

August 2020 | Final Program Environmental Impact Report  
State Clearinghouse No. 2017101033

# SAN BERNARDINO COUNTYWIDE PLAN

for County of San Bernardino

*Prepared for:*

**County of San Bernardino**

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# 1. Introduction

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## 1.1 INTRODUCTION

This Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (California Code of Regulations §§ 15000 et seq.).

According to the CEQA Guidelines, Section 15132, the FEIR shall consist of:

- (a) The Draft Program Environmental Impact Report (PEIR) or a revision of the Draft;
- (b) Comments and recommendations received on the Draft PEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies comments on the Draft PEIR;
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Lead Agency.

This document contains responses to comments received on the Draft PEIR for the San Bernardino Countywide Plan during the public review period, which began June 17, 2019, and closed August 15, 2019. This document has been prepared in accordance with CEQA and the CEQA Guidelines and represents the independent judgment of the lead agency. This document and the circulated Draft PEIR compose the FEIR, in accordance with CEQA Guidelines, Section 15132.

## 1.2 FORMAT OF THE FEIR

***Section 1, Introduction.*** This section describes CEQA requirements and content of this FEIR.

***Section 2, Response to Comments.*** This section provides a list of agencies and interested persons commenting on the Draft PEIR, and copies of comment letters received during the public review period. To facilitate review of the responses, each comment letter has been reproduced and assigned a letter and number—A1 through A7 for letters received from public agencies, OR through O8 for letters received from organizations, and I1 through I9 for letters received from individuals. Individual comments have been numbered for each letter, and the letter is followed by responses with references to the corresponding comment numbers.

***Section 3. Revisions to the Draft PEIR.*** This section documents revisions to the Draft PEIR text and figures as a result of the comments received from agencies and interested persons, as described in Section 2, and/or errors and omissions discovered subsequent to release of the Draft PEIR for public review.

## 1. Introduction

The responses to comments contain material and revisions that will be added to the text of the FEIR. County of San Bernardino staff has reviewed this material and determined that none of it constitutes the type of significant new information that requires recirculation of the Draft PEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the Draft PEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

### 1.3 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204(a) outlines parameters for submitting comments and reminds persons and public agencies that the focus of review and comment of Draft PEIRs should be:

. . . on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which 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. . . . 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.

CEQA Guidelines Section 15204(c) further advises, “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.” Section 15204(d) states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” Section 15204(e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The responses will be forwarded with copies of this FEIR, as permitted by CEQA, and will conform to the legal standards established for response to comments on Draft PEIRs.

## 2. Response to Comments

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Section 15088 of the CEQA Guidelines requires the Lead Agency (County of San Bernardino) to evaluate comments on environmental issues received from public agencies and interested parties who reviewed the Draft PEIR and prepare written responses.

This section provides all written responses received on the Draft PEIR and the County of San Bernardino's responses to each comment.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the Draft PEIR are excerpted in this document, the sections are shown indented. Changes to the Draft PEIR text are shown in **bold text** for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the Draft PEIR during the public review period. They are categorized into agencies, organizations, and residents/individuals and listed in chronological order within each category by the date of the comment.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
<b>Agencies</b>			
A1	Mojave Desert Air Quality Control Board	June 24, 2019	2-3
A2	Soboba Band Luiseno Indians	August 6, 2019	2-7
A3	State of California Attorney General	August 15, 2019	2-13
A4	California Highway Patrol – Inland Division	August 15, 2019	2-53
A5	South Coast Air Quality Management District	August 15, 2019	2-57
A6	Ontario-Montclair School District	August 15, 2019	2-67
A7	Ahamakav Cultural Society Fort Mojave Indian Tribe	August 16, 2019	2-73
<b>Organizations</b>			
O1	Coalition of Community Groups, Businesses, Organizations and Individuals in the High Desert of San Bernardino County	August 14, 2019	2-79
O2	Lucerne Valley Economic Development Association (Part 1)	August 14, 2019	2-139
O3	Lucerne Valley Economic Development Association (Part 2)	August 14, 2019	2-149
O4	Defender of Wildlife and Sierra Club	August 15, 2019	2-163
O5	Center for Biological Diversity	August 15, 2019	2-189
O6	Morongo Basin Conservation Association	August 15, 2019	2-213

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Number Reference	Commenting Person/Agency	Date of Comment	Page No.
O7	Wildlands	August 15,2019	2-229
O8	California Desert Coalition	August 15,2019	2-233
<b>Residents - Individuals</b>			
I1	Betty Munson	August 8, 2019	2-249
I2	Paula Deel	August 12,2019	2-253
I3	Jean McLaughlin	August 14,2019	2-257
I4	Colin Walcker on behalf of Dr. and Mrs. Brent Moelleken	August 15,2019	2-263
I5	Sarah Kennington	August 15,2019	2-269
I6	Sarah Kennington and Steve Bardwell	August 15,2019	2-285
I7	Bryan Baker	August 15,2019	2-297
I8	Susan V. Walker	August 15,2019	2-301
I9	Jane Hunt-Ruble	Not Dated	2-305

## 2. Response to Comments

LETTER A1 – Mojave Desert Air Quality (1 page[s])

A1

**Mojave Desert Air Quality Management District**

**Brad Poiriez, Executive Director**  
14306 Park Avenue, Victorville, CA 92392-2310  
760.245.1661 • Fax 760.245.2022  
www.MDAQMD.ca.gov • @MDAQMD



June 24, 2019

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415

**Project: San Bernardino Countywide Plan**

Dear Mr. Blum:

The Mojave Desert Air Quality Management District (District) has received a request for conditions/comments for the San Bernardino Countywide Plan, a comprehensive plan that is driven by the Countywide Vision (2011) and meets California Code requirements for a general plan. The Countywide Plan includes four major components: a County Policy Plan, Community Action Guides, a County Business Plan, and a Regional Issues Forum. The project is expected to be implemented throughout the County of San Bernardino.

A1-1

We have reviewed the project and, based on the Air Quality information available to us at this time, the District concurs with the findings made and actions to be taken by Sections 5.3.4 Environmental Impacts, Section 5.3.5 Cumulative Impacts, 5.3.6 Level of Significance Before Mitigation, and 5.3.7 Mitigation Measures. Please note that the proposed additional emissions, when added to current baseline emissions, will likely require air pollution control equipment or offsets in future District permitting actions.

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Kevin Hendrawan at extension 4007.

Sincerely,

**Alan J. De Salvio**  
Deputy Director – Mojave Desert Operations

AJD/kh

San Bernardino County Countywide Plan 2019

RECEIVED  
2019 JUN 26 PM 12:10  
LAND USE SERVICES  
ADMINISTRATION

## 2. Response to Comments

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## 2. Response to Comments

**A1. Response to Comments from Mojave Desert Air Quality Management District, dated June 24, 2019.**

A1-1 Comment acknowledged. The County understands that industrial projects that are subject to the MDAQMD's rules and regulations may require additional air pollution control equipment or offsets, as determined through MDAQMD's permitting process.

## 2. Response to Comments

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## 2. Response to Comments

### LETTER A2 – Soboba Band Luiseno Indians (2 page[s])

A2

Summary of Consultation with Joseph Ontiveros, Soboba Band of Luiseno Indians  
August 6, 2019

Comments on the EIR

Chapter 5.17.8 Tribal cultural resources are numerous in the Mountain Region, which also has landscape features considered sacred by multiple Native American groups, because this region provided a variety of resources for Native Americans in the summer months. (page 5.17-8)

The Mountain Region is not the only region with sacred landscapes. Historic roads, such as Route 66, before roads they were wagon trails, and before wagon trails they were native trails. These landscapes and routes are cultural resources. When talking about tribal cultural resources in general, it should be noted that the Desert and Valley regions also have resources.

A2-1

*Policy CR-1.3 **Mitigation and avoidance.** We consult with local tribes to establish appropriate standard project-specific mitigation measures and resource-specific treatment of potential cultural resources. We require project applicants to design projects to avoid known tribal cultural resources, whenever possible. If avoidance is not possible, we require appropriate mitigation to minimize project impacts on tribal cultural resources.*

Who determines when avoidance is possible? This is an issue because it allows too much flexibility. The policy should clarify that it is not the applicant who gets to decide what is possible or not possible, it is the County in coordination with the tribe(s). We want to hold the developer/applicant responsible. Need to put in tighter controls in the update of the Development Code, holding County responsible for avoiding known resources at all costs, not just when it is convenient.

A2-2

*Policy CR-1.4 **Resource monitoring.** We encourage active participation by local tribes as monitors in surveys, testing, excavation, and grading phases of development projects with potential impacts on tribal resources.*

This policy is good but needs to be more extensive. Add a sentence about coordination for tribal monitoring. Replace ‘active participation by’ with ‘coordination with and participation by local tribes’.

A2-3

When talking about federal and state regulations, make it clear that the objectives are different between the two. Federal laws focus on cumulative impacts and historic properties.

A2-4

It is important to remember that tribes are also interested in biological resources as well. A particular animal or plant may have some cultural value, directly or indirectly, making it important to the tribe.

A2-5

5.17.5 Don’t say, “Therefore, cumulative impacts would be less than significant.” (page 5.17-13) because you don’t really know what the cumulative impacts look like and don’t know if those impacts are significant or not.

A2-6

Some minor clarification about Federal Law 106 process – needs statement that we will follow 106 process.

A2-7

Comments on the Cultural Resources Technical Report

In general, the County should obtain all information SWCA has with regards to trinomial numbers and site records for anything they searched for.

A2-8

## 2. Response to Comments

Summary of Consultation with Joseph Ontiveros, Soboba Band of Luiseno Indians August 6, 2019  
Page 2

Under Cultural Resources Mitigation Measure 1 (page 42), change 10 years to 6 years. Anything greater than six years old needs a new survey. | A2-9

Under Cultural Resources Mitigation Measure 3 (page 43), remove the last sentence which states, "If the discovery proves to be significant, it shall be curated with a recognized scientific or educational repository" because consulting tribe/tribes will decide what needs to be done. Replace with "Archeologist will contact the County who will provide notification to the designated representatives from consulting tribe(s)." | A2-10

Mitigation Measure 4, strike out last sentence. Replace with "The architect will then contact the County who will then provide notification to the designated representatives from consulting tribe(s)" | A2-11

## 2. Response to Comments

### A2. Response to Comments Soboba Band Luiseno Indians, dated August 6, 2019.

- A2-1 Page 5.17-9 Chapter 5.17, *Tribal Cultural Resources*, indicates that the Sacred Lands File (SLF) search showed 23 different quadrangles containing sacred lands listed by the Native American Heritage Commission (NAHC). The general location information provided by the NAHC shows sacred lands in the Valley Region, the Mountain Region, the East Desert Region, and the North Desert Region. Therefore, the Draft PEIR does note that the Desert and Valley regions also have tribal cultural resources.
- A2-2 Policy CR-1.3 is a General Plan policy and, as such, cannot be resource specific. Project-specific review and mitigation, however, would be ensured by Draft PEIR mitigation measures CUL-2 through CUL-4. Moreover, the County shall comply with project-specific AB 52 tribal consultation requirements. The Draft PEIR mitigation measures require an archeological resource assessment in areas of documented or inferred archaeological resources. Assessments would be performed prior to any ground disturbance related to projects pursuant to the Countywide Plan and require a Phase I pedestrian survey and, if necessary, a Phase II Testing and Evaluation investigation. If the assessment does not identify potentially significant archaeological resources within a project area but indicates the area is highly sensitive for such resources, a monitoring plan shall be prepared and implemented. CEQA mandates implementation of feasible mitigation measures. CEQA compliance in conjunction with the tribal cultural review processes ensure that the County, in coordination with the tribes, decide whether avoidance of tribal cultural resources is feasible and if not, whether the mitigation measures minimize the project's impact to such resources.
- A2-3 The County has revised the language to include "coordination with and active participation by" in the policy. "Coordination" with local tribes shall also be ensured by County compliance with AB 52 and SB 18 as well as the CEQA mitigation measures referenced in response to comment A2-2.
- A2-4 The County recognizes that there are important differences in the objectives and terminology of federal and state regulations. A broader discussion of the intended objectives and comparison between federal and state level regulations is not necessary to provide the context for the impact analysis for the proposed CWP. The distinctions noted in the comment do not affect the adequacy of the impact analysis, conclusions, and recommended mitigation measures.
- A2-5 Comment acknowledged. The Biological Resources section of the Draft PEIR addresses impacts to biological resources. Furthermore, the AB 52 process provides local tribes with the opportunity to comment on the cultural value of and potential tribal-related impacts to biological resources.
- A2-6 As described in Draft PEIR Section 5.17, *Tribal Cultural Resources*, several federal and state regulations prevent significant impacts to tribal cultural resources. These regulations

## 2. Response to Comments

would apply to all projects, including those outside of unincorporated San Bernardino County. These regulations are intended to prevent the significant disturbance of tribal cultural resources or to ensure that any affected tribal cultural resources are properly avoided, recorded, and/or documented pursuant to Public Resources Code Section 21074. This is typically accomplished by effective project design, the CEQA process, and agency-specific mitigation measures that ensure compliance with applicable laws and regulations. The CWP would further minimize potential cumulative impacts to tribal cultural resources by policies encouraging tribal notification, coordination, planning, and participation. Thus, the Draft PEIR concludes that implementation of the CWP would not result in significant impacts to tribal cultural resources. Based on the application of applicable regulations, implementation of AB 52 and SB 18, and CEQA compliance for all jurisdictions within the County, the Draft PEIR appropriately concludes that implementation of the proposed CWP would not contribute to a cumulatively considerable significant and unavoidable impact to tribal cultural resources.

A2-7 Section 5.17.1, *Regulatory Background*, of Chapter 5.17 has been corrected, as shown below in underline and ~~strikeout~~ format. This correction to the Draft PEIR is also included in Chapter 3, *Revisions to the Draft PEIR*.

### National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA) coordinates public and private efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The act authorized the National Register of Historic Places, which lists districts, sites, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and culture.

Section 106 (Protection of Historic Properties) of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation with a reasonable opportunity to comment. In addition, federal agencies need to consult on the Section 106 process with state historic preservation offices, tribal historic preservation offices, Indian tribes (to include Alaska Natives), and Native Hawaiian organizations. Tribal historic preservation offices, tribes, and Native Hawaiian organizations need to be consulted about undertakings that may affect historic properties to which a tribe or Native Hawaiian organization attaches religious or cultural significance.

A2-8 The methods used to characterize the existing conditions are described on pages 30 and 31 in the cultural resources technical report (Draft PEIR, Appendix E). Due to the extraordinary size of the county and number of cultural resources known to exist within the unincorporated lands under County land-use jurisdiction, a comprehensive inventory of all known resources and previous studies was not feasible. Therefore, lists of site numbers and copies of site records were not acquired. Instead, data from the California

## 2. Response to Comments

Historical Resources Information System consisted of resource type (e.g., prehistoric archaeological site, historical building), US Geological Survey quadrangle, and Community Plan Area. These results are in Appendix A of the cultural resources technical report and were provided to the County.

A2-9 The technical report provides professional recommendations for mitigation measures to be included in the EIR. The measure in question was modified for the Draft PEIR and is included as CUL-2 (Draft PEIR, Section 5.5, *Cultural Resources*). This measure requires a pedestrian survey for ground disturbances related to a development project in areas of documented or inferred archaeological resource areas. It does not specify a time period for allowable reliance on a previous survey. Note that the determination of whether a site is within an area of documented or inferred archaeological resource presence would be determined in consultation with tribal representatives, pursuant to AB 52 requirements.

A2-10 The mitigation measure referenced in this comment was the basis for measure CUL-4 in the Draft PEIR. In response to this comment, the measure has been modified as shown below in ~~strike-out~~ / **bold** text. The modified measure has also been included in Chapter 3, *Revisions to the Draft EIR*.

CUL-4 If the archaeological assessment did not identify potentially significant archaeological resources within the proposed project area but indicated the area to be highly sensitive for archaeological resources, a qualified archaeologist shall prepare a monitoring plan for all ground-disturbing construction and pre-construction activities in areas with previously undisturbed soil. The archaeologist shall inform all construction personnel prior to construction activities of the proper procedures in the event of an archaeological discovery. The training shall be held in conjunction with the project's initial on-site safety meeting, and shall explain the importance and legal basis for the protection of significant archaeological resources. In the event that archaeological resources (artifacts or features) are exposed during ground-disturbing activities, construction activities in the immediate vicinity of the discovery shall be halted while the resources are evaluated for significance by an archaeologist who meets the PQS-, **and, if necessary, develop appropriate treatment or disposition of the resources in consultation with the County and a representative of the affected Native American tribe. Where it is determined that significant cultural resources with Native American affiliation are discovered, the collection policies, analysis, and curation of any materials from the site shall be determined through consultation with the tribal representative designated by the County. Any significant cultural resources discovered that lack any Native American affiliation** ~~If the discovery proves to be significant, it shall be curated with a recognized scientific or educational repository.~~

## 2. Response to Comments

A2-11 Mitigation Measure No. 4 of the technical report is incorporated into Mitigation Measure CUL-4 of the Draft PEIR, as revised above (see response to A2-10.)

## 2. Response to Comments

LETTER A3 – State of California Attorney General (15 page[s])

A3

**XAVIER BECERRA**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



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August 15, 2019

*Via E-Mail*

Jerry L. Blum  
Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 N. Arrowhead Avenue, 1st Floor  
San Bernardino, CA 92415  
Email: CountywidePlan@lus.sbcounty.gov

**RE: San Bernardino Countywide Plan and Draft Environmental Impact Report**

Dear Mr. Blum:

Thank you for the opportunity to comment on the County of San Bernardino’s Draft General Plan Update (“Countywide Plan” or “Plan”) and Draft Environmental Impact Report for the Countywide Plan (“DEIR”).<sup>1</sup> The Attorney General’s Office appreciates the County’s efforts to comply with Senate Bill 1000 (“SB 1000”) by including environmental justice goals and policies focused on reducing pollution exposure and promoting civil engagement in the Countywide Plan. (See Gov. Code, § 65302, subd. (h)(1)(A).) However, we are concerned that the Plan does not address several of SB 1000’s requirements. We are also concerned that the DEIR, among other things, does not adequately address cumulative impacts on sensitive receptors in environmental justice communities. We submit this comment letter to urge the County to strengthen the Plan and revise the environmental analysis prior to submitting it to the San Bernardino County Board of Supervisors for consideration.

Intro

**I. BACKGROUND ON ENVIRONMENTAL JUSTICE AND SB 1000**

Low-income communities and communities of color often bear a disproportionate burden of pollution and associated health risks when compared to their more affluent neighbors. This inequity can be addressed through environmental justice, which is defined by California law as

<sup>1</sup> The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D’Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 1415.)

A3-1

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“the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Gov. Code, § 65040.12, subd. (e).) Environmental justice aims to correct the legacy of concentrating pollution and other hazards in or near low-income communities of color by reducing these hazards and involving the impacted communities in any decisions that affect their environment or health.

In an effort to promote environmental justice through the local land use planning process, the California Legislature passed Senate Bill 1000 in 2016. SB 1000 ensures that local governments take into account pollution burdens and other hazards experienced by communities within their jurisdiction that are disproportionately exposed to such hazards. The purpose of SB 1000 is to make environmental justice a real and vital part of the planning process by promoting transparency and public engagement in local governments’ planning and decision-making processes, reducing harmful pollutants and associated health risks in environmental justice communities, and encouraging equitable access to health-inducing benefits, such as healthy food options, housing, and recreation.

If a city or county adopts or updates two or more elements of its general plan after January 1, 2018, SB 1000 requires the local government to first identify any “disadvantaged communities” in its jurisdiction. (Gov. Code, § 65302, subd. (h)(1)-(2).) SB 1000 defines “disadvantaged communities” as: (1) “an area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the Health and Safety Code”;<sup>2</sup> or (2) “an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.”<sup>3</sup> (*Id.* at (h)(4)(A).) Therefore, local governments have some discretion to choose the appropriate method or methods to identify disadvantaged communities.

A3-1  
Cont'd

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<sup>2</sup> CalEPA designates an area as a disadvantaged community if a census tract scores at or above 75 percent on the agency’s CalEnviroScreen screening tool. *See* CalEPA and Office of Health Hazard Assessment, CalEnviroScreen 3.0, *available at* <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>; *see also* CalEPA, Designation of Disadvantaged Communities (April 2017), *available at* <https://oehha.ca.gov/calenviroscreen/sb535>.

<sup>3</sup> SB 1000 defines a “low-income area” as “an area with household incomes at or below 80 percent of the statewide median income” or (2) an area with “household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s (HCD) list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code.” (Gov. Code, § 65302, subd. (h)(4)(C).) After identifying low-income areas, a government must evaluate if those areas are disproportionately affected by environmental pollution or other hazards that can lead to negative health impacts. (*Id.* at (h)(4)(A).) There are various data sets that can be used for the second part of this analysis, including CalEnviroScreen, which contains specific information regarding pollution sources.

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Once a local government identifies one or more disadvantaged communities in its jurisdiction, it must include either an “environmental justice element” or “related goals, policies, and objectives integrated in other elements” (collectively, “EJ policies”) in its general plan update. (Gov. Code, § 65302, subd. (h)(1).) A general plan’s EJ policies must “reduce the unique or compounded health risks in disadvantaged communities” by doing at least the following:

- 1) reduce pollution exposure;
- 2) improve air quality;
- 3) promote public facilities;<sup>4</sup>
- 4) promote food access;
- 5) promote safe and sanitary homes; and
- 6) promote physical activity.

(*Id.* at (h)(1)(A).) SB 1000 also requires EJ policies that “promote civil engagement in the public decision-making process” and “prioritize improvements and programs that address the needs of disadvantaged communities.” (*Id.* at (h)(1)(B)-(C).)

### II. COUNTYWIDE PLAN

We appreciate the County’s ongoing communication with our office regarding SB 1000 compliance, and appreciate the opportunity to comment on the draft Countywide Plan released in May 2019. As discussed below, we have concerns about the adequacy of the County’s identification of disadvantaged communities and EJ policies, and we encourage the County to consider revising the Countywide Plan to address these concerns.

#### A. Identification of Disadvantaged Communities

SB 1000 requires local governments to identify any disadvantaged communities in its jurisdiction within the general plan itself.<sup>5</sup> As discussed above, the objective of this requirement is to ensure that environmental justice is a real and vital part of local land use planning. Explicitly identifying communities facing disproportionate pollution burdens within the general plan ensures that future development near these communities is consistent with any relevant EJ

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<sup>4</sup> SB 1000 defines “public facilities” as facilities that include “public improvements, public services, and community amenities.” (Gov. Code, § 65302, subd. (h)(4)(B).)

<sup>5</sup> “**The plan shall include. . . . An environmental justice element**, or related goals, policies, and objectives integrated in other elements, **that identifies disadvantaged communities** within the area covered by the general plan. . . .” (Gov. Code, § 65302, subd. (h)(1) [emphasis added].)

A3-1  
Cont'd

## 2. Response to Comments

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policies and considers potential impacts, including cumulative impacts, on these sensitive receptors. It also provides the communities with more clarity around the meaning and impact of the EJ policies, which in turn will facilitate their ability to comment on and be involved with implementing the policies once adopted.

While the Countywide Plan acknowledges the presence of disadvantaged communities subject to SB 1000 (termed “Environmental Justice Focus Areas” or EJFAs), it does not identify these communities. The detailed identification of these EJFAs is instead contained in a separate document, the Environmental Justice Background Report (“EJ Background Report” or “Report”). The Plan itself does not reference the EJ Background Report, nor does it meaningfully discuss SB 1000’s requirements. The Plan’s lone reference to SB 1000 is in the Glossary of Terms for “EJFA”—where the Plan provides a definition of EJFA that does not match the definition of the same term in the EJ Background Report.<sup>6</sup> Furthermore, the EJ Background Report is not located on the main web-based portal for the Plan.<sup>7</sup> Instead, the Report is hyperlinked on a side margin within the Hazards Element subpage, difficult to find even if you know what you are looking for.<sup>8</sup> Further minimizing its importance, the EJ Background Report contains a disclaimer on its title page that its contents “should not be used as the sole reference for data or as confirmation of intended or desired policy direction.”<sup>9</sup>

Relatedly, the County should discuss the unique and compounded health risks facing EJFAs in the Countywide Plan itself. While these health risks are identified in the EJ Background Report,<sup>10</sup> they are not referenced in the Countywide Plan—making it difficult for

<sup>6</sup> Compare Draft Countywide Plan at 80 with EJ Background Report at 2-9. The two definitions use different geographic units for identifying EJFAs—the Countywide Plan appears to identify areas by census tract, while the EJ Background Report asserts that “any portion of a census tract” can meet the definition. Note that the EJ Background Report’s approach is consistent with OPR’s recommended approach. (See OPR, Public Review Draft General Plan Guidelines Chapter 4 (11/19/18) at p. 7, [http://opr.ca.gov/docs/20181120-EJ\\_Chapter\\_Public\\_Comment.pdf](http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf) (“[L]ocal governments should consider whether there are disadvantaged communities in geographic units that are smaller than a census tract to ensure that all disadvantaged communities are recognized.”).) In addition, the EJ Background Report’s definition excludes areas outside “community planning areas” or “unincorporated spheres of influence” because such lands are “typically unpopulated.” (EJ Background Report at 2-10.) The Countywide Plan does not exclude these areas.

<sup>7</sup> See <http://countywideplan.com/policy-plan/beta/> (last accessed August 7, 2019).

