

# **FINAL ENVIRONMENTAL IMPACT REPORT**

*for the*

# **ALBERHILL VILLAGES SPECIFIC PLAN**

**SCH# 2012061046**

Lead Agency:

**City of Lake Elsinore**  
130 S. Main Street  
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**June 9, 2016**

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# CHAPTER 1 - INTRODUCTION

This Final Environmental Impact Report (“Final EIR”) has been prepared to comply with the requirements of Section 15089 of the State CEQA Guidelines (“*CEQA Guidelines*”) (California Code of Regulations, Title 14, Sections 15000 et seq.). As required by Section 15132 of the CEQA Guidelines, this Final EIR consists of the Draft Program Environmental Impact Report (“DEIR”), comments and recommendations received on the DEIR, a list of persons, organizations, and public agencies commenting on the DEIR, the responses of the Lead Agency (City of Lake Elsinore) to significant environmental points raised in the review and consultation process, and any other information added by the Lead Agency.

Additionally, pursuant to Section 21081.6 of the California Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.) and Section 15097 of the CEQA Guidelines (California Code of Regulations, Section 15000 et seq.), public agencies are required to adopt a Mitigation Monitoring and Reporting Program (“MMRP”) to ensure that the mitigation measures identified in an Environmental Impact Report are implemented. The MMRP for the subject EIR is included in Section 5.0 of this document.

## 1.1 Relationship to the Draft Program EIR

Minor changes that better clarify or correct minor inaccuracies in the DEIR and changes to the DEIR made in response to comments received are described in the Corrections, Errata, and Changes from DEIR to Final EIR (“FEIR”) section of this document (Chapter 3). Together with the MMRP, the Environmental Findings and the other information in the Record of Proceedings (Administrative Record), these documents constitute the environmental disclosure record that will serve as the basis for the City Council decision-makers decision on the proposed project.

## 1.2 Background

### Project Description

The proposed project addressed in this document is the Alberhill Villages Specific Plan (AVSP) No. 2010-02, General Plan Amendment No. 2012-01, Zone Change No. 2012-02, and Environmental Impact Report (“EIR”) (State Clearinghouse Number 2012061046). Along with the Specific Plan, a land use entitlement and development implementation process will be followed for all development areas and projects within the AVSP area. The entitlements evaluated in this EIR consists of: 1) approval of a General Plan Amendment to change the land use designation from ‘Mixed-Use Residential/Commercial’ to ‘Specific Plan’ and Circulation Element changes; 2) approval of the Change of Zone by Ordinance from ‘Mixed-Use Residential/Commercial’ to ‘Specific Plan’; and, 3) adoption of the Specific Plan by Ordinance. The PDP and DR/Subdivision entitlement programs will be the subject of future entitlement review. The PDP and DR/Subdivision are discussed in this EIR for context purposes within the Specific Plan process. The three-tier process consists of 1) adoption of the Specific Plan ordinance, 2) adoption of Phased Development Plans (PDPs), and 3) the more precise Design

Review/Subdivision approval process that corresponds with actual development plans. The three-tier implementation approach postpones certain land use, development standards and design details that cannot be anticipated until economic, market, and trend development concepts become certain to the PDP tier. Until approval of a tier two PDP and tier three design review/subdivision in accordance with the Specific Plan, no development can occur within the AVSP area except as permitted in connection with the ongoing mining operation and applicable permits.

### **Public Review Summary**

The EIR process typically consists of three parts – the Notice of Preparation, the Draft EIR and the Final EIR. A Notice of Preparation (NOP) for an EIR and a description of potential adverse impacts were distributed on or about June 13, 2012. Additionally, a notice advising of the availability of the NOP was published in the *Press-Enterprise* newspaper on June 15, 2012. Pursuant to Section 15082 of the *CEQA Guidelines*, recipients of the NOP were requested to provide responses within 30 days after their receipt of the NOP. A copy of the NOP and the NOP distribution list are located in Appendix A of the Draft EIR. Copies of comments regarding the NOP, received by the City, are also included in Appendix A of the Draft EIR. In addition, in compliance with Section 21083.9 of CEQA and Section 15082(c)(1) of the *CEQA Guidelines*, the City held a public scoping meeting on July 17, 2012, to receive public and agency comments. Comments received from the public and agencies during the public review period for the NOP and the public scoping meeting were considered in the preparation of the DEIR prepared for the proposed project.

In addition to distribution of the NOP, a tele-town hall call was held on Monday, December 7, 2014 from 6:00 p.m. to 7:00 p.m. to introduce the proposed Project to the community, and to provide an opportunity for the public to submit verbal and written comments and recommendations regarding the issues to be addressed in the Draft Environmental Impact Report (DEIR). Notification of the meeting included a direct mailing of the notice to the surrounding community.

The environmental analysis of the proposed Project was initiated by the City with the preparation of a DEIR. Pursuant to *CEQA Guidelines* Section 15084 (e), the City subjected the DEIR to its own review and analysis to ensure that the DEIR reflects the independent judgment of the Lead Agency. The DEIR was necessary to analyze potentially significant impacts associated with the proposed Project. A Notice of Availability/Notice of Completion (NOA/NOC) was prepared and distributed with the DEIR for an initial 30-day public review period, which commenced on November 5, 2015 and ended on December 21, 2015. On December 11, 2015 an Extension of the Public Review Period of a Draft Environmental Impact Report, extending the public review period until December 31, 2015, was prepared and distributed.

General public Notice of Availability/Notice of Completion was given by publication in the *Press-Enterprise* on or about November 3, 2015. As required by Public Resources Code Section 21092.3, a copy of the Notice of Availability/Notice of Completion was posted with the Riverside County Clerk on November 3, 2015.

As provided in the public notice and in accordance with CEQA Section 21091(d), the City of Lake Elsinore accepted written comments through December 31, 2015. Twenty-seven (27) letters & e-mails were received during and immediately after the 55-day public review period. Responses to all of the letters/e-mails received, prepared pursuant to Section 15088 of the *CEQA Guidelines*, are included in Chapter 2 of this Final EIR.

The City of Lake Elsinore provided a written proposed response to each commenting public agency no less than 10 days prior to certifying the Program EIR in compliance with the provisions set forth in Public Resources Code Section 21092.5(a) which states that “At least 10 days prior to certifying an environmental impact report, the lead agency shall provide a written proposed response to a public agency on comments made by that agency which conform with the requirements of this division.”

### **1.3 Use of the Final EIR and the CEQA Process**

The Final EIR allows the public an opportunity to review any revisions to the Draft EIR, written comments received during the public review period, the City’s responses to those comments, and other components of the EIR, prior to approval of the Project. After completing the Final EIR and before approving the project, the lead agency must make the following three certifications, as required by Section 15090 of the *CEQA Guidelines*:

- The Final EIR has been completed in compliance with CEQA;
- The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information in the Final EIR prior to approving the project; and
- The Final EIR reflects the lead agency’s independent judgment and analysis.

As required by Section 15091(a) of the *CEQA Guidelines*, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings (Findings of Fact) for each of those significant effects, accompanied by a brief explanation of the rationale for each finding supported by substantial evidence in the record. The possible findings are:

- 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- 3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

These certifications and the Findings of Fact are included in a separate Findings document.

## 1.4 Method of Organization

This Final EIR for the proposed Alberhill Villages Specific Plan contains information in response to concerns raised by written comments sent to the City of Lake Elsinore. The Final EIR is organized into the following chapters:

- Chapter 1: Introduction, consists of a summary of the background of the proposed project, information about the certification of the Final EIR, and a brief discussion of the intended uses of the Final EIR.
- Chapter 2: Response to Comments, contains a list of agencies and individuals that submitted written comments on the Draft EIR. Chapter 2 also includes a copy of each written comment letter, and a written response to each comment.
- Chapter 3: Corrections, Errata and Changes from Draft EIR, represents additional information, corrections, and additional information that do not change the impacts of the proposed project and/or mitigation measures such that new or more severe environmental impacts result from the proposed project.

## 1.5 Focus of Comments

Section 15200 of the *CEQA Guidelines* establishes the purpose of public review of environmental documents, which includes:

- a) Sharing expertise,
- b) Disclosing agency analyses,
- c) Checking for accuracy,
- d) Detecting omissions,
- e) Discovering public concerns, and
- f) Soliciting counter proposals.

Sections 15204(a) and 15204(c) of the *CEQA Guidelines* further state:

- a) In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct

every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

- b) Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of “substantial evidence”. Substantial evidence means enough relevant information and reasonable inferences from this DEIR information are evident so that a fair argument can be made to support a conclusion even though other conclusions, of other experts, might also be reached. Expert opinions can differ. The decision-maker is not judging the DEIR as a battle among experts. If the DEIR has substantial evidence then the CEQA test has been made.
- c) Recirculation of an EIR according to *CEQA Guidelines* Section 15088.5 is only required when “significant new information” is added to the EIR. New information added is not significant unless the EIR is changed in a way that deprives the public of meaningful opportunities to comment on a “substantial adverse effect” of a project or a feasible way to mitigate or avoid an effect that the project proponents have declined to implement.

Section 15204(f) of the *CEQA Guidelines* establishes the rule that a responsible or trustee agency may submit proposed mitigation measures, limited to the resources subject to the statutory authority of that agency. These measures must include complete and detailed performance objectives for the measures or refer the lead agency to the appropriate guidelines or reference materials.

## **1.6 Environmental Impacts and Mitigation Measures**

A detailed discussion of existing environmental conditions, environmental impacts and recommended mitigation measures is included in the Draft EIR, Environmental Setting, Impacts and Mitigation Measures, sections. Project impacts, recommended mitigation measures, and level of significance after mitigation were identified in the Draft EIR

## CHAPTER 2 – RESPONSE TO COMMENTS

### 2.1 List of Persons, Organizations and Public Agencies Commenting on the Draft EIR

As stated in *CEQA Guidelines* Sections 15132 and 15362, the Final EIR must contain information summarizing the comments received on the Draft EIR, either verbatim or in summary; a list of persons commenting; and the response of the lead agency to the comments received. Twenty-seven comment letters/e-mails were received by the City in response to the Draft EIR. This chapter provides copies of each letter received and the responses to these comments.

The following agencies, organizations and individuals submitted written comments regarding the Draft EIR:

**TABLE 3-1  
LIST OF COMMENTS RECEIVED**

<b>Identification Letter</b>	<b>Agency/Commenter</b>	<b>Date of Letter</b>
<b>A</b>	Martha Bridges, John Burkett, Gerald Marie	12/31/2015
<b>B</b>	Johnson & Sedlack, Attorneys at Law	12/31/2015
<b>C</b>	Southern California Edison	12/31/2015
<b>D</b>	United States Fish and Wildlife Service	12/31/2015
<b>E</b>	County of Riverside Transportation Department	12/31/2015
<b>F</b>	Santa Margarita Group/Sierra Club	12/30/2015
<b>G</b>	California Department of Fish and Wildlife	12/30/2015
<b>H</b>	Pechanga Cultural Resources	12/29/2015
<b>I</b>	Pauma Band of Luiseno Indians	12/29/2015
<b>J</b>	Paulie Tehrani & Sharon Gallina	12/28/2015
<b>K</b>	Inland Empire Watershed	12/26/2015
<b>L</b>	Endangered Habitats League	12/24/2015
<b>M</b>	Regional Conservation Authority	12/22/2015
<b>N</b>	Pala Tribal Historic Preservation Office	12/21/2015
<b>O</b>	Linda and Martin Ridenour	12/16/2015
<b>P</b>	South Coast Air Quality Management District	12/2/2015
<b>Q</b>	Rincon Band of Luiseno Indians	11/10/2015
<b>R</b>	Soboba Band of Lusieno Indians	12/21/2015
<b>S</b>	Inland Empire Biking Alliance	1/7/2016
<b>T</b>	Caltrans District 8	1/13/2016
<b>U</b>	Elsinore Valley Municipal Water District	1/21/2016
<b>V</b>	Santa Ana Watershed Project Authority	2/4/2016
<b>W</b>	California Department of Fish and Wildlife	2/13/2016
<b>X</b>	County of Riverside Transportation Department	2/16/2016
<b>Y</b>	Johnson & Sedlack, Attorneys at Law	2/16/2016
<b>Z</b>	Eastern Municipal Water District	1/4/2016
<b>AA</b>	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit	1/4/2016

## 2.2 Response to Comments

Pursuant to *CEQA Guidelines* Section 15088, the responses to written comments presented in this section address specific, relevant comments on environmental issues raised in the submitted comment letters.

*CEQA Guidelines* Section 15088.5, requires the lead agency to recirculate an EIR only when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review. New information added to an EIR is not significant unless the EIR has changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse, environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project's proponents have declined to implement (*CEQA Guidelines*, Section 15088.5). In summary, significant new information consists of: (1) disclosure of a new significant impact; (2) disclosure of a substantial increase in the severity of an environmental impact; (3) disclosure of a feasible project alternative or mitigation measure considerably different from the others previously analyzed that would clearly lessen environmental impacts of the project but the project proponent declines to adopt it; and/or (4) the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (*CEQA Guidelines*, Section 15088.5). Recirculation is not required where, as stated above, the new information provided in response to the comments received to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR (*CEQA Guidelines*, Section 15088.5).

**Comment Letter A**  
**Martha Bridges, John Burkett, Gerald Marie**

December 31, 2015

From: Martha Bridges                      John Burkett                      Gerard Ste. Marie  
35465 Woshka Lane                      32721 Mesa Drive                      P.O. Box 486  
Wildomar, CA 92595                      Lake Elsinore, CA 92530                      Wildomar, CA 92595

To: City of Lake Elsinore –  
Mr. Roy F. Stephenson, PE, Land Use Engineer, City of Lake Elsinore  
c/o HR Green, 1100 Town & Country Road, Suite 1025, Orange, CA 92868  
E-mail: [rstephenson@hrgreen.com](mailto:rstephenson@hrgreen.com)

Re: **Comments to DEIR for Alberhill Villages Specific Plan (SP 2010-02)**

Please consider the following comments to the Alberhill Villages Specific Plan Project. Please also make this Letter, and all documents referred to in the Letter, a part of the Administrative Record for this Project.

I. The Draft EIR is Uncertain as to Provision for Wastewater Treatment

In the Alberhill Villages Specific Plan, Appendix “J” of the DEIR, under the heading “Sewer” on Page 26, it is stated as follows:

“Wastewater treatment may occur at the proposed Alberhill Wastewater Treatment Plant, which may be located west of the project and north of the I-15 Freeway along Temescal Canyon Road. The collection system of appropriately sized pipes will accommodate sewer service for the area with the backbone sewer lines located in Temescal Canyon Road and Lake Street. Pipes will be sized to convey ultimate sewer flows at build-out. EVMWD is analyzing an alternative to the Alberhill Wastewater Treatment Plant which includes a series of lift stations and sewer force mains in order to convey wastewater flows to EVMWD’s Regional Waste Water Treatment Plant.”

A-1

The DEIR is uncertain as to provision for wastewater treatment. In the final EIR, please specify exactly how wastewater treatment will be provided for the Project.

DATED: December 31, 2015

By: Martha Bridges, John Burkett  
& Gerard Ste. Marie

**Response to Comment Letter A**  
**Martha Bridges, John Burkett, Gerald Marie**

Martha Bridges, John Burkett, Gerald Marie provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in their letter dated December 31, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

**Response to Martha Bridges, John Burkett, Gerald Marie Comment A-1**

This comment references text located within the proposed Alberhill Villages Specific Plan (AVSP) document. The DEIR describes the project’s impacts upon wastewater services in Section 4.10 (Public Services and Utilities). Pages 4.10-9 and 4.10-10 of the DEIR describe the EVMWD program to expand the existing Regional Waste Water Treatment Plant (Regional WWTP) to provide service to the AVSP through a series of sewer lift stations along Lake Street moving toward Nichols Road and then toward the Regional WWTP. The EVMWD is currently updating their Wastewater Master Plan to describe this existing Regional WWTP expansion and the Lake Street sewer lift station program. A more thorough description of wastewater treatment will be provided for the project is located on pages 4.10-43 through 4.10-52 of the DEIR.

## **Comment Letter B** **Johnson & Sedlack**

December 31, 2015

Mr. Roy F. Stephenson, PE, Land Use Engineer  
City of Lake Elsinore  
c/o HR Green  
1100 Town & Country Road, Suite 1025  
Orange, CA 92868  
E-mail: rstephenson@hrgreen.com  
Telephone: 714:402.4185  
Fax 714.333.1886

**VIA E-MAIL and U.S. MAIL**

**Re: Alberhill Villages Draft Program Environmental Impact Report (SCH #2012061046), Specific Plan (SP 2010-02), General Plan Amendment No. 2012-01, and Zone Change No. 2012-02.**

Greetings:

On behalf of concerned area residents and Endangered Habitats League, I hereby submit these comments on the Alberhill Villages Draft Program Environmental Impact ("PEIR") Report (SCH #2012061046), Alberhill Villages Specific Plan (Specific Plan No. 2010-02), General Plan Amendment No. 2012-01, and Zone Change No. 2012-02 (jointly, the "Project").

The Specific Plan proposes the development of approximately 1,400 acres of currently mined land to approximately 8,244 dwelling units; 4,007,000 square feet of nonresidential uses including civic/institutional, commercial/retail, professional office/medical and entertainment uses; development of a university campus or similar educational institution to serve up to 6,000 students; and supporting uses including a potential elementary school, church, etc. The Specific Plan land uses would also require the construction of on- and off- site utilities and extensions for sewer, water, etc.

The General Plan Amendment would to change the land use designations from Residential Mixed Use, Hillside Residential, Low Density Residential, Low- Medium Residential, Medium Density Residential, High Density Residential, Recreational, Open Space, Public Institutional, General Commercial, and Commercial Mixed-Use to "Specific Plan" and amend the General Plan Circulation Element.

Approval of the Change of Zone would amend the zoning onsite from Residential Mixed Use, Hillside Residential, Low Density Residential, Low- Medium Residential, Medium Density Residential, High Density Residential, Recreational, Open Space, Public Institutional, General Commercial, and Commercial Mixed-Use to "Specific Plan."

The PEIR finds the Project will result in significant and unavoidable impacts to air quality and traffic/circulation. All other impacts are determined to be less than significant.

**B-1**

## General and overarching Comments

The California Environmental Quality Act (CEQA) was adopted to ensure the protection of the environment through informing the public and decision makers of the potential, significant environmental effects of a proposed action, and developing ways to mitigate or avoid those effects. (Pub. Res. Code § 21000 subd. (a), CEQA Guidelines § 15002 subds.(a)(1-4).) By providing documentation that adequately describes the environmental consequences of a project, CEQA aims to have decision makers make a rational decision based upon the true environmental consequences of the project. If they do not, the electorate can hold them accountable for their decisions through the disclosure of why the agency approved the project despite the significant effects involved. (Guidelines § 15002 subd. (a)(4).

The EIR is the heart of this statutory scheme. (Guidelines § 15003 subd. (a).) “The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.” (Pub. Res. Code § 21002.1 subd. (a).) Thus the EIR’s overarching goal is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. In this way, the EIR “protects not only the environment but also informed self-government.” (*Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 392.) To facilitate this informational role, “the EIR must contain facts and analysis, not just the agency’s bare conclusions or opinions.” [citations] An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Id.* at 404-405.)

The EIR must then describe and evaluate ways to mitigate and avoid adverse environmental impacts. Where feasible mitigation exists which can substantially lessen the environmental impacts of a project, all feasible mitigation must be adopted. (Pub. Res. Code § 21002.) All mitigation measures must also be fully enforceable and certain to occur. (Guidelines § 15126.4 subds. (a) (1), (2).) In this way CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. The mitigation and alternatives sections have thus been described as the “core” of an EIR. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.)

Having reviewed the Draft PEIR for this Project, it is apparent the document fails to comply with CEQA’s information disclosure, analysis, and mitigation mandates. What is more, as the Project is being evaluated with a Program EIR, this severely deficient document may be relied on in the development of later program activities without further detailed review, making the lack of adequate information and evaluation at this stage a critical deficiency. (Guidelines § 15168) On the flip side, the EIR fails to take advantage of the environmental benefits that a Program EIR provides, e.g., the opportunity to evaluate the effects of interrelated actions/ a large project at a stage where the City has the flexibility to consider, address, and mitigate problems and cumulative impacts. (Guidelines § 15168 (b)) Instead, the PEIR defers analysis or mitigation of Project impacts to later implementing activities. Such deferral is improper where the effects can be presently addressed and relate to entire Project, not individual subsequent activities. (Guidelines §§ 15144-15146) The City is tasked to “find out and disclose all that is reasonably can”; it has not done so here. (Guidelines § 15144)

B-2

First, the PEIR is habitually conclusory, failing to provide the underlying facts, modeling, methodology, and logical pathways that lead to the conclusions made throughout the document. The bare conclusions or opinions presented fail to comply with CEQA's information disclosure mandate. There is little to no evidentiary support in the PEIR for the conclusions made.

B-3

A second overarching issue is the PEIR regularly relies on only somewhat relevant and often outdated data and studies. Generally, CEQA requires an evaluation of the effects of a "project," meaning the whole action being proposed, on "the environment," meaning the physical conditions that exist in an area during publication of the Notice of Preparation (NOP). (Guidelines §§ 15064, 15125, 15126, 15360, 15378) Use of irrelevant or outdated information does not represent a reasoned and good faith effort to inform the public and decision-makers of the Project's effects. (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal. App. 4th 1344, 1367) Despite these admonitions, the PEIR for this Project repeatedly relies on outdated information prepared before publication of the NOP or, worse, information prepared for other projects. (e.g. the Water Supply Assessment, geological survey, Noise Analysis, etc.) The use of only partially relevant and old data and predictions renders the PEIR inaccurate; and also calls into question the subsequent reliance on this document for later implementing projects. Certainly the PEIR does not present an adequate, complete document and a "good faith effort at full disclosure" as required by CEQA. (Guidelines § 15151)

B-4

A third major deficiency of the PEIR is its failure to consider the whole "project" and its various phases. Potential significant adverse impacts from construction are regularly omitted from review and analysis. Analysis of operational impacts often ceases at "Phase 1," e.g. wastewater. The evaluation of operational impacts, conversely, often omits consideration of the ongoing mining impacts plus some development, despite the fact that the Project includes ongoing mining and a mining overlay zone across the site. The potential impacts of the intensification overlay are not considered either. For example, no consideration is given to the potential biological impact of intensifying development adjacent to MSHCP Linkages; or potential traffic impacts of such intensification.

B-5

The PEIR also regularly fails to disclose, analyze, and/or mitigate the impacts of the General Plan Amendment and Zone Change, limiting analysis to the effects of the Specific Plan. The PEIR is also wholly devoid of a discussion of the changes to the Mining Reclamation Plan that must be made with the Project.

B-6

Fourth, the indirect effects of the Project are consistently omitted and evaluation deferred. What effects of potential blasting onsite? Over-excavation of a large part of the site and removal of significant amounts of dirt and mine tailings, in some places upwards of 50 feet deep? Export and/or import of that much soil, in terms of truck traffic, air quality, safety, noise, etc? What about the indirect effects of construction and development on- and off-site of utilities to service the Project, including sewer and water facilities? What environmental impacts will arise from the needed modification of the Temescal Canyon Wash, required to address flooding and hydrology issues, to biology, noise, construction air quality, etc.? These effects must be addressed in an adequate PEIR. They are not addressed here.

B-7

Fifth, the PEIR consistently fails to accurately or adequately evaluate cumulative impacts of the

B-8

Project. The PEIR tends to generalize the cumulative impact evaluation rather than apply the significance thresholds to cumulative effects.

**B-8 Cont.**

Sixth, the PEIR fails to require all feasible mitigation of the Project and ensure mitigation is enforceable. CEQA requires where feasible mitigation exists which can substantially lessen the environmental impacts of a project, all feasible mitigation must be adopted. All mitigation measures required in the EIR must also be fully enforceable and certain to occur. In this way CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. Here, the PEIR cites only minimal mitigation for the Project's significant impacts, and that mitigation proposed is extremely vague, uncertain to occur, and unenforceable. Additional mitigation should be required. The mitigation measures included in the PEIR should be modified to ensure they are implemented and enforceable.

**B-9**

Lastly, the PEIR concludes mitigation reduces various Project impacts *below a level of significance* where mitigation is not conclusively shown to do so. For example, hydrological impacts are found to be reduced below a level of significance based on assumptions, not modeling showing the efficacy of proposed mitigation. Likewise, noise impacts are stated to be reduced below a level of significance where, again, the efficacy of mitigation to reduce noise below the numerical significance thresholds is not shown.

Overall, and as detailed herein, the PEIR fails to adequately disclose, evaluate, and discuss mitigation for the potential significant effects of the Project. The PEIR should be revised significantly and recirculated after completion and incorporation of additional studies.

**B-10**

Draft program eir comments

project description

The Project is stated to be subject to further discretionary review via a three-tier approach where the Specific Plan is the first tier, and additional focused consideration occurs with subsequent tier two Phased Development Plans and tier three Design Review. (PEIR p. 2.0-8) There is no condition, mitigation measure, zoning ordinance amendment or other proposal *described in the PEIR* that will be used to ensure this three-tier review process will actually occur. In addition, the PEIR states the process, even if implemented as proposed, would permit the processing of subdivision maps at any time with or without a PDP or DR. Reliance on this later plan review is improper and misleading where it may never actually occur.

**B-11**

The Specific Plan states the Project may develop initially at a "lower suburban intensity." There are presently no limits in place requiring a certain amount of non-residential use for each amount of residential use developed to prevent an even greater jobs deficiency in the area. The Project should incorporate mitigation and/or a condition of approval requiring a certain percent of non-residential development when various residential markers are met.

**B-12**

The Project is described as a six-phase development, with mining occurring as part of the Project but being phased out over time. The PEIR only treats the future mining at the site as part of the proposed Project in a few limited places (e.g. the in evaluating noise). The future concurrent mining on the site with phased development of non-mining uses should be evaluated as part of

**B-13**

the Project.	<b>B-13 Cont.</b>
Construction impacts are inadequately considered as short-term effects in the PEIR where they are anticipated to occur over 20-30 years.	<b>B-14</b>
Aesthetics/ light & Glare	
The timing of implementation of AES-1 is unclear where it references this "Project," rather than implementing development projects. AES-4 and AES-7 should also clarify they refer to implementing projects.	<b>B-15</b>
AES-6 requires disturbed areas be planted with native plant materials "that respond to the functional consideration of the region." This limitation is vague and subject to various interpretations and potential misinterpretation. AES-6 should be clarified through the incorporation of alternatives, performance standards, or examples.	<b>B-16</b>
AES-7 is uncertain and unenforceable where it only prevents the removal of vegetation "to the extent feasible." This lack of mitigatory effect is accentuated by the fact the Project also anticipates the modification of Temescal Creek for hydrological/ flooding purposes. The "extent feasible" could be deemed no prohibition at all, in which case this measure will provide no mitigation whatsoever for aesthetic impacts.	<b>B-17</b>
AES-8 provides no mitigation whatsoever for lighting impacts where it simply states that under the Municipal Code mechanisms addressing lighting "may be formulated," but fails to require their formulation or implementation with this Project. To provide mitigation, this measure should require the formulation of standards and require their implementation at established time periods.	<b>B-18</b>
AES-9 is likewise impermissibly vague and uncertain to occur. The measure only requires submission of photometric lighting plans, not compliance with such plans; and establishes no performance standards for such plans except relative to directional lighting.	<b>B-19</b>
Air Quality and Greenhouse gas emissions	
Not all feasible mitigation is proposed to reduce air quality impacts. For example, diesel particulate filters on heavy equipment must only be used "where feasible"; and construction traffic limited to off-peak hours "to the extent practicable." These limiting phrases have the effect of undermining any requirements as the applicant can simply state they are not feasible and take no action. Where included, these phrases must be removed.	<b>B-20</b>
AQ-3 does not require any alternatives to implement or performance standards to meet regarding the need to exceed Title 24 standards currently in effect (i.e. exceed by 20% or implement a certain type of amount of efficiency standards.)	<b>B-21</b>
Solar PV and solar water heating are not required of the Project. This fails to conform with the Climate Action Plan and fails to ensure all feasible mitigation for Air Quality and GHG impacts are implemented. A mitigation measure requiring solar water heating and the installation of solar PV (or other renewable energy) to account for all or at least 50% of the Project's energy needs is	<b>B-22</b>

feasible and should be required of the Project.	<b>B-22 Cont.</b>
AQ-4 is impermissibly vague where no definitions or performance standards are incorporated. “Low water requirements and fast growth” could mean any number of things to different people, and is unenforceable absent definition and clarification (e.g. maturity within 10 years). Likewise the need to “shade buildings”; what amount of shade cover is needed?	<b>B-23</b>
AQ-5 is vague, unenforceable, and fails to require actual mitigation, rather than just mere study, of health risk impacts. The measure applies when development occurs “in close proximity to sensitive receptors.” The distance constituting “close proximity,” e.g. within 300 feet, should be plainly stated to ensure compliance. While this measure requires study, no actual mitigation is required should impacts be deemed potentially significant. Buffers/ setbacks, alterations to land use compatibility, installation of filtration systems at impacted receptor sites, and other alternative measures are feasible and should be required mitigation should health risk impacts be identified.	<b>B-24</b>
In fact, no actual mitigation has been adopted to reduce the significant effects of the Project on sensitive receptors, yet impacts are stated to have been <i>reduced below a level of significance by their mere study</i> with implementing applications. All feasible mitigation has thus not been incorporated, and there is certainly no evidence impacts have been reduced <i>below</i> significant levels.. Buffers/ setbacks, alterations to land use compatibility, installation of filtration systems at impacted receptor sites, and other alternative measures are feasible and should be required where sensitive receptors may be exposed to substantial pollutant concentrations.	
The PEIR finds the Project’s potential GHG impacts will be reduced below a level of significance through compliance with the City’s Climate Action Plan. This claim is not supported by the facts in the PEIR. First, the compliance alleged with the City’s CAP is not shown where the Project picks and chooses those requirements it prefers to implement. Hence PV is not required, nor electric vehicle charging, nor trip reductions as required by the CAP, etc. In any event, compliance with the CAP does not establish that this Project will comply with the state’s GHG reduction targets for 2020 or 2050. The GHG evaluation must be updated to adequately evaluate Project impacts and ensure the implementation of all feasible mitigation for <i>the Project’s substantial GHG emissions</i> . The PEIR wrongly skips over this issue. Biological Resources	<b>B-25</b>
We hereby incorporate in full the comments submitted by Endangered Habitats League on December 24, 2015. PEIR’s treatment of wildlife connections/ Linkages, including MSHCP Linkages 1 and 6, is particularly lacking in analysis and mitigation. The PEIR and Specific Plan seem to presume wildlife will use and be restricted to narrow passages established adjacent to busy roadways and lit pedestrian areas with no or only minimal buffers. The failure to ensure the adequate maintenance of these key Linkages is a significant, unevaluated, and unmitigated environmental effect of the Project that must be addressed at this programmatic level when real solutions to this issue exist.	<b>B-26</b>
Furthermore, setbacks from open space connections are inadequate and not required of the proposed Town Center or University Village. (See, Specific Plan Table 4-1) This is insufficient to ensure the protection of these essential Linkage and habitat areas.	

Construction impacts to biological resources are inadequately considered. What effects will construction noise, lighting, blasting, truck trips, runoff (including that which is likely contaminated), etc. have on biological resources?	B-27
The PEIR pays inadequate heed to the potential impacts to perennial ponds and vernal pools onsite. These ponds are to be removed with Project grading and may be the contain various species and sensitive communities.	B-28
CDFW submitted extensive comments on the Project's NOP. The PEIR has failed to address the issues raised by CDFW. The PEIR should be revised to evaluate Project impacts pursuant to CDFW input including assessments of vernal pools, special status species, and up to date biological surveys of flora and fauna.	B-29
Instead, the biological assessments relied on in the PEIR of extremely limited scope and relevance. The September 24, 2014 assessment applies to the Temescal Creek Bridge Project on 56.7-Acres, not this Project. The focused studies relied on therein nevertheless allude to significant effects occurring with this Project.	B-30
The second biological analysis relied on by the PEIR is only an <i>update</i> to some other 2008 analysis (not included for review) and cites focused surveys occurring on only two days: March 24 and May 12, 2014. No methodology is provided for these surveys and it is not clear they were prepared to independently to assess the impacts of the Project, but rather just to verify prior findings. This minimal update of environmental effects is not the up-to-date biological surveys sought by CDFW and essential to an adequate EIR.	B-31
BIO-1 permits passive and active relocation of <i>active</i> burrowing owl nests. Relocation of active nests must be avoided. Relocation of occupied burrows may be permitted outside of the breeding season if avoidance is impossible when no active nests exist, following CDFW protocol. The PEIR must consider not only the CDFW 1995 report but also CDFW's "Staff Report on Burrowing Owl Mitigation," March 7, 2012, available at < <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843</a> >.	B-32
BIO-2 is impermissibly vague and fails to detail <i>how</i> impacts to California gnatcatcher will be minimized to reduce impacts <i>below a level of significance</i> , as claimed.	B-33
At BIO-4, mitigation for impacts to riparian/ riverine impacts should state a preference for avoidance to the greatest possible, not simply jump to replacement habitat on- or off-site. In addition, replacement habitat should be required at a 3:1 ratio. There is no evidence that the 1:1 mitigation through, potentially, the payment to a mitigation bank for the removal of invasives is adequate to reduce riparian/ riverine impacts below a level of significance. The PEIR also needs to clarify the impacts to waters of the U.S., wetlands, and riparian habitat are discrete impacts of the Project, and require mitigation for each discrete impact.	B-34
BIO-9 is vague, uncertain and unenforceable. It is unclear when a temporary sound wall is "necessary."	B-35
cultural resources	

<p>The Project would <i>not</i> relocate and restore the Alberhill School, a goal stated in the General Plan, or provide signs depicting the Alberhill District’s historical significance and educational awareness. (General Plan Policy AH 3.1-3.3) Instead, Mitigation measure CR-7 only requires the structure be evaluated by an archaeologist—nothing further. The Project thus would likely not only demolish this historical building but also fail to preserve the areas cultural significance non-compliant with the General Plan. This should be deemed a significant impact. Mitigation should include, at least, the sought-after signs and educational awareness program in addition to the reconstruction of the school.</p>	<p><b>B-36</b></p>
<p>CR-8 permits monitoring of grading activities by a “qualified designee.” There is no definition of what this means or who could be deemed a qualified designee. This term should be struck. geology/soils</p>	<p><b>B-37</b></p>
<p>No subsurface site investigation was undertaken in preparation of the PEIR. Instead, the Geologic Constraints Study was entirely reliant on the review of past research and reports plus superficial reconnaissance. (PEIR App. B p. 1, 23) The Study was also prepared in 2010 based on even earlier reports prepared for other projects. Given the issues identified in the Geologic Constraints Study, an updated geotechnical study should be prepared to investigate the significant issues identified with the Project before it is considered for approval.</p>	<p><b>B-38</b></p>
<p>The PEIR discloses the Project site was previously used for coal mining and is presently used for open pit mining. As a result, significant mine tailings and potentially contaminated materials exist onsite, in areas as deep as 50 feet or greater below existing grades. (PEIR App. B p. 9.) In fact, over 1,000 acres of the site is Brownfield land area that is likely contaminated with mining waste and/or other hazardous materials. (Initial Study p. 4) “A large portion of the property is characterized by undocumented- fill stockpiles and mine tailings of unknown depths, deep open-pit mining excavations and in-filled pits, surface ponds,” etc. (PEIR App. B p. 2) Despite these facts, no soils testing of the site was performed for the PEIR, such as a Phase I assessment. The PEIR fails to disclose any information about the extent of the Brownfield area, likely contamination, or the extent of geotechnical work likely required to clean up the Brownfield area to a reusable state. This is an absolutely inexcusable oversight in terms of evaluation and disclosure of geological and hazard impacts.</p>	<p><b>B-39</b></p>
<p>These soils will likely have to be excavated, tested, and potentially exported off - site. (PEIR App. B p. 15, 18-20) Other expansive soils and those at risk of landslide, among others, will also be subject to significant specialized grading. The PEIR fails to disclose the extent, timing, import/export, and other issues related to grading. The PEIR also fails to address the secondary impacts of these issues.</p>	<p><b>B- 40</b></p>
<p>A portion of the Project site is located with a Riverside County Fault Zone in proximity to an active fault identified in prior investigations for other projects. (PEIR App. B p. 13) Despite this existence of on-site faulting (in addition to being located in proximity to numerous other faults), no further inquiry into the location of this fault with subsurface investigations, recommendations for future development, or other testing was undertaken. Such analysis is essential to evaluating the potential effects of faulting at the site and to off-site users.</p>	<p><b>B-41</b></p>

G-8 requires fault setbacks but fails to specify how these setbacks should be. A minimum distance should be provided. | **B-42**

The Geologic Constraints Study discloses the Project should expect to require excavation and/or blasting of bedrock hillsides in various areas of the property. (PEIR App. B. p. 14) There is no evaluation or disclosure of the effects of such action such as noise impacts, impacts to biological resources, construction traffic impacts, hazard effects, etc. | **B-43**

G-10 states that measures may be needed to reduce impacts from a potential rise in groundwater, but there are no actual measures to implement these reductions. What actions may be recommended to be taken, or to what standard? No actual mitigation is required. | **B-44**

**Hazards/ Hazardous Materials**

The majority of the Project site is a Brownfield area meaning its redevelopment may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The Geologic Constraints Study PEIR Appendix B, acknowledges, "A large portion of the property is characterized by undocumented- fill stockpiles and mine tailings of unknown depths, deep open-pit mining excavations and in-filled pits, surface ponds, and mining support structures and improvements." (PEIR App. B p. 2) The PEIR fails to address the potential hazard impacts to the public or environment through the unearthing, removal, and potential accident conditions with contaminants at the Project site during construction to off-site receptors and/or, as development begins at the site, to on-site receptors now adjacent to this hazardous condition. As discussed above, no soil sampling occurred with PEIR preparation to determine the extent of soil contamination onsite. The potential for such contamination and the manner of its removal and disposal must be addressed in the PEIR. | **B-45**

The PEIR also fails to address hazards from the potential underground mines at the Project site in the event of upset, explosion or ground failure. "Various abandoned structures and possible mine shafts are also located within the property." (PEIR App. B p. 2) The Geologic Constraints Study notes that the site possibly contains portion of subsurface mine horizontal adits and laterals, but none were found in the limited evaluation of the site, which included only research and surficial reconnaissance. (PEIR App. B. p. 1, 3, 7) The PEIR should address the potential hazards associated with mine shafts onsite. | **B-46**

The PEIR also omits consideration of hazardous impacts associated with blasting should blasting be needed, as the geological study states may be necessary for Project development. Potential hazards also exist from the transport of explosives to/ from the site, especially if blasting work is needed for a later phase of development. | **B-47**

**Hydrology/ Water Quality**

The PEIR fails to adequately consider impacts to groundwater recharge where relatively shallow groundwater exists onsite and at least three wells were previously installed on the site. In addition, the PEIR fails to consider the indirect/ secondary impacts to groundwater recharge of mitigation likely needed to reduce the adverse effects of geology/ soils development, which may include subsurface and surface drainage devices which preclude such recharge. The impacts of mitigation measures must be considered. | **B-48**

The Project proposes to modify Temescal Creek and to raise portions of the Project site out of the flood plains listed on the FEMA's FIRM maps. There is very little information provided regarding what modifications to the Creek are actually proposed, let alone evaluation of the secondary impacts of such modifications on downstream flooding, hydrology, and water quality; biological resources; traffic (including I-15), etc.

B-49

The Project relies on the periodic removal of debris from sediment basins for drainage. It is unclear to whom this removal role is to be given. As the plan for drainage is reliant on the proper function of sediment basins, the PEIR and/or Project conditions should specify who is responsible for this action, how often removal is to occur, etc.

B-50

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Noise

The first Noise Analysis dated May 9, 2011 relied on in the PEIR was (1) not prepared for this Project; and (2) is out of date where it was prepared May 9, 2011 based on 2010 measurement. The Noise Analysis was prepared to address noise impacts to the Ashbury Community located on Poplar Circle of the nearby mining operations; it was not prepared to address the impacts of this Project based on its construction specifications; proposed grade; and operational uses. It is also out of date, detailing the existing environment as of 2010, not the period after issuance of the NOP or current 2015 conditions. It thus has very little relevance to *the proposed Project's* anticipated effects on the existing environment, and fails to evince a good faith effort to disclose all that can reasonably be forecast about the Project's effects.

