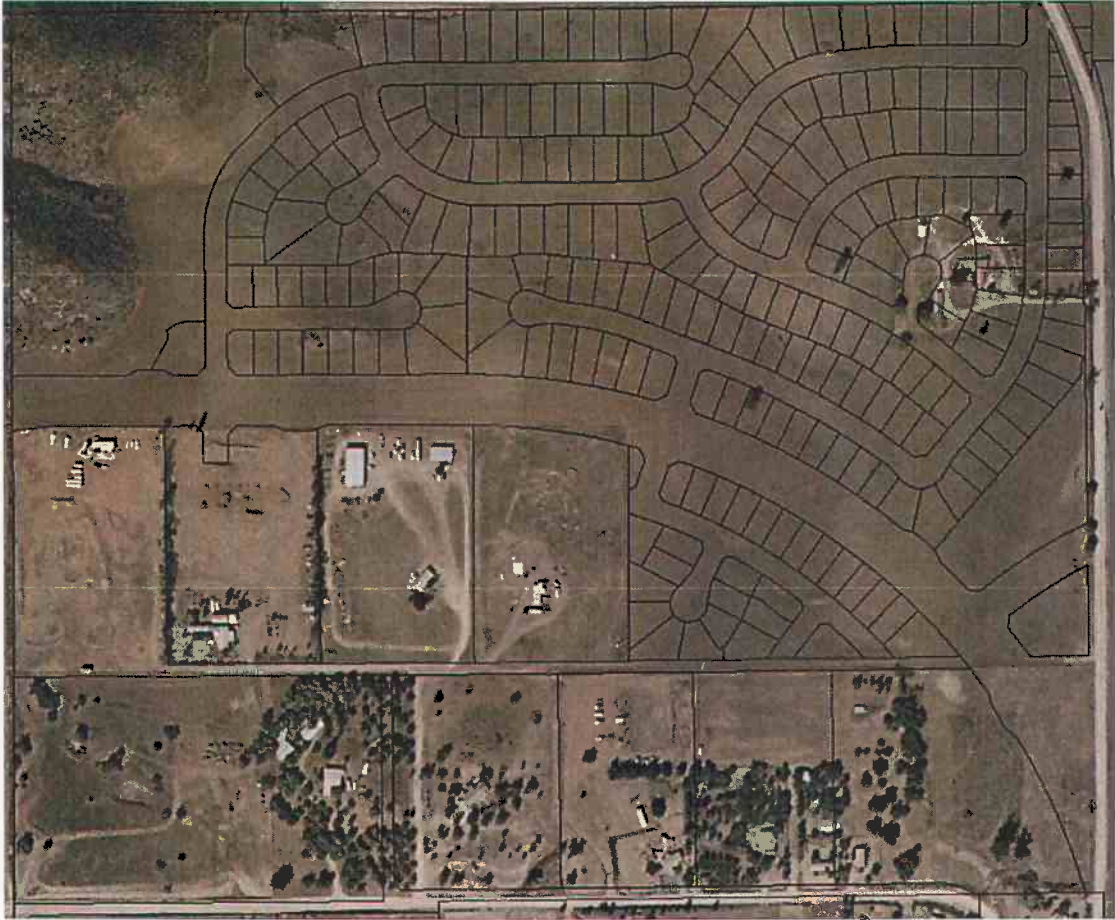
- 1) Properly locate and plot locations of all existing wells and onsite wastewater treatment systems (OWTS) for this project. Records for PM19797 show that wells were proposed for the sites. If wells are no longer being used, provide documentation showing current water service for the existing structures and information about destruction permits for wells and OWTS.

Despite Applicants' generation of large numbers of maps for review by the County, Applicants have failed to map wells and septic systems associated with the decades-old, occupied residence on the Project site. Moreover, Applicants have falsely stated that water wells/septic are absent from the project site (noted in written comments to the Planning Commission prior to the 3/20/2019 hearing).

The County would be justified in deferring mitigation until after CEQA review ***only if*** substantial evidence confirms the regulatory process would achieve the performance standards, and the County has adopted specific performance standards so the mitigation will be achieved. ***However, the standard has not been met, given the County's inability to show competent oversight of water well /septic system destruction in the recent development tract 29484 (Horton Country Roads) adjacent to the EA 43201 Project site.***

Like the proposed Project, Horton Country Roads Tract 29484 involved creation of dozens of tract homes in place of a single, decades-old residence with an on-site well and septic system, in the eastern portion of the proposed tract (see following 2004 GIS satellite image with proposed Horton parcels outlined) :

2004:

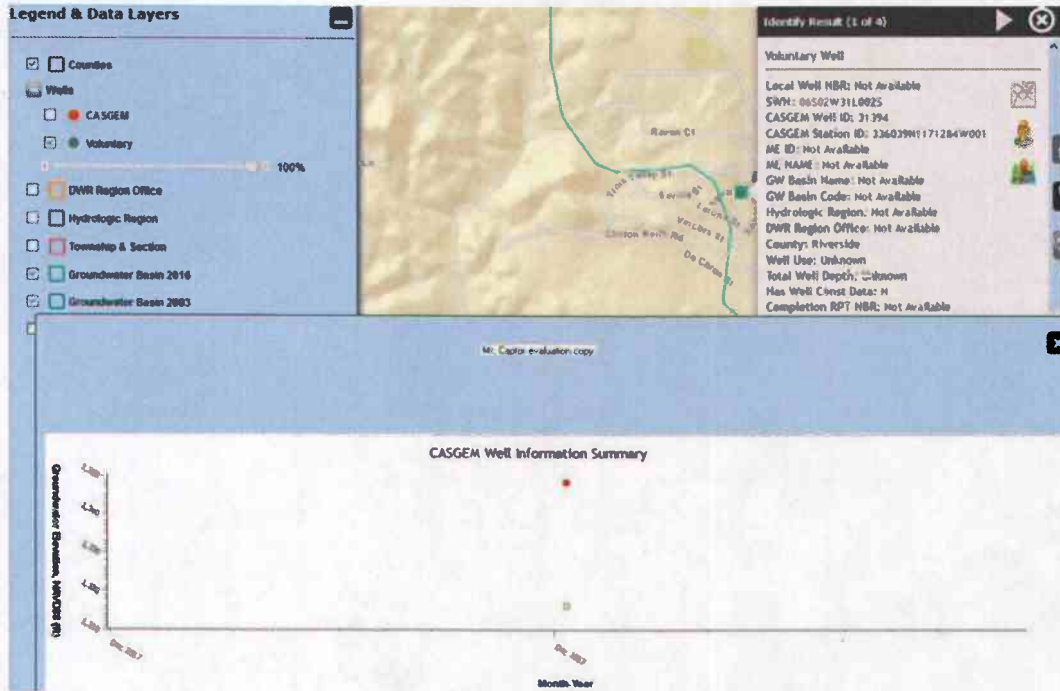


Below, the 2016 GIS satellite image shows the complete Horton Country Roads project, with its southern border adjacent to the EA 43201 Project site (bottom right 2 parcels):





State Water Board online CASGEM records provide details of the water well near the historic residence on the Horton project site, mapped relative to the current Horton Country Roads' streets:



The Riverside County Department of Health found no record of permitted well destruction for the Horton Country Roads project in response to my April 19, 2019 Public Records Act request. Earlier efforts to obtain records from Riverside County Transportation and Land Management also failed to provide any evidence of compliance by developers and County regarding well destruction. This lack of any evidence that the proposed deferred-mitigation regulatory process would achieve the performance standards was presented in writing to the Planning Commission prior to the 4/3/2019 hearing.

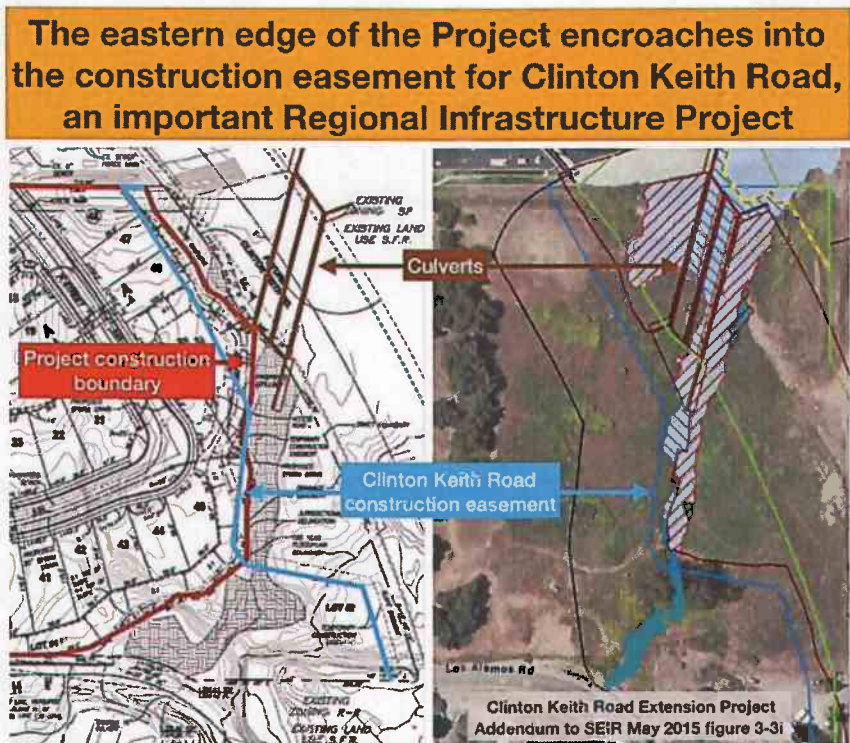
**Conclusion to VII.** County has failed to demonstrate commitment to protection of Groundwater resources under and around the Project site with respect to compliance with State Water Laws governing destruction of abandoned water wells and septic systems, by not requiring Applicant to acknowledge and map well and septic systems, and liaise with County Health prior to completion of the CEQA review. The County's failure to record well and septic system destruction for the completed Horton project (adjacent to the EA 43201 Project site), as required by State Laws that are aimed at protecting state water quality, indicates that the County does not have specific performance standards for achieving necessary mitigation of potentially significant adverse impacts on groundwater resources. Therefore, the MND for the Project is inappropriate and should be rejected.

***Objection VIII. Cumulative environmental impacts of the Project due to its overlap with the County's proposed Clinton Keith Road Extension are not addressed.***

After my initial review of the EA 43201 Project documents at the beginning of March, it was clear to me that the Project file lacked acknowledgement and analysis of the strong interactions between the Project and the County's proposed extension of Clinton Keith Road. The physical overlap of the EA 43201 Project's eastern Flood Hazard Area with the Study Area identified as "Drainage 15" in the Clinton Keith Road Extension environmental documents has not been described and analyzed beyond acknowledgement of the problem, as pointed out by my submissions during Public Hearing, and feeble statements saying that the County is responsible for determining what impacts and mitigations apply, if any.

The EA 43201 record fails to address the combined (cumulative) impacts of the EA 43201-CKR-extension dual project with respect to drainage/flooding, biological resources and local circulation. On March 15, 2019, I alerted Supervisor Washington and RCTLMA Director Perez of my concerns about how EA 43201 will likely complicate CKR-extension design and approval with respect to local traffic, including that on Los Alamos Road. This issue must be addressed prior to approval of future CKR construction, and solutions to this matter seem to be evermore distant even though the Board committed to act in good faith to this end on June 7, 1994 (Settlement Agreement appended to this letter).

I subsequently communicated to County Planning on the morning of March 31st, 2019:





While the County did respond by adding an April 2, 2019 Condition of Approval to bolster and protect the County's construction easement, there remains an unacceptable absence of consideration of impacts applicable to CKR Drainage 15, under current study by the County through ongoing serial EIR production and review - which is also subject to good faith engagement by the County as laid out in the settlement the Board approved June 7, 1994. In addition to the local circulation analysis including Los Alamos Road through full EIR, the settlement also requires analysis by the County through full EIR of:

- areas a qualified historian determines are historically significant (triggered by Ms. Rita Gentry's correspondence in the EA 43201 record)
- raptor foraging areas (triggered by the Red-tailed hawk nest on the project site; and the White-tailed Kite, kestrels and other hawks that forage over and around the east end of Los Alamos Road)
- seasonal wetlands
- riparian areas adjacent to wetlands
- wildlife movement corridors
- Santa Margarita River watershed
- Recreational uses in the vicinity of and along Los Alamos Road

Approval of the EA 43201 MND would constitute a gross violation of the County's obligations in the Settlement Agreement, agreed to by the Board on June 7, 1994. The EA 43201 MND cannot be permitted to destroy the valuable resources listed above, when the County's ongoing EIR review of the area where the two projects overlap will enable their protection.

These considerations render relevant an important rationale for transfer of the EA 43201 site into conservation:

wrc-rca.org

*Establishing habitat reserves for the conservation and protection of species while expediting the construction of infrastructure projects*

**Conclusion to VIII.** Lack of an EIR for the areas of the EA 43201 Project that overlap with the current CKR-extension project EIR study area would undercut required environment protection of local traffic networks, and natural, historic and recreational resources as specified in the Settlement Agreement, agreed to by the Board on June 7, 1994. It is not possible to dis-entangle a developer's request to put vast quantities of dirt into a floodplain, from a County's aim to build a creek/wetland crossing on the very same

area of land without both projects being considered in a single study of the cumulative impacts.

***IX. The EA 43201 MND Does Not Represent the County's Independent Judgement.***

The record for the Project is replete with unacceptable instances where County staff's and Planning Commission's recommendation to the Board are based on private discretionary staff approvals of exceptions to General Plan and CEQA that were shielded from public view. My input through the public review process has already resulted in 3 new CoAs for this project: one to protect and bolster the County's construction easement for a Regional infrastructural improvement project (Clinton Keith Road Extension, between Leon and Winchester Roads); and two for an additional \$45,000 in transportation fees, to compensate for the additional trips this project will generate by exceeding its GP and SH-79 PA housing allotment. Had the County adequately reviewed EA 43201, it would not have been left to the public to protect the County's own construction easement, point out that the project was 23% over its GP housing allotment with no additional transportation mitigation, identify multiple obvious defects in the hydrology report, or inform decision makers that the project is building in a floodplain and is inconsistent with both the County General Plan and MSHCP. This evidence for a serious lack of oversight by the County is compounded by the hidden fact that "the Consultant who prepared the document" turned out to be Applicant's Representative, Mr. Krout (EPD Solutions), and that his role in drafting EA 43201 is omitted from the face of the document. Only in my examination of the public record during the present review process, has a consistent pattern of "approvals" come to light, in which County staff "promise" entitlements to the Applicant that are in defiance of the County's General Plan and CEQA, in the areas of traffic impacts, biological resources, stormwater analysis, floodplain and flooding hazard analysis and, lastly, protection of groundwater resources.

**Conclusion to IX.** Approval by the Board of the EA 43201 MND and associated resolutions would represent an abuse of discretion, because of failure to comply with CEQA and attendant County policies and Ordinances.

Thank you for your consideration. Sincerely yours,

Cecelia Webster  
30255 Los Alamos Road  
Murrieta CA 92563  
951-265-0921

cecilia.webster@verizon.net

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



On motion of Supervisor Cenicerros, seconded by Supervisor Dunlap and duly carried by unanimous vote, IT WAS ORDERED that the attached Settlement Agreement and Mutual Release concerning the action entitled Cecelia Webster v. County of Riverside and Board of Supervisors of the County of Riverside (Riverside Superior Court Case No. 218564) is approved and the Chairman of the Board of Supervisors is authorized to sign same.