<sup>8</sup> See <https://countywideplan.com/policy-plan/beta/hz/> (last accessed August 7, 2019).

<sup>9</sup> EJ Background Report at title page.

<sup>10</sup> EJ Background Report at 3-1, 3-12 (Lucerne Valley), 3-15 (Southwest High Desert), 3-18 (El Mirage Valley / Oro Grande), 3-21 (Central Victor Valley), 3-24 (North High Desert), 3-27 (East Desert), 3-30 (Mountain Communities), 3-33 to 3-34 (Bloomington and Muscoy), and 3-37 to 3-38 (Valley Unincorporated Islands).

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the public to assess whether the included EJ policies adequately reduce such risks as required by SB 1000. (Gov. Code § 65302, subd. (h)(1)(A).)

We appreciate the County's efforts to address environmental justice through its detailed EJ Background Report. However, we are concerned that the County's approach fails to meet SB 1000's minimum requirement that disadvantaged communities be identified in the general plan itself. The County's approach also interferes with disadvantaged communities' ability to meaningfully engage in the planning and implementation processes, contrary to SB 1000's purpose. We encourage the County to address the inconsistencies between the Countywide Plan and the Background Report and to incorporate identification of disadvantaged communities and their unique and compounded health risks directly in the Countywide Plan.

### B. Environmental Justice Policies

As described above, local governments that identify disadvantaged communities in their jurisdiction must include EJ policies in their general plan that address specific issues. (Gov. Code, § 65302, subd. (h)(1).) SB 1000 requires these policies to be either incorporated into General Plans as a separate EJ element or integrated into other elements throughout the Plan. (Gov. Code § 65302, subd. (h)(1).) The County has chosen the latter alternative, and in email correspondence regarding the first draft Countywide Plan, the County indicated that five policies in the Health and Wellness Element address environmental justice for purposes of SB 1000, in addition to the fourteen policies in the EJ Goal within the Hazards Element.<sup>11</sup> We appreciate the County's efforts to address environmental justice in its General Plan through inclusion of EJ policies. However, we are concerned that the EJ policies are not sufficient to reduce the unique and compounded health risks to EJ communities as required by SB 1000, nor do they adequately address the specific requirements of SB 1000.

SB 1000 requires the County to identify policies that actually reduce the unique or compounded health risks experienced by disadvantaged communities. (Gov. Code § 65302, subd. (h)(1)(A).) Certain of the County's proposed EJ policies are designed to meet this requirement. For example, draft Policy HZ-3.5 will ban new hazardous waste facilities from being developed in EJFAs.<sup>12</sup> This policy is clear, enforceable, and prevents future pollution exposure on already over-burdened EJFAs. However, many of the County's other EJ policies do not appear designed to affirmatively reduce the unique and compounded health risks and pollution burdens facing EJFAs as required by SB 1000. For example, Policy HZ-3.2 indicates the County will "monitor pollution exposure and identify solutions" in EJFAs, but it does not

<sup>11</sup> Email from Jerry Blum, Countywide Plan Coordinator, to Tatiana Gaur, Deputy Attorney General (Nov. 21, 2018, 3:26 PM) (on file with Department of Justice) (noting that policies HW-1.12, 1.13, 3.1, 3.2 and 3.7 in the Health and Wellness Element of the Countywide Plan were designed to address EJ).

<sup>12</sup> Countywide Plan at 50.

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require implementation of identified solutions to reduce pollution exposure, nor does it define the type of pollution, how it is to be monitored, and the timeframe on which it should be monitored.

The County has conducted a detailed assessment of each EJFA, identifying existing health risks within each SB 1000 policy area in the EJ Background Report.<sup>13</sup> The Countywide Plan should include policies designed to reduce these identified health risks. For example, the EJ Background Report identifies Lucerne Valley as an EJFA that suffers from pollution exposure in the form of high levels of nitrates and total dissolved solids in its groundwater.<sup>14</sup> The Countywide Plan contains two policies that address groundwater contamination, but neither Policy HZ-3.6 and HZ-3.7 actually “reduce the unique or compounded health risks.” (*Id.* [emphasis added].) Instead, these policies indicate the County will “advocate for and coordinate with local and regional agencies” and will “seek funding” for well testing.<sup>15</sup> Generally speaking, policies that assert the County will seek funding, absent clear and enforceable conditions or benchmarks, may not meet SB 1000’s requirement that the general plan reduce pollution exposure.<sup>16</sup> Lucerne Valley also struggles with absentee landlords and substandard housing, and would benefit from policies designed to promote safe and sanitary homes as required by SB 1000. (*Id.*) However, Countywide Plan Policy HZ-3.4 simply states the County will “pursue grant funding and other assistance” for rehabilitation and other home improvements. Lucerne Valley also does not have a wastewater treatment plant, has high food insecurity, lacks local health infrastructure, has high rates of obesity, and lacks sidewalks and other pedestrian and cycling infrastructure.<sup>17</sup> Many of the other EJFAs likewise suffer from health risks in most SB 1000 policy focus areas,<sup>18</sup> but the Countywide Plan does not include policies to reduce these health risks.

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In particular, community organizations have identified impacts from truck traffic and the logistics industry as a primary concern in San Bernardino County.<sup>19</sup> The EJ Background Report

<sup>13</sup> See EJ Background Report at 3-13 (Lucerne Valley); 3-16 (Southwest High Desert); 3-19 (El Mirage Valley and Oro Grande); 3-22 (Central Victor Valley); 3-25 (North High Desert); 3-28 (East Desert); 3-31 (Mountain Communities); 3-35 (Bloomington and Muscoy); 3-38 to 3-40 (Valley Unincorporated Islands).

<sup>14</sup> EJ Background Report at 3-13.

<sup>15</sup> Countywide Plan at 51.

<sup>16</sup> See, also, Countywide Plan at 51 (HZ-3.9, 3.10)

<sup>17</sup> EJ Background Report at 3-13.

<sup>18</sup> See note 13, *supra*.

<sup>19</sup> See, e.g., Letter from Center for Community Action and Environmental Justice (CCA EJ) to San Bernardino Planning Department (Nov. 5, 2018) at 3 (“We find it imperative that the logistics industry be addressed as a pollution burden as it encompasses the freeways, railyards and truck routes that expose DACs [disadvantaged communities] to harmful toxins and

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acknowledges that these impacts are a primary contributor to air pollution exposure in EJFAs leading to the “unique and compounded health risks” in these communities.<sup>20</sup> Impacts from neighborhood truck traffic was also identified as a community priority for Muscoy, one of the EJFAs in San Bernardino County, through a parallel planning process under another law, AB 617.<sup>21</sup> However, the Goods Movement Goal within the Transportation & Mobility Element of the Countywide Plan does not include any policies designed to address these concerns or reduce these impacts on EJFAs. Instead, the Goods Movement goal indicates the County “supports” the establishment of regional truck routes and “may” establish local truck routes—without any mention of EJFAs.<sup>22</sup> Policy HZ-3.1 indicates that the County will require a cumulative health risk assessment for any project that “potentially effects [sic] sensitive receptors” in EJFAs, including an evaluation of “impacts of truck traffic from the project to freeways.”<sup>23</sup> We commend the County for requiring an evaluation of truck traffic impacts, however, this policy fails to define which projects would trigger the health risk assessment. Furthermore, the preparation of an assessment alone will not reduce the impacts of a future project. We encourage the County to adopt policies to reduce the unique and compounded health risks caused by truck traffic in EJFAs as required by SB 1000.

We also encourage the County to coordinate with the South Coast Air Quality Management District (“SCAQMD”), which is currently developing a Community Emission Reduction Plan and Community Air Monitoring Plan for Muscoy in accordance with AB 617. AB 617 requires local air districts, through community steering committees, to develop emission reduction plans in specific areas of the state selected by the California Air Resources Board (“CARB”) based on the area’s exposure to air pollution and cumulative burdens. Muscoy and parts of the City of San Bernardino were selected in 2018 for the development of an emissions reduction plan. As part of the AB 617 process, SCAQMD has worked closely with community members to identify priority areas and develop policy recommendations in line with community concerns. A number of the policies identified in the current draft Community Emission Reduction Plan recommend actions for the County to reduce cumulative health risks on community members from truck traffic, including working with local law enforcement to enforce truck routes, developing an Automated License Plate Reader system for targeted outreach to

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contribute to negative regional air quality. We also view the goods movement as a leading source of impact for DAC’s.”).

<sup>20</sup> See, e.g., EJ Background Report at 3-35 (noting high diesel particulate matter concentrations in Bloomington and Muscoy as a result of trucking routes in and around both communities).

<sup>21</sup> See South Coast Air Quality Management District, Draft Community Emission Reduction Plan Chapter 3a (07.25.19 version) at 3a-6, <http://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/san-bernardino/ceqp/chapter-3-draft-commprofile-july-2019.pdf>.

<sup>22</sup> Countywide Plan at 29 (Policies TM-5.5 and 5.6).

<sup>23</sup> Countywide Plan at 50.

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truck drivers, requiring buffer zones between warehouses and residential development, enforcing warehouse design requirements to minimize air quality impacts, and implementing designated truck routes and parking zones.<sup>24</sup> We encourage the County to look to the current draft AB 617 Community Emission Reduction Plan developed for the San Bernardino County community of Muscoy as a model for incorporating community input to develop targeted policies to address health risks. Ultimately, at a minimum, the Countywide Plan must be consistent with the AB 617 Community Emissions Reduction Plan and its emission reduction goals.

We also note reservations with respect to Policy HZ-3.3, which indicates the County intends to “pursue grant funding and other assistance to relocate residents living in residential units that are nonconforming uses in environmental justice focus areas and to eliminate those nonconforming residential units.”<sup>25</sup> We understand this policy may be intended to reduce pollution exposure for residents of EJFAs, but we are concerned this approach may result in the displacement of low-income and disadvantaged EJFA residents to areas that may be unaffordable and/or further from their places of employment. We also share the communities’ expressed concern that this policy may result in the creation of new non-conforming residential units through the future rezoning of residential areas to allow for industrial development, exacerbating the potential risk of displacement.<sup>26</sup> This policy appears to be contrary to the spirit of SB 1000, which is intended to reduce impacts on disadvantaged communities. Rather than reducing the pollution exposure for these communities, this policy places the burden on residents of EJFAs to relocate. We encourage the County to consider potential unintended consequences of this policy and include additional safeguards to protect residents of EJFAs from displacement and industrial encroachment.

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In sum, we encourage the County to strengthen the Countywide Plan’s EJ policies and supplement with new policies designed to reduce the risks already identified in the EJ Background Report. We recommend the County review resources prepared by the Governor’s Office of Planning and Research and the California Air Resources Board.<sup>27</sup> We also encourage the County to consider identifying in some way all EJ policies in the Countywide Plan, for example by color coding or copying them into an appendix. We believe such identification is a best practice for ensuring the County’s EJ policies are clear and accessible.

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<sup>24</sup> South Coast AQMD, San Bernardino/Muscoy Community Emission Reduction Plan (July 2019), <http://www.aqmd.gov/nav/about/initiatives/community-efforts/environmental-justice/ab617-134/san-b/community-emissions-reduction-plan> at 5b-7, 5b-9, 5c-3 to 5c-4.

<sup>25</sup> Countywide Plan at 50.

<sup>26</sup> See Letter from CCAEJ, *supra* note 19, at 3.

<sup>27</sup> OPR, Public Review Draft General Plan Guidelines Chapter 4 (11/19/18), [http://opr.ca.gov/docs/20181120-EJ\\_Chapter\\_Public\\_Comment.pdf](http://opr.ca.gov/docs/20181120-EJ_Chapter_Public_Comment.pdf); CARB, Options for Cities to Mitigate Heavy-duty Vehicle Idling (May 5, 2016), [https://ww3.arb.ca.gov/enf/arb\\_options\\_cities\\_mitigate\\_idling.pdf](https://ww3.arb.ca.gov/enf/arb_options_cities_mitigate_idling.pdf).

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### C. Community Engagement

SB 1000 requires governments to “[i]dentify objectives and policies to promote civil engagement in the public decisionmaking process.” (Gov. Code, § 65302, subd. (h)(1)(B).) We applaud the County for including clear and enforceable policies requiring targeted outreach in EJFAs in Policies HZ-3.12, 3.13, and 3.14. We also appreciate the County’s efforts in scheduling numerous public meetings in the lead up to issuing the Countywide Plan in 2017 and again after the first draft of the Countywide Plan was released in 2018. However, we encourage the County to more directly engage with residents in EJFAs to ensure the EJ policies being adopted directly address their concerns. At its core, SB 1000 requires that EJ policies promote public engagement in the decisions that affect environmental justice communities. Yet it does not appear that the County conducted outreach specifically to EJFAs or specifically about its EJ policies.<sup>28</sup> Furthermore, it does not appear that translation services were offered during the meetings, nor were archived videos made available for those unable to attend in-person. While not a requirement of SB 1000, these kinds of services are best practices to ensure meaningful engagement with EJ communities.<sup>29</sup>

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### III. DRAFT ENVIRONMENTAL IMPACT REPORT

We appreciate the opportunity to review the Countywide Plan DEIR released on June 17, 2019. As noted below, we have concerns regarding the DEIR’s analysis of air quality impacts, greenhouse gas impacts, mitigation measures, and alternatives—especially as these issues intersect with environmental justice. Given that the County has prepared a detailed EJ Background Report identifying substantial health risks already burdening EJ communities in the County, we are troubled by the DEIR’s failure to analyze cumulative impacts on sensitive receptors in these communities as a result of the growth permitted under the Countywide Plan. We encourage the County to revise its environmental analysis before submitting the Countywide Plan to the Board of Supervisors for review.

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<sup>28</sup> An identical presentation given at the nine regional meetings held in September 2018 (in Yucipa, Pinon Hills, Rialto, Ontario, Big Bear City, Running Springs, Lucerne Valley, Newberry Springs, and Joshua Tree) only contained one, non-substantive slide referencing environmental justice. (San Bernardino Countywide Plan Regional Open Houses (September 2018), [http://countywideplan.com/wp-content/uploads/2018/09/CWP\\_323\\_OH\\_Presentation\\_Sept2018web.pdf](http://countywideplan.com/wp-content/uploads/2018/09/CWP_323_OH_Presentation_Sept2018web.pdf).)

<sup>29</sup> We appreciate the County’s efforts to engage with EJ communities during the development of its “Community Action Guides.” However, community engagement through these voluntary community plans, which the County does not plan to enforce or oversee, are not a substitute for SB 1000’s requirements for community engagement for the general plan itself.

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### A. Air Quality Impacts

We appreciate the County's acknowledgement that the Countywide Plan's air quality impacts will be potentially significant.<sup>30</sup> However, we are concerned by the summary discussion of these significant impacts, particularly the inadequate analysis of cumulative impacts on sensitive receptors in already over-burdened EJFAs. In addition, we are concerned with the generally inadequate mitigation measures offered to reduce these impacts.

In general, the DEIR suffers from the same structural failings as the Countywide Plan: as the Plan fails to adequately identify the unique and compounded health risks facing EJFAs, so too does the DEIR fail to adequately identify the adverse effects of its significant air quality impacts. As the Plan's EJ policies fail to adequately reduce these health risks, so too do the DEIR's mitigation measures fail to adequately reduce these adverse effects. By failing to properly identify the problems intended to be solved in the first place, the County's analysis in both the Countywide Plan and the DEIR make it difficult for the public to determine if the solutions put forward are adequate.

Simply designating an environmental impact as "significant" does not excuse a lead agency from "reasonably describ[ing] the nature and magnitude of the adverse effect." (*Cleveland Nat'l Forest Found. v. SANDAG* (2017) 3 Cal.5th 497, 514.) The DEIR provides a description of possible adverse effects from exposure to criteria air pollutants and toxic air contaminants in general,<sup>31</sup> and provides an emissions forecast for expected criteria pollutant emissions,<sup>32</sup> but fails to adequately analyze potential adverse effects from these increased emissions and neglects to model potential increases of toxic air contaminants at all.<sup>33</sup> Description of the nature and magnitude of these adverse effects is "necessary to inform the critical discussion of mitigation measures and project alternatives." (*Id.* at p. 515; CEQA Guidelines § 15151.)

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The DEIR's failure to properly document and analyze these adverse effects is particularly concerning given the detailed analysis contained in the EJ Background Report identifying the existing burden faced by residents of EJFAs from exposure to both criteria air pollutants and

<sup>30</sup> DEIR at 5.3-42 to 5.3-43.

<sup>31</sup> DEIR at 5.3-9 to 5.3-12.

<sup>32</sup> DEIR at 5.3-35 to 5.3-36.

<sup>33</sup> DEIR at 5.3-40 ("For this programmatic general plan-level assessment, it is not feasible to conduct dispersion modeling to determine the contribution of health risks associated with individual land use types since site-specific information on emissions and emissions quantities is not known. This is because a general plan does not directly result in development without additional approvals."). We encourage the County to review other recent programmatic EIRs which include such modeling. (*See, e.g.*, SANDAG, Final Environmental Impact Report: 2050 Regional Transportation Plan and Sustainable Communities Strategy at 4.3-67 to 4.3-84 (October 2011), [http://www.sandag.org/uploads/2050RTP/F2050RTPEIR\\_all.pdf](http://www.sandag.org/uploads/2050RTP/F2050RTPEIR_all.pdf)).

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toxic air contaminants, especially diesel particulate matter.<sup>34</sup> The minimal cumulative impacts analysis included in the DEIR addresses only criteria air pollutants, and fails to analyze cumulative impacts of toxic air contaminant increases.<sup>35</sup> In addition, the DEIR does not mention SB 1000's requirement to incorporate EJ policies that improve air quality even once in its analysis of air quality impacts despite the state law being a part of the regulatory setting in which the Countywide Plan operates.<sup>36</sup> By neglecting this analysis of EJFAs, the DEIR does not inform the public of the potential cumulative impacts on these vulnerable communities, and makes it challenging to assess the adequacy of the included mitigation measures.

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We are also concerned with the adequacy of the included mitigation measures, particularly to the extent that these measures fail to reduce significant impacts on sensitive receptors in EJFAs. Adequate mitigation measures must:

- (a) Avoid[] the impact altogether by not taking a certain action or parts of an action.
- (b) Minimiz[e] impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectify[] the impact by repairing, rehabilitating, or restoring the impacted environment. [or]
- (d) Reduc[e] or eliminat[e] the impact over time by preservation and maintenance operations during the life of the action.

(CEQA Guidelines § 15370.)

A3-4

The DEIR's air quality mitigation measures do not appear to meet this requirement. Like the EJ policies in the Countywide Plan discussed above, the DEIR's mitigation measures fail to create enforceable obligations that could actually reduce the identified impacts. For example, mitigation measure AQ-1 lists "possible" mitigation measures that should be included in approving permits for future projects, but only those projects that exceed the local air district's thresholds of significance on a project-by-project basis.<sup>37</sup> While intended to minimize potentially significant impacts on regional air quality, AQ-1 does not contain any mandatory emission reduction measures, nor does it address the potential cumulative impacts of a project. In addition, AQ-1 fails to include the County's own suggestions in the EJ Background Report,

<sup>34</sup> EJ Background Report at 3-1, 3-12 (Lucerne Valley), 3-15 (Southwest High Desert), 3-18 (El Mirage Valley / Oro Grande), 3-21 (Central Victor Valley), 3-24 (North High Desert), 3-27 (East Desert), 3-30 (Mountain Communities), 3-33 to 3-34 (Bloomington and Muscoy), and 3-37 to 3-38 (Valley Unincorporated Islands).

<sup>35</sup> DEIR at 5.3-41 to 5.3-42.

<sup>36</sup> As SB 1000's requirements extend beyond air quality into other environmental impacts analyzed in the DEIR—such as hazardous waste, water quality, public services, recreation, transportation, and utilities—we encourage the County to evaluate SB 1000 as part of the regulatory setting for those sections of the DEIR as well.

<sup>37</sup> DEIR at 5.3-43.

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including that the County establish truck routes to reduce pollution in residential neighborhoods and limit development that would contribute to pollution in EJFAs.<sup>38</sup> Nor does it include the suggestions provided in the AB 617 Community Emissions Reduction Plan for Muscoy in San Bernardino County, such as working with local law enforcement and implementing a license plate reader system to enhance enforcement of truck routes and illegal idling.<sup>39</sup> We encourage the County to work together with local communities to strengthen its mitigation measures in order to ensure the significant air quality impacts expected from the Countywide Plan are minimized.<sup>40</sup>

A3-4  
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Mitigation measure AQ-3's requirement that health risk assessments be prepared for projects that generate "substantial diesel truck travel" (which the County defines as 100 or more diesel trucks per day) is a step in the right direction. However, we are concerned that including this threshold may encourage segmented warehouse development that intentionally avoids triggering a cumulative impacts assessment without any actual reduction in pollution exposure. We encourage the County to consider using distance to sensitive receptors or concentration of nearby warehouse development as triggering thresholds for a cumulative impact assessment. We also encourage the County to strengthen AQ-3 through the addition of conditions requiring buffering or other protections to minimize impacts on already over-burdened sensitive receptors in EJFAs.<sup>41</sup>

A3-5

### B. Greenhouse Gas Impacts

While the DEIR analyzes overall greenhouse gas (GHG) emissions for consistency with state climate goals and evaluates the significance of GHG emissions on both a quantitative and qualitative basis, we are concerned by the summary discussion of these significant impacts and by the generally insufficient mitigation measures offered to reduce these impacts. We encourage the County to revise its analysis in two primary respects.

A3-6

First, in concluding that the Countywide Plan would result in significant GHG impacts on a quantitative, per capita basis, the County claims that it "cannot achieve the long-term efficiency targets without additional federal and state reductions" and that "[t]he state's climate stabilization goals are contingent on decarbonization of the state's transportation and energy

A3-7

<sup>38</sup> EJ Background Report at 1-14.

<sup>39</sup> South Coast AQMD, San Bernardino/Muscoy Community Emission Reduction Plan, Chapters 5a through 5g, <http://www.aqmd.gov/nav/about/initiatives/community-efforts/environmental-justice/ab617-134/san-b/community-emissions-reduction-plan>; *see, e.g., id.* at 5b-7 & 5b-9.

<sup>40</sup> *See, e.g.,* Letter from CCAEJ, *supra* note 19, at 4 (listing eleven region-specific EJ policies, many of which could be adopted as mitigation measures).

<sup>41</sup> *See, e.g.,* SANDAG RTP FEIR, *supra* note 33, at 4.3-84 to 4.3-89.

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sectors.”<sup>42</sup> In evaluating the significance after mitigation, the County claims it has “reduce[d] GHG emissions to the extent feasible” but cannot meet long-term GHG efficiency goals without additional state and federal measures and “major advancements in technology.”<sup>43</sup> However, the County’s own description of alternatives contradicts these assertions. The Concentrated Suburban Growth alternative presented in the Alternatives section says that the County could reduce GHG emissions by increasing density in the Valley region.<sup>44</sup> And the County concludes the Concentrated Suburban Growth alternative would “substantially reduce VMT-generated GHG emissions” by reducing commute length.<sup>45</sup> This suggests that further reduction of GHG emissions *is* within the County’s power to encourage future development into areas that will reduce vehicle miles traveled—irrespective of any technological advancements or regulatory action at the state or federal level. Thus, the County cannot claim to have mitigated GHG emissions to the maximum extent feasible if it has not evaluated the feasibility of encouraging high density development to reduce vehicle miles traveled as a mitigation measure. Instead, the County’s GHG emissions analysis actually shows that the Countywide Plan will *increase* vehicle miles traveled from the current baseline.<sup>46</sup> We encourage the County to revise the DEIR to account for all feasible measures to reduce GHGs, and ensure that proposed mitigation measures minimize GHG emissions to the extent feasible.

A3-7  
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Second, we are concerned the County overstates its consistency with the CARB Scoping Plan’s Recommended Local Actions. For example, the DEIR claims the Countywide Plan contains a numeric VMT per-capita reduction goal, and cites this goal to support its consistency with the Scoping Plan’s recommended local actions to reduce VMT by adopting numeric VMT reduction targets.<sup>47</sup> However, the current draft of the Countywide Plan does not contain a per capita reduction goal. Rather, it has a general policy to promote development that reduces VMT.<sup>48</sup> In addition, many other County policies cited for consistency with CARB recommended actions are voluntary or policies that the County “supports” or “considers,” while CARB’s Scoping Plan recommends mandatory actions.<sup>49</sup> This overstated consistency with

A3-8

<sup>42</sup> DEIR at 5.7-34.

<sup>43</sup> DEIR at 5.7-60.

<sup>44</sup> DEIR at 7-10.

<sup>45</sup> DEIR at 7-14.

<sup>46</sup> DEIR at Appendix B-16 (showing total VMT per service population would increase from the existing baseline of 21.7 to 22.3 under the proposed Countywide Plan).

<sup>47</sup> DEIR at 5.7-39 to 5.7-40.

<sup>48</sup> Countywide Plan at 27. The tracked changes version of the Countywide Plan shows a fifteen percent per capita VMT reduction goal for each region in the County was deleted from the prior draft.

<sup>49</sup> *See, e.g.*, DEIR at 5.7-43 (CARB recommended action: “Require clean vehicles be purchased as part of municipal vehicle fleet procurement” versus County policy deemed consistent: “The County considers fuel efficiency when purchasing new public vehicles.”); *id.* at

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CARB's Scoping Plan misleads the public on the extent to which its policies reduce GHG emissions. We encourage the County to more carefully evaluate its consistency with the Scoping Plan's recommended local actions, and include mitigation measures to minimize any inconsistencies identified.