B-51

The second, Project-specific Noise Analysis, dated June 2, 2010, is even more out of date than the 2011 Analysis and is appallingly lacking in needed data, information, methodology, modeling, or any of the usual tenets of an adequate Noise Analysis. First, the "Baseline Noise Levels" were evaluated only by I-15 and Lake Street based on Dept. of Transportation 2008 traffic counts, so already 7 years old at the time of completion of this Draft PEIR. No on-site measurements were taken for this analysis.

The 2010 Noise Analysis provides no modeling for construction noise, instead choosing to simply cite general noise levels of construction equipment and stating that the "loudest construction activities would require 280 feet of distance between the source and nearby receptor." First, the construction noise evaluation utterly fails to evaluate, disclose, or consider in any way the Project-specific impacts from extensive grading, over-excavation to potentially more than 50 feet below ground level, soils import and export by truck, and blasting; all needed to grade the site to a usable foundation. To simply rely on general equipment noise reference levels is insufficient where this Project is atypical.

B-52

Second, the claim 280 feet of distance would reduce noise within allowable limits is *completely* unsupported by any modeling, data, or reasoning. This certainly fails to evince the path from data to conclusion, particularly where its clear the Noise Analysis does not take into consideration actions like blasting.

Third, the analysis makes statements for planning areas 5b and 6b near the eastern

B-53

perimeter without consideration of existing noise levels in this area. Noise at even the sought-after 75 dB may be a substantial increase over a relatively quiet noise environment.	<b>B-53 Cont.</b>
Fourth, the construction noise evaluation fails to consider increases in noise over existing levels. Such impacts are likely significant with the amount of specialized earthwork needed for the Project.	<b>B-54</b>
Fifth, the evaluation fails to consider truck noise from soil import/ export, a is likely needed. And sixth, the evaluation fails to consider vibration impacts where blasting is likely.	<b>B-55</b>
The PEIR states based on this Noise Analysis that construction noise and vibration impacts will be less than significant, and, in any event, will be short- term during the construction phase and therefore would be infrequent. This conclusion is utterly unsupported. In fact, the Project construction is anticipated to occur over 20-30 years, so is in no way “short-term.” The construction noise evaluation also fails to disclose impacts from extensive grading, over-excavation to potentially more than 50 feet below ground level, soils import and export by truck, and blasting; all needed to grade the site to a usable foundation. By failing to evaluate the noise impacts of construction, the PEIR does not comply with CEQA’s information disclosure mandate.	<b>B-56</b>
Moreover, all feasible mitigation has not been adopted for construction noise impacts, and the mitigation proposed is not shown to reduce impacts <i>below a level of significance</i> as claimed. The PEIR utterly fails to comply with CEQA on this point.	<b>B-57</b>
With respect to operational noise, again the Noise Analysis completely fails to provide any modeling to demonstrate the likely noise impacts of the Project. All that is provided is a conclusory Table, Table 3, allegedly detailing anticipated traffic noise impacts. CEQA’s informational role is again undermined.	<b>B-58</b>
The Noise Analysis considers only existing, buildout, and buildout with Project conditions. The failure to consider impacts during the various Project phases omits a substantial period of time during which impacts may be significant. In addition, the analysis fails to consider ongoing mining effects as part of Project noise sources during operation. This omission must be rectified.	<b>B-59</b>
The Analysis fails to adequately address the increase over ambient noise levels over the existing environment threshold question, instead combining the threshold with the requirement it impact sensitive receptors. This improperly narrows the scope of noise impacts, particularly where, as here, noise effects may adversely impact biological resources as well as human sensitive receptors. Where the Project would increase ambient noise + 3dB CNEL, the impact should be deemed significant. Mitigation is not proposed or adopted for this effect.	<b>B-60</b>
Operational noise impacts are not considered beyond vehicular noise despite the various proposed uses with the Project. The Noise Analysis avoids this consideration, claiming noise from “residential uses” is generated primarily from vehicular operations. The Project, however, proposes 4,007,000 square feet of nonresidential uses. What excuse for avoiding evaluation or at least disclosure of noise generation from these uses? None is given in the PEIR or Noise Analysis.	<b>B-61</b>

The Noise Analysis recommends the placement of less noise-sensitive uses adjacent to I-15 to act as a buffer to sensitive uses. The Project adopts no requirement for such development or preventing residential development in this area. Such limitation should be incorporated as a mitigation measure; or the potential effects to residential uses in this area evaluated.

**B-62**

In addition, the effects of locating less noise sensitive uses adjacent to I-15 should also be evaluated with respect to biological effects, as this places these noisier mixed uses and commercial uses closer to biological linkages and Temescal Creek. Consideration should also be given to the size of the buffer and linkages needed in this area given Project-related noise increases in the vicinity of I-15. The size of the linkage may need to be increased to mitigate for Project noise impacts.

Overall, the evaluation of noise impacts in the PEIR is so lacking as to be essentially useless. The noise analyses do not actually consider the facts of this Project or the existing conditions of the environment, and make no attempt at forecasting the Project's impacts. No substantial evidence supports the conclusions made in the PEIR. The PEIR must be revised and recirculated to address, and then mitigate, for these effects.

**B-63**

#### Traffic/Circulation

The Updated Traffic Impact Analysis wrongly compares the traffic totals to the current General Plan and proposed Specific plan, rather than to the existing environment. The analysis thereby employs an improper baseline by which to compare and disclose the traffic impacts of the Project and contend the Project in fact reduces traffic. (e.g. "Updated Traffic Impact Analysis Supplemental Analysis Alberhill Villages Specific Plan TIA, Lake Elsinore," October 14, 2015, p. 1-2) This is patently false where the Project is anticipated to generate some 150,415 daily two-way trips. (*Id.* at Table 2B)

**B-64**

The Updated TIA notes that each of the Project phases will require infrastructure based on Project buildout criteria, economic cost-effectiveness, and market conditions. (Updated TIA, p. 3) There is no assurance needed infrastructure will be put in place with each development phase, particularly if a fair share program lacks the adequate funding to ensure needed infrastructure. Mitigation must be adopted ensuring that development not occur without adequate and appropriate circulation modifications to address traffic impacts. In addition, the PEIR should disclose impacts will be significant and unmitigated should needed roadway enhancements and improvements not timely occur.

**B-65**

Circulation impacts should be discussed relative with each Project phase, not simply buildout conditions. As currently evaluated, the PEIR omits consideration of potentially 30 years of circulation/traffic in the Project area.

The TIA fails to address Project impacts to the mainline of I-15. The TIA and PEIR must be updated to address the effects to I-15 and discuss potential mitigation of these impacts within Caltrans' jurisdiction.

**B-66**

Construction traffic impacts are not adequately addressed, particularly given the scope of grading

**B-67**

and earthwork, and its related import/ export of soils likely required for Project development. Utilities and service systems

**Water Supply**

The Water Supply Assessment prepared for the Project is outdated where it was prepared in March 2012 prior to the issuance of the NOP. As a result, the data included therein fails to account for California's unprecedented drought, the Governor's recent Executive Orders (B-29-15, B-36-15), cuts from the State Water Project, and other changes in water supplies in recent years. According to EVMWD's website, the district is currently in a Stage 4a Drought Alert to execute the Governor's Executive Order for mandatory reductions. ("EVMWD Board Approves Stage 4a Mandatory Water Restrictions, May 28, 2015, <<http://www.evmwd.com/civica/press/display.asp?layout=1&Entry=152>>; and <<http://www.evmwd.com/about/departments/public/drought.asp>>) Cuts in water imports from Metropolitan may further have impacted or may impact future deliveries to EVMWD or groundwater injections relied on in the WSA. ("Water supplier OKs 15% cut to cities, water districts in Southland," April 14, 2015, <<http://www.latimes.com/local/lanow/la-me-water-supplier-approves-cut-20150414-story.html>>.) The WSA and PEIR must be updated to account for this new information and ensure adequate supplies instead of just "paper water."

Additionally, due to its age the WSA provides historical production and use from 2003-2010, predicting adequate supplies despite the fact that numbers were well below average from 2008-2010. (WSA p. 3-7, Table 3-4) Given the unprecedented statewide drought, these numbers might be significantly lower if the averages were these past 7 years, from 2008 to the present. The WSA and PEIR should be updated to disclose the existing environmental conditions and supply status.

Also due to its age, the WSA now predicts there will be available water to supply the Project only to 2012, approximately 16 years (assuming the Project is approved in 2016) instead of 20 year projections. Given the Project is anticipated to be developed over the course of 20-30 years, there is no evidence of adequate water supply.

The WSA projections of adequate supplies are reliant on the Project being developed in phases as set out in the PEIR, but not *required* of the Project. If the Project is developed out sooner or in a different order than assumed in the WSA, there is not evidence EVMWD will have adequate supplies to the Project.

The WSA fails to discuss the Project's potential impacts in reducing groundwater recharge and its potential effects to EVMWD's existing wells. According to the PEIR and Specific Plan, the site is home to shallow groundwater and existing springs. The WSA and PEIR fail to address potential impacts to these from Project development and needed construction activities.

The WSA and PEIR also fail to address the impacts to water supply should the reliance on natural spring water to supply the onsite lakes fall short and "alternative water supplies" from EVMWD need to be obtained. (*See*, Specific Plan p. 8.)

**Water Services**

The Project requires the development of significant Water Infrastructure to service the project site, include installation of Transmission lines and water lines, pump stations, a 5.7 MG

**B-67  
Cont.**

**B-68**

**B-69**

reservoir, etc. (Preliminary Water Facilities Plan For Alberhill Villages- April 2015, p. 6-1) Consequently, the PEIR should detail these needed developments and evaluate their effects on the existing environment as either part of the Project or an impact of the Project, which in turn may cause secondary effects. Instead, only an overview of the facilities is provided. No information is disclosed or consideration given to, for instance, the construction impacts of developing these facilities; or the aesthetic impacts of the 5.7 MG reservoir or pump stations. It is also unclear if these needed improvements will be funded by the applicants seeking to implement this Project or some other source.

The Project is also reliant on the future Alberhill Ranch 1 1601/1676 Zone Pump Station to be fully operational when this Project is developed. There is, however, no requirement that the Project not be developed until this Pump Station is operational; or, alternatively, requiring the implementing projects for Alberhill Villages develop the Pump Station in the event it is not yet fully operational when the implementing project is approved. Mitigation or a condition to this effect is needed to ensure additional impacts to water supply and fire services, for example, do not occur.

Regarding the 1801 Zone, the Preliminary Water Facilities Plan states the pipe may extend via District construction to serve the Project. If the District does not provide such development, the connection *can* be made by implementers of this Project. There is no requirement that such a connection be made to ensure adequate water services for this Project.

As Water facilities must be built to supply the entire Project, piping for recycled water should be required to be installed at the same time to mitigate for Water Supply, GHG, and other impacts. Development of a water reclamation plant to supply the Project should also be evaluated as Project mitigation.

The Preliminary Water Facilities Plan states that, "This report does not provide a detailed analysis of what facilities will be required to serve each phase of the project, but does discuss the facilities that are recommended to serve Phase 1 of the Alberhill Villages project." (*Id.* at p. 5-1) The PEIR fails in its analytical and informational role by failing to consider at the program level the need of each phase, and the timely implementation of water improvements. As there is no discussion of other phases and whether needed water improvements will be available when needed, there is certainly no evidence or guarantee of their timely development. Mitigation must be adopted preventing development of implementing Projects until adequate water infrastructure is in place.

#### ***Sewer***

The Project requires the construction of sewer facilities to support the Project. The Preliminary Wastewater Facilities Plan for the Project and PEIR, however, fail to consider the development of these facilities as part of this project, instead citing the "relative consistency" with the 2008 Wastewater Master Plan.

The fact is there are currently no wastewater treatment plant or sewer systems available to service the Alberhill Villages area, and these will need to be built to service the Project. Consequently, the PEIR should detail these needed developments and evaluate their

**B-69  
Cont.**

**B-70**

environmental impacts as part of the Project or an effect of the Project which in turn result in indirect or secondary environmental effects. Instead, only a short description of the needed facilities is provided. No information is provided about construction impacts to develop the needed trunk sewer system; onsite gravity sewer collection lines; and Alberhill WWTP or lift station to the existing Regional WWTP; or about the impacts on- and off- site of this development.

**B-70  
Cont.**

Furthermore, while Buildout and Phase 1 improvements are listed, there is no discussion of other phases and whether needed sewer improvements will be available when needed. There is certainly no evidence or guarantee of their timely development. Mitigation must be adopted preventing development of implementing Projects until adequate sewer and waste water treatment infrastructure is in place.

#### The Specific Plan

The Specific Plan's Design Review Procedure provides the Planning Director or Planning Commission, as appropriate, make findings the Project is compliant with Section 15162 of the CEQA Guidelines. As presumably no project-level review has occurred up until this point, such a finding, which applies to subsequent EIRs, is inappropriate.

The Specific Plan provides for transfers of development between villages and planning areas based on Average Daily Trips. While this may ensure adequate roadway capacity, it may have other effects due to land use modifications. Other limitations should be added to ensure development transfer does not result in unforeseen impacts.

The Specific Plan generally states that, "The City and the developer will use their best efforts to establish" financing districts. (Specific Plan p. 57) This approach fails to ensure needed maintenance and improvements occur, and timely occur, with the Project. Greater specificity and specific financing plans should be provided.

**B-71**

The Specific Plan's General Plan Consistency Analysis methodology is flawed where it considers consistency with the Alberhill District to determine consistency with the entire General Plan. The whole of the General Plan should be considered in the same manner as this portion, not simply cited but with no explanation whatsoever concerning consistency. Many General Plan policies are not addressed, for example: 6.4.1.1 (a), 6.4.1.3(b), 6.4.2.1(c), 6.5.5.1(b), 6.5.6.1(c), 6.6.1.1 (b), 6.6.1.2 (b), etc. Consistency with the City's Climate Action plan is also not shown where the responses provided often show the *failure* to comply with the City's strategies. For example, the failure to require plug-in electric parking or a trip reduction program relative to strategies T-4 and T-5.

The Specific Plan provides for a swing-gate for the multi-use trail system when crossing a vehicle corridor. Alternatives such as a step over gate should be considered for wildlife and equestrian uses.

The Specific Plan states lighting should be installed that minimizes impacts to adjacent properties, but provides no sample lighting fixtures which are partially or fully shielded. Such fixtures should be included in the Plan.

Conclusion

For the reasons detailed herein, the evaluations and analyses in the PEIR must be updated, and the PEIR recirculated for additional public review and comment.

Thank you for your consideration of these comments.

Sincerely,

Raymond Johnson, Esq., AICP, LEED GA  
JOHNSON & SEDLACK

**Attachments and Electronic Citations**

- U.S. Department of Transportation, Federal Highway Administration. (August 2006) *Construction Noise Handbook, Chapters 3, 4, and 9* < [http://www.fhwa.dot.gov/environment/noise/construction\\_noise/handbook/index.cfm](http://www.fhwa.dot.gov/environment/noise/construction_noise/handbook/index.cfm) >
- Electronic Library of Construction Occupational Safety and Health (November/December 2002) *Construction Noise: Exposure, Effects, and the Potential for Remediation; A Review and Analysis*. < [http://www.elcosh.org/document/1434/d000054/Construction%2BNoise%253A%2BExposure%252C%2BEffects%252C%2Band%2Bthe%2BPotential%2Bfor%2BRemediation%253B%2BA%2BReview%2Band%2BAnalysis.html?show\\_text=1](http://www.elcosh.org/document/1434/d000054/Construction%2BNoise%253A%2BExposure%252C%2BEffects%252C%2Band%2Bthe%2BPotential%2Bfor%2BRemediation%253B%2BA%2BReview%2Band%2BAnalysis.html?show_text=1) >
- U.S. Department of Housing and Urban Development. (March 2009) *The Noise Guidebook*. < <https://www.onecpd.info/resource/313/hud-noise-guidebook/> >
- Suter, Dr. Alice H., Administrative Conference of the United States. (November 1991) *Noise and Its Effects*. < <http://www.nonoise.org/library/suter/suter.htm> >

## **Response Comments to Letter B** **Johnson & Sedlack**

Johnson & Sedlack provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in their letter dated December 31, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to Johnson & Sedlack Comment B-1**

The comment references the project description and the requirements for a DEIR. No additional response is required.

### **Response to Johnson & Sedlack Comment B-2**

The AVSP DEIR is a Programmatic EIR that “tiers” off the adopted 2011 City of Lake Elsinore General Plan and uses the related certified General Plan EIR for factual data reference as to issues and questions evaluated in the AVSP DEIR. The Lake Elsinore General Plan included all the AVSP study areas, land uses and environmental topical issues. All CEQA topical environmental subject areas were discussed in the Lake Elsinore General Plan (GP) and the attendant GP EIR covering the AVSP geographical areas. The General Plan and the GP EIR were approved by the Planning Commission and Certified by the City Council.

The DEIR is directed by State law to provide Mitigation Measures acting as de facto Conditions of Approval to this project’s Specific Plan process to guide the project as it moves through the series of future entitlement permit reviews, (Phased Development Plans, Design Review, and Subdivision reviews). The DEIR mitigation measures will be attached to each subsequent discretionary approval.

The DEIR is based on the best available evidence and facts known before the NOP was published, at NOP publication and at the time the DEIR was published. The DEIR facts are not without substantial background data, described in the DEIR and also found in the technical appendices. Professional conclusions are drawn based on this data coming from recognized experts in the various EIR topical subject area fields of study. These professional conclusions are permitted by CEQA and outside experts may differ with the City’s experts. Substantial evidence is the legal standard by which the City decision makers follow in reviewing evidence, recommending and certifying the DEIR as complete.

The DEIR outlines and describes what is known today about the proposed development over the 30 years of this project. As previously noted, during subsequent entitlement phases in this

Programmatic/Tiered DEIR process (DEIR, page 1.0-3), if additional environmental review is required, yet unknown today by the City, the CEQA process provides that additional review, potentially including more CEQA evaluation, will be conducted at subsequent entitlement stages, such as Phased Development Plans, Design Review, and Subdivision Map review. This analytical planning approach is a normal CEQA review process in any City entitlement review.

Subsequent activities in the AVSP development program must be examined in the light of the DEIR to determine whether an additional environmental document, such as a Subsequent EIR, Supplemental EIR, Addendum, Mitigated Negative Declaration, or Negative Declaration, must be prepared.

### **Response to Johnson & Sedlack Comment B-3**

The DEIR is based on the best available evidence and facts known before the NOP was published, at NOP publication and at the time the DEIR was published. The DEIR facts are not without substantial background data, described in the DEIR and also found in the technical appendices. Appropriate analysis is provided leading to conclusions supported by facts.

### **Response to Johnson & Sedlack Comment B-4**

As required by CEQA Guidelines Section 15125, the physical environmental setting for the vicinity of the project (also referred to as the “baseline”) was that which existed at the time the Notice of Preparation was issued on June 13, 2012.

Any technical reports that preceded that date were relied upon if the circumstances under which the reports were prepared had not changed. During the preparation of the DEIR, several technical reports and information were updated as necessary to ensure that the analysis was current.

### **Response to Johnson & Sedlack Comment B-5**

Throughout the DEIR under the “*Project Impact Analysis*” section, impacts for all environmental topics from construction are analyzed as required by CEQA. Reference DEIR Section 4.1 *Geology and Soils*, pages 4.1-31 through 4.2-37, Section 4.2 *Hazards and Hazardous Materials*, pages 4.2-8 through 4.2- 13, Section 4.3 *Hydrology and Water Quality*, pages 4.3-29 through 4.3-40, Section 4.4 *Land Use and Planning*, pages 4.4-13 through 4.4-27, Section 4.5 *Aesthetics/Light and Glare*, pages 4.5-24 through 4.5-32, Section 4.7 *Traffic and Circulation*, pages 4.7-27 through 4.7-81, Section 4.8 *Air Quality and Greenhouse Gas Analysis*, pages 4.8-23 through 4.8-73, Section 4.9 *Noise*, pages 4.9-11 through 4.9-31, Section 4.10 *Public Services and Utilities*, pages 4.10-35 through 4.10-74, Section 4.11 *Biological Resources/Jurisdictional Waters*, pages 4.11-69 through 4.11-82, and Section 4.12 *Cultural Resources*, pages 4.12-30 through 4.12-37.

The issue of environmental “impacts” is discussed in each topical environmental category. Direct, indirect and cumulative impacts are evaluated in each topical section with an impact evaluation of significance and then noted mitigation measures (if required) to reduce the impacts below a level of significance, if feasible. Each DEIR topical issue section contains a complete evaluation of the background conditions, plans to modify the existing conditions for development and the likelihood of adverse impacts. Each section with technical summaries is accompanied by detailed studies usually found in the DEIR technical appendices if the reader desires to go further into the analysis, (e.g. hydrology, drainage and water quality).

The comment further states that the “operational impacts omits consideration of the on-going mining operations and the impacts to biological resources adjacent to MSHCP linkages.”

With respect to mining, mining operations are clearly discussed in the DEIR (DEIR 2.0-2 and 3.0-22) and throughout the DEIR, including Section 4.1, *Geology and Soils*, pages 4.1-18 and 4.1-34 through 4.2-35 and Section 4.9 *Noise*, pages 4.9-25 through 4.9-31. The vested mining operations will continue for an estimated 30 years until the mining is totally “phased out” during the six AVSP estimated development phases. Mining geology impacts are discussed in detail in the DEIR and Appendices with specific mitigation for any contemplated geology and underground hazard impacts noted on DEIR pages ES-39 through ES-41. Biological surface elements (habitat or species presence) noted today in the DEIR are likely to be absent in the future due to the existing mining entitlement’s operations removing “all” surface material used for clay and mineral operations over the next 30 years, including biological habitat flora and fauna elements.

In addition, Reclamation Plan 112 (RP 112 Pacific Clay) is specifically cited and referenced throughout the DEIR and the entire adopted RP 112 plan is provided as part of Appendix B to the DEIR for any reviewer’s study and inspection, as described on page 4.1-24 of the DEIR.

The purpose of the “intensification overlay” as described in the proposed AVSP is to provide the ability “to privately redevelop or intensify in the future, once market conditions warrant the intensification.” Inasmuch as such future “intensification” cannot be quantified without knowing the specifics regarding individual intensification development projects in terms of their scale, intensity and proximity to sensitive resources at any point in the future would be speculative and cannot be accurately determined as part of this DEIR. (See *CEQA Guidelines* Section 15145.)

### **Response to Johnson & Sedlack Comment B-6**

The project proposes approval of a General Plan Amendment to change the land use designation from a mix of residential, commercial, recreational, institutional, open space, mixed-use and related land uses to “Specific Plan” and to amend the General Plan Circulation Element to match the roads and road designations described in the AVSP document. Therefore, the impacts of the subject General Plan Amendment are identical to those described in the DEIR for the AVSP. No separate analysis is required. The related Change of Zone similarly implements the development standards set forth in the AVSP by changing the existing zoning on the subject property to that of “Specific Plan.” No separate analysis of the potential impacts of the zone change is required.

The comment also states that the DEIR is “wholly devoid of a discussion of the changes to the Mining and Reclamation Plan that must be made with the project.”

Section 4.1 *Geology, Soils, Mineral Resources and Seismicity* of the DEIR discusses Mining and Reclamation Plan 112 (RP 112 Pacific Clay) which is applicable to the project. The AVSP project will introduce non-mining land uses over the 30-year buildout of the project. As noted on pages 2.0-6 through 2.0-8 of the DEIR, the AVSP-proposed development will be regulated by Phased Development Plans and Design Review applications which will set forth precise design proposals for all or a portion of a particular area within the AVSP. As Phased Development Plans, Design Review, or Subdivision Map applications are proposed, the portions of the site that will be reclaimed from mining will require that Reclamation Plan 112 be amended per the Surface Mining and Reclamation Act. Reclaiming mined area is based on precise information based on site specific conditions for the area proposed for development. Although the precise changes that will be required to Mining and Reclamation Plan 112 are unknown at this time given the 30-year buildout horizon and the absence of Phased Development Plan, Design Review, or Subdivision Map applications at this time, the DEIR discusses General Plan Goal 5, Policy 5.2 which states: “The City shall require mined property to be left in a condition suitable for reuse in conformance with the General Plan land use designations and the California Surface Mining and Reclamation Act (SMARA). The General Plan Implementation Program identified in the DEIR states: “Through the Project Review, CEQA and permitting processes, the City shall ensure a balance between the conservation of significant mineral resources, the need for extracted materials for local construction, and proper mitigation for potential impacts and conflicts between uses. “

During subsequent entitlement phases in this Programmatic/Tiered DEIR process (DEIR page 1.0-3), if additional environmental review is required, which cannot be determined today by the City, the CEQA process provides that additional review, potentially including more CEQA evaluation, will be conducted at subsequent entitlement stages, such as Phased Development Plan, Design Review, or Subdivision Map review, and amendments to Mining and Reclamation Plan 112. This analytical planning approach is a normal CEQA review process in any City entitlement review.

### **Response to Johnson & Sedlack Comment B-7**

The issue of environmental impacts is discussed in each topical environmental category. Direct, indirect and impacts are evaluated in each topical section with an impact evaluation of significance and then noted mitigation measures to reduce the impacts below a level of significance, if feasible. Each DEIR topical issue section contains a complete evaluation of the background conditions, plans to modify the existing conditions for development and the likelihood of adverse impacts.

The existing surface mining activities on the project site has not been using blasting as part of excavation activities. At this time, blasting is not anticipated during continued mining operations and the phased development of the AVSP. Any future determination that a need for blasting

exists will be evaluated in future phases of the AVSP during geologic site investigations. Through standard regulatory procedures, the Riverside County Sheriff's Department and the County Fire Department require permits and clearance notification for blasting activities to be obtained by a licensed blasting company to ensure that blasting is performed in accordance with state and county regulations and does not affect adjacent structures.

#### **Response to Johnson & Sedlack Comment B-8**

Cumulative impacts are discussed in each topical section of the DEIR in accordance with CEQA Guidelines Section 15130. Significance thresholds were applied and if the analysis determined that an impact was not "cumulatively considerable," the lead agency need not consider that effect significant. but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable in accordance with *CEQA Guidelines* Section 15130. The Cumulative Impacts section in each topical section of the DEIR is consistent with this requirement.

#### **Response to Johnson & Sedlack Comment B-9**

All mitigation measures cited in the DEIR are feasible and programmed to occur throughout the various phases of the project. The commenter references modeling with an implied suggestion that modeling is a CEQA requirement; it is not a CEQA requirement. However, modeling based on accepted mathematical programs are used such as in the DEIR hydrology, noise, air quality analysis, etc.

The commenter makes reference to the hydrological and noise analyses, but identifies no specific hydrological or noise impact.

With respect to hydrological impacts, the analysis in the DEIR was based on the *Preliminary Hydrologic Analysis* prepared by KWC Engineers, 2015 using the Synthetic Unit Hydrograph Method as outlined in the Riverside County Flood Control and Water Conservation District (RCFC&WCD) Hydrology Manual (1978). AutoCad 2012 and HEC-HMS v3.2 programs were used to delineate the watersheds and compute the required hydrographs and peak flows for the 2-year, 5-year, 10-year, and 100-year storm events.

With respect to noise impacts, without knowing the exact location and intervening topography or other conditions between a sensitive receptor and a noise generating activity, performance based mitigation measures are recommended in the DEIR to require acoustical studies to demonstrate compliance with the numerical thresholds established by the City. (See Mitigation Measures NSE-4 through NSE-7).

#### **Response to Johnson & Sedlack Comment B-10**

Based on the above Responses to Comments B-1 through B-9, the City maintains that the DEIR is adequate, that no additional studies are required, and that recirculation of the DEIR is not warranted under *CEQA Guidelines* Section 15088.5.

### **Response to Johnson & Sedlack Comment B-11**

The DEIR states that the project consists of the Alberhill Villages Specific Plan No. 2010-02 and will provide a zoning entitlement and implementation process. (DEIR, page 2.0-2). As noted in the DEIR, the Specific Plan will be adopted by ordinance and serve as the regulatory framework for development in the project area which will ensure that the three-tier process is implemented. Please see Section 2.3.2 of the DEIR for additional details.

The DEIR Project Description details the three-tier entitlement process of the Specific Plan with the Specific Plan as the first tier. No actual development may occur until Tier 2 (Phased Development Plan) and Tier 3 (Design Review, and Subdivision Map) approval are given by the City, along with any further CEQA review via an Initial Study and mitigation determined to be needed. Pursuant to the AVSP, no subdivisions can be approved unless a Phased Development Plan has already been approved or is approved concurrently. The density for each village or phase of development is set out in the Specific Plan with a maximum number of dwelling units. Non-residential commercial, office and institutional schools, etc., are also detailed by phase and village in the Specific Plan. Impacts on traffic, city fiscal matters and others issues are detailed in the DEIR and the Technical Appendices. Please refer to Section 2.0-6 through Section 2.0-58, for AVSP description.

In order to clarify the language found in the DEIR that a Phased Development Plan must be adopted prior to or concurrently with Design Review and Subdivision approvals, the first paragraph in Section 2.3.2, Discretionary Approvals is hereby amended as follows:

To administer the Specific Plan and control the build-out of residential units and commercial/office square footage ~~allocated to Pacific Clay Products through the General Plan Amendment, Development Agreement and Specific Plan zoning entitlements~~, a three-tier land use and development entitlement process will be followed for all development areas and projects within the AVSP area. The three-tier implementation process consists of: 1) adoption of the Specific Plan Zoning Ordinance; 2) adoption of Phased Development Plans (PDPs); and, 3) the more precise Design Review/Subdivision approval process ~~(through a Major or Minor Design Review Process)~~ that corresponds with actual development plans. The three-tier implementation approach ~~will reduce the need to amend the new Specific Plan in the future by postponing~~ postpones certain land use, development standards and design details that cannot be anticipated until economic, market, and trend development concepts become certain. Phased Development Plans (PDPs) must be processed in accordance with the provisions of the AVSP, as a Specific Plan Amendment, concurrent with or prior to the processing of subdivision maps and/or Design Review site plans. Tier 2 and Tier 3 entitlements will be subject to further CEQA review and opportunities for public participation.

Section 5.1 of the AVSP document will also be amended to include the same provisions.

### **Response to Johnson & Sedlack Comment B-12**

The density for each village is set out in the Specific Plan with a maximum number of dwelling units within the Specific Plan. Non-residential commercial, office and institutional schools, etc., are detailed by phase and village in the Specific Plan with the impacts on such issues as traffic and city fiscal matters and others detailed in the DEIR and the Technical Appendices. Please refer to Section 2.0-6 thru Section 2.0-58, for AVSP description.

As discussed in the DEIR, the AVSP's projection of 5,000 to 6,000 estimated jobs created and inclusive of the 8,244 housing units planned out over the next 30-year period, the jobs/housing ratio would be in a range from 0.61 to 0.73. The AVSP's projections are consistent with City projections set forth in the General Plan. By General Plan build-out in 2030, there would be an estimated 118,792 employees working within the City and its Sphere of Influence. The jobs-to-housing ratio based on the General Plan would be 1.26, compared to the 0.68 based on the SCAG projections (See: City's General Plan EIR, TABLE 3.13-15).

This comment requests that the "Project should incorporate mitigation and/or a condition of approval requiring a certain percentage of non-residential development when various residential markers are met." The balance of residential and non-residential development at any given point in time is an economic effect of project development and economic effects "shall not be treated as significant effects on the environment." (*CEQA Guidelines* Section 15131 (a)) This comment does not identify any specific physical changes to the environment, related to the mix of residential and non-residential uses, that would require such mitigation or condition of approval; therefore, adding such a mitigation measure or condition of approval is not required.

### **Response to Johnson & Sedlack Comment B-13**

Surface mining is a pre-existing vesting activity on the project site that will be continued as an "interim" land use, until it is phased out and replaced by the land uses described in the AVSP. The mining impacts related to this ongoing existing use are evaluated throughout the DEIR. For example, please reference Sections 4.1 *Geology and Soils*, 4.2 *Hazards and Hazardous Materials*, 4.5 *Aesthetics/Light and Glare*, 4.8 *Air Quality and Greenhouse Gas Analysis*, 4.9 *Noise*, 4.11 *Biological Resources*.

### **Response to Johnson & Sedlack Comment B-14**

The DEIR evaluates construction-related impacts as appropriate in the analysis for each environmental topic. As noted throughout the DEIR, construction is expected to occur in phases over a 30-year timeframe. However, although construction activities may occur at different locations throughout the 30-year period, they will not occur continuously over the entire 30-year period. They will occur for short-term periods at each location and once development is

completed; construction-related impacts will cease at each location. For this reason, it is appropriate to consider construction-related impacts as “short-term effects.” In instances where construction impacts require mitigation, the mitigation measures are structured to be implemented at the time construction occurs and are included as part of a Phased Development Plan, Design Review, Subdivision Map, etc.

### **Response to Johnson & Sedlack Comment B-15**

Mitigation Measure AES-1 will be revised as follows:

During ~~Project~~ construction of implementing development projects, the construction Project Manager shall ensure that the appropriate screening and visual buffers are provided (such as temporary fencing with opaque material), to screen on-going construction activities from residential land uses developed within previous phases.

Mitigation Measure AES-4 will be revised as follows:

All landscaping shall be installed, in accordance with Landscape and Irrigation standards that are part of the Specific Plan at the time of approval of each ~~Project area's~~ implementing project's Landscape Plan, and prior to issuance of occupancy permits for a particular phase or area.

Mitigation Measure AES-7 will be revised as follows:

~~To the extent feasible, r~~Removal of existing native trees and vegetation along Temescal Canyon Wash (Creek) shall be prohibited during ~~Project~~ implementing project construction and grading, except when necessary to construct required hydrology or road improvements. This ~~can~~ shall be accomplished by staking sensitive habitat at the limits of grading to avoid incidental disruption. The ~~Project~~ implementing project's grading plan shall clearly indicate permit limits and those areas to remain and to be avoided. Tree removals shall be mitigated with a ratio of 3 to 1 replacement.

### **Response to Johnson & Sedlack Comment B-16**

Due to the projected 30-year development period associated with the AVSP, the types of plants and extent of native vegetation communities near disturbed and un-landscaped areas at any point during that 30-year period would be speculative and therefore cannot be determined at this time. However, in order to clarify the process necessary to determine appropriate native plant materials to be used to revegetate these areas, Mitigation Measure AES-6 will be revised as follows:

Concurrent with the submittal of any detailed Landscape Plan required pursuant to Mitigation Measure AES-3, above, the applicant/developer of the implementing development project shall submit a survey of the native vegetation community(ies) and associated plant species located within the region adjacent to the implementing

development project and the AVSP that has been prepared by a State-licensed landscape architect, qualified biologist or other qualified specialist approved by the Community Development Director or designee. The survey shall include a list of native plant species that are compatible with the identified native vegetation community(ies). The required detailed Landscape Plan shall incorporate said identified native plant species in order that Disturbed and un-landscaped areas shall be replanted with native plant materials that are compatible with the theme and that respond to the functional consideration with the existing native vegetation of the region.

### **Response to Johnson & Sedlack Comment B-17**

Mitigation measure AES 7 is intended to prohibit the removal of native trees along Temescal Creek except when necessary in order to construct required hydrology or road improvements. Tree removals are mitigated in the DEIR with 3 to 1 replacement. As noted in the Response to Comment B-15, Mitigation Measure AES-7 will be revised.

### **Response to Johnson & Sedlack Comment B-18**

Mitigation Measure AES-8 will be revised as follows:

Under the Landscaping and Lighting Act of 1972 (part 2, Division 15 of the Streets and Highway Code) and the City of Lake Elsinore Municipal Code, a Landscaping and Lighting District, or other mechanism, may be formulated to set standards for maintenance of landscape and lighting installations. Prior to approval of the Final Map, Parcel Map, Design Review, or Conditional Use Permit or building permit (as applicable), the implementing development project's applicant/developer shall annex the implementing development project into Community Facilities District No. 2015-2 (Maintenance Services) or such other Community Facilities District for Maintenance Services established at the time of such approval to fund the on-going operation and maintenance of the public right-of-way landscaped areas and parks to be maintained by the City and for street lights in the public right-of-way for which the City will pay for electricity and a maintenance fee to Southern California Edison, including parkways, open space and public storm drains constructed within the development and federal NPDES requirements to offset the annual negative fiscal impacts of the project.. Alternatively, the applicant/developer may propose alternative financing mechanisms to fund the Maintenance Services.

### **Response to Johnson & Sedlack Comment B-19**

Mitigation Measure AES-9 will be revised as follows:

Prior to the approval of each implementing commercial, multi-family and recreational development project, the applicant/developer shall submit photometric lighting plans that

demonstrate that Any lights used to illuminate the parking areas, driveways, and other exterior or interior areas, shall be designed and located so that direct lighting is directed and confined to the subject property. The applicant/developer shall submit photometric lighting plans for commercial, multi-family and recreational projects. All outdoor light fixtures, including but not limited to street lights and operational, signage, and landscape lighting sources shall be shielded and situated so as to not cause glare or light spillage into adjacent areas. Directional lighting should shall be of a minimum-maximum intensity (wattage) of one foot-candle (1 lumen per square foot), or as otherwise necessary for public safety.

### **Response to Johnson & Sedlack Comment B-20**

The referenced phrases appear in three bullet points under the “Exhaust Emissions” heading of Mitigation Measure AQ-1 and in one bullet point in Mitigation Measure AQ-3. These bullet points will be revised as follows:

Mitigation Measure AQ-1:

- Utilize equipment whose engines are equipped with diesel oxidation catalysts ~~if available~~ or equivalent technology.
- Utilize diesel particulate filters or equivalent technology on heavy equipment ~~where feasible~~.
- Schedule construction activities that affect traffic flow on the arterial system to off-peak hours ~~to the extent practicable~~.

Mitigation Measure AQ-3:

- Submit plans demonstrating that the new commercial buildings shall include the following green building design features:
  - Utilize Low-E and ENERGY STAR windows ~~where feasible~~;
  - Install high-efficiency lighting systems and incorporate advanced lighting controls, such as auto shut-offs, timers, and motion sensors;
  - Install high R-value wall and ceiling insulation; and,
  - Incorporate use of ~~low-pressure sodium~~ LED and/or fluorescent lighting, ~~where practicable~~.

### **Response to Johnson & Sedlack Comment B-21**

Title 24 Energy Standards are updated on an approximate 3-year cycle. With each future update to the standards, energy efficiency is expected to improve. The project has a 30-year buildout cycle, and the requirements of future Title 24 Codes that may be in effect at the time of implementing development projects cannot be determined at this time and any attempt to forecast such future Title 24 standards would be speculative. The City’s current requirement to

exceed Title 24 energy efficiency requirements by 15% will be reassessed when Title 24 Energy Codes are revised. If future Title 24 Energy Code require buildings to meet zero net energy buildings goals, the 15% requirement will no longer be necessary.

The first bullet point of Mitigation Measure AQ-3 will be revised as follows:

- Submit plans demonstrating that ~~the new residential~~ buildings, including but not limited to residential, commercial, and educational buildings, shall exceed those California Title 24 energy efficiency requirements in effect at the time of building permit issuance as required by the Climate Action Plan in effect at the time.

### **Response to Johnson & Sedlack Comment B-22**

The Climate Action Plan Measure E-1.3 states:

***Energy Efficient Building Standards.** Adopt an ordinance requiring that all new construction exceed the California Energy Code requirements, based on the 2008 Energy Efficiency Standards by 15% (consistent with CalGreen Tier 1), through either the performance based or prescriptive approach described in the California Green Building Code; implement through conditions of approval. Alternately, a solar photovoltaic system and/or solar water heating may be used to assist in meeting all or a portion of the 15% requirement.*

As noted above, the installation of solar PV or solar water heaters is not a mandatory requirement of the Climate Action Plan.

However, the AVSP’s discussion of consistency with Climate Action Plan Measure E-1.3 has been revised to state that: “Buildings constructed in the AVSP will comply California Green Building Code Tier 1 requirements. Energy efficiencies in buildings will be addressed and verified at the Design Review stage.”