I hereby certify that the foregoing is a full, true and correct copy of an order made and entered on June 7, 1994 of Supervisors Minutes.

EACH DOCUMENT TO WHICH THIS CERTIFICATE ATTACHED IS CERTIFIED TO BE A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE

Dated: August 13, 2014 Dated: June 7, 1994

By: Rachael Harper-Fried Gerald A. Maloney, Clerk of the Board of Supervisors, in and for the County of Riverside, State of California.

(seal)

By: [Signature] Deputy

AGENDA NO.

xc: Co. Counsel

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is entered into this 7th day of June, 1994, by and between Cecelia Webster, an individual, and the County of Riverside, a political subdivision of the State of California, concerning the following facts:

RECITALS

A. On May 14, 1991, the County of Riverside ("County") declared its intention to form the Southwest Area Road and Bridge Benefit District ("District") by adopting Resolution No. 91-214.

B. On January 21, 1992, the County formed the District by adopting Resolution No. 92-050 and the Negative Declaration for Environmental Assessment No. 35841.

C. On February 20, 1992, Cecelia Webster ("Petitioner") challenged formation of the District by filing a petition for writ of mandate in the case entitled: Cecelia Webster v. County of Riverside and Board of Supervisors of Riverside County (Riverside Superior Court Case No. 217120).

D. On March 31, 1992, the County repealed Resolution No. 92-050 as a result of boundary adjustments and reformed the District by adopting Resolution No. 92-169 and the Negative Declaration for Environmental Assessment No. 35841.

E. On April 30, 1992, Petitioner again challenged formation of the District by filing a petition for writ of mandate in the case entitled: Cecelia Webster v. County of Riverside and Board of Supervisors of the County of Riverside (Riverside Superior Court Case No. 218564).

F. On June 9, 1992, Petitioner dismissed the action referenced in Recital C. without prejudice.

G. On October 15, 1992, judgment was entered for Petitioner in the action referenced in Recital E. and a peremptory writ of mandate was issued directing the County to, among other things, void and/or vacate its actions of March 31, 1992 and prepare new environmental documentation in compliance with the California Environmental Quality Act.

H. The County prepared new Environmental Assessment No. 36392 in response to the writ and released it for review on November 12, 1992.

I. On November 17, 1992, the County declared its intention to reform the District by adopting Resolution No. 92-527.

J. On December 2, 1992, the County appealed the judgment referenced in Recital G.

K. On December 7, 1992, the County filed a return to the writ referenced in Recital G. advising the trial court that the matter had been appealed.

L. On January 26, 1993, the County repealed Resolution No. 92-169 and reformed the District by adopting Resolution No. 93-056 and the Negative Declaration for Environmental Assessment No. 36392.

M. On February 16, 1993, Petitioner filed a motion to dismiss the appeal referenced in Recital J.

N. On June 11, 1993, Petitioner's motion to dismiss the appeal referenced in Recital J. was granted.

O. On September 27, 1993, the County filed a supplemental return to the writ referenced in Recital G. advising the trial court that the County had fully complied with the terms thereof by taking the action referenced in Recitals H., I. and L.

P. On October 6, 1993, Petitioner filed a notice of motion to reject the County's supplemental return and to enforce judgment.

Q. On November 1, 1993, the trial court rejected the County's supplemental return, ordered the parties to conduct a settlement conference and set a briefing schedule and trial date.

NOW, THEREFORE, it is mutually agreed as follows:

#### AGREEMENT

##### A. The County's Obligations

1. The County shall prepare a conceptual alignment study for the segment of Clinton Keith Road between Interstate 215 and State Route 79 and shall begin processing, but not necessarily complete, a general plan amendment to fix the alignment within twelve (12) months of the operative date of this Agreement, unless a longer period of time is mutually agreed to by the parties. The County and Petitioner shall jointly identify the alternate routes to be evaluated in the alignment study.

2. The County shall prepare a draft Environmental Impact Report ("EIR") for the general plan amendment and the District within twelve (12) months of the operative date of this Agreement, unless a longer period of time is mutually agreed to by

the parties. The EIR shall be prepared and processed in accordance with the California Environmental Quality Act in all respects, except that the discussion of environmental impacts shall be limited to only those impacts that the general plan amendment and District may have on the following:

- a. Stephens' kangaroo rat habitat;
- b. California Gnatcatcher habitat;
- c. The habitat of any other plant or animal species listed as endangered or threatened by the United States or the State of California;
- d. Coastal sage scrub habitat;
- e. Raptor foraging areas;
- f. Seasonal wetlands;
- g. Riparian areas adjacent to watercourses;
- h. Wildlife movement corridors;
- i. The Santa Margarita River and San Jacinto River watersheds;
- j. Areas listed on the National Register of Historic Places;
- k. Areas a qualified historian determines are eligible for listing on the National Register of Historic Places;
- l. Areas a qualified historian determines are historically significant;
- m. Areas a licensed archeologist determines are culturally significant;
- n. Recreational uses in the vicinity of and along Los Alamos Road; and
- o. Existing local circulation networks, including Los Alamos Road and the roads, lanes and driveways accessing Los Alamos Road.

3. The EIR shall also evaluate how each alternate route referenced in the alignment study will affect the items listed in section A.2. hereof.

4. The County shall transmit a preliminary draft of the alignment study and a screen check copy of the EIR to Petitioner within ten (10) days after their completion, unless a longer period of time is mutually agreed to by the parties.

5. The County shall vacate and set aside Resolution No. 93-056 and the Negative Declaration for Environmental Assessment No. 36392 within sixty (60) days after certification of the final EIR and adoption of the general plan amendment, unless a longer period of time is mutually agreed to by the parties.

6. The County shall hold a duly noticed public hearing to consider reformation of the District at the same time it takes the action described in Section A.5. hereof and shall relate the reformation date back to the time of original formation if the District is, in fact, reformed. The County shall incorporate the mitigation measures identified in the EIR into the conditions of approval for the District or shall reject such measures as infeasible prior to reformation.

7. The County shall continue to collect all fees authorized by Resolution No. 93-056 until that resolution is vacated and set aside, but shall not expend fees actually collected for anything other than administrative costs. The County shall also continue to collect fees after reformation of the District pending formal and final adjudication of the adequacy of the EIR referenced in Section A. hereof in the event of a legal challenge thereto, but shall not expend fees actually collected for anything other than administrative costs. Administrative costs shall include, but not be limited to, the costs of EIR preparation and the costs of legal services.

8. The County shall reimburse Petitioner \$1,173.80 for all filing fees previously paid to the Superior Court within thirty (30) days of the operative date of this Agreement.

9. Except as provided in this Agreement, the County does hereby release Petitioner from any and all claims, demands, and/or causes of action, known, unknown or suspected which relate in any way to the lawsuits referenced in Recitals C. and E. hereof. The County does hereby waive and relinquish all rights and benefits under Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The County acknowledges that it may hereafter discover facts different from or in addition to those it now knows or believes to be true and agrees that this release shall be and remain effective in all respects notwithstanding such additional or different facts.

This release is not, however, intended to and shall not, in fact, constitute a release of any rights, obligations or warranties under this Agreement.

B. Petitioner's Obligations

1. Petitioner shall dismiss with prejudice the lawsuits referenced in Recitals C. and E. hereof within thirty (30) days of the operative date of this Agreement. Petitioner shall, however, retain the right to file a new lawsuit challenging the adequacy of the EIR referenced in Section A. hereof.

2. Petitioner shall not object to the County's collection of fees pursuant to Resolution No. 93-056 pending reformation of the District.

3. Petitioner shall not object to the County's collection of fees after reformation of the District pending formal and final adjudication of the adequacy of the EIR referenced in Section A. hereof in the event of a legal challenge thereto.

4. Petitioner shall not object to expenditure of the fees referenced in Sections B.2. and 3. hereof for administrative costs. Administrative costs shall include, but not be limited to, the costs of EIR preparation and the costs of legal services.

5. Petitioner shall not file a lawsuit of any kind or nature concerning the formation or operation of any other road and bridge benefit district outside the boundaries of the first and third supervisorial districts for a period of five (5) years after the operative date of this Agreement.

6. Except as provided in this Agreement, Petitioner does hereby release the County from any and all claims, demands, and/or causes of action, known, unknown or suspected which relate in any way to the lawsuits referenced in Recitals C. and E. hereof. Petitioner does hereby waive and relinquish all rights and benefits under Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his



favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Petitioner acknowledges that she may hereafter discover facts different from or in addition to those she now knows or believes to be true and agrees that this release shall be and remain effective in all respects notwithstanding such additional or different facts.

This release is not, however, intended to and shall not, in fact, constitute a release of any rights, obligations or warranties under this Agreement.

C. Miscellaneous Provisions

1. The recitals are expressly incorporated into the operative provisions of this Agreement and made a part hereof.

2. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and it is a fully integrated agreement.

3. No other agreement, implied or expressed, written or oral, entered into prior to or contemporaneously with this Agreement shall be used to vary the terms of this Agreement. All parties hereby waive any claim that any terms have been omitted from this Agreement by mistake or inadvertence. Each party agrees that by entering into this Agreement it has not relied on any statement or representation made by any other party which is not contained in this Agreement.

4. No modification or amendment of this Agreement shall be valid unless in writing signed by the parties to be charged. No term or condition of this Agreement may be waived by any party unless the waiver is in writing and signed by the parties to such waiver. No party shall be estopped to enforce this Agreement or any provision hereof, unless such estoppel is based upon a writing signed by the party to be estopped.

5. This Agreement shall be binding upon and shall inure to the benefit of the parties signatory hereto and each such party's legal representatives, successors and assigns.

6. This Agreement and all rights hereunder shall be assignable and all duties hereunder delegable but such assignment and/or delegation shall not release the assignor/delegator from any obligations hereunder.

7. Except as provided in Sections A.8. and C.8. hereof, each of the parties agrees to pay its own attorneys' fees, costs and expenses including, but not limited to, attorneys' fees and costs incurred in connection with the claims released herein and in connection with the making and execution of this Agreement.

8. In the event that any party hereto should bring any action, suit or other proceeding to remedy, prevent, rescind, negate, modify, reform or obtain relief from a breach of this Agreement or arising out of a breach of this Agreement, the prevailing party shall recover all of such party's reasonable attorneys' fees and costs, including experts' fees, incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom.

9. This Agreement is entered into for the purpose of settling disputed claims and nothing contained in this Agreement shall be construed as an admission of liability or absence of liability by any party.

10. Time is of the essence with respect to each provision of this Agreement in which time is a factor.

11. California law shall govern the construction, interpretation and operation of this Agreement.

12. In the event that any provision of this Agreement should be held void, voidable, unlawful or, for any reason, unenforceable, the surviving provisions shall remain in full force and effect.

13. Each of the parties acknowledges that this Agreement has been negotiated at arms-length among persons knowledgeable concerning the subject matter of this Agreement.

14. Each party represents to every other party that in entering into this Agreement, it has made a careful and full investigation of all other facts, law and circumstances upon which it relies in signing this Agreement, and in so signing it has relied solely on its own careful and full investigation and not on any representation of any party not contained in this Agreement.

15. Each party acknowledges that it has been adequately represented in the making and execution of this Agreement. Accordingly, each party intentionally relinquishes and waives any right to rescind this Agreement. Any rule of law, including but not limited to California Civil Code § 1654, which could require interpretation of any ambiguities in this Agreement against the drafter is inapplicable and is hereby waived. This Agreement shall be deemed to be drafted by each and all of the parties.

Webster to Supervisors re EA 43201 MND, June 4, 2019 Hearing

this Agreement, understands it and consents to the facts, terms and conditions set forth herein.

17. Each party signing this Agreement represent and warrants that it has authority to sign on behalf of the persc or entity it binds by its signature and that any and all action necessary to grant such authority by said entity have bee performed.

18. This Agreement may be signed in counterpart and when so signed and delivered shall constitute one origina document.

IN WITNESS WHEREOF, the parties have signed this Agreement a of the day and year first above written, which day and year shal constitute the operative date of this Agreement.

Dated: 6/7/94

Cecelia Webster  
Cecelia Webster

Dated: 6/7/94

COUNTY OF RIVERSIDE

By: Kay Coniaroe  
Chairman

ATTEST:

GERALD A. MALONEY  
Clerk of the Board

APPROVED AS TO FORM

WILLIAM C. KATZENSTEIN  
County Counsel

By: Nancy Romero  
Deputy

By: Katherine A. Lind  
Katherine A. Lind  
Deputy County Counsel

[SEAL]

Board Assistant  
Clerk of the Board of Supervisors  
4080 Lemon Street, 1<sup>st</sup> Floor, Room 127  
Riverside, CA 92501  
(951) 955-1069 Fax (951) 955-1071  
[cob@rivco.org](mailto:cob@rivco.org)  
<http://rivcocob.org/>  
<https://www.facebook.com/RivCoCOB/>



NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain **information that is privileged, confidential and exempt from disclosure** under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

-----Original Message-----

From: CECELIA WEBSTER <[cecelia.webster@verizon.net](mailto:cecelia.webster@verizon.net)>  
Sent: Monday, June 3, 2019 10:22 PM  
To: COB <[COB@RIVCO.ORG](mailto:COB@RIVCO.ORG)>  
Subject: Item 21.2 EA 43201 file for distribution

Hello COB,

Please find attached a pdf file for distribution to the Board for the June 4, 2019 hearing, Item 21.2, EA 43201 and MND for Newland Homes Los Olivos project.

Thank You,  
Cecelia Webster

Maxwell, Sue

---

**From:** COB  
**Sent:** Tuesday, June 4, 2019 7:30 AM  
**To:** Supervisor Jeffries - 1st District; District2; District3; District 4 Supervisor V. Manuel Perez; District5; Johnson, George; Young, Alisa; Harris, Dionne; Killebrew, Jason; Brady, Russell; COB-Agenda  
**Subject:** June 4, 2019 Item 21.2 - Public Comment Opposing Change of Zone No 7937 in Rancho California (Cecelia Webster)  
**Attachments:** Webster Comment re Errata in Planning Commission Testimony for EA 43201 .pdf

Tracking:	Recipient	Read
	Supervisor Jeffries - 1st District	
	District2	
	District3	
	District 4 Supervisor V. Manuel Perez	
	District5	
	Johnson, George	
	Young, Alisa	
	Harris, Dionne	Read: 6/4/2019 7:33 AM
	Killebrew, Jason	
	Brady, Russell	
	COB-Agenda	

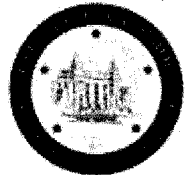
Good morning,

Forwarding reply to Public Comment email received via COB, related to the June 4, 2019 Agenda Item No 21.2 (MT 9716) on the Change of Zone No 7937 in Rancho California.

This has been printed and included with Agenda Back-Up.

Thank you kindly,

*Sue Maxwell*  
Board Assistant  
Clerk of the Board of Supervisors  
(951) 955-1069 Fax (951) 955-1071  
[cob@rivco.org](mailto:cob@rivco.org)



**From:** COB  
**Sent:** Tuesday, June 4, 2019 7:21 AM  
**To:** 'CECELIA WEBSTER' <cecilia.webster@verizon.net>  
**Subject:** June 4 2019 Item 21.2 EA 43201 file for distribution (Received)

Good morning Ms. Webster,

The Clerk of the Board of Supervisors is in receipt of your letter sent via email regarding Change of Zone No 7937 in Rancho California, and has included it in the record for June 4, 2019, which is open to the public and accessible online at <http://rivcocob.org/>.