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Cont'd

### C. Alternatives Analysis

Finally, we are concerned the DEIR does not adequately analyze the alternatives presented. "The core of an EIR is the mitigation and alternative sections." (*Cleveland Nat'l Forest Found. v. SANDAG* (2017) 17 Cal.App.5th 413, 432 [quoting *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564].) The alternatives analysis must "evaluate the comparative merits of the alternatives" and "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." (CEQA Guidelines § 15126.6, subd. (a); subd. (d).) The DEIR fails in both of these respects.

In evaluating the Concentrated Suburban Growth Alternative, the County acknowledges this alternative would "reduce three of the proposed Project's significant, unavoidable impacts to less than significant" and would mitigate to less than significant the four impacts that would increase as compared to the proposed Project.<sup>50</sup> But the County fails to adequately compare the merits of the alternative with the Project to allow the public to understand why the environmentally superior alternative was not chosen. Instead, the County simply notes that while the Concentrated Suburban Growth alternative "could achieve the Project objectives," "[e]xtra effort would be required. . . to ensure that higher densities in the Valley region would not jeopardize the existing character and heritage goal for this region."<sup>51</sup> This bare statement of opinion, with no evidence or evaluation, does not satisfy CEQA's requirement to allow "meaningful evaluation, analysis, and comparison with the proposed project." (CEQA Guidelines § 15126.6, subd. (d).) Furthermore, the Alternatives section provides only two sentences to describe the Concentrated Suburban Growth alternative: "This alternative focuses on intensifying residential development in the already urban areas in the Valley region and preserving the relatively undeveloped Desert and Mountain regions. Higher density housing types are projected. Employment growth would also be limited to the Valley region."<sup>52</sup> The DEIR does not provide data or analysis demonstrating how this alternative reduces air quality, transportation, and greenhouse gas impacts. Instead, the DEIR provides only narrative

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5.7-40 (CARB recommended action: "Update code of ordinances to reduce parking requirements and eliminate parking minimums" versus County policy deemed consistent: "Policy TM-4.10 identifies that the County supports the use of shared parking.").

<sup>50</sup> DEIR at 7-22.

<sup>51</sup> DEIR at 7-22.

<sup>52</sup> DEIR at 7-5.

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description.<sup>53</sup> We encourage the County to revise its alternatives analysis to thoroughly evaluate each alternative and provide sufficient information to allow meaningful comparison.

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Cont'd

#### IV. CONCLUSION

Thank you for considering our comments on the County of San Bernardino's Countywide Plan and Draft Environmental Impact Report. Please do not hesitate to reach out to me if you have any questions throughout the remainder of your planning process. We look forward to continuing our conversation about the Countywide Plan.

Sincerely,

MEREDITH HANKINS  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

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<sup>53</sup> DEIR at 7-12, 7-14, 7-16.

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### A3. Response to Comments State of California Attorney General, dated August 15, 2019.

A3-1 **A. Identification of Disadvantaged Communities.** The County's May 2019 Draft Policy Plan contains a Policy Map that explicitly identifies disadvantaged communities (referred to as Environmental Justice Focus Areas or EJFAs). Policy Map HZ-10, Environmental Justice and Legacy Communities, precisely maps the extent of the EJFAs throughout the unincorporated county. This map is available as both a PDF and web map. Users can see the full extent of EJFAs in the unincorporated county or zoom into a specific EJFA. Users can also change the base map and even add data from other County or external maps or data sets.

The definition of an EJFA in the Countywide Plan glossary was not intended to be as detailed in its methodological breakdown as is presented in the EJ Background Report. To eliminate possible confusion or misinterpretation, the County has updated its glossary definition to match the EJ Background Report verbatim. Please note that the geographical areas depicted as EJFAs in the EJ Background Report and on draft County Policy Map HZ-10 are exactly the same.

The County's intent is to create a Policy Plan that facilitates use through streamlining while providing full and complete information through background reports. Incorporating all of the background reports into the Policy Plan would expand the document to over 1,000 pages and inhibit the Policy Plan's use and printing. The County is also attempting to facilitate the use of the Policy Plan through a dedicated web-based platform and filtering function. However, even with filtering, users can be overwhelmed with the amount of information presented on a web page and throughout a website. Accordingly, the County prefers to streamline the viewing and accessibility of the goals and policies while placing the EJ Background Report right next to the goals and policies.

The language on the report's use, intent, and limitations is not intended to minimize the importance of the EJ Background Report, but rather to emphasize that a single report cannot and should not be the sole source of information informing daily and periodic decisions that affect and address matters related to environmental justice. Future community engagement; new and more precise data sets; and new local, state, and federal laws are but a few examples that can or must influence the County's direction on environmental justice. Minor edits were made to ensure that future updates to the report will keep the public and County informed of the issues facing EJFAs.

However, the County also understands that some of the key information in the EJ Background Report would be helpful if placed in the Policy Plan as tables so that a member of the public would not need to download the full EJ Background Report to understand the key issues involved in each EJFA. Additionally, there are key pieces of information that, while they may change and/or be influenced by new data sets or legislation, are important enough to warrant a more prominent and official placement in

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the Policy Plan. Thus, in response to these comments, the revised draft Policy Plan now includes seven tables (Tables HZ-1 through HZ-7) that describe and list the individual census tracts and associated communities identified as EJFAs (with detailed CalEnviroScreen scores), the specific environmental conditions present in each EJFA, and key objectives for the EJFAs.

**B. Environmental Justice Policies, commitment to affirmatively reduce health risks and pollution burdens.** The County revised 11 policies, added 7 policies under Goal HZ-3 (Environmental Justice) of the Hazards Element, and augmented 2 policies in the Transportation and Mobility Element to increase the level of commitment and detail on addressing the reduction of health risks and pollution burdens for EJFAs. The list below identifies the changes made to the draft Policy Plan.

Also, the County has tagged these policies and others so that future users can easily identify which goals, policies, maps, and tables are associated with environmental justice.

- **Policy HZ-3.1**, Health risk assessment. Revised to be more specific about the threshold and expand the required area of analysis.
- **Policy HZ-3.2**, Studying and monitoring. Revised to emphasize the importance of and commitment to publicize pollution data.
- **Policy HZ-3.3 (deleted)**, Relocation of nonconforming residential units. While the intention was to protect those living in nonconforming residential units in industrial areas in EJFAs, this policy was removed due to the concern expressed about possible misinterpretation and the feasibility of funding relocations into suitable nearby areas.
- **Policy HZ-3.3 (new)**, Community emissions reduction plans. New draft policy declares the County's commitment to help establish and implement emissions reduction plans.
- **Policy HZ-3.4**, Residential improvements. Rewritten to prioritize discretionary housing improvement investments into EJFAs and to use code enforcement activities to enhance safety in EJFAs.
- **Policy HZ-3.6**, Contaminated water and soils. Revised to include stronger language and explicit references to County actions to obtain funding and establish partnerships to implement site remediation.
- **Policy HZ-3.7**, Well water testing. Revised to include stronger language to identify funding sources and provide technical assistance to implement necessary improvements.
- **Policy HZ-3.9**, Public improvements and services. Revised to prioritize discretionary investments in public facilities, infrastructure, and services in EJFAs.

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- **Policy HZ-3.10**, Multi-use facilities. Augmented to be more specific about the ways in which public facilities should be assessed and designed for features and spaces that improve the community’s access to physical activity and/or healthy food options.
- **Policy HZ-3.11 (new)**, Public health. New draft policy to commit the County to leverage the Department of Public Health to address specific health concerns for EJFAs.
- **Policy HZ-3.12 (new)**, Barriers to physical activity. New draft policy to commit the County to remove barriers to outdoor physical activity in the course of conducting County projects in EJFAs.
- **Policy HZ-3.13 (new)**, Safe routes to school. New draft policy to commit the County to coordinating with local and regional agencies on safe routes to school, with prioritization given to schools in (or serving children from) EJFAs.
- **Policy HZ-3.14 (renumbered from 3.11)**, Community desired improvements. Revised to remove the word “may” to strengthen the level of commitment.
- **Policy HZ-3.15 (new)**, Food access. New draft policy to commit the County to increasing access to healthy food, with priority given to EJFAs (and with substantial detail given on the ways in which the County can increase such access).
- **Policy HZ-3.17 (renumbered from 3.13)**, Community stakeholders. Revised to include assistance and coordination in increasing awareness of potential funding opportunities.
- **Policy HZ-3.18 (renumbered from 3.14)**, Application requirements. Revised to be more specific and expand the requirements with more information and documentation.
- **Policy HZ-3.19 (new)**, Community education. New draft policy to promote civil engagement and expand the community’s knowledge of materials related to environmental justice.
- **Policy HZ-3.20 (new)**, Updating EJFAs. New draft policy to require an updated assessment of the information that guides and informs decisions about or that affects EJFAs.
- **Policy HZ-3.21 (new)**, Emerging pollutants. New draft policy to be proactive about pollutants found in EJFAs that are not officially considered dangerous, but may be in the future, given additional analysis and understanding.
- **Policy TM-4.2**, Complete streets improvements. Augmented to prioritize complete streets improvements for EJFAs.
- **Policy TM-5.6**, Unincorporated truck routes. Augmented with a commitment to establish routes where trucks are prohibited in EJFAs and to avoid overlaps with safe routes to school.

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### C. Community Engagement, policies and outreach to promote civil engagement.

While the majority of the county’s communities are not classified as environmental justice focus areas, the County conducted outreach throughout the county to obtain input. Table 1-3 (as numbered in the revised EJ Background Report), summarizes the input related to environmental justice that was received during activities between October 2015 and November 2018, followed by a narrative description of the outreach efforts.

**Table 1-3 Environmental Justice Issues Identified in Public Outreach, 2015–2018**

Issues Identified by the Community	Valley	Mountain	North Desert	East Desert
Lack of access to healthy food choices	X	X	X	X
Lack of access to medical services	X	X	X	X
Need more parks and recreational facilities	X	X	X	X
Inadequate pedestrian facilities	X	X	X	X
Limited bicycle facilities	X	X	X	X
Definition / identification of disadvantaged communities	X	X	X	X
Buffering / transition zones from incompatible land uses, particularly for sensitive populations	X	X	X	X
Limitation or cap on emissions or other pollutants	X	X	X	X
Improved technology that can reduce pollution	X	X	X	X
Poor housing conditions	X		X	X
Lack of code enforcement	X		X	X
Nonconforming housing in proximity to pollution sources	X		X	X
Long response times for emergency services		X	X	X
Insufficient time to respond to proposed projects		X	X	X
Community-based agreements on truck-intensive uses	X		X	
Baseline information for emissions and pollutants	X		X	
Funding for project-based and subregional air quality improvements	X		X	
Fugitive dust emissions and impacts on air quality			X	X
Drinking water quality / pollution			X	X
Groundwater contamination			X	X
Expansion of utility scale solar and impacts on air quality			X	X
Proximity to I-10 freeway and impacts on air quality	X		X	
Proximity to rail yard and impacts on air quality	X		X	
Expansion of logistics uses and impacts on air quality	X			
Heavy truck traffic and impacts on air quality	X			
Dust from cement factory and impacts on air quality			X	
Sewage sludge and impacts on water quality			X	

Engaging residents in a county as large and diverse as San Bernardino required a robust effort to reach residents, agencies, and other stakeholders who live, work, or serve one or more of the county’s communities.

The County initiated outreach in late 2015 with a focus on individual community planning areas. Between 2015 and 2017, the County engaged over 2,100 individuals from over 80 unincorporated communities throughout the county’s four regions. The outreach consisted of over 70 meetings in over 30 different locations, along with in-person and online surveys (total of 910 survey responses). Meetings in Muscoy and Bloomington

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were conducted with bilingual materials and in-person translation assistance. The County also convened multiple meetings with the community in Bloomington to discuss concerns about the logistics industry.

The public meetings were designed to engage residents in a workshop setting to identify problems and potential solutions to address specific issues unique to each community planning area. Attendees were given a presentation and handout materials on the overall Countywide Plan effort, including new topics of focus like environmental justice. Specific questions asked of the community (in person and through the surveys), included:

- What areas are there for improvement in the community?
- What internal or external factors or resources could be opportunities for your community?
- What are threats to your community?
- What outside factors outside of the control of the community could threaten your community?

The second phase of public meetings took place in 2017 and 2018 through two rounds of 17 regional meetings in 13 different locations throughout the county's four regions. Over 600 individuals attended these meetings, including representatives from over 50 agencies and organizations associated with federal, state, regional, and local services and interests. The first round of regional meetings was designed to engage residents, agencies, service providers, advocacy groups, and other stakeholders to identify and discuss issues that are unique to specific communities or regions or are countywide. Environmental justice issues that were discussed included: air quality, decision-making, equitable development, healthy food, parks and green spaces, pollution, public facilities, public health, recreation, and social equity. The second round of regional meetings presented draft policy recommendations based on input received and as directed by state law.

Agencies, advisory entities, advocacy groups, and other organizations who participated (in person or online) during the regional meetings or were interviewed on the topic of environmental justice include:

- |   |  |
|---|--|
| ■ Bloomington Municipal Advisory Council                | ■ Marine Corps Logistics Base Barstow              |
| ■ California Air Resources Board                        | ■ Mojave Desert Air Quality Management District    |
| ■ California Office of the Attorney General             | ■ Mojave Water Agency                              |
| ■ Center for Community Action and Environmental Justice | ■ Morongo Basin Municipal Advisory Council         |
| ■ Climate Resolve                                       | ■ Naval Air Weapons Station China Lake             |
| ■ Crest Forest Municipal Advisory Council               | ■ Oak Hills Municipal Advisory Council             |
| ■ CSU Northridge  | ■ Santa Ana Watershed Project Authority            |
| ■ Department of Toxic Substances Control                | ■ San Bernardino Local Agency Formation Commission |
| ■ Edwards Air Force Base                                | ■ San Bernardino County Transportation Authority   |

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- El Mirage Municipal Advisory Council
- Fort Irwin National Training Center
- Institute for Local Government
- Joshua Tree National Park
- Lake Arrowhead Municipal Advisory Council
- Latinos for Water
- League of Conservation Voters
- Lucerne Valley/Johnson Valley Municipal Advisory Council
- Marine Corps Air Ground Combat Center  
Twentynine Palms
- Sempra Utilities
- Searles Valley-Trona Municipal Advisory Council
- Sierra Club
- SoCalGas
- South Coast Air Quality Management District
- Southern California Edison
- State Water Resources Control Board
- U.S. Forest Service
- U.S. Bureau of Land Management

Throughout 2018, the County conducted individual interviews with service agencies, advocacy groups, and other organization-oriented stakeholders. The County Department of Public Health also conducted a Healthy Communities meeting in March 2018 in Fontana, where the County and its consultant presented information and led a discussion on environmental justice issues affecting the county and possible solutions.

Finally, with over 100 communities spread across 20,000 square miles, the County anticipated that attendance at public meetings would not be feasible for many community members. To maximize input and access to information, the County posted all of the meeting material online ([countywideplan.com/cp](http://countywideplan.com/cp)) in advance of public meetings (with summary information and electronic versions of surveys posted after the meetings). An individual web page was dedicated to each community planning area so that community members could focus on information and provide input specific to their area of interest.

The County also maintained email addresses for each community (e.g., [bakercp@lus.sbcounty.gov](mailto:bakercp@lus.sbcounty.gov)) and provided an online submission form (no email required) for people to submit comments and questions. Over the span of the three-year outreach effort, the project website was used by over 13,000 unique visitors (excluding County and consultant usage), with the County receiving hundreds of comments and questions through the email addresses and online submission forms (anonymous if desired). A portion of these comments and questions addressed matters related to environmental justice concerns.

**[INSERT LANGUAGE] County's outreach in 2019 (Draft EIR with AG) and key stakeholders in 2020 to review revised policies and draft implementation.**

- A3-2 This comment summarizes issues that are raised in the following comments in this letter regarding the DEIR's analysis of air quality and greenhouse gas impacts and evaluation of project alternatives. Specifically, the AG is concerned about the cumulative impact and potential health risk posed by growth under the CWP to environmental justice communities.

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As detailed in the following responses, in response to the AG’s concerns, the County has supplemented and refined CWP policies to further protect EJ communities. The following responses also provide additional information about quantifying the health risk impacts to these communities and the relationship of the project alternatives to EJ concerns. As requested by the AG, the supplemental information has been included in this FEIR (see Chapter 3, *Revisions to the Draft EIR*) and will be submitted to the Board of Supervisors for their review.

A3-3 Air Quality Impacts.

This comment states several concerns regarding the Air Quality assessment in the Draft PEIR, and in general asserts that analysis of cumulative impacts on sensitive receptors is not adequately analyzed or mitigated. The commenter notes that although the Draft PEIR concludes that project-related impacts would be significant, it does not sufficiently characterize the nature and magnitude of the effect, which is required to inform recommended mitigation measures. The response below is divided into key components: 1) impact identification; 2) modeling challenges; 3) CWP stationary sources impacts, and 4) supplemental analysis—diesel truck emissions. The comments also reference the following appendices to this Final EIR, included to support the response:

- Appendix A: “Assessing Regional Criteria Pollutant Emissions Impacts Under CEQA In Light of the Friant Ranch Ruling,” Association of Environmental Professionals Climate Change Committee.
- Appendix B: Filed amicus briefs, Sierra Club, Revive and San Joaquin, and League of Women Voters of Fresno, v. County of Fresno and Friant Ranch, L.P. (Friant Ranch case). Amicus brief, South Coast Air Quality Management District, April 2, 2015. Amicus brief, San Joaquin Valley Unified Air Pollution Control District, April 2, 2015
- Appendix C: “Health Risk Assessment, San Bernardino Countywide Plan,” PlaceWorks, June 2020
- Appendix D: “County of San Bernardino Environmental Justice and Legacy Communities Background Report [[E] Background Report],” PlaceWorks, November 26, 2018.

**Impact Identification.** The commenter asserts that the Draft PEIR does not adequately identify the unique and compounded health risks facing EJFAs nor inform the public of the potential cumulative risks to these vulnerable communities. The following revisions to the Environmental Setting of the Air Quality section have been incorporated into the PEIR by means of this FEIR (see Chapter 3, *Revisions to the Draft PEIR*) to provide additional context related to health risks in unincorporated San Bernardino County:

SB 1000. A summary of SB 1000 and related requirements for environmental justice to be addressed in general plans, including requirement to include EJ policies, has been added to the PEIR regulatory discussion.

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EJ Background Report. The EJ Background Report prepared for the CWP has been added as an appendix to the PEIR (see Appendix D of this FEIR), and a summary of findings as well as tables and an exhibit showing the boundary of the EJFAs is now included in the PEIR (via this FEIR, *Chapter 3, Revisions to the Draft PEIR*).

AB 617. The discussion of AB 617 in the Draft PEIR has been supplemented to include the current status of the program relative to unincorporated San Bernardino County and the County's involvement as a stakeholder.

Furthermore, since SB 1000 requirements extend beyond air quality into environmental impacts related to hazards and hazardous materials, hydrology and water quality, public services, recreation, transportation, and utilities and service systems a summary of SB 1000 requirements has been included in the regulatory setting of these sections (via this FEIR, *Chapter 3, Revisions to the Draft PEIR*).

### **Modeling Challenges**

In this comment, the State Attorney General states that although the Draft PEIR provides an emission forecast for CWP implementation, it does not model potential increases of toxic air contaminants. The Draft PEIR quantifies the increase in criteria air pollutants emissions, including PM<sub>2.5</sub> from vehicle exhaust, within unincorporated San Bernardino County. However, at a programmatic level analysis, it is not feasible to quantify the increase in toxic air contaminants from stationary sources associated with a general plan. Additionally, for determining cancer and noncancer health risk, the location, velocity of emissions, meteorology and topography of the area, and locations of receptors are equally important model parameters as the quantity of toxic air contaminant emissions. The white paper in Appendix A of this FEIR (also included in Appendix B of the Draft PEIR), "Assessing Regional Criteria Pollutant Emissions Impacts Under CEQA in Light of the Friant Ranch Ruling," describes several of the challenges of quantifying local effects—particularly health risks—for large-scale, regional projects, and these are applicable to both criteria air pollutants and toxic air contaminants. Similarly, the two amicus briefs in FEIR Appendix B (filed by the air districts on the Friant Ranch case) describe respective positions regarding CEQA requirements, modeling feasibility and variables; and reliability of results for determining specific health risks associated with criteria air pollutants. The discussions also include the distinction between criteria air pollutant emissions and toxic air contaminants with respect to health risks. Additionally, the Air Quality Districts' Significance Thresholds and Monitoring demonstrate the infeasibility based on the current guidance/methodologies of the Air Districts. The following summarizes major points about the infeasibility of assessing health risks from criteria air pollutant emissions and toxic air contaminants associated with implementation of the CWP.

- Air Quality Districts' Criteria Air Pollutant Significance Thresholds and Modeling

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To achieve and maintain air quality standards, the South Coast Air Quality Management District (SCAQMD) and the Mojave Desert Air Quality Management District (MDAQMD) have established numerical emission indicators of significance for regional and localized air quality impacts for both construction and operational phases of a local plan or project. The SCAQMD and MDAQMD have established the thresholds based on “scientific and factual data that is contained in the federal and state Clean Air Acts” and recommend “that these thresholds be used by lead agencies in making a determination of significance.” The numerical emission indicators are based on the recognition that the air basin is a distinct geographic area with a critical air pollution problem for which ambient air quality standards have been promulgated to protect public health. The thresholds represent the maximum emissions from a plan or project that are not expected to cause or contribute to an exceedance of the most stringent applicable national or state ambient air quality standard. By analyzing the plan’s emissions against the thresholds, an EIR assesses whether these emissions directly contribute to any regional or local exceedances of the applicable ambient air quality standards and exposure levels.

SCAQMD and MDAQMD currently do not have methodologies that would provide the County with a consistent, reliable, and meaningful analysis to correlate specific health impacts that may result from a proposed project’s mass emissions.<sup>1</sup>

For criteria air pollutants, exceedance of the regional significance thresholds cannot be used to correlate a project to quantifiable health impacts, unless emissions are sufficiently high to use a regional model. In the case of San Bernardino County, the emissions generated span two air basins, each with its own distinct meteorology. Neither SCAQMD or MDAQMD have provided methodology to assess the specific correlation between mass emissions generated and their effect on health (see Appendix B, SJVACPD’s amicus brief and SCAQMD’s amicus brief).

Ozone concentrations are dependent upon a variety of complex factors, including the presence of sunlight and precursor pollutants, natural topography, nearby structures that cause building downwash, atmospheric stability, and wind patterns. Secondary formation of PM and ozone can occur far from sources, as a result of regional transport due to wind and topography (e.g., low-level jet stream). Photochemical modeling depends on all emission sources in entire domain (i.e., modeling grid). Low resolution and spatial averaging produce “noise” and modeling errors that usually exceed individual source contributions. Because of the complexities of predicting ground-level ozone concentrations in relation to the National Ambient Air Quality Standards (AAQS) and

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<sup>1</sup> In April 2019, the Sacramento Metropolitan Air Quality Management District (SMAQMD) published an Interim Recommendation on implementing *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502 (“*Friant Ranch*”) in the review and analysis of proposed projects under CEQA in Sacramento County. Consistent with the expert opinions submitted to the court in *Friant Ranch* by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and SCAQMD, the SMAQMD guidance confirms the absence of an acceptable or reliable quantitative methodology that would correlate the expected criteria air pollutant emissions of projects to likely health consequences for people from project-generated criteria air pollutant emissions. The SMAQMD guidance explains that while it is in the process of developing a methodology to assess these impacts, lead agencies should follow the *Friant Court*’s advice to explain in meaningful detail why this analysis is not yet feasible.

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California AAQS, it is not possible to link health risks to the magnitude of emissions exceeding the significance thresholds.

Current models used in CEQA air quality analyses are designed to estimate potential project construction and operation emissions for defined projects. The estimated emissions are compared to significance thresholds, which are keyed to reducing emissions to levels that will not interfere with the region's ability to attain the health-based standards. While this serves to protect public health in the overall region, there is currently no CEQA methodology to determine the impact of emissions (e.g., pounds per day) on future concentration levels (e.g., parts per million or micrograms per cubic meter) in specific geographic areas. CEQA thresholds, therefore, are not specifically tied to potential health outcomes in the region.

- SANDAG Regional Transportation Plan FEIR Modeling: Toxic Air Contaminant

The commenter references that the San Diego Association of Governments' (SANDAG) Final EIR for the 2050 Regional Transportation Plan includes modeling for toxic air contaminants on pages 4.3-67 through 4.3-84. This is not correct, however. The Final EIR referenced does not include regional modeling for health risk. What the EIR shows is an Air Quality Index (AQI) along freeway segments. An AQI says how clean or polluted the air is but does not translate that information into health risk or health incidences. For programmatic, general plan-level assessments, it is not feasible to conduct site-specific dispersion modeling countywide to determine the incremental contribution of risks associated with land use changes in the unincorporated areas.