Climate Action Plan Measure E-5.1 states:

***Renewable Energy Incentives.** “Facilitate the voluntary installation of small-scale renewable energy systems, such as solar photovoltaic (PV) and solar hot water systems, by connecting residents and businesses with technical and financial assistance through the City website. The City will also revise the permit processes and fees as appropriate to remove barriers to and incentivize the installation of renewable energy systems, in accordance with applicable safety and environmental standards.”*

The AVSP’s discussion of consistency with Climate Action Plan Measure E-5.1 has been revised to state that: “Developers of the various PAs will be encouraged to incorporate or offer PV systems, solar hot water, and other renewable energy systems into their buildings. Systems proposed by developers will be addressed at the Design Review level.”

Additionally, a new Project-wide Development Standard has been added to the AVSP which requires: “All new construction shall be consistent with CalGreen Tier 1 energy-efficient building standards through either the performance based or prescriptive approach described in the California Green Building Code. Alternately, a solar photovoltaic system and/or solar water heating may be used to assist in meeting all or a portion of the 15% requirement.”

### **Response to Johnson & Sedlack Comment B-23**

Mitigation Measure AQ-4 will be revised as follows:

Prior to issuance of a building permit(s), the applicant shall demonstrate that the following water and energy conservation measures consistent with the City of Lake Elsinore Municipal Code have been incorporated into the landscape plan:

- Participate in green waste collection and recycling programs for landscape maintenance.
- ~~Require use of landscaping with low water requirements and fast growth. Each implementing development project shall comply with the water-efficient landscaping and irrigation requirements set forth in the Lake Elsinore Municipal Code that are in effect at the time of the issuance of building permits for that implementing development project.~~
- Plant trees or vegetation to shade buildings and thus reduce heating/ cooling demand.

### **Response to Johnson & Sedlack Comment B-24**

Mitigation Measure AQ-5 will be revised as follows:

Prior to the future approval of a Phased Development Plan, Subdivision Map, or Design Review application by the City’s decision-making authority, applicants for any proposed new development ~~with sensitive receptors or in close proximity to sensitive receptors which will result in sensitive receptors being located within 1,000 feet of mining operations, Interstate 215, or any other potential Toxic Air Contaminant (TAC) source~~ shall conduct an evaluation of human health risks (Health Risk Assessment) ~~and/or~~ Localized Significance Threshold (LST) analysis to identify and reduce any potential health risks from construction ~~and/or~~ operation impacts to sensitive receptors. The HRA and LST analysis shall be prepared in accordance with policies and procedures of the state Office of Environmental Health Hazard Assessment (OEHHA) and the South Coast Air Quality Management District (SCAQMD). Sensitive receptors include residential, schools, day care facilities, congregate care facilities, hospitals, or other places of long-term residency. The thresholds to determine exposure to substantial pollution concentrations are: A Maximum Individual Cancer Risk (MICR) of greater than ten (10)

in one million. For non-cancer risks, the threshold is a hazard index value greater than one (1). LST thresholds shall be those recommended by SCAQMD. If the Health Risk Assessment or LST analysis shows that the incremental cancer risk exceeds these standards, the HRA and/or LST analysis shall be required to identify and demonstrate that mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level. Measures to reduce risk may include but are not limited to:

- All off-road diesel-powered construction equipment greater than 50 hp shall meet the United States Environmental Protection Agency (US EPA)-Certified Tier 3 emissions standards for off-road diesel-powered construction equipment greater than 50 horsepower; until equipment that meets Tier 4 emission standards are available.
- All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available.
- All construction equipment shall be outfitted with BACT devices certified by CARB. Any emission control device used by the contractor shall achieve emission reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for similarly sized engine as defined by CARB regulations.
- Use 2010 and newer diesel haul trucks (e.g., material delivery trucks and soil import/export) and if 2010 model year or newer diesel trucks cannot be obtained, the developer shall use trucks that meet EPA 2007 model year NOx emission requirements.
- Air intakes located away from high volume roadways and/or truck loading zones.
- Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters.

Mitigation measures identified in the HRA and LST analysis shall be identified as mitigation measures in the implementing development project's environmental document and/or incorporated into the site development plan as a component of the proposed future project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City of Lake Elsinore Community Development Department.

### **Response to Johnson & Sedlack Comment B-25**

The DEIR specifically addresses the City's adopted Climate Action Plan (CAP) as a requirement of the State Assembly Bill 32 Greenhouse Gas reduction law. The Specific Plan and DEIR both specifically provide facts supporting the Specific Plan's consistency, standards and facilities within the performance standards in the City adopted CAP that will be implemented with the Specific Plan and ongoing by Specific Plan phase and each subsequent subdivision map regulated by the City. The DEIR mitigation measures for Air Quality and Greenhouse Gases can be found on pages 4.8-37 through 4.8-39 with very specific programmed City monitoring standards contained in Mitigation Measure GHG-2, on DEIR page 4.8-73. The requirements of the Climate Action Plan are very specific, not vague, and quite enforceable by the City throughout the AVSP build out process.

The Climate Action Plan is not intended to limit future development or economic growth within Lake Elsinore; rather, by adopting a Climate Action Plan, the City has established the compliance and performance standards that a project is required to meet in order to satisfy State mandates. A discussion of the Project's consistency with the Climate Action Plan's Greenhouse Gas Reduction Measures are discussed in Section 4.7.3 of the DEIR.

### **Response to Johnson & Sedlack Comment B-26**

The comment related to the Endangered Habitat League is noted. Responses to the Endangered Habitats League comments are addressed later in this Final EIR.

The City has considered the commenter's concerns with the provisions of wildlife corridors to connect to MSCHP's Proposed Linkage 1 and Proposed Constrained Linkage 6. Although, the AVSP property is not subject to MSHCP linkage requirements, the provision of wildlife corridors through the AVSP that connect to MSHCP linkages will confirm the DEIR conclusion that the AVSP will not conflict with the MSHCP. In order to strengthen the wildlife corridor linkages, the AVSP is amended to include a 500-foot wide wildlife corridor located along the western edge of the AVSP (next to the adjacent Horsethief Canyon development). Additionally, the AVSP is amended to delete from its boundaries the non-Pac-Clay-owned property referred to as the 9.09-acre project area (APN 390-130-017) and the adjacent 16.7-acre property (APN 390-130-015 and 016), resulting in a 1,375-acre AVSP. The deleted properties, located within the Alberhill Ranch Specific Plan, are located between the aforementioned Temescal Bridge project and Lake Street on both sides of the existing Temescal Canyon Road. Further, the Open Space portion of Planning Area 1C (adjacent to Temescal Canyon Road) will be widened to range from 250 feet to 500 feet in width.

Mitigation Measure HY-4 requires the protection of the existing streambed of the Temescal Canyon Wash (Creek).

Mitigation Measure HY-4 will be revised as follows:

Temescal Canyon Wash (Creek) shall be preserved in or restored to its natural condition retaining its current flood capacity and flow rate in order to maintain the drainage's function as a wildlife corridor. In order to protect the existing streambed of the Temescal Canyon Wash (Creek), an energy dissipating structure shall be provided at the storm drain system discharge point, if necessary. Erosion control devices shall also be provided, if necessary. Consistent with Mitigation Measures BIO-4 and BIO-5, implementing development projects in the vicinity of Temescal Canyon Wash (Creek) shall be designed to locate development away from the Temescal Canyon Wash (Creek) riparian/wildlife corridor to allow sufficient wildlife movement and access and to preserve its other biological resources and habitat.

### **Response to Johnson & Sedlack Comment B-27**

Construction impacts to biology will be mitigated as noted in the eight pages of biology mitigation measures found on pages 4.11-77 through 4.11-81 of the DEIR. The vested Pacific Clay mining operations is expected to eliminate all or most vestiges of biology elements, (habitat and wildlife), as the surface mining in each phase will excavate material down to 25 to 100 feet to retrieve mineral resources (sand, rock and clay). Additionally, the potential impact of any implementing development project over the estimated 30-year development period of the AVSP will depend upon its proximity to biological resources in existence at the time the implementing development is proposed. Any assumptions made regarding the extent of biological resources at some point in the future would be speculative. However, any biological resources (habitat flora and wildlife), potentially impacted by implementing development projects will be evaluated at the time such projects are proposed and at a minimum all implementing development projects will be required to comply with the mitigation measures contained in the DEIR as modified in this Final EIR.

#### **Response to Johnson & Sedlack Comment B-28**

No natural perennial ponds or vernal pools were identified within the AVSP. The only water sources on site are created water catchments for water quality control and “wash out” facilities associated with mining mineral production. The 1,375 acre vested mining site is constantly changing, and is not guided or regulated by the AVSP or this EIR. The mining operations are regulated by the State’s mining laws and the City adopted Reclamation Plan 112 which are a separate City regulated entitlement from this AVSP proceeding.

#### **Response to Johnson & Sedlack Comment B-29**

The responses to the comments made by the California Department of Fish and Wildlife are included under Letter G of this document.

#### **Response to Johnson & Sedlack Comment B-30**

The commenter is correct in stating that the September 24, 2014 Biological Resource Assessment and Focused Plant Surveys prepared by Glenn Lukos Associates (located in Appendix A of the DEIR) is for the Temescal Creek Bridge Project which is not part of the AVSP. However, at the time the DEIR was prepared, the property evaluated in this report was part of the AVSP and therefore its findings are relevant to the biological resources found on a portion of the AVSP site.

#### **Response to Johnson & Sedlack Comment B-31**

The larger project biology presence/absence survey “update” covering two days found no major changes to the previous on-going biology studies. The biology methodology used in the DEIR

are CEQA accepted independent biology professional survey(s) of habitat (plants, trees and terrain), of various wildlife observed or non-observed within this habitat. The DEIR biology mitigation measures provide for future professional biological focused surveys by and within future AVSP phased subdivision improvement approvals prior to any ground change grading.

What the commenter described as “minimal” biology surveys are permitted by CEQA. Protocol surveys pursuant to Resource Agency standards, will be completed for future implementing development projects when a timely determination of as to the presence or absence of specific species is more appropriate and implementing development project-specific mitigation measures, if necessary, can be adopted.

### **Response to Johnson & Sedlack Comment B-32**

Low to moderate potential for burrowing owl occurrence exists on the site and burrowing owl was not observed during general and focused biological surveys. Nonetheless, a pre-construction survey is required by Mitigation Measure BIO-1.

In accordance with language requested by the United States Fish and Wildlife Service (See USFWS Comment D-10) Mitigation Measure BIO-1 will be revised as follows:

A pre-construction survey for resident burrowing owls will be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of the Project site containing suitable burrowing owl habitat. If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the preconstruction survey, the area shall be resurveyed for owls during the 30 days preceding the revised ground-disturbance date.

The pre-construction survey ~~and any relocation activity~~ will be conducted in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation, 1995.

~~If active nests are identified on site during the pre construction survey, they shall be avoided or the owls actively or passively relocated. To adequately avoid active nests, no grading or heavy equipment activity shall take place within at least 100 meters (approximately 330 feet) of an active nest during the breeding season (February 1 through August 31), and 165 feet during the non breeding season (September 1 through January 31).~~

~~If burrowing owls occupy the site and cannot be avoided, passive relocation shall be used to exclude owls from their burrows. Relocation shall be conducted outside the breeding season or once the young are able to leave the nest and fly. Passive relocation is the exclusion of owls from their burrows (outside the breeding season or once the young are able to leave the nest and fly) by installing one-way doors in burrow entrances. These one-way doors allow the owl to exit the burrow, but not enter it. These doors shall be left in place 48 hours to ensure owls have left the burrow. Alternative natural or artificial burrows that are beyond 50 meters from the impacted area shall be provided in a ratio of~~

~~1 to 1 in adjacent suitable habitat that is contiguous with the foraging habitat of the affected owls. The Project area shall be monitored daily for one week to confirm owl use of burrows before excavating burrows in the impact area. Burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible pipe shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.~~

If occupied burrowing owl tunnels are identified on-site during the pre-construction survey, construction may proceed if a 50-foot avoidance buffer can be established around the affected owl tunnel entrances (no ground disturbance, equipment laydown or storage, or parking inside the buffer). The owls and worker compliance with the buffer shall be monitored daily by a qualified biologist until construction and all other ground-disturbance activities in the vicinity have ceased.

If the Project cannot avoid an occupied burrow (resulting in the possibility of taking owls through entombing or crushing them in their burrows, or evicting them to be eaten by raptors or other predatory birds), relocation will be necessary to avoid unauthorized take of this declining species. The Project shall notify the Wildlife Agencies (CFWS and USFWS) within 3 business days of detecting the occupied burrow, and shall prepare a Burrowing Owl Relocation Plan for approval by the Wildlife Agencies.

### **Response to Johnson & Sedlack Comment B-33**

Mitigation Measure BIO-2 is not vague. It specifically sets forth the following measures to minimize impacts if surveys document the presence of California gnatcatcher (CAGN):

- Impacts to CAGN would be mitigated below the level of significance when occupied coastal sage scrub is fenced and direct impacts are avoided and construction within 500 feet of occupied habitat occurs only between September 1 and January 31 to avoid indirect impacts to nesting CAGN.
- If avoidance is not feasible, a Section 7 Consultation or Section 10 Incidental Take Permit shall be initiated by the Project applicant with the USFWS and mitigation measures to avoid or minimize adverse Project effects to CAGN, as identified by the USFWS shall be implemented. Potential impacts will be reduced to below the level of significance through implementation of one or more of the following measures, which individually or in combination will reduce potential impacts to below the level of significance: 1) avoidance; 2) minimization of impacts; 3) acquisition and set aside of similar CAGN habitat either on-site or off-site at a 1 to 1 ratio; and, 4) the purchase of off-site compensation land.

### **Response to Johnson & Sedlack Comment B-34**

There are no set mitigation “ratios” for the replacement of impacted riparian/riverine habitat. The ratio of required mitigation is based upon the quality and biological value of each potentially impacted riparian/riverine habitat. As stated in Mitigation Measure BIO-4, the cited 1:1 ratio is the minimum habitat replacement and the replacement is 1:1 “or as required by the agency.” The DEIR proposes that impacts to riverine “creek” resources be avoided to the maximum extent possible, thus avoiding any mitigation to and for resources found streams and creeks.

Furthermore, MM Biological Resources 3 of the City of Lake Elsinore’s Recirculated Program EIR for the City’s 2011 General Plan Update requires “Individual environmental review conducted for future development projects will be required to identify any impacts on riparian areas and wetlands and, in consultation with the appropriate resource agencies and applicable regional plans, must ensure incorporation of adequate mitigation to preserve the viability of these important biological resources.” This requirement will apply to all AVSP implementing development projects.

Mitigation Measure BIO-4 will be revised as follows:

Individual environmental review conducted for future AVSP implementing development projects will be required to identify any impacts on riparian areas and wetlands and, in consultation with the appropriate resource agencies and applicable regional plans, must ensure incorporation of adequate mitigation to preserve the viability of these important biological resources.

Prior to issuance of any grading permit(s) for areas within the AVSP that contain riparian/riverine habitat, the applicant shall implement one or more of the following measures to mitigate for impact to riparian/riverine ~~at a 1:1 ratio~~ that individually or in combination will reduce potential impacts to below the level of significance, subject to regulatory agency (U.S. Army Corps of Engineers (ACOE), California Regional Water Control Board (CRWQCB) and California Department of Fish and Wildlife (CDFW)) approval:

- Avoidance of on-site riparian/riverine habitat;
- Enhancement of other AVSP on-site riparian/riverine habitat;
- Restoration of on-site riparian/riverine habitat following ground-disturbance activities; or,
- On-site or off-site replacement of CDFW jurisdictional streambed and associated mitigation of residual impacts to riparian/riverine habitat at no less than 1:1 replacement to impact ratio, or such other ratio as required by the regulatory agency, whichever is greater. Off-site replacement shall include the purchase of mitigation credits at an agency-approved off-site mitigation bank or payment into an in-lieu fee agreement, such as the San Jacinto River invasive removal project through Santa Ana Watershed Authority.

### **Response to Johnson & Sedlack Comment B-35**

Mitigation Measure BIO-9 on DEIR page 4.11-81 is not vague, since future biological surveys “focused” on specific species would be conducted to determine if any sensitive biology resources exist in or adjacent to a future building area, and only then, if sensitive species actually reside, would sound walls be considered. Sound walls will not be needed, obviously, if wildlife is not present, which will probably be the case in most circumstances in the future given the mining nature of the project site. In order to provide more clarity regarding when noise barriers will be required, Mitigation Measure BIO-9 will be revised as follows:

Prior to the future approval of a Phased Development Plan, Subdivision Map, or Design Review application by the City’s decision-making authority, applicants for any proposed new implementing development shall submit a current site-specific biological survey prepared by a qualified biologist which evaluates the potential construction-related noise impacts upon wildlife. If biological survey determines that construction-related noise mitigation is necessary; prior to the commencement of construction activity, a temporary sound wall shall be erected adjacent to construction between the AVSP’s implementing development’s footprint and any ~~Critical Habitat Areas~~ impacted wildlife resources to ensure that wildlife are not subject to noise that would exceed residential noise standards (65 dBA) or ambient noise levels at 65 dBA (whichever is higher). Once construction is completed, the temporary sound wall shall be removed.

### **Response to Johnson & Sedlack Comment B-36**

The commenter is correct in that the Alberhill School will not be rebuilt due to its DEIR-described and assessed non-reinforced masonry and brick composition. The structure will collapse if moved. However, the DEIR proposes that the Alberhill School be evaluated and “as-built” described by an architectural historian. The Alberhill School will then be closely replicated elsewhere on the project site to be used as a Home Owners Association/Community meeting facility.

Mitigation Measure CR-7 will be revised as follows:

Prior to the approval of any implementing development project or the issuance of any grading permit, that includes the Alberhill School site, the applicant shall provide to the City of Lake Elsinore an evaluation of the School House structure completed by a qualified architectural historian and a structural engineer to determine its historical significance and structural integrity. The report shall require the review and approval by the Community Development Department – Planning Division.

If the structure cannot be reasonably relocated because of its structural integrity, the structure will be closely replicated elsewhere on the project site to be used as a Home Owners Association/Community meeting facility. The replicated structure shall be constructed with as many materials from the original structure that can be reused.

Prior to demolition of the original structure, the structure shall be fully documented following the HABS/HAER format. Site documentation includes archival quality large format, black and white photography, measured architectural drawings, and a detailed written historical and photographic log. These documents shall be housed at a suitable repository, determined by the City of Lake Elsinore.

### **Response to Johnson & Sedlack Comment B-37**

Paragraph “b” of Mitigation Measure CR-8 will be revised as follows:

- b. A monitoring program specifying the procedures for the monitoring of grading activities by a qualified paleontologist. ~~or qualified designee.~~

### **Response to Johnson & Sedlack Comment B-38**

CEQA does not require subsurface geologic investigations for AVSP at this approval stage. The City does not require subsurface investigations through CEQA at general plan/specific plan stages. However, the geology, soils, mineral resources and seismicity mitigation measure found on pages 4.1-36 and 4.1-37 require subsurface investigations and remediation prior to grading and construction which is the norm in City Engineering practice.

Notwithstanding the above, the *Geologic Constraints Study* prepared by Petra Geotechnical, Inc. for the project relied upon available geologic and geotechnical reports and data, research and review of available historical documents and aerial photographs, pertinent interviews, site reconnaissance and surficial geologic mapping. Several of the previous geotechnical reports included subsurface exploration and were incorporated in the analysis by Petra Geotechnical, Inc. (See Appendix A of the *Geologic Constraints Study*).

### **Response to Johnson & Sedlack Comment B-39**

The Initial Study stated that one of the goals of the AVSP was to “Provide for restoration of 1,000-acre (plus) of Brownfield land area.” This goal, provided by the landowner, was not accurate. Under the *Hazards and Hazardous Materials* section of the Initial Study, the analysis does not describe the site as being a Brownfield site. Further, the Envirostor website maintained by the California Department of Toxic Substances Control accessed on January 15, 2016 does not show the site as having a history of being a Brownfield site.

The goals and objectives of the AVSP, as evaluated by the DEIR, do not state that “restoration of a Brownfield site” is one of the project’s goals and objectives.

The Brownfields Site definition is found in Public Law 107-118 (H.R. 2869) – “Small Business Liability Relief and Brownfields Revitalization Act” signed into law January 11, 2002. “DEFINITION OF BROWNFIELD SITE- Section 101 of the Comprehensive Environmental

Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following: (39) BROWNFIELD SITE- (A) IN GENERAL- The term ‘brownfield site’ means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”

The Pacific Clay mine has been used for more than 100 years as a surface mining site without the use of chemicals or other hazardous constituents dumping grounds. The mine is only used for the “surface” mineral extraction, not requiring “chemicals.” The AVSP site does not fit the definition of a Brownfield. Any undocumented portions of the AVSP site will undergo significant geologic testing to determine any underground hazards as a normal engineering stage of development evaluation. This is described in the DEIR and detailed in the mitigation measures. This implementing development project stage geologic investigative is standard procedure and conducted for any project, post-mining or otherwise in any land use planning.

Finally, Mitigation Measures HAZ-1 and HAZ-2 require future implementing projects to demonstrate their avoidance of significant impacts associated with the use and storage of hazardous materials and disposal of hazardous materials through implementation of Policies 3.3 and 3.5 of the Hazards and Hazardous Materials section of the Public Safety and Welfare chapter of the General Plan.

#### **Response to Johnson & Sedlack Comment B-40**

A comprehensive description of grading is discussed in Section 4.1 *Geology, Soils, Mineral Resources and Seismicity*. (Pages 4.1-4 through 4.1-5.) In addition, Figure 2.0-24 shows the conceptual grading plan. The DEIR has adequately analyzed grading issues.

#### **Response to Johnson & Sedlack Comment B-41**

Policy 6.2 of the General Plan is applicable to the project as disclosed in the DEIR and states:

*“Continue to require Alquist-Priolo and other seismic analyses be conducted for new development to identify the potential for ground shaking, liquefaction, slope failure, seismically induced landslides, expansion and settlement of soils, and other related geologic hazards for areas of new development in accordance with the Fault Rupture Hazard Overlay District adopted by the City of Lake Elsinore Zoning Code. The City may require site-specific remediation measures during permit review that may also be implemented to minimize impacts in these areas.”*

The DEIR (page 4.1-29) discloses that there are a number of geologic and geotechnical constraints inherent to the AVSP site that should be considered during the design process. These constraints and other preliminary design considerations should be more thoroughly investigated at the implementing development project-level of planning for the AVSP and are presented in the following sections and paragraphs.

Mitigation Measures G-1 through G-11 require numerous measures to ensure that seismic risks are properly attenuated at the Phased Development Plan, Design Review, or Subdivision Map stage when more detailed information is available consistent with General Plan Policy 6.2.

#### **Response to Johnson & Sedlack Comment B-42**

Setbacks from faults involve a number of factors, including type of use and type of building foundation. This precise level of detail is unknown at this time so a specific setback cannot be determined until the Phased Development Plan, Design Review, or Subdivision Map phase. Mitigation Measures G-1 through G-11 require numerous measures to ensure that seismic risks are properly attenuated at the Phased Development Plan, Design Review, or Subdivision Map stage when more detailed information is available consistent with General Plan Policy 6.2.

#### **Response to Johnson & Sedlack Comment B-43**

DEIR pages 4.9-25 through 4.9-31 include a detailed analysis of noise impacts from mining operations. Mitigation Measures NSE-1 through NSE-10 are required to mitigate noise impacts.

DEIR Section 4.11 *Biological Resources /Jurisdictional Waters* includes an analysis of impacts relating to mining operations.

DEIR Section 4.7 *Traffic and Circulation* includes an analysis of traffic impacts relating to mining operations.

DEIR Section 4.2 *Hazards and Hazardous Materials* includes an analysis of hazards and hazardous materials impacts relating to mining operations.

In addition, blasting noise impacts would primarily derive from mining operations. These constitute a permitted use that would not change impacts upon the existing acoustic environment which is the CEQA test of impact significance. Encroachment of future AVSP sensitive uses upon mining operations would be intra-project impacts without changing noise impacts outside the project boundaries. An important aspect of the mining reclamation plan is to leave slopes and pads in a manner ready for future development without requiring massive earthwork. See also the Response to Comment B-7.

#### **Response to Johnson & Sedlack Comment B-44**

In response to this comment, Mitigation Measure G-10 will be revised as follows:

To reduce the potential of the rise in the groundwater, due to the slow-down in mining dewatering activity, the recommendations of compliance with this measure contained in Mitigation Measures G-5 through G-9 shall be demonstrated on construction design plans

for review and approval by the City Engineering Division, prior to issuance of grading permits.

**Response to Johnson & Sedlack Comment B-45**

This is not an accurate statement. See Response to Comment B-39.

**Response to Johnson & Sedlack Comment B-46**

DEIR Section 4.1 *Geology, Soils, Mineral Resources, and Seismicity* includes an analysis of geologic impacts relating to mining operations. DEIR Section 4.2 *Hazards and Hazardous Materials* includes an analysis of hazards and hazardous materials impacts relating to mining operations. As noted in the comment, no subsurface mine horizontal adits and laterals and no mine shafts were located during the geologic survey of the project site. Should any such features be found during the site-specific geotechnical investigation required of each implementing development proposal (Mitigation Measure G-1), they will be abandoned in accordance with all regulatory requirements and best management practices.

**Response to Johnson & Sedlack Comment B-47**

See the Response to Comment B-7.

**Response to Johnson & Sedlack Comment B-48**

Impact 4.3-3 on DEIR page 4-3-30 (Hydrology and Drainage) adequately analyzes groundwater recharge. The AVSP and DEIR evaluate the project's delivery of any excess surface water flows into the ground if it is safe for project inhabitants.

**Response to Johnson & Sedlack Comment B-49**

The City is engineering a new Temescal Creek Bridge. The AVSP has been revised to delete that portion of Temescal Creek between the proposed location of the new Temescal Creek Bridge and Lake Street. Therefore, that portion of the Creek will not be modified as part of the AVSP. The remaining portion of Temescal Creek is located within an open space planning area ranging in width from 250 feet to 500 feet. Mitigation Measure HY-4 requires the protection of the existing streambed of the Temescal Canyon Wash (Creek).

Mitigation Measure HY-4 will be revised as follows:

Temescal Canyon Wash (Creek) shall be preserved in or restored to its natural condition retaining its current flood capacity and flow rate in order to maintain the drainage's

function as a wildlife corridor. In order to protect the existing streambed of the Temescal Canyon Wash (Creek), an energy dissipating structure shall be provided at the storm drain system discharge point, if necessary. Erosion control devices shall also be provided, if necessary. Consistent with Mitigation Measures BIO-4 and BIO-5, implementing development projects in the vicinity of Temescal Canyon Wash (Creek) shall be designed to locate development away from the Temescal Canyon Wash (Creek) riparian/wildlife corridor to allow sufficient wildlife movement and access and to preserve its other biological resources and habitat.

#### **Response to Johnson & Sedlack Comment B-50**

Due to the 30-year development period for the AVSP and the fact that the design and construction of such basins will be addressed at the future implementing development project stage of development, it would be speculative to identify the size, location and maintenance responsibility for the basins at this time. However, the sediment basins will generally be maintained by a Homeowner's Association. Some facilities may be maintained by the Riverside County Flood Control and Water Conservation District if that agency accepts the facility(ies) for maintenance. Similarly, the City of Lake Elsinore may maintain sediment basins, if it accepts them for maintenance. However, absent acceptance by the Riverside County Flood Control District or the City, the basins will be maintained by a Homeowner's Association. Removal of debris from the basins should occur after each major storm event, but at least once each year. The AVSP document will be amended to incorporate this information regarding the maintenance of the sediment basins.

#### **Response to Johnson & Sedlack Comment B-51**

First as the commenter suggests, the noise analysis dated May 9, 2011 was not prepared for the AVSP project specifically; it was prepared to address noise impacts to the Ashbury Community (part of the adjacent Alberhill Ranch) from existing Pacific Clay mining operations. However, the study does analyze the Pacific Clay mining operation's noise impacts on the surrounding community, and the City study found Pacific Clay mining compliant with all City noise requirements and the RP-112 Reclamation Plan.

As mentioned in previous comments, the AVSP is a phased development and mining will continue to occur on the later phases until they are ready to be developed. This study is relevant to the proposed project's anticipated impacts on the existing environment, and the City provides the decision-makers and public through this DEIR with relevant "historical" noise information within the study area. The analysis in this historical noise report shows that all current operations on the Pacific Clay Mining Site adhere to the City of Lake Elsinore's General Plan Noise Element, and City of Lake Elsinore Noise ordinance.

Secondly, the project-specific *Noise Analysis* dated June 2, 2010 along with Chapter 4.9 of the DEIR provide noise analysis specific to AVSP. The analysis describes typical construction and traffic noise impacts similar to what would occur after project buildout. At this time, a more

detailed and site specific noise analysis is not feasible; however, there are several performance-based mitigation measures in place (NSE-4, NSE-5, NSE-6, and NSE-7) which require additional noise studies prior to any Phased Development Plan, Design Review, or Subdivision Maps. The DEIR mitigation measures ensure that further implementing development project-specific noise studies will take place, and any potentially significant noise impact will be addressed during the implementing development project phases of this project.

### **Response to Johnson & Sedlack Comment B-52**

The commenter is referring to page 4.9-15 of the DEIR which states in part: “*Point sources of noise emissions are atmospherically attenuated by a factor of 6 dB per doubling of distance. The loudest construction activities would require 280 feet of distance between mobile source equipment and a nearby receiver to reduce the peak 90 dB source strength to the generally acceptable 75 dB exterior exposure...*”

Based on the Inverse Square Law for sound, for every doubling of the distance from the noise source, the sound pressure levels -  $L_p$ , will be reduced by 6 decibels. This is established scientific fact and is used by Caltrans in the document titled: *Technical Noise Supplement to the Traffic Analysis Protocol, September, 2013*. The basic premise of the Inverse Square Law applies to construction noise as well and is an accepted scientific principle used in noise impact analysis for CEQA purposes for many years. The path that sound travels is based on several factors, including atmospheric conditions, topography, and intervening structures or barriers. At the program level of analysis, in the absence of project specific conditions, it is not feasible to predict sound levels except in general terms. Mitigation Measures NSE-1 through NSE-10 provide performance-based mitigation measures to ensure that when more detailed information is available at the Phased Development Plan, Design Review, or Subdivision Map application stage, noise impacts will be adequately mitigated.

### **Response to Johnson & Sedlack Comment B-53**

Section 4.9.1.2 *Existing Conditions* in Section 4.9 *Noise* of the DEIR describes the existing noise environment, including traffic and from mining activities as it affects Planning Area 5b and 6b.

### **Response to Johnson & Sedlack Comment B-54**

Section 4.9 *Noise* of the DEIR provides an evaluation of construction noise impacts on pages 4.9-15 through 4.9-17. Accurate and meaningful modeling of construction noise impacts requires knowledge of the exact source location, the source strength, the exact receptor location, and any intervening barriers to line-of-sight propagation. At this time, none of that information is known at a project-specific plan of zoning level of detail. The impact assessment is therefore necessarily generic at the specific plan level. A generic impact envelope of 280 feet has been calculated as a guideline that defines the likely extent of worst-case construction equipment noise impacts that may require consideration of impact mitigation. Future project-level

home/office and subdivision design CEQA documentation would be expected to refine that guideline impact distance.

#### **Response to Johnson & Sedlack Comment B-55**

Section 4.9 *Noise* of the DEIR provides an evaluation of construction noise impacts on pages 4.9-15 through 4.9-17. As noted earlier, accurate and meaningful modeling of construction noise impacts requires knowledge of the exact source location, the source strength, the exact receptor location, and any intervening barriers to line-of-sight propagation. At this time, none of that information is known at a specific plan level of detail. The impact assessment is therefore necessarily generic at a plan zoning level. A generic impact envelope of 280 feet has been calculated as a guideline that defines the likely extent of worst-case construction equipment noise impacts that may require consideration of impact mitigation. Future project-level home/office and subdivision design CEQA documentation would be expected to refine that guideline impact distance.

In addition, a construction vibration analysis is provided on pages 4.9-27 through 4.9-29 of the DEIR.

#### **Response to Johnson & Sedlack Comment B-56**

The term “short-term” refers to construction noise impacts at any one specific location. Although there is a projected 30-year development period for the AVSP, construction of implementing development projects will occur at individual project locations and not concurrently over the entire 1,375-acre AVSP project site. The duration of construction activities within a zone of substantial noise influence for any given receiver is therefore considered to be short-term. Upon completion of development of an adjacent parcel, there is likely no future construction activity noise impact to the given receiver. The extensive grading, over-excavation, soils hauling and possible blasting noted in the comment are related to implementation of the mining reclamation plan and not to future specific development proposals within the AVSP. Noise impact significance is evaluated relative to the impact to the existing acoustic environment. Permitted mining operations are part of the existing noise environment and will not be altered by the proposed project. A commitment to precise levels of construction impact mitigation requires a nexus between impact significance and the specified mitigation measures. At the specific plan level, any determination of future specific implementing development project noise impacts is speculative and cannot be determined.

#### **Response to Johnson & Sedlack Comment B-57**

The project-specific *Noise Analysis* dated June 2, 2010 along with Chapter 4.9 of the DEIR provide noise analysis specific to AVSP. The analysis describes typical construction and traffic noise impacts similar to what would occur after project buildout. At this time, a more detailed and site specific noise analysis is not feasible; however, there are several mitigation measures in

place (NSE-1, NSE-2, and NSE-3) which address construction-related noise. Other mitigation measures require additional noise studies prior to any Phased Development Plan, Design Review, or Subdivision Maps approval when specific design details are known. The DEIR mitigation measures ensure that further noise studies will take place, and any potentially significant noise impact can be addressed in later phases of this project. In order to clarify that such implementing development project noise studies are required and will be prepared, a new mitigation measure NSE-0.5 will be added as follows:

NSE-0.5 Prior to the future approval of a Phased Development Plan, Subdivision Map, or Design Review application by the City's decision-making authority, applicants for any proposed new development shall submit a project-specific noise impact analysis which evaluates potential construction-related noise impacts upon existing surrounding land uses and potential noise impacts from existing and projected surrounding land uses upon the proposed project.

### **Response to Johnson & Sedlack Comment B-58**

As noted in previous responses with respect to noise impacts, accurate and meaningful modeling of operational noise impacts requires knowledge of the exact source location, the source strength, the exact receptor location, and any intervening barriers to line-of-sight propagation. At this time, none of that information is known at a project-specific level of detail. The impact assessment is therefore necessarily generic at the specific plan level. Future project-level home/office and subdivision design CEQA documentation would be expected to refine that guideline impact distance. As noted above in the Response to Comment B-57, a new Mitigation Measure NSE-0.5 has been added to clearly identify the requirement for implementing development project-level noise impact analyses. Mitigation Measures NSE-4 through NSE-8 are performance based mitigation measures intended to mitigate operational noise to less than significant levels.

### **Response to Johnson & Sedlack Comment B-59**

As noted earlier, the project-specific *Noise Analysis* dated June 2, 2010 along with Chapter 4.9 of the DEIR provide noise analysis specific to AVSP. The analysis describes typical construction and traffic noise impacts similar to what would occur after project buildout. At this time, a more detailed and site specific noise analysis is not feasible, however there are several mitigation measures in place (NSE-4, NSE-5, NSE-6, and NSE-7) which require additional noise studies prior to the approval of any Phased Development Plan, Design Review, or Subdivision Map. As noted above in the Response to Comment B-56, permitted mining operations are part of the existing noise environment and will not be altered by the proposed project. Additionally, as noted above in the Response to Comment B-57, a new Mitigation Measure NSE-0.5 has been added to clearly identify the requirement for implementing development project-level noise impact analyses that address both construction-related and post-construction noise impacts. The DEIR mitigation measures ensure that further noise studies will take place, and any potentially

significant noise impact can be addressed in later phases of this project consistent with City codes.

### **Response to Johnson & Sedlack Comment B-60**

As noted earlier, the project-specific *Noise Analysis* dated June 2, 2010 along with Chapter 4.9 of the DEIR provide noise analysis specific to AVSP. The analysis describes typical construction and traffic noise impacts similar to what would occur after project buildout. At this time, a more detailed and site specific noise analysis is not feasible; however, there are several mitigation measures in place (NSE-1 through NSE-8) which are performance based mitigation measures which require additional noise studies prior to the approval of any Phased Development Plan, Design Review, or Subdivision Map. The DEIR mitigation measures ensure that further noise studies will take place, and any potentially significant noise impact can be addressed in later phases of the project consistent with City codes.

In addition, page 4.9-18 of the DEIR specifically states that an increase of + 3dB is considered substantial. Mitigation Measures NSE-1 through NSE-8 are intended to reduce impacts where increases are greater than +3 dB.

With respect to biological resources, the Specific Plan's design placement of less noise-sensitive land uses closest to I-15 and any impact to bio-habitats of Temescal Creek was presumed impact positive in that Temescal Creek has been noise impacted for many years from freeway traffic, mining operations and brick manufacturing such that placement of retail close to I-15 was not presumed to measurably alter the acoustic environment of the creek area. Noise protection for the creek area would likely be included in project-specific development plans in that any design review applications require completion of a supplemental noise study.

### **Response to Johnson & Sedlack Comment B-61**

Non-residential noise impacts will be evaluated at a project-specific basis, if and when implementation project descriptions are finalized to a degree of detail to allow such an evaluation. The noise study notes that the City's siting standards for such uses are less stringent relative to noise, but that sound transmission across the interface of dissimilar land uses may be a concern requiring documentation of compliance with City planning standards. There are several mitigation measures in place (new NSE-0.5, and NSE-1 through NSE-8) which are performance based mitigation measures which require additional noise studies prior to the approval of any Phased Development Plan, Design Review, or Subdivision Map. The DEIR mitigation measures ensure that further noise studies will take place, and any potentially significant noise impact can be addressed in later phases of this project.

### **Response to Johnson & Sedlack Comment B-62**

The AVSP is a specific plan and Figure 3-1 *Villages and Planning Area Map* sets forth the locational requirements of the various land uses. This serves as the regulatory mechanism for the location of land uses.

As noted earlier, the Specific Plan's design placement of less noise-sensitive land uses closest to I-15 and any impact to bio-habitats of Temescal Creek was presumed impact positive in that Temescal Creek has been noise impacted for many years from freeway traffic, mining operations and brick manufacturing such that placement of retail close to I-15 was not presumed to measurably alter the acoustic environment of the creek area. Noise protection for the creek area would likely be included in project-specific development plans in that any design review applications require completion of a supplemental noise study. Implementing development project noise impact analyses as required by new Mitigation Measure NSE-0.5 shall evaluate the potential noise impacts of individual (and cumulative) development upon Temescal Creek.

### **Response to Johnson & Sedlack Comment B-63**

As noted earlier, the project-specific *Noise Analysis* dated June 2, 2010 along with Chapter 4.9 of the DEIR provide noise analysis specific to the AVSP. The analysis describes typical construction and operational noise impacts. At this time, a more detailed and site specific noise analysis is not feasible, however there are several performance-based mitigation measures in place (new NES-0.5, and NSE-1 through NSE-10) which require additional noise studies prior to any Phased Development Plan, Design Review, or Subdivision Maps when specific design details are known. The DEIR mitigation measures ensure that further noise studies will take place, and any potentially significant

In addition, the noise analysis in the DEIR adequately addresses noise impacts using accepted CEQA practices and methodology.

### **Response to Johnson & Sedlack Comment B-64**

As noted above in Response to Comment B-2, the AVSP EIR “tiers” of the 2011 Certified EIR for the City of Lake Elsinore General Plan. The primary purpose of the *Traffic Impact Analysis* (TIA) was to provide an AVSP consistency analysis with the current General Plan. The proposed AVSP compares the proposed specific plan to the land use plan currently included in the City’s General Plan, which evaluated traffic operations in the future. The specific plan is included as a development project in the City’s current General Plan. The proposed AVSP is an amendment to the City’s current General Plan. This is the reason the TIA compares the traffic totals to the General Plan rather than the existing environment.

The proposed AVSP contains revisions to the specific plan including minor residential unit count and location revisions and minor replacements in type and scale of some non-residential uses. The net result is projected to be a reduction in both the daily and peak-hour trip generation

versus the already approved General Plan land use plan for the AVSP project site. Prior to the approval of a Phased Development Plan, Design Review, or Subdivision Map, a TIA for that proposed development phase will be required and as part of that analyses. Project-specific and cumulative mitigation to accommodate the proposed level of development will be identified. Required improvements, as conditions of approval for the Phased Development Plan, Design Review, or Subdivision Map, will then be required to be in place before the occupancy of the proposed development phase to ensure that the identified impacts are addressed.