Sincerely,

*Sue Maxwell*

## 1. The Project is Inconsistent with the GP and State Highway-79 Policy Area Trip Reduction

This Project exceeds its GP and SH-79 PA housing unit allotment by 9 units, and is therefore relying on excess housing capacity generated by other projects for approval.

However, there is a discrepancy in the tally sheet, because the number of units allocated to SP312A2 varies in different documents:

### Values reported for SH-79 housing units allotted to SP312A2 by Project

SP312A2	118	May 17, 2017 Staff Report, para 1 below (calculated value)
SP312A2	106	May 17, 2017 Staff Report, para 2 below (out of the blue value)
TR32323	115	June 7, 2017 Staff Report
TR36504	115	February 17, 2018 Staff Report

**Conclusion:** 115-118 SH-79 PA excess housing units were allotted to SP312A2, and *there are no excess housing units left in the SH-79 PA available for this project.*

SP312A2, May 17, 2017 Staff Report p7, Findings

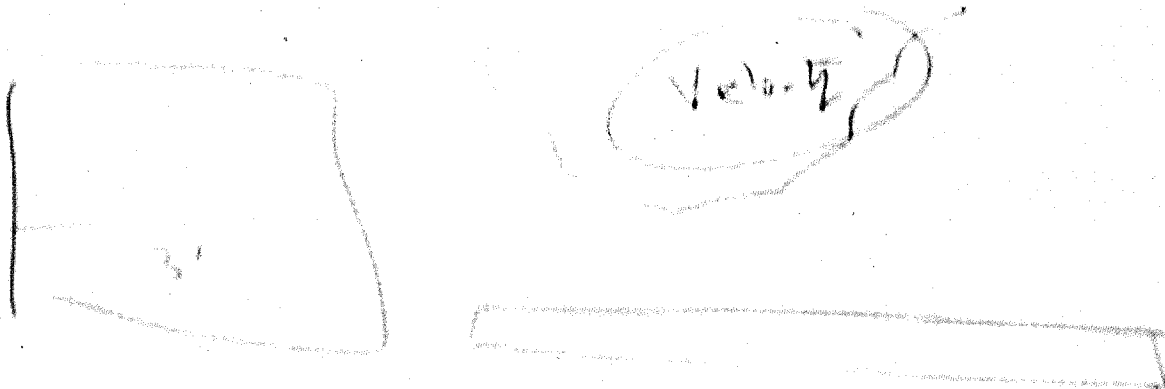
9. The Highway 79 Policy Area and applicable policies (policies C 2.7 and SWAP 9.2 as shown below) requires developments to reduce their density by 9% from the density analyzed in the General Plan. As applied to the project area and its general plan land use designations, this 9% reduction would require the proposed project to be limited to 1,702 dwelling units. The specific plan proposes a maximum of 1,877 dwelling units (including the 57 units if the school site is not developed as school), which exceeds the typical maximum allowed by the policy area by 175 units. However, SWAP 9.2 also provides that individual projects may exceed the General Plan traffic model trip generation level if it can be shown that sufficient reductions have occurred on other projects.

When this policy area was created with the 2003 General Plan, the buildout assumptions and resulting traffic generation assumptions for already adopted Specific Plans were based on the total allowed units within a given Specific Plan. These assumptions have not changed. For Specific Plans where no further amendments were proposed, these Specific Plans were allowed to develop to their approved, entitled maximum number of dwelling units and not subject to the requirement to reduce their number of units by 9% based on implementation guidance developed by staff. Certain Specific Plans within Highway 79 Policy Area (policy area) have been identified that both have not been amended since the adoption of the 2003 General Plan (therefore entitled to the maximum number of units they were approved for) and that developed below the maximum allowed number of units they were entitled to. One of these Specific Plans (Specific Plan No. 213) accounts for a total of 396 units that are undeveloped within the Highway 79 Policy Area that were assumed to be developed in the traffic analysis for the General Plan. Based on this review, there is a demonstrated reduction in units and traffic from these other projects. As a result, the proposed project may include a maximum of 1,877 dwelling units (including the 57 units if the school site is not developed as school), which exceeds the typical maximum allowed by the policy area by 163 units. Excluding the 57 units for the school site, which are not proposed as part of the Tentative Tract Map, results in an exceedance by 106.

## 2. The floodplain on the project site retains stormwater and mitigates downstream flooding

Mr. Braun (ProActive Engineering Consultants, Applicant's Representative) gave the following rebuttal to my statement, that the floodplain on the project site retained stormwater and mitigated downstream flooding across Los Alamos Road:

(00:52:45 in PC hearing video) Mr. Braun, "So my, the chicken scratch where I showed the 3 feet, Ms. Webster mentioned that the culvert in one of the recent storm events was flowing roughly 3 feet deep. And so that, that left side is my attempt at the, at the big box culvert, that you know which is, I think it's a, what is it Joe, it's a 10 by 8 or something. So. And when the water gets to Los Alamos Road, what I tried to show on the right there, is an equivalent area. You know water, water has to take up a certain space, so, if you constrain it on the side it goes up. When you take those side constraints it goes down. So when it gets to Los Alamos Road, you have that wide weir, and so that volume of water just spreads out. So that's why in the picture Ms. Webster showed, you know, had 4 to 6 inches of water as opposed to the 3 feet she mentioned upstream in the culvert."



**Conclusion:** Mr. Braun is incorrect. The culverts under Leon Road have a combined width of 48 feet, not "8 by 10 or something". His calculation is off by a factor of 5, and his argument is specious. The floodplain on the project site mitigates downstream flooding, and alterations to the floodplain will exacerbate flooding. EA 43201 violates CEQA by ignoring impacts to the floodplain.



June 3, 2019

Riverside County Board of Supervisors  
4080 Lemon St,  
Riverside, CA 92501  
By email to: [cob@rivco.org](mailto:cob@rivco.org)

Subject: Review of Riverside County Use Permit, Environmental Assessment 43201 and Mitigated Negative Declaration, Newland Homes Los Olivos Development

Dear Board Chair and Members of the Board:

I am a hydrologist with thirty years of technical and consulting experience in the fields of geology, hydrology, and hydrogeology. I have been providing professional hydrology and geomorphology services in California since 1989 and routinely manage projects in the areas of surface- and groundwater hydrology, water supply, water quality assessments, water resources management, and geomorphology. My areas of expertise include: characterizing and modeling watershed-scale hydrologic and geomorphic processes; evaluating surface- and ground-water resources/quality and their interaction; assessing hydrologic, geomorphic, and water quality responses to land-use changes in watersheds and causes of stream channel instability; assisting and leading in the development of CEQA environmental compliance documents and project environmental permits; and designing and implementing field investigations characterizing surface and subsurface hydrologic and water quality conditions. I co-own and operate the hydrology and engineering consulting firm Kamman Hydrology & Engineering, Inc. in San Rafael, California (established in 1997). I earned a Master of Science in Geology, specializing in Sedimentology and Hydrogeology as well as an A.B. in Geology from Miami University, Oxford, Ohio. I am a Certified Hydrogeologist (CHg) and a registered Professional Geologist (PG). A copy of my resume is included in Attachment A.

I have been retained by Ms. Cecelia Webster of Murrieta, CA to review and evaluate the Environmental Assessment 43201 and Mitigated Negative Declaration (MND) for the proposed Newland Homes Los Olivos Development in Murrieta, California. Based on this review, it is my professional opinion that the MND is inadequate in identifying and evaluating the potential significant impacts of Project actions on hydrology (esp. flooding and groundwater resources), water quality and biological resources. Additionally, it is my opinion that the MND does not sufficiently describe/design mitigation measures and defers development of mitigation measures necessary to address stated impacts. Because the MND has not demonstrated that there will be no significant impacts, I recommend that the County conduct a more complete environmental review and prepare an Environmental Impact Report (EIR). The rationale for these opinions is based on multiple findings presented below.

RECEIVED AFTER  
HEARING CLOSED

6/4/19 21.2  
2019-6-143285



**1. Missing and Inaccurate Assessment of Flooding Impacts in Drainage Report**

The Preliminary Drainage Report prepared by Proactive Engineering Consultants and dated January 19, 2018 does not fully characterize site conditions. The Drainage Report also fails to provide analyses of potential project-induced impacts on hydrologic and water quality resources. The multiple deficiencies identified in the Drainage Report include the following items.

- a) The hydrology analysis presented in the Drainage Report is incorrect as the analysis underestimates the drainage area contributing runoff to Storm Drain (SD) Line A. Based on my review of the project Hydrology Map (Exhibit A of Appendix B to Drainage Report), available topographic maps and Digital Elevation Models for the project area, there is a large drainage area extending both north and south of Los Alamos Road located immediately south of drainage areas A3 and A4 of the Hydrology Map that is not included in the quantification of the peak flow estimate for the off-site areas draining to and through the project. As a result, the Drainage Report has failed to demonstrate that the project drainage infrastructure can adequately handle stormwater flow through the project. Underestimation of runoff through the project also calls into question the effectiveness of proposed erosion and sediment control BMP measures proposed by the project.
- b) The Drainage Report, which utilizes HEC-RAS and HEC-2 hydraulic and hydrologic models, respectively, is incomplete as it fails to provide the information required by the Riverside County Flood Control and Water Conservation District (see Attachment B). Specific omissions to the Drainage Report include the following.
  - The Drainage Report fails to discuss the greater than one foot rise in post-project channel water levels simulated in the channel adjacent to project fill encroachments into creek floodplain. Water level increases over 1.0 foot and up to 1.41-feet were simulated at 7 model cross sections.
  - County requirements state, "*It should be noted that the District does not permit encroachments into the flood plain that adversely impact water surface elevations or velocities on adjacent properties without written permission from the affected property owner.*" Hydraulic model results presented in the Drainage Report indicate the project will increase flood water level elevations at cross-sections 1377.68 and 1300 by 0.02- and 0.94-feet, respectively. These cross sections bound a number of structures found within the creek corridor on a property located on the south side of Los Alamos Road where it descends into the creek floodplain and channel. The Drainage Report contains no discussion of this impact nor does it confirm that the project proponents have received written permission from the affected property owner.

- Although ineffective flow areas included in hydraulic modeling are indicated on model cross-sections, they are not delineated in plan-view on any figures in the Drainage Report.
  - The Drainage Report includes results from three (3) separate computer model runs entitled: 1) Pre-Project HEC-RAS; 2) Post Project HEC-RAS; and 3) Post Project HEC-RAS for velocity. However, the Drainage Report does not include the required narrative and table explaining the conditions and differences of each model simulation. This is particularly frustrating as the reported water levels and velocities are different between the two post project simulations and there is no discussion of why they differ.
  - There is no channel centerline profile plot showing thalweg elevation, water surface elevation and critical depth for any pre- and post-project models per County requirements.
  - The Drainage Report does not include the required description of the Manning's n-values used in model simulations nor explanation for how and why they were chosen.
  - The Report does not include the required description of and a rational explanation for how the upstream and downstream boundary conditions were established.
- c) The hydraulic models used in the drainage study assume a constant flow rate of 1920 cubic feet per second (cfs) through the study reach. However, the HEC-2 analysis and hydrology map indicate a flow change is introduced into the creek downstream of model cross-section 1788.25 in association with the combined project storm drain (SD) outfall from SD Line A and SD Line C. The HEC-RAS models should capture the creek flow changes associated with runoff directed from these outfalls.

**2. No Assessment of Biological Impacts from Fill Placement in Creek Corridor**

The Project proposes the placement of significant volumes of fill that will encroach into the creek floodplain, which will alter flow patterns, water level elevations and flow velocities. Typically, a project of this nature will disclose the location and size of existing riparian/wetland habitats and limits of fill (esp. within regulated and jurisdictional areas) on project plans or graphics. The MND contains no description or mapping of the character and extent of floodplain and channel areas being filled, nor does the MND identify or discuss if regulated and jurisdictional riparian habitats will be adversely impacted by project construction.

In order to get a better understanding of potential impacts to riparian habitat, I superimposed pre- and post-project profiles at selected model cross-section locations. Figures 1 through 5 present these comparisons along with highlighting the areas of proposed project fill placement within the creek corridor. The simulated pre-and post-project design storm water levels are also included on these graphics.

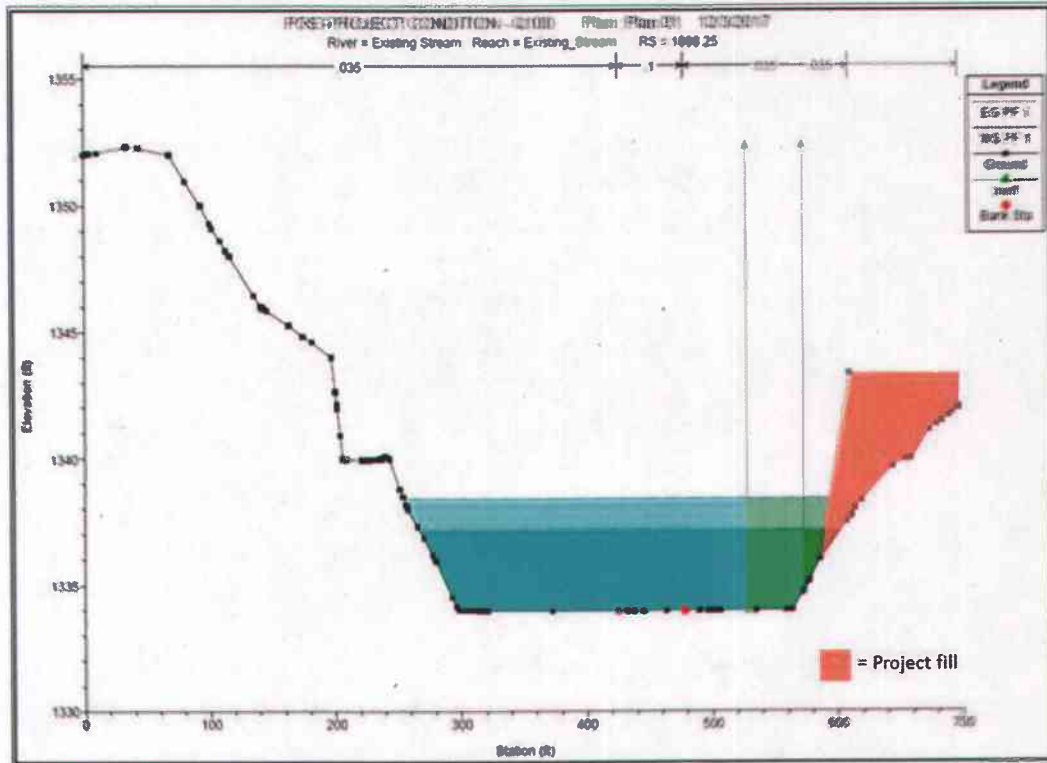


Figure 1: Comparison of existing and project condition HEC-RAS cross-sections, River Station (RS) 1888.25. Area of creek containing proposed project fill highlighted as "Project Fill".