### **CWP Stationary Source Impacts**

Regional emissions are divided into two major source categories: stationary and mobile sources. The CWP provides a land use plan that designates land uses for employment-generating uses, including Limited Industrial and General Industrial. These broad categories cover a wide variety of potential uses. For a programmatic environmental document, it is speculative to determine the exact nature of and location that would occur within these employment-generating categories for stationary sources. Therefore, it is not possible to determine what types of toxic air contaminants would be generated on an individual site. Additionally, because the exact nature of the future industrial uses is speculative for this programmatic assessment, the quantity of toxic air contaminants generated by the proposed project is also unknown. Thus, for programmatic, general plan-level assessments, it is not feasible to conduct regional dispersion modeling to determine the incremental contribution of risks associated with land use changes in the unincorporated areas.

New stationary, industrial sources proximate to EJFAs would be minimal. The CWP only introduces new industrial land use designations in two small portions of two EJFAs. In El Mirage, the El Mirage Field Airport was changed from Institutional to General Industrial to better reflect the existing land uses. In Bloomington, a group of parcels is

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proposed to transition to Limited Industrial. This area is in the southeast part of the community and is immediately adjacent to the Agua Mansa Industrial Corridor. Out of the 55 total acres to be designated Limited Industrial, the southern 22 acres will continue to be reserved for electrical transmission right-of-way. The 33 remaining acres are adjacent to low and very low density residential to the west and north, but future truck traffic associated with new industrial development would not be able to travel north or west into Bloomington due to truck route restrictions the County currently has on Jurupa Avenue.

### **Supplemental Toxic Air Contaminant Analysis: Health Risk Assessment for Truck Diesel Emissions**

The Draft PEIR air quality analysis of mobile emissions was based on EMFAC2017. Modeling in the Draft PEIR captures the total increase in criteria air pollutant emissions, including PM<sub>2.5</sub>, within the entire unincorporated San Bernardino County. Individual roadway segments were not modeled because modeling available for the Draft PEIR and used for air quality and greenhouse gas emissions modeling does not discern between vehicle miles traveled on freeways, major arterials, and other local roadways; rather, it is aggregated VMT. The transportation sector summarizes emissions across the two air basins (South Coast Air Basin and Mojave Desert Air Basin). For accurate modeling, it is necessary to have data regarding the sources and types of criteria air pollutants and toxic air contaminants, location of emission points, velocity of emissions, the meteorology and topography of the area, and the location of receptors (worker and residence). So, although exhaust PM<sub>2.5</sub> identified in Table 5.3-8 and Table 5.3-9 may be a good surrogate to estimate the quantity of toxic contaminants from on-road vehicle travel countywide, emissions quantity alone does not include all the necessary modeling parameters to ascertain whether or not toxic air contaminant emissions generated would result in a cancer or noncancer health risk. Furthermore, as identified in Table 5.3-9, transportation-related PM<sub>2.5</sub> emissions in both the South Coast Air Basin (-3 lbs/day) and the Mojave Desert Air Basin (-26 lbs/day) would decrease from existing conditions. Health risks associated with mobile emissions, therefore, were not modeled for the Draft PEIR.

### ***On-Road Toxic Air Contaminant HRA Approach***

In response to the Attorney General's comment letter, however, the PlaceWorks team evaluated potential CWP-related truck emission impacts on sensitive receptors (see Appendix C, Health Risk Assessment). Although countywide modeling was not feasible, an approach was designed to focus on the most affected sensitive receptors. Traffic modeling was conducted by Fehr & Peers (F&P) to identify existing and projected truck volumes along roadway segments within incorporated and unincorporated parts of the county, including the fleet mix or percentage breakdown of light-, medium-, and heavy-duty trucks for each segment.

The results of the traffic modeling indicate that overall truck traffic throughout the county would increase as a result of the CWP, future growth in incorporated areas, and planned

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roadway network improvements through the horizon year of 2040. The amount and significance of the increase in truck traffic due to CWP implementation, and its associated generation of diesel particulate emissions, was the primary concern of the HRA. Study area roadway segments with an increase of 100 or more trucks per day due to implementation of the CWP were selected for analysis. The 100 trucks per day cutoff was selected consistent with the California Air Resources Board's recommendation of this threshold for use in the health risk evaluation of truck distribution centers within 1,000 feet of sensitive land uses (CARB 2005).

The following South Coast AQMD significance thresholds for health risks were deemed appropriate and were used for this HRA:

- Excess cancer risk of more than 10 in a million
- Noncancer hazard index (chronic or acute) greater than 1.0

These thresholds are typically applied to new industrial projects. However, for purposes of the HRA, these thresholds were used to determine whether CWP implementation would result in significant health risk impacts from diesel particulate matter (DPM) emissions. Traffic modeling was conducted for all areas of the unincorporated county, but Bloomington and Muscoy were the only unincorporated communities that have sensitive receptors and exhibited more than 10 roadway segments with truck trips expected to exceed 100 compared to existing conditions. Detailed evaluation of Bloomington and Muscoy appropriately coincided with their high CalEnviro Screen score in the EJ Background Report as well as Muscoy's selection as a 'Year 1' disadvantaged community for the AB 617 program based on its air pollution burden (see Section 3.2, *Draft PEIR Revisions in Response to Written Comments*): The AB 617 'Year 1' communities identified by SCAQMD share common air quality priorities that are driven by the movement of goods throughout the region (e.g., trucks, equipment used at railyards, off-road diesel equipment, and trains). Mobile sources are the overwhelming source of DPM and cancer risk in these communities. Bloomington is designated a Year 2-5 community under AB 617.

Projected truck traffic increases in all other unincorporated communities were either less than 100 per segment or less than the levels modeled in Bloomington and Muscoy. Accordingly, analysis was first conducted on Bloomington and Muscoy. Once it was determined that the incremental increase in cancer risk due to CWP implementation was below the SCAQMD significance thresholds for the maximum exposed receptor (MER) in those communities, it can be concluded that the incremental increase in cancer risk for other communities is also below the threshold—in almost all cases, substantially below.

## 2. Response to Comments

### *Summary of HRA Findings*

#### *CWP Implementation Impacts*

For residential receptors in Bloomington and Muscoy, the incremental cancer risks and chronic hazard indices were calculated at MER due to CWP implementation. The results of the HRA are shown in the HRA Summary table, *Health Risk Assessment Results for Maximum Exposed Receptors*.

#### **HRA Summary Health Risk Assessment Results for Maximum Exposed Receptors**

Scenario	Incremental Cancer Risk <sup>1</sup> (per million)	Chronic Hazard Index
Bloomington – Existing No Project <sup>2</sup>	261	0.0765
Bloomington – Existing with Project <sup>2</sup>	263	0.0772
Bloomington – Net Change Due to CWP Implementation <sup>2</sup>	2.4	0.0007
South Coast AQMD Threshold	10	1.0
<b>Exceeds Threshold Due to CWP Implementation?</b>	<b>No</b>	<b>No</b>
Muscoy – Existing No Project <sup>3</sup>	49.1	0.0144
Muscoy – Existing with Project <sup>3</sup>	50.4	0.0148
Muscoy – Net Change Due to CWP Implementation <sup>3</sup>	1.3	0.0004
South Coast AQMD Threshold	10	1.0
<b>Exceeds Threshold Due to CWP Implementation?</b>	<b>No</b>	<b>No</b>

<sup>1</sup> OEHHA (2015) recommends that a 30-year (high-end residency time) exposure duration be used to estimate individual cancer risk for the residential MER. 2040 DPM emission rates used for cancer risk calculations (EMFAC2017).

<sup>2</sup> The Bloomington residential MER is on Church Street, east of Cedar Avenue and north of I-10.

<sup>3</sup> The Muscoy residential MER is on W Highland Avenue, east of N State Street and north of SR-210.

As shown in the HRA Summary table, the incremental cancer risk for the residential MER in Bloomington and Muscoy due to CWP implementation would be 2.4 and 1.3 per million, respectively. Therefore, the incremental cancer risks would be below the significance threshold of 10 in a million. For noncarcinogenic health risks, the chronic hazard indices were well below the significance threshold of 1.0 for the residential MERs for both Bloomington and Muscoy. The existing cancer risks from existing truck traffic volumes, prior to CWP implementation, are 261 in a million in Bloomington and 49 in a million in Muscoy. For Bloomington, increased truck traffic due to CWP implementation is projected to potentially increase total cancer risk by 0.9 percent. For Muscoy, CWP implementation is projected to potentially increase the total cancer risk by 2.6 percent.

Figures 3 and 4, respectively, from the HRA (Appendix C), depict the increase in DPM concentration due to CWP implementation in the Bloomington and Muscoy communities. These figures are also reproduced on the following pages for easy reference.

#### *Cumulative Impacts to Bloomington and Muscoy*

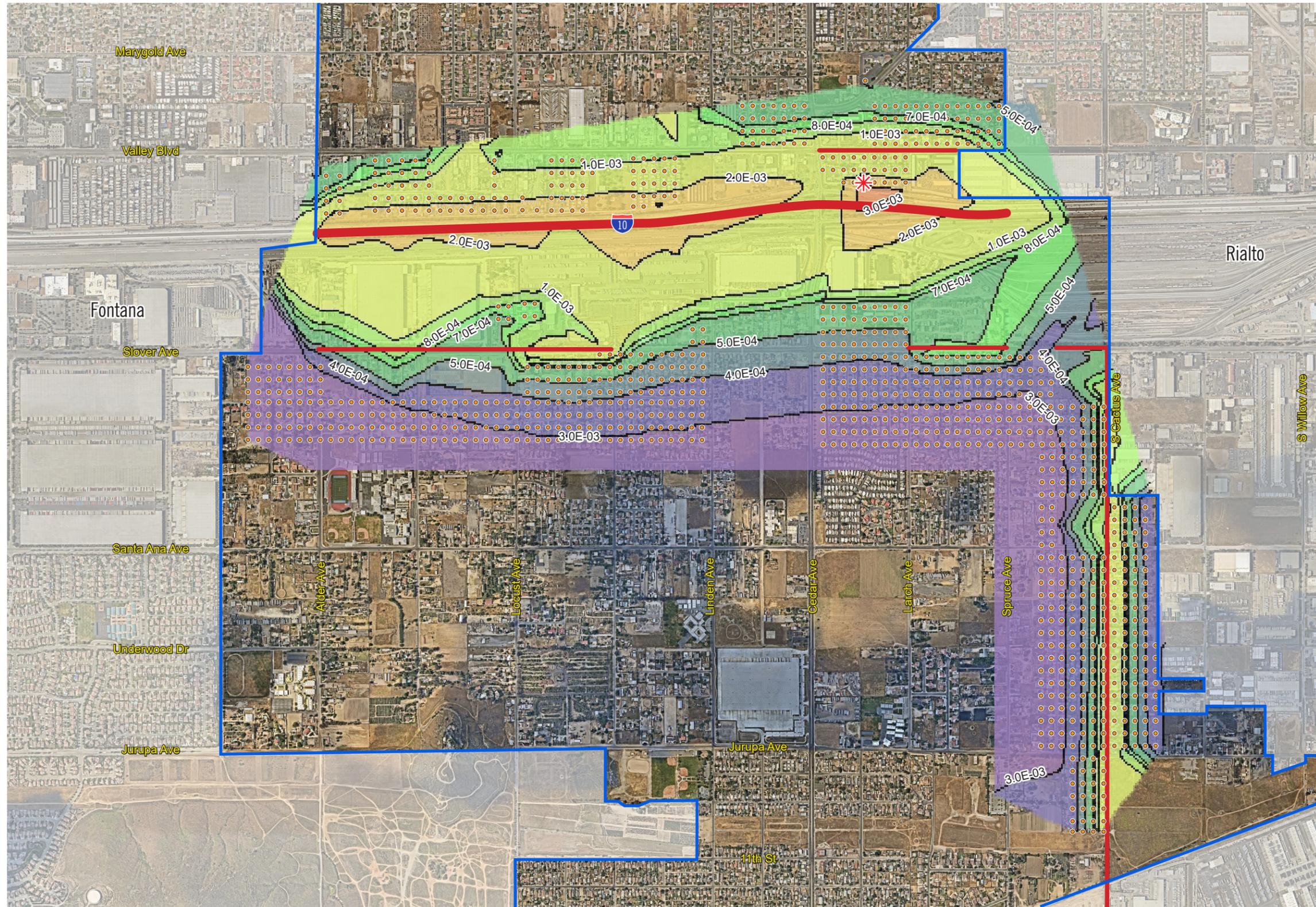
## 2. Response to Comments

The HRA also evaluated cumulative growth in the county, comparing the change in truck traffic due to CWP implementation to truck traffic changes from planned growth in the incorporated county areas and using a roadway network with planned improvements (SCAG 2016).

When comparing the Cumulative with Project to the Cumulative No Project scenarios, only 5 roadway segments in Bloomington (all freeway-related segments) result in an increase of 100 trucks per day due to CWP implementation, compared to 14 segments for the Existing with Project/Existing No Project comparison.

No surface streets would result in an increase in daily trucks over 100 in Bloomington in the Cumulative with Project/Cumulative No Project comparison. A similar reduction in roadway segments with an increase in 100 trucks per day is noted for Muscoy (6 freeway-related segments, no surface streets) for the Cumulative with Project/Cumulative No Project comparison. Therefore, the incremental cancer risks due to CWP implementation for residents in Bloomington and Muscoy would be reduced for the Cumulative with Project/Cumulative No Project scenario because the number of segments and overall increase in trucks due to CWP implementation are projected to be less for the cumulative growth scenario than the existing setting scenario.

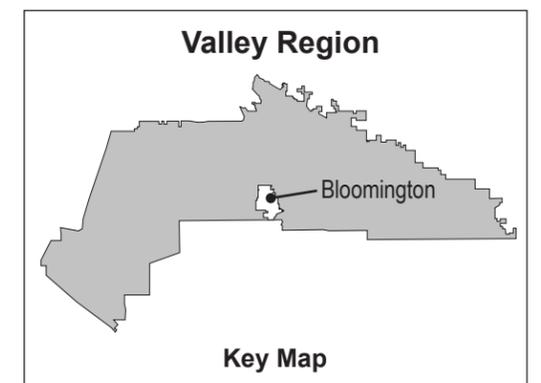
Overall, residents and other sensitive receptors in Bloomington and Muscoy would not be subject to excess cancer risk and noncancer hazards due to implementation of the project, and impacts of the project would be less than significant.



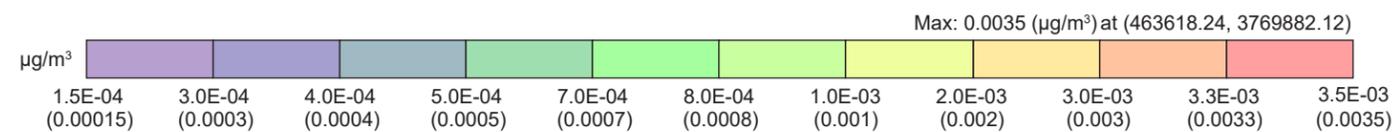
- Bloomington Community Planning Area
- Roadways Impacted by Project
- Sensitive Receptors
- \* Maximum Exposed Receptor (MER)

Note: DPM concentration at MER location results in less than 10 in a million cancer risk.

Note: The map displays data within 1,000 feet of roadway segments where incremental truck trips due to CWP implementation are greater than 100.



0 700 1,400 Feet  
 Date: 05/27/2020 Created by PlaceWorks



Note: The scale depicts the level of diesel particulate matter (DPM) generated by increased truck traffic due to CWP implementation. The highest level of DPM concentration is  $0.0035 \mu\text{g}/\text{m}^3$ , which is less than the 10 in a million cancer risk threshold (concentration  $> 0.015 \mu\text{g}/\text{m}^3$ ).

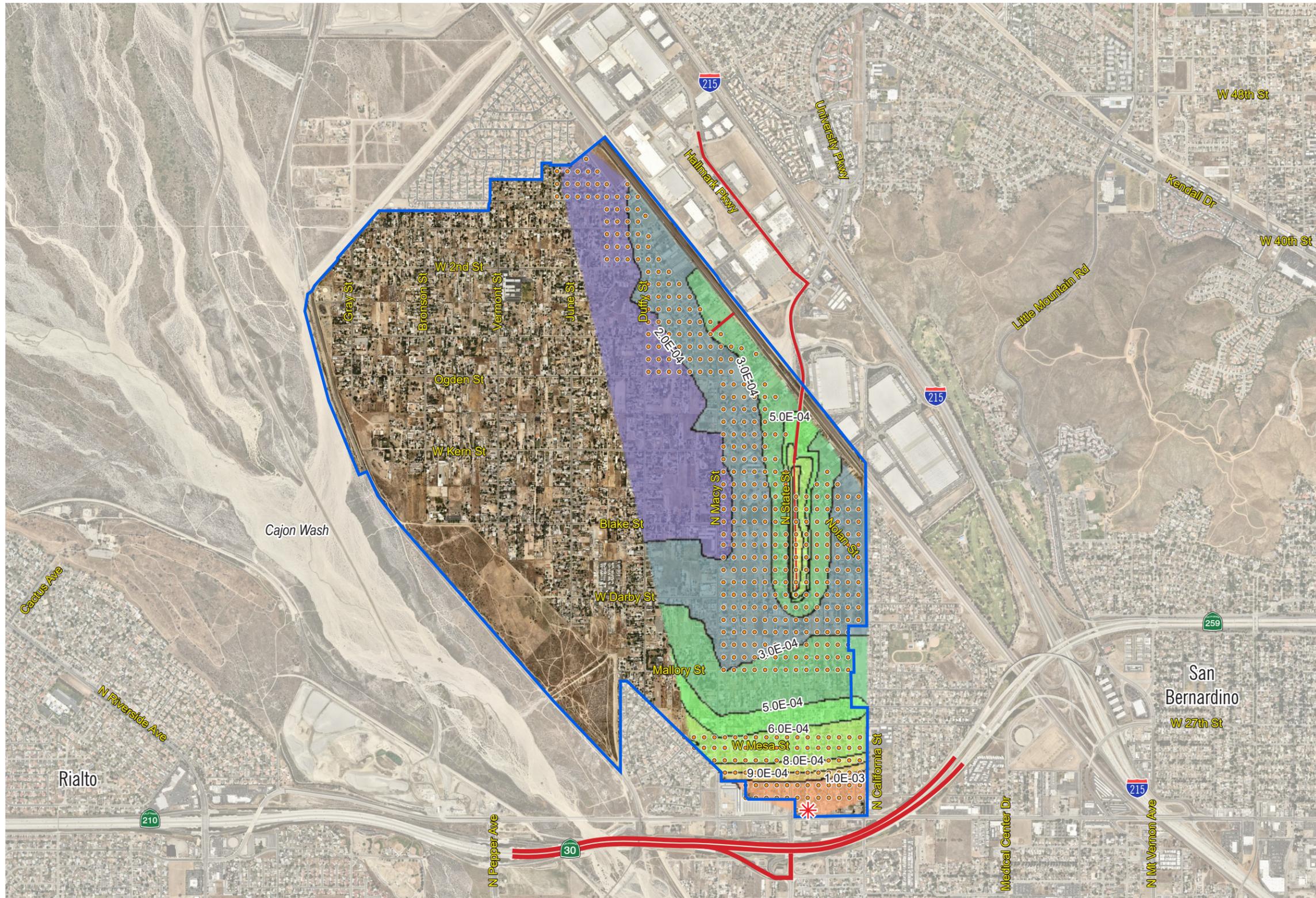
Fig. 3 Increase in Diesel Particulate Matter Concentrations due to CWP Implementation



COUNTYWIDE PLAN

## 2. Response to Comments

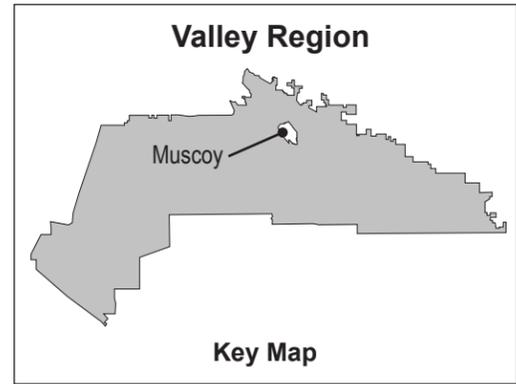
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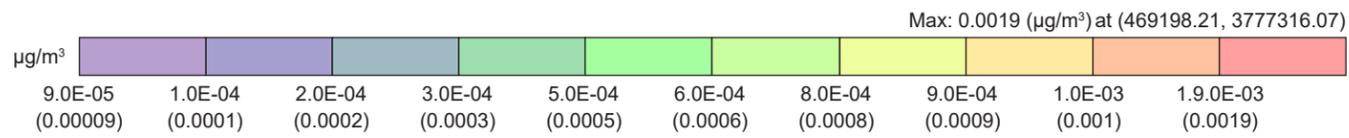
- Muscoy Community Planning Area
- Roadways Impacted by Project
- Sensitive Receptors
- \* Maximum Exposed Receptor (MER)

Note: DPM concentration at MER location results in less than 10 in a million cancer risk.

Note: The map displays data within 1,000 feet of roadway segments where incremental truck trips due to CWP implementation are greater than 100.



0 1,000 2,000 Feet  
 Date: 05/29/2020 Created by PlaceWorks



Note: The scale depicts the level of diesel particulate matter (DPM) generated by increased truck traffic due to CWP implementation. The highest level of DPM concentration is 0.0019  $\mu\text{g}/\text{m}^3$ , which is less than the 10 in a million cancer risk threshold (concentration > 0.015  $\mu\text{g}/\text{m}^3$ ).

Fig. 4 Increase in Diesel Particulate Matter Concentrations due to CWP Implementation



COUNTYWIDE PLAN

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## 2. Response to Comments

A3-4 The commenter states that the mitigation measures do not reduce impacts in environmental justice communities. The PEIR considered mitigation measures that would avoid, minimize, rectify, or reduce the environmental impacts of the project. The proposed project is a regional plan that applies to a variety of different projects across a very long-term development horizon. The mitigation measures, therefore, cannot be static. They must be flexible enough to provide an opportunity for the County to consider changes in emissions control technology and emissions reductions strategies that may occur throughout the lifetime of the Countywide Plan. In contrast to the comment that the EIR mitigation measures are not effective, the mitigation measures identify performance standards that individual discretionary development projects will have to meet and mitigation measures that these projects can consider to achieve the performance standards. As identified in response to Comment A3-3, the project's air quality analysis is a cumulative analysis; therefore, the mitigation measures are intended to satisfy the project's contribution to cumulative air quality (criteria air pollutant and TACs) in the South Coast Air Basin and Mojave Desert Air Basin.

As detailed under response A3-1B, the County has increased its commitment to reduce health risks and pollution burdens. The updated policies reflect changes to respond to recommendations in the EJ Background Report and also suggestions provided in the AB 617 Community Emission Reduction Plan (CERP) for San Bernardino, Muscoy Community, adopted by SCAQMD on September 6, 2019. Note that many of the CERP recommendations are beyond the jurisdiction of the County to implement. Policies, however, are included to work with state, regional regulatory agencies to study and monitor pollution, pursue funding opportunities, and to assist air quality management districts in establishing and implementing community emission reduction plans (see Policies HZ-3.2 and HZ-3.3). In response to these comments, and based on the County's own review of the Environmental Justice policies in the plan, the County revised 11 policies and added 7 policies under Goal HZ-3 (Environmental Justice) of the Hazards Element, and augmented 2 policies in the Transportation and Mobility Element to increase the level of commitment and detail addressing the reduction of health risks and pollution burdens for EJFAs. The list included in Response A3-1B identifies the changes made to the draft Policy Plan. These updated policies, including both the new policies and augmented policies, have been updated in Section 3.2, *Draft PEIR Revisions in Response to Written Comments*, in ~~strikeout~~/underlined text for clarity.

A3-5 Mitigation Measure AQ-3 already included a requirement that HRAs consider cumulative impacts from industrial/warehouse projects within 1,000 feet of the boundary of the project site for all projects that generate 100 or more truck trips per day. At the request of the commenter, Mitigation Measure AQ-3 has been modified to also require an HRA for projects that generate 50 or more truck trips per day if surrounding land uses within 1,000 feet generate 50 or more truck trips per day. The modified mitigation measure is included in Chapter 3, *Revisions to the Draft PEIR*. Buffer distances were not incorporated

## 2. Response to Comments

into the mitigation measure because the individual health risk assessment will determine the site-specific cancer risks based on the actual distance to the sensitive receptors, and mitigation measure will be implemented to achieve the SCAQMD significance thresholds.

A3-6 *GHG Analysis.* The Draft PEIR comprehensively assesses the significant environmental effects of the project, provides a reasonable range of alternatives to the proposed project, and feasible mitigation measures to reduce and avoid significant environmental impacts. See responses A3-7 and A3-8 for a discussion of the two primary concerns raised by the commenter.

A3-7 *Long-Term GHG Emissions Efficiency.* The commenter states that the conclusion in the alternatives analysis in Chapter 7 contradicts the conclusions in Section 5.7, Greenhouse Gas Emissions, which states additional state and federal regulations are needed, because the alternative reduces GHG emissions. We disagree.

The EIR evaluated impacts associated with the land use plan proposed. CEQA requires consideration of potential mitigation measures and project alternatives as means to reduce or eliminate significant impacts of the proposed project. In accordance with CEQA, Draft PEIR Chapter 7 identifies and evaluates a reasonable range of land use alternatives to the proposed CWP that have the potential to attain most of the basic project objectives. As noted by the commenter, the alternatives section of the Draft PEIR concludes that the Concentrated Suburban Growth Alternative has the potential to reduce VMT and associated VMT-generated GHG emissions. The scenario modeling as described in Draft PEIR Chapter 7, *Alternatives to the Proposed Project* quantified the 11,203 VMT/capita/year for the scenario closest analog to the CWP in comparison to 10,716 VMT/capita/year for the Concentrated Suburban Growth Alternative. A project alternative, however, is not mitigation, and therefore the relative environmental impacts of alternatives in comparison to the proposed CWP are appropriately evaluated in Chapter 7. Please refer to Response A3-9 for a discussion of the evolution of project alternatives and rejection of the environmentally superior alternative.