### **Response to Johnson & Sedlack Comment B-65**

The commenter's comment is acknowledged on roadway infrastructure. The appropriate infrastructure will be conditioned and implemented by the project at the Phased Development Plan, Design Review, or Subdivision Map stage to provide adequate circulation for the development and the fair share obligations will be for the cumulatively impacted off-site improvements as dictated by the project-specific TIA findings at each approval stage.

The mobility network identified in the General Plan Buildout scenario will be the ultimate system that will be required at the buildout of the City's General Plan. As each phase of the AVSP development is submitted for approval, project TIAs will be required to identify the specific mitigation that will be necessary to provide acceptable traffic operations. That mitigation, both project-specific and cumulative, will then be required to be in place before occupancy of the proposed development phase to ensure that the identified impacts are addressed.

As indicated in the TIA, all subsequent applications for the actual development of AVSP (*i.e.*, Phased Development Plan, Design Review, or Subdivision Map, etc.) will require the preparation of project-specific traffic impact analyses consistent with City Guidelines. In addition, prior to approval of the first Phased Development Plan (PDP), a TIA evaluating cumulative impacts of the AVSP on regional transportation facilities within the City's sphere of influence, including without limitation, Temescal Canyon Road to Indian Truck Trail, Lake Street, and Nichols Road shall be completed in consultation with the County of Riverside and WRCOG. To ensure that impacts of the AVSP on the regional road network are mitigated, a Phased Road Improvement Plan shall be prepared in conjunction with the first Phased Development Plan and, to the maximum extent allowable in accordance with the TUMF program, regional road improvements shall be constructed by the developer in exchange for TUMF fee credits. See below Response to Comment E-2.

As previously noted, as each subsequent PDP is submitted for approval, a TIA for that phase will be required and will identify the impacts necessary to mitigate impacts related to that phase of the development.

In addition, Mitigation Measure TC-2 identifies specific improvements that are required. (See DEIR pages 4.7-79 through 4.7-81). The DEIR acknowledges that, although the improvements required by Mitigation Measure TC-2, if fully constructed, will reduce impacts to less than significant for the General Plan Amendment Buildout With Project scenario, the project cannot

guarantee the timing and construction of these improvements which are regional and will be determined by the City of Lake Elsinore, other cities in western Riverside County, the County of Riverside and the Riverside County Transportation Commission, and Caltrans based upon need and the availability of funding. Thus, it is possible that the required improvements will not be constructed in time to mitigate the proposed project's traffic and circulation impacts to below the level of significance. Therefore, the proposed project's impacts are significant and unavoidable. (DEIR, page 4.7-81)

### **Response to Johnson & Sedlack Comment B-66**

As noted in Response to Comment B-64 above, the primary purpose of the TIA was to provide a consistency analysis with the Current General Plan, which does not include mainline Freeway analyses. The Caltrans facilities impacts will be addressed within the TIA reports associated with all subsequent applications for the actual subdivision development of Alberhill Villages. As previously noted, the proposed AVSP land use plan will generate less traffic than the plan included in the City's current Updated General Plan. During the analysis of the Updated General Plan, analyses were completed for the I-15 corridor. With the projected reduced project traffic volumes, no additional analysis of the I-15 corridor beyond what has already been completed was deemed necessary. As indicated in the TIA, all subsequent applications for the actual development of Alberhill Villages (*i.e.* Phased Development Plans, Subdivision Tract Maps or Conditional Use Permits, etc.) will require the preparation of project-specific traffic impact analyses consistent with City Guidelines, which may require construction analyses based on the extent of the proposed grading/truck traffic. As noted in the above Response to Comment B-64 and Response to Comment B-65, subsequent TIAs and a Phased Infrastructure Plan will be required as part of the PDP application process.

### **Response to Johnson & Sedlack Comment B-67**

As noted in previous responses, accurate and meaningful construction traffic impacts analysis cannot be determined until submittal of a Phased Development Plan, Design Review, or Subdivision Map. Analysis of construction-related impacts of each submitted project will be provided depending on the extent of the proposed grading and projected amount of construction-related traffic. Mitigation Measure TC-1 requires the following performance based measures:

*“Prior to the issuance of a grading and/or building permits for development proposed by a Phased Development Plan, Subdivision Map, or Design Review Application, start of construction of each phase of the Alberhill Villages Specific Plan Project, the Applicant shall implement the following measures documented in a construction management plan to be approved by the City Engineer:*

- *Control of any street closure, detour, or other disruption to traffic circulation;*
- *Routes that construction vehicles will utilize the site;*

- *Hours of construction traffic (not to occur during AM or PM peak hour);*
- *Off-site vehicle staging and parking areas;*
- *Proposed construction staging plan for the Project;*
- *Posted information for contact in case of emergency or complaint; and,*
- *Hours of construction and traffic control during construction shall not interfere with ingress/egress to and from the residential, commercial and other land uses from each phase built and to be built out.”*

### **Response to Johnson & Sedlack Comment B-68**

The Water Supply Assessment (WSA) is a current analysis of the EVMWD’s ability to serve the AVSP project long term. The WSA was approved by the EVMWD. The AVSP is adopted as part of the EVMWD Water Supply Master Plan. The Governor’s mandatory water reduction has little direct bearing on the WSA or the Master Plan as to the AVSP.

Independent of the AVSP and more directly associated with State mandates, the EVMWD has complied with the State mandates by providing current and future programs to conform to any State water resource mandates. In fact, the EVMWD has curtailed their “purple pipe” reclaimed water programs to institute a 4th level of water reverse osmosis waste water treatment at the Regional Waste Water Treatment Plant to directly recharge their groundwater basins rather than use reclaimed water in new subdivisions.

EVMWD, not the City, is the water provider and EVMWD has stated that water will be supplied to the AVSP. AVSP will comply with EVMWD mandates as they may evolve over the next 30 years. The DEIR discusses the drought situation on page 4.10-39.

The EVMWD issued a letter dated January 14, 2016 in response to the DEIR water supply. This letter was received after the close of the DEIR comment period but will be included in the administrative record as part of the staff report. The letter states in part that “the EVMWD Board of Director’s adopted the WSA in 2012 and the findings in the WSA, based upon EVMWD’s 2010 Urban Water Management Plan, are still valid today.” See the Response to Comment U-2.

### **Response to Johnson & Sedlack Comment B-69**

The Water Supply analysis in the DEIR and, detailed in the Appendix 1.2 Preliminary Water Facilities Plan, has been reviewed by EVMWD and accepted. This AVSP zoning stage water facilities analysis covers the entire 1,400 acres. These master planned water facilities will be developed in conjunction with EVMWD and more specific plans will be detailed at the normal detailed infrastructure stage of the AVSP Phased Development Plan process. Water supply plans will be independently submitted, approved and constructed at the direction of and with final

approval of EVMWD. The Appendix water plans are for the lead agency review and support the conclusion that the water supply is present for the project per EVMWD and a preliminary set of master water plans are present to serve the entire project areas. The DEIR is a tiered Programmatic EIR and as more detailed development plans are prepared, more detailed water service facilities will be engineered. If, during the subsequent implementing development project and entitlement reviews, more information comes to the forefront concerning possible adverse environmental impacts of the planned water facilities not currently known or disclosed, an initial study will focus the environmental questions to both the City and EVMWD for their lead and responsible agency decision-making process per CEQA.

In addition, in cases where specific information is known about water infrastructure, the DEIR has evaluated the environmental impacts to the extent practical in the absence of more detailed information as part of a Phased Development Plan, Design Review, or Subdivision Map. (See DEIR page 4.10-42).

#### **Response to Johnson & Sedlack Comment B-70**

The DEIR contains a Preliminary Wastewater Facilities Plan Appendix 1.1. The commenter desires more precise information other than this early zoning stage of wastewater analysis. Similar to Response B-69 above, the details of the delivery system of waste water to the EVMWD treatment plant will be more detailed at the Phased Development Plan, Design Review, or Subdivision Map level. The DEIR has identified the alternative and more likely system to utilize the existing wastewater treatment facilities and design a series of sewer lift stations in Lake Street to direct the waste water toward the treatment facilities. This system is analyzed in the DEIR and provides the substantial evidence that sewer treatment facilities are available for the project.

In addition, in cases where specific information is known about sewer infrastructure, the DEIR has evaluated the environmental impacts to the extent practical the absence of more detailed information which is not available at this time. (See DEIR page 4.10-52).

#### **Response to Johnson & Sedlack Comment B-71**

Pursuant to CEQA Guidelines Section 15204 (a), “In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.

The commentary is concerned with the Specific Plan land use policies and not the DEIR data or conclusions and therefore, no response is necessary.

#### **Response to Johnson & Sedlack Comment B-72**

The commenter concludes for the reason stated in his comment letter, the DEIR must be “updated and recirculated for additional public review and comment.”

The responses to the commenter’s comments above do not alter the proposed project, change the Draft EIR’s significance conclusions, or result in a conclusion such that significantly more severe environmental impacts would result. Instead, the information presented in the responses to comments “merely clarifies or amplifies or makes insignificant modifications” in the Draft EIR as is permitted by *CEQA Guidelines* Section 15088.5(b).

Regarding recirculation of the Draft EIR, *CEQA Guidelines* Section 15088.5, requires the lead agency to recirculate an EIR only when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review. New information added to an EIR is not significant unless the EIR has changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse, environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project’s proponents have declined to implement (*CEQA Guidelines*, Section 15088.5).

In summary, significant new information consists of: (1) disclosure of a new significant impact; (2) disclosure of a substantial increase in the severity of an environmental impact; (3) disclosure of a feasible project alternative or mitigation measure considerably different from the others previously analyzed that would clearly lessen environmental impacts of the project but the project proponent declines to adopt it; and/or (4) the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (*CEQA Guidelines*, Section 15088.5).

Recirculation is not required where, as stated above, the new information provided in response to the comments received to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate DEIR (*CEQA Guidelines*, Section 15088.5).

# Comment Letter C

## Southern California Edison



Karen Cadavona  
Project Environmental Management  
1218 South 5<sup>th</sup> Avenue, 225E  
Monrovia, CA 91016

December 31, 2015

Mr. Roy F. Stephenson, PE, Land Use Engineer  
City of Lake Elsinore  
c/o HR Green  
1100 Town & Country Road, Suite 1025  
Orange, CA 92868  
rstephenson@hrgreen.com

RE: Alberhill Villages Specific Plan (SP 2010-02)

Dear Mr. Stephenson:

Southern California Edison (SCE) appreciates the opportunity to review and provide comments on the Draft Environmental Impact Report (DEIR) for the Alberhill Villages Specific Plan. The Alberhill Villages Specific Plan (AVSP) is a master planned, mixed-use community that would occupy approximately 1,400 acres and proposes construction of: (1) 8,244 dwelling units (2) 2,481,000 square feet of office space, and 1,526,000 square feet of commercial/retail space; and (3) development of a university campus or similar educational institution to serve up to 6,000 students; and supporting uses including schools, parks, worship centers, and green belt paseos. The AVSP includes re-created and restored natural wildlife and open space connections in key locations in the Specific Plan area to provide continuity to the Cleveland National Forest off-site to the south and the MSHCP core areas off-site to the north. The AVSP would include improvements and realignments of Lake Street and Temescal Canyon Road.

### **Encroachment of SCE's Right-of-Way and Access**

SCE is the electric service provider for the City of Lake Elsinore and maintains electrical transmission and distribution facilities, as well as substations and supporting appurtenances in the City. As illustrated in the attached map, SCE has an existing 115 kilovolt (kV) subtransmission line located along Temescal Canyon Road and Lake Street, which is represented as a red line. We have applications pending with the California Public Utilities Commission (CPUC) for the Alberhill System and Valley-Ivyglen Subtransmission Projects (represented as magenta and blue lines). When constructed, the proposed projects would result in two sets of 115 kV subtransmission poles along Temescal Canyon Road and Lake Street.

SCE is concerned that the proposed project's improvements and realignments of Lake Street, Temescal Canyon Road, and Temescal Canyon Wash may impact SCE's existing and proposed subtransmission lines. The implementation and construction of the University Town Center (Village 1) may require relocation of the existing 115 kV line. We are also concerned about potential encroachment and proposed land uses contiguous to SCE's rights-of-way (including and passive/active parks, or recreational uses, landscaping, bike lanes, parking facilities, etc.). SCE's transmission corridors may not be compatible with some types of recreational activities; therefore, the developer should contact SCE regarding any plans to utilize SCE's transmission corridors as active trails and parks.

The DEIR Figures 2.0-9 and 2.0-10 illustrate the right-of-way cross sections for Lake Street and include single-circuit subtransmission lines. The City should consider modifying the DEIR Figures to illustrate the proposed utility corridor that includes Alberhill System and Valley-Ivyglen Subtransmission Projects (two double-circuit subtransmission lines). SCE can assist the City in updating these figures so that they depict the ultimate configuration of SCE's proposed projects.

The proposed AVSP should not impose constraints on SCE's ability to access, maintain, and operate its current and future facilities. SCE's rights-of-way and fee-owned properties are purchased for the exclusive use of SCE to operate and maintain its present and future facilities. SCE will review any proposed use on a case-by-case basis, including bike lines and landscaping. Approvals or denials will be in writing based upon review of the maps provided by the developer and compatibility with SCE right-of-way constraints and rights. In addition to the above referenced 115 kV Subtransmission lines, SCE may have additional facilities within the proposed AVSP. Please forward five (5) sets of plans depicting all SCE's facilities and associated land rights to the following location:

C-1

December 31, 2015  
Alberhill Villages DEIR  
Page 2 of 3

Real Properties Department  
Southern California Edison Company  
2131 Walnut Grove Avenue, G.O.3 – Second Floor  
Rosemead, CA 91770

**General Order 95**

SCE must comply with the CPUC's General Order (GO) 95, which establishes rules and regulations for the overhead line design, construction, and maintenance. GO 95 includes minimum clearance requirements from thoroughfares, roadways, ground, and railroads, as well as specific minimum clearances from tree branches and vegetation around overhead wires.

**General Order 131-D**

The modification and relocation of subtransmission lines or electrical facilities that are designed to operate at or above 50 kilovolts (kV) may be subject to the CPUC's GO 131-D<sup>1</sup>. The Draft EIR should be revised to address significant environmental impacts from any proposed relocation or modification of SCE's 115 kV subtransmission lines as a result of implementation and construction of the AVSP. If not addressed in the DEIR, SCE may be required to pursue a separate, mandatory CEQA review through the CPUC, which could delay approval of the SCE subtransmission line portion of the project for two years or longer.

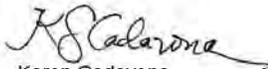
C-2

**Coordination Between SCE and the City of Lake Elsinore and Developer**

SCE appreciates the opportunity to comment on the AVSP. SCE requests coordination with the City and developer regarding the ultimate alignment and right-of-way widths for Lake Street, Temescal Canyon Road, and Temescal Canyon Wash, as well as the timing of construction for these components of the AVSP.

If you have any questions regarding this letter, please contact me at [Karen.Cadavona@sce.com](mailto:Karen.Cadavona@sce.com) or (626) 462-8622.

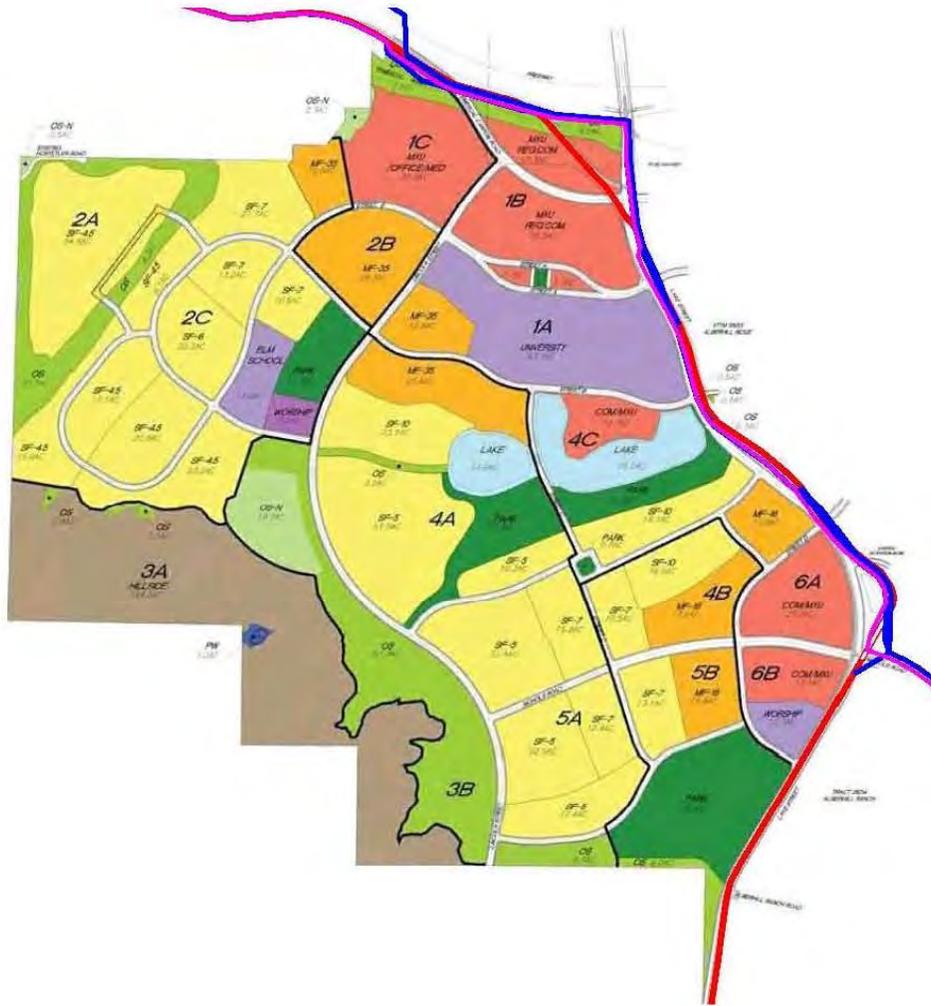
Regards,



Karen Cadavona  
Third Party Environmental Reviews  
Project Environmental Management  
Southern California Edison Company

cc: Jennifer Wolf, SCE  
Jeremy Goldman, SCE  
Kimberly Douglas, SCE

<sup>1</sup> <http://docs.cpuc.ca.gov/PUBLISHED/Graphics/589.PDF>



## **Response to Comment Letter C** **Southern California Edison**

Southern California Edison provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in its letter dated December 31, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to Southern California Edison Comment C-1**

As a point of clarification, it should be noted that when constructed, the proposed projects will result in two (2) sets of 115 kV Subtransmission poles along portions of Temescal Canyon Road, portions of Temescal Creek and Lake Street.

SCE comments about the potential encroachment of land uses on their rights-of-way (including passive/active parks, recreational uses, landscaping, bicycle lanes, parking facilities, and other improvements). C&C property owner and the City have been working with SCE on mutually understanding the proposed 115 kV Ivyglen alignments along Lake Street consistent with the adopted General Plan and Specific Plans with the understanding that an "off road" pedestrian corridor and utility access road will be located in between the two (2) 115 kV Subtransmission pole lines along old Lake Street.

The intent of DEIR figures 2.0-9 and 2.0-10 was to show the two (2) 115 kV Subtransmission pole locations (existing and proposed) along old Lake Street, which becomes the pedestrian and utility access road corridor after Lake Street is realigned onto Alberhill Villages. This configuration was shown without the express detail of the two (2) double circuited Subtransmission lines. The City acknowledges that two (2) parallel 115 kV Subtransmission pole lines will be placed along Lake Street. It is our understanding that not all SCE right-of-way has been acquired.

### **Response to Southern California Edison Comment C-2**

In the last eight (8) years of coordination with SCE on the design location of the two (2) parallel 115 kV Subtransmission pole lines alignments, both General Orders (GO) 95 and 131-D respectively have been jointly taken into consideration by SCE, C&C and the City in the design location discussions of the power poles.

**Comment Letter D**  
**United States Fish and Wildlife Service**



**United States Department of the Interior**

FISH AND WILDLIFE SERVICE  
Ecological Services  
Palm Springs Fish and Wildlife Office  
777 East Tahquitz Canyon Way, Suite 208  
Palm Springs, California 92262



In Reply Refer To:  
FWS-WRIV-12B0288-16CPA0092

DEC 31 2015

Mr. Roy F. Stephens, PE  
Land Use Engineer  
City of Lake Elsinore  
c/o H.R. Green  
1100 Town & Country Road, Suite 1025  
Orange, California 92868

Subject: Draft EIR for the Alberhill Villages Specific Plan, City of Lake Elsinore,  
Riverside County, California

Dear Mr. Stephens:

The U.S. Fish and Wildlife Service (Service) has reviewed the draft Environmental Impact Report (DEIR) for the proposed Alberhill Villages Specific Plan (AVSP) residential and commercial project (Project) which we downloaded from the City's website on December 10, 2015. The DEIR was prepared to identify the proposed project's direct, indirect, and cumulative environmental impacts, to discuss alternatives, and to propose mitigation measures that avoid, minimize, or offset significant environmental impacts.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.). On June 22, 2004, the Service issued a Section 10(a)(1)(B) permit for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP established a multiple species conservation program in western Riverside County to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. The City of Lake Elsinore (City) is an MSHCP permittee and the AVSP area is within the MSHCP plan area, although as discussed below, not all of the AVSP area is subject to the MSHCP. We are providing comments and recommendations under the California Environmental Quality Act (CEQA) comment to assist in the identification and mitigation of significant or potentially significant Project related impacts to biological resources and the project's consistency with or effects to the MSHCP.

The AVSP is a master-planned residential and mixed-commercial use community located in the northwest portion of the City of Lake Elsinore. It is bordered by Lake Street and the Brighton Specific Plan to the east, Interstate 15 and MSHCP Core Reserve 1 to the north, the

D-1

Cleveland National Forest and the Horsethief Canyon Ranch Specific Plan to the west, and the Murdock Alberhill Ranch Specific Plan and residential development to the south. The Project site encompasses approximately 1,400 acres.

D-1  
Cont.

**Comments and Recommendations**

The Service has concerns about the sufficiency and completeness of the DEIR in describing and providing analysis for project-related impacts, particularly in regards to: 1) Conflict with an adopted regional Habitat Conservation Plan or adopted regional Natural Communities Conservation Plan (i.e., the direct conflict with assembly of the Western Riverside County MSHCP reserve system, specifically, Proposed Linkage 1 and Proposed Constrained Linkage 6 and existing conservation east of Lake Street); 2) MSHCP implementation for the portions of the AVSP that are outside of the settlement area; 3) Interfering with movement of native wildlife species; 4) Sensitive vegetation communities such as Riversidean sage scrub and alluvial fan scrub; and 5) Identifying appropriate mitigation for purposes of CEQA (CEQA, Section 15125 (d)). The Service requests that the City revise and recirculate the DEIR to ensure that project-related impacts the MSHCP Conservation Area and biological resources and the habitats upon which they depend are adequately identified and analyzed, and that adequate and enforceable avoidance, minimization, and compensatory mitigation measures are incorporated.

D-2

The majority (but not all) of the Alberhill Villages Specific Plan project area was subject to a legal settlement between Pacific Clay Products, Inc. (plaintiff) and the County (defendant) which led the County to remove most of the current Alberhill Villages Specific Plan area from the MSHCP. The “excluded portion” of the AVSP is not covered by the MSHCP or subject to MSHCP implementation.

AVSP MSHCP Implementation

The DEIR states categorically in the DEIR that “The Project is not subject the City’s MSHCP review” (p. 4.11-73) and that “This Project also has an [settlement] agreement with the City and County of Riverside that this Project is not subject to the MSHCP review or setting aside of habitat conservation.” Based on the map of the 2004 settlement agreement (as maintained by the County of Riverside), a portion of the AVSP area was not included in the settlement and is therefore subject to the provisions of the MSHCP. This area includes APN 390-130-017 and some other portions of the 56.7-acre parcel illustrated in Exhibit 3 of the Biological Resource Assessment for the Temescal Creek Bridge Project (DEIR Appendix G – Part 1). Specifically, all of the land between Temescal Canyon Road and Interstate-15, as well as a narrow strip of land on the south side of Temescal Canyon Road, appear to be outside of the settlement area and therefore subject to the MSHCP. including the Joint Project Review (JPR) process through the Western Riverside County Regional Conservation Authority (RCA), and other MSHCP policies and procedures such as, the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (MSHCP section 6.1.2), Protection of Narrow Endemic Plant Species (MSHCP section 6.1.3), Additional Survey Needs and Procedures for burrowing owl and Criteria Area

D-3

Species (MSHCP section 6.3.2), and the Guidelines Pertaining to the Urban/Wildlands Interface (MSHCP section 6.1.4). The revised DEIR should address the properties that are subject to the MSHCP. Table 2.0-1 should be revised to reflect that a Lake Elsinore Acquisition Process (LEAP) is required for portions of the project outside the settlement area. We request that a discussion of MSHCP implementation and consistency for the portions of the AVSP subject to the MSHCP be included in the recirculated DEIR.

D-3  
Cont.

*Covered Roads*

Expansion of Lake Street, Nichols Road, and Temescal are Covered Activities under the MSHCP and are subject to MSHCP requirements as covered circulation element roads. The MSHCP provides guidelines to avoid and minimize its effects on Core and Linkage biological functions and values (Section 7 of the MSHCP). The DEIR statement "for right-of-way within the MSHCP core areas outside of the development agreement for Pacific Clay and the MOU for Alberhill Ridge" (DEIR, Table 2.0-1) should be revised to "for right-of-way within the MSHCP criteria area" to reflect that these right-of-ways along their entire length require a LEAP for and Joint Project review for MSHCP implementation.

D-4

AVSP MSHCP Conflicts

*Reserve Assembly*

As discussed above the DEIR does not accurately address Project compliance with the MSHCP. The substantial negative impacts to MSHCP reserve assembly resulting from the proposed project are also not addressed. The Project as designed would interfere with the assembly of MSHCP Proposed Linkage 1 and eliminate the function of Proposed Constrained Linkage 6. The portion of the project west of Lincoln Street will sever the current wildlife corridors which the MSHCP proposes to conserve and enhance through assembly of MSHCP Proposed Linkage 1 and Proposed Constrained Linkage 6 (discussed below). These corridors are important for enabling the movement of mountain lions, bobcats, mule deer, and other mammals and reptiles between the Santa Ana Mountains (MSHCP Existing Core Reserve B) and Existing Core Reserve C (via the Reserve's Extension 2).

D-5

*Wildlife Movement*

The Environmental Impacts analysis section (4.11.3.2) of the DEIR's biological resources chapter responds to a list of standard questions prescribed by the CEQA regulations for inclusion in each EIR, including the interference with the movement of wildlife or movement corridors and conflicts with the provisions of an adopted regional Habitat Conservation Plan or Natural Community Conservation Plan.

D-6

The DEIR states that there will be no impact to existing wildlife corridors and the movement of mammal, reptile, and other wildlife species using the project site and the surrounding area based on the Project's plan to construct four narrow open space corridors (DEIR Figure 4.11-5) for the

benefit of the Project's future residents. As explained by the DEIR, these open space corridors will be multi-purpose trails supporting hiking, bicycling, jogging, dog-walking, and other forms of human recreation. These "wildlife corridors" will be only 35 to 80 feet wide (DEIR Figure 4.11-75), and will often be located adjacent to the community's roads (DEIR Figure 4.11-75), including Lincoln Street (Figure 4.11-74), one of the future community's major traffic arteries.

The Service does not anticipate that mountain lions, their mule deer prey, bobcats, and other wildlife species sensitive to human presence will utilize such narrow wildlife corridors, even if all human uses were precluded, due to the proximity of the proposed development, and the sight, sounds, and scents of the attendant human activity. The discussion in the DEIR recognizes this limitation impact without identifying or disclosing the impact. The DEIR, under Impact 4.11-4 Threshold, states "regional wildlife corridor movement and corridor connections will be provided in the form of stepping-stone habitat [i.e., noncontiguous and disconnected habitat patches] for birds and several reptile and small- to medium-sized mammals that are more adapted to disturbed development". We concur with that statement and expect that only common wildlife species, tolerant of human presence will use the proposed "wildlife corridors" and do not expect that native sensitive and declining wildlife species, targeted by the MSHCP conservation strategy will use such narrow corridors embedded in human use.

Severance of the regional wildlife corridor through construction of the AVSP project, as currently configured, would result in the loss of population connectivity and gene flow between MSHCP Core Reserves B and C for sensitive species such as mountain lion, their mule deer prey, bobcat and other MSHCP covered species.

The Project proposes to mitigate its adverse impacts to wildlife corridors and the movement of native wildlife only by complying with the provisions of the Migratory Bird Treaty Act (MBTA) that protect active bird nests from removal or failure due to human disturbance (Mitigation Measure BIO-6). The DEIR concludes that "Therefore, with implementation of Mitigation Measure BIO-6 within the Project, there will be less than significant impacts to animal movement ...".

The Service strongly disagrees with the contention of the DEIR's authors that the temporary protection of bird nests during nearby construction activities will mitigate the project's impacts to wildlife corridors and the movement of mammals, reptiles, and sensitive native bird species in any way. Clearly, these impacts will be both major and permanent. We do not anticipate that the temporary protection of occupied bird nests on the project's construction sites will continue to allow mountain lions, bobcats, and other disturbance-sensitive native species to continue moving across the AVSP landscape between the MSHCP's Estelle Mountain/Lake Matthews Reserve (MSHCP Core Reserve C) and the Santa Ana Mountains (MSHCP Core Reserve B, in the Cleveland National Forest). The Project, as currently configured, will sever this wildlife corridor, and interfere with the assembly of MSHCP Proposed Linkage 1. These impacts will remain severe to both disturbance-sensitive native wildlife species, and the assembly of the MSHCP reserve system after implementation of the mitigation measures currently proposed in the DEIR. The effects to MSHCP reserve assembly would be permanent if the Project is implemented as

D-6  
Cont.

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5

currently contemplated in the DEIR.

D-6  
Cont.

*MSHCP Proposed Constrained Linkage 6*

The DEIR package (including its supporting appendices) proposes development of the area surrounding Temescal Creek, Alberhill Creek, and Temescal Canyon Road as a commercial center within the proposed University Town Village Center portion of AVSP's proposed Village 1. To move this area out of the current 100-year floodplain, the project proposes to lower the height of the 100-year floodwater elevation by replacing the natural channel of Temescal Creek with a constructed trapezoidal channel widened to 150 feet. The existing creek channel and Temescal Canyon Road would be realigned to facilitate development within the current floodplain area.

The stretch of Temescal Creek within the AVSP project site is MSHCP reserve feature Proposed Constrained Linkage 6 and identified as a wildlife corridor in the MSHCP Conservation Area. Proposed Constrained Linkage 6 was included in the Conservation Area corridor for the purpose of maintaining wildlife movement and to facilitate habitat connectivity along Temescal Creek. Construction of a commercial center (or other development) surrounding the creek channel will make it limit its use by sensitive and endangered birds and other wildlife. These impacts will remain severe and permanent if the creek area (Exhibit 3 in the Biological Resource Assessment for the Temescal Creek Bridge Project, DEIR Appendix G – part 1) is developed, even if one of the AVSP's proposed 35-80 foot open space corridors (Figure 4.11-6) were to surround the creek. These impacts will not be mitigated by Mitigation Measure BIO-6 (the temporary protection of occupied bird nests on construction sites), and will remain significant after implementation of all of the DEIR's currently proposed mitigation measures.

D-7

The Service requests that the DEIR be revised, and recirculated for public review, to address the Project's consistency with the MSHCP. Discussion and analysis of all potential conflicts with the MSHCP resulting from the proposed Project should be provided.

Sensitive Species and Communities

*Least Bell's Vireo*

The DEIR does not disclose that the State and Federally listed least Bell's (vireo), has recently been found breeding along the portion of Temescal Creek that lies within the AVSP project site, specifically, in the 56.7-acre parcel described in DEIR Appendix G - Part 1, and as well as in the reach of the creek lying further west inside the AVSP site. The vireo surveys were conducted on the Project site in 2007 and 2010 for the AVSP portion of Southern California Edison's Alberhill System Project. Instead, the DEIR states that "no LBV were identified on-site" (DEIR p. 4.11-48).

D-8

Deepening and realigning the channel along with the development of the area surrounding the creek are expected to result in the loss of vireo nesting habitat and territories, as well as potential

nesting and foraging habitat for several other species of riparian-obligate birds, including the endangered southwestern willow flycatcher, the yellow warbler, and the yellow-breasted chat. The DEIR assumes that any impacts to riparian birds will be fully mitigated by mechanisms external to the DEIR and CEQA, such as Section 7 consultation under the federal Endangered Species Act.

To that end, the Service requests that the recirculated DEIR include the following items:

- Disclosure to the public of all sightings of least Bell's vireos, yellow warblers, yellow-breasted chats, and willow flycatchers within the AVSP site and within a 0.5-mile radius of the project boundary, including the dates of each sighting.
- Maps showing the locations these sightings, including a map focused exclusively on the portion of Temescal Creek within the AVSP site.
- Quantification of the maximum potential habitat loss to each of these four bird species, as well as an estimate of the maximum number of vireo breeding territories that might be lost (assuming full occupancy of all available vireo habitat)
- A detailed, quantitatively adequate, and site-specific mitigation proposal designed to fully compensate for the proposed loss of vireo habitat and vireo territories.

D-8  
Cont.

Without the inclusion of a detailed habitat mitigation proposal in the recirculated DEIR, the assumption that the Project's impacts to the vireo will be mitigated to a level of "less than significant" impact through future external processes which have not yet taken place cannot be supported. We request that the recirculated DEIR include a detailed and site-specific mitigation proposal for impacts to occupied vireo habitat.

*Quino Checkerspot Butterfly*

The DEIR states that suitable habitat exists for this species on the project site (DEIR p. 4.11-40), but that no protocol surveys for this species are required by the Service because the project lies outside of the Service's map displaying the areas where we recommend that protocol surveys be conducted for the Quino checkerspot butterfly (Quino). However, the DEIR is utilizing an outdated Service map: the 2005 Quino Checkerspot Survey Region Map. The recommended survey area was updated in December 2014; the updated map is available on the Web at

[http://www.fws.gov/carlsbad/TEspecies/Documents/QuinoDocs/Quino%20Survey%20Guidelines\\_version%2015DEC2014.pdf](http://www.fws.gov/carlsbad/TEspecies/Documents/QuinoDocs/Quino%20Survey%20Guidelines_version%2015DEC2014.pdf).

D-9

Quino checkerspot butterflies were found in 2006 on a land parcel adjacent to the AVSP project site (west of Bernard Road). Therefore, the DEIR's assessment of the species' likelihood to occur onsite should be upgraded from "low potential to occur" to "high potential to occur". We also recommend that presence absence surveys for Quino protocol surveys be conducted and that the survey results and an analysis of Project effects to suitable and occupied Quino habitat be provided in the recirculated DEIR.

*Burrowing Owl*

The DEIR reported that burrowing owls have a low to moderate potential to occur throughout the disturbed portions of the AVSP project site, and recommended that focused breeding surveys be conducted pursuant to the Burrowing Owl Survey Protocol and Mitigation Guidelines prepared by the California Burrowing Owl Consortium (1993). The Service agrees with the DEIR's conclusion concerning the species' potential to occur in disturbed portions of the project site. However, the 1993 survey protocol prepared by the Consortium has been replaced by the more updated survey protocol contained in the CDFW's 2012 Staff Report on Burrowing Owl Mitigation (available online).

We request that the recirculated DEIR change the wording of Mitigation Measure BIO-1 to read as follows:

"A pre-construction survey for resident burrowing owls will be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of the Project site containing suitable burrowing owl habitat. If ground-disturbing activities in these areas are delayed or suspended for more than 30 days after the pre-construction survey, the area shall be resurveyed for owls during the 30 days preceding the revised ground-disturbance date.

The pre-construction survey will be conducted in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation.

If occupied burrowing owl tunnels are identified on-site during the pre-construction survey, construction may proceed if a 50-foot avoidance buffer can be established around the affected owl tunnel entrances (no ground disturbance, equipment laydown or storage, or parking inside the buffer). The owls and worker compliance with the buffer shall be monitored daily by a qualified biologist until construction and all other ground-disturbance activities in the vicinity have ceased.

If the Project cannot avoid an occupied burrow (resulting in the possibility of taking owls through entombing or crushing them in their burrows, or evicting them to be eaten by raptors or other predatory birds), relocation will be necessary to avoid unauthorized take of this declining species. The Project shall notify the Wildlife Agencies (CDFW and USFWS) within 3 business days of detecting the occupied burrow, and shall prepare a Burrowing Owl Relocation Plan for approval by the Wildlife Agencies."

The September 2014 Biological Resource Assessment for the Temescal Creek Bridge Project (DEIR Appendix G – Part 1) states that "No suitable burrowing owl habitat was found to occur" on the 56.7-acre bridge and commercial center project site, but provides no details as to how this conclusion was reached. Without any explanation, the Service can only assume that the surveyor reached this conclusion because, apart from the seeming absence of owls at the time of the

D-10

survey (Spring 2014), the site was heavily wooded and burrowing owls do not live in densely treed areas. However, most of the trees on site have been removed and burrowing owls nest and forage in areas of low, open vegetation. The elimination of the trees has improved siter conditions for burrowing owl.

The Service requests that Appendix G - Part 1 be amended to reflect that burrowing owls may colonize the 56.7-acre Temescal Creek area prior to the commencement of grading and construction. The portions of this area that are not within the settlement area would be subject to the MSHCP burrowing owl survey procedures. Additionally, a 30-day pre-construction survey for occupied burrows will be necessary in this area prior to beginning ground-disturbance operations.

**D-10  
Cont.**

*Coast Horned Lizard*

DEIR Section 4.11.3.2 discusses impacts to sensitive species of wildlife and plants. The DEIR lists only seven taxa in this section: burrowing owl, coastal California gnatcatcher, least Bell's vireo, southwestern willow flycatcher, fairy shrimp (includes multiple species), rosy bosa, and Stephen's kangaroo rat. However, on page 4.11-36, the DEIR states that the coast horned lizard – which is a California (CDFW) Species of Special Concern (a class of special-status species) – “was observed within alluvial fan scrub and chaparral habitats within the Project site”, and survey detections of horned lizards on the AVSP site are mapped in Figure 4.11-2A on page 4.11-7 and in the May 2014 letter Update to the Biological Constraints Analysis for the 1,400-acre AVSP Site.

The coast horned lizard (CHL) has declined greatly in distribution and abundance since the early 20<sup>th</sup> century due to a combination of habitat loss due to development and extensive human collecting of individual CHLs to keep as pets. The Project will contribute to the species' decline by removing its habitat, and also by eliminating gene flow between populations in MSHCP Core Reserve B (Santa Ana Mountains) and Core Reserve C (the Estelle Mountain / Lake Matthews Reserve) through severing the wildlife corridor connecting these areas across the AVSP project site (the corridor which the MSHCP proposes to conserve through assembly of MSHCP Linkage 1). Should the soils not be compacted and the vegetation suitable in the Project's narrow multi-purpose open space corridors, individual coast horned lizards might enter these corridors from the two MSHCP reserves, but will likely be eliminated inside the corridors by a combination of predation from domestic cats, dogs, and human-associated crows and raccoons, collecting by residents recreating on the open space trails, and vehicle crushing when some lizards wander into nearby streets of the new AVSP development.

**D-11**

We request that the City require the Project to mitigate the loss of coast horned lizard habitat and population due to onsite development of the AVSP by placing an equivalent number of habitat acres occupied by the CHL into permanent conservation. This could be accomplished either onsite or offsite. If the Project will not mitigate the loss of CHL habitat and population due to its development, then the recirculated DEIR should disclose that the Project will not mitigate its adverse impacts to the distribution and population size of this declining species, and these

impacts to the CHL will remain significant after all Project mitigation measures have been implemented.