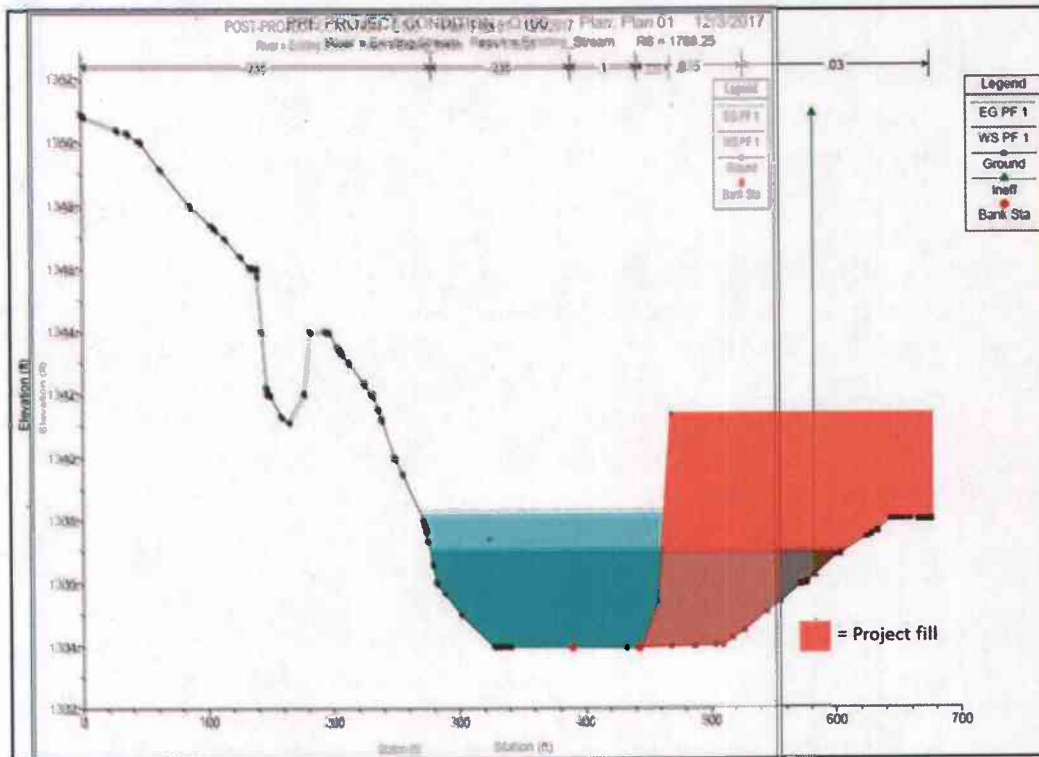


Figure 2: Comparison of existing and project condition HEC-RAS cross-sections, River Station (RS) 1788.25. Area of creek containing proposed project fill highlighted as "Project Fill".

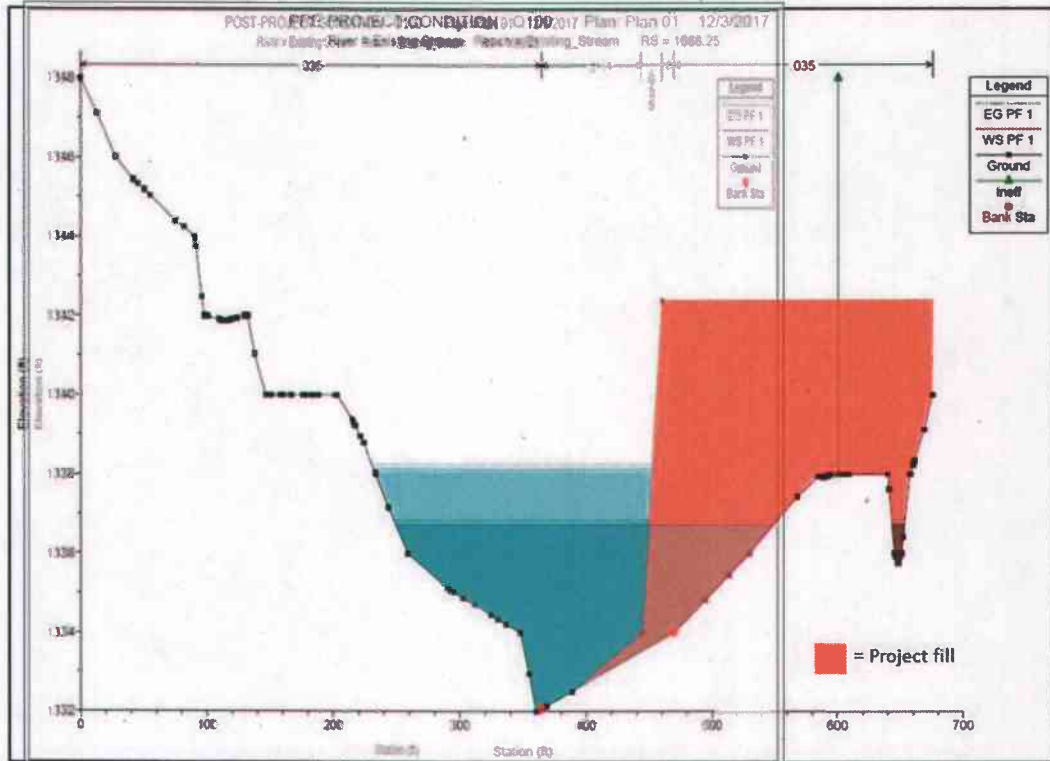


Figure 3: Comparison of existing and project condition HEC-RAS cross-sections, River Station (RS) 1688.25. Area of creek containing proposed project fill highlighted as “Project Fill”.

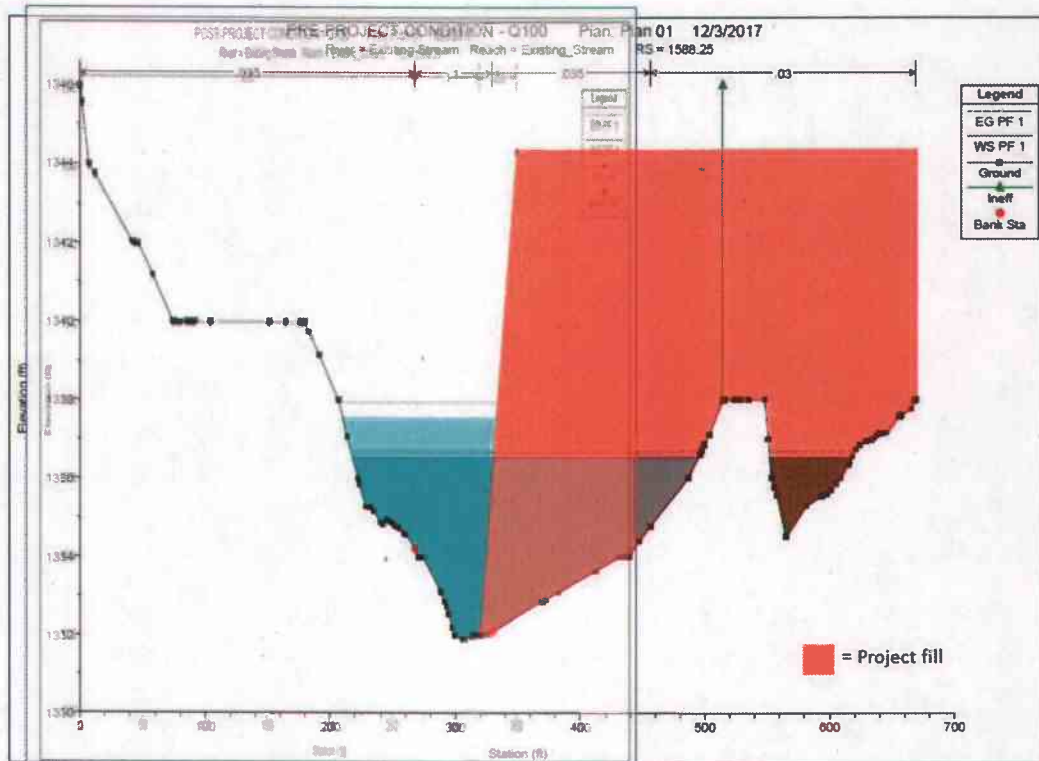


Figure 4: Comparison of existing and project condition HEC-RAS cross-sections, River Station (RS) 1588.25. Area of creek containing proposed project fill highlighted as “Project Fill”.



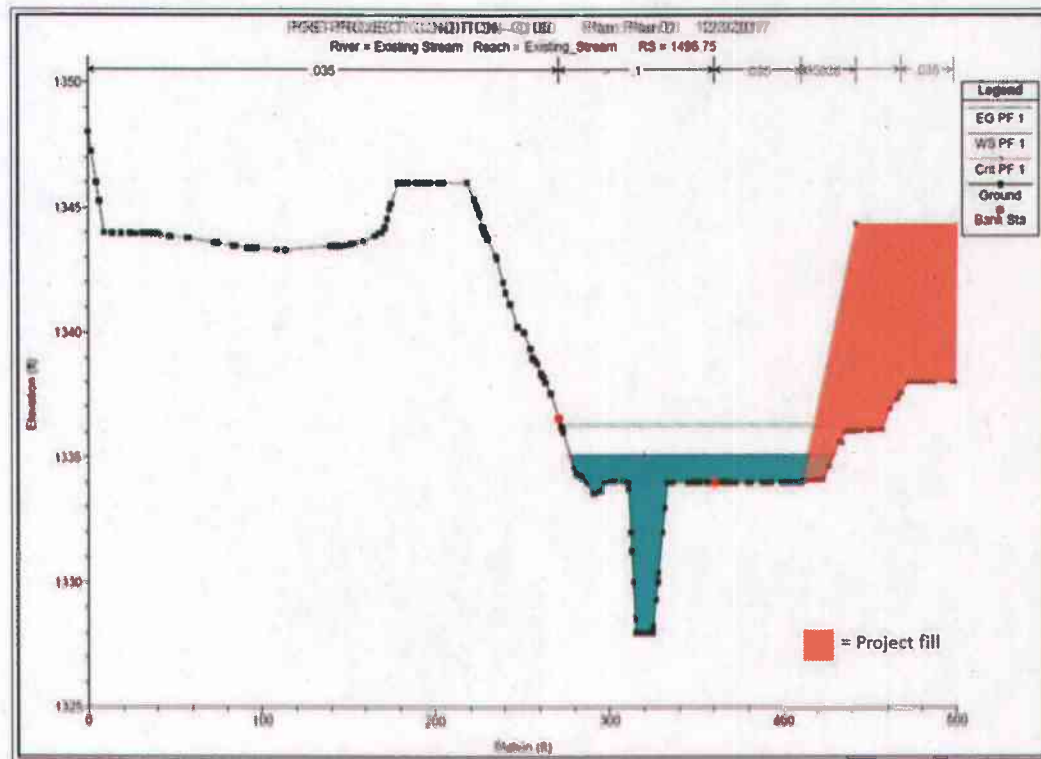


Figure 5: Comparison of existing and project condition HEC-RAS cross-sections, River Station (RS) 1496.75. Area of creek containing proposed project fill highlighted as “Project Fill”.

Based on the location and extent of proposed fill placement indicated in Figures 2 through 4, it is my opinion that the project may have a significant adverse impact on some existing riparian and associated floodplain habitat. Because the MND does not present a characterization of existing riparian and wetland conditions, nor analysis of potential impacts to these areas and associated habitats, it should be considered incomplete and insufficient in meeting CEQA requirements.

### **3. No Assessment of Project Impacts on Groundwater Recharge and Storage**

The MND contains no characterization of existing groundwater conditions beneath the project area. However, the MND does assume there will be no significant impacts to groundwater resources based on a general accounting of post-project land types. Based on my review of the MND, I have identified the following mechanisms by which the project introduces potential significant impacts to groundwater recharge and storage.

- a) The project drainage discussion contained in the EA focuses on evaluating impacts and mitigations (BMPs) to groundwater recharge and erosion/sedimentation for runoff generated “on-site” and handled via SD Line B and the associated retention basin. The MND fails to address how redirecting and transporting off-site runoff across the site via SD Line A (i.e., changing the runoff patterns) will alter the dispersal, attenuation and infiltration potential of that water. SD Line A is designed

to collect and express water through the project area via a created or improved drainage ditch. This collection and concentration of flow not only reduces the potential for water infiltration and recharge to groundwater, but also increases peak flow volumes, velocity and erosion potential.

- b) The MND fails to present an analysis or accounting of how the project will impact groundwater recharge on an annual or longer-term basis. The creation of 216,911 square feet of impervious surface and drainage improvements to collect and express runoff to the site will reduce the potential for infiltration and groundwater recharge. These losses are partially mitigated through the construction of a storm water retention basin. However, the MND does not present a water budget that compares the net gains and losses to infiltration and groundwater recharge and therefore does not provide a defensible rationale that supports their claim that the project will not impact groundwater recharge. The accounting for long-term changes in infiltration and groundwater storage has regional importance as the Santa Margarita River watershed, including the Temecula Valley Groundwater Basin underlying the site, is adjudicated.

#### **4. No Assessment of Potential Impacts of Erosion on Creek Stability and Water Quality**


Within the creek boarding the eastern side of the project, hydraulic model results indicate average<sup>1</sup> channel velocities increase up to 2.0 feet/second in association with project fill encroachments into the floodplain. The potential impact of these changes on channel bed and bank stability, sediment transport and sediment deposition in the creek channel are not analyzed or discussed in the MND. Within the project development footprint, drainages will collect and concentrate flows directly to the eastern creek channel (SD Line A) or to a proposed detention basin via SD Line B. The detention basin outflow will be directed to the eastern creek channel via SD Line C. The MND does not provide an analysis or quantification of how increased peak discharge rates to the eastern creek channel via project drainages will effect erosion and channel bank stability. Regardless of the lack of analysis, the MND claims that BMPs and the SWPPP process will mitigate all impacts. However, the mitigation for any impact that has not been identified or quantified is being deferred to a later time until the impact can be fully characterized. Such a deferral in mitigation design should render the MND incomplete.

---

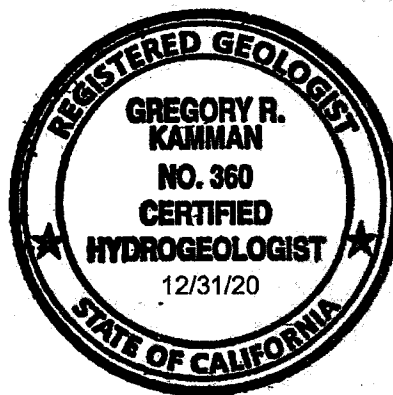
<sup>1</sup> Increases in the maximum channel velocities may be higher and play a more important roll in stream power and sediment transport capacity.

Please feel free to contact me with any questions regarding the material and conclusions contained in this letter.