The regional transportation plan / sustainable communities strategy of SCAG and other MPOs in the state show that vehicle miles traveled (VMT) is increasing. It is for this reason that the California Air Resources Board (CARB) has concluded that that state is not achieving its goals to reduce VMT. The county's projected increase in VMT over baseline (existing conditions) could therefore be anticipated. The proposed CWP, however, would reduce VMT in comparison to the current, 2007 General Plan. The current plan accommodates growth in the unincorporated areas of the county (see PEIR Chapter 7, *Alternatives to the Proposed Project*). As described in PEIR Chapter 7, the CWP drastically scales back the allowable development potential in the outlying areas of the unincorporated county. For instance:

## 2. Response to Comments

- The 2007 General Plan would result in a substantial increase in employment as well as more dispersed housing in comparison to the CWP, and the current land use plan would increase vehicle miles traveled, and related traffic air quality emissions. (see PEIR page 7-12)
- The 2007 General Plan would result in more dispersed housing growth and a larger nonresidential building footprint that could expose a greater number of sensitive receptors to pollutants concentrations from construction activity and other sources. (see PEIR page 7-12)

Additionally, though the alternatives considered in Chapter 7 and mitigation measured identified in the Draft PEIR can reduce VMT, they alone will not be able to reduce VMT sufficiently to achieve California’s GHG reduction goals. As documented in the Draft PEIR, further state and federal regulations are necessary to decarbonize our energy and transportation economies to achieve the aggressive reductions needed to achieve the state’s long-term climate stabilization goal (see PEIR page 5.7-60).

Thus, the CWP would provide environmental benefits compared to the No Project scenario (i.e., the current 2007 General Plan). Therefore, although the magnitude of emissions associated with growth allowed in unincorporated areas under the Countywide Plan is considered a significant impact, the No Project scenario would result in substantially higher impacts.

Therefore, the County is making the right steps toward creating a more efficient land use plan. However, as correctly identified by the commenter, the total magnitude of VMT would increase from the current baseline but, as shown in PEIR Table 5.7-8, emissions from on-road transportation sources would decrease by 32 percent from the CEQA baseline. In general, GHG emissions associated with development in the unincorporated County would decrease. Despite this, GHG impacts were considered a significant unavoidable impact of the project because the ultimate goal of the State is to achieve an 80 percent reduction in GHG emissions from 1990 levels. None of the alternatives eliminated this impact. Consequently, we disagree that there is an inconsistency between the alternative analysis conclusion and the conclusion in Section 5.7, because the alternatives and the proposed project would result in significant GHG impacts.

A3-8 *Consistency with the CARB Scoping Plan’s Recommended Local Actions.* At the request of the commenter, the consistency analysis is revised to reflect the current language of Policy TM-3.1. The County has since adopted VMT criteria in response to SB 743, which identifies a goal of reducing VMT per service population by 4 percent for development projects to align with the state’s VMT goals. Changes to the Draft PEIR requested by the commenter can be found in Chapter 3, *Revisions to the Draft PEIR*.

As identified in the Natural Resources Agency’s Final Statement of Reasons for the recent changes to the CEQA Guidelines, consistency with land use plans should not be based on the “conflict” with the plan, but instead, on any adverse environmental impact that might

## 2. Response to Comments

result from a conflict. The CEQA checklist question asks whether a project would conflict with plans adopted for the purpose of reducing GHG emissions. The Scoping Plan includes a list of recommended local actions, divided into two categories: (A) local actions that apply broadly to general plans or climate action plans; and (B) mitigation measures for individual projects under CEQA. The County considered each action under A identified by CARB when drafting the policies in the Countywide Plan. Policies in a general plan do not necessarily need to be prescriptive in order to align with the overall goals in the CARB Scoping Plan. Although the Countywide Plan includes language such as “consider” and “support,” this is consistent with CARB’s recommended local actions for type A projects (i.e., programmatic general plans and climate action plans). Therefore, the PEIR does not overstate consistency or mislead the public about the extent to which CWP policies reduce GHG emissions. In fact, no GHG reductions from the policies were accounted for in the GHG analysis, so it is not likely to mislead the public about the extent to which CWP policies reduce GHG emissions. Furthermore, not including prescriptive language such as “shall” in the policies does not result in a physical impact on the environment.

A3-9 *CEQA Alternative Requirements.* The County concurs that mitigation and alternative sections represent the core of an EIR. The EIR alternatives sections pulls together all of the impact conclusions for the proposed project and requires the lead agency to consider options to the project to reduce or eliminate the environmental impacts of the project as proposed. It basically mandates that the lead agency consider the broader, overall consequences of a project. As described in Draft PEIR, Chapter 7, *Alternatives to the Proposed Project*, the proposed CWP (preferred project) evolved from a comprehensive modeling and evaluation process based on both defined CWP goals and environmental protection criteria. The scenarios evaluated in this process (over a year long) were a logical starting point for the CEQA alternatives review. As detailed in Section 7.2, *Policy Plan Background: Alternative Growth Scenarios*, the scenarios were each designed to identify suitable sites to accommodate the 18,000-unit projected growth in SCAG’s 2016 RTP/SCS and to prohibit or minimize new development within defined hazard and specific natural resource areas. The Draft PEIR appropriately eliminated the Dispersed Rural Growth scenario from evaluation because this scenario did not incorporate sufficient environmental constraints. To ensure a reasonable range of CEQA alternatives, however, the Draft PEIR defined an additional project alternative, *Limited Suburban Growth*, as defined in Section 7.4.1, *Alternative Description and Statistical Description*.

*Meaningful Evaluation.* The commenter asserts that the alternatives chapter fails to “evaluate the comparative merits of the alternatives” and provides insufficient information about each alternative “to allow meaningful evaluation, analysis, and comparison to the proposed project.” The County disagrees. As described above, Section 7.2.1 describes the environmental constraints applied to the scenario modeling for each alternative. Section 7.4.1 provides the statistical comparison (population, housing, and employment) for each

## 2. Response to Comments

alternative and the net change in comparison to the proposed CWP. This table also summarizes the reason each alternative was selected for evaluation – the reasons the respective alternative was considered. Table 7-2, *Environmental Impact Comparison*, provides a meaningful comparison of alternative impacts in comparison to the proposed CWP. The CEQA Guidelines Section 15126.6(d), specifically notes that a matrix format is appropriate:

The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effect of each alternative may be used to summarize the comparison.

Integrated into the matrix (i.e., Table 7-2) are additional alternative details and relative comparison to the proposed CWP. Impacts are quantified for several categories. The comparison is meaningful and an effective method to portray complex alternatives, particularly considering the scale and diversity of the County’s 20,000-square-mile geography. For each impact, the table concludes whether the respective alternative would reduce or increase or be similar to the impact, and whether it would eliminate a significant impact of the proposed CWP.

*Concentrated Suburban Growth Alternative Conclusions.* The commenter notes the number of impacts that would be reduced by the Concentrated Suburban Growth alternative, but fails to mention the environmental impacts that would be greater than the proposed CWP. This alternative would increase impacts to aesthetics, agricultural and forestry resources, geology and soils, and land use and planning. As detailed in Table 7.2, this alternative would significantly intensify development in the Mentone area, converting 850 acres of Prime Farmland and 8 acres of Farmland of Statewide Importance to suburban-type residential development. It would also convert 16 acres of Prime Farmland and 32 acres of Farmland of Statewide Importance to residential uses in the Chino sphere of influence. Although the PEIR concludes that the agricultural resource impact for this alternative could be mitigated to less than significant with the CWP policy to replace agricultural acres, it is an important disclosure that this would be an increased impact relative to the proposed CWP.

The commenter asserts that Draft PEIR Chapter 7 “fails to adequately compare the merits of the alternative with the project to allow the public to understand why the environmentally superior alternative was not chosen.” CEQA Guidelines Section 15126.6(a) states that

[a]n EIR shall describe a range of reasonable alternatives ... 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 ... must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.

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The Draft PEIR meets these requirements and discloses the comparative impacts of each alternative and its ability to achieve the project objectives. This information, including the conclusion that the Concentrated Suburban Development alternative is the environmentally superior alternative, is objectively presented to the public and decision-makers for their use in considering the proposed project. It is not the role of an EIR to “select” or “reject” a project alternative. The choice of which alternative to adopt will be made by the County Supervisors when they consider the information in the EIR and make findings, pursuant to CEQA Guidelines Section 15091.

## 2. Response to Comments

LETTER A4– California Highway Patrol – Inland Division (1 page[s])

A4

### Colin Drukker

**From:** Peterson, Suzanne <Suzanne.Peterson@lus.sbcounty.gov> on behalf of CountywidePlan <CountywidePlan@lus.sbcounty.gov>  
**Sent:** Thursday, August 15, 2019 5:20 PM  
**To:** Blum, Jerry; Colin Drukker; JoAnn Hadfield  
**Subject:** FW: 063 - D.D. Environmental Document Review - SCH #2017 101033

**From:** Peterson, Suzanne **On Behalf Of** CountywidePlan  
**Sent:** Thursday, August 15, 2019 5:18 PM  
**To:** Lewis, Debbie@CHP <DLewis@chp.ca.gov>; CountywidePlan <CountywidePlan@lus.sbcounty.gov>  
**Cc:** Dobson, Denise@CHP <DDobson@chp.ca.gov>  
**Subject:** RE: 063 - D.D. Environmental Document Review - SCH #2017101033

Will do, thanks Debbie.

**From:** Lewis, Debbie@CHP [<mailto:DLewis@chp.ca.gov>]  
**Sent:** Thursday, August 15, 2019 5:14 PM  
**To:** CountywidePlan <CountywidePlan@lus.sbcounty.gov>  
**Cc:** Dobson, Denise@CHP <DDobson@chp.ca.gov>  
**Subject:** FW: 063 - D.D. Environmental Document Review - SCH #2017101033

Please disregard my prior e-mail which referenced SCH #2018041012 in error. There is no foreseeable impact to San Bernardino, Arrowhead, Morongo Basin, or Victorville Area's local operations and/or public safety by SCH #2017101033. If you have any questions or need any additional information, please let me know. Thank you.

A4-1

Debbie Lewis  
Staff Services Unit



Inland Division  
847 East Brier Drive  
San Bernardino, CA 92408  
Phone: (909) 806-2429

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## 2. Response to Comments

**A4. Response to Comments from California Highway Patrol – Inland Division, dated August 15, 2019.**

A4-1 Comment acknowledged.

## 2. Response to Comments

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## 2. Response to Comments

LETTER A5 – South Coast Air Quality Management District (7 page[s])

A5



SENT VIA E-MAIL AND USPS:  
[CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov)  
Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino, Land Use Services Department  
385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415

August 15, 2019

**Draft Program Environmental Impact Report (Draft PEIR) for the Proposed  
San Bernardino Countywide Plan (SCH No.:2017101033)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final PEIR.

South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes to develop a countywide plan with four components: (1) a County Policy Plan to develop a new planning policy and approach to county planning, (2) a Community Actions Guide to facilitate implementation, (3) a County Business Plan to outline policies and strategies for providing municipal and regional services, and (4) a Regional Issues Forum to create an online resource to share countywide information (Proposed Project). The Proposed Project addresses land uses for the unincorporated areas of the County of San Bernardino, which encompasses 1.58 million acres<sup>1</sup>. The Proposed Project anticipates a net population growth of 49,680 people and 12,546 jobs throughout the planning horizon year of 2040<sup>2</sup>.

A5-1

South Coast AQMD Staff's Summary of the Air Quality Analysis

Although the Proposed Project would not directly result in construction of any development or infrastructure, future development implementing the Proposed Project could result in potentially significant air quality impacts. Therefore, the Lead Agency committed to mitigation measure (MM) AQ-2, which requires future development projects implementing the Proposed Project to evaluate potential project-level construction air quality impacts, compare the project-level air quality impacts to South Coast AQMD's CEQA air quality significance thresholds, and incorporate mitigation measures, such as Tier 3 or Tier 4 construction equipment, to reduce air quality impacts that are found to exceed the air quality significance thresholds<sup>3</sup>. However, because there is potential for future development to result in significant construction-related emissions even with implementation of programmatic mitigation measures identified in this document, the Lead Agency found that air quality impacts from construction would be significant and unavoidable<sup>4</sup>.

A5-2

The Lead Agency also quantified the Proposed Project's net operational emissions in 2040 by calculating the operational emissions of the existing land uses, assuming the existing 2007 General Plan will remain in effect (i.e. future without the Proposed Project) under 2040 growth conditions and comparing those emissions to emissions from operations of the Proposed Project's land uses under 2040 growth conditions (i.e. future with the Proposed Project)<sup>5</sup>. Based on the analysis, the Lead Agency found that the Proposed

<sup>1</sup> Draft PEIR, Section 5.3 Air Quality, Page 5.3-34.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.* Page 5.3-44 through 5.3-45.

<sup>4</sup> *Ibid.* Page 5.3-49.

<sup>5</sup> *Ibid.* Pages 5.3-35 through 5.3-37.

## 2. Response to Comments

Jerry L. Blum

August 15, 2019

Project's unmitigated regional operational emissions would exceed South Coast AQMD's regional operational air quality CEQA significance thresholds for NO<sub>x</sub>, VOC, CO, PM<sub>10</sub>, and PM<sub>2.5</sub><sup>6</sup>. With the implementation of MMs AQ-1, -3 and -4, the Proposed Project's NO<sub>x</sub>, VOC, CO, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions would remain significant and unavoidable<sup>7</sup>. MM AQ-1 requires future development projects implementing the Proposed Project to evaluate the potential operational air quality impacts, compare the air quality impacts to South Coast AQMD's CEQA air quality significance thresholds, and incorporate mitigation measures, such as electrical vehicle charging infrastructure for passenger and heavy-duty trucks, to reduce air quality impacts that are found to exceed the air quality significance thresholds<sup>8</sup>. MM AQ-3 requires that future industrial or warehousing projects that would generate diesel truck trips to conduct a project-specific Health Risk Assessment (HRA) analysis, compare the cancer risk to South Coast AQMD's maximum incremental cancer risk threshold of 10 in one million, and commit to risk reductions measures such as restricting offsite truck trips by creating project-specific truck routes<sup>9</sup>. MM AQ-4 requires future development projects with the potential to emit nuisance odors to create an odor management plan<sup>10</sup> to ensure compliance with South Coast AQMD's Rule 402 – Nuisance<sup>11</sup>. Additionally, the Lead Agency discussed South Coast AQMD rules that may be applicable to the implementation of the Proposed Project, such as Rule 403 – Fugitive Dust, which includes additional requirements for large operations<sup>12</sup>, and Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities<sup>13</sup>.

A5-2  
Cont'd

### South Coast AQMD Staff's General Comments

The Proposed Project includes land use updates for the San Bernardino and Muscoy community. This community is disproportionately impacted by air pollution generated from sources, such as, heavy-duty diesel trucks, warehouses, and railyard facilities. As a result, the San Bernardino and Muscoy community is part of the South Coast AQMD's AB 617 Community Emission Reduction Program. Through this program the community has developed a Draft Community Emissions Reduction Plan that identifies air quality priorities and actions to reduce air pollution in the community<sup>14</sup>. South Coast AQMD staff recommends that the Lead Agency review the Draft Community Emissions Reduction Plan for measures to reduce air quality impacts from the Proposed Project.

A5-3

Additionally, to support the implementation of the countywide plan goal Land Use (LU)-2, Land Use Mix and Compatibility, South Coast AQMD staff recommends that the Lead Agency include a requirement in this programmatic CEQA document for future individual projects with sensitive receptors such as residential developments, schools, hospitals, and daycare centers that will be located adjacent to freeways and other sources of air pollution to conduct a project-specific HRA analysis in subsequent, project-level CEQA analyses to disclose potential health risks and incorporate strategies to minimize exposures. Furthermore, South Coast AQMD staff recommends revisions to existing air quality MM AQ-3, and a new air quality mitigation measure requiring periodic, performance standards-based technology review that the Lead Agency should review and incorporate in the Final PEIR. Please see the attachment for more information.

A5-4

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.* Page 5.3-43.

<sup>9</sup> Draft PEIR, Section 5.3 Air Quality, Page 5.3-43 through 5.3-44.

<sup>10</sup> *Ibid.* Page 5.3-46 through 5.3-47.

<sup>11</sup> South Coast AQMD Rule 402 – Nuisance. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-402.pdf>

<sup>12</sup> South Coast AQMD Rule 403 – Fugitive Dust. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403.pdf>

<sup>13</sup> South Coast AQMD Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1403.pdf>

<sup>14</sup> The South Coast AQMD Governing Board is scheduled to consider approval of the AB 617 Draft Final Community Emissions Reduction Plans for the Year 1 Communities on September 6, 2019.

## 2. Response to Comments

Jerry L. Blum

August 15, 2019

### Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final PEIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the additional recommended mitigation measures are not feasible, the Lead Agency should describe the specific reasons for rejecting them in the Final PEIR (CEQA Guidelines Section 15091).

A5-5

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Assistant Air Quality Specialist, at [amullins@aqmd.gov](mailto:amullins@aqmd.gov) or (909) 396-2402, should you have any questions.

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

Attachment  
LS:AM  
SBC190619-05  
Control Number

## 2. Response to Comments

Jerry L. Blum

August 15, 2019

### ATTACHMENT

#### **Health Risk Assessment (HRA) Analysis and Health Risk Reduction Strategies**

1. Notwithstanding the court rulings, South Coast AQMD staff recognizes that the Lead Agencies that approve CEQA documents retain the authority to include any additional information they deem relevant to assessing and mitigating the environmental impacts of a project. Because of South Coast AQMD's concern about the potential public health impacts of siting sensitive land uses, such as residential uses, within close proximity of freeways and other sources of air pollution, South Coast AQMD staff recommends that the Lead Agency review and consider the following comments when making local planning and land use decisions.

To facilitate the implementation of the countywide plan goal Land Use (LU)-2, Land Use Mix and Compatibility<sup>15</sup>, which requires new residential developments to be designed in such a way that will balance residential, commercial, and industrial developments, South Coast AQMD staff recommends that the Lead Agency require individual projects with sensitive receptors (e.g. residential developments, schools, daycares centers, and hospitals) that will be located adjacent to freeways (e.g. within 500 feet) and other sources of air pollution to conduct a project-specific HRA analysis<sup>16</sup> in subsequent, project-level CEQA analyses to disclose the potential health risks to sensitive receptors living and/or working adjacent to these sources<sup>17</sup>. This requirement will demonstrate that the Lead Agency has adequately addressed the Proposed Project's health risks in this programmatic CEQA document and that a project-level HRA analysis will be completed in a later stage to facilitate the purpose and goal of CEQA on public disclosure of health risks to future sensitive receptors living and/or working adjacent to freeways and sources of air pollution. Furthermore, the Lead Agency should consider incorporating the following strategies to maximize protection against exposures toxic air contaminants in the Final PEIR.

A5-6

#### *Health Risk Reduction Strategies for Implementing Countywide Plan Goal LU-2*

- a) The Lead Agency should consider the use of high efficiency or enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better, for projects within 500 feet of freeways and other sources of air pollution to reduce exposures to diesel particulate matter (DPM) emissions from vehicles and trucks traveling on the nearby freeways (e.g., Interstate 10 and Interstate 15, among others<sup>18</sup>) or visiting industrial uses. Enhanced filtration units are capable of reducing exposures. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.
- b) Enhanced filtration systems have limitations. In a study that South Coast AQMD conducted to investigate filters<sup>19</sup>, a cost burden is expected to be within the range of \$120 to \$240 per year to replace each filter. The initial start-up cost could substantially increase if an HVAC system needs to be installed. In addition, because the filters would not have any effectiveness unless the HVAC

<sup>15</sup> Draft County Policy Plan, Goals and Policies: Goal LU-2 *Land Use Mix and Compatibility*. May 2019. Pages 3 through 4.

<sup>16</sup> South Coast AQMD. "Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis." Accessed at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>.

<sup>17</sup> South Coast AQMD has developed the CEQA significance threshold of 10 in one million for cancer risk. When South Coast AQMD acts as the Lead Agency, South Coast AQMD staff conducts a HRA analysis, compares the maximum cancer risk to the threshold of 10 in one million to determine the level of significance for health risk impacts, and identifies mitigation measures if the risk is found to be significant.

<sup>18</sup> Draft PEIR, Chapter 3 - Project Description, Page 3-1.

<sup>19</sup> This study evaluated filters rated MERV 13 or better. Accessed at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf>. Also see 2012 Peer Review Journal article by South Coast AQMD: <http://d7.iqair.com/sites/default/files/pdf/Polidori-et-al-2012.pdf>.

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system is running, there may be increased energy costs to the building tenants. It is typically assumed that the filters operate 100 percent of the time while sensitive receptors are indoors, and the environmental analysis does not generally account for the times when sensitive receptors have windows or doors open or are in common space areas of a project. Moreover, these filters have no ability to filter out any toxic gases from vehicle exhaust. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail and disclosed to prospective residences prior to assuming that they will sufficiently alleviate exposures to DPM emissions.

- c) Because of the limitations, South Coast AQMD staff recommends that the Lead Agency provide additional details regarding the ongoing, regular monitoring and maintenance of filters in the Final PEIR. To facilitate a good faith effort at full disclosure and provide useful information to future sensitive receptors who will live and/or work in proximity to freeways and other sources of air pollution, the Lead Agency should require the following information be included, at a minimum, in the subsequent, project-level CEQA documents:
- Disclose potential health impacts to prospective sensitive receptors from living and/or working in close proximity to freeways or other sources of air pollution and the reduced effectiveness of air filtration systems when windows are open and/or when sensitive receptors are outdoors (e.g., in the common usable open space areas);
  - Identify the responsible implementing and enforcement agency, such as the Lead Agency, to ensure that enhanced filtration units are installed on-site at the Proposed Project before a permit of occupancy is issued;
  - Identify the responsible implementing and enforcement agency such as the Lead Agency, to ensure that enhanced filtration units are inspected and maintained regularly;
  - Disclose the potential increase in energy costs for running the HVAC system;
  - Provide information to sensitive receptors living and/or working at the Proposed Project on where MERV filters can be purchased;
  - Provide recommended schedules (e.g., every year or every six months) for replacing the enhanced filtration units;
  - Identify the responsible entity (e.g. future residents, Homeowner's Associations (HOAs), or property managers) for ensuring enhanced filtration units are replaced on time, if appropriate and feasible (if tenants and/or residents should be responsible for the periodic and regular purchase and replacement of the enhanced filtration units, the Lead Agency should include this information in the disclosure form);
  - Identify, provide, and disclose ongoing cost-sharing strategies, if any, for replacing the enhanced filtration units;
  - Set County-wide or project-specific criteria for assessing progress in installing and replacing the enhanced filtration units; and
  - Develop a County-wide or project-specific process for evaluating the effectiveness of the enhanced filtration units.

A5-6  
 Cont'd

## 2. Response to Comments

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### Recommended Revisions to Existing Mitigation Measure (MM) AQ-3

2. The Lead Agency has committed to implementing mitigation measures to reduce the Proposed Project's significant air quality impacts from construction and operational activities of future development projects implementing the Proposed Project. One of the air quality mitigation measures (MM AQ-3) requires future industrial or warehousing projects to analyze the potential air quality impacts that will be generated from diesel truck trips visiting the development by conducting a project-specific HRA analysis, comparing the cancer risk to South Coast AQMD's maximum incremental cancer risk threshold of 10 in one million<sup>20</sup>, and committing to risk reductions measures to reduce cancer risk. To further strengthen the Lead Agency's list of risk reductions measures identified in MM AQ-3, South Coast AQMD staff recommends that the Lead Agency incorporate the following revisions to MM AQ-3 in the Final PEIR.

#### AQ-3

[...] Measures to reduce risk impacts may include but are not limited to:

- Restricting idling onsite beyond Air Toxic Control Measures idling restrictions, as feasible.
- Electrifying warehousing docks.
- Requiring use of newer equipment and/or vehicles. A current example of newer vehicles include the use of zero-emission (ZE) or near-zero emission (NZE) heavy-duty trucks during operation, such as heavy-duty trucks with natural gas engines that meet the California Air Resources Board (CARB)'s adopted optional NOx emission standard at 0.02 grams per brake horsepower-hour (g/bhp-hr). At a minimum, require that operators of heavy-duty trucks visiting the Proposed Project during operation commit to using 2010 model year<sup>21</sup> or newer engines that meet CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions or newer, cleaner trucks. When requiring ZE or NZE on-road trucks, the Lead Agency should include analyses to evaluate and identify sufficient power and supportive infrastructure available for ZE/NZE trucks in the Energy and Utilities and Service Systems Sections of the Final PEIR, where appropriate.

A5-7

To monitor and ensure ZE, NZE, or 2010 model year trucks are used at the development, operators should maintain records of all trucks and make these records available to the Lead Agency upon request. The records will serve as evidence to prove that each truck visiting the development during construction and operation meets the minimum 2010 model year engine emission standards. Alternatively, require periodic reporting and provision of written records by contractors. Regular inspections of the records should be conducted to the maximum extent feasible and practicable.