D-11  
Cont/

*Coulter's Matilija Poppy*

The DEIR discloses that Coulter's Matilija poppy, a CNPS List 4.2 species, has been found on the AVSP project site, and Figure 4.11-2A on page 4.11-7 maps the occurrences of this species on the Project site. The Service is not requesting that any habitat be conserved for this species, but, given that it is a rare native plant species which is declining due to development, and is also considered aesthetically attractive and useful for landscaping, we request that the City condition the Project's permit to require the developer to notify all of the native plant nurseries in Southern California (Riverside, Los Angeles, Orange, and San Diego Counties) by certified letter of the pending elimination of these plants by the Project, and offer the nurseries the opportunity to salvage the plants or seed (on a first-come, first-served basis) prior to commencement of vegetation clearing and other ground-disturbing activities.

D-12

*California Satintail Grass*

The DEIR states that California satintail grass (*Imperata brevifolia*) is designated by the California Department of Food and Agriculture (CDFA) as a List B noxious weed (p. 4.11-18). This is not accurate. The species was formerly listed as a noxious weed when the CDFA confused it with its weedy relative, *Imperata cylindrica*, a species from Asia and Africa which has become invasive in summer-wet regions of the southeastern United States. A professional botanist subsequently petitioned the CDFA to have the rare California species removed from the noxious weed list, and the CDFA agreed with him and did so. The California species is rare, in decline, and does not exhibit the aggressive weedy behavior of its Old World relative. The Service requests that the recirculated DEIR be amended accordingly.

D-13

*Coastal Sage Scrub and Alluvial Fan Scrub are USFWS Sensitive Natural Communities*

The DEIR states that the AVSP project site supports only "two special-status habitats: coast live oak riparian forest and southern willow scrub." This conclusion was based on information contained in the CDFW's California Natural Diversity Database (CNDDDB). Coastal sage scrub (including its regional variant, Riversidean sage scrub) and alluvial fan scrub to are widely considered to be special-status vegetation communities. Coastal sage scrub is a rapidly disappearing habitat mostly confined to Southern California which is the primary or sole habitat for approximately 100 species of native plants and animals. Concern over its limited distribution and rapid decline due to widespread development inspired the state legislature's creation of California's Natural Communities Conservation Program, which, in concert with the federal listing of the coastal California gnatcatcher (an obligate coastal sage scrub species) as threatened, contributed to the development of the Western Riverside County MSHCP and other regional Habitat Conservation Plans in Southern California. The Project proposes to remove approximately 286 acres of Riversidean sage scrub (DEIR Table 4.11-1, p. 4.11-4) and 28.44 acres of alluvial fan scrub (DEIR p. 4.11-71).

D-14

The loss of coastal/Riversidean sage scrub and alluvial fan scrub (even if “disturbed”) due to development of the AVSP site should be considered a significant adverse environmental impact due to the very large number of declining native species which are restricted to or primarily dependent on this habitat. We request that unavoidable impacts to coastal/Riversidean sage scrub and alluvial fan scrub be mitigated at a minimum of a 3:1 ratio by placing the same type of habitat into permanent conservation. This mitigation could occur either onsite or offsite.

D-14  
Cont.

*Native Oak Tree Replacement / Mitigation*

DEIR Mitigation Measure BIO-8 proposes to mitigate the Project’s removal of native oak trees (*Quercus agrifolia*, an ecological keystone species) by planting replacement trees in the 36-inch box size at a 3:1 ratio. While we commend the Project for planning to replace native oak trees lost to development, we do not recommend that 36-inch box specimens be used in the mitigation plantings. Wild coast live oak trees face a long and severe summer dry season, which they survive by tapping into the water table using deep roots. However, specimens cultivated in pots or boxes experience a rapid loss of vigor in the root system by the time that they must be grown in 5-gallon pots or larger containers, and the plants are typically “root-bound” at this point, meaning that the roots are coiled around the inner perimeter of the container, tangled and meshed together, and typically growing sideways (sometimes even upward) rather than being oriented downward for deep growth. The result is that native oak trees in the 5-gallon size and larger sizes typically fail to develop extensive deep roots after planting, and then they must be supported permanently by heavy irrigation, or perish from drought during the summer dry season, or remain permanently stunted and in poor health.

D-15

The Service applauds the proponent for being willing to bare the expens of larger replacement saplings. However, to improve the success of Measure BIO-8, we recommend that the City adjust it to replace removed or otherwise impacted native oaks by planting 1-gallon size replacement oaks at a 12:1 mitigation-to-impact ratio. Over several decades of future (albeit very slow) tree growth, this should result in the maintenance or a gain in the number of native oak trees onsite, (after allowing for some mortalities of planted trees due to droughts and herbivory by gophers and squirrels) with the added benefit that the purchase and planting of twelve 1-gallon plants instead of three 36-inch boxed trees (per each oak tree removed) will greatly reduce the developer’s costs for implementing this Measure.

*Section 4.3 – Hydrology and Drainage*

The AVSP site map on page 4.3-18 (Figure 4.3-7) is illegible due to the font size used within the map, the amount of detail illustratrated, and the size of the Project site. We request that the recirculated DEIR contain this information in a legible format.

D-16

*Cumulative Effects Analysis for Biological Resource Impacts*

Severance of the regional wildlife corridor through construction of the AVSP project, as

D-17

currently configured, would result in the loss of population connectivity and gene flow between MSHCP Core Reserves B and C for sensitive species such as the mountain lion, their mule deer prey, and the bobcat. This Project would contribute to isolating the Santa Ana Mountains population of mountain lions by severing the wildlife corridor, further contributing to the documented genetic decline (inbreeding depression) of this population. Thus, the Project would, in combination with ongoing development of other areas along the eastern and southern flanks of the Santa Ana Mountains and in Temescal Canyon, incrementally contribute to the pressure on the shrinking population of mountain lions in the Santa Ana Mountains, threatening this population with extirpation over the long term. These impacts will remain severe after all of the Project's currently proposed mitigation measures are implemented.

D-17  
Cont.

The Service requests that the Cumulative Effects section of the recirculated DEIR's biological resources disclose these impacts to the public. We also request that the recirculated DEIR disclose the locations, dates, and numbers of individuals sighted for all mountain lion observations on and within 1 mile of the AVSP project site and that a map of these sightings be included.

*Summary, and Agency Recommendations*

The AVSP project will adversely impact multiple sensitive species of native wildlife and/or their habitats. If the Project remains in its current configuration, the most severe and cumulative biological impacts will be the severance of the regional wildlife corridor between the Santa Ana Mountains (MSHCP Core Reserve B) and the MSHCP's Core Reserve C (the Estelle Mountain/Lake Matthews Reserve, including Proposed Extension 2) and biological impacts to the Temescal Creek wildlife corridor. Species sensitive to human presence and requiring large open landscapes will no longer be able to disperse or to maintain population connectivity between these two MSHCP reserves. The current configuration of the AVSP project is in direct conflict with the assembly of the MSHCP reserve system, since the Project would (1) prevent the MSHCP from assembling MSHCP Proposed Linkage 1 to conserve and maintain the regional wildlife corridor previously mentioned, and (2) would functionally eliminate MSHCP Proposed Constrained Linkage 6 in terms of its ability to support sensitive and endangered riparian bird species and to maintain the movement of sensitive species of terrestrial mammals, reptiles, and amphibians along Temescal Creek upstream and downstream of the AVSP site. These adverse impacts would remain major and severe after implementation of the mitigation measures currently proposed.

D-18

The Service recommends that project eliminate its conflict with MSHCP reserve assembly features and include appropriate mitigation for impacts to coastal sage scrub and alluvial fan sage scrub communities. We reiterate the need for MSHCP implementation for portions of AVSP Project including the Joint project review Process and compliance with the MSHCP Riparian/Riverine Policy (MSHCP Section 6.1.2). We request that MSHCP implementation be completed prior to recirculation of the DEIR or adoption of a final EIR for the AVSP.

Mr. Roy Stephens, PE (FWS-WRIV-12B0288-16CPA0092)

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As previously stated we request that our comments above be addressed and the DEIR recirculated. We appreciate the opportunity to comment on the DEIR and look forward to receiving the Project's MSHCP implementation documentation for the MSHCP-included portion of the AVSP site. If you have any questions or comments regarding this letter, or to schedule a discussion of mitigation options, please contact Jim Thiede of the Service at (760) 322-2070, extension 219.

D-18

Sincerely,



Kennon A. Corey  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

cc:  
Charles Landry, Regional Conservation Authority  
Leslie MacNair, California Department of Fish and Wildlife

## **Response to Comment Letter D** **United States Fish and Wildlife Service**

The United States Fish and Wildlife Service provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in its letter dated December 31, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to United States Fish and Wildlife Service Comment D-1**

The commenter’s explanation of the Agency’s goal, as well as, their purpose in writing this comment letter is noted. The City acknowledges that it is a MSHCP permittee. For clarification: the AVSP Pacific Clay-owned areas are exempt from the MSHCP by a legal Settlement Agreement dated February 24, 2004. The AVSP areas are not accorded compliance requirements with the MSHCP directly or indirectly per the agreement and therefore not required to comply with the regulatory requirements of the MSHCP.

### **Response to United States Fish and Wildlife Service Comment D-2**

The commenter states that the DEIR is insufficient in its analysis as to whether the proposed project conflicts with a regional Habitat Conservation Plan. The Multiple Species Habitat Conservation Program (MSHCP) is not applicable as a matter of law to the project. According to a 2004 Superior Court directed legal MSHCP Settlement Agreement; the AVSP area is not subject to the MSHCP, in any manner, directly or indirectly. If negative impacts to the MSHCP from the removal of the project area from the MSHCP were anticipated in the 2004 Settlement Agreement, such “indirect” actions or impacts described in the Settlement Agreement would have identified these “potential” impacts but the Settlement Agreement contract did not do so. In any event, it is the DEIR’s conclusion that, without being legally required to so, the AVSP has substantially implemented all the “physical” elements of the MSHCP, and the AVSP will not conflict with the MSHCP because it includes and will biologically enhance wildlife movement corridors throughout the AVSP project site including, but not limited only to, Linkage 1 and Constrained Linkage 6, noted in the commenter’s correspondence. See the Response to Comment D-5, below.

### **Response to United States Fish and Wildlife Service Comment D-3**

The comment acknowledges that while most of the AVSP project, as shown in the DEIR, is not subject to the MSHCP a small portion of it is. The non-Pac-Clay-owned property referred to as the 9.09-acre project area (APN 390-130-017) is subject to the MSHCP.

As a clarification the reference to inclusion of the 56.7 acre Temescal Creek Bridge Project in the DEIR shows the exterior limits of the project area, as delineated by the City. The DEIR also includes the 9.09-acre site (APN 390-130-017) which was outside the Pac Clay/County of Riverside Settlement Agreement area. Other lands in the 56.7-acre parcel are comprised of a combination of the private ownership of Pacific Clay and Castle & Cooke properties included within the Settlement Agreement along with public rights of way. Only approximately 1 acre of the City's Temescal Bridge area is outside of the MSHCP Settlement Agreement area. The Temescal Bridge project is not part of the AVSP.

### **Response to United States Fish and Wildlife Service Comment D-4**

As discussed above in the Response to Comment D-2, according to a 2004 Superior Court directed MSHCP Settlement Agreement between several Castle & Cooke entities, including Pacific Clay Products, Inc., and the County of Riverside (the "MSHCP Settlement Agreement"); the AVSP area is exempt and excluded from the MSHCP for all purposes. Under the specific terms of the Settlement Agreement, developer-built roads within the boundaries of the AVSP, including the expansion of Lake Street, Nichols Road (Lincoln Street in AVSP) and Temescal Canyon Road, may not be subject to the requirement for completion of an MSHCP-required Joint Project Review (JPR) as covered circulation element roads. However, in response to this comment, the statement in Table 2.0-1 of the DEIR regarding the purpose of the LEAP Process will be amended as follows:

For right-of-way within the MSHCP core areas outside of the development agreement for Pacific Clay and the MOU for Alberhill Ridge. For the expansion of Lake Street, Nichols Road (Lincoln Street in AVSP) and Temescal Canyon Road, except where a MSHCP Joint Project Review for circulation element roads as "Covered Roads" under the MSHCP is not required due to the terms of the MSHCP Settlement Agreement.

### **Response to United States Fish and Wildlife Service Comment D-5**

The City has considered the commenter's concerns with the provisions of wildlife corridors to connect to MSHCP's Proposed Linkage 1 and Proposed Constrained Linkage 6. Although, the AVSP property is not subject to MSHCP linkage requirements, the provision of wildlife corridors through the AVSP that connect to MSHCP linkages will confirm the DEIR conclusion that the AVSP will not conflict with the MSHCP. In order to strengthen the wildlife corridor linkages, the AVSP is amended to include a 500-foot wide wildlife corridor located along the western edge of the AVSP (next to the adjacent Horsethief Canyon development). Additionally, the AVSP is amended to delete from its boundaries the non-Pac-Clay-owned property referred to

as the 9.09-acre project area (APN 390-130-017) and the adjacent 16.7-acre property (APN 390-130-015 and 016), resulting in a 1,375-acre AVSP. The deleted properties, located within the Alberhill Ranch Specific Plan, are located between the aforementioned Temescal Bridge project and Lake Street on both sides of the existing Temescal Canyon Road. Additionally, the Open Space portion of Planning Area 1C (adjacent to Temescal Canyon Road) will be widened to range from 250 feet to 500 feet in width.

Mitigation Measure HY-4 requires the protection of the existing streambed of the Temescal Canyon Wash (Creek).

Mitigation Measure HY-4 will be revised as follows:

Temescal Canyon Wash (Creek) shall be preserved in or restored to its natural condition retaining its current flood capacity and flow rate in order to maintain the drainage's function as a wildlife corridor. In order to protect the existing streambed of the Temescal Canyon Wash (Creek), an energy dissipating structure shall be provided at the storm drain system discharge point, if necessary. Erosion control devices shall also be provided, if necessary. Consistent with Mitigation Measures BIO-4 and BIO-5, implementing development projects in the vicinity of Temescal Canyon Wash (Creek) shall be designed to locate development away from the Temescal Canyon Wash (Creek) riparian/wildlife corridor to allow sufficient wildlife movement and access and to preserve its other biological resources and habitat.

#### **Response to United States Fish and Wildlife Service Comment D-6**

See the Response to Comment D-5, above, regarding the provision of wildlife corridors through the AVSP. In addition to the changes in AVSP design regarding the location and width of wildlife corridors described in the Response to Comment D-5, a new Project-wide Development Standard has been added to the AVSP that addresses the concerns raised in this comment regarding the sensitivity of wildlife species to human presence in wildlife corridors by providing for a separation of human use from the wildlife corridor. The new development standard states:

All roads that cross wildlife corridors within the Alberhill Villages Specific Plan shall be designed and constructed to include wildlife movement underpasses of sufficient size to accommodate large mammals. No pedestrian paths, trails and bikeways or roads shall be located within any wildlife corridor; but may be located adjacent to them. All wildlife corridors shall be separated from any adjacent pedestrian paths, trails and bikeways and roads by appropriate fencing to minimize wildlife/human interaction. Such fencing shall be approved by the Community Development Department prior to installation.

#### **Response to United States Fish and Wildlife Service Comment D-7**

See the Response to Comment D-5, above.

## **Response to United States Fish and Wildlife Service Comment D-8**

Due to the projected 30-year development period associated with the AVSP, the presence or absence of least Bell's Vireo (LBV) and other riparian-obligate birds at any point during that 30-year period would be speculative and therefore cannot be determined at this time. Even current presence of these species does not lead to the conclusion that such species will be present at any specific point in the future.

The DEIR contemplates the potential presence of least Bell's Vireo (LBV) and Southwestern willow flycatcher (SWWF) within the project boundaries through incorporation of Mitigation Measure BIO-3, which sets forth specific measures for addressing LBV and SWWF if present on the site prior to any grading of the six project phases. The Mitigation Measure allows for the assumption of presence and implementation of associated mitigation which includes setbacks up to 500 feet, as well, as erection of sound barriers as biologically appropriate if the noted species are eventually found. Finally, the Mitigation Measure BIO-3 also includes the possibility of obtaining "take" permits from USFWS should the project be determined to have a potential effect on these species. In order to clarify the requirement for a determination as to the absence/presence of least Bell's vireo and other riparian-obligate birds at the time that individual implementing development projects are proposed, Mitigation Measure BIO-3 will be revised as follows:

**BIO-3** Should construction of implementing development projects occur during the breeding season for the least Bell's vireo (LBV), ~~or~~ southwestern willow flycatcher (SWWF) or other riparian-obligate birds (March 15 through September 15), ~~presence/absence~~ protocol-level surveys shall be conducted prior to construction; or presence can be assumed. If surveys document the presence of LBV, ~~and~~ SWWF or other riparian-obligate birds, impacts to LBV, ~~and~~ SWWF or other riparian-obligate birds would be mitigated below the level of significance when occupied riparian forest/woodland/scrub is fenced and direct impacts are avoided and construction within 500 feet of occupied habitat occurs only between September 15th and March 15th to avoid indirect impacts to nesting ~~LBV~~ riparian-obligate birds. If avoidance is not feasible, a temporary noise barrier shall be used during construction, at the appropriate location(s), in coordination with CDFW and the USFWS. The noise barrier shall attenuate noise levels to 60 dBA or less, at the edge of breeding habitat. If surveys indicate that these species are not present, this measure will not be required. Additional or alternative measures to avoid or minimize adverse project effects to LBV, ~~and~~ SWWF or other riparian-obligate birds, as identified by the USFWS in Section 7 or Section 10 Consultation and CDFW, shall be implemented. However, if all avoidance measures cannot be implemented such that "take" of LBV and SWWF is avoided, Take Authorization from USFWS through Final Biological Opinion and Incidental Take Statement and from CDFW through issuance of a California Endangered Species Act Incidental Take Permit or compliance with Fish and Game Code Section 2080.1 will be obtained.

The DEIR has addressed any potential impacts to LBV and/or SWWC and riparian-obligate birds and no additional analysis is necessary to ensure that potential impacts are reduced to less than significant.

#### **Response to United States Fish and Wildlife Service Comment D-9**

During the 14 days of general and focused surveys and site reconnaissance, no Quino checkerspot butterfly were observed on or adjacent to the Project site. Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and in order to ensure that the Quino Checkerspot Butterfly have not occupied the site since the previous surveys and that no significant impacts to the Quino Checkerspot Butterfly (QCB), an additional Mitigation Measure, BIO-11 has been added as follows:

**BIO-11** Prior to grading each phase of the development, a Quino Checkerspot Butterfly (QCB) habitat assessment, followed by presence/absence surveys in accordance with USFWS survey protocol, if habitat is present, as determined by a qualified biologist for areas where suitable habitat is identified shall be completed as follows:

At least one year prior to ground-disturbing activities, a habitat assessment for the QCB in the proposed grading area will be performed. If suitable habitat is identified, a presence/absence survey will be conducted in accordance with USFWS survey protocol. If QCB are not detected, no additional avoidance or minimization is required.

If surveys document the presence of QCB, impacts shall be mitigated to below a level of significance through onsite avoidance or through mitigation consisting of onsite or offsite preservation. If avoidance is not feasible, a Section 7 Consultation or Section 10 Incidental Take Permit shall be initiated by the applicant with USFWS and mitigation measures to avoid or minimize impacts will be implemented in coordination with the USFWS.

#### **Response to United States Fish and Wildlife Service Comment D-10**

Relative to the potential for burrowing owl in the 56.7-acre bridge and commercial center, Mitigation Measure BIO-1 would apply to this area and pre-construction surveys would be necessary and measures such as avoidance or relocation would be implemented as the conditions warrant, resulting in the reduction of any potential impacts to less-than significant. Mitigation Measure BIO-1 has been revised as requested by the commenter. See the Response to Comment B-32 for the revised wording.

### **Response to United States Fish and Wildlife Service Comment D-11**

Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and in order to ensure that there are no significant impacts on the coast horned lizard (CHL), an additional Mitigation Measure, BIO-12 has been added as follows:

**BIO-12** A pre-construction coast horned lizard survey shall be conducted within 30 days prior to the start of construction/ground disturbing activities or vegetation removal, a coast horned lizard (CHL) shall be conducted by a qualified biologist to determine if the Coast Horned Lizard is present. If surveys document the presence of CHL, impacts shall be mitigated to below a level of significance through onsite avoidance or through mitigation

Implementation of one or more of the following measures that individually or in combination will reduce potential impacts to below the level of significance, subject to U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) approval:

- Avoidance of on-site CHL habitat;
- Preservation of other AVSP on-site CHL habitat and the relocation of CHL individuals from the impacted habitat to the preserved on-site habitat;
- The placement of an equivalent number of habitat acres occupied by CHL into permanent conservation.

If CHL are not detected, no additional avoidance or minimization is required.

### **Response to United States Fish and Wildlife Service Comment D-12**

A new Mitigation Measure has been added to the DEIR, which states:

**BIO-13** During the biological surveys required by Mitigation Measure BIO-14, a qualified biologist shall survey the implementing development project site for Coulter's Matilija poppy. If Coulter's Matilija poppy is found on site, all native plant nurseries in southern California (Riverside, Los Angeles, Orange and San Diego Counties) will be notified by certified mail of the pending elimination of these plants by the Project and shall be given the opportunity to salvage the plants or seeds (on a first-come, first-served basis) prior to the commencement of vegetation clearing or other ground-disturbing activities.

### **Response to United States Fish and Wildlife Service Comment D-13**

The removal of California satintail grass from the noxious weed list is noted. The subject paragraph will be amended to delete this reference. The DEIR correctly stated that the species is listed by the California Native Plant Society (CNPS) as a List 2.1 Taxon.

#### **Response to United States Fish and Wildlife Service Comment D-14**

The AVSP Project site is an active 100-year old mining facility that includes 1,032.61 acres disturbed lands supporting ruderal vegetation, located in the central and northern areas. The southern areas outside the mining facility are dominated by chaparral, with transitional areas of coastal sage scrub. Sage scrub and annual grasslands are located on the lower elevation areas in the eastern portion of the AVSP site. The commenter states that based on Table 4.11-1 of the DEIR, “the project proposes to remove approximately 286 acres of Riversidean sage scrub and 28.44 acres of alluvial fan scrub.” Table 4.11-1 only identifies the existing vegetation communities on the site. It does not identify the extent, if any, these vegetation communities will be removed. Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and in order to ensure that there are no significant impacts on coastal sage scrub habitat at the time a Phased Development Plan, Design Review, or Subdivision Map is proposed, an additional Mitigation Measure, BIO-14 has been added as follows:

**BIO-14** Prior to the grading of each phase, an updated vegetation map will be prepared to determine the extent of the willow riparian, coast live oak riparian, coastal sage scrub and alluvial fan scrub within the subject phase; and the amount of these special-status habitats that will be removed as a result of implementing development projects. The extent and quality of coastal sage scrub and alluvial fan scrub will be determined by a qualified biologist. If the presence of said habitat is identified and will be removed as a result of implementing development projects, mitigation of the willow riparian, coast live oak riparian coastal sage scrub and/or alluvial fan scrub will be determined through a Section 7 Consultation or Section 10 Permit.

Implementation of one or more of the following measures that individually or in combination will reduce potential impacts to below the level of significance, subject to U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) approval:

- Avoidance of on-site willow riparian, coast live oak riparian coastal sage scrub and alluvial fan scrub habitat;
- Preservation of other AVSP on-site willow riparian, coast live oak riparian, coastal sage scrub and alluvial fan scrub habitat at no less than a 1:1 ratio, or such other ratio as required by the USFWS and CDFW, whichever is greater;
- The permanent preservation of off-site willow riparian, coast live oak riparian, coastal sage scrub and alluvial fan habitat at no less than a 1:1

ratio, or such other ratio as required by the USFWS and CDFW, whichever is greater.

#### **Response to United States Fish and Wildlife Service Comment D-15**

The City thanks the commenter for the suggestion to provide a less costly approach to mitigating any impact to existing coast live oak trees resulting from development of the AVSP. Mitigation Measure BIO-8 will be revised as follows:

**BIO-8** The Applicant shall be responsible for implementing mitigation to reduce potential impacts to two species of native trees that were located on-site: the southern coast live oak riparian forest located in the northwest corner of the Site that includes coast live oak (*Quercus agrifolia*) and the arroyo willow (*Salix lasiolepis*). The oak trees and willows are large, mature, and in good health. If oak trees will be impacted, the developer shall mitigate the loss at a ~~3:1~~ 12:1 replacement with ~~36" box~~ 1-gallon trees, or shall relocate the native oak trees.

#### **Response to United States Fish and Wildlife Service Comment D-16**

The AVSP site map is shown in full scale, legible format and correct font size in the “printed” Appendices of the DEIR. The enlarged, legible, and identical map is shown in Appendix B Figure 2.

#### **Response to United States Fish and Wildlife Service Comment D-17**

See the Response to Comment D-5, above.

#### **Response to United States Fish and Wildlife Service Comment D-18**

The commenter summarizes the concerns expressed in the above comments. Please refer to Responses D-1 through D-17 above.

#### **Response to United States Fish and Wildlife Service Comment D-19**

The commenter requests that the DEIR be recirculated. The City reiterates that recirculation is not required as noted in Response B-72

**Comment Letter E**  
**County of Riverside Transportation Department**



*Juan C. Perez, P.E., T.E.*  
*Director of Transportation and  
Land Management*

**COUNTY OF RIVERSIDE**  
**TRANSPORTATION AND  
LAND MANAGEMENT AGENCY**

**Transportation Department**



*Patricia Romo, P.E.*  
*Assistant Director of Transportation*

December 31, 2015

Mr. Roy F. Stephenson, P.E.  
Land Use Engineer  
City of Lake Elsinore  
c/o HR Green  
1100 Town and Country Road, Suite 1025  
Orange, CA 92868

RE: Notice of Availability/Notice of Completion of Draft Environmental Impact Report for the Alberhill Villages Specific Plan (SP 2010-02)

Dear Mr. Stephenson,

Thank you for the opportunity to review the Draft Environmental Impact Report for the Alberhill Villages Specific Plan – SP 2010-02 (DEIR). The project proposes development of approximately 1,400 acres with up to 8,244 residential dwelling units; approximately 4 million square feet of non-residential uses including civic/institutional, commercial/retail, professional office/medical and entertainment uses; development of a university campus or similar educational institution to serve up to 6,000 students; and supporting uses including schools, parks, worship centers, and green belt paseos. The Transportation Department (County) has reviewed the DEIR and has the following comments.

The DEIR and project traffic study indicate the development at its ultimate buildout is estimated to generate 150,415 daily trips, 9,927 AM peak hourly trips, and 14,575 PM peak hourly trips. However, no information is provided to illustrate the project's trip distribution to the surrounding area and roadways. Under the County's traffic impact analysis preparation guidelines, where the proposed development would add 50 or more peak hourly trips to County intersections, the intersection shall be analyzed. The County believes it is reasonable to assume that the project would add 50 or more peak hourly trips to County intersections beyond the studied intersection of Horsethief Canyon Road and Temescal Canyon Road. Without a trip distribution of project traffic, it is difficult to verify. This information is needed to determine if the studied area is adequate.

E-1

The DEIR provides an analysis of the existing conditions as well as the City's General Plan Buildout with and without the project. The combination of these analyses may provide the project's cumulative impact under buildout conditions, however determining the project's impact on the existing road network is still unknown and therefore not mitigated. An analysis needs to be provided to identify both the project's direct impacts and necessary improvements to mitigate those impacts.

E-2

As noted in the DEIR (page 4.7-5), the City's General Plan depicts Temescal Canyon Road between the city limits and Horsethief Canyon Road within the unincorporated County of Riverside as a Major Highway (4 lanes within a 100 foot right-of-way). The County's General Plan depicts this same segment as a Major Highway, but the County's designation uses slightly different specifications (4 lanes and a striped median turn lane within a 118 foot right-of-way). The discussion of General Plan Buildout without the Project beginning on page 4.7-35 and ending on page 4.7-40 also indicates that this segment of Temescal Canyon Road was being studied as a 4-lane roadway.

However, the discussion of General Plan Buildout with the Project seems to have studied this segment of Temescal Canyon Road as an Urban Arterial Highway which has 6 lanes within a 120 foot right-of-way. While the County's standard for a Major Highway would nearly meet the right-of-way requirement, the actual roadway design of the County's Major Highway standard would require significant modifications to accommodate 6 lanes. The DEIR's determination that the Temescal Canyon segment is not impacted by the proposed Project appears to rest on the assumption of improvements that exceed the requirements of the City and County's General Plan designations. Although the analysis indicates a 6-lane facility is required to provide adequate capacity for the projected 44,000 daily trips, page 4.7-62 of the DEIR appears to recommend retaining Temescal Canyon Road as a 4-lane facility. The analysis indicates the LOS "E" capacity of a 4-lane Major is 34,100 daily trips which would not provide adequate capacity. Furthermore, the DEIR attributes a portion of the 44,000 daily trips as being diverted trips from a congested I-15 freeway. The report considers this diversion of traffic to "very unlikely" in order to justify the use of a 4-lane facility. One could argue from real world examples that traffic from congested freeways does divert to parallel facilities. The gravity model component of the City's traffic model operates in this manner. Therefore the recommendation of maintaining Temescal Canyon Road as a 4-lane facility is inadequate mitigation.

E-3

Mr. Roy F. Stephenson, P.E.  
December 31, 2015  
Page 3

The DEIR also seems to assert that this increase in design requirements somehow does not rise to the level of requiring a General Plan Amendment to the City and County General Plan. However, if this higher level of improvements is required to fully mitigate the project's impacts, formalizing these requirements in the City's and County's General Plan through a General Plan Amendment should be given consideration as a mitigation measure of the Project to ensure that the higher level of improvements is carried out in the future by all affected projects that may develop along this segment of road.

Under the discussion of Traffic Capacity/Level of Service in the DEIR (page 4.7-78) and its traffic study, impacts are identified from the Project at the intersection of Horsethief Canyon Road and Temescal Canyon Road. The improvement identified to reduce the impact to less than significant is through the installation of a traffic signal and road widening. It is questionable whether the recommendation of adding a single right-turn lane on Horsethief Canyon Road is adequate to accommodate the projected 1,263 PM peak hourly trips. The County would also like to point out that the total project peak hourly traffic at the intersection is shown to decrease at General Plan Buildout with Project, an unlikely scenario. The DEIR indicates the City will require the developer to pay for the improvements in the form of fair-share fees. The County requests that the mitigation fees be paid to the County at the time of building permit issuance in order to mitigate project impacts.

E-3  
Cont.

If you have any questions about these comments, please contact me at (951) 955-2016 or at [ruwillia@rctlma.org](mailto:ruwillia@rctlma.org).

Sincerely,



*for* Russell Williams  
Development Review Manager

RW:RF:KT:rg

cc: Juan C. Perez, Director of Transportation and Land Management  
Patricia Romo, Assistant Director of Transportation

## **Response to Comment Letter E** **County of Riverside Transportation Department**

The County of Riverside Transportation Department provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in its letter dated December 31, 2016. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to County of Riverside Transportation Department Comment E-1**

The City of Lake Elsinore General Plan’s Land Use Plan, which was adopted on December 13, 2011, included land use designations on the AVSP project site that reflect the land uses proposed by the AVSP, in anticipation of the submittal of the AVSP project. Therefore, the TIA completed as part of the General Plan Update Recirculated Program EIR (GP EIR), which was certified by the Lake Elsinore City Council on December 13, 2011 included traffic generated by the AVSP in its analysis of area-wide traffic impacts. The primary purpose of the AVSP TIA was to provide a consistency analysis with the General Plan and therefore utilized a study area consistent with the previous GP EIR’s TIA. The AVSP TIA analyzed significantly more study locations than the General Plan Update EIR TIA.

The existing roadway network serving the AVSP site consists of Lake Street, Nichols Road, and Temescal Canyon Road and the additional roadway network in the area is essentially part of the Project. For this reason, an Existing plus Project analysis is not required.

### **Response to County of Riverside Transportation Department Comment E-2**

There is a projected 30-year development period for the AVSP, construction of implementing development projects will occur at individual project locations and at unknown times during the 30-year period. It would be speculative to identify the timing of future traffic levels at each phase of the future development of the AVSP. As noted on Pages 2.0-6 through 2.0-8 of the DEIR, the AVSP proposed development will be regulated by Phased Development Plans and Design Review applications which will set forth precise design proposals for all or a portion of a particular area within the AVSP. As Phased Development Plans, Design Review, or Subdivision Map applications are proposed, more timely and accurate traffic impact analysis and determination of required improvements can be determined.

In order to assure the completion of appropriate and timely road improvements to serve the AVSP project area, new Project-wide Development Standards have been added to the AVSP which require:

- All road improvements within the Alberhill Villages Specific Plan (AVSP) shall be constructed to ultimate City standards and consistent with the General Plan, unless otherwise identified and approved, as a requirement of the implementing development projects (including but not limited to subdivisions, design review applications and conditional use permits) subject to approval by the City Engineer. The AVSP “Enhanced” and “Modified” cross-sections are subject to the submittal and review of design drawings, at the time implementing development projects are submitted.
- Site-specific Traffic Impact Analyses (traffic studies) shall be required for each Phased Development Plan (PDP) and for all subsequent implementing development projects in accordance with the City’s Traffic Impact Analysis Preparation Guide requirements in effect at the time of Traffic Impact Analysis preparation.
- Prior to approval of the first Phased Development Plan (PDP), a TIA evaluating cumulative impacts of the AVSP on regional transportation facilities within the City’s sphere of influence, including without limitation, Temescal Canyon Road to Indian Truck Trail, Lake Street, and Nichols Road shall be completed in consultation with the County of Riverside and WRCOG. To ensure that impacts of the AVSP on the regional road network are mitigated, a Phased Road Improvement Plan shall be prepared in conjunction with the first Phased Development Plan and, to the maximum extent allowable in accordance with the TUMF program, regional road improvements shall be constructed by the developer in exchange for TUMF fee credits.

A new Mitigation Measure TC-0.5 will be added as follows:

**TC-0.5** Prior to approval of the first Phased Development Plan (PDP), a TIA evaluating cumulative impacts of the AVSP on regional transportation facilities within the City’s sphere of influence, including without limitation, Temescal Canyon Road to Indian Truck Trail, Lake Street, and Nichols Road shall be completed in consultation with the County of Riverside and WRCOG. To ensure that impacts of the AVSP on the regional road network are mitigated, a Phased Road Improvement Plan shall be prepared in conjunction with the first Phased Development Plan and, to the maximum extent allowable in accordance with the TUMF program, regional road improvements shall be constructed by the developer in exchange for TUMF fee credits.

**Response to County of Riverside Transportation Department Comment E-3**

The City’s Circulation Element and the “Proposed Land Use Program Recommended Roadway System” (Exhibit M) in the General Plan Update TIA shows Temescal Canyon Road as a six-lane Urban Arterial facility between Horsethief Canyon Road and Lake Street, which is why it was analyzed as a six-lane facility in the Roadway Segment analysis.

The proposed mitigation measure (Mitigation Measure TC-2) to add a single right-turn lane on Horsethief Canyon Road at Temescal Canyon Road consists of a free right-turn lane, which has significantly greater capacity than a typical single right-turn lane without a free movement. The total peak hour traffic volumes at the intersection of Horsethief Canyon Road at Temescal Canyon Road actually slightly increase at General Plan Buildout with Project.

Please refer to Response to Comment E-2.

The AVSP is required to comply with all regulatory requirements for payment of “fair share” fees for road improvements. These fees are payable at the times established by the regulations that establish such fees. Compliance with regulatory requirements do not need to be set forth as mitigation fees. Nevertheless, Mitigation Measure TC-2 provides:

“The project shall participate in the phased construction of the on-and off-site intersection improvements through payment of City of Lake Elsinore fees, and the participation in the Western Riverside County Transportation Uniform Mitigation Fees (TUMF) program.

Where require, improvements are not covered by these programs; mitigation shall be implemented through fair-share contribution or as otherwise determined by the City Engineer.”

In order to reflect the requirement for payment of “fair share” road improvement fees, new Project-wide Development Standards have been added to the AVSP which require:

- The project proponent/developer(s) shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of issuance of a building permit, pursuant to County Ordinance No. 824.
- The project proponent/developer(s) shall pay all applicable development impact fees and mitigation fees as required by the City of Lake Elsinore Municipal Code and other City-adopted fees.

**Comment Letter F**  
**Santa Margarita Group/Sierra Club**

**From:** Pam Nelson [<mailto:pamela05n@yahoo.com>]  
**Sent:** Wednesday, December 30, 2015 4:08 PM  
**To:** Stephenson, Roy  
**Cc:** Grant Taylor; Dan Silver; MICHAEL AND PAULIE  
**Subject:** DEIR for Alberhill Villages Specific Plan

Mr. Roy F. Stephenson, PE, Land Use Engineer  
City of Lake Elsinore c/o HR Green  
1100 Town & Country Road, Suite 1025  
Orange, CA 92868

RE: DEIR for Alberhill Villages Specific Plan

Dear Mr. Stephenson,  
Homeowners in Alberhill Ranch, Paulie Tehrani and Sharon Gallina, notified me of the Alberhill Villages SP. I've read their and Dan Silver's comments ( dated Dec. 28th and 25th) and concur with their concerns and need for specific review, changes and oversight. I found they have made complete and very well-founded points that need to be considered.

Our group, Santa Margarita group of the San Gorgonio chapter of the Sierra Club has ongoing concerns about wildlife corridor incursions and protection of local wildlife. I have also encountered many problems with Surface Mining Permits and the lack of proper cleanup and handling of brownfields as well as the proper handling of reclamation. Groundwater in our region has been a resource that has lacked proper monitoring and protection. This project needs better review of the impacts on groundwater as well as surface water. Air quality is another major concern.

Please accept my comments as an interested party and keep me updated.

Sincerely,  
Pam Nelson  
Chair  
Santa Margarita group/Sierra Club

cc: Grant Taylor, Dan Silver, Paulie Tehrani, Sharon Gallina, Santa Margarita/SC ex-com,  
SC Chapter Conservation Chair, Linda Riddenour

F-1

**Response to Comment Letter F**  
**Santa Margarita Group/Sierra Club**

The Santa Margarita Group of the Sierra Club provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in an e-mail dated December 30, 2016. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

**Response to Santa Margarita Group/Sierra Club Comment F-1**

Please see responses to Comment Letter J (Paulie Tehrani and Sharon Gallina comments) and Comment Letter L (Endangered Habitats League comments).

The AVSP is not a brownfield development. Please see the above Response to Comment B-39, which fully addresses the issue of brownfields.

Please see the responses to Comment Letter P (South Coast Air Quality Management District) which addresses concerns of air quality.

## Comment Letter G California Department of Fish and Wildlife



State of California - Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
(909) 484-0459  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

*EDMUND G. BROWN, Jr., Governor*  
*CHARLTON H. BONHAM, Director*



December 30, 2015

Mr. Roy F. Stephenson  
City of Lake Elsinore c/o HR Green  
1100 Town & Country Road, Suite 1025  
Orange, CA 92868

Subject: Draft Program Environmental Impact Report  
Alberhill Villages Specific Plan (SP 2010-02)  
State Clearinghouse No. 2012061046

Dear Mr. Stephenson:

The Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Draft Program Environmental Impact Report (DEIR) for the Alberhill Villages Specific Plan Project (AVSP; Project), State Clearinghouse No. 2012061046. The Department is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1). The Department also administers the Natural Community Conservation Plan (NCCP) Program. Within the Inland Deserts Region, the Department issued NCCP Approval and Take Authorization for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) per Section 2800, *et seq.*, of the California Fish and Game Code on June 22, 2004. The MSHCP establishes a multiple-species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit.

The Project is a mixed-use development combining residential (8,244 dwelling units), commercial, office, institutional/educational, and open space and recreational uses on approximately 1,400 acres within the City of Lake Elsinore, Riverside County, California. The AVSP project is bordered by MSHCP Core 1 and Interstate 15 (I-15) to the north, Lake Street and the Alberhill Ridge - Brighton Specific Plan to the east, the Murdock Alberhill Ranch Specific Plan and Lake Elsinore residential communities to the south, and the Cleveland National Forest/ MSHCP Core Reserve B and Horsethief Canyon Ranch Specific Plan development to the west.

*Conserving California's Wildlife Since 1870*

## COMMENTS AND RECOMMENDATIONS

The Department has concerns regarding the sufficiency and completeness of the DEIR. The Department offers the comments and recommendations presented below to assist the City of Lake Elsinore (City; Lead Agency) in adequately identifying and mitigating the project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable the Department to adequately review and comment on the proposed project with respect to impacts on biological resources and the project's consistency with the Western Riverside County MSHCP.