Sincerely,



Greg Kamman, PG, CHG  
Principal Hydrologist



# Greg Kamman, PG, CHG

Principal Hydrologist



<b>EDUCATION</b>	1989	M.S. Geology - Sedimentology and Hydrogeology Miami University, Oxford, OH
	1985	A.B. Geology Miami University, Oxford, OH
<b>REGISTRATION</b>	No. 360	Certified Hydrogeologist (CHG.), CA
	No. 5737	Professional Geologist (PG), CA
<b>PROFESSIONAL HISTORY</b>	1997 - Present	Principal Hydrologist/Vice President Kamman Hydrology & Engineering, Inc. San Rafael, CA
	1994 - 1997	Senior Hydrologist/Vice President Balance Hydrologics, Inc., Berkeley, CA
	1991 - 1994	Project Geologist/Hydrogeologist Geomatrix Consultants, Inc., San Francisco, CA
	1989 - 1991	Senior Staff Geologist/Hydrogeologist Environ International Corporation, Princeton, NJ
	1986 - 1989	Instructor and Research/Teaching Assistant Miami University, Oxford, OH

## SKILLS AND EXPERIENCE

As a Principal Hydrologist with 30 years of technical and consulting experience in the fields of geology, hydrology, and hydrogeology, Mr. Kamman routinely manages projects in the areas of surface- and ground-water hydrology, stream and wetland habitat restoration, water supply, water quality assessments, water resources management, and geomorphology. Areas of expertise include: stream and wetland habitat restoration; characterizing and modeling basin-scale hydrologic and geologic processes; assessing hydraulic and geomorphic responses to land-use changes in watersheds and causes of stream channel instability; evaluating surface- and ground-water resources and their interaction; and designing and implementing field investigations characterizing surface and subsurface conditions; and stream and wetland habitat restoration feasibility assessments and design. In addition, Mr. Kamman commonly works on projects that revolve around sensitive fishery, wetland, wildlife and/or riparian habitat enhancement. Mr. Kamman performs many of these projects in response to local, state (CEQA) and federal statutes (NEPA, ESA), and other regulatory frameworks. Thus, Mr. Kamman is accustomed to working within a multi-disciplined team and maintains close collaborative relationships with biologists, engineers, planners, architects, lawyers, and resource and regulatory agency staff. Mr. Kamman is a prime or contributing author to over 80 technical publications and reports in the discipline of hydrology – the majority pertaining to ecological restoration. Mr. Kamman routinely teaches courses on stream and wetland restoration through U.C. Berkeley Extension and San Francisco State University's Romberg Tiburon Center.

## PROFESSIONAL SOCIETIES & AFFILIATIONS

Groundwater Resources Association of California  
Society for Ecological Restoration International  
California Native Plant Society



**ATTACHMENT B**

**Required Content and Format for Hydraulic Reports Utilizing HEC-RAS or HEC-2**



**REQUIRED CONTENT AND FORMAT**  
**FOR**  
**HYDRAULIC REPORTS UTILIZING HEC-RAS OR HEC-2**

The following are minimum requirements for hydraulic analyses utilizing HEC-RAS or HEC-2:

**General**

1. The report must be signed and stamped by the registered civil engineer who is in responsible charge of preparing the hydraulic study. The report should be labeled "draft" for initial submittals.
2. The report must be organized in a logical manner and a summary of the results and associated impacts resulting from the project must be given in the text portion of the report. Specifications for minimum content are provided below. Typical preferred report format is shown on Figure 1.
3. The study limits must extend sufficiently far downstream to clearly establish the water surface elevation at the downstream end of the project.
4. The study limits must extend a sufficient distance upstream of the project to clearly demonstrate the impacts of the proposed project on the upstream properties. This generally means extending the run upstream to the point where the baseline (or pre-project) and post-project water surfaces are the same.
5. Should a floodway analysis be required, in addition to satisfying all FEMA floodway requirements, the floodway must be established by reducing equal conveyance in each overbank to a point where water surface elevations increase by no more than one foot. Deviations from this method must be discussed with and agreed upon by the District prior to submittal of the floodway analysis.
6. It should be noted that the District does not permit encroachments into the floodplain that adversely impact water surface elevations or velocities on adjacent properties without written permission from the affected property owners. This is in effect even if the encroachment takes place within a floodplain where a regulatory floodway is established, and the encroachment is outside of the regulatory floodway.

**Content – Work Maps**

Complete and separate existing and proposed condition work maps must be provided. The work maps must include the following:

7. HEC-RAS – Cross sections must be drawn at the proper length and include a layout line coinciding with the channel or floodplain centerline. The layout line shall be labeled with stationing on the work maps. The point where the layout line intersects each cross section is to be set to station zero. Cross section transverse stations will be positive to the right of the layout line and negative to the left, looking downstream. HEC-2 – Cross sections must be drawn to the proper length with tic marks placed at the beginning and ending stations. A common beginning station must be used.

## REQUIRED CONTENT AND FORMAT FOR HYDRAULIC REPORTS UTILIZING HEC-RAS OR HEC-2

8. Each cross section must be labeled with the cross section number. The label must be located at the left end of the cross section looking downstream. The right and left "overbank" locations on each cross-section shall be marked on the work map in some consistent fashion, i.e. a circle, square or triangle must be placed on the cross section at each overbank location.
9. The floodplain must be accurately plotted on each work map.
10. Areas of ineffective flow must be clearly shown.
11. The underlying topography and contour labels on the work map must be legible.
12. All proposed grading, culverts, bridges, drop structures, access ramps, etc... that impact the floodplain must be shown.
13. Proposed access roads and turnarounds must be shown.
14. Proposed finished grade elevations adjacent to the floodplain must be shown. When proposed conditions grading is shown on/over existing topography, sufficient labeling of grades at top and toe of slopes and flowlines shall be provided to allow the reviewer to reconcile the model cross-sections to the work maps.

### **Content - Narrative and Supporting Information**

A complete hydraulic study must be provided including:

15. A printout of HEC-RAS or HEC-2 input and output files must be provided. The output files should also include at least one summary table. The report must include a narrative and, if multiple scenarios are modeled, a table explaining the computer modeling runs. If HEC-RAS is used, there are often multiple "Projects" and "Plans" employed. The names and interrelationship of all component input files and output files shall be explained.
16. All proposed grading, culverts, bridges, drop structures, access ramps, etc... that impact the floodplain must be included in the modeling.
17. A CD-ROM with the input and output files shall be included in the report package.
18. A channel centerline profile plot showing thalweg elevation, water surface elevation and critical depth must be provided. The thalweg need not necessarily coincide with the layout line.
19. Cross section plots for all cross sections, plotted at no more than four per each 8½ x 11 sheet must be provided. Each cross section must be labeled with the cross section number and must show the entire cross section, water surface elevation, and distribution of Manning's "n" values over the cross section. If feasible, it is greatly preferred that the scale of the cross-section plots be consistent.
20. A description of the Manning's "n" values used and explanation for why they were chosen must be provided.
21. A description of and a rational explanation for how the upstream and downstream boundary conditions were established must be provided in the report narrative and should be annotated in the hydraulic input file comment fields.
22. Photographs of the existing study reach should be included if it is felt they will assist in conveying information to the reviewer.

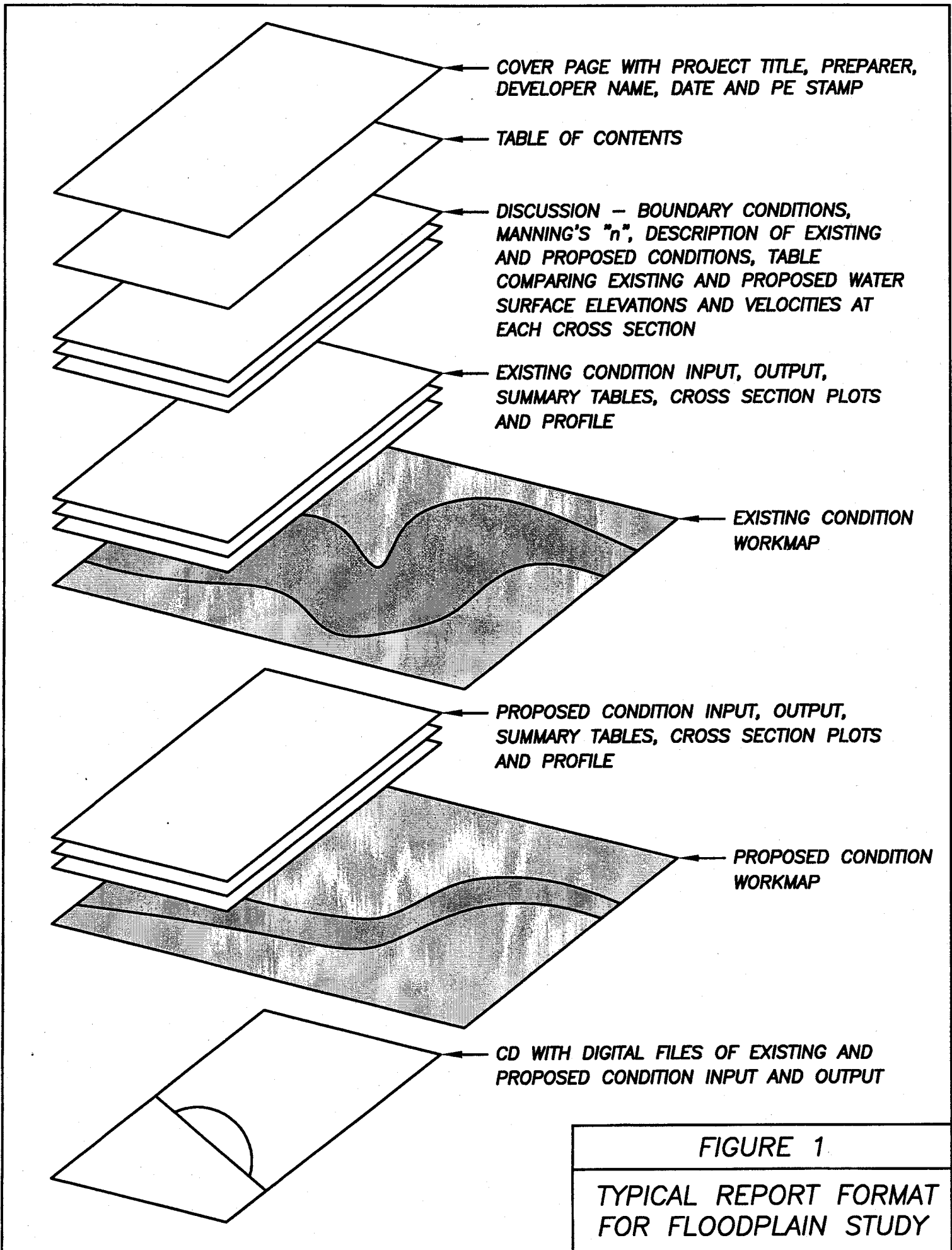


FIGURE 1

TYPICAL REPORT FORMAT FOR FLOODPLAIN STUDY

**From:** Maxwell, Sue

**Sent:** Wednesday, June 5, 2019 4:52 PM

**To:** Russell Brady (rbrady@RIVCO.ORG) <rbrady@RIVCO.ORG>; Harris, Dionne <DHarris@RIVCO.ORG>

**Cc:** BOYDD, April <ABOYDD@RIVCO.ORG>; Rector, Kimberly <KRECTOR@RIVCO.ORG>; Lewis, Tammymae <TMLewis@RIVCO.ORG>

**Subject:** June 4 2019 Item 21.2: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development (Greg Kamman)

Hi Russell,

There is no record of Mr. Greg Kamman's email being received via COB on June 3, 2019 at 9:55am, and I searched all Outlook folders including the COB-Junk and Deleted.

I will process this email and attachment as being received after the Board hearing, and print for Agenda back-up.

Sincerely,

*Sue Maxwell*

Board Assistant

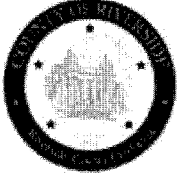
Clerk of the Board of Supervisors

4080 Lemon Street, 1<sup>st</sup> Floor, Room 127

Riverside, CA 92501

(951) 955-1069 Fax (951) 955-1071

[cob@rivco.org](mailto:cob@rivco.org)



**From:** Brady, Russell <rbrady@RIVCO.ORG>

**Sent:** Wednesday, June 5, 2019 11:48 AM

**To:** BOYDD, April <ABOYDD@RIVCO.ORG>; Maxwell, Sue <smaxwell@RIVCO.ORG>

**Cc:** Harris, Dionne <DHarris@RIVCO.ORG>

**Subject:** FW: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

We were forwarded the below email that appears to have been sent to the Clerk of the Board. Can you just double check to see whether this was received or not (maybe in Junk Mail)? We just need to confirm so it will help determine what may or may not be part of the record on this.

Thanks

**Russell Brady**

Riverside County Planning

4080 Lemon Street 12th Floor

Riverside, CA 92501

951-955-3025



**How are we doing? Click the Link and tell us**

**From:** Harris, Dionne  
**Sent:** Wednesday, June 05, 2019 11:25 AM  
**To:** Brady, Russell <[rbrady@RIVCO.ORG](mailto:rbrady@RIVCO.ORG)>; J. Rob Meserve <[rmeserve@newbridgehomes.com](mailto:rmeserve@newbridgehomes.com)>  
**Cc:** Andrea Arcilla <[andrea@epdsolutions.com](mailto:andrea@epdsolutions.com)>; Jeremy Krout <[jeremy@epdsolutions.com](mailto:jeremy@epdsolutions.com)>  
**Subject:** FW: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

FYI...

Thank you,

**Dionne Harris, M.Arch**  
**Urban Regional Planner II**  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501  
(P):951-955-6836  
(F):951-955-1811  
email: [dharris@rivco.org](mailto:dharris@rivco.org)  
Website: <http://planning.rctlma.org>



**From:** CECELIA WEBSTER [<mailto:cecilia.webster@verizon.net>]  
**Sent:** Wednesday, June 5, 2019 10:52 AM  
**To:** Harris, Dionne <[DHarris@RIVCO.ORG](mailto:DHarris@RIVCO.ORG)>  
**Subject:** Fwd: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Begin forwarded message:

**From:** Greg Kamman <[greg@khe-inc.com](mailto:greg@khe-inc.com)>  
**Subject:** Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development  
**Date:** June 3, 2019 at 9:55:26 AM PDT  
**To:** "cob@rivco.org" <[cob@rivco.org](mailto:cob@rivco.org)>  
**Cc:** CECELIA WEBSTER <[cecilia.webster@verizon.net](mailto:cecilia.webster@verizon.net)>, Edward Yates <[eyates@marinlandlaw.com](mailto:eyates@marinlandlaw.com)>

Dear Clerk of the Board,  
The attached letter is provided for distribution to the Board of Supervisors for agenda item 21.2, EA 43201, June 4, 2019.  
Please acknowledge receipt of this email and attached letter.

If you have any questions, please feel free to contact me.

Thank you,  
Greg

---

Greg Kamman, Principal Hydrologist  
Kamman Hydrology & Engineering, Inc.  
11 Valencia Avenue  
San Rafael, CA 94901

Maxwell, Sue

---

**From:** BOYDD, April  
**Sent:** Wednesday, June 5, 2019 4:34 PM  
**To:** Rector, Kimberly; Maxwell, Sue; Lewis, Tammymae  
**Subject:** RE: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Yes, I let him know that we did not receive the email.

---

**From:** Rector, Kimberly <KRECTOR@RIVCO.ORG>  
**Sent:** Wednesday, June 5, 2019 4:25 PM  
**To:** BOYDD, April <ABOYDD@RIVCO.ORG>; Maxwell, Sue <smaxwell@RIVCO.ORG>; Lewis, Tammymae <TMLewis@RIVCO.ORG>  
**Subject:** RE: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Sue,

Did you respond to Russell?