- Restricting offsite truck travel through the creation of truck routes; require trucks to utilize truck route(s) that are analyzed in the Health Risk Assessment of the Final CEQA document(s).

<sup>20</sup> South Coast AQMD has developed the CEQA significance threshold of 10 in one million for cancer risk. When South Coast AQMD acts as the Lead Agency, South Coast AQMD staff conducts a HRA analysis, compares the maximum cancer risk to the threshold of 10 in one million to determine the level of significance for health risk impacts, and identifies mitigation measures if the risk is found to be significant.

<sup>21</sup> CARB adopted the statewide On-Road Truck and Bus Regulation in 2010. The Regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. More information on the CARB's Truck and Bus Regulations is available here: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

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- Limit the daily number of truck trips allowed at the future, project-specific developments to the level that is analyzed in the Final CEQA document(s). If higher daily truck volumes are anticipated during operation, the Lead Agency should commit to re-evaluating the Proposed Project's air quality impacts through CEQA prior to allowing higher activity levels.
- Design the Proposed Project such that entrances and exits are such that trucks are not traversing past sensitive receptors (i.e. residential units); orient the Proposed Project such that truck docking stations are located away from sensitive receptors to the maximum extent that is feasible and practicable.
- Restrict overnight parking in residential areas; establish area(s) within the Proposed Project site for trucks to rest overnight.

A5-7  
Cont'd

### Additional Recommended Mitigation Measure – Performance Standards-Based Periodic Technology Review

3. CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse impacts. Since the Proposed Project would be implemented over a 20-year period with a planning horizon year of 2040, and will result in significant and unavoidable air quality impacts from construction and operation of future development projects<sup>22</sup>, the Lead Agency should take this opportunity to incorporate a periodic, technology review of both off-road and on-road construction and operational equipment that will be used during the life of the Proposed Project. South Coast AQMD staff recommends that the Lead Agency develop project-specific or countywide strategies to foster and facilitate the deployment of the lowest emissions technologies as they become available. This may include incorporating a periodic, performance standards-based technology review, or developing other comparable strategies or tools, to periodically assess equipment availability, equipment fleet mixtures, and best available emissions control devices. The deployment should include technologies that are “capable of being accomplished in a successful manner within a reasonable period of time” (California Public Resources Code Section 21061.1), such as zero and near-zero emission technologies or best available control technologies (BACTs) that are expected to become more readily available over the life of the Proposed Project. A technology review should also incorporate an appropriate timeline/schedule for the assessment that will also be supportive of emissions reductions goals being implemented at local, regional, state, and federal levels (e.g. South Coast AQMD's AQMPs and other air quality and public health goals). If the technology review identifies that cleaner equipment and fleets have become available, the Lead Agency should commit to incorporating this new technology at subsequent, individual developments that are subject to discretionary reviews under the CEQA to further reduce emissions. South Coast AQMD staff encourages the Lead Agency to involve the public and interested parties, such as the South Coast AQMD and the CARB, in developing an appropriate process and performance standards for technology review.

A5-8

<sup>22</sup> Draft PEIR, Section 5.3 Air Quality, Page 5.3-47 through 5.3-50.

## 2. Response to Comments

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## 2. Response to Comments

### A5. Response to Comments from South Coast Air Quality Management District, dated August 15, 2019.

A5-1 This comment summarizes SCAQMD's understanding of the project. No response is needed.

A5-2 This comment summarizes SCAQMD's understanding of the project's impacts. No response is needed.

A5-3 The Community Emissions Reduction Plan (CERP) for the Muscoy community has been forwarded to decision-makers for their review and considerations. As part of this Final PEIR, the County has considered additional policies to reduce the air pollution burden on the Muscoy community to support the following objectives:

- Reduce emissions from heavy-duty trucks transiting the community by working with local land use agencies to establish designated truck routes. Policy TM-5.6, Unincorporated Truck Routes, has been amended to prohibit truck routes in unincorporated environmental justice focus areas.
- Promote the installation of infrastructure needed to support zero emission vehicles and equipment at warehouses. Policy HZ-3.1, Health Risk Assessment, requires new projects to evaluate the impact of truck traffic and incorporate mitigation. Additionally, Policy HZ-3.3, Community Emissions Reductions Plans, identifies the County's commitment to implementing the measures in the Muscoy Community Emissions Reduction Plan.
- Support a transition to zero emission transit buses. Policy HZ-3.1, Health Risk Assessment, requires new projects to evaluate the impact of truck traffic and incorporate mitigation. Additionally, Policy HZ-3.3, Community Emissions Reductions Plans, identifies the County's commitment to implementing the measures in the Muscoy Community Emissions Reduction Plan.
- Replace older diesel-fueled equipment with cleaner technologies at railyards. Policy HZ-3.3, Community Emissions Reductions Plans, identifies the County's commitment to implementing the measures in the Muscoy Community Emissions Reduction Plan.
- Reduce children's exposure to harmful air pollutants by working with local schools to install high-efficiency filtrations systems. Policy HZ-3.3, Community Emissions Reductions Plans, identifies the County's commitment to implementing the measures in the Muscoy Community Emissions Reduction Plan. Policy HZ-3.8, Indoor Air Quality, targets funding for environmental justice focus areas to raise awareness and address asthma and other respiratory illnesses.

A5-4 Pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts. Therefore, additional mitigation measures are not warranted in the Draft PEIR. Policy NR-1.5 of the Countywide Plan requires the

## 2. Response to Comments

County to consider the siting recommendations identified by the California Air Resources Board (CARB). The request for the County to require a health risk assessment (HRA) as a Standard Condition of Approval (COA) for new sensitive receptors proximate to major sources of air pollution, such as freeways, will be forwarded to decision-makers for their review and consideration. Additionally, Policy NR-1.5, Sensitive Land Uses, identifies that the County considers these recommendations when reviewing new land use projects.

A5-5 Comment noted.

A5-6 See response to Comment A5-4. Impacts of the environment on the proposed project are not CEQA impacts. The request for the County to require an HRA for new sensitive uses within 500 feet of a major source of air pollution will be forwarded to decision-makers for their review and consideration.

SCAQMD has also identified additional health risk reduction strategies, including but not limited to:

- Use of Minimum Efficiency Reporting Value (MERV) 13 filters or better for projects within 500 feet of a freeway.
- Require that disclosure notices to residents that the filtration is only effective when used in accordance with the manufacturer's recommendations when the heating, ventilation, and air conditioning (HVAC) system is in use.
- For rental units, require ongoing monitoring and replacement of filters in accordance with the manufacturer's recommendations.

The request to incorporate the strategies listed in Comment A5-6 into the development review process for projects within 500 feet of a major source of air pollution will be forwarded to decision-makers for their review and consideration.

A5-7 At the request of the commenter, the EIR has been amended to include additional potential measures for warehouse facilities in Mitigation Measure AQ-3. Changes to the Draft PEIR requested by the commenter can be found in Chapter 3, *Revisions to the Draft PEIR*.

A5-8 At the request of the commenter, the EIR has been amended to include additional potential measures to foster periodic review of strategies and tools over the life of the General Plan as part of Mitigation Measure AQ-1 and AQ-2. Changes to the Draft PEIR requested by the commenter can be found in Chapter 3, *Revisions to the Draft PEIR*.

## 2. Response to Comments

LETTER A6 – Ontario-Montclair School District (2 page[s])

### Ontario-Montclair School District

950 West D Street, Ontario, California 91762 • (909) 418-6366 FAX: (909) 459-2550

FACILITIES PLANNING & OPERATIONS

A6

#### BOARD OF TRUSTEES

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*Director, Facilities Planning & Operations*

**Sent Via Certified Mail**  
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**Return Receipt Requested**

August 15, 2019

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415

**Re: San Bernardino Countywide Plan**

Dear Mr. Blum:

The Ontario-Montclair School District (District) understands the County of San Bernardino (County) is seeking information as part of its efforts to prepare an environmental document pursuant to the California Environmental Quality Act (“CEQA”) for the Countywide Plan (Plan). Thus, the District is providing the following information as a courtesy based solely on the information provided in the County’s draft Program Environmental Impact Report (PEIR). Except for the statements made below, the District is not providing any representations or endorsements regarding the plan or compliance with CEQA. The District has not done any independent analysis or investigation regarding the plan or any of the statements and issues included in the County’s draft PEIR. The District hereby grants permission to the County to use the information provided below as part of its CEQA analysis but may not indicate or suggest that the District is involved in the Plan or the County’s efforts to comply with CEQA other than providing the information below for the County’s independent use.

A6-1

The District has reviewed the Plan’s stated potential risks/adverse impacts relative to air quality and hazardous materials exposure, traffic and emergency services, noise and vibrations, as well as other potential disruptions to instruction both during the plan’s phase(s) and once completed. In light of this information, the following comments are provided by the District in regards to ensuring a safe environment exists for the District’s students and staff at Ontario-Montclair School District School and Support Sites (District Sites).

**General Comments.**

During construction of projects initiated under the PEIR (Projects), the following areas will require further consideration to avoid adversely impacting daily operations at Ontario-Montclair School District. The District is very interested in knowing the proposed timeline for Projects the potential impacts of any temporary measures to be employed, including the following.

A6-2

“Our Community, Our Children, Our Commitment, Our Future”

## 2. Response to Comments

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino, Countywide Plan  
Page 2

1. **Public Services and Traffic Management Control Plan Sections 5.14 and 5.16**
  - a. Signalization/use of crossing guards
  - b. Pedestrian/bike rider access
  - c. District student transportation service
  
2. **Construction Activities.**
  - a. Traffic diversion/detours/road closures due to increase in vehicles and related traffic activities and any impact on emergency services response
  - b. Unhealthful air quality levels during demolition and construction activities
  - c. Hazardous materials exposure during transport and/or abatement
  - d. Excessive noise/vibrations/other nuisance disturbances
  - e. Storm water infrastructure deficiencies resulting in flooding/increased standing water and/or reduced pedestrian/vehicular access

A6-2  
Cont'd

In addition to the above noted General Comments, the following Specific Comments are provided.

### **Specific Comments.**

1. **Hazards and Hazardous Materials – Section 5.8**

Section 5.8 of the Plan indicates the potential risk exists for an accidental release of hazardous materials near District Sites. As a result, in addition to pre-demolition testing of above ground structures for Asbestos Containing Material and Lead Based Products, the District requests pre-demolition testing of all asphalt and concrete be included. In addition, the District requests the County restrict these demolition activities and transporting of hazardous materials near District Sites to non-school days/hours of operation.
  
2. **Hydrology and Water Quality – Section 5.9**

Section 5.9 of the Project indicates a potential risk exists for an increase in the rate or amount of surface runoff, in a manner which could result in substantially altering the existing drainage pattern of a project area, and/or resulting in flooding on or off a project site. The District requests the County employ mitigation measures that minimize the risk for water retention systems to become overwhelmed resulting in longer periods for standing water to avoid increased risk for West Nile Virus and other insect borne illnesses.
  
3. **Land Use and Planning and Noise – Sections 5.10 and 5.12**

Sections 5.10 and 5.12 of the Project does not address the risk for teacher, students and staff at District Sites being exposed to excessive ground vibrations or noise levels. Should a Project create such a risk, the District requests such activities be properly mitigated or performed during non-school days/hours of operation.

A6-3

A6-4

A6-5

Please continue to send public notices and information regarding the Project to me. If you have any questions, feel free to contact me at 909-418-6369.

Sincerely,



Craig Misso  
Director, Facilities Planning & Operations

## 2. Response to Comments

### A6. Response to Comments from Ontario-Montclair School District, dated August 15, 2019.

A6-1 Comment acknowledged.

A6-2 The school district is concerned about how future development and construction near schools could impact the school operation. Because this is a General Plan, no specific time horizons have been identified as to when development will occur.

Projects processed that are consistent with the Countywide Plan (CWP) will require additional environmental review. At that time, the applicant(s) and the County will have the opportunity to engage with the school district. This additional environmental review will need to address impacts associated with construction activities, including the potential impact on emergency services response.

Goal TM-4 of the CWP addresses complete streets and supports implementation of a complete streets network (which would include many of the treatments described in the comment). Finally, one of the most effective transportation demand management techniques for future development (especially residential development) is implementing a variety of measures that support better access to schools and student transportation services. With the County's new VMT impact criteria and policies supporting VMT reduction, these measures will likely be supported through that process.

As identified in Section 5.3, *Air Quality*, Mitigation Measure AQ-2 would require that future development projects analyze potential air quality impacts during construction activities, including emissions generated during demolition activities, to ensure less than significant impacts at sensitive receptors, such as schools.

Any exposure to hazardous materials during transport is governed by Section 31303 of the California Vehicle Code and the US Department of Transportation, which regulates hazardous materials transport. Furthermore, the California Governor's Office of Emergency Services provides emergency response services involving hazardous material incidents that may occur during transport.

Exposure to hazardous materials during abatement of asbestos-containing materials, lead-based paints, polychlorinated biphenyls (PCBs), mercury-containing light ballast, and mold would be regulated as described in RR HAZ-4 and RR HAZ-5 in Section 5.8.1.3 of the Draft PEIR. New development associated with the Countywide Plan that is on a list of hazardous materials sites and requires site remediation will be regulated as described in RR HAZ-1 through RR HAZ-4 and RR HAZ-6 in Section 5.8.1.3.

As identified in Draft PEIR Section 5.12, *Noise*, Mitigation Measures N-1 and N-2 would require that future development projects analyze potential noise and vibration impacts during construction activities to minimize noise and vibration levels at sensitive receptors, such as schools.

## 2. Response to Comments

Construction stormwater infrastructure deficiencies are regulated by the Construction General Permit (NPDES No. CAS000002). The permit requires routine weekly inspections of all best management practices (BMPs) and daily inspections during rain events. Inspections consist of visual inspection to ensure that the BMPs were implemented and maintained according to the Storm Water Pollution Prevention Plan (SWPPP). Corrective actions for deficiencies identified during inspections must be initiated within 72 hours and need to be completed as soon as possible.<sup>2</sup>

- A6-3 The potential for implementation of the CWP to result in hazards and hazardous materials–related impacts is addressed in Draft PEIR, Section 5.8. As concluded under Impact 5.8-1, upon compliance with regulatory requirements HZ-1 through HZ-6, potential impacts, including potential impacts to schools, would be reduced to less than significant. Individual development projects under the CWP would comply with regulatory requirements for testing demolished materials as well as regulatory requirements for transport of hazardous materials. The County acknowledges this commenter’s request to limit the transport of hazardous materials to nonschool days/hours of operation. This measure is not required to mitigate potential impacts to less than significant, and may not be feasible for individual projects. The District will be noticed on future projects affecting the Ontario-Montclair area and will have the opportunity to comment and provide project-specific requests during the scoping processes and public review of the respective environmental document. The County welcomes this participation and the District’s ongoing input into the environmental review process.
- A6-4 The San Bernardino County Technical Guidance Document for Water Quality Management Plans includes technical specifications for infiltration basins, infiltration trenches, and bioretention basins with no underdrains to percolate runoff into the underlying soils in 48 hours or less.<sup>3</sup> The California Department of Public Health and the Mosquito and Vector Control Association of California recommend that stormwater storage and infiltration systems be designed so that they do not hold standing water for more than 96 hours to prevent mosquito development.<sup>4</sup> Therefore, the County has employed mitigation measures that minimize the risk of retention systems increasing the risk for West Nile Virus and other mosquito-borne illnesses.
- A6-5 PEIR Section 5.12, *Noise*, designates school sites as a sensitive receptor in the analysis. Noise and vibration impacts to sensitive receptors are analyzed in Impacts 5.12-1, 5.12-2, and 5.12-3, and mitigation measures are identified. With the implementation of identified

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<sup>2</sup> California Stormwater Quality Association. August 2011. California Stormwater BMP Handbook – Construction.

<sup>3</sup> San Bernardino County, June 7, 2013. Technical Guidance Document for Water Quality Management Plans. <http://cms.sbcounty.gov/Portals/50/Land/SantaAnaRiver-WQMP-Final-June2013.pdf?ver=2019-06-11-140312-780>

<sup>4</sup> California Department of public Health and the Mosquito and Vector Control Association of California, July 2012. Best Management Practices for Mosquito Control in California. [http://westnile.ca.gov/downloads.php?download\\_id=2376&filename=BMPforMosquitoControl07-12.pdf](http://westnile.ca.gov/downloads.php?download_id=2376&filename=BMPforMosquitoControl07-12.pdf)

## 2. Response to Comments

mitigation measures, impacts to sensitive receptors due to vibration are reduced to less than significant. However, even with the implementation of all feasible mitigation measures, as provided in accordance with CEQA, temporary construction noise and operational noise were both identified as significant and unavoidable impacts.

## 2. Response to Comments

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## 2. Response to Comments

LETTER A7 – Ahamakav Cultural Society Fort Mojave Indian Tribe (3 page[s])



A7  
**AHAMAKAV CULTURAL SOCIETY**  
Fort Mojave Indian Tribe

P.O. Box 5990 Mohave Valley, Arizona 86440  
Phone (928) 768-4475 • Fax (928) 768-7996



VIA ELECTRONIC MAIL

FMIT P043J AB52 CEQA Countrywide Plan 081619

August 16, 2019

County of San Bernardino  
Mr. Jerry L. Blum, Countrywide Planner  
Land Use Services Department  
385 N. Arrowhead Ave, First Floor  
San Bernardino, CA 92415  
Jerry.Blum@lus.sbcounty.gov

RE: Fort Mojave Indian Tribe Consultation for Notice of Availability to Adopt A Program Environmental Impact Report San Bernardino Countywide Plan per AB 52 and California Environmental Quality Act Public Resources Code 21080.3(b).

Dear Mr. Blum,

The Fort Mojave Indian Tribe (FMIT) would like to take this opportunity to thank you for your Notice of Availability (NOA) from June 17, 2019, regarding the preparation of a Program Environmental Impact Report (PEIR) for the proposed San Bernardino Countywide Plan (Project) for San Bernardino County (State Clearinghouse NO. 2017101033).

In accordance with Public Resources Code § 21080.3.1(b); Assembly Bill No. 52, §1 (b)(2); and California Governor Executive Order B-10-11,<sup>1</sup> the AhaMakav Cultural Society (ACS) was delegated by the FMIT Council in 1988 (Resolution 88-70), on their behalf, to conduct AB 52 / California Environmental Quality Act Public Resources Code 21080.3(b) government-to-government consultations related to projects in connection to Mojave tribal cultural resources.<sup>2</sup> At this time, and in accordance with Public Resources Code Section 21080.3.1(b), the Fort Mojave Indian Tribe, which is traditionally and culturally affiliated with lands within and around the County of San Bernardino's geographic area of jurisdiction, requests formal notice of and information on proposed projects as a result of the adoption of the San Bernardino Countywide Plan. FMIT requests consultations on projects for which the County of San Bernardino will serve as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq.

A7-1

From your letter submittal, we understand that the County has completed the draft PEIR for a Countrywide Plan which consists of a Country Policy Plan; Community Action Guide; County Business Plan, and a Regional Issues Forum (an on-line system). The NOA (June 17, 2019) states that "Implementation of the

A7-2

<sup>1</sup> CA Governor Executive Order B-10-11: "...that it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

<sup>2</sup> AB 52, §1(b)(2) "tribal cultural resources" ... considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.

## 2. Response to Comments

Project would result in significant and unavoidable impacts to Air Quality, Biological Resources, Greenhouse Gas Emissions, Hazards (Wildfire), Minerals, Noise, and Transportation and Traffic.”

A7-2  
Cont'd

As FMIT did not consult with the County of San Bernardino prior to the NOA, for the record here, we concur with the Summary of Findings from the *Cultural Resource Technical Report for the San Bernardino Countywide Plan, San Bernardino County, California* (SWCA Cultural Resources Report No. 18-270 February 2019, page E-18) that states:

Growth and development will inevitably lead to impacts on cultural resources, but with the implementation of planning, avoidance, and mitigation measures, impacts to cultural resources can be managed, avoided, and minimized. Ongoing coordination with tribal entities, the NAHC, and NAHC-identified Native American individuals will further minimize impacts to cultural resources associated with population growth and land development in San Bernardino County.

Further to this, Section 4 of AB 52, adds Sections 21074(a) and (b) to the California Public Resources Code (PRC), which address tribal cultural resources and cultural landscapes. Section 21074(a) defines tribal cultural resources as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe. Even though Mojave cultural resources are not specifically named within the context of the Countywide Plan, we concur that in San Bernardino County tribal cultural resources are located in the, “Valley, Mountain, East Desert, and North Desert Regions of the County,” (San Bernardino Countywide Plan Draft PEIR, County of San Bernardino, page 5.17-11, Environmental Analysis).

For future concerns regarding growth and development in San Bernardino County, Mojave people consider our cultural landscape in a layered approach, including spiritual and cultural elements. These elements include, but are not limited to, indirect, direct and cumulative impacts to water and hydrology due to a project’s construction and subsequent operation on local hydrology (both surface water and groundwater). Mojave consider long-term consequences of cumulative impacts to cultural resources caused by potential impacts during construction, and potential long-term effects upon Mojave resources and spiritual values. Cumulative impacts can cause damage to unique archaeological resources, and San Bernardino County as the lead agency, may require reasonable efforts be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. If a project *shows that there is substantial evidence, that the project may have a significant effect on the environment (CEQA §21083, Public Resources Code; Reference: Sections 21 064, 21064.5, 21080(c), and 21082.1) or on cultural resources or values of significance (AB 52, §1(b)(2) to the FMIT Tribe and to the extent that they cannot be left undisturbed, mitigation measures will be required (PRC Sections 21083.2[a], [b], and [c]).*

A7-3

Air quality and visibility are also integrated into our cultural landscape. We consider how a project’s short-term (construction-related) and long-term (operational) air quality impacts our environment. Visibility is another important air quality issue within the local air basin and is the most easily affected by activities that generate dust (especially fine particulates) and sulfur dioxide. Plants and animals are also affected by county planning in regard to growth and development. Mojave need to understand how a Countywide plan, such as this one for San Bernardino County will consider future needs for creating a balance between human and natural environments.

A7-4

We would like to remind your agency that CEQA Guidelines section 15126.4, subdivision (b)(3) states that preservation in place is the preferred manner of mitigating impacts to archaeological sites. Section 15126.4, sub. sec. (b)(3) of the CEQA Guidelines has been interpreted by the California Court of Appeal to mean that “feasible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of impacts.”

A7-5

## 2. Response to Comments

The FMIT appreciates this opportunity to provide our comments and we look forward to continuing our combined efforts in achieving mutually agreed objectives. For the Mojave people, avoidance is the most acceptable form of conservation management for preserving and protecting our ancestral cultural landscapes. Please inform AhaMakav if during the project cultural resources are inadvertently discovered. We will be happy to assist. If you have any questions, please do not hesitate to contact me by phone at (928) 768-4475 or by email at [lindaotero@fortmojave.com](mailto:lindaotero@fortmojave.com).

A7-6

Sincerely,



Ms. Linda Otero, Director AhaMakav Cultural Society  
Fort Mojave Indian Tribe

Cc: Mr. Timothy Williams, Chairman Fort Mojave Indian Tribe  
Mr. Shan Lewis, Vice Chairman Fort Mojave Indian Tribe  
Ms. Julianne Polanco, CASHPO  
Mr. Steven Quinn, Native American Heritage Commission  
Ms. Dawn Hubbs, Consultant to FMIT

## 2. Response to Comments

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## 2. Response to Comments

**A7. Response to Comments from Ahamakav Cultural Society Fort Mojave Indian Tribe, dated August 16, 2019.**

A7-1 Comment acknowledged.

A7-2 Comment acknowledged.

A7-3 Comment acknowledged.

A7-4 Air quality impacts of the project are evaluated in PEIR Section 5.3, *Air Quality*. Mitigation measures have been identified for future development projects to ensure that their short-term and long-term impacts are minimized to the extent feasible.

A7-5 Public Resources Code Section 21083.2 is included among the regulations cited in the cultural resources report (Draft PEIR Appendix E), which applies the same preservation-in-place consideration to unique archaeological resources. It is the County's intention to follow the CEQA Guidelines and comply with applicable regulatory compliance measures, including those requiring preservation in place for archaeological resources described in Section 15123.4(b)(3).