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In order for the Department to complete its review of the DEIR and provide substantive comments on project-related impacts to public trust fish, wildlife, native plants and habitat resources, the following sections of the DEIR need to be revised and recirculated per CEQA Guidelines § 15088.5 (a): Project Description (CEQA Guidelines § 15124), Environmental Impacts (CEQA Guidelines § 15126), Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects (CEQA Guidelines § 15126.4), Consideration and Discussion of Alternatives to the Proposed Project (CEQA Guidelines § 15126.6).

The Department provides the following comments:

### **Natural Community Conservation Planning (NCCP)**

#### Conflicts with Provisions of Approved General Plan and Natural Community Conservation Plan

##### *Natural Community Conservation Plans*

Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. The DEIR Impact 4.11-6 Threshold attempts to address part of this requirement, asking: "Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?" In its response, the DEIR finds that the AVSP will not conflict with a Habitat Conservation Plan, and will have less than significant impact, merely claiming "Implementation of the Project and the Project's present agreement with the City and County of Riverside, this Project is not further subjected to the MSHCP review or setting aside of habitat conservation pursuant to the MSHCP" (DEIR p. 4.11-76). Earlier in the DEIR, in response to the question "would the project conflict with any applicable habitat conservation plan or natural community conservation plan" (DEIR 4.4-2, p. 4.4-26) there is discussion of the Settlement Agreement established between the County of Riverside and Pacific Clay Products, Inc. which removed the project from the requirements of the MSHCP. The provided response in the DEIR is "With the existing County of Riverside settlement agreement in

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place, the Project does not conflict with any applicable conservation plan or natural community preservation plan.” However, this statement is inaccurate and insufficient to address conflicts with the MSHCP.

The Settlement Agreement does not excuse the Project from CEQA requirements. The settlement agreement clearly states that “the Present and Future Uses and Development of Owner’s Properties shall be subject to the provisions of applicable state and federal law with respect to habitat conservation and endangered or threatened species preservation on Owner’s properties” (Settlement Agreement, p. 5). Further, the Settlement Agreement states that the property owner understands it is subject to CEQA review. Analysis of the project’s effects on the MSHCP is a CEQA requirement, not an MSHCP requirement, and therefore the project is required to address Project impacts on the MSHCP. The DEIR provides insufficient analysis of potential conflicts between the Project and the MSHCP.

The Settlement Agreement excluded the majority of the AVSP from the MSHCP. However, based on the Settle Agreement map maintained by the County of Riverside, which illustrates the properties subject to the Settlement Agreement, the Department notes that a portion of the AVSP is not included in the settlement. Specifically, the 9.09-acre parcel south of I-15, west of Lake Street, and north of Temescal Canyon Road (APN 390-130-017) and possibly a portion of the 56.7-acre parcel addressed within the Biological Resource Assessment for the Temescal Creek Bridge Project (DEIR Appendix G – Part 1). As such, the portion of the AVSP not covered by the Settlement Agreement will be subject to the provisions of the MSHCP, including the Joint Project Review (JPR) process through the Western Riverside County Regional Conservation Authority (RCA), and other MSHCP policies and procedures such as, the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (MSHCP section 6.1.2), Protection of Narrow Endemic Plant Species (MSHCP section 6.1.3), Additional Survey Needs and Procedures for burrowing owl and Criteria Area Species (MSHCP section 6.3.2), and the Guidelines Pertaining to the Urban/Wildlands Interface (MSHCP section 6.1.4). The revised DEIR should address the properties that are subject to the MSHCP. Table 2.0-1 should be revised to reflect that a Lake Elsinore Acquisition Process (LEAP) is required for portions of the project outside the settlement area.

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*Riverside County General Plan Amendment No. 960, Lake Elsinore Area Plan*

The Department is concerned that sections of the Riverside County General plan relevant to natural resources were not addressed in the DEIR. The DEIR should address all relevant components in the Riverside County General Plan including the Open Space, Habitat, and Natural Resource Preservation section of the General Plan Land Use Element and the Environmentally Sensitive Lands, Watershed Management Floodplain and Riparian Area Management, Wetlands, and Open Space, Parks and Recreation sections of the Multipurpose Open Space Element. For example, the Lake Elsinore Area Plan of the Riverside County General Plan Amendment 960 has several elements or Elsinore Area Plan Policies (ELAP) that were not addressed in the DEIR that are relevant to wildlife and their associated habitats:

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1. Watercourses (p.5): Land use designations adjacent to the [Temescal] Wash reflect a desire to buffer it from development so that its scenic and natural resource values are retained.
2. ELAP 2.2: Encourage the maintenance of Temescal Wash in its natural state, with its ultimate use for recreational and open space purposes such as trails, habitat preservation, and groundwater recharge.
3. ELAP 16.1: Protect sensitive biological resources in the Elsinore Area Plan through adherence to policies found in the Multiple Species Habitat Conservation Plans, Environmentally Sensitive Lands, Wetlands, and Floodplain and Riparian Area Management sections of General Plan policies found in the General Plan Multipurpose Open Space Element.
4. ELAP 16.2: Provide for connection between Santa Ana Mountains, Temescal Wash and foothills north of Lake Elsinore; existing connections are at Indian Truck Trail (buffer along Canyon Creek), Horsethief Canyon, and open upland areas southwest of Alberhill.
5. ELAP 16.4: Conserve clay soils supporting sensitive plants such as Munz's onion, many-stemmed dudleya, small-flowered morning glory and Palmer's grapplinghook. (There is a Munz's onion population of approximately 7,500 heads in Alberhill.)
6. ELAP 16.5: Conserve wetlands including Temescal Wash, Collier Marsh, Alberhill Creek, Wasson Creek, and the lower San Jacinto River, (including marsh habitats and maintaining water quality).
7. ELAP 16.8: Conserve sensitive plants, including Parry's spineflower, prostrate spineflower, Payson's jewelflower, smooth tarplant, slender-horned spineflower, Coulter's matijila poppy, Palomar monkeyflower, little mousetail, vernal barley, San Jacinto Valley crowscale, Coulter's goldfields, heart-leaved pitcher sage, and the Quino checkerspot butterfly.
8. ELAP 16.9: Conserve Travers-Willow-Domino soil series.
9. ELAP 16.10: Conserve foraging habitat adjacency for raptors, sage scrubbed-grassland ecotone.

The revised and recirculated DEIR should provide discussion and analysis for each of these policies.

#### Covered Road Activities

Expansion of Lake Street, Nichols Road, and Temescal are Covered Activities under the MSHCP and are subject to MSHCP requirements as a public facility. Guidelines for

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Covered Activities will be incorporated into the Lake Street expansion and realignment to avoid and minimize its effects on Core and Linkage biological functions and values (Section 7 of the MSHCP). The DEIR statement "for right-of-way within the MSHCP core areas outside of the development agreement for Pacific Clay and the MOU for Alberhill Ridge" (DEIR, Table 2.0-1) should be revised to "for right-of-way within the MSHCP core areas" to reflect that these right-of-ways along their entire length require a LEAP for MSHCP consistency review.

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The DEIR fails to accurately address compliance with the MSHCP and the General Plan, and fails to adequately address the several substantial impacts the Project will have on the MSHCP, including the detrimental interference with the assembly of MSHCP Proposed Linkage 1 and Proposed Constrained Linkage 6 (discussed below). The Department requests the DEIR be revised, and recirculated for public review, to address the Project's consistency with the MSHCP and General Plan. Discussion and analysis of all potential conflicts with the MSHCP resulting from the proposed Project should be provided.

#### **Wildlife Corridors**

The AVSP as described in the DEIR has the potential to permanently impair two wildlife corridors described in the MSHCP (Propose Linkage 1 and Proposed Constrained Linkage 6) and does not provide viable alternatives to replace the linkages that will provide safe live-in and movement habitat for wildlife. In addition, the Riverside County General Plan Amendment No. 960 specifies that the Elsinore Area Plan "provide for connection between Santa Ana Mountains, Temescal Wash and foothills north of Lake Elsinore; existing connections are at Indian Truck Trail (buffer along Canyon Creek), Horsethief Canyon, and open upland areas southwest of Alberhill."

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#### MSHCP Proposed Linkage 1

Much of the project footprint covers a linkage in the MSHCP described as Proposed Linkage 1. Proposed Linkage 1 has several possible routes that provide connection between the Santa Ana Mountains in the Cleveland Nation Forest (Existing Core B) to the southwest and Lake Mathews/Estelle Mountains (Existing Core 2) to the north and Alberhill (Proposed Core 1) to the east (MSHCP Section 3.2.3 p.3-96-97). The linkage is described as providing both live-in and movement habitat for Cooper's hawk, Bell's sage sparrow, loggerhead shrike, mountain quail, coastal California gnatcatcher, Stephen's kangaroo rat, bobcat, and mountain lion. In addition, the linkage should accommodate the movement of other species present on the property such as mule deer.

The AVSP identifies the inclusion of re-created and restored natural wildlife open space to facilitate wildlife movement. The DEIR states that, "The intent of these wildlife connections is to facilitate connections to allow for safe passage of wildlife around the community and towards the existing under passes that permit wildlife to safely cross under Lake Street and under the I-15 Freeway into core MSHCP areas" (DEIR, p. 2.0-

21). There are several inconsistencies between the intent of the wildlife corridors and the proposed linkages:

1. The linkages move animals through the community, not around it. The AVSP linkages that would address wildlife movement for MSHCP Proposed Linkage 1 include (Figures 2.0-4 and 2.0-5): 1) "Temescal Connection" which starts in the hillside residential area in the Santa Ana Mountains and runs adjacent to Lincoln Street between Villages 1, 2, 3 and 4 and then along Temescal Canyon Road to terminate at the University Town Center in the Temescal Wash area; and 2) "Greenbelt Connection" which connects the Santa Ana mountains and runs along existing Horsethief Canyon development and then between proposed Village 2.
  - a. The north-south component of the Temescal Connection is situated between Lincoln Street, a 4-lane major roadway, and Villages 1, 2 and 3. The open space connection then continues west, adjacent to Temescal Canyon Road, a six to eight-lane major urban arterial road, and University Town Center (Village 1), which is described as the most intense and active area once final build out has occurred. Uses adjacent to the open space connection include mixed uses development such as commercial/retail, civic/institutional, professional office/medical, and entertainment (Village 1); 2,445 residential units, a park, and elementary school (Village 2); and custom hillside estates (Village 3). Three minor roadways are depicted crossing the Temescal Connection into Village 2 although the Department anticipates several additional roadway crossings over the open space connection will be required to serve Village 3. In addition to the adjacent uses, the Temescal Connection itself is meant to serve several functions, including sediment collection, utility easements, and recreational pursuits (DEIR p. 2.0-12). Figure 2.0-20 also depicts a large in-stream detention/debris basin and several proposed roadway crossings that will serve Villages 2 and 3.
  - b. The east-west component of the Temescal Connection is proposed as bisecting Village 4. It is connected to the 36.8- acre Lakeside Park which is described as being at the heart of the development surrounded by playfields, picnic areas, active areas, as well as passive park uses such as an outdoor amphitheater will also serve as a wildlife corridor to allow connections to local wildlife.
  - c. The Greenbelt Connection is proposed within the western portion of Village 2. The DEIR states that, "the Greenbelt open space connection...will carry a portion of the stormwater runoff and serve as wildlife and pedestrian connection" (2.0-12). Based on Figure 2.0-20, the Greenbelt Connection will be bounded on either side by the proposed development, including Village 2's proposed 2,445 residential units, park,

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- and elementary school, and will contain a minimum of two road crossings and an in-stream detention/debris basin at its southernmost end.
2. The linkages will not provide safe passage for most wildlife. The proposed open space areas are adjacent to roads and co-mingled with multi-purpose recreational trails that run through residential and developed areas. Placement of a wildlife corridor in a multi-functioning corridor next to a busy road, residential areas, and recreational trails without adequate buffers, appropriate vegetation, and fencing is inappropriate and contrary to well-documented information on how to build successful wildlife movement corridors (Beier 1993, Bond 2003). Insufficient detail was provided on the placement of wildlife crossings and fencing. The when or where or what type of fencing would be provided to act as buffer between wildlife habitat and adjacent land use such as road and residential areas was lacking in the DEIR. The placement of the proposed wildlife corridor is likely to increase mortality of animals from roads, predation by domestic animals, and presents a potential risk to humans using the road and trails.
  3. The DEIR proposes to direct wildlife movement so that the wildlife safely cross under Lake Street. The AVSP Project identifies a wildlife corridor outside of the project footprint between the eastern side of Lake Street and the Alberhill Ridge Development in the footprint of the previously approved VTTM No. 35001. The wildlife corridor is described as being in a multi-functioning corridor adjacent to a six to eight lane road with meandering pedestrian and bicycle paths and open space that is 50 feet to 250 feet wide (Figures 2.0-8, 2.0- 9, 2.0-10 & 2.0-11). This proposed wildlife corridor is not an identified wildlife linkage in the MSHCP and would direct wildlife movement near development and high human-use areas and is therefore detrimental to the MSHCP.

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#### MSHCP Proposed Constrained Linkage 6

Proposed Constrained Linkage 6 (Linkage 6) consists of a portion of Temescal Wash and connects Alberhill (Core 1) to Lake Mathews/Estelle Mountain (Existing Core 2) under I-15. The linkage is described as providing upland and riparian habitat for Cooper's hawk, yellow warbler, white-tailed kite, yellow-breasted chat and least Bell's vireo. In the DEIR, a portion of Linkage 6 is described as the Northern Connection which would be bounded on both the north and south by the proposed University Town Center (Village 1), described as the most intense and active area of the AVSP. The Northern Connection will be further bounded at the east and west by major urban arterial roadways. The eastern arterial roadway (Lake Street) will include eight lanes of traffic, a depressed median, two bike lanes, two depressed parkways, and a sidewalk for a total 120-foot right-of-way. The Temescal Canyon Road crossing will include six traffic lanes, two bike lanes, and concave parkways on either side of the road. How wildlife will navigate this matrix is unclear. The DEIR provides conflicting information on the status Temescal Wash in this corridor, the wash is described as being left in its

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natural condition or re-naturalized (Section 2.4.5) or graded to create a trapezoidal channel (Subsection 4.3.1.3). A graded trapezoidal channel would be detrimental to wildlife movement and would not support live-in habitat for wildlife dependent on riparian habitat such as least Bell's vireo and southwestern willow flycatcher. Placement of development adjacent to the Temescal Wash would be detrimental to wildlife movement. The Department recommends a large buffer between riparian habitat and development to help maintain the natural functions of Temescal Wash. Development should be placed outside the existing floodplain to protect instream resources and functions.

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#### Wildlife Corridors Recommendations and Summary

The Department is concerned the project will interfere substantially with the movement of native wildlife species and that the planned wildlife connections will provide limited or no function and value to wildlife movement. Further, wildlife movement in this area will have reduced long-term viability due to the ongoing disturbances and fragmentation resulting from the development. Based on the limited information provided on the project's direct and indirect effects on wildlife movement, the Department is concerned that the project as proposed will cause permanent damage to Linkages 1 and 6 in the MSHCP. More detail and analysis on the proposed wildlife corridors and their direct and indirect impacts on wildlife movement are needed.

The DEIR fails to demonstrate that standards for wildlife corridors, buffers, and mitigation ratios are adequate to reduce impacts to existing the MSHCP and regional wildlife corridors to a level less than significant. The Department recommends a detailed discussion of the wildlife corridors be provided in a revised and recirculated DEIR as it would not be appropriate, given the corridors are positioned throughout several Planning Areas within the AVSP, to defer this detailed analysis to subsequent, project-specific CEQA evaluations. Information provided should include:

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1. A list of the wildlife species guiding the design of each of the proposed corridors, specific and biologically defensible measures for the wildlife corridor width and composition should be provided;
2. A list of intended species for each wildlife corridor;
3. A discussion of the long-term viability of the corridors;
4. A detailed analysis of the additional uses within the corridor, including, but not limited to, recreational use, sediment collection, drainage, and utility easements;
5. A detailed analysis of the effect of adjacent uses on the corridors, including roadways, parks, business, residential, and recreational facilities;
6. Site specific design elements, such as corridor depths and widths, lighting, vegetation composition, fencing, and wildlife under crossings/road crossings designs and locations;
7. Specific minimization measures proposed to reduce the effects of the adjacent urban and residential development such as the control of domestic species, light, noise, and humans;
8. Identification of fuel modification zones outside wildlife corridors;

9. Specific measures that provide separation of wildlife corridors from areas of ongoing disturbance and use, such as roadways and pedestrian trails, such as fencing, physical barriers, public education, etc.. Multiple-use of wildlife corridors for recreational purposes should be avoided; and
10. Analysis of the expected impacts by the development on wildlife movement through the proposed corridors.

The Department recommends consultation with wildlife movement experts, especially for mountain lion, to develop viable corridors that will facilitate wildlife movement through the project site. For instance, consultation with experts could provide guidance on how to improve the habitat around an existing large wash coming from the Santa Ana Mountains to Temescal Wash to facilitate wildlife movement across the site. Consultation with riparian habitat experts would facilitate design of an appropriately-sized wildlife movement corridor along Temescal Wash that will support riparian habitat and associated wildlife such as southwestern willow flycatcher and least Bell's vireo. Larger species, such as mountain lion, need wider corridors to facilitate movement and provide habitat especially in a landscape that is dominated by human use (Beier 1993, Bentrup 2008). The Department recommends that wildlife corridors should be a minimum of 300 meters and preferably wider and not include fuel management, accessory uses and other uses not compatible with wildlife movement such as recreational use.

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### **Jurisdictional Waters**

#### Identification of Jurisdictional Waters

The DEIR states that the AVSP area supports a total of six drainage features, three of which have been determined to be "non-jurisdictional drainages" (p. 4.11-5). The Department assumes these "non-jurisdictional drainages" were categorized as such because, "the drainage features (7, 8 & 9) may have been disconnected along the stream course and from the receiving tributary" (DEIR p. 4.11-49). FGC Section 1600 *et seq.* (as well as other sections of the FGC that relate to streams, such as FGC Section 5650 and fishing regulations) jurisdiction is not predicated on hydrologic connection to another waterbody.

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For the purposes of implementing sections 1601 and 1603 of the FGC, California Code of Regulations Title 14, section 720 requires submission to the Department of general plans sufficient to indicate the nature of a project for construction by or on behalf of any person, government agency, state or local, and any public utility, of any project which will divert, obstruct or change the natural flow or bed of any river, stream or lake designated by the Department, or will use material from the streambeds designated by the Department, all rivers, streams, lakes, and streambeds in the State of California, including all rivers, streams and streambeds which may have intermittent flows of water, are hereby designated for such purpose.

Impacts subject to Fish and Game Code Section 1602 and Riparian/Riverine Policy

The DEIR does not adequately address impacts subject to Fish and Game Code Section 1602 or the Riparian/Riverine Policy of the MSHCP. The Department acknowledges that the Alberhill Villages Specific Plan DEIR is described as a program EIR, and the Department expects that additional environmental review and associated effects analysis will be required for each subsequent phase of development on the project site. However, if preparation of a subsequent environmental review that: 1) addresses specific impacts over the entire site, and 2) is circulated for public review, is not anticipated, the Department requests that the Lead Agency address the following issues, and any other project activities with the potential to impact Fish and Game Code Section 1602 and Riparian/Riverine resources, and recirculate this DEIR for additional public review and comment.

The DEIR mentions several project activities that propose to significantly alter Temescal Canyon Wash and its tributaries, but these activities are discussed as mitigating factors to address erosion, flooding, and sediment/ debris flows rather than as significant project impacts. Subsection 4.3.1.3 states, "The Alberhill Villages project proposes to grade the existing Temescal Canyon Wash (Creek) drainage course to create a more confined trapezoidal channel to convey the drainage runoff across the site" (p. 4.3-4). Subsection 4.3.3.2 states, "Temescal Canyon Wash (Creek) and the un-named stream will have side slope erosion protection to mitigate substantial erosion" (p. 4.3-30) and that, "Increases in site peak flows are not expected to have a significant impact on Temescal Canyon Wash (Creek), except for the potential outfall location at the Temescal Canyon Wash (Creek), where energy dissipation will be required." (p. 4.3-31). Section 2.4.7, Public Facilities, states that, "The major off-site flows from Rice Canyon District and Horsethief Canyon Ranch District drainage areas will first pass through detention/debris basins in order to remove sediment and debris from the stormwater runoff" (p. 2.0-93).

As stated above, the Department is concerned that these activities have not been sufficiently described in the DEIR and strongly encourages the Lead Agency to pursue subsequent CEQA action, including additional public review, to address these project activities. Please note the Department's issuance of a Lake or Streambed Alteration Agreement (LSA Agreement) is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with the Department is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. Because the Department will be acting as a Responsible Agency in issuing an LSA Agreement, it will need to rely on the analysis of the impacts to riparian and streambed habitat provided by the Lead Agency. However, if the DEIR and its subsequent CEQA documents do not adequately describe the impacts, the Department may need to prepare its own, separate CEQA analysis (CEQA Guidelines Sections 15052 and 15092). Therefore, to

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avoid unnecessary project delays, the Department recommends that the Lead Agency provide (a) a thorough and detailed analysis of all anticipated impacts subject to Fish and Game Code section 1600 and the Riparian/Riverine Policy, where applicable, and (b) feasible, enforceable, and adequate mitigation measures to address the impacts.

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### **Biological Resources**

The Department is concerned that the DEIR lacks a complete and accurate assessment of the existing species and habitats on-site, lacks a focused analysis of the impacts related to these species and habitats, and does not identify feasible, enforceable, and adequate mitigation measures to address the impacts. The Department is also disconcerted that the Lead Agency has made finding related to special-status species and habitats without having complete biological data for the AVSP site. The Department offers the following comments to assist the Lead Agency in identifying and addressing impacts to fish and wildlife resources.

#### Vegetation Association and Habitats

The DEIR does not provide a consistent description of the existing vegetation associations and habitats onsite. For example, Section 4.11.1.1 lists vegetation associations including alluvial fan scrub, oak woodland, coast live oak riparian forest, and riparian woodland. However, Table 4.11-1, which lists the approximate acreages of existing vegetation communities over the 1,400-acre AVSP site, does not contain any of these vegetation associations. Based on these inconsistencies, the DEIR appears to lack a complete biological description of the existing habitats on-site.

The Department strongly urges the lead to evaluate the adequacy of the current Vegetation Associations and Habitats section of the DEIR and recommends this assessment be repeated, and the results recirculated for public review. The Department recommends assessments of natural communities be completed following the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities, Department of Fish and Game, November 24, 2009*. The Department also recommends a current classification system be adopted to ensure consistency throughout the DEIR. More information can be found at: [https://www.dfg.ca.gov/biogeodata/vegcamp/natural\\_comm\\_list.asp](https://www.dfg.ca.gov/biogeodata/vegcamp/natural_comm_list.asp) and [https://www.dfg.ca.gov/biogeodata/vegcamp/natural\\_communities.asp](https://www.dfg.ca.gov/biogeodata/vegcamp/natural_communities.asp).

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#### Sensitive Vegetation Associations and Special-Status Habitats

The Department is unclear as to the methods used to identify sensitive vegetation associations and special-status habitats onsite and is concerned that the failure to maintain a consistent and current method of vegetation association classifications has led to an inadequate and incomplete assessment of the resources onsite. The DEIR further fails to identify the level of impacts proposed to occur within special-status habitats and does not identify feasible, enforceable, and adequate mitigation measures to address the impacts.

Two special-status habitats were identified as occurring within the AVSP area: southern coast live oak riparian forest and southern willow scrub. As stated before, not all vegetation associations and habitats have been quantified, including the coast live oak riparian forest. The DEIR does acknowledge that impacts to southern coast live oak riparian forest and southern willow scrub would be considered significant under CEQA, but then disregards this statement, claiming "most of this area is already disturbed habitat and is not considered sensitive" (p. 4.11-69). The DEIR then suggests that, "Mitigation [for the loss of sensitive vegetation communities] should be assessed with the Specific Plan programs for open space, wildlife corridors and riparian restoration and enhancement" (p. 4.11-19).

In addition to the two habitats mentioned above, the DEIR identifies alluvial fan sage scrub occurring onsite. Riversidean Alluvial Fan Sage Scrub (RAFSS) is a state-designated S-1.1 "very threatened" community, although not described as such within the DEIR. Similar to the coast live oak riparian forest habitat, the DEIR fails to quantify this community within Table 4.11-1 (Existing Vegetation Communities) but does in one location state, "the AVSP area does support a small area (28.44 acres) of alluvial fan scrub" (p.4.11-71). The DEIR suggests there may be some level of habitat avoidance, stating, "The areas that will be avoided will be the barren/streambed riparian and alluvial fan scrub areas and the willow/riparian scrub and the riparian and oak woodland communities" (p. 4.11-69) although no specific measure is proposed.

The DEIR should be revised to clearly identify and quantify all sensitive vegetation associations and special-status habitats onsite, provide a detailed assessment of the impacts proposed within these habitats, provide specific measures to fully avoid and otherwise protect the special-status habitats from project-related direct and indirect impacts, and provide specific and enforceable compensatory mitigation where impacts are unavoidable. Again, the Department recommends that impacts to sensitive vegetation associations and special-status habitats be re-evaluated following current, accepted survey protocol and classification systems, as suggested under the *Vegetation Associations and Habitats* section above.

#### Special-Status Plants

The Department is concerned that the DEIR does not contain a complete and accurate assessment of the special-status plants onsite. The 2008 *Biological Assessment of Castle & Cook Pacific Clay Mine Site* merely states that, "biologists traversed each of the target habitats on foot to provide adequate coverage for surveys" but does not provide any information on what, if any, standardized survey methods were used to determine presence/absence of special status plants onsite. Furthermore, the 2014 *Update to the Biological Constraints Analysis for the 1,400-Acre Alberhill Villages Specific Plan Site*, which was to meant to "identify and address...any sensitive species that may not have been addresses in the 2008 GLA Biological Constraints report" states that, "[species] presumed to be present...had not yet bloomed during the time of the surveys." This statement clearly identifies the inadequacy of the 2014 *Update to the Biological Constraints Analysis* to identify all potential species present onsite.

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Given the incomplete nature of the updated special-status plant surveys, the Department requests new surveys be completed, and the results recirculated in the revised DEIR. Surveys should be conducted in the field at the time of year when target plant species are both evident and identifiable (usually during flowering or fruiting). Multiple visits may be necessary (e.g. in early, mid, and late-season) to accurately survey the floristic diversity of the site and detect the presence of all special status plant species. The Department recommends updated surveys take into consideration drought and other adverse conditions. Annual and short-lived perennial plant species and plants with persistent long-lived seed banks are known not to germinate every year. In addition, the phenological development of some plants may be altered because of the drought. Because of these conditions, the failure to locate a plant during the floristic surveys of one field season does not constitute evidence that the plant is absent from the surveyed location. The timing and number of visits necessary to conduct a floristic survey should be determined by geographic location, the natural communities present and the weather patterns of the year, with the understanding that more than one field visit or field season may be necessary to accurately survey site and detect the presence of special status plant species.

In addition to the recommendation for recirculation of updated, standardized surveys and associated results, the Department also request the Lead Agency revise and recirculate the DEIR to address the loss of the four special status plants observed within the AVSP area: Parry's spineflower, paniculate tarplant, graceful tarplant, and Coulter's matilija poppy. The DEIR incorrectly states that no sensitive plant species were observed during focused special status plant surveys conducted during the 2008 growing season and again in 2014 and based on this erroneous statement, the DEIR concluded that impacts to sensitive plants would be less than significant. The Department would like to point out that the *Update to Biological Constraints Analysis for the 1,400-Acre Alberhill Villages Specific Plan Site Located in Lake Elsinore, Riverside County, California*, dated May 25, 2014, states, "The majority of previously documented sensitive plant species were verified during the updated surveys. Species that were not identified...are still presumed to be present but had not yet bloomed during the time of the surveys." Given this statement, the Department strongly urges the Lead Agency to revise the DEIR to: correct the statement claiming that no species were identified onsite, identify the level of impacts proposed to occur, provide a reasonable assessment of significance related to the loss of special status plants, propose some level of avoidance through the reduction of the project footprint, and provide specific and enforceable compensatory mitigation where impacts are unavoidable.

The Department is unclear as to why several locally occurring special status plants were considered to have low, or low to moderate, potential to occur onsite. Munz's onion, long-spined spineflower, and many-stemmed dudleya were considered to have low to moderate potential to occur onsite despite the fact that these species have been documented by California Natural Diversity Database (CNDDDB) as occurring within 0.5-mile of the project site. San Diego ambrosia, Plummer's mariposa lily, and slender-horned spineflower were considered to have low potential to occur onsite even though

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CNDDDB and/or MSHCP species occurrence data documents each of these plant species within 0.5-mile of the project site. As habitat exists onsite for each of the above-mentioned species, the Department requests a clearer explanation of what considerations led to the findings that these species had low, or low to moderate potential to occur onsite. A statement that most of the project is impacted or degraded is insufficient given that there is conflicting information on the status of resources on the project site.

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#### Special-Status Wildlife Species

The Department is concerned the Lead Agency has prematurely determined that project-related impacts to special-status species will be less than significant without having adequately assessed the biological resources onsite. The DEIR's assessment of special-status species appears to be based on nominal field reconnaissance surveys rather than species-specific/focused surveys. In the absence of species-specific surveys, and a clearly-defined project description, the Department cannot adequately identify, assess, and comment on the project-related impacts to special-status wildlife species and cannot, at this time, concur that the project will have a less than significant impact, even with implementation of the specified mitigation measures.

The Department is also concerned that the DEIR does not disclose relevant species occurrence information from sources such as CNDDDB and has downplayed the likelihood that special-status species will be impacted by project-related activities. For example, least Bell's vireo, a state and federal endangered species, was listed in the DEIR as having a low to moderate potential to occur onsite despite recorded observations of this species within and adjacent to the AVSP site, including areas that will be directly impacted by the project. According to CNDDDB four territories, thought to contain breeding pairs, were detected in 2010 adjacent to Temescal Canyon Road between Bernard Street and Lake Street and two least Bell's vireo, also considered to be a breeding pair, were detected in Temescal Wash, near the intersection of Temescal Canyon Road and Hostettler Road, just west of the AVSP project site.

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Due to the availability of prey, perches, and suitable forage habitat identified in the DEIR (DEIR, p.4.11-5), the AVSP area has the potential to support a variety of raptor species including Cooper's hawk, golden eagle, loggerhead shrike, northern harrier, and white-tailed kite. However, the DEIR did not provide analysis of impacts from loss of raptor habitat. Impacts to foraging and nesting habitat should be quantified. The Department recommends that the AVSP outline mitigation for potential loss of foraging habitat and nest trees. Lands set aside for mitigation should be conditioned with Department approval to ensure their quality and proximity to the project.

The Department recommends the lead agency revise and recirculate the DEIR following completion of more detailed, species-specific focused surveys. The revised DEIR should, at a minimum:

1. clearly identify all special-status wildlife species onsite;
2. describe and quantify the habitats supporting these special-status wildlife species;
3. provide a detailed assessment of the potential project-related impacts to these species and habitats;
4. provide specific measures to fully avoid and otherwise protect the special-status species and their associated habitats from project-related direct and indirect impacts; and
5. provide specific and enforceable compensatory mitigation where impacts are unavoidable.

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Species-specific/focused surveys should be conducted by qualified biologists no more than 12 months prior to circulation of the CEQA document and should include species-appropriate survey methods and timing to ensure all species with the potential to occur onsite are detected. To assist with review, an accompanying map detailing the location of special-status species and/or special-status species habitat should be provided with the revised CEQA document.

#### **Project Impact Analysis and Environmental Mitigation Measures**

The Department strongly urges the lead agency re-evaluate the sufficiency of the species information onsite and to take the steps necessary to fully and adequately identify the biological resources onsite and analyze the project-related impacts to those species before making their findings of significance. Given the above recommendation, the Department offers the following comments related to the project impact analysis and associated mitigation measures to assist the lead agency in better identifying significant impacts and formulating appropriate mitigation measures to reduce project-related impacts.

The DEIR should state each threshold and include a factually based explanation as to why project impacts will result in no effect or effects that are less than significant, less than significant with mitigation, or significant with feasible mitigation. This explanation should be derived from the project description, which informs project impacts, and environmental setting, which identifies sensitive biological resources that may be impacted. At this point in time the Department is concerned that the Biological Resources mitigation measures are insufficient to minimize and avoid sensitive biological resources, and/or to offset the loss of native flora and fauna.

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Impact 4.11-1 Threshold: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

*Sensitive vegetation communities and habitats*

The DEIR fails to address impacts to sensitive vegetation communities and habitats including alluvial fan scrub, coastal sage scrub, southern coast live oak riparian forest, and southern willow scrub, merely stating that, "most of the sensitive vegetation will be avoided, and impacts to sensitive vegetation communities will occur" (p. 4.11-69). The Department finds this justification wholly insufficient and inappropriate.

*Sensitive plant species*

The DEIR denies the existence of special-status plant species onsite and finds, based on this incorrect statement, that impacts to sensitive plant species are less than significant. The Department considers this explanation careless and unsubstantiated.

*Sensitive wildlife species*

The Department is concerned that the DEIR has selectively considered a handful of sensitive wildlife species in their creation of mitigation measures, and in doing so, has failed to address many others that either occur onsite or have a high to moderate potential to occur onsite.

The DEIR states that impacts to sensitive vegetation communities and habitats, sensitive plant species, and sensitive wildlife species will be mitigated to a level less than significant through the implementation of Mitigation Measures BIO-1 through BIO-4, BIO-7, BIO-9, and BIO-10. The Department strongly disagrees that the project will have a less than significant impact (i.e., substantial adverse effects, either directly or through habitat modifications) on special-status species and finds that the mitigation measures proposed would have little to no effect at reducing the significant impacts on these species and habitats.

*Mitigation Measure (MM) BIO-1*

Mitigation Measure BIO-1 is meant to address potential impacts to burrowing owl but fails to adequately identify potential losses and specific mitigation measures to offset those losses. Furthermore, MM BIO-1 is outdated and proposes activities not currently authorized by the Department outside of NCCPs (active relocation) as well as activities strongly discouraged by the Department. Please note, the Department strongly discourages the exclusion of owls using passive relocation unless there are suitable burrows available within 100 meters of the closed burrows (Trulio 1995, CDFG 2012) and the relocation area is protected through a long-term conservation mechanism (e.g., conservation easement). MM BIO-1 also references the Burrowing Owl Survey Protocol and Mitigation Guidelines, an outdated guidance document that has since been updated. The Department recommends the Lead Agency revise MM BIO-1 to: 1) require focused breeding season surveys, pre-construction surveys, impact assessments, and mitigation measures be completed following the Department's 2012 Staff Report on Burrowing Owl Mitigation; 2) remove any reference to "active relocation"; 3) require that the United States Fish and Wildlife Service (Service) and the Department be notified if owls are found onsite and that any passive relocation and/or associated conservation strategy be implemented in cooperation with the Service and the Department, and in

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accordance with the Department's 2012 Staff Report on Burrowing Owl Mitigation; and 4) provide a feasible mitigation plan to offset impacts to the potential loss of burrowing owl nesting and/or foraging habitat, should burrowing owl be found onsite.

Because current, breeding season surveys have not been conducted, and no specific mitigation plan has been prepared to offset impacts to the potential loss of burrowing owl nesting and/or foraging habitat, should burrowing owl be found onsite, the Department is unable to determine whether the impacts would be mitigated, and cannot, without further information concur that impacts to burrowing owl would be mitigated to less than significant levels through the implementation of MM BIO-1.

*Mitigation Measure BIO-2*

MM BIO-2 proposes to reduce impacts to California gnatcatcher to a level less than significant through completion of "presence/absence surveys" and implementation of avoidance and minimization measures during the breeding season. The Department finds these measures deficient in addressing the loss of habitat and contends these measures will not reduce impacts to California gnatcatcher to a level below significant. The Department recommends MM BIO-2 be revised to: 1) require focused, breeding-season surveys be completed, and the results recirculated for public review, to determine the level of impacts anticipated to occur within suitable and/or occupied California gnatcatcher habitat, and 2) adequately address the potential loss of suitable and occupied habitat through avoidance and conservation of habitat first, and where avoidance is infeasible, through specific, enforceable, and achievable mitigation measures at an appropriate level.

Because current, breeding season surveys have not been conducted, and no specific mitigation plan has been prepared to offset impacts to the potential loss of California gnatcatcher nesting and/or foraging habitat, the Department cannot, without further information concur that impacts to California gnatcatcher would be mitigated to a less than significant level.

*Mitigation Measure BIO-3*

MM BIO-3 is proposed to specifically address least Bell's vireo and southwestern willow flycatcher through the completion of "presence/absence surveys" and the implementation of avoidance measures during the breeding season. MM BIO-3 refuses to address the potential direct impacts to suitable and potentially occupied least Bell's vireo and southwestern willow flycatcher habitat and instead defers additional measures to future consultation with the Service. This measure fails to address the potential impacts to least Bell's vireo and southwestern willow flycatcher and will not reduce the impacts to a level less than significant. The Department recommends MM BIO-2 be revised to: 1) require focused, breeding-season surveys be completed, and the results recirculated for public review, to determine the level of impacts anticipated to occur within suitable and/or occupied least Bell's vireo and southwestern willow flycatcher habitat, and 2) adequately address the potential loss of suitable and occupied habitat

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through avoidance and conservation of habitat first, and where avoidance is infeasible, through specific, enforceable, and achievable mitigation measures.

Because current, breeding season surveys have not been conducted, and no specific mitigation plan has been prepared to offset impacts to the potential loss of least Bell's vireo and/or southwestern willow flycatcher nesting and/or foraging habitat, the Department cannot concur that impacts to least Bell's vireo and/or southwestern willow flycatcher would be mitigated to less than significant levels.

*Mitigation Measure BIO-4*

MM BIO-4 offers to mitigate the loss of riparian and riverine habitat through on- or offsite replacement of streambed and associated habitat through purchase of mitigation credits or in-lieu fee payment for invasive species removal. Because the DEIR lacks any information regarding project-related impacts to streams and associated habitats, and no specific mitigation plan has been prepared to offset impacts the potential losses Department is unable to determine whether the impacts would be mitigated, and cannot, without further information concur that impacts to streams and associated habitats would be mitigated to a less than significant level through the implementation of MM BIO-4. As stated throughout this letter, the Department recommends the DEIR be revised and recirculated to clearly identify project-related impacts to Fish and Game Code Section 1602, and where applicable, Riparian/Riverine resources.

*Mitigation Measure BIO-7*

MM BIO-7 proposes the completion of "additional surveys" to identify rosy boa, and if found, proposes to relocate any individuals to "suitable areas outside the development area" (p. 4.11-80). The measure provides no information on how, when or with what methods these "additional surveys" will be carried out and provides no scientific foundation supporting the capture and relocation of rosy boa as a feasible and successful mitigation measure to avoiding "take". Overall, the Department finds this proposal inappropriate and insufficient to mitigate the loss of rosy boa individuals as well as the loss of suitable and occupied habitat. Revised mitigation measures should be provided.

*Mitigation Measure BIO-9*

MM BIO-9 proposes to erect a temporary sound wall, if necessary, adjacent to any Critical Habitat Areas to ensure wildlife are not subjected to noise that would exceed residential noise standards. The Department is unclear on several issues related to this measure and finds that the measure fails to provide any specific, enforceable protection to wildlife, as proposed. MM BIO-9 fails to identify several key elements, including: when erection of the sound wall will be necessary, who will determine where and when the sound wall is utilized, what wildlife the sound wall will be designed to protect, where the "Critical Habitat Areas" currently exist, who determines the location and qualifications necessary to be deemed a "Critical Habitat Areas", and the entity responsible for enforcing this measure.

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*Mitigation Measure BIO-10*

MM BIO-10 proposes to protect "Critical Habitat Areas" through design and operation measures that will reduce noise from proposed loading docks. As the DEIR lacks any information regarding "Critical Habitat Areas" and project-related impacts to "Critical Habitat Areas", and no specific impact-reducing design and operation measure have been proposed, the Department is unable to determine whether the impacts would be mitigated, and cannot, without further information concur that impacts to "Critical Habitat Areas" would be mitigated to a less than significant level through the implementation of MM BIO-10.