Kimberly

---

**From:** BOYDD, April <ABOYDD@RIVCO.ORG>  
**Sent:** Wednesday, June 5, 2019 4:15 PM  
**To:** Maxwell, Sue <smaxwell@RIVCO.ORG>; Lewis, Tammymae <TMLewis@RIVCO.ORG>  
**Cc:** Rector, Kimberly <KRECTOR@RIVCO.ORG>  
**Subject:** RE: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Yes please.

---

**From:** Maxwell, Sue <smaxwell@RIVCO.ORG>  
**Sent:** Wednesday, June 5, 2019 2:09 PM  
**To:** Lewis, Tammymae <TMLewis@RIVCO.ORG>; BOYDD, April <ABOYDD@RIVCO.ORG>  
**Cc:** Rector, Kimberly <KRECTOR@RIVCO.ORG>  
**Subject:** RE: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

There is no record of Mr. Greg Kamman's email being received via COB on June 3, 2019 at 9:55am... I searched all email records including the COB-Junk file to no avail.

Do you want me to process Russell's email and attachment as being received after the Board hearing?

Please advise, and thank you kindly,

Sue

---

**From:** Lewis, Tammymae <TMLewis@RIVCO.ORG>  
**Sent:** Wednesday, June 5, 2019 12:20 PM  
**To:** BOYDD, April <ABOYDD@RIVCO.ORG>; Maxwell, Sue <smaxwell@RIVCO.ORG>  
**Cc:** Rector, Kimberly <KRECTOR@RIVCO.ORG>  
**Subject:** RE: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Hello,

I have not seen it. Sue is at lunch, when she returns she will be able to let you know at that time.

Respectfully,

Tammymae

**From:** BOYDD, April <[ABOYDD@RIVCO.ORG](mailto:ABOYDD@RIVCO.ORG)>  
**Sent:** Wednesday, June 5, 2019 12:16 PM  
**To:** Maxwell, Sue <[smaxwell@RIVCO.ORG](mailto:smaxwell@RIVCO.ORG)>; Lewis, Tammymae <[TMLewis@RIVCO.ORG](mailto:TMLewis@RIVCO.ORG)>  
**Cc:** Rector, Kimberly <[KRECTOR@RIVCO.ORG](mailto:KRECTOR@RIVCO.ORG)>  
**Subject:** RE: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Hi Sue and Tammymae,

Do you recall this? I do not see an email sent on June 3 to all the districts? It came through the [cob@rivco.org](mailto:cob@rivco.org). Did it get sent and printed for the Item. The department is asking.

---

**From:** Brady, Russell <[rbrady@RIVCO.ORG](mailto:rbrady@RIVCO.ORG)>  
**Sent:** Wednesday, June 5, 2019 11:48 AM  
**To:** BOYDD, April <[ABOYDD@RIVCO.ORG](mailto:ABOYDD@RIVCO.ORG)>; Maxwell, Sue <[smaxwell@RIVCO.ORG](mailto:smaxwell@RIVCO.ORG)>  
**Cc:** Harris, Dionne <[DHarris@RIVCO.ORG](mailto:DHarris@RIVCO.ORG)>  
**Subject:** FW: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

We were forwarded the below email that appears to have been sent to the Clerk of the Board. Can you just double check to see whether this was received or not (maybe in Junk Mail)? We just need to confirm so it will help determine what may or may not be part of the record on this.

Thanks

Russell Brady  
Riverside County Planning  
4080 Lemon Street 12th Floor  
Riverside, CA 92501  
951-955-3025



**How are we doing? Click the Link and tell us**

---

**From:** Harris, Dionne  
**Sent:** Wednesday, June 05, 2019 11:25 AM  
**To:** Brady, Russell <[rbrady@RIVCO.ORG](mailto:rbrady@RIVCO.ORG)>; J. Rob Meserve <[rmeserve@newbridgehomes.com](mailto:rmeserve@newbridgehomes.com)>  
**Cc:** Andrea Arcilla <[andrea@epdsolutions.com](mailto:andrea@epdsolutions.com)>; Jeremy Krout <[jeremy@epdsolutions.com](mailto:jeremy@epdsolutions.com)>  
**Subject:** FW: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

FYI...

Thank you,

**Dionne Harris, M.Arch**  
***Urban Regional Planner II***  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501  
(P):951-955-6836  
(F):951-955-1811  
email: [dharris@rivco.org](mailto:dharris@rivco.org)  
Website: <http://planning.rctlma.org>





RIVERSIDE COUNTY  
PLANNING DEPARTMENT

**How are we doing? Click the Link and tell us**

**From:** CECELIA WEBSTER [<mailto:cecelia.webster@verizon.net>]

**Sent:** Wednesday, June 5, 2019 10:52 AM

**To:** Harris, Dionne <[DHarris@RIVCO.ORG](mailto:DHarris@RIVCO.ORG)>

**Subject:** Fwd: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

**CAUTION:** This email originated externally from the **Riverside County** email system.  
**DO NOT** click links or open attachments unless you recognize the sender and know the content is safe.

Begin forwarded message:

**From:** Greg Kamman <[greg@khe-inc.com](mailto:greg@khe-inc.com)>

**Subject: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development**

**Date:** June 3, 2019 at 9:55:26 AM PDT

**To:** "[cob@rivco.org](mailto:cob@rivco.org)" <[cob@rivco.org](mailto:cob@rivco.org)>

**Cc:** CECELIA WEBSTER <[cecelia.webster@verizon.net](mailto:cecelia.webster@verizon.net)>, Edward Yates <[eyates@marinlandlaw.com](mailto:eyates@marinlandlaw.com)>

Dear Clerk of the Board,

The attached letter is provided for distribution to the Board of Supervisors for agenda item 21.2, EA 43201, June 4, 2019.

Please acknowledge receipt of this email and attached letter.

If you have any questions, please feel free to contact me.

Thank you,

Greg

---

Greg Kamman, Principal Hydrologist  
Kamman Hydrology & Engineering, Inc.  
11 Valencia Avenue  
San Rafael, CA 94901  
Phone: (415) 491-9600  
Fax: (415) 680-1538

Maxwell, Sue

---

**From:** COB  
**Sent:** Thursday, June 6, 2019 8:50 AM  
**To:** 'CECELIA WEBSTER'; Greg Kamman  
**Cc:** Harris, Dionne; Russell Brady (rbrady@RIVCO.ORG)  
**Subject:** June 4 2019 Item No 21.2 Re: EA 43201 and MND - Newland Homes Los Olivos Development (Hydrology Report)

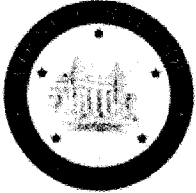
Good morning,

The Clerk of the Board of Supervisors is in receipt of the hydrology report via email from the Planning Department on June 5, 2019, and will keep it on file although not include it in the official Board record for June 4, 2019, Item No 21.2 (9716) due to being received after the meeting.

Sincerely,

*Sue Maxwell*

Board Assistant  
Clerk of the Board of Supervisors  
4080 Lemon Street, 1<sup>st</sup> Floor, Room 127  
Riverside, CA 92501  
(951) 955-1069 Fax (951) 955-1071  
[cob@rivco.org](mailto:cob@rivco.org)  
<http://rivcocob.org/>  
<https://www.facebook.com/RivCoCOB/>



NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

---

**From:** CECELIA WEBSTER <cecilia.webster@verizon.net>  
**Sent:** Wednesday, June 5, 2019 1:45 PM  
**To:** Greg Kamman <greg@khe-inc.com>  
**Cc:** Harris, Dionne <DHarris@RIVCO.ORG>; COB <COB@RIVCO.ORG>  
**Subject:** Re: Delivered: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

That's great, thanks so much.

On Jun 5, 2019, at 12:52 PM, Greg Kamman <[greg@khe-inc.com](mailto:greg@khe-inc.com)> wrote:

Cecelia

I never received response from Riverside County that my letter was received. However, I asked my mail server to provide "send" and "read" receipts. Per below, my email was delivered to County, but I didn't get confirmation that it was opened and read.

Greg

Sent from my iPhone

Begin forwarded message:

**From:** Mail Delivery Subsystem <MAILER-DAEMON@server907.appriver.com>

**Date:** June 3, 2019 at 9:55:36 AM PDT

**Subject: Delivered: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development**

**Your message has been delivered to the following recipients:**

[eyates@marinlandlaw.com](mailto:eyates@marinlandlaw.com)

[cecelia.webster@verizon.net](mailto:cecelia.webster@verizon.net)

[cob@rivco.org](mailto:cob@rivco.org)

Subject: Review comments on Riverside County Use Permit, EA 43201 and MND - Newland Homes Los Olivos Development

Reporting-MTA: dns; [server907.appriver.com](mailto:server907.appriver.com)

Final-recipient: RFC822; [eyates@marinlandlaw.com](mailto:eyates@marinlandlaw.com)

Action: delivered

Status: 5.4.0

X-Supplementary-Info: < #2.0.0 >

Final-recipient: RFC822; [cecelia.webster@verizon.net](mailto:cecelia.webster@verizon.net)

Action: delivered

Status: 5.4.0

X-Supplementary-Info: < #2.0.0 >

Final-recipient: RFC822; [cob@rivco.org](mailto:cob@rivco.org)

Action: delivered

Status: 5.4.0

X-Supplementary-Info: < #2.0.0 >

<Mail Attachment.eml>

Maxwell, Sue

---

**From:** BOYDD, April  
**Sent:** Tuesday, June 4, 2019 6:53 AM  
**To:** Supervisor Jeffries - 1st District; District 4 Supervisor V. Manuel Perez; District2; District3; District5  
**Cc:** Maxwell, Sue; Young, Alisa; Johnson, George; Leach, Charissa; Brady, Russell; Harris, Dionne  
**Subject:** FW: Item 21.2, Response to Comments Memo June 3, 2019  
**Attachments:** CZ07937- TR37294 Memo June 3, 2019.pdf

Good morning,

Please see attached Memo and correspondence received via email for proposed June 4, 2019 hearing.

---

**From:** Harris, Dionne <DHarris@RIVCO.ORG>  
**Sent:** Monday, June 3, 2019 5:00 PM  
**To:** BOYDD, April <ABOYDD@RIVCO.ORG>  
**Cc:** Brady, Russell <rbrady@RIVCO.ORG>; Leach, Charissa <cleach@rivco.org>  
**Subject:** Item 21.2, Response to Comments Memo June 3, 2019

Hi April,

Please see the Memo with the applicant's response to comments attached.

Thank you,

**Dionne Harris, M.Arch**  
**Urban Regional Planner II**  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501  
(P):951-955-6836  
(F):951-955-1811  
email: [dharris@rivco.org](mailto:dharris@rivco.org)  
Website: <http://planning.rctlma.org>



**How are we doing? Click the Link and tell us**



# Riverside County Board of Supervisors Request to Speak

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

SPEAKER'S NAME: Joe Casteneda \*

Address: \* If needed to address hydrology/  
drainage and flood-related questions

City: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_  
Project engineer

Date: 6/4/19 Agenda # 21.2

### PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support    \_\_\_\_\_ Oppose    \_\_\_\_\_ Neutral

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

\_\_\_\_\_ Support    \_\_\_\_\_ Oppose    \_\_\_\_\_ Neutral

I give my 3 minutes to: \_\_\_\_\_

# BOARD RULES

## **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

## **Requests to Address Board on items that are "NOT" on the Agenda/Public Comment:**

Notwithstanding any other provisions of these rules, a member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES. Donated time is not permitted during Public Comment.

## **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please ensure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

## **Individual Speaker Limits:**

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin to flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. *Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.*

## **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the bottom of the form.

## **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman, may result in removal from the Board Chambers by Sheriff Deputies.



# Riverside County Board of Supervisors Request to Speak

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

**SPEAKER'S NAME:** Jeremy Krout

**Address:** Speaking on behalf of  
applicant

**City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone #:** 949.794.1181

**Date:** 6/4/19 **Agenda #** 21.2

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

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

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

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

**I give my 3 minutes to:** \_\_\_\_\_

# BOARD RULES

## **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

## **Requests to Address Board on items that are "NOT" on the Agenda/Public Comment:**

Notwithstanding any other provisions of these rules, a member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES. Donated time is not permitted during Public Comment.

## **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please ensure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

## **Individual Speaker Limits:**

**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin to flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. ***Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.***

## **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the bottom of the form.

## **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman, may result in removal from the Board Chambers by Sheriff Deputies.





# Riverside County Board of Supervisors Request to Speak

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

SPEAKER'S NAME: David Harbour y Edward Richard

Address: 45846 Daviana Way

City: Temecula Zip: 92592

Phone #: (949) 419-4229

Date: 6/4/19 Agenda # 21.2

### PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support       Oppose       Neutral

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

Support       Oppose       Neutral

I give my 3 minutes to: \_\_\_\_\_

# BOARD RULES

## **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

## **Requests to Address Board on items that are " NOT" on the Agenda/Public Comment:**

Notwithstanding any other provisions of these rules, a member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES. Donated time is not permitted during Public Comment.

## **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please ensure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

## **Individual Speaker Limits:**

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin to flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. *Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.*

## **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the bottom of the form.

## **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman, may result in removal from the Board Chambers by Sheriff Deputies.

✓

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

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

**SPEAKER'S NAME:** CECELIA WEBSTER

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

**City:** MURRIETA **Zip:** 92563

**Phone #:** 951-265-0921

**Date:** JUNE 4, 2019 **Agenda #** 21.2

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**

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

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

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

**I give my 3 minutes to:** \_\_\_\_\_

## **BOARD RULES**

### **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

### **Requests to Address Board on items that are "NOT" on the Agenda:**

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

### **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

### **Individual Speaker Limits:**

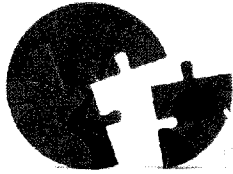
**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

### **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

### **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.



# RIVERSIDE COUNTY PLANNING DEPARTMENT

*Charissa Leach, P.E.  
Assistant TLMA Director*

## Memorandum

**DATE:** June 3, 2019 **21.2**  
**TO:** Riverside County Board of Supervisors  
**FROM:** Dionne Harris, Project Planner  
**RE:** **Item 21.2, Public Comments, Applicant's Response and Conditions of Approval.**

---

The responses to comments are included in the public record and are attached hereto and later available to the lead-agency decision-makers for their review and consideration prior to making their decision pursuant to CEQA Guidelines Section 15074(b) Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration. In addition, public testimony was made at the April 4, 2019 Planning Commission hearing and responses were provided at the hearing. No changes are required to EA 43201 as a result of the comments; however, the information provided in the comment letters and the responses to the comments have been incorporated into the public record.

None of the information in the letters or responses constitute the type of significant new information that requires recirculation of EA 43201 for further public comment under CEQA Guidelines Section 15073.5 Recirculation of a Negative Declaration Prior to Adoption. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in EA 43201. Additionally, none of this information indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15073.5. Finally, none of the comments or information provide substantial evidence that there are material errors about the project site or its environs as described in the Initial Study/EA or the project technical studies.

050 – Transportation: 050 – Transportation: Emergency Vehicle Access (EVA) to read as follows:

Emergency Vehicle Access road is designated as a private emergency access and shall be improved with 24' full-width AC pavement and 6" concrete curb within a 30' private road easement. The easement shall provide the offer of dedication for public utility purposes along with the right of ingress and egress for emergency vehicles.