A7-6 The AhaMakav are among the groups listed on the County's consultation list pursuant to the revisions of AB 52 and SB 18. Among the required topics discussed in any project subject to tribal consultation is mitigations measures, which include those that apply to treatment of inadvertent discoveries. This will be confirmed on a project-to-project basis.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O1 – Coalition of Community Groups, Businesses, Organizations and Individuals in the High Desert of San Bernardino County (206 page[s]). **Please note, due to the large number of pages, only the pages with comments are below. The comment letter in total is provided as Appendix E of this Final Environmental Impact Report.**

O1

August 14, 2019

Ms. Linda Mawby (**By Email: [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov)**)  
Senior Planner  
Mr. Jerry Blum (**By Email: [Jerry.Blum@lus.sbcounty.gov](mailto:Jerry.Blum@lus.sbcounty.gov)**)  
Countywide Plan Coordinator  
County of San Bernardino Land Use Services Department – Planning Division  
385 North Arrowhead Avenue, First Floor  
San Bernardino, CA 92415-0187

**Re: Draft Environmental Impact Report (State Clearinghouse No. 2017101033 (June 2019))**

Dear Ms. Mawby and Mr. Blum:

We are a coalition made up of the following community groups, businesses, agencies and individuals: Lucerne Valley Economic Development Association (LVEDA), Johnson Valley Improvement Association, Homestead Valley Community Council, Oak Hills Property Owners Association, Newberry Springs Chamber of Commerce, Newberry Springs Economic Development Association, Morongo Basin Conservation Association, Church of Our Lord and Savior (Lucerne Valley), Lucerne Valley Market/Hardware, Newberry Springs Community Alliance, Lucerne Valley Realty, Expert Appliance Service, Alliance for Desert Preservation, Mojave Communities Conservation Collaborative, Friends of Big Morongo Canyon Preserve, Newberry Springs Property Owners Association, Landers Community Association, Brian Hammer, Sue Hammer, Dennis Morrison, Pat Flanagan, Ruth Rieman, Marina West, Randy West, Barbara LaGrange, John Smith, Barbara Smith, George Stone, Gail Stone, Robert L. Berkman, Randy Polumbo, Larry Lane, Ted Stimpfel, Roger Peterson, Annie Lancaster, Allan Raish, Kathryn Anema, Teresa Reyes, Ann Garry, Dave Garry, Sarah Kennington, Dennis Schwander, David S. Miller, Thomas P. Maloney, Neil Nadler, Sheila Bowers, Lorraine Cross, Dixie Coutant, Kerry Puckett, Laraine Turk, Elizabeth Stewart, Matthew McCarthy, Terry Taylor, Kenneth D. Lair, Jackie R. Lindgren, Louis Kannenberg, Gregg Hallam, Gene Parsons, Star Decker, Susan Blair, Barry Blair, Brad Berger, Rick Sayers, Meg Foley, Jenny Wilder, Norma Joyce, Sara Fairchild, Michael Nance, Robert Shaw, Renee Lynn, Mike Lipsitz, Vickie Paulsen, Floy Creveling, Gary Creveling, Sharon Dove, Brian Fisher, Coralene Fisher, John Jones, Bobbie Jones, Sarah McKee and Gaye Burch. Together, we represent a broad spectrum of residents, businesses, organizations, recreationists and conservationists in the High Desert of San Bernardino County.

O1-1

Our coalition has been active in providing comments regarding deficiencies in the proposed “Countywide Continuum,” and in the proposed drafts of the Countywide Plan, the

## 2. Response to Comments

Community Action Guides, the County Policy Plan and the Land Use Map (and related Tables).<sup>1</sup> The verbal and written comments that we have provided are summarized below in Section 10 of this letter.

O1-1  
Cont'd

We are writing now in order to comment on the Draft Environmental Impact Report (State Clearinghouse No. 2017101033 (June 2019), which we will refer to below as the “PEIR” (which is the acronym used in the document itself). It is our understanding that the PEIR is based on the latest draft of the proposed CWP, which is dated “May 2019.”

### **1. The PEIR Did Not Consider Any of the Environmental Impacts that Would Arise From the CWP’s Designation of a New “RLM” Zone as One in Which Utility-Scale Energy Projects are Deemed to Be “Typical Uses.”**

#### **A. Designating Utility-Scale as a Typical RLM Use Would Encourage an Influx of Utility-Scale Projects in the RLM Zone.**

The currently published draft of the “Land Use Categories Map,” and its companion “Table LU-1” (entitled “Land Use Categories”), would create a new “Resource/Land Management” (“RLM”) land use category in the CWP. Table LU-1 lists, under its column for “Description of Typical Uses” for the RLM zone, “community-scale and utility-scale energy facilities.” The “Table LU-1 Notes” confirm that the “typical uses” list carries significant legal import, by specifying that the list is “intended to further clarify the purpose of each land use category.” This would be an unmistakable affirmation that an express purpose of the RLM zone is to accommodate utility-scale projects. If enshrined in the CWP – which is being formulated to guide this entire County’s land use planning for the “next 20 or more years” (PEIR, p. 5.10-16) -- this designation would greatly impact human and natural communities by encouraging the proliferation of both renewable and non-renewable utility-scale energy projects throughout the RLM zone (which will be referred to simply as the “RLM” in the remainder of this letter).

O1-2

The Land Use Services Dept. (the “LUSD”) attempted, in a June 7, 2019 letter from Jerry L. Blum (its Countywide Planning Coordinator), to explain away this “typical use” designation as nothing more than a bland and innocuous statement of the obvious. According to Mr. Blum’s letter, it would mean only that “it is conceivable that they [utility-scale projects] could be located in other outlying RLM areas with proper permits, public review and consistency with other related goals and policies.”

In reality, this designation would be cited by developers as an affirmation, or as a pre-determination, by the County that the RLM is open for utility-scale business. While applications for individual utility-scale projects would be subject to all of the siting and other criteria found in applicable law, such as the County’s Renewable Energy and Conservation Element (the “RECE”), its Solar Ordinance, the CWP and (when it comes to public lands) the Desert

<sup>1</sup> The latest released May 2019 draft of the proposed Countywide Plan, the Community Action Guides, the County Policy Plan and the Land Use Map (and related Tables, such as Table LU-1, and “Table Notes”), will be referred to collectively in this letter as the “CWP.”

## 2. Response to Comments

Renewable Energy and Conservation Report (the “DRECP”), developers would contend that “typical use” designation means, at the very least, that utility-scale projects – both renewable and non-renewable -- are presumptively appropriate throughout the RLM. This would cause the RLM to become a breeding ground for such projects.

The RLM, as proposed in the CWP, would be incredibly vast; it would be the CWP’s single biggest land use category/planning zone in the largest county in the United States. The RLM would comprise 5,808,833 acres out of the County’s total 12,263,271 acres (p. 3-13), having (according to Table LU-2’s “Land Use Category/Zoning Equivalency Matrix”) subsumed all areas in the County currently zoned AG (Agriculture) and RC (Resource Conservation). So opening the RLM to utility-scale industrialization would fundamentally, and irreversibly, transform a truly enormous territory, and seriously degrade the human and environmentally-sensitive natural communities in the North and East Desert areas (as will be discussed further below in Sections 1(B) and 3 of this letter).

Utility-scale facilities consume a great deal of acreage. According to the PEIR (p. 5.18-79), they require 7.1 acres per MW for solar projects, and 40 acres per MW for wind projects. And there are existing state and federal mandates that already encourage a proliferation of utility-scale renewable energy projects in the County (this will be discussed further below in Section 1(B) of this letter). There are already approximately 6,000 acres of utility-scale projects aimed at north Lucerne Valley alone, and a 3,400-acre solar project proposed for the Daggett/Newberry Springs area, that may have been grandfathered in past the ban on new projects found in Policy 4.10 of the RECE (Policy 4.10 is quoted below in Fn. 4). Utility-scale facilities, in turn, require acreage-consuming new infrastructure, such as generation tie and transmission lines, energy storage facilities, electrical substations, a network of service/access roads, storage sites and the like.

O1-2  
Cont'd

In short, the PEIR did not take into consideration that, if utility-scale is designated as a typical RLM use, the resulting buildout would consume many tens of thousands of acres of land, primarily in the County’s North and East Desert regions.

### **B. The PEIR Did Not Consider Any of the Environmental Impacts That Would Result From Designating Utility-Scale as a Typical RLM Use.**

The PEIR declined to consider the environmental effects of future utility-scale energy development in the County based on the following two propositions:

O1-3

1. “[t]he RECE will be incorporated into the Countywide Plan after the Countywide Plan is adopted. Therefore, renewable energy developments are not part of this Project [the CWP] and are not addressed in the PEIR. Individual, future renewable energy development projects, however, would be subject to environmental review under CEQA [(at p. 2-37)];”

2. the RECE “is not being updated through the Countywide Plan [p. 2-37],” therefore (p. 5.18-79) “[t]he development of renewable energy projects on private lands would proceed in line with the Countywide Plan policies in the RECE.”

## 2. Response to Comments

In other words, according to the PEIR, the RECE is the last word when it comes to the siting of utility-scale projects in the County's unincorporated areas, and the CWP would add nothing --- above and beyond that which is already found in the already thoroughly vetted RECE -- that would hasten or encourage the construction of such projects; hence the PEIR need not assess the impacts that might arise from future utility-scale development on a programmatic level.

But this entire premise is incorrect. If the final version of the CWP designates utility-scale as a typical RLM use, it would amount to a *de facto* amendment of the RECE, because nowhere in the RECE is the RLM given any such designation; in fact, the RECE makes no mention of the RLM.<sup>2</sup> By effectively amending the RECE by calling utility-scale a typical RLM use, the CWP would encourage the siting of utility-scale projects in the RLM. Section 15126 of the CEQA Guidelines requires that EIRs thoroughly and comprehensively assess all aspects of a project when evaluating its environmental impacts, and the PEIR was remiss in declining to assess the impacts that would arise from designating utility-scale as a typical RLM use.<sup>3</sup>

The need for a thorough environmental assessment is underscored by the fact that the "typical use" designation would introduce a glaring inconsistency into the CWP: designating utility-scale as a typical RLM use would mean that, *outside* the RLM, the siting and development of utility-scale projects would be governed solely by the RECE, whereas, *inside* the RLM -- other than in the Community Plan and Rural Living-zoned areas expressly protected

O1-3  
Cont'd

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<sup>2</sup> The RECE was intended by the County's decision-makers and the public to be the last word on the siting of utility-scale projects, having been vetted, debated and amended during an extended, arduous and highly contentious approval process. Had community participants been informed, at the August 8, 2017 and at the February 28, 2019 Board of Supervisors hearings on the RECE and Policy 4.10 (or during the debate preceding their adoption), that a *de facto* utility-scale RLM would later be created, this would have brought out intense community opposition, and formulation of the RECE would have taken a much different turn.

Adopting a utility-scale-friendly RLM, after the fact, would radically and belatedly rewrite the RECE, and dramatically and undemocratically undercut Policy 4.10's outright ban on utility-scale projects in community plan areas. Nevertheless, because CEQA compliance is now at issue, that point will not be further discussed in this letter.

<sup>3</sup> The PEIR is also incorrect in stating that it need not assess the impact of future utility-scale development because that can be done when individual projects come to the fore. The whole purpose for the PEIR is to thoroughly assess such impacts now on a programmatic level.

## 2. Response to Comments

from new utility-scale development by the RECE's Policy 4.10<sup>4</sup> – the proliferation of such projects would be governed by both the RECE *and* the designation of utility-scale in the CWP as a typical RLM use.

This would have serious impacts on the County because the Community Plan and Rural Living areas protected by Policy 4.10 total only 633,416 acres (p. 3-13), which is small in comparison to the 5,808,833-acre region comprising the RLM. These Community Plan and Rural Living zones would be effectively rendered “islands” in the midst of an otherwise degraded, industrialized desert landscape in the RLM because tracts of land in the RLM that are outside of Community Plan and Rural Living zones would be rendered vulnerable to utility-scale industrialization. This would include large portions of land between the western boundary of the Lucerne Valley Community Plan area and Apple Valley/Hesperia -- among which is a large section of the Granite Mountains (which is protected as an Area of Critical Environmental Concern under the DRECP and by the Multiple Habitat Conservation Plan (“MSHCP”) and Natural Community Conservation Plan (“NCCP”) being jointly developed by the County and the Town of Apple Valley<sup>5</sup>) -- immense tracts in Johnson Valley and most of the region between the Lucerne Valley Community Plan area and Barstow. This was not the result contemplated by the RECE.

O1-3  
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<sup>4</sup> Policy 4.10 prohibits “utility-oriented RE projects in the Rural Living land use districts throughout the County [Policy 4.10.1]” and “within the boundaries of existing community plans, which at the time of adoption of this element [the Renewable Energy and Conservation Element (the “RECE”)] are the Bloomington, Muscoy, Bear Valley, Crest Forest, Hilltop, Lake Arrowhead, Lytle Creek, Oak Glen, Homestead Valley, Joshua Tree, Lucerne Valley, Morongo Valley, Oak Hills and Phelan/Pinion Hills Community Plans [Policy 4.10.2].” Policy 4.10.3 states: “Establish exclusion areas in the Development Code Regulations for renewable energy development, beginning with the prohibitions in Policies 4.10.1 and 4.10.2 and provide for additional exclusion areas, such as new community plan areas, to be designated by amendment to the Development Code.”

The Table LU-1 Notes in the CWP state, next to its description of utility-scale as a typical RLM use, that “[t]he list of typical uses is also subject to and limited by policies in this and other elements of the County Policy Plan. Policy 4.10 of the Renewable Energy and Conservation Element, for example, prohibits utility-oriented renewable energy projects in the Rural Living land use districts and any land use district within the boundaries of multiple community planning areas.”

<sup>5</sup> Hence the PEIR is incorrect in asserting (at p. 1-31) that the proposed CWP would not conflict with any MSHCP. The Town has been proactive in publishing its plans and the underlying data, including the submittal to the DRECP of detailed scoping, protest and comment letters going back to 2011. Moreover, the Town, as the lead agency, has been developing and ground-truthing this plan for at least six years, and, at this point it is a highly evolved, very detailed plan, with design overlays designed to link up with and complement adjacent, vital wildlife corridors and habitats (for, among other animals, bighorn sheep, the golden eagle and desert tortoise).

## 2. Response to Comments

The industrialization that the CWP would introduce into the vast RLM would constitute a significant and irreversible environmental change, one which should have been assessed under Section 15126.2(c) of the CEQA Guidelines, but the PEIR skirted the issue entirely. Instead, the PEIR claimed (at p. 5.4-57) that the RLM would constitute a positive land use change in terms of preserving the environment, i.e., that the impact of the CWP buildout on USFWS Critical Habitat will be lessened to the extent that it is found “within proposed conserved land uses such as Resource Land Management . . .” But the RLM would not really be a “conserved land use” given that it would effectively displace such habitat by inviting in utility-scale projects.

O1-4

The PEIR acknowledged (at p. 9-2) that the future residential and employment development that the CWP contemplates is “a long-term irreversible commitment of vacant parcels of land or redevelopment of existing developed land in the unincorporated areas of the County” -- and that, “[g]iven the low likelihood that the land would revert to lower intensity uses or to its current form, the proposed Project [the CWP] would generally commit future generations to these environmental changes” -- but the PEIR made no similar assessment with respect to anticipated utility-scale development, even though the referenced utility-scale-friendly designation for the RLM would encourage such projects and have a whole host of growth-inducing and other consequential environmental impacts far beyond those contemplated under the RECE.

Section 15126 of the CEQA Guidelines requires that an EIR examine ways in which a proposed project could foster, either directly or indirectly, further construction projects which could affect the environment, individually or cumulatively. Potential growth-inducing effects are to be examined through an analysis of, among other things, the question of whether a project would remove obstacles to growth (e.g., through, for example, changes in existing regulations pertaining to land development) and the question of whether a project would involve some precedent-setting action that might encourage and facilitate other activities that could significantly affect the environment. Designating utility-scale as a typical RLM use would most certainly constitute a growth-inducing action, for purposes of Section 15126, because it would effectively revise the RECE, thereby removing an obstacle to the growth of large-scale facilities in a vast County region, which would thereby encourage and facilitate their siting in the RLM (this will be discussed further below in Section 4).

O1-5

Moreover, the development of new utility-scale facilities in the RLM would require acreage-consuming new infrastructure, such as generation tie and transmission lines, electrical substations, energy storage facilities, networks of service and access roads, storage sites and the like. The PEIR does not, however, discuss any of these growth-inducing effects or the resulting environmental impacts.

The PEIR claims that it lacks the tools to make a projection of future utility-scale growth, contending that there are no forecasts regarding the number or magnitude of future renewable energy projects in the County (at p. 5.18-71). But this is incorrect. The development goals set in the following state and federal renewable energy mandates provided a more than adequate starting point for such a forecast:

## 2. Response to Comments

1. the California Renewable Energy Standard (the “RPS”) – the PEIR cites the 2030 RPS (p. 5.18-7), acknowledging that, because the PEIR is to guide the County for the next 20 years (p. 5.10-16), the PEIR needs to assess the growth in renewable energy as per the 2040 RPS standard. But the PEIR did not include SB 100 in its analysis; SB 100 requires that California be carbon-free by 2045; at 50% renewable energy by 2026 and at 60% renewable energy by 2030;

2. the DRECP calls for the creation of 20,000 MWs of new utility-scale renewable energy projects on public land in the County’s deserts; the BLM’s “Executive Summary for the Record of Decision” for the DRECP confirms (at p. ES-6) that “the 388,000 acres of DFAs are capable of providing enough area for approximately 27,000 MWs of renewable energy generation capacity using current technology” (the BLM reaffirmed this in its September 14, 2016 news release (issued upon adoption of the DRECP). Another 419,000 acres of General Public and 40,000 acres of Variance Lands designated by the DRECP are potentially available for utility-scale development; and

3. California’s RETI 2.0 planning initiative, which created Transmission Assessment Focus Areas (“TAFAs”) for various regions in the County for which goals/forecasts of future utility-scale renewable energy development are stated; the “Victorville/Barstow” TAFAs alone has a 5,000 MW goal/forecast for future utility-scale development.

The PEIR notes (at p. 5.18-79) that 7.1 acres are required to generate one MW of utility-scale solar and that 40 acres are required to generate one MW of utility-scale wind. Clearly there were more than ample resources available with which future utility-scale growth could have been forecast over the next couple of decades. Given that the above-cited mandates place the County under enormous pressure to host utility-scale renewable energy projects, it is clear that, if utility-scale is labeled in the CWP as a typical RLM use, tens of thousands of acres of land throughout the County, primarily in its desert regions, will be forever industrialized.<sup>6</sup>

The PEIR should have forecast such development both as if utility-scale *is* designated in the RLM as a “typical use,” and as if it *is not* so designated, and the PEIR should have compared the results in order to project how much more utility-scale development would be ushered into the County should that designation be included in the final CWP. Then the PEIR should have made a studied assessment of the degree to which added utility-scale industrialization engendered by the CWP would impact the County’s wildlands, open space and communities.

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<sup>6</sup> The PEIR cites (at p. 5.18-78 and p. 79) a DRECP forecast, for BLM land in the County, that “3,887 MW of renewable energy capacity could be developed in the ecoregion subunits in and overlapping San Bernardino County, requiring approximately 59,445 acres” by 2040, without reconciling this with the DRECP’s 20,000 MW goal.

The PEIR also notes (at p. 9-7) that 391 MWs of solar utility-scale has been permitted in the County, and that another 1,664 MWs of solar facilities were under review as of March 26, 2018. At 7.1 acres per MW, that could amount to 14,591 acres of industrialized desert land.

O1-5  
Cont'd

## 2. Response to Comments

But the PEIR did not do any of this, and instead concluded (at p. 1-13, et seq., in its “Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation,” and Chapt. 8 (p. 8-1, et seq.)) that the proposed CWP would have “less than significant” aesthetic, soils, groundwater, cultural, archeological, paleontological and land use impacts; it finds that development pursuant to the CWP would have a potentially significant and unavoidable impact on the loss of special-status vegetation species, on wildlife movement corridors and on GHG emissions.<sup>7</sup>

The PEIR arrived at those conclusions by assessing “projected buildout” – the amount of growth in the County that would result from adoption of the CWP – and the associated impacts, solely in terms of residential and employment growth, concluding (at pp. 1-7 – 1-9, Table 1-1, and 5.18-10) that “[l]ittle or no growth is projected” for “unincorporated area[s]” other than residential development in the Bloomington community, future master planned areas of the Town of Apple Valley SOI, the Fontana SOI and the East Valley Area Plan in the Valley Region,” and that employment growth will be focused “in the unincorporated portions of the Valley region.” The PEIR forecasted (p. 5.1-25) that the “projected buildout” would include 663 million square feet of new “nonresidential building” that “would be concentrated in a small number of growth areas” (p. 5.1-18), but that is the extent of its analysis concerning such development, and its environmental impacts are not specifically and meaningfully assessed in the PEIR.

O1-6

The PEIR concluded (p. 9-4) that “[b]uildout of the proposed CWP would increase employment in the unincorporated County by 12,546 jobs. Impacts of the increase in job-generating land uses and employment are analyzed through Chapter 5 of the PEIR. **No additional impacts would occur.**” (Emphasis added.) The PEIR ignored the fact that implementation of the CWP, as currently drafted, would result in a proliferation of utility-scale projects in the County.

In summary, the PEIR has not considered any of the serious, far-reaching and irreversible environmental impacts that would result from designating utility-scale as a typical RLM use, which means that the PEIR is not CEQA-compliant. This will be further discussed below in Section 3 of this letter.

### **2. The PEIR Did Not Consider the Environmental Impacts That Would Result from Eliminating the Land Use Protections Provided by the Current Community Plans.**

O1-7

The proposed CWP calls for the currently existing versions of the Community Plans to be discarded in favor of Community Action Guides. But the current Community Plans are co-equal

<sup>7</sup> The PEIR disclaims any ability to determine the amount of construction fugitive dust that would be released (p. 2-36), when such an estimate was required of it by CEQA.

## 2. Response to Comments

and fully-formed elements of the County's General Plan,<sup>8</sup> and effectively prohibit development that would detract from the unique character of each rural mountain and desert community.

By contrast, the proposed Community Action Guides would not have any real legal status under the County Policy Plan, inasmuch as they would not be considered as part of the County's General Plan or, in the terminology employed in the CWP, as part of the County's Policy Plan. In fact, all the proposed Community Action Guides would do is supposedly tell members of rural communities how, at the grass-roots level, they can fend for themselves when threatened with unwanted development.<sup>9</sup> In the language of the PEIR (p. 1-6), the CWP intends to "replace existing community plans with a greater focus on community self-reliance, grass roots action, and implementation," i.e., with Community Action Guides comprised of "a set of potential tools and action plans framed in a set of community-driven values and aspirations."<sup>10</sup>

The Community Plans' strongly-worded goals and objectives -- which have been, and will continue to be, crucial to preserving the unique rural characteristics of the County's various desert and mountain communities -- would be lost forever if replaced with ineffectual Community Action Guides. In short, tried and true legal protections under the Community Plans -- ones which have been carefully tailored to reflect the unique aspects of each individual community -- are to be jettisoned in favor of a set of aspiration-driven "tools." The CWP proposes to replace our rural communities' legal protection against unwanted development with a guidebook on how residents can go about pleading with the County for that same protection on an ad hoc, project-by-project basis.

O1-7  
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This approach would dilute (if not do away with) community members' protection against large-scale residential, commercial and industrial development within and near Community Plan areas that is inconsistent with the rural character of their communities and with the environmental well-being of nearby wildlands. This would run counter to the current, fundamental direction of this County's land use policies (as will be discussed below in Section 5 of this letter), and would be inconsistent with rural residents' strong desire, as expressed at the above-mentioned "Countywide Continuum" meetings in 2017 and 2018, at the Planning

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<sup>8</sup> As correctly noted in the PEIR (at p. 1-5), the fourteen existing Community plans "contain goals and policies that augment the 2007 General Plan and address unique issues and concerns for each community."

<sup>9</sup> And they are currently being threatened by unwanted development that is inimical to their rural character. There are approximately 6,000 acres of new utility-scale projects under application for Lucerne Valley, and another application for a 3,400-acre utility-scale project aimed at the Daggett/Newberry Springs area, all of which pre-date the adoption of Policy 4.10.

<sup>10</sup> While not directly relevant to this CEQA-oriented letter, we note that the draft Community Action Guide for Lucerne Valley is not, as stated therein, "written in the words of those participating in the public engagement process," nor does it accurately reflect community aspirations.

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Commission meeting on September 21, 2017, and in their November 21, 2017, October 19, 2018 and May 19, 2019 letters, to retain – *and build on* – their current Community Plans.

The PEIR and CWP speak as if the goals, policies and objectives stated in the Community Plans had for the most part been relocated to the CWP's Policy Plan, but this is not the case. Pivotal goals, policies and objectives from the various Community Plans have not been imported and preserved in the CWP's Policy Plan. Our October 19, 2018 letter (a copy of which is attached) discusses this (at pp. 8 – 17) as it concerns the Lucerne Valley Community Plan, and that discussion is incorporated herein by this reference (it remains applicable because the May 2019 revision of the Policy Plan did not materially amend the relevant goal statements).

In short, the Community Plan's goals, policies and objectives governing land use, industrial growth, water issues and dust control issues did not make it into the CWP's Policy Plan, or were revised beyond all recognition in the Policy Plan. In still other cases, the Policy Plan undercuts its own proposed goals and policies. Moreover, the Policy Plan omits the Community Plan's highly specific descriptions of Lucerne Valley's rural character and development aims.<sup>11</sup>

O1-7  
Cont'd

The PEIR did not contain the requisite statement of overriding considerations, but it posed (p. 1-11 – 1-12) the following question: “2. Whether the benefits of the Project override those environmental impacts which cannot be feasibly avoided or mitigated to a level of insignificance.” The PEIR does not provide a specific answer to the question, and none of the justifications for dispensing with the Community Plans, as stated in the “Transition from Community Plans to Community Action Guides” section of the Matrix, would permit that question to be legitimately answered in the affirmative. Those justifications consist of the following:

1. elimination of the Community Plans would do away with a “substantial amount of redundancy and resolve[d] consistency issues by consolidating all goals and polices into one Policy Plan.”