Impact 4.11-2 Threshold: Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

*Riparian Habitat and Other Sensitive Natural Communities*

The DEIR does not analyze this impact threshold and instead defers the identification of impacts and formulation of mitigation measures to future regulatory permits. Please note that CEQA Guidelines §15126.4, subdivision (a)(1)(8) states formulation of feasible mitigation measures should not be deferred until some future date. Please also note the Department's issuance of a Lake or Streambed Alteration Agreement (LSA Agreement) is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments.

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Impact 4.11-4 Threshold: Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

*Wildlife Movement and Wildlife Corridor Connections*

The DEIR states that the majority of the AVSP is either developed or disturbed and would not be expected to support regional movement of large mammals. The Department questions this statement and asks what, if any, wildlife movement studies, surveys, or research has been reviewed and/or completed within the AVSP site to support this explanation. The claim that the site would not support the movement of large mammals seems unfounded given that both mule deer and mountain lion were listed among the wildlife species observed on the site. Furthermore, the Department is concerned that the DEIR relies too heavily on the notion, and repeated emphasis, that the majority of the site is "highly disturbed due to mining activities, and dominated by sparse, ruderal plant species" (p. 4.11-5). The DEIR specifies, "A total of 433 acres of the approximately 1,400 acres has been previously disturbed by significant mining and 941 acres remains either undisturbed or disturbed with minor grading and clay storage" (4.11-3). The Department requests a consistent and accurate description of existing disturbed resources and condition of remaining resources on the project site. A detailed

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map with acreages of the vegetation resources is necessary for evaluating the site conditions.

The DEIR suggests that through the construction of the AVSP and its open space connections, "regional wildlife corridor movement and corridor connections will be provided in the form of stepping-stone habitat for birds and several reptile and small- to medium sized mammals" (p. 4.11-72). The wildlife linkages should support large mammals such as mountain lion and provide movement and live-in habitat. The Project has failed to demonstrate that stepping-stone habitat will provide adequate corridors for most species intended to move through this area. The DEIR also asserts that through implementation of MM BIO-6, there will be a less than significant impacts to animal movement. Overall, the Department finds the response to Impact 4.11-4 unfounded and without merit and strongly disagrees that the DEIR has sufficiently addressed potential impacts to wildlife movement.

*Mitigation Measure BIO-6*

MM BIO-6 proposes to address wildlife movement and the federal Migratory Bird Treaty Act (MBTA) through the completion of pre-construction nesting surveys and implementation of pre-established buffers. The project fails to demonstrate how pre-construction bird surveys will address wildlife movement. Further, the measures does not provide any form of mitigation for loss of nesting bird habitat.

The Department finds the DEIR has failed to address the impacts to wildlife movement and wildlife corridors and suggests the lead agency re-evaluate the potential impacts and revise and recirculate the DEIR to properly address the impacts. The historic movement of mountain lion and mule deer should be included in the analysis of project impacts to wildlife corridors and related project design features. The analysis should include a discussion of wildlife corridor dimensions and whether or not fuel management, lighting, and accessory uses are proposed with these areas. The Department strongly urges the DEIR to re-evaluate the Impact 4.11-4 Threshold, taking into consideration the MSHCP wildlife corridors.

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Impact 4.11-6 Threshold: Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

As previously stated under the NCCP section of this comment letter, the DEIR completely disregards the question posed in the Impact 4.11-6 Threshold, claiming, "Implementation of the Project and the Project's present agreement with the City and County of Riverside, this Project is no[t] further subjected to the MSHCP review or setting aside of habitat conservation pursuant to the MSHCP" (DEIR p. 4.11-76). The Department disagrees and finds that the DEIR fails to accurately address compliance with the MSHCP and fails to adequately address the several, substantial impacts the Project will have on the MSHCP, including the detrimental interference with the assembly of MSHCP Proposed Linkage 1 and Proposed Constrained Linkage 6.

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### Alternatives

The DEIR provided analyses of possible alternatives to the proposed Project. The alternative analysis lacked in-depth analysis or viable alternatives. For instance, the reduced footprint alternative included the addition of a golf course which made the project difficult to compare the preferred alternative which did not have a golf course. The Department believes this is counterproductive to the goal of trying to reduce impacts to sensitive resources, and complicates the comparison of the alternatives. In addition, a blanket statement of "this alternative would not be in accordance with the General Plan's job creation, housing density, land use or zoning" was provided for the alternatives with lower density of housing and higher environmental benefits without clear support for this statement. Please provide additional details and analysis on how the project was not in accordance with land use goals for facilitating wildlife movement and protection of sensitive resources. The other reason for rejecting possible alternatives was that the cost was not economical but information was not provided to support this statement. Please provide detailed analysis to support this statement. The Department recommends development of a viable alternative with wider wildlife corridors, avoidance of habitat with sensitive resources, no golf course, and reduced development footprint.

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### Summary

The proposed project will have an impact on fish and/or wildlife habitat and should be evaluated in such a manner to reduce its impacts to biological resources. The Department finds that the mitigation measures are insufficient to minimize and avoid sensitive biological resources, and/or to offset the loss of native flora and fauna. The proposed mitigation measures poorly address a handful of specific species and neglect the remaining species that either occur onsite, or have high-to-moderate potential to occur onsite, including, but not limited to: Bell's sage sparrow, California horned lark, Cooper's hawk, golden eagle, loggerhead shrike, northern harrier, southern California rufous-crowned sparrow, white-tailed kite, yellow-breasted chat, yellow warbler, coast patch-nosed snake, northern red-diamond rattlesnake, orange-throated whiptail, San Diego coast horned lizard, western spadefoot toad, coyote, mountain lion, mule deer, northwestern San Diego pocket mouse, San Diego black-tailed jackrabbit, San Diego desert woodrat, and western mastiff bat.

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A Program EIR should provide an occasion for a more exhaustive consideration of effects and alternatives; ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis; and allow the City to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts (CEQA §15168). However, the deficiencies in the information provided for sensitive natural resources and the poorly designed and located wildlife corridors create a situation where planning at a larger scale to avoid, minimize, and mitigate impacts to sensitive resources is not feasible. The Department strongly suggests the Lead Agency, through

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revision and recirculation of the DEIR, address the deficiencies outlined within this letter, including inadequate project description, deficient species information, poorly designed wildlife corridors, and lack of appropriate and enforceable mitigation measures. Please note that mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). Furthermore, in order for mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will improve environmental conditions.

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The Department requests that all sensitive species occurrence data be submitted to the California Natural Diversity Database (CNDDB) to add to the inventories for the status and locations of rare plants and animals in California.

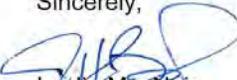
Biological Monitors and/or surveyors monitoring or surveying for all fully protected species, state and federal endangered, threatened, or candidate species, state species of special concerns, and/or other protected species shall be experienced with the species and hold in addition to a Scientific Collecting Permit, a Memorandum of Understanding (MOU) for each species that qualifies as described above. Please refer to the following link for more information:  
<https://www.wildlife.ca.gov/Licensing/Scientific-Collecting>

Pursuant to Public Resources Code § 21092 and 21092.2, the Department also requests written notification of proposed actions and pending decisions regarding the project. Written notifications shall be directed to California Department of Fish and Wildlife Region 6, 3602 Inland Empire Blvd, Suite C-220, Ontario, CA 91764.

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The Department appreciates the opportunity to comment on the DEIR for the Alberhill Villages Specific Plan Project (SCH No. 2012061046). Department personnel are available for consultation regarding biological resources and strategies to minimize impacts. The Department requests a meeting with the City to discuss wildlife movement and linkages within the project site prior to revision of the DEIR at your earliest convenience. The Department requests that the DEIR be revised to address the Department's comments and concerns, and recirculated for public review. If you should have any questions pertaining to the comments provided in this letter, please contact Kimberly Freeburn at (909) 945-3484 or at [Kim.Freeburn@wildlife.ca.gov](mailto:Kim.Freeburn@wildlife.ca.gov)

Sincerely,

  
FOR  
Leslie MacNair  
Regional Manager

cc: State Clearinghouse, Sacramento

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## **Response to Comment Letter G** **California Department of Fish and Wildlife**

The California Department of Fish and Wildlife provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in its letter dated December 30, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to California Department of Fish and Wildlife Comment G-1**

Please see above Response to Comments B-2 and the above Response to Comment D-2.

### **Response to California Department of Fish and Wildlife Comment G-2**

The DEIR adequately describes the exempt status of the AVSP property from the MSHCP and the prior conclusion by the Wildlife Agencies that the AVSP property will not conflict with the MSHCP by nature of its exemption. Section 1 of the Settlement Agreement that exempted the AVSP property from the MSHCP states that: “Owner’s [“Owner” defined as “Pacific Clay, C&C Corona, Gateway and Murdock Alberhill”] Properties (including the Present and Future Uses and Development of Owner’s Properties) are exempt and excluded from the MSHCP for all purposes...” The ability of the County of Riverside to execute the Settlement Agreement with the property owner that exempted a large property area from the MSHCP was not challenged by the Wildlife Agencies. To the extent that CEQA requires the analysis of potential land use impacts, the DEIR fulfilled this obligation by: 1) disclosing the Settlement Agreement; 2) explaining how that agreement is conclusive evidence that the Project does not impact the MSHCP and was properly exempted from the MSHCP when the MSHCP was approved in 2004, and; 3) describing the superior conservation goals and objectives achieved by the Project as compared to the MSHCP.

As a clarification the reference to inclusion of the 56.7 acre Temescal Creek Bridge Project in the DEIR shows the exterior limits of the project area, as delineated by the City. The DEIR also includes the 9.09-acre site (APN 390-130-017) which was outside the Pac Clay/County of Riverside Settlement Agreement area. Other lands in the 56.7-acre parcel are comprised of a combination of the private ownership of Pacific Clay and Castle & Cooke properties included within the Settlement Agreement along with public rights of way. Only approximately one acre of the City's Temescal Bridge project area is outside of the MSHCP Settlement Agreement area. The Temescal Bridge project is not part of the AVSP.

### **Response to California Department of Fish and Wildlife Comment G-3**

The City is not subject to the Riverside County General Plan. The “Lake Elsinore Area Plan” is only applicable to the unincorporated portion of Riverside County that is located within the boundaries of that area plan. All property within the City of Lake Elsinore is governed by the provisions of the City of Lake Elsinore General Plan that was adopted on December 13, 2001. Evaluation of consistency with the County’s General Plan is not required.

### **Response to California Department of Fish and Wildlife Comment G-4**

Please see above Response to Comments B-2.

### **Response to California Department of Fish and Wildlife Comment G-5**

Please see the above Response to Comment B-26, Response to Comment D-3, Response to Comment D-5 and Response to Comment D-6 regarding previous discussions regarding MSHCP Proposed Linkages.

### **Response to California Department of Fish and Wildlife Comment G-6**

Please see the above Response to Comment B-26, Response to Comment D-3, Response to Comment D-5 and Response to Comment D-6 regarding previous discussions regarding MSHCP Proposed Linkages.

### **Response to California Department of Fish and Wildlife Comment G-7**

Please see the above Response to Comment B-26, Response to Comment D-3, Response to Comment D-5 and Response to Comment D-6 regarding previous discussions regarding MSHCP Proposed Linkages.

See the above Response to Comment B-34 and Response to Comment D-8 regarding riparian/riverine habitat and associated wildlife.

### **Response to California Department of Fish and Wildlife Comment G-8**

On page 4.11-51, the DEIR noted that “A final Jurisdictional Determination must be issued by the USACE, CRWQCB and CDFW” as part of the process to obtain authorizations pursuant to Sections 404 and 401 of the federal Clean Water Act and Section 1602 of the Fish and Game Code if the project impacts jurisdictional waters. The jurisdictional status for each of the drainages listed in Table 4.11-4, if impacted, will be determined by the agencies, as appropriate

through implementation Mitigation Measures BIO-4 and BIO-5, if the jurisdictional areas are not avoided or determined to be, in fact, subject to jurisdiction. Table 4.11-4 includes the width, length and total acreage for each drainage feature within the current mine area. Furthermore, Mitigation Measures BIO 4 and BIO 5 ensure that prior to each project phase grading in any jurisdictional area, a formal jurisdictional delineation will be performed to ensure that the current information is updated and drainages outside the current mining area are delineated. Please refer to B-3 in Letter B.

Following the updated delineation, a request to each of the above-named agencies would be submitted for a final jurisdictional determination, if impacts are identified by the project developer that would then be used for the permitting by the developer by each agency.

As noted above, potential impacts to Section 1602 jurisdiction have been addressed through identification of onsite drainages, as well as, requirements for future updates to the jurisdictional delineation as future implementing development phases are developed.

Please see the above Response to Comment B-26 and Response to Comment D-5 regarding Temescal Canyon Wash (Creek), and Response to Comment B-34 which revised the language of Mitigation Measure BIO-4.

#### **Response to California Department of Fish and Wildlife Comment G-9**

Relative to impacts to vegetation associations, see Mitigation Measures BIO-4 (as revised by the above Response to Comment B-34), BIO-5 and BIO-8 (as revised by above Response to Comment D-15) ensuring that potential impacts to riparian habitat, including willow riparian habitat and coast live oak riparian habitat will be fully mitigated, prior to any grading in any noted habitat areas. As described above in the Response to Comment D-15, Mitigation Measure BIO-8 has been expanded in accordance with the suggestion of USFWS to use one-gallon replacements for oaks at a 12:1 ratio to maximize the potential for survival and long-term persistence. For alluvial scrub, the DEIR notes that this habitat will be avoided by the project.

See the above Response to Comment D-14 regarding willow riparian, coast live oak riparian coastal sage scrub and alluvial fan scrub habitat.

#### **Response to California Department of Fish and Wildlife Comment G-10**

A review of Figure 4.11-2A (Biological Resources Map) of the DEIR shows the extent and comprehensive nature of the focused surveys for special-status plants on the 1,400-acre site. As noted on page 4.11-9, focused surveys were conducted on 13 separate days in 2008 with an update in 2011 that included surveys on April 18, May 16, June 9, and July 29, which as shown on Figure 4.11-2A resulted in expansion of previous special-status plant populations as well as new occurrences. The DEIR is clear that the surveys were conducted in a manner which provided adequate coverage of the site, which is self-evident from Figure 4.11-2A which depicts rare plants across the entire 1,400-acre property. In short, there is nothing “incomplete” regarding the focused special-status plant surveys.

Regarding significance of the potential impacts to these species, the paniculate tarplant, graceful tarplant and Coulter's matillija poppy are all listed as 4.2 taxa on the California Rare Plant Rank and impacts to List 4 taxa are not significant as List 4 is a "watch list" and these species are not considered threatened or endangered at this time. It is noteworthy, that regarding Coulter's matillija poppy, USFWS notes that mitigation is not required; rather they request that local nurseries be provided an opportunity to salvage individuals for use a nursery stock. (See above Response to Comment D-12.)

Regarding the low to moderated potential for occurrence of Munz's onion, long-spined spineflower, many-stemmed dudleya, and low potential for San Diego ambrosia, Plummer's mariposa lily and slender-horned spineflower it is important to consider the following points:

1. The site was thoroughly surveyed over the course of a number of years and four special-status plants were mapped across substantial portions of the site. Parry's spineflower, for example, is a diminutive plant and was detected at multiple locations within different habitats showing the thoroughness of the surveys.
2. While the Department asserts that disturbance is not an adequate rationale for dismissing the potential presence of species, it cannot be ignored that large portions of the site have been disturbed by mining operations and that each of the rare plants detected was associated at least part of the time with previously disturbed areas as each of these species, has a high tolerance for disturbance when compared with species such as Munz's onion, Many-stemmed dudleya and Plummer's mariposa lily. Disturbance will continue over the mining site over the next 30 years.

The lack of detection of these species is evidence that they may not occupy the site at this time. Due to the projected 30-year development period associated with the AVSP, the future presence of rare plants at any point during that 30-year period would be speculative and therefore cannot be determined at this time. Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and in an abundance of caution, an additional Mitigation Measure, BIO-15, has been added that will provide pre-construction surveys for each plant prior to each grading phase of the development.

**BIO-15:** During the biological surveys required by Mitigation Measure BIO-14, a qualified biologist shall survey the implementing development project site for Special Status Plants, including but not limited to, Parry's spineflower, paniculate tarplant, and graceful tarplant. If Special-Status Plants are identified as being impacted by implementing development projects, those impacts shall be mitigated in accordance with the requirements and procedures set forth in Mitigation Measure BIO-14.

### **Response to California Department of Fish and Wildlife Comment G-11**

Regarding special-status avifauna see BIO-1, BIO-2, BIO-3 (as modified by the Response to Comment D-8) and the above Response to Comment D-8. CDFW requests additional analysis for special-status raptors including the Cooper's hawk, golden eagle, loggerhead shrike, northern harrier and white-tailed kite. Due to the projected 30-year development period associated with the AVSP, the presence or absence of these Special-Status Wildlife Species at any point during that 30-year period would be speculative and therefore cannot be determined at this time. Even current presence of these species does not lead to the conclusion that such species will be present at any specific point in the future.

Of the species mentioned, only the Cooper's hawk was observed on the site. The Cooper's hawk has been removed from the list of California Species of Special Concern and has no State or federal status other than the CDFW "watch list". The Cooper's hawk is highly adapted to both natural areas as well as the urban environment, and construction of the project would not result in significant impacts on this widespread, highly adaptable species. None of the other four species noted were observed on the site and in the case of the golden eagle, northern harrier and white-tailed kite it was noted that the potential for foraging is low due to the disturbed character of the majority of the site. The loggerhead shrike was not observed and potential for foraging was considered moderate. In no case would development of the site result in impacts to individuals due to the Migratory Treaty Bird Act provisions associated with Mitigation Measure BIO-6 and impacts would not be considered significant.

### **Response to California Department of Fish and Wildlife Comment G-12**

The DEIR provides a legally adequate analysis of the impacts to sensitive vegetation communities and habitats at general plan/specific plan level of detail. Due to the projected 30-year development period associated with the AVSP, the presence or absence of specific vegetative communities, sensitive plant species and sensitive wildlife species at any point during that 30-year period would be speculative and therefore cannot be determined at this time. Even current presence of these vegetative communities, habitats and species does not lead to the conclusion that they will be present at any specific point in the future. For this reason, the Mitigation Measures have been identified in order to assure that appropriate timely analysis and mitigation will occur at the implementing development project stage.

Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and to previous comments, and in order to clarify and strengthen the mitigation measures regarding Biological Resources/Jurisdictional Waters, several mitigation measures have been revised or added. To see these changes to the mitigation measures, see the above Responses to Comments B-32, B-34, B-35, D-8, D-9, D-11, D-12, D-14, D-15 and G-10.

### **Response to California Department of Fish and Wildlife Comment G-13**

Please see the above Response to Comment B-26, Response to Comment D-3, and Response to Comment D-5 regarding previous discussions regarding MSHCP Proposed Linkages.

#### **Response to California Department of Fish and Wildlife Comment G-14**

See the above Response to Comment G-2 regarding the applicability of the MSHCP to the AVSP site. Please see the above Response to Comment B-26, Response to Comment D-3, and Response to Comment D-5 regarding previous discussions regarding MSHCP Proposed Linkages.

#### **Response to California Department of Fish and Wildlife Comment G-15**

Section 15126.6(a) of the *CEQA Guidelines* notes that “An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, *which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project*, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. *An EIR is not required to consider alternatives which are infeasible.*” [Emphasis Added]

The commenter questions the EIR's incorporation of a golf course in Alternative No. 2 (“Reduced Density” Alternative). CEQA does not require all alternatives to mirror the exact range of land uses set forth in the proposed project. Rather it provides that “The range of alternatives required in an EIR is governed by the ‘rule of reason’.” (*CEQA Guidelines* Section 15126.6 (f)). The AVSP is a master planned community of approximately 1,375 acres. Master planned communities of this size have often included a golf course as an amenity. Therefore, in accordance with the “rule of reason” the consideration of an alternative which includes a golf course meets the requirements of CEQA.

The DEIR determined that after mitigation the proposed project would result in significant and unavoidable adverse impacts related to transportation and air quality. There is no requirement that the selected alternatives avoid or lessen less-than-significant impacts. Therefore, pursuant to Section 15126.6 of the State CEQA Guidelines since alternatives discussed in the DEIR would lessen the potential impacts related to transportation & circulation and air quality; the CEQA requirements regarding the discussion of alternatives have been met.

#### **Response to California Department of Fish and Wildlife Comment G-16**

This comment summarizes the concerns expressed by the Commenter in its comment letter. Please refer to the above Responses to Comments G-1 through G-15.

**Response to California Department of Fish and Wildlife Comment G-17**

With respect to written notification of future actions, the City will provide notification to the Department pursuant to Public Resources Code Sections 21092 and 21092.2.

With respect to recirculation of the DEIR, please refer to the above Response to Comment B-72.

# Comment Letter H Pechanga Band of Luiseño Indians



## PECHANGA CULTURAL RESOURCES *Temecula Band of Luiseño Mission Indians*

Post Office, Box 2183 • Temecula, CA 92593  
Telephone (951) 308-9295 • Fax (951) 506-9491

December 29, 2015

### VIA E-MAIL and USPS

Mr. Richard J. MacHott  
Environmental Planning Consultant  
City of Lake Elsinore  
Community Development Dept - Planning  
130 South Main Street  
Corona, CA 92530

**Re: Pechanga Tribe Comments on the Notice of Availability for a Draft Program Environmental Impact Report on the Alberhill Villages Specific Plan (SP2010-02) and Related General Plan Amendment No. 2012-01 and Zone Change No. 2012-02**

Dear Mr. MacHott:

This comment letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, "the Tribe"), a federally recognized Indian tribe and sovereign government, in response to the Notice of Availability for the above named Project. The Tribe formally requests, pursuant to Public Resources Code §21092.2, to be notified and involved in the entire CEQA environmental review process for the duration of the above referenced project (the "Project"). If you have not done so already, please add the Tribe to your distribution list(s) for public notices and circulation of all documents, including environmental review documents, archaeological reports, and all documents pertaining to this Project. The Tribe further requests to be directly notified of all public hearings and scheduled approvals concerning this Project. Please also incorporate these comments into the record of approval for this Project.

The Tribe thanks the City of Lake Elsinore and the Developer for providing mitigation to preserve and protect the sensitive Luiseño cultural resources and traditional landscapes found in this area and to require both archaeological and Pechanga tribal monitoring during earthmoving activities. The State and Federal governments have mandated that cultural resources must be appropriately mitigated for within the confines of development projects. The Tribe appreciates the active role the City takes to preserve the significant and rich cultural history of both the Tribe and the State of California found within its borders.

The Tribe has reviewed the DPEIR and has consulted with the City under SB 18. Our comments, requests and edits are included below for reference and insertion in the Final EIR.

Chairperson:  
Germaine Arenas

Vice Chairperson:  
Mary Bear Magee

Committee Members:  
Evie Gerber  
Darlene Miranda  
Bridgett Barcello Maxwell  
Aurelia Maruffo  
Richard B. Searce, III

Director:  
Gary DuBois

Coordinator:  
Paul Macarro

Cultural Analyst:  
Anna Hoover

H-1

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**PECHANGA CULTURAL AFFILIATION TO PROJECT AREA**

The Pechanga Tribe asserts that the Project area is part of Payómkawichum, and therefore the Tribe's, aboriginal territory as evidenced by the existence of known place names, *tóota yixéłval* (rock art, pictographs, petroglyphs), traditional landscapes and tribal cultural resources, a Traditional Cultural Property (TCP) and an extensive artifact record in the vicinity of the Project. This culturally sensitive area is affiliated with the Pechanga Band of Luiseño Indians because of the Tribe's cultural ties to this area as well as the close proximity of the Project to Tribal reservation lands.

H-2

The Pechanga Tribe has a specific legal and cultural interest in this Project as the Tribe is culturally affiliated with the geographic area that comprises the Project property and is the closest affiliated tribe to the Property. The Tribe has been named the Most Likely Descendent (Cal. Pub. Res. C. §5097.98) on projects in the nearby vicinity of the Alberhill Villages Project and has specific knowledge of cultural resources and sacred places near the proposed Project which we have shared with the City on previous occasions for this and other projects.

The Tribe welcomes the opportunity to meet with the City to further explain and provide documentation concerning our specific cultural affiliation to lands within your jurisdiction, if so desired.

**REQUESTED TRIBAL INVOLVEMENT AND MITIGATION**

The Pechanga Band is not opposed to this Project; however, we are opposed to any direct, indirect and cumulative impacts this Project may have to tribal cultural resources. The Tribe's primary concerns stem from the Project's proposed impacts on Native American cultural resources. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as Payómkawichum village sites, sacred sites and archaeological items which would be displaced by ground disturbing work on the Project, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of the work.

H-3

The Tribe is in receipt of the Draft Program Environmental Impact Report. The proposed Project is located in a highly sensitive region of Payómkawichum territory – a Traditional Cultural Property, and the Tribe believes that the possibility for recovering subsurface resources during ground-disturbing activities in areas that have been cut less than two (2) feet by the historic mining activities and any other modern disturbances is high. The Tribe has over thirty-five (35) years of experience in working with various types of construction projects throughout its territory. The combination of this knowledge and experience, along with the knowledge of the culturally-sensitive areas and oral tradition, is what the Tribe relies on to make fairly accurate predictions regarding the likelihood of subsurface resources in a particular location.

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As an initial matter, the Tribe requests the City insert a Section under both Sections 4.12.1.2 Historical, Archaeological, and Paleontological Resources and 4.12.2.2 State Regulations regarding Assembly Bill 52. Although this Project is not subject to AB 52, all subsequent implementing projects under this DPEIR will be required to fulfill these CEQA mandates. The Pechanga Tribe will be consulting with the City on these future projects due to the sensitivity of the area. Under 4.12.1.2, the Tribe suggests including the definition of Tribal Cultural Resources found at Public Resources Code § 21074 to guide those processing future implementing projects as consideration of impacts to these resources will be required. Inclusion of this new category of resource is also appropriate under Section 4.12.2.2 due to its future applicability.

H-4

In addition to the direct impacts of the Project proper, Lake Street will require improvements as a result of this Project. Because the sensitivity level for identification of human remains and other living areas increases near water sources and that there is a large waterway alongside Lake Street and the I15 freeway, the Tribe is concerned that Payómkawichum resources could be adversely impacted and/or destroyed with the proposed work. As we have shared with the City in multiple consultations, the Tribe, through its internal research, has discovered a correlation between water sources and burials, in addition to the increased likelihood of habitation areas near water and food resources. Therefore, it is imperative that there be a Pechanga monitor present during all earthmoving activities associated with the Lake Street improvements as buried resources could be impacted by these off-site impacts.

H-5

The archaeological studies and cultural reports prepared for the DPEIR fail to address off-site impacts that must be constructed for the proposed development. Thus, the Tribe recommends that an archaeological study(s) be prepared to address these impacts, and that the Pechanga Tribe be involved in and consulted with through the entire process. The Tribe has specific information about this area regarding potential locations of human remains that must be taken into account to sensitively develop this area of Lake Elsinore and due to the confidential nature of the information, we cannot disclose it in a publically available document. As such, the only way to ensure this information is considered and appropriate mitigation and avoidance measures are prepared is to complete the necessary research, in consultation with the Tribe, as we have specific knowledge that is not available through published or publically accessible sources. Therefore, tribal consultation will be needed to fully evaluate the impacts to cultural resources and provide the City Council with the requisite information to make an informed decision on this very large Project.

H-6

At this time, the Tribe thanks the City of Lake Elsinore for working closely with us to develop appropriate and adequate mitigation measures. These are identified in the DPEIR as CR-1 to 7 and have been copied below. Because the Project will impact a documented Historic District, the Tribe recommends one additional mitigation measure to address those specific impacts, identified as CR 8 below. We request that these measures/conditions of approval, with the edits indicated, be incorporated into the final DPEIR and any other final environmental

H-7

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documents approved by the City as well as in all future implementing projects (underlines are additions; strikeouts are deletions).

**CR-1** Prior to issuance of grading permit(s) for the Project, the Project applicant shall retain an archaeological monitor to monitor all ground disturbing activities in an effort to identify any unknown archaeological resources. Any newly discovered cultural resource deposits shall be subject to a cultural resources evaluation.

**CR-2** At least 30 days prior to seeking a grading permit, the Project applicant shall contact the appropriate tribe<sup>1</sup> to notify that Tribe of grading, excavation and the monitoring program, and to coordinate with the City of Lake Elsinore and the Tribe to develop a Cultural Resources Treatment and Monitoring Agreement. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of Native American Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation; and, treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site.

**CR-3** Prior to issuance ~~to~~ of any grading permit, the Project archaeologist shall file a pre-grading report with the City and ~~County (if required)~~ to document the proposed methodology for grading activity observation. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the agreement required in CR-1, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation with the appropriate tribe in order to evaluate the significance of any archaeological resources discovered on the property. Tribal monitors shall be allowed to monitor all grading, excavation and ground breaking activities, and shall also have the authority to stop and redirect grading activities in consultation with the project archaeologist.

**CR-4** The landowner shall relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the project area to the appropriate tribe for proper treatment and disposition.

**CR-5** All sacred sites, should they be encountered within the Project area, shall be avoided and preserved as the mitigation, if feasible.

**CR-6** If inadvertent discoveries of subsurface archaeological/cultural resources are discovered during grading, the Developer, the Project archaeologist, and the appropriate

H-7  
Cont.

<sup>1</sup>It is anticipated that the Pechanga Tribe will be the "appropriate" Tribe due to their prior and extensive participation in the Alberhill Villages Specific Plan and their coordination with the City and project applicant in determining potentially significant impacts and appropriate mitigation measures.

Tribe shall assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. If the Developer and the Tribe cannot agree on the significance or the mitigation for such resources, these issues will be presented to the Community Development Director (CDD) for decision. The CDD shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources and shall take into account the religious beliefs, customs and practices of the appropriate Tribe. Notwithstanding any other rights available under the law, the decision of the CDD shall be final.

**4.12.5.2 Historical**

**CR-7** Prior to the approval of any implementing development project or the issuance of any grading permit, that includes the Alberhill School site, the applicant shall provide to the City of Lake Elsinore an evaluation of the School House structure completed by a qualified architectural historian to determine its historical significance and integrity. The report shall require the review and approval by the Community Development Department – Planning Division.

**CR-8** Prior to obtaining the first certificate of occupancy, the Developer must present informational materials (i.e. pamphlets, flyers, booklets, etc.) to the Community Development Director (CDD) to educate prospective home buyers of the Historic Alberhill District. The materials shall include details of the past history and uses of the area including those other than mining, interesting photographs and other information pertaining to the area. The Developer must hire a qualified historian to professionally prepare the materials and must consult with the local historic societies. Consultation with the Pechanga Tribe must also occur prior to finalization of the materials to include available prehistoric information. Historic information must also be included in trail signage and at least one of the following other sources: CC&R's, HOA notices, community flyers, park signage, and/or street names.

H-7  
Cont.

The Pechanga Tribe looks forward to continuing to work together with the City of Lake Elsinore in protecting the invaluable Payómkawichum cultural resources found in the Project area. Please contact me at 951-770-8104 or at ahoover@pechanga-nsn.gov once you have had a chance to review these comments if you would like to discuss the mitigation measure language and continue our SB 18 consultation. Thank you.

H-8

Sincerely,



Anna Hoover  
Cultural Analyst

Cc Pechanga Office of the General Counsel

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians  
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## **Response to Comment Letter H** **Pechanga Band of Luiseño Indians**

The Pechanga Band of Luiseño Indians provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in its letter dated December 29, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to Pechanga Band of Luiseño Indians Comment H-1**

In this comment, the Pechanga Band of Luiseño Indians (“Tribe”) requests that it be notified and involved in the entire CEQA environmental review process regarding the proposed project. The Tribe also asks to be included in the City’s distribution list for public notices and circulation of all documents pertaining to the proposed project. The City has included the Tribe in the entire CEQA process regarding the proposed project and has included the Tribe in its distribution list. The City will continue to provide the Tribe notice regarding the remainder of the CEQA process and regarding public hearings regarding the proposed project.

No new environmental issues have been raised by this comment and no additional mitigation measures and no modification of the DEIR are required.

### **Response to Pechanga Band of Luiseño Indians Comment H-2**

This comment explains the importance of Lake Elsinore and the surrounding region to the Tribe and that the Tribe has a specific legal and cultural interest in this project and that it is culturally affiliated with this area.

No new environmental issues have been raised by this comment and no additional mitigation measures and no modification of the DEIR are required.

### **Response to Pechanga Band of Luiseño Indians Comment H-3**

The commenter of the letter states that they are opposed to any direct, indirect, and cumulative impacts the Project may have to tribal cultural resources. The Tribe also states that it “believes that the possibility for recovering subsurface resources during ground-disturbing activities in areas that have been cut less than two (2) feet by historic mining activities and any other modern disturbances is high.” It also expresses concern regarding “the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of work.”

Mitigation Measures CR-1 thru CR-8 on Pages 4.12-34 thru 4.12-37 of the AVSP DEIR acknowledges and plans for the protection and preservation of cultural resources that may be discovered on the project site.

#### **Response to Pechanga Band of Luiseño Indians Comment H-4**

The commenter requests that the City insert a definition of “Tribal Cultural Resources” under Section 4.12.1.2 Historical, Archaeological, and Paleontological Resources and a description of Assembly Bill 52 under Section 4.12.2.2 State Regulations. The City acknowledges this request and has inserted the requested language to in both sections via the Errata section of the Final EIR.

#### **Response to Pechanga Band of Luiseño Indians Comment H-5**

The commenter requests that there be “a Pechanga monitor present during all earthmoving activities associated with the Lake Street improvements as buried resources could be impacted by these off-site impacts.” Mitigation Measures CR-1 and CR-2 on Page 4.12-34 of the AVSP DEIR addresses the commenter’s concerns and requires that prior to issuance of grading permits for the Project, the Project applicant shall retain an archaeological monitor to monitor all ground disturbing activities in an effort to identify any unknown archaeological resources. These mitigation measures apply to any earthmoving activities associated with Lake Street improvements.

Any accidental discovery of human remains shall be addressed in accordance with applicable laws and regulations, including Public Resources Code Section 5097.98, Health & Safety Code Section 7050.5, and State CEQA Guidelines Section 15064.5(e). Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and in order to clarify the required compliance with these regulatory requirements a new mitigation measure CR-6a will be added as follows:

**CR-6a** If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Riverside County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. Subsequently, the Native American Heritage Commission shall identify the person or persons it believes to be the “most likely descendant.” The most likely descendant may then make recommendations, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98.

### **Response to Pechanga Band of Luiseño Indians Comment H-6**

The commenter requests tribal consultation to fully evaluate the impacts to cultural resources potentially impacted by the proposed project and related off-site improvements. The Tribe acknowledges that it has consulted with the City of Lake Elsinore under SB 18. (See Comment H-1). Under Mitigation Measure CR-2 on 4.12-34 of the DEIR, prior to seeking a grading permit, the project applicant is required to contact the appropriate tribe to develop a Cultural Resources Treatment and Monitoring Agreement to address the treatment of known cultural resources, the designation, responsibilities, and participation of Native American Tribal monitors during grading, and treatment and final disposition of any cultural resources that may be discovered on the site. See the above Response to Comment H-5 regarding the accidental discovery of human remains.

### **Response to Pechanga Band of Luiseño Indians Comment H-7**

The Tribe has requested specific wording changes to Mitigation Measures CR-2 and CR-3 and to add a new Mitigation Measure CR-8. Additionally, other Luiseño Bands have also asked for modifications to the mitigation measures. Although no new impacts that were not previously identified in the DEIR have been identified; as a response to this comment and other comments received, the following changes to the mitigation measures will be made:

Mitigation Measure CR-2 will be revised as follows:

- CR-2** At least 30 days prior to seeking a grading permit, the Project applicant shall contact the ~~appropriate Indian tribe~~ both the Pechanga Band of Luiseño Indians and the Soboba Band of Luiseño Indians to notify ~~that those Tribes~~ of grading, excavation and the monitoring program, and to coordinate ~~with the City of Lake Elsinore and the both Tribes~~ to develop a Cultural Resources Treatment and Monitoring Agreement. The Agreement shall address: the treatment of known cultural resources, the designation, responsibilities, and participation of Native American Tribal monitors during grading, excavation and ground disturbing activities; Project grading and development scheduling; terms of compensation; and, treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site.

Mitigation Measure CR-3 will be revised as follows:

- CR-3** Prior ~~to~~ to issuance ~~to~~ of any grading permit, the Project archaeologist shall file a pre-grading report with the City ~~and County (if required)~~ to document the proposed methodology for grading activity observation. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the agreement required in CR-1, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation with the ~~appropriate tribe~~ retained Luiseño Native American monitor(s) in order to evaluate the significance

of any archaeological resources discovered on the property. Tribal monitors shall be allowed to monitor all grading, excavation and ground breaking activities, and shall also have the authority to stop and redirect grading activities in consultation with the Project archaeologist.

A new Mitigation Measure CR-7a will be added as follows

**CR-7a** Prior to obtaining the first certificate of occupancy, the Developer shall present informational materials (i.e. pamphlets, flyers, booklets, etc.) to educate prospective home buyers of the Historic Alberhill District to the Community Development Director or designee for review and approval. The materials shall include details of the past history and uses of the area including those other than mining, interesting photographs, and other information pertaining to the area. The Developer shall hire a qualified historian to professionally prepare the materials and shall consult with the local historic societies. Consultation with the Pechanga Tribe shall also occur prior to finalization of the materials to include available prehistoric information. Historic information shall also be included in trail signage and at least one of the following other sources: CC&R's, HOA notices, community flyers, park signage, and/or street names.

### **Response to Pechanga Band of Luiseño Indians Comment H-8**

This comment describes the Tribe's willingness to continue its consultation with the City on the proposed project and its environmental review process and on current and future projects within the City and its SOI. This comment is acknowledged. The City has and will continue to consult with the Tribe in accordance with existing City procedures and the requirements of SB 18.

No new environmental issues have been raised by this comment and no additional mitigation measures and no modification of the DEIR are required.

**Comment Letter I**  
**Pauma Band of Luiseño Indians**

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**From:** Cultural [<mailto:Cultural@pauma-nsn.gov>]  
**Sent:** Tuesday, December 29, 2015 11:49 AM  
**To:** Stephenson, Roy  
**Cc:** Dixon, Patti; Jeremy Zagarella  
**Subject:** Alberhill Villages Specific Plan, Lake Elsinore

Mr. Stephenson,

The Pauma Band of Luiseno Indians has received your December 11 notice for the 10 day review extension for the Alberhill Villages Specific Plan. After reviewing the information provided our concern is the protection and preservation of Luiseno Cultural resources on the project property. To support the Cultural Report our recommendation is to have all ground disturbance monitored by an archaeologist and Native monitor. A Monitoring Plan should be developed and agreed upon by a majority of the Luiseno Bands. Please contact us if there are any additional questions.

I-1

Thank you,

Mr. Chris Devers  
Vice Chairman  
Pauma Band of Luiseno Indians

## **Response to Comment Letter I** **Pauma Band of Luiseño Indians**

Pauma Band of Luiseño Indians provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in an e-mail dated December 29, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to Pauma Band of Luiseño Indians Comment I-1**

The commenter’s recommendation is to have all ground disturbance monitored by an archaeologist and Native monitor. Mitigation Measures CR-1 and CR-2 on Page 4.12-34 of the AVSP DEIR addresses the commenter’s concerns and requires that prior to issuance of grading permits for the Project, the Project applicant shall retain an archaeological monitor to monitor all ground disturbing activities in an effort to identify any unknown archaeological resources.

Under Mitigation Measure CR-2 on 4.12-34 of the DEIR, as revised in response to above Response to Comment H-7, requires that prior to seeking a grading permit, the project applicant is required to contact the both the Pechanga Band of Luiseño Indians and the Soboba Band of Luiseño Indians to develop a Cultural Resources Treatment and Monitoring Agreement to address the treatment of known cultural resources, the designation, responsibilities, and participation of Native American Tribal monitors during grading, and treatment and final disposition of any cultural resources that may be discovered on the site.