In order to secure adequate sight distance at the intersection of Los Alamos Road and Emergency Vehicle Access (EVA) NO TREES, WALLS or any OTHER obstructions over 30-inch high shall be allowed per County Standard No. 821, Ordinance 461.

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

Desert Office · 77588 El Duna Court, Suite H  
Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7040

Notes:

1. The project proponent of TTM37294 has the responsibility to educate and display this condition of approval to the prospective all home buyers.
2. The Transportation Department shall monitor the Emergency Vehicle Access road and may install a gate to maintain its function as an emergency access.

Attachments:

- Response Letter titled "Tract Map 37294, Los Olivos".
- Response Letter titled "County of Riverside Environmental Assessment Number 43201 (TR37294, CZ07937, and PP26249)".
- Response Letter titled "Response to Initial Study and Mitigated Negative Declaration/EA 43201 Comments provided by Rita Gentry, Professional Archaeologist and Local Resident".
- Response Letter titled "Response to 5/30/19 Letter from Justin Roberts (Letter received 5/30/19) "June 4, 2019 Public Hearing. Comments Objecting to: Change of Zone No. 7937, Tentative Tract Map No. 37294 and Plot Plan No. 26249 – Intent to Adopt a Mitigated Negative Declaration – EA43021 Third Supervisorial District"
- Response Letter titled "Response to Webster to Supervisors re EA 43201 MND, June 4, 2019".



# ENVIRONMENT | PLANNING | DEVELOPMENT SOLUTIONS, INC.

Date: May 30, 2019  
Prepared by: Jeremy Krout  
To: Dionne Harris, M.Arch  
Site: Project name  
Subject: Tract Map 37294, Los Olivos

---

The County received that certain letter from The Law Office of Edward E. Yates dated May 2, 2019 (the "May 2<sup>nd</sup> Yates Letter") on May 29<sup>th</sup>. It is unfortunate that Mr. Yates chose to hold onto the letter until May 29, less than a week before the Board of Supervisors hearing. The technical issues raised in the letter are the same technical issues that were presented in Ms. Cecilia Webster's numerous letters dated March 3, 2019, March 14, 2019, March 17, 2019. While the consultants and experts will again be addressing the technical issues that were presented in this letter, this letter intends to clear up many of the factual inaccuracies and misstatements throughout the May 2<sup>nd</sup> Yates Letter. It appears that the author of the May 2<sup>nd</sup> Yates Letter was not provided all the appropriate information by his client. The May 2<sup>nd</sup> Yates letter omits and facts to force conclusions that are not correct.

Importantly, the MND provides an assessment of all environmental impact areas required by the CEQA Statute and Guidelines and through the analysis completed in the MND and the supporting technical studies and documents, determined that the project would result in no impacts, less-than-significant impacts or impacts that are reduced to below a level of significance through the implementation of mitigation measures. No impacts were found to be potentially significant, thus requiring preparation of an EIR.

Mr. Yates letter did not identify any specific issues of concern in the MND that has not already been thoroughly analyzed or addressed in prior responses to comments. Further, the comment letter fails to provide a fair argument that the project may have adverse environmental impacts that would require additional analysis or clarification. According to Section 21082.2(a) of the CEQA Guidelines, the Lead Agency has the authority to determine whether or not a project may have a significant effect on the environment. In addition, Section 21082.2(c) of the CEQA Guidelines states that, "Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." The comment fails to include facts, reasonable assumptions predicated upon facts, and/or expert opinion supported by facts.

The following responds to or clarifies the misstatements in the same order they are presented in the May 2<sup>nd</sup> Yates Letter:

1. **Section 1 (p.2) Confusing Statement:** “The County, therefore, has the responsibility to ensure that there is no fair argument of substantial evidence in the record of significant impacts.”

*Response:* Simply doubting the science and experts with no factual basis is not a “fair argument”. The County, the applicant, our firm and the expert consultants who have prepared the requisite technical studies have all informed Ms. Webster in a respectful manner that her beliefs on hydrology and understanding of the MSHCP are inaccurate. In letters, during public testimony and in various meetings, including an over two-hour meeting with Ms. Webster, County staff and the technical experts, Ms. Webster was informed of the facts and the experts explained the findings to her. On multiple occasions the County and the expert consultants informed Ms. Webster that they would be happy to meet or discuss on the phone the project plans and supporting technical studies further with the intention of addressing any of her questions or specific concerns about the analysis and/or findings. In addition, the project experts have offered to speak to any hydrology engineer or biologist that she has employed or counseled but on all of the above, she has not accepted this offer. Therefore, it is clear that Mr. Yates statements in the letter are not based on substantial evidence.

2. **Section 2.A (p.2) Misstatement:** “The MND simply rejects the public’s questions and states only that the project is consistent with the MSHCP. Yet, there is no evidence of such consistency except for the applicant’s consultant saying it is so.”

*Response:* This statement is false. As the County staff stated in the multi-hour meeting with Ms. Webster and at the Planning Commission hearing, the County and RCA consider the project consistent with the MSHCP. The RCA’s Joint Project Review letter dated February 15, 2018 fully explains the findings, which are supported by the RCA’s own findings and the technical reports, including the General Biological Assessment dated February 13, 2018, focused species studies, jurisdictional delineation and the HANS application, all incorporated by reference herein.

3. **Section 2.A (p.2) Unsupported Statement:** “RCA failed to ensure that outside expert review by Dudek was based on accurate information.”

*Response:* This statement is unsupported by the facts and without merit. As stated above, the RCA and its consultants reviewed extensive studies prepared by experts to arrive at the consistency determination. Review of the consistency letter and other correspondence from the RCA support they reviewed and accepted the above referenced studies and documents.

4. **Section 2 (p.2) Misstatement:** “. . . the MND contain no analysis regarding potential impacts to the area but instead make limited findings that the project does not conflict with the MSHCP.

*Response:* Again, this is a false statement. As stated in response #2 above, the MND fully evaluated any and all biological impacts based on technical studies prepared by experts, which were later reviewed and validated by the County's own experts. The analysis resulted in certain biological mitigation measures being adopted and avoidance of the riparian drainage areas. Further, compliance with MSHCP has been confirmed by the County and RCA and the Wildlife Agencies (US Fish & Wildlife and California Fish & Wildlife) did not have any comments on the project's CEQA document, which was provided to them for their review.

- 5. Section 2.A (p.3) Misstatement:** "the consultant's opinion and the MND contain no analysis regarding potential impacts to the area but instead make limited findings that the project does not conflict with the MSHCP "

*Response:* Again, this statement is incorrect. As stated in responses 2 through 4, the technical studies were reviewed and incorporated into the MND. Section 7(c) of the MND references that the Biological studies for all listed species, not just MSHCP covered species, were reviewed, evaluated and incorporated into the MND.

- 6. Section 2.B (p.4) Misstatement:** "the County has apparently delegated all its review authority under CEQA to the Applicant . . ."

*Response:* This statement ignores the County's own experts' extensive involvement and is a false claim. County staff and Counsel reviewed the project application, plans, technical studies and MND. The documents supporting the Planning Commissions recommendation and ultimately the Board of Supervisor's determination reflect the independent judgement of the County. To-date the County staff have allocated over 600 hours on this project. Most of this time was review and coordination of drainage, transportation and biological issues.

- 7. Section 2.C (p.4) Missunderstanding:** The timing of the purchase of the 67 acres of new RCA conservation south of the project and the Project's HANS process.

*Response:* The dates and timing set forth in May 2<sup>nd</sup> Yates Letter are incorrect. The RCA prepared the Joint Project Review letter on February 15, 2018, which determined the project is consistent with both the criteria and other MSHCP requirements. Meetings with the Wildlife Agencies took place in April and early May 2018. The sale of the lands to the south were not approved until June 2018 and the deed recorded July 3, 2018. As was explained by Ken Baez, Principal Planner of the County's Environmental Planning, such analysis has no bearing on MSHCP consistency or the environmental impacts of this project. This is not a CEQA issue.

- 8. Section 3.A (p.5) "Despite identifying this area as containing riparian habitat, the MND contains no specific description of this riparian area . . ."**

*Response:* This statement indicates that Mr. Yates has not reviewed all the documentation prepared in support of the project applications and CEQA document. The biological reports

*specifically cite and clearly describe the types of habitat, soils, plants, species and the riparian area.*

- 9. Section 3.A (p.6) The MND, though, does not attach the BRA but instead simply mischaracterizes the watercourse . . .**

*Response:* Mr. Yates is cherry-picking statements and ignoring or not aware of the entirety of the analysis prepared for the project. As stated above in responses 2 through 4, Section 7 of the MND expressly cites all of the biological studies and describes in detail the riparian area.

- 10. Section 3.B (p.6) “Despite not providing sediment and erosion analysis and mitigation to riparian resources . . .”**

*Response:* This statement is misleading. No studies need to be conducted when avoidance of the resource occurs. Section 18 and 25 of the MND provides a detailed analysis of the erosion measures that shall be used to mitigate any impacts to the riparian area. As discussed by the project civil engineers on multiple occasions with Ms. Webster, the project will retain all its project related runoff in a detention basin (which relies on infiltration). Additionally, mitigation is being provided by the project to protect the riparian area. Further, a preliminary WQMP has been submitted and approved by the County and lastly the project conducted Sieve Analysis with its Hydromodification Plan.

- 11. Section 3.C (p.7) “The MND claims that despite the Project creating 216,911 square feet of impervious surfaces, the project would not interfere with groundwater recharge as related to drinking water supply. The only support for this statement is that it will not develop 3.5 acres of open space – that is already there – and there will be some unidentified residential landscaping areas”**

*Response:* This statement is incorrect. The MND clearly references the fact that the project will be giving up its rights to pump groundwater and that it will use an infiltration basin for all project water runoff which will essentially cancel out any impervious surfaces within the project. As determined by the MND, it will be less than significant impact.

- 12. Section 3.D (p.8) “the MND itself does not cite the drainage study and does not provide any evidence that the drainage study included any actual impact analysis.”**

*Response:* This is a false statement. The MND references and cites the Drainage Report, the HEC-RAS Study and their various exhibits, throughout Sections 25 and 26. The studies themselves are evidence of a thorough analysis of the project’s potential impacts and compliance with applicable laws and standards. The findings of these reports and studies have been discussed at length with Ms. Webster on multiple occasions, including meetings, public testimony, and in prior response letters. The project experts offered on multiple occasions to meet or talk on the phone to further explain the technical analysis completed for the project.

*The County's own hydrology engineers reviewed the project reports and studies for potential impacts.*

**13. Section 3.E (p.9) Misunderstanding: Yet the MND does not address the combined cumulative impacts on flooding and groundwater depletion other residential development, the Project and the Future Clinton Keith Road.**

*Response: Mr. Yates apparently does not understand that the future Clinton-Keith extension is a future project and has not been fully designed. As stated in the MND, "The roadway extension project is currently in the design stage; and therefore, anticipated to be implemented after the proposed residential project, which is scheduled to begin construction in 2019 and be operational by 2020." However, in an abundance of caution, and because County Transportation wanted to make sure the Clinton Keith Road extension project was not jeopardized in the future, the project conducted hydrology and drainage studies incorporating both projects. The findings of these reports and studies have been discussed at length with Ms. Webster on multiple occasions, including meetings, public testimony, and in prior response letters. These analyses are evidence the cumulative impacts of both projects have been thoroughly analyzed.*

*This letter provides no new information that changes the analysis and findings in the MND; therefore, there is no reason to recirculate the MND or require the preparation of an EIR.*

Attached hereto are letters from Proactive Engineering Consultants and Hernandez Environmental responding to specific claims in Mr. Yates letter related to civil and biological issues respectively.

May 30, 2019

Ms. Dionne Harris, M. Arch  
Urban Regional Planner II  
County of Riverside Department of Planning  
4080 Lemon Street, 12<sup>th</sup> Floor  
Riverside, CA

RE: Response to 5/2/19 Letter from Yates and LeMieux (Letter received 5/28/19)  
"Riverside County Use Permit, Environmental Assessment 43201 and Mitigated  
Negative Declaration, Newland Homes Los Olivos Development"

Dear Ms. Harris:

We have reviewed the above noted letter. As previously indicated, my firm, Proactive Engineering, is the engineering consultant of record for the project. In this letter we offer responses to certain comments as they pertain to areas of work performed by Proactive Engineering for the project in question:

**Paragraph 1 on page 1:** Yates' letter mentions they are representing Ms. Cecilia Webster.  
Response: As mentioned in a previous letter from me (April 1, 2019, closing sentence) and in our previous meetings: "I am available to meet with Ms. Webster or her engineer regarding these responses and our studies." We have not been approached by Ms. Webster in any fashion to my knowledge until receiving this letter on May 28, 2019 (though the Yates' letter is dated May 2, 2019).

**Paragraph 3 on page 1:** Yates' letter mentions "...the Project's potential to increase flooding."

Response: As stated in previous responses our project is required to not increase runoff by meeting the increase in runoff criteria established by the County of Riverside and the effects of hydromodification as required per the MS4 Permit adopted by the San Diego Regional Water Quality Board. The HECRAS models completed for this project show that there are no upstream or downstream impacts due to this project. The project provides a water quality/detention and infiltration basin which will function to mitigate the increased runoff in the developed condition as required by the County of Riverside and the San Diego Regional Water Quality Board. Water quality/detention basins are routinely installed in nearly every development project and are required by the County of Riverside and the San Diego Regional Water Quality Board. The calculations for the existing runoff from the site (current condition), the proposed runoff (developed condition), and the design for the water quality/detention basin sizing are clearly shown in the hydrology report which has



been reviewed by County Flood Control. Joe Castaneda (consultant hydrology specialist), County Flood Control and I met with Ms. Webster on these issues already. Additionally, I have already addressed these issues in my previous response letters to Ms. Webster's various correspondence.

**#3.B. Page 6:** "...Potential Erosion on the Ephemeral Watercourse and Riparian Habitat."

Response: The project has been designed to avoid the natural vegetative areas within the drainage course along the eastern edge of our property. Our project will outlet our flows from the water quality/detention basin via a pipe and then into a rock rip-rap pad to disperse any potential erosive velocity. The runoff leaving the rip rap pad flows immediately into the natural drainage in a non-erosive manner. As part of the project entitlements, flood plain models were prepared for the pre-project and post-project conditions. The models were reviewed by the County of Riverside. The velocities along the project proposed graded slopes average approximately 2.5 ft/s which were not considered erosive by the County of Riverside. As stated above, this project will be utilizing a detention and infiltration basin for project runoff as not to cause erosion to the existing drainage course. Any offsite water from the westerly watershed shall outlet into rip-rap pads to dissipate any erosive flows.

**#3.B. Page 6:** "The MND lacked essential data necessary regarding flooding, sediment deposition and polluted runoff into the water course/riparian area, and thus did not evaluate reasonably foreseeable impacts to water quality and resources due to the project's enormous grading and reduction of impermeable surfaces."

Response:

1. "Flooding": See response to Paragraph 3, page 1 above.
2. "Sediment deposition": The project prepared a WQMP that requires project to address hydromodification impacts associated with a project to downstream receiving waters. Per the Riverside County 2014 WQMP Guidance Manual, "Hydromodification refers to the changes in the magnitude and frequency of streams flows and associated sediment loading and transport because of urbanization and other land use changes". As required per the WQMP, a sediment and sieve analysis (bed sediment supply analysis) was completed in February of 2018 and is included in our Water Quality report. The result of this analysis showed our project is not impacting sediment loading and meets the hydromodification criteria required by the project.
3. "Polluted runoff": As required by the County of Riverside and the San Diego Regional Water Quality Board, the project must implement the requirements of the WQMP and water quality elements to ensure that the project runoff will be treated for potential pollutants associated the development. The project Water Quality report was prepared following current San Diego Water Quality Control Board (SDWRQCB) guidelines. The report was reviewed and accepted by County Flood Control.

4. "grading and reduction of impermeable surfaces": See response to Paragraph 3, page 1 above. We assume the author means "permeable surfaces" in this section. Please note that the project has been designed to mitigate impacts associated with impermeable surfaces by proposing a water quality/detention basin for the project.
5. As stated above and as indicated in the Water Quality report and related documents, the project is not impacting the drainage course along the eastern edge of our property. There will be no significant impacts to the drainage course.

**#3.B. Page 7, First Paragraph:** Yates' letter refers to "...unidentified Best Management Practices (BMPs) and adopted standards of the Grading Ordinance..."

**Response:** We are not clear from Yates' letter if they are referring to construction or permanent activities. It should be noted that project must implement standard "Best Management Practices" during the construction process and after the project is complete to mitigate impacts associated with grading. These impacts are mitigated by implementing a Storm Water Prevention Pollution Plan (SWPPP) during construction and a Water Quality Management Plan (WQMP) to address impacts after the project is completed. The SWPPP will detail and provide for erosion and pollution control measures that must be implemented during construction. The SWPPP will be prepared during final engineering and will need to be reviewed and approved by the County prior to a grading permit. The SWPPP will also need to be uploaded into the State data base prior to a grading permit. If Yates is referring to permanent BMPs, those are identified in the County reviewed and accepted Water Quality report. We are utilizing a Bioretention and infiltration facility which will serve the dual purpose of cleaning and detaining runoff.

Also, Yate's letter notes: "... the MND simply repeats over and over that the project will not be sited in the drainage or will not disturb the area."

**Response:** This is correct. Drainage studies cited in the MND demonstrate this is the case. See responses above. The project will not be sited in the drainage and will effectively retain and infiltrate any additional project runoff and therefore will not disturb the drainage flow area.

**#3B. Page 7, Second Paragraph:** "...effective vs. ineffective floodplain.... Etc. (multiple items. See Yates' letter)

1. "Standard County conditions require implementation of BMPs during construction to minimize and prevent sediment dispersal."

**Response:** This is true. See SWPPP standard guidelines.

2. "Changes to the Floodplain will impact the stream by changing water flow patterns"

**Response:** The proposed project is not altering flow patterns. This was the purpose of the hydraulic model and exhibits that were prepared by JLC Engineering which shows that the main flowage area has been maintained. Our project's modification

to the Flood Hazard Area (different than a floodplain) is not changing the water flow patterns on or off the site. See HECRAS study prepared by JLC Consulting which was reviewed by County Flood Control. This issue was discussed at length during Planning Commission and with Ms. Webster in our meetings.

3. “effective vs. ineffective floodplain”

Response: The hydraulic models prepared by JLC Consulting were done in a manner that met the requirements of the County of Riverside. As part of a flood plain hydraulic model, the conveyance areas of a drainage course or stream must be identified. The areas that do not provide conveyance are considered ineffective flow areas. The hydraulic models that were prepared for the project and reviewed by the County of Riverside identified the ineffective and effective areas. This was demonstrated in the HECRAS modeling study prepared by JLC Consulting which was reviewed by County Flood Control. The labeling of the “effective” and “ineffective” was used by me to try to put hydrology findings into terms that a lay person can understand. The effective and ineffective flows were always shown in the drainage and hydrology studies as stated above. The MND and the County have to rely on expert findings to determine if there are impacts in these technical situations.

4. “... no modeling was done, no data was presented, and no sediment /runoff characterization or analysis was prepared...”

Response: Modeling was completed (see JLC HECRAS study). Data was presented (see JLC HECRAS study, Proactive Engineering Water Quality and Drainage reports). Sediment and sieve analysis was prepared (see Water Quality report and appendix). These are referenced in the MND.

**#3C, Page 7: Groundwater Recharge Impacted by Impervious Area**

Response: All project runoff from the site will be routed to the bioretention and infiltration basin which is adjacent to the drainage course on the east side of the property. This will allow for effective groundwater recharge. Any runoff that flowed to the drainage course along the east of the property in the current condition will still flow to that same drainage course in the developed condition. The natural drainage and all open space will continue to allow for groundwater infiltration as it always has. Additionally, the project will be served by EMWD water so the property will no longer be depleting the local groundwater. There will be no significant impacts, if any, to groundwater recharge related to the project.

**#3C, Page 8, third Paragraph:** “The County claims that BMPs and the SWPPP process will mitigate all impacts.”

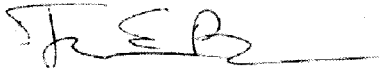
Response: This is correct. BMPs are proposed per SDWRQCB Guidelines and are highly technical. See response #3.B. Page 7, First Paragraph above. SWPPP is prepared in line with agency approved guidelines and can only be effectively created and approved when final engineering of the project is complete. BMPs are always approved after a tentative approval of the project. Our current studies and plans show that our final BMPs are going to be viable mitigation. Also, See response #3.B. Page 7, First Paragraph above.

**#3D, page 9, Last Paragraph:** Offsite drainage from the west is 30% more than identified in the drainage study.

**Response:** The topography in this offsite area is relatively flat in some areas, and some recent grading by the owner has been completed to install a horse corral. Our drainage study, which extensively analyzed the area, determined approximately 34 cfs flowing to the project site's west boundary from this offsite area. This analysis is sufficiently accurate and detailed to inform the proposed design at this pre-construction design phase of the project. The analysis concluded that a pipe of approximately 30" in diameter would accommodate any stormwater drainage from the west. During construction design and permitting, further design will be completed that may refine the recommendations. However, even if Mr. Yates' assertion that an additional 30% greater water flow should be considered, the total water flow would only yield approximately 45 cfs. This level of water flow could be accommodated in a pipe size of approximately 36" in diameter. An increase to a pipe size of 36" in diameter, is a relatively minor change, is immaterial to the project and would not change any of the impacts or findings in the project studies, or in the project CEQA document's analysis, mitigation measures or impact determinations. Although not anticipated at this time, any change to the storm drainpipe size would have an insignificant effect on overall site hydrology, particularly because any offsite water flow from the west is simply being conveyed through the project site in the proposed pipe to the natural drainage. Even if increased in size, the pipe would not increase flow rates or lead to increased erosion or deterioration of the drainage.

Hopefully this helps clarify some apparent misunderstandings in the 5/2/19 Yates letter. It is frustrating that we are addressing the same issues as the last set of correspondence, the meeting we had with Ms. Webster and in the Planning Commission testimony. Again, please have Ms. Webster's hydrology consultant contact me to go over any questions regarding these responses, past responses or the project's various hydrology studies.

Sincerely,



Tom Braun, MS, PE  
Principal



May 31, 2019

Dionne Harris  
Riverside County Planning Department  
P.O. Box 1409  
Riverside, CA 92502-1409

RE: County of Riverside Environmental Assessment Number 43201 (TR37294, CZ07937, PP26249)

Dear Ms. Harris:

Thank you for providing the letter submitted to the planning department on May 28, 2019 (yet dated May 2, 2019) by the law offices of Yates and LeMieux regarding the Los Olivos project (EA43210 – TR37294). As the project biologist, below are my responses to the issues raised in the letter. Most of these comments and concerns have been addressed already in our previous response letters, meetings with Ms. Webster and during public testimony.

*Page 1, Paragraph 3: The letter states, "The MND cynically misleads the decision makers and the public regarding a key environmental feature of the site, a crucial stream that runs through the project and which is part of the critically important Santa Margarita River Watershed. The MND refers to the stream as a 'drainage' and continues to downplay and mislead the reader about the stream's biological importance and the Project's impacts to the stream."*

Response: First of all, please note that the terms "stream" and "drainage" are used interchangeably throughout the biological studies to describe the onsite feature. This is standard biological terminology. Neither term is intended to "downplay" the significance of the onsite biological resource. The onsite drainage course conveys flows from north to south across the easternmost portion of the project site. The biological assessment describes the onsite drainage as follows:

"The drainage is an unnamed tributary to Warm Springs Creek, which is tributary to Murrieta Creek which ultimately flows to the Santa Margarita River. The drainage contains enough vegetation to provide cover for animal species trying to move upstream or downstream. In addition, conservation lands located in Criteria Cell 5672 are downstream of the site and the drainage provides a linkage to these areas. It is likely that the onsite drainage serves a function in local wildlife movement. Further, the onsite drainage is considered a Biological Constraint Area that will connect to Linkage 18 south of the project site."

The biological significance of the onsite drainage course and associated riparian habitat was identified early in the process. The project proponent was made aware of the functions and values provided by the onsite drainage course early in the due diligence process and was advised to completely avoid impacting the resource. As a result, the project was designed to avoid the onsite drainage course, which is the

highest form of mitigation that can be provided by a development project. Therefore, no project activities would occur within the onsite drainage prior to, during, and following construction, including grading, manufactured slopes, fuel modification, and staging. No impacts to the stream will occur.

*Page 2: The letter states, "the MND fails to properly determine consistency with local plans and to assess impacts to the biological resources...the record includes U.S. Fish and Wildlife Service and California Department of Fish and Wildlife (Wildlife Agencies) review and analysis, with joint expert comments that the project is not consistent with the MSHCP, also meaning that the Project may have significant impacts to biological resources."*

**Response:** The biological assessment and its jurisdictional delineation were exhibits and referenced in the MND. Based upon the biological assessment prepared for the project, the site is disturbed and contains three remnant residential/farming structures, olive groves, and open disturbed ruderal fields. An onsite drainage feature flows from north to south across the easternmost portion of the site. The project went through the HANS process as required for a property located within an MSHCP Cell Criteria Area. The biological assessment prepared for the project includes an MSHCP consistency analysis and stand alone assessment of the biological resources. The biological assessment and MSHCP consistency analysis are reviewed by the County, the RCA and Dudek, and the wildlife agencies as part of the HANS process. During the RCA Joint Project Review (JPR), the RCA made the following determination which was accepted by the County as the Permittee:

"The proposed project is located within the eastern side of Cell Group Z adjacent to existing residential development to the north and east that is extending along Clinton Keith Road. In addition, the proposed project is east of Warm Springs Creek and Proposed Core 2. The majority of the conservation already existing within Cell Group Z is located within the center of the Cell Group and comprises the majority of Proposed Core 2. This core is described as extending west from the already conserved land to encompass the western side of the Cell Group. Development of the proposed project is located east of the existing conservation and is not expected to impede the functions of Proposed Core 2 due to its adjacency to other development...Finally, the project site does not impact riparian scrub, woodland or forest, chaparral, coastal sage scrub, or grassland. Adjacent to the project site to the east is riparian woodland; however, this riparian habitat will be avoided, allowing some function as a corridor leading to Proposed Constrained Linkage 18, which lies southeast of the Cell Group and ultimately connects with Warm Springs Creek. However, north of Clinton Keith Road the drainage has been heavily altered as open space in Spencer's Crossing and was not intended to connect to other conservation to the north... Given the location of the project site and its lack of physical connection to existing conservation within Proposed Core 2, and that the project site would not contribute to this Reserve feature, development of the proposed project would not further impede the conservation goals for Proposed Core 2, or cause fragmentation issues. Furthermore, the applicable portions of the project site that contribute to Proposed Constrained Linkage 18 are being avoided by the proposed project. Development of the proposed project would not further impede the conservation goals for this linkage or cause additional fragmentation issues. Based on this



discussion, development of the proposed project site is consistent with the Reserve Assembly goals of the MSHCP.”

Ultimately, the County and RCA are responsible for implementing and enforcing the terms of the MSHCP. The RCA and the County determined that the project was consistent with the MSHCP requirements. Although the Wildlife Agencies’ letter, dated March 5, 2018, questioned the RCA’s conclusion on assemblage, further discussions and negotiations between the Wildlife Agencies, the County and the RCA were held at the RCA’s office on March 20, 2018 and May 2, 2018 which resulted in the determination that the project is in fact consistent with the MSHCP requirements. Due to this determination and the fact that the onsite drainage course will be avoided by the project and the findings of the biological assessment, the project will not significantly impact biological resources.

*Page 3, Paragraph 4: The letter states “Even if the wildlife agencies fully concurred with the County, the consultant’s opinion and the MND contain no analysis regarding potential impacts to the area but instead make limited findings that the project does not conflict with the MSHCP.”*

**Response:** Refer to the response above. The biological assessment prepared for the project includes an MSHCP consistency analysis and an independent biological analysis. Both the consistency analysis prepared for the project and the RCA’s determination provide analyses and findings that the project will not conflict with the MSHCP.

*Page 5: The letter states “Despite identifying this area as containing riparian habitat, the MND contains no specific description of this riparian area (“Riparian Area”), thereby making it impossible to determine project impacts that may adversely affect the riparian area.”*

**Response:** As previously stated the biological assessment and its jurisdictional delineation is integrated into the findings of the MND, the project proponent was made aware of the biological significance of the onsite drainage and associated riparian habitat early in the due diligence process and was advised to completely avoid impacts to these resources. There is a full description of the riparian areas - soils, hydrology, vegetation, etc. As a result, the project was designed to avoid the onsite drainage course and riparian habitat. Therefore, no project activities would occur within the onsite drainage prior to, during, and following construction, including grading, manufactured slopes, fuel modification, and staging. No impacts to the onsite drainage or associated riparian habitat will occur.

*Page 7: The letter states “the applicant’s response to MSHCP comments denying any connectivity blatantly misconstrues its own BRA, which concludes there is wildlife corridor connectivity between the Project site and other wildlife corridors in the MSHCP area. Further, the onsite drainage is considered a Biological Constraint Area that will connect to Linkage 18 south of the project site.”*

**Response:** The goal of the MSHCP is to assemble a functional Reserve System. The MSHCP is tasked with assembling additional Reserve Lands over time that must be in a configuration and contain key Vegetation Communities that provide for the Conservation of Covered Species. The Additional Reserve Lands within

the Criteria Area need to support the habitats necessary to achieve the conservation goals for the Covered Species. The biological assessment prepared for the project states the following:

“The drainage contains enough vegetation to provide cover for animal species trying to move upstream or downstream. In addition, conservation lands located in Criteria Cell 5672 are downstream of the site and the drainage provides a linkage to these areas. It is likely that the onsite drainage serves a function in local wildlife movement. Further, the onsite drainage is considered a Biological Constraint Area that will connect to Linkage 18 south of the project site.”

The onsite drainage located within the eastern portion of the project site would contribute to the conservation goals of the Criteria Area, Core 2, and Proposed Constrained Linkage 18. The project has been designed to avoid the onsite drainage and preserve the constrained linkage the drainage feature may offer. Therefore, the proposed project would not impede the conservation goals of the MSHCP.

Please feel free to contact me via email at [juan@hernandezenvironmental.com](mailto:juan@hernandezenvironmental.com) or by telephone at 909.772.9009 if you have any questions.

Sincerely,



Juan J. Hernandez  
Principal Biologist