This rationale lacks merit because any so-called redundancy as among the goals and objectives in the various Community Plans would arise naturally from the fact that some rural mountain and desert communities share common characteristics, and because such “redundancies” do not in any way detract from the viability or enforceability of the Community Plans. Any differences as among various communities' goals and objectives simply reflect the fact that each community has a unique character, and none of these differences – which the

<sup>11</sup> There are policies in the Community Plan, in addition to the ones called out in our October 19, 2018 letter, that were similarly omitted or denatured beyond recognition in the Policy Plan, such as Goals CO-1.1, OS 1.4 and OS 1.5, which, in terms of preserving existing topography, scenic views, native vegetation, open space, corridor linkages and wildlife movement, commence with (or incorporate) strong imprecations like “require,” “use,” “preserve” and “shall.” By contrast, the Policy Plan goals that, according to the CWP's “2007 Community Plan Goals and Policies Matrix” (the “Matrix”), correspond with CO-1.1, OS 1.4 and OS 1.5, consist of equivocations commencing with phrases such as “we consider,” “we regulate,” and “we coordinate,” and bear little or no resemblance to CO-1.1, OS 1.4 and OS 1.5.

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Matrix mislabels as inconsistencies – would detract from the viability or enforceability of the Community Plans because they govern separate communities and do not overlap with each other in any way;

2. some of the goals and objectives in the Community Plans have been “incorporated into the **OTHER POTENTIAL ACTIONS** section of the CAG [which is an acronym used in the PEIR for the Community Action Guides; emphasis is in the original].”

This rationale lacks merit because transferring goals and policies from the Community Plans to the Community Action Guides would, as discussed above, render such goals and policies legally ineffective and irrelevant for all practical purposes;

3. the County needs to economize. In that regard, the Matrix states that:

“... the County determined that it does not have the financial resources to implement many of the policies in the current Community Plans without potentially compromising existing local and regional levels of service.”

This rationale lacks merit because the prohibitions in the Community Plans against destructive development do not cost the County anything, and wind up being enforced by community members on a project-by-project basis. By strongly discouraging applications for development which is inconsistent with the rural character of our communities and with the environmental well-being of surrounding wildlands, such prohibitions actually save the County the costs associated with project review and with proceedings in which governmental discretionary approvals are sought for inappropriate development projects. Moreover, by discouraging new development, the Community Plans reduce the County’s outlays for fire, life, safety, police and other services in its unincorporated regions.

The PEIR should have – but did not – forecast future large-scale commercial, industrial and residential development as if the well-drafted, specifically-tailored, time-tested and legally enforceable protections against inappropriate development in the existing Community Plans had been retained in the CWP, and compare it to a large-scale growth projection premised as if those protections had been cast aside.<sup>12</sup> Only then could the PEIR have, as required by CEQA, meaningfully assessed the resulting environmental impacts on the County’s wildlands, open space and communities that would be occasioned by casting the existing Community Plans aside (those impacts will be discussed further below in Section 3 of this letter).

O1-7  
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<sup>12</sup> The PEIR was willing to assess the impacts of CWP-driven residential development only (at p. 1-13, et seq., in its “Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation),” concluding that it would have potentially significant and unavoidable impact on the loss of special-status vegetation species, on wildlife movement corridors and on GHG emissions.

## 2. Response to Comments

### **3. The PEIR Did Not Address the Array of Environmental Impacts That Would Result from Designating Utility-Scale as a Typical RLM Use and from Discarding the Existing Community Plans, Including (But Not Limited to) Resulting Impacts on Air Quality/Health, Aesthetics, Biological Resources, Soils and Groundwater Basins.**

O1-8

The discussion below does not analyze each of the many environmental impacts that would result from implementation of the CWP as currently formulated, and is intended only to illustrate the degree to which the PEIR has fallen short of fulfilling CEQA's mandates.

#### **A. Dust/Health Impacts.**

Utility-scale solar renewable energy projects require a great deal of soil disturbance. Solar panel installation and construction of buildings and inverter pads require the grading and scraping of the desert crust with heavy equipment. Such grading and scraping would also be required in order to build the honeycomb of roads needed for construction, maintenance and cleaning of vast complexes of solar panels and trackers, for the installation and maintenance of poles for collector lines (and gen-tie lines), for installation of perimeter security fences and for extensive trenching for subsurface lines.

There are already approximately 6,000 acres of new utility-scale renewable energy projects under application for North Lucerne Valley, along Highway 247, and a 3,400-acre solar project aimed at the Daggett/Newberry Springs area, along with a major new proposed substation (the Calcite Substation) in North Lucerne Valley, all of which would entail an extensive array of new transmission lines and access/service roads. The proposed utility-scale projects consist of the Aurora Solar Project, the Calcite Solar Project, the Ord Mountain Solar Project (which has been placed on an indefinite hold, but which has not been withdrawn) and Sienna Solar (North, South, East and West) and Daggett Solar (these solar projects, along with a proposed Calcite Substation, will be referred to as the "Cumulative Projects"). The proposed Calcite and Sienna Solar projects would be spread out over nine non-contiguous sites, and degrade all interstitial lands. The Cumulative Projects would have a combined effective footprint of approximately 7,312 acres, according to figures supplied by Brian Hammer (a GIS professional and adjunct professor at Victor Valley College), which amounts to approximately 11.4 square miles.

O1-9

Add to that the potential that tens of thousands of acres of additional solar projects would be aimed at the RLM, should utility-scale be designated as a typical RLM use. If so, the Lucerne Valley Community Plan area could wind up ringed with utility-scale development around its perimeter, with a swath of utility-scale development, i.e., the Cumulative Projects, running through that Community Plan area along Highway 247. This was not the result contemplated by the RECE.

The North and East Desert Regions are areas of high wind erosion potential, according to the "Soil sensitivity factors for the DRECP" map and the "Confidence levels for sensitive soil factor maps for the DRECP." Because the contemplated construction of the Cumulative Projects, and the additional solar projects that would be ushered into the RLM should utility-scale be deemed a "typical use," would disturb tens of thousands of acres of desert soil and

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eliminate vegetation that would otherwise anchor soil with a high aeolian dust potential (PM 10 and PM 2.5), it would lead to the release of large and unhealthy volumes of dust into the local environment and surrounding communities. In order to make a valid assessment in that regard, the PEIR needed to have determined exactly how much vegetation would be removed (and die) as a result of construction activities, and exactly how much grading would be required, and incorporate long-term PM 10 and PM 2.5 monitoring.

O1-9  
Cont'd

The PEIR should have also considered that other utility-scale solar projects in the desert region have proven to be particularly bad neighbors, and have failed to live up to their developers' promises.<sup>13</sup>

Only by developing, assessing and reporting such information, would the PEIR have a basic predicate for making an informed assessment concerning fugitive dust. But, in order to do so, the PEIR would also need a valid baseline for dust emissions for North Lucerne Valley. Unfortunately, the Mojave Desert Air Quality Management District (the "District"), which covers 20,000 square miles of desert terrain in the County and in Riverside County, cannot

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<sup>13</sup> The Soltec PV project in Newberry Springs has received a lot of negative attention. The developer reportedly promised that it would not scrape vast tracts of land, that the project would have minimal impact on vegetation and wildlife, and that mitigation measures (such as soils stabilization) would be implemented. None of this came to pass, and it has also become apparent that an unduly low estimate was presented, during the application phase, of the amount of water the project would consume.

The Agincourt and Lone Valley Solar projects in Lucerne Valley (on Camp Rock Rd.) – now known as "Lone Valley Solar" -- have been spewing dust, despite applying much more water than the developers projected.

Joshua Tree has not fared any better with three nearby utility-scale solar projects: Cascade Solar, SEPV8 Solar (Lear Avenue) and Indian Trail Solar. Once vegetation was removed to construct them, soils became unstable and dust and sand began blowing. Dust storms are now a regular feature during high wind events. Prescribed mitigation measures -- like watering exposed soil and ceasing construction if the winds exceed a certain level -- have proven completely ineffectual, if implemented at all.

Antelope Valley Solar Ranch, located in Lancaster, near Route 138, was built by First Solar, which seems to be the contractor of choice for many solar photovoltaic projects. The AVAQMD cited First Solar for violations of air quality standards on at least two separate occasions. The AVAQMD was quoted as saying that there was "a myriad of things [First Solar] could have done that we didn't think they were doing to prevent the violations."

These examples demonstrate that approving a utility-scale project based on even the most stringent-appearing criteria – such as a developer's pledge to use "best available practices" to achieve "mitigation" after the project is built – simply does not work. This underscores just how important it is that the EIR undertake a truly independent analysis on the subject.

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provide such a baseline, because the District does not have enough air quality monitoring stations and because of where they are located.<sup>14</sup>

The only way that the PEIR could have made a valid and independent assessment would have been to commission its own air quality/dust monitoring, and readings would have had to be taken during a representative array of wind speeds/directions and meteorological conditions. Otherwise, the PEIR's findings on dust emissions would amount to little more than poorly-educated guesswork.

The PEIR's analysis did not include any assessment of the extent to which Valley Fever spores are present in the various soils comprising the RLM, spores that could become wind-blown due to construction and operational activities.

Finally, the PEIR did not concern itself with the degree to which utility-scale development would kill plants living above the desert surface, or the extent to which construction and operation activities associated with such facilities would, merely by disturbing desert soils, destroy below-the-surface communities of tiny, delicate, carbon-retaining plants and organisms.<sup>15</sup> The PEIR did not take into consideration that root systems are bound together underground and that associated fungi hold soils together that would otherwise produce fugitive dust.

In conclusion, the PEIR did not conduct a meaningful, CEQA-compliant analysis of windblown dust and soil erosion, nor did it incorporate and investigate any of the other concerns noted above.

O1-9  
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<sup>14</sup> The Victorville station, which is located on asphalt and is 300 feet from a road that has an average annual daily traffic count of 1,000 vehicles, monitors a 0.3 to 3.5 square mile area with a relatively uniform land use. Hence it is no surprise that the station's monitoring records show zero (0.0) days above the 24-hour federal and state PM10 standards.

The technical information in this letter regarding the District's monitoring program is drawn from a meticulously researched March 22, 2017 article in the *Desert Report* (which is a publication of the Sierra Club), entitled "The Perfect (Dust) Storm – Fugitive Dust and the Morongo Basin Community of Desert Heights." Its author, naturalist Pat Flanagan, is a board member of the Morongo Basin Conservation Association.

<sup>15</sup> This merits serious study. Microbiologists discovered in desert soil a unique, never-before-seen class of antibiotics – called malacidin -- that have great promise for stopping what the Center for Disease Control calls the "slow catastrophe" occurring in medicine where each year 23,000 people die due to drug-resistant bacterial infections. This is reflected in a *Los Angeles Times* article, dated February 23, 2018, entitled "In soil, a new weapon against superbugs."

This discovery strongly reaffirms the rich biological value of the desert, which scientists are really only beginning to study.

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### **B. Aesthetics/Viewshed**

Solar renewable energy projects, and attendant energy storage facility and substation facilities have an enormous impact on viewshed. For instance, according to the DEIR for the Calcite Solar Project, that facility would include thousands of 12-foot high solar panels covering five separate sites totaling 664 acres, 12-foot high inverter stations, 45- to 60-foot tall poles for the collector lines, an on-site collector substation consisting of components up to 55 feet in height, a gen-tie line to the proposed Calcite Substation, a transmission tower “not to exceed 100 feet in height,” access roads 20 to 26 feet wide (and composed of aggregate base) and 6-foot high chain-link fences topped with 3-strand barbed wire.

O1-10

In short, solar utility-scale projects are massive developments that would industrialize beautiful, essentially undeveloped natural desert landscapes. But the PEIR did not analyze the extent to which utility-scale development triggered by the CWP would impinge on and reduce scenic vistas, even though they would clearly cause substantial damage to scenic resources and substantial degradation of the existing visual character and quality of their surroundings. Similarly, the PEIR did not consider the effect that such utility-scale development could have on scenic routes designated by the County, such as Highway 247 – by occluding motorists’ views of dramatic and appealing desert landscapes and visual features. As per General Plan (Policy OS 5.3), the County’s designation of a roadway as a scenic highway means that it “has scenic and aesthetic qualities that over time have been found to add beauty to the County” and that this designation “applies all applicable policies to development on these routes . . .” The PEIR did not take into consideration the fact that utility-scale development triggered by the CWP would conflict with the County’s scenic route designation.<sup>16</sup>

The PEIR did not address the fact that such utility-scale development would conflict with the state’s declaration that certain roadways in the County, such as the entire length of Highway 247, are part of the State Scenic Highway System and eligible for official inclusion therein (and that Highway 247 is currently under consideration for designation as an official State Scenic Highway), which was the result of the state’s determination that, “based on the amount of natural landscape visible by motorists, the scenic quality of the landscape, and the extent to which development intrudes upon the motorist’s enjoyment of the view,” the region has high scenic value. The ongoing effort to get Highway 247 recognition as an official state Scenic Highway would be greatly complicated should CWP-driven utility-scale development impinge on that roadway.

### **C. The PEIR Did Not Consider the Substantial Adverse Effects that Utility-Scale Development Triggered by the CWP Would Have on Natural Communities and Biological Resources.**

O1-11

<sup>16</sup> According to Item X(b) of Pa. G to the CEQA Guidelines, EIRs must address the following question: “[does the proposed project] conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project . . .”

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As noted above, the PEIR declined to consider the environmental effects of future utility-scale development in the County. Hence it has no discussion as to the extent to which utility-scale development triggered by the CWP would have adverse effects, through habitat modifications or otherwise, on sensitive or special status species, sensitive natural communities identified in any local or regional plans and federally protected wetlands. No biological observations were conducted under the PEIR, nor did the PEIR determine whether anticipated utility-scale development would impinge on any “Areas of Critical Environmental Concern” (as designated by the DRECP in the BLM LUPA), or on any scientifically-recognized -- and federally and state-sanctioned -- wildlife corridors and linkages, even though all this could have been ascertained by reference to the following nationally-recognized scientific studies and maps:

O1-11  
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1. The SC Wildlands “California Desert Project” (Penrod et al. 2012), which depicts the “Desert Linkage Network,” and SC Wildlands “California Desert Connectivity Project” (Penrod et al. 2012) – which is lauded in the draft DRECP as providing “a comprehensive and detailed habitat connectivity analysis for the California deserts” (App. Q (Sections 3.4.1 and 3.4.2)) – and depicts the “Desert Linkage Network.” This linkage network reflects the interconnections between individuals of a species and among species, with a focus on how they subsist, migrate and procreate over time as part of a desert knit together by connectivity corridors;<sup>17</sup>
2. Ms. Penrod’s report for the Alliance for Desert Preservation, which embodied her comments on the draft DRECP (a copy of which is attached to this letter), expanded the linkage network depicted in the above-referenced publication;
3. “Desert Bighorn Sheep Intermountain; Unfiltered Core Habitat, DRECP” map, prepared by the California Dept. of Fish and Wildlife,<sup>18</sup> which are considered to have a “Very High” to “Moderately High” habitat on the Granite Mountain and Ord Mountain ACEC;

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<sup>17</sup> SC Wildlands also prepared written comments on the DEIR for the proposed Ord Mountain Solar Project, by way of a letter, dated November 16, 2018, which is attached hereto.

SC Wildlands’ letter commenting on the Draft EIR/EIS for the DRECP, dated February 19, 2015 (a copy of which is attached), includes maps and tables depicting the focal plant and animal species in the Desert Linkage Network.

<sup>18</sup> This map, and the others referred to below in this section, are datasets on the DRECP Data Basin, and can be accessed through [DRECP.databasin.org](http://DRECP.databasin.org).

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4. "Golden Eagle Nest Occurrences, DRECP map," prepared by the California Dept. of Fish and Wildlife, and "DRECP Species Distribution Map for Golden Eagles, DRECP map," prepared by Conservation Biology Institute (CBI);<sup>19</sup>
5. "Wildlife Allocation (WA) and Areas of Critical Concern (ACEC) Designations, DRECP and Final EIS, LUPA, Final map, prepared by the California Energy Commission, the BLM, the California Dept. of Fish and Wildlife and U.S. Fish and Wildlife Service;" and
6. "Desert Tortoise TCA Habitat Linkages, DRECP" map, prepared by the U.S. Fish and Wildlife Service. Also, the USFWS has done an extensive study of desert tortoise linkages in the Ord-Rodman area, and identified the valley area as vitally important to maintaining intact linkages.

O1-11  
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The PEIR did not discuss or apply any of these studies or maps, which make it clear that the County's North and Eastern Desert regions are part of an intact, living and breathing biome that emphatically deserves the County's protection, nor did the PEIR consider the dire environmental consequences that would arise if wildlife is kept from using natural features for passage, forage and living habitat.

The PEIR concludes (p. 5.4-57) that:

"implementation of the proposed CWP policies as well as compliance with regulatory requirements would avoid, minimize and/or mitigate impacts to special-status species by requiring the protection and preservation of such resources. Absent implementation of CWP policies, potential impacts to special-status species from implementation of the proposed CWP would be significant."

In other words, according to the PEIR, the CWP must be implemented to save the County from the severe impacts that the CWP itself would inflict on it, and that assertion, dubious as it

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<sup>19</sup> Golden eagles (*aquila chrysaetos*) need ample foraging areas around their nests, and the Proposed Project would markedly reduce such areas and threaten their survival. According to the Conservation Biology Institute and the California Natural Diversity Database (CNDDDB) – which is a product of the California Department of Fish and Wildlife's Biogeographic Data Branch (BDB) – a foraging area with a ten-mile radius (from a given nest) is required. (The CNDDDB is a computerized library of the status and locations of California's rare species and natural community types, and includes in its data all federally and state listed plant and animal species that are species of special concern or considered "sensitive" by government agencies and the conservation community, as well as candidates for such status.)

The referenced DRECP map was created by merging the DRAFT\_BRC\_EagleNest\_Data and Golden Eagle\_DFG layers provided by the BLM. This data reflects nest locations recorded by various state agencies and their contractors during, among other time periods, 2008, 2010 and 2012.

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is, is based only on a consideration of the minor CWP-driven growth in population and jobs projected under the PEIR over the next two decades. The PEIR concluded (p. 5.4-72) that the CWP's conservation policies "would contribute to minimizing potential cumulative impacts to biological resources," and that hence (p. 5.4-75) there would be less than significant impacts after mitigation to special-status communities and wildlife corridors. The PEIR could not have legitimately reached this conclusion if utility-scale and other large-scale development encouraged by the CWP had been included in its analysis.

O1-11  
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The PEIR also concluded (p. 5.4-57), with respect to the "Desert Region," that "adverse modification to Critical Habitat would depend on the presence/absence of species constituent elements within specific buildout areas and would be analyzed on a project-specific level as identified in CWP policy NR-5.7." But the PEIR cannot purport to provide a CEQA-compliant analysis of the CWP's impacts on a landscape, programmatic level, while deferring meaningful consideration of biological impacts until specific project applications come up for consideration.

The PEIR asserts that the RLM would itself mitigate environmental effects of the CWP buildout. In that regard, the PEIR states (p. 5.4-57) that "USFWS Critical Habitat" might avoid adverse modification by development under the CWP to the extent that it lies "within proposed conserved land uses such as" the RLM. But this is incorrect because, whatever the CWP's Table LU-1 Notes has to say about the RLM's conservationist purposes is undercut by the designation of utility-scale as a typical RLM use (this is discussed further below in Section 6 of this letter).

There is, in the North and Eastern Desert regions, a confluence of high wind erosion potential and erosive soils. Disturbance of topsoil, and destruction of vegetation that would otherwise anchor it, would produce a great deal of dust – dust that would essentially eliminate large foraging areas for a number of special status species (including birds and bats). None of this is addressed in the PEIR, nor does it discuss the fact that, as discussed above, blowing dust has, unfortunately, been a frequent by-product of utility-scale projects in the County.

The PEIR did not address the fact that glare coming off vast arrays of solar panels would also affect bird and bat species in the area, as would noise emitted during construction, maintenance and operation. As noted above, the desert region is extremely quiet (readings of 22 decibels are not unheard of), and that quiet would most certainly be shattered by the construction, maintenance and operation of industrial-scale projects.

To summarize, in light of the confluence of factors cited above, the County's desert habitat is just about the last place that large industrial generation facilities should be constructed and operated. This, and the fact that utility-scale projects would invite a parade of additional nearby utility-scale and transmission projects, create a number of extremely troubling consequences in terms of biological resources, but the PEIR did not analyze any of the consequences that would result from the utility-scale projects installed in the County as a result of implementation of the CWP. In order to comply with CEQA, the PEIR should have analyzed each of the highly significant impacts mentioned above, and determined whether an influx of such utility-scale projects in the RLM would inflict substantial and unavoidable biological impacts that could not be mitigated away.

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**D. The DEIR Did Not Examine the Amount of Water Required for the Construction, Operation and Maintenance (including Ongoing Dust Suppression) of the Utility-Scale Projects That Would Proliferate Due to Implementation of the CWP, as Well as the Impact of Such Projects on the County's Finite Groundwater Resources.**

The PEIR did not provide any such analysis with respect to the utility-scale projects that would be fostered by the CWP. The PEIR did not even cite any studies of the impact that such projects would have on local aquifers. The PEIR should have undertaken a meaningful groundwater analysis, especially given that water is an irreplaceable resource that is this County's lifeblood, and that it is subject to prolonged drought. It is also jeopardized by 20,000 MWs in total, according to the draft DRECP (with a portion of that on BLM lands as per the final BLM LUPA), of new utility-scale renewable energy that the DRECP plans for the California desert. Such data as we have on the subject – which comes chiefly from the DRECP itself – should have been considered in the PEIR.<sup>20</sup>

O1-12

While the draft DRECP did not conduct a meaningful analysis of groundwater baseline data, it nevertheless made valuable observations about the tenuous state of the desert's groundwater basins. For instance, the draft DRECP acknowledged that its DFAs would be located primarily on already overdrafted groundwater basins from which the enormous volumes of water needed -- for the construction, maintenance and operations of large-scale generation facilities -- would have to be drawn. In that regard, it conceded (at IV.6-24) that "[d]evelopment would occur in 35 groundwater basins," that 14 of them are stressed or in "overdraft or stressed," that "[m]ost (97%) of the developed area is within four ecoregion subareas [the High Desert areas of Los Angeles and San Bernardino Counties and the Imperial Valley]" -- which are the

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<sup>20</sup> The DRECP water data and findings continue to be relevant, notwithstanding the 2016 – 2017 and 2018-2019 rains. The jury is still very much out on whether and to what extent California's prolonged drought has been broken in arid regions such as the Mojave Desert. Statements made by the State Water Resources Control Board (the "SWRCB"), in its comment letter regarding the DRECP, suggest that the drought would persist there despite the recent rains. The SWRCB comment letter states that the preponderance of groundwater in the Basins and Ranges hydrologic province is thousands of years old (i.e., it takes thousands of years for groundwater to travel from the point of recharge to the point of discharge). According to the SWRCB comment letter, our aquifers represent a closed system where 66% of the groundwater is between 100 and 33,000 years old with the only "young" recharge coming from the mountains [p. 18]. On a related note, the SWRCB states that, "[i]n most areas of the desert, deeper, older groundwater is saline. Excessive pumping will likely cause migration of saline water into fresh water aquifers [p. 11]."

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most populated areas of the California desert<sup>21</sup> -- and that “increased groundwater use in these sensitive basins can adversely affect water supplies and exacerbate impacts associated with overdraft conditions and declining groundwater levels.”

The draft DRECP also stated that the total estimated water use for the new projects it sought to foster would be 91,000 acre-feet per year (IV.6-24), and that the “[r]enewable energy facilities permitted under the DRECP could influence the quantity and timing of groundwater recharge because construction would include grading the land surface, removing vegetation, altering the conveyance and control of runoff and floods, or covering the land with impervious surfaces that alter the relationships between rainfall, runoff, infiltration and transpiration [IV.25-45].” Solar energy – which was the renewable technology preferred in the DRECP -- “would result in the largest amount of grading so it would have the largest impact on groundwater recharge among the renewable technologies permitted under the DRECP [IV.25-45].”

According to the vastly understated language of the draft DRECP, the “use of groundwater for renewable facilities permitted under the DRECP would combine with [other uses of groundwater] . . . to result in a cumulative lowering of groundwater levels affecting basin water supplies and groundwater [IV.25-46].”

O1-12  
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The draft DRECP also took note (IV.25-45) of the “[p]opulation growth and anticipated development summarized in Section IV.25.2.2” -- including “future residential development that would also use a large amount of groundwater continuously [IV.25-46]” and that would result from anticipated renewable energy and other projects -- as further contributing to the drawdown of desert groundwater basins.

Even more ominously, the draft DRECP noted that the proposed renewable energy projects would result in “compression [of groundwater basins that would reduce] the volume of sediment beds and lower land surface elevations, which can damage existing structures, roads, and pipelines; reverse flow in sanitary sewer systems and water delivery canals; alter the magnitude and extent of flooding along creeks and lakes. *This compression of clay beds [that make up groundwater basins] also represents a permanent reduction in storage capacity*” [IV.25-47]. (Emphasis added.) The proposed renewable energy plants and transmission facilities “could also cause water-level declines in the same groundwater basins and contribute to the migration of the saline areas of groundwater basins” [IV.25-47].

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<sup>21</sup> When the draft DRECP’s map of the Preferred Alternative DFAs (which, along with transmission corridors, was to entail approximately 177,000 acres of “ground disturbance” (IV.7-215)) is superimposed on top of the DRECP’s Overdraft Groundwater Basins map, one sees that (with small exceptions) all of the High Desert DFAs – from the Antelope Valley east to the Johnson Valley -- were located within the boundaries of already overdrafted groundwater basins. Indeed, the DRECP conceded: “[u]nder the Preferred Alternative, development in