**Comment Letter J**  
**Paulie Tehrani & Sharon Gallina**

VIA ELECTRONIC MAIL

December 28, 2015

Mr. Roy F. Stephenson, PE, Land Use Engineer  
City of Lake Elsinore c/o HR Green  
1100 Town & Country Road, Suite 1025  
Orange, CA 92868  
E-mail: [rstephenson@hrgreen.com](mailto:rstephenson@hrgreen.com)

RE: DEIR for Alberhill Villages Specific Plan

Dear Mr. Stephenson:

We are homeowners in Alberhill Ranch and appreciate the opportunity to comment and give our opinions on this project and its environmental documentation.

**Mining Concerns:**

We are concerned with the mining; Pacific Aggregates/Pacific Clay/Castle & Cooke will be mining until all natural resources are depleted. The DEIR completely ignores exact end dates of mining, we believe there should be dates when the mining will end. When the mining operation was grandfathered into Lake Elsinore the mining agreement with the County of Riverside and Pacific Clay Products was mining ends in 2057. **DEIR extends the time to when all the natural resources are depleted this issue needs to be addressed.** In example Pacific Clay's Nichols Mine 2009 Reclamation Plan stated the mining would be completed in 4 to 5 years and then they would build a commercial center with restaurants, etc. Instead they sold the land do another mining operation, who will be mining for another 25 years plus.

J-1

We want to remind the City when Pacific Clay Products was grandfathered into Lake Elsinore they were grandfathered on a Surface Mining Permit issued by Riverside County. Pacific Clay had given up their vested mining rights to put a seven-million-dollar kiln on the mining property. We have the documentation, which we received from the County of Riverside and have given copies to the City of Lake Elsinore, and State of California which backs up this fact and truth Pacific Clay Products should not have been given vested rights by the City of Lake Elsinore.

J-2

Alberhill Ranch DEIR Comments  
December 28, 2015  
Page Page 1 of 4

Brownfields are another issue which seemed to be ignored in the DEIR, we need to see more detailed information on the cleanup of the mining brownfield. The City of Lake Elsinore, OMR and the EPA need to be responsible for overseeing the proper cleanup and handling of brownfields as well as the proper handling of reclamation. **We believe there should be someone from the EPA overseeing the whole process. Especially having lived here for 10 years and have seen many violations committed by the developer's operations.**

J-3

**Leaching** is another environmental concern when it contributes to groundwater contamination. As water from rain, flooding, or other sources seeps into the ground, it can dissolve chemicals and carry them into the underground water supply. Of particular concern are hazardous waste dumps and landfills, and, in agriculture, excess fertilizer, improperly stored animal manure, and biocides (e.g. pesticides, fungicides, insecticides and herbicides).

**Historical Sites:**

We believe the Alberhill School house located on this land should be preserved, it's over 100 years old and of great importance in our areas history. We have contacted the National Registry of Historic Places (federal and state) regarding the Alberhill School.

Butterfield Stage Coach Route (off Lake Street). Ditto as with the Alberhill School, this site must be preserved.

J-4

The Temescal Bridge should also be considered a landmark historical site.

Also Alberhill was the original place for the extraction of coal in the Western United States and there should be some type of monumental in celebration and historical representation of Alberhill and Terra Cotta.

**Native American Sites:**

We believe the DEIR does not take into much consideration of our native American ancestors and that the first man was buried in Alberhill/Terra Cotta. These needs to be addressed in great detail. The BIA has been contacted and we are waiting for a response.

J-5

**Biological Impacts:**

As active members of the Endangered Habitats League (EHL) and Waterkeepers we are concerned and echo Dan Silver's concerns he addressed in his December 24, 2015 letter to you as well as the concerns voiced by the Waterkeepers and Gene and Linda Riddenour. We have lived in Alberhill Ranch for many years and have seen the developer issued fines and notices with many agencies State and Federal because of this we believe someone from Fish and Wildlife, Audubon Society, EHL, Sierra Club, Waterkeepers, etc. etc. should all be involved with overseeing all work on this project.

J-6

We have also seen many of the endangered species mentioned in Dan's letter diminish each year and some we haven't seen in a couple of years. (We do have documentation.)

**ROADS/TRAFFIC ISSUES/EDISON POLES:**

Traffic has been a big problem in Alberhill Ranch the DEIR doesn't address is issue properly. The roads need to be completed before any building begins, especially Temescal Canyon Road, Lake Street and Nichols Road, these need to all be completed at the same time with no extensions given. The developer has a habit of getting extensions and not completing projects ie Lake Street and the Edison poles, etc.

We were told the Edison poles would be underground and we expect this to be corrected in the DEIR and changed to underground utilities.

Mining Traffic and construction traffic should be conducted on one road designated the "**haul road**". We believe the designated haul road should be Lake Street. We don't believe Nichols Road should be the assigned haul road. Nichols Road is the main road for residential traffic and a dangerous road because of how fast the mining trucks travel. The mining trucks seem to frequently ignore the speed limit, hours of use as well as the stop sign at Alberhill Ranch and Nichols Road.

J-7

**COMMERCIAL AREAS:**

We want to see firm dates when the commercial will be started and completed. It's been over 10 years and Alberhill Ranch isn't even half way completed. If they work at that pace it will be 1,000 years before Alberhill Villages will be completed.

Firm hours of construction traffic with a city contact for us to call at any given time when they are out of compliance. This also includes the mining and building part of the project.

No mining or construction activity when the winds are over 25 miles per hours including wind gust.

J-8

**ACCOUSTICAL/LIGHTING PROBLEMS:**

We want to be included in monitoring the acoustical issues during construction and mining operations. There have been many times when they are over the noise levels and we are unable to reach the City in time to catch them breaking

J-9

the noise codes. We live here and want things done right and want to be part of this process and keeping records. An ex-city employee monitored the noise with his ears and didn't do anything to stop the noise from what we heard. Watch You Tube for Alberhill Mining.

**J-9  
Cont.**

WE don't want large lights facing Alberhill Ranch Area A that was a problem which we don't want to revisit.

**J-10**

Dust has always been a problem and with the mining and construction we will have serious issues to our health as well as our neighbors, seniors and children. This needs to be mitigated and reviewed at the present time the DEIR is lacking in the health and safety of current residents in Alberhill Ranch and surrounding areas.

**J-11**

Thank you for your time and attention to our opinion and concerns. We believe the developer does not want to build. We also believe the City needs to address the illegal vested rights which were given to Pacific Clay/Aggregates a few years ago. City Manager Yates said he would look at this after the budget and he didn't, it's time this is addressed. We are growing impatient on this outstanding issue hope the City will do the right thing and reverse the illegally given vested rights. They do not have vested rights and if the City removes these illegal vested rights then the mining will have to stop in the year 2057 as per the agreement the mining operator made with the County of Riverside. The DEIR does address their not building the Villages but continuing to mine which once again leads us to believe they are primarily a mining operation and not a developer. In our opinion we were sold a bunch of lies when we purchased our homes and the state of California wasn't even aware our homes were built here because the mining reclamation was not done here legally or properly.

**J-12**

Warm regards,

Paulie Tehrani and Sharon Gallina  
Ash Street  
Lake Elsinore, CA 9253

Cc: Grant Taylor  
bc

## **Response to Comment Letter J** **Paulie Tehrani & Sharon Gallina**

Paulie Tehrani & Sharon Gallina provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in their letter dated December 28, 2015. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-1**

The DEIR does not discuss or identify a specific end date for mining operations on the site because such a date is currently unknown. As discussed in detail in Reclamation Plan RP 112, due to the nature of the deposit and the varied extraction requirements, as well as ever-changing market conditions, mining will continue on site until the deposit is exhausted which, as of July 2011, was estimated to be at least 44 additional years or until December 31, 2055, which is identified as the mining termination date in Reclamation Plan RP 112. This date is nothing more than an estimation of when mining will cease as required by the California Surface Mining Reclamation Act of 1975 (“SMARA”). Should mining continue beyond that date, Reclamation Plan RP 112 would have to be amended to reflect that change. Market forces and other considerations may lead to termination of mining at an earlier time.

The DEIR suggests the project will be phased in over a 20-30-year period. (DEIR, p. 2.0-47) The exact date of termination of mining is not pertinent for purpose of environmental review included in the DEIR. Reclamation Plan RP 112, approved in January 1979, originally anticipated completion of mining occurring in 2054. There was no formal “agreement” upon annexation of the property in the City of Lake Elsinore that mining had to cease by 2057 or any other specific date. The date referenced is merely a date of anticipated cessation of mining activities estimated at the time.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-2**

The existing vested rights associated with the mining property originate from ongoing mining operations on the property which predated the enactment of SMARA. Possessing a vested right to continue mining activity merely means that no permit is required to continue operations. However, mining activities conducted subsequent to the enactment of SMARA, even vested operations, are subject to the reclamation requirements of the statute, including obtaining and maintaining a valid approved Reclamation Plan. The County of Riverside, in approving Reclamation Plan RP 112 in 1979 concluded mining operations were vested thereby requiring no mining permit. The properties continue to be mined since that time and therefore vested rights to continue mining activity remain in existence.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-3**

Commenter's reference to Brownfield suggests that the property is contaminated in some manner and requires remediation. The AVSP is not a brownfield development. Please see the above Response to Comment B-39, which fully addresses the issue of brownfields.

As discussed in Section 4.2, Hazards and Hazardous Materials, the DEIR acknowledges two underground storage tanks leaked onsite. However, both incidents were remediated and both of the cases with the Department of Toxic Substance Control have been deemed "closed". Any threats from those leaking tanks have been remedied appropriately. There is no other indication that there is existing contamination on the project site. Current operations included open-pit clay mining for clay brick manufacturing, along with sand and gravel mining operation, aggregate processing plant and ready-mix concrete batch plant. The ongoing operations onsite do not utilize substantial amounts of hazardous materials that could result in contamination. The operations onsite are subject to industrial stormwater permits issued by the Regional Water Quality Control Board pursuant to the Federal Clean Water Act. An industrial stormwater permit requires the operators to utilize Best Management Practices to prevent degradation of water quality from onsite activities. The project site is subject to a Storm Water Pollution Prevention Plan (SWPPP) to reduce pollution due to stormwater discharge. The site will remain subject to the industrial stormwater permits until cessation of activity onsite and completion of reclamation. Until the site is fully reclaimed, there will be significant governmental oversight on both the state and local level to ensure activity has minimized risk of contamination and degradation of water quality.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-4**

The DEIR proposes that the Alberhill School be evaluated and "as-built" described by an historic architect. The Alberhill School will then be closely replicated elsewhere on the project site to be used as a Home Owners Association/Community meeting facility.

The Butterfield Stage Coach Route did not qualify as a historical site. The Temescal Bridge is unsafe and proposed for relocation. The Temescal Bridge does not qualify as a historical site according to the AVSP historical reviews. An interpretive exhibit representation of the Alberhill, Terra Cotta and Native American history will be located within the Home Owners Association/Community meeting facility. In addition, please refer to the above Response to Comment B-36 with respect to the Alberhill School.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-5**

The AVSP DEIR Mitigation Measures CR-1 thru CR-8 on Pages 4.12-34 through 4.12-37 in the DEIR protects and preserves the Native American cultural resources if found on the project property. Please see the responses to the letters received from the Pechanga Band of Luiseño

Indians (Letter H), the Pauma Band of Luiseño Indians (Letter I), the Pala Band of Mission Indians (Letter N), the Rincon Band of Luiseño Indians (Letter O) and the Soboba Band of Luiseño Indians (Letter R) for additional responses regarding cultural resources.

#### **Response to Paulie Tehrani & Sharon Gallina Comment J-6**

Please see the responses to the letters received from Johnson & Sedlack (Letter B), the United States Fish and Wildlife Service (Letter D), the California Department of Fish and Wildlife (Letter G), Inland Empire Waterkeeper (Letter K) and the Endangered Habitats League (Letter L) for responses to specific comments regarding biological resources.

#### **Response to Paulie Tehrani & Sharon Gallina Comment J-7**

In order to assure the completion of appropriate and timely road improvements to serve the AVSP project area, new Project-wide Development Standards have been added to the AVSP which require:

- All road improvements within the Alberhill Villages Specific Plan (AVSP) shall be constructed to ultimate City standards and consistent with the General Plan, unless otherwise identified and approved, as a requirement of the implementing development projects (including but not limited to subdivisions, design review applications and conditional use permits) subject to approval by the City Engineer. The AVSP “Enhanced” and “Modified” cross-sections are subject to the submittal and review of design drawings, at the time implementing development projects are submitted.
- Site-specific Traffic Impact Analyses (traffic studies) shall be required for each Phased Development Plan (PDP) and for all subsequent implementing development projects in accordance with the City’s Traffic Impact Analysis Preparation Guide requirements in effect at the time of Traffic Impact Analysis preparation.

Additionally, the description of required Phased Development Plans (PDPs) has been revised to specifically require that PDPs “circulation and infrastructure phasing milestones.”

See the above Response to Comment C-1 and Response to Comment C-2 regarding the 115 kv Subtransmission poles along Lake Street.

This comment includes a request for the designation of Lake Street as a “haul road” and a description of the use of area roads by existing truck traffic. No new environmental issues have been raised by this comment and no additional mitigation measures and no modification of the DEIR are required.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-8**

Construction of commercial areas within AVSP is dependent on local, state, and regional economic factors and any establishment of “firm dates” when the commercial will be started and completed is speculative. See the above Response to Comment B-12.

This comment makes the statement: “No mining or construction activity when the winds are over 25 miles per hours [sic] including wind gust.” On page 4.8-20 of the DEIR, there is a discussion regarding SCAQMD Rule 403. The DEIR states that “The Project must adhere to these fugitive dust control measures that include, but are not limited to: ...Operations on any unpaved surface shall be suspended if winds exceed 25 miles per hour.”

### **Response to Paulie Tehrani & Sharon Gallina Comment J-9**

Mitigation Measures on pages ES-51 thru E-54 of the AVSP DEIR, address noise and lighting from the ongoing mining operation and construction. Please also refer to the Responses to Letter B (Johnson & Sedlack) and Letter P (South Coast Air Quality Management District) which address Noise and Air Quality.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-10**

Potential noise impacts resulting from the proposed project were analyzed in 4.9 (Noise) of the DEIR. Mitigation measures NSE-0.5, and NSE-1 through NSE-10 address noise from the ongoing mining operation, and the construction and operation of implementing development projects. Monitoring of mitigation measures is required by CEQA (*CEQA Guidelines* Section 15097). The Mitigation Monitoring and Reporting Program that will be adopted concurrently with certification of this EIR will identify the parties responsible for monitoring and reporting the results of that monitoring.

### **Response to Paulie Tehrani & Sharon Gallina Comment J-11**

Potential light and glare impacts are discussed in Section 4.5 (Aesthetics/Light and Glare) of the DEIR. Mitigation Measure AES-9 as modified by the above Response to Comment B-19 requires:

Prior to the approval of each implementing commercial, multi-family and recreational development project, the applicant/developer shall submit photometric lighting plans that demonstrate that Any lights used to illuminate the parking areas, driveways, and other exterior or interior areas, shall be designed and located so that direct lighting is directed and confined to the subject property. The applicant/developer shall submit photometric lighting plans for commercial, multi-family and recreational projects. All outdoor light fixtures, including but not limited to street lights and operational, signage, and landscape lighting sources shall be shielded and situated so as to not cause glare or light spillage

into adjacent areas. Directional lighting should shall be of a ~~minimum~~ maximum intensity (~~wattage~~) of one foot-candle (1 lumen per square foot), or as otherwise necessary for public safety.

**Response to Paulie Tehrani & Sharon Gallina Comment J-12**

Pursuant to CEQA Guidelines Section 15204 (a), “In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.

This comment describes the commenter’s opinion regarding the current mining operations on the project site. This comment is acknowledged. No new environmental issues have been raised by this comment and no additional mitigation measures and no modification of the DEIR are required.

## Comment Letter K - Inland Empire Waterkeeper, Jacqueline Neumann



Inland Empire Waterkeeper

Advocacy • Education • Restoration • Enforcement

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Website [www.iewaterkeeper.org](http://www.iewaterkeeper.org)

December 26, 2015

*Delivered via email and USPS.*

Mr. Roy F. Stephenson, PE, Land Use Engineer  
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Orange, CA 92868  
Email: [rstephenson@hrgreen.com](mailto:rstephenson@hrgreen.com)

### **RE: Draft Environmental Impact Report – Alberhill Villages Specific Plan**

Dear Mr. Stephenson,

Inland Empire Waterkeeper, a program of Orange County Coastkeeper, is a local environmental organization with the mission to protect and enhance the water quality of the Upper Santa Ana River Watershed through programs of advocacy, education, research, restoration, and enforcement. As concerned Riverside County residents and strong supporters of environmental quality and public health, we respectfully submit the following comments on behalf of our collective membership to express our reservations regarding the Draft Program Environmental Impact Report and Appendices (“DEIR”) issued for the Alberhill Villages Specific Plan (“Project”). As will be discussed in detail below, the project as described in the DEIR fails to provide adequate protections for water quality and biological resources. The DEIR is inadequate under the California Environmental Quality Act (“CEQA”) as it fails to provide adequate analysis of water quality impacts, cumulative impacts, feasible alternatives, and appropriate habitat restoration.

**K-1**

We urge the City of Lake Elsinore to require the DEIR be modified in accordance with our comments submitted below.

### **I. INTRODUCTION – APPLICABLE LAW**

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code, § 21100(b)(1); CEQA Guidelines, § 15126(a); *Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissioners of the City of Oakland*, 91 Cal. App. 4th 1344, 1354.) CEQA requires that an EIR must not only identify the impacts, but must also provide “information about how adverse the impacts will be.” (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App. 3d 818, 831). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford*, (1990) 221 Cal. App. 3d 692, 731). CEQA requires public agencies to avoid or reduce environmental

**K-2**

damage when “feasible” by requiring mitigation measures. (CEQA Guidelines, § 15002(a)(2)-(3); *Berkeley Keep Jets Over the Bay Committee*, supra, 91 Cal. App. 4th at p. 1354). The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify the ways that environmental damage can be avoided or significantly reduced.” (CEQA Guidelines, § 15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub. Res. Code, § 21081; CEQA Guidelines, § 15092(b)(2)(A)-(B).)

K-2  
Cont.

In general, mitigation measures must be designed to minimize, reduce, or avoid an identified environmental impact or to rectify or compensate for that impact. (CEQA Guidelines, § 15370.) Where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. (*Id.*, at § 15126.4(a)(1)(B).) A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved. CEQA requires the lead agency to adopt feasible mitigation measures that will substantially lessen or avoid the Project’s potentially significant environmental impacts (Pub. Res. Code, §§ 21002, 21081(a)), and describe those mitigation measures in the CEQA document. (Pub. Res. Code, § 21100(b)(3); CEQA Guidelines, § 15126.4.)

K-3

A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County*, supra, 221 Cal. App. 3d at p. 727.) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (CEQA Guidelines, § 15364.) Required to demonstrate economic infeasibility is “evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.” (*Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1988) 197 Cal. App. 3d 1167, 1181.) This requires not just cost data, but also data showing insufficient income and profitability. (*See Burger v. County of Mendocino* (1975) 45 Cal. App. 3d 322, 327); *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal. App. 4th 656, 694.) “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.” (CEQA Guidelines, § 15126.4(a)(2).)

K-4

## II. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECT’S IMPACT TO HYDROLOGY AND WATER QUALITY.

### a. The Temescal Canyon Creek Must Be Restored To Its Natural State And Be Preserved As A Natural Resource For Future Generations.

The DEIR explains that its development project will improve the drainage system and the waterways than from its current mining conditions. However, the DEIR fails to consider the Surface Mining Control and Reclamation Act of 1977. As indicated in the DEIR’s Geotechnical Investigation, there were three natural watercourses, including the Rice Canyon Wash, located on the Project site before the mining operations. It is Inland Empire Waterkeeper’s position that because the mining site is being developed after it ceases operation, the Project site must restore the three natural waterways along with Temescal Canyon Creek in the project area.

K-5

The Project is currently being “mined for clay to produce brick, and also for sand and gravel for use in concrete and building materials. As a result, much of the landform is disturbed as compared to its natural state, and several depressions (former mining pits) remain that support season and perennial pools. Much of the site vegetation has been removed during the mining process.” (DEIR, 4.10-10).

According to the Surface Mining Control and Reclamation Act of 1977, “General performance shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to . . . (2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution of pollution, and the permit applicants’ declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violated of Federal, State, or local law.” 30 U.S.C. § 1265.

K-6

As the DEIR makes clear, the Project site has been immensely disturbed from the mining activities and this condition is used as the baseline for the DEIR. This is an error as the baseline for the DEIR should be the natural restored condition required after the cessation of mining at the site. Although the statute lists specific exceptions to the required reclamation efforts, the DEIR does not explain the presence of such exceptions to justify its absence of such efforts prior to the Project commencement. Because the mining site must be restored to a condition capable of supporting the uses which it was capable of supporting before any mining occurred, or, alternatively, *higher or better uses*, the DEIR must add plans to restore the three natural waterways.

K-7

“The Alberhill Villages project proposes to grade the existing Temescal Creek drainage course to create a more confined trapezoidal earthen channel to convey the drainage runoff across the site” (DEIR, Appx. C2a, 21).

“Streams can be rendered essentially sterile by channelization. In regard to fish, for example, the effect depends on the type of construction used. Concrete-lined trapezoid-shaped channels are apparently totally destructive of fish life. Concrete-lined V-shaped channels are only slightly better: they allow continuous flow at a sufficient depth for fish passage, but high temperatures in these channels resulting from lack of shade can prevent fish passage. Excavation of a channel also destroys sources of food and places of shelter for fish.” John P. Brown, *Stream Channelization: The Economics of the Controversy*, Natural Resources Journal 577, 563 (1974).

K-8

“When landowners channelize for their own benefit, almost all the effects external to the market are negative. If that is the case, then landowners, if left to their own devices, would tend to provide too much channel modification because they have left the *negative effects on the environment* out of their calculations. The appropriate role of government in such a case would be to represent the interests which have been hurt and reduce the amount of channelization from what would have been produced privately.” *Id.* at 564 (emphasis added).

“Typically, channelization entails removal of almost all vegetation from the immediate channel area . . . The vegetation that is destroyed is the cover and the habitat for the wildlife. When vegetation is destroyed, the wildlife either leaves or dies. It is possible that the new crops that replace the destroyed vegetation may provide food and cover for wildlife, but this wildlife often consists of different species.” *Id.* at 564.

For the benefit of the current and future residents in the County, the fish and wildlife that call the Temescal Canyon Creek their home, and the environment, the Project should restore the Temescal Canyon Creek back into its natural state, and preserve it as such. Such a natural improvement will undoubtedly present City of Lake Elsinore as having a higher standard of living if natural waterways are restored, as this contributes to the quality of life. "It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man" (CEQA § 21000(b)). Furthermore, "[s]ince Lake Elsinore's incorporation as a city, its chief concerns have been the lake itself and protecting the water rights of the community" which demonstrates the City's long-standing connection with its natural landscape. CITY OF LAKE ELSINORE, *available at* [www.lake-elsinore.org/index.aspx/.page=967](http://www.lake-elsinore.org/index.aspx/.page=967).

The DEIR states that the open spaces will include natural features including the Temescal Canyon Creek. However, after further investigation, it is explained that the Wash will ultimately turn into a channel. The DEIR states: "Open spaces would include natural terrain features such as: 1) the Temescal Canyon Wash . . . These areas would be left in their natural condition or re-naturalized to the extent feasible. In those areas where remedial grading disturbs native vegetation, the area could be revegetated with either indigenous plant material or other appropriate native materials." (DEIR, 2.0-21). Unless a plan is in place, there will not be a natural feature left. "Stormwater and dry weather runoff can be managed to achieve environmental and societal benefits such as . . . an increase in park and recreation lands, and urban green space." California Water Code § 10561(g). Thus, a natural creek will immensely improve the "Open Space Connections, Parks and Recreational Facilities" offered in the Project because it will include actual "natural" resources, rather than only amenity-oriented recreational facilities. There would be accessible open space that includes a natural waterway rather than simply concrete channels hidden throughout the community.

K-8  
Cont.

Inland Empire Waterkeeper is strongly opposed to the Alberhill Village's plan to channelize Temescal Canyon Creek, rather than restoring and preserving the creek to its natural state. "[P]ublic agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." (CEQA § 21001). Because the DEIR fails to address the option of restoring the Creek to its natural state, and also fails to explain the infeasibility of this option, the DEIR is inadequate. As indicated in the DEIR, the Temescal Canyon Creek has flowing water in it, whether it is from water treatment facility upstream and rain events. (DEIR, 4.1-21). As explained by one researcher, if a person can imagine a spectrum where on the left end is a completely tamed, paved and covered storm sewer and on the right end is a completely wild river then, "in principle, one can think of channelization as a movement of a river's place in the spectrum to the left. It is either impossible or very expensive to move the river to the right, that is, to *make it more wild*, because the natural forces which tend to obliterate the impact of man work very slowly." *Bronn*, at 564. The current Project will likely permanently change the Creek from what it is now. The Project should restore the Temescal Canyon Creek, and the DEIR should not be approved until there are plans to do so.

**b. The DEIR Fails To Adequately Analyze And Mitigate Cumulative Impacts To Hydrology And Water Quality.**

"Currently the City of Lake Elsinore is preparing initial plans and studies to reconstruct the existing two-lane Temescal Canyon Road Bridge over Temescal Creek. The City plans to construct a portion

K-9

(phase 1) of the ultimate Temescal Creek Channel as they construct the new bridge located 1,200 feet downstream of the existing bridge. This new bridge is located at its ultimate location in conjunction with the future development of Alberhill Villages.” (DEIR, Appx. C2a, 21.)

The DEIR must explain the specific effects the Project will have on Temescal Canyon Creek rather than assuming the City’s bridge plans will alone influence the future of the Temescal Canyon Creek. This massive development will undoubtedly affect Temescal Canyon Creek and have irreversible impacts to the water quality and the natural state of the waterway, and the DEIR must address such effects in detail before the public can adequately respond.

Also problematic is the DEIR’s failure to provide an analysis on how the Project, in combination with all relevant past, present, and potential future projects (such as the City’s plan to construct a bridge), could cause cumulative impacts to the Temescal Canyon Creek. “Cumulative impacts” are defined as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (CEQA Guidelines, § 15355(a).) As the DEIR explained, the “new bridge” will be in placed in a beneficial location for this Project. The DEIR must explain the significant cumulative impacts. (CEQA Guidelines, § 15130(a); *Friends of Eel River v. Sonoma County Water Agency*, (2003) 108 Cal. App. 4th 859).

As can be deciphered from the language used in the DEIR, the Temescal Canyon Creek will cease to exist after this Project and the construction of the bridge is complete. The “Temescal Creek Channel” will take its place, resulting in a one-way transformation from a natural creek of Southern California to a flood control channel and drainage system removing used water away from one city, and into the next, until it finally lands in the Pacific Ocean.

In adopting CEQA, the Legislature declared that “it is the policy of the state to . . . (c) prevent the elimination of fish or wildlife species due to man’s activities, insure that fish and wildlife populations do not drop below self-perpetrating levels, and preserve for future generations representations of all plant and animal communities . . . .” and to “(e): create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.” (CEQA § 21001).

The DEIR must be revised to incorporate the known cumulative impacts of the City’s proposed bridge and the Project.

**c. The DEIR Fails To Incorporate Low Impact Design.**

Inland Empire Waterkeeper recommends the implementation of Low Impact Design to allow for the capture and infiltration or re-use of all dry weather runoff and stormwater runoff from a two-year 24 hour event storm. “The capture and use of stormwater and dry weather runoff is not only one of the most cost-effective sources of new water supplies, it is a supply that can often be provided using significantly less energy than other sources of new water supplies.” California Water Code § 10561(j). The DEIR failed to incorporate this feasible alternative method.

As indicated by the DEIR: “Urban runoff will be treated for pollutants and HCOC volume via WQMP Basins prior to entering the storm drain system.” (WQMP, Appx. C, Part 3). However, from the map and description associated with the plan, there appear to be three major

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debris/detention basins that are primarily designed to slow down stormwater from upstream passing through the Project along with a number of dry detention basins throughout the project. Inland Empire Waterkeeper recommends the Project add infiltration/advanced treatment basins or devices at the bottom of the hill to capture and treat the dry weather runoff and stormwater from the Project before it enters Temescal Canyon Creek. A more efficient advanced treatment is needed than a dry detention basins which are ineffective in reducing nutrients, dissolved metals and oil and grease from runoff. Inland Empire Waterkeeper recommends infiltration, capturing stormwater in cisterns or surface basins for re-use or advanced treatment before discharging runoff to Temescal Creek.

As addressed in the California Water Code § 10561(b): “improved management of stormwater and dry weather runoff, including capture, treatment, and reuse by using the natural functions of soils and plants, can improve water quality, reduce localized flooding, and increase water supplies for beneficial uses and the environment.” Support for the implementation of this process comes from the fact that “[h]istorical patterns of precipitation are predicted to change and an increasing amount of California’s water is predicted to fall not as snow in the mountains, but as rain in other areas of the state. This will likely have a profound and transforming effect on California’s hydrologic cycle and much of that water will no longer be captured by California’s reservoirs, many of which are located to capture snow melt.” *Id.* at § 10561(d). Thus, “[w]hen properly designed and managed, the capture and use of stormwater and dry weather runoff can contribute significantly to local water supplies through onsite storage and use, or letting it infiltrate into the ground to recharge groundwater, either onsite or at regional facilities, thereby increasing available supplies of drinking water.” *Id.* at § 10561(e). Additionally, the California Water Code requires: “New developments and redevelopments . . . be designed to be consistent with low-impact development principles to improve the retention, use and infiltration of stormwater and dry weather runoff onsite or at regional facilities.” California Water Code § 10561(f).

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Because of the current need to save water, and the efficiency and State support of Low Impact Design methods, Inland Empire Waterkeeper requests the approval of the DEIR be postponed until this method is adopted into the Project plans.

**e. The Study Period Of The Recycled Water System Should Be Established And Completed Prior To The Approval Of The DEIR.**

The Elsinore Valley Municipal Water District covers this area and the DEIR states that the EVMWD “plans to expand its recycled water system to provide recycled water for irrigation users and to maintain water levels in Lake Elsinore during normal and dry years”, but that the study period to evaluate such uses has not been established. This type of study would be largely influential to the capacity of water that can and will actually be available to service the Project site. Such a study would be beneficial to notify the public as to EVMWD’s future capacity to maintain water levels in Lake Elsinore in addition to serving a new 1400-acre development.

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**f. The Project’s Plan To Create Two New Lakes Needs To Be Further Evaluated Or Eliminated.**

“To large recreational lake facilities totaling approximately 39.6 acres will be the main attraction of the AVSP. The 13.6-acre west lake and the 26-acre east lake at the heart of the project will provide

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light water activities to both local residents and visitors. Trail and pathways will surround the lake and provide opportunities for biking, jogging, and scenic walks.”

The two new recreational lakes either need to be filled and maintained with stormwater, onsite perched groundwater, or be eliminated. Unsustainable lakes filled with imported water are not consistent with a modern Southern California Development; such lakes could have a more beneficial use. The geology report states that groundwater exists at shallow depths on the site near Temescal Creek and that perched groundwater exists in certain areas on the Project site. If the lakes will be operated as capture stormwater capture BMPs, then this could be beneficial to the new development to supplement the water in the area.

California is experiencing drought conditions, where the “present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and [t]he drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to prevent waste and unreasonable use of water and to further promote conservation.” State Water Resources Control board Resolution No. 2015-0032, Article 22.5 Drought Emergency Water Conservation, Section 836, Findings of Drought Emergency.

Artificial Lakes designed for aesthetic purposes and “light water activities” are incompatible with the new reality of California’s water supplies. The creation of a new lake in the desert region of the City of Lake Elsinore would be an irresponsible use of either the groundwater or imported water. It would be more environmentally sound to keep the water underground to avoid rapid evaporation problems.

### III. CONCLUSION

In conclusion, after a thorough review of the DEIR, Inland Empire Waterkeeper is concerned that the Project fails to adequately return the natural drainages in the project area and Temescal Canyon Creek to their natural states, fails to specify the cumulative impacts of the Bridge and Project, fails to implement Low Impact Design or to adequately analyze all feasible alternative methods and mitigation measures in relation to these issues. Inland Empire Waterkeeper also recommends eliminating the construction of the two new lakes. Finally, drafting the study plan for the recycled of water would assist the public in properly commenting on the Project.

Inland Empire Waterkeeper thanks the City of Lake Elsinore for its consideration of our comments on the Alberhill Villages development. If you have any questions regarding our comments please feel free to call me at (714) 850-1965 or email me at [jacqueline@coastkeeper.org](mailto:jacqueline@coastkeeper.org).

Regards,

Jacqueline Neumann  
Inland Empire Waterkeeper

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## **Response to Comment Letter K** **Inland Empire Waterkeeper**

The Inland Empire Waterkeeper provided comments regarding the Draft Program Environmental Impact Report (“DEIR”) (State Clearinghouse Number 2012061046) for the Alberhill Villages Specific Plan and related applications in their letter dated December 26, 2016. The following discussion provides responses to those comments. The responses and any edits provided below merely clarify and amplify the analysis and conclusions already presented in the DEIR. The environmental issues raised in the comment letter and responded to below do not present any substantial evidence showing any new or different potentially significant impacts as defined by State CEQA Guidelines Section 15088.5.

### **Response to Inland Empire Waterkeeper Comment K-1**

Based on the above Responses to Comments B-1 through B-9, the City maintains that the DEIR is adequate, that no additional studies are required, and that recirculation of the DEIR is not warranted under CEQA Guidelines Section 15088.5. See also the above Response to Comment B-72.

### **Response to Inland Empire Waterkeeper Comment K-2**

The DEIR covers all CEQA subject areas. All potential project-specific and cumulative impacts are identified and analyzed along with cumulative impacts. As discussed in the DEIR and in the responses to these and other comments, “feasible” mitigation measures that will avoid or reduce environmental impacts have been identified. The DEIR identifies significant and unavoidable impacts related to Air Quality, and Transportation and Circulation. If the City of Lake Elsinore determines that the benefits of the proposed project outweigh unmitigated significant environmental effects, it will prepare a Statement of Overriding Considerations addressing each significant and unavoidable environmental effect identified in the DEIR.

Please see the responses to the letters received from Johnson & Sedlack (Letter B), the United States Fish and Wildlife Service (Letter D), the California Department of Fish and Wildlife (Letter G).

### **Response to Inland Empire Waterkeeper Comment K-3**

See the above Response to Comment K-2.

#### **Response to Inland Empire Waterkeeper Comment K-4**

All mitigation measures listed are reasonable under the law, feasible in current practice and implementable during the AVSP administrative process. See the above Response to Comment K-2.

#### **Response to Inland Empire Waterkeeper Comment K-5**

Commenter cites the Surface Mining Control and Reclamation Act of 1977 and suggests that the DEIR should have considered this legislation in its analysis. The Surface Mining Control and Reclamation Act of 1977 is federal law established to regulate surface coal mining and reclamation activities on federal and state lands. Although historically coal was mined by underground methods on the property, coal mining activities ceased long before the enactment of the Surface Mining Control and Reclamation Act of 1977, and hence, the statute is inapplicable to reclamation of the subject site.

Reclamation of the mining property is regulated by the California Surface Mining and Reclamation Act of 1976 (California Public Resources Code Section 2710 et seq.) (“SMARA”). Reclamation Plan RP 112, approved by the City of Lake Elsinore in 2012, is a document which governs the reclamation of the subject site. The Reclamation Plan complies with SMARA and City of Lake Elsinore ordinances implementing state law. The vested mining operation occurring on-site has been in operation for more than a hundred years and most extraction operation areas, including any on-site natural waterways have been disturbed for decades, therefore existing wildlife habitat on the project site is limited or non-existent. The Reclamation Plan will require revegetation of disturbed areas to return them to a natural state using native plant species that will provide habitat for wildlife, while promoting the identified end-use of the property. There is no legal obligation to restore waterways that were long ago irreparably altered. Due to the current disturbed nature of the site and the proposed end-use, any historical drainages that were disturbed long ago cannot be restored to pre-disturbance conditions. Temescal Canyon Creek is currently poor in form and functions. The AVSP DEIR has analyzed the Temescal Canyon Creek noting that the AVSP will restore the biological functions and values. See also the above Response to Comment B-26.

#### **Response to Inland Empire Waterkeeper Comment K-6**

See above Response to Comment K-5. As discussed above, reclamation of the site is governed by the California Surface Mining and Reclamation Act of 1976. SMARA and its implementing regulations, found in Title 14 of the California Code of Regulations, include specific performance standards that must be met in reclaiming the mine site to ensure productive post-mining use of mine lands and elimination of hazardous conditions created by mining activities. As indicated in Reclamation Plan RP 112, the projected end-use of the majority of the mine property is open space. As such, in accordance with 14 CCR Section 3703-3706, the Reclamation Plan includes performance standards for back-filling, regrading and slope stability, wildlife protection, revegetation, and post-reclamation drainage and no version control.

### **Response to Inland Empire Waterkeeper Comment K-7**

Pursuant to CEQA, an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation is published. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether impact is significant. (CEQA Guidelines Section 15125(a)) Although in certain circumstances, the environmental baseline against which projects environmental impacts judged may be something other than the existence of physical conditions, in the instant case, the use of existing disturbed property as the baseline was appropriate and consistent with the mandates of CEQA. Although the commenter is correct that the site will be reclaimed from its current disturbed nature prior to development of the project, the site is being reclaimed specifically to support future development and will require a future amendment to RP 112 to reclaim to the urban land uses. Therefore, considering a fully reclaimed site prior to development of the project would be inappropriate and inconsistent with CEQA requirements for establishing a baseline for analysis purposes.

### **Response to Inland Empire Waterkeeper Comment K-8**

See the Response to Comment D-5.

### **Response to Inland Empire Waterkeeper Comment K-9**

The commenter states the EIR fails “to provide an analysis on how the Project, in combination with all relevant past, present, and potential future projects (such as the City’s plan to construct a bridge) could cause cumulative impacts to Temescal Canyon Creek.” However, pursuant to Section 15130 of the *CEQA Guidelines*, the “following elements are necessary to an adequate discussion of cumulative impacts:

**(1) Either:**

- (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or
- (B) A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such document shall be referenced and made available to the public at a location specified by the lead agency. (Emphasis Added)

As described on page 3.0-47 of the DEIR, the “summary of projections” approach in the cumulative analysis. Utilization of this approach in cumulative impact analysis does not require a specific listing of projects (such as the City’s plan to construct a bridge).

Please see above Response to Comment B-8, Response to Comment B-62, Response to Comment D-5 and Response to Comment K-2.

#### **Response to Inland Empire Waterkeeper Comment K-10**

The Commenter recommends the Project add “infiltration/advanced treatment basins or devices at the bottom of the hill to capture and treat dry weather runoff and storm water from the Project”. This has been proposed and detailed in the Preliminary Water Quality Management Plan (PWQMP) report shown in Appendix C in the Preliminary Water Quality Management Plan Figure 2. Exact size and configuration of the WQMP basins will be finalized at the time of development of each respective project area subject to a Phased Development Plan, Design Review, Subdivision Map application.

Please refer to DEIR Appendix C – Hydrology, Drainage, and WQMP for low impact design concepts within AVSP.

#### **Response to Inland Empire Waterkeeper Comment K-11**

Please see above Response to Comment A-1, Response to Comment B-68, Response to Comment B-69, and Response to Comment B-70.

#### **Response to Inland Empire Waterkeeper Comment K-12**

The Executive Summary of AVSP document (Appendix J of DEIR) explains that:

**Natural spring water from south of the site will flow into the lakes to provide a natural water source to the Alberhill Village lakes.** Low flow storm water will be captured within each development to percolate into the groundwater table to replenish water supplies. High storm water flows will safely be conveyed through the site into Temescal Creek as existing flows currently exist today during a storm event. In the unlikely event natural spring water is not sufficient for the lake use; alternate water supplies will be utilized in consultation with the Elsinore Valley Municipal Water District.

The PWQMP in Appendix C of the DEIR states that “Existing natural springs are located on the site which will be designed to provide perennial flows to the proposed lakes. Treated urban runoff will also be a source of water for the lakes. (PWQMP, p. A-1.)

**Response to Inland Empire Waterkeeper Comment K-13**

This comment summarizes the concerns expressed by the Commenter in its comment letter. Please refer to the above Responses to Comments K-1 through K-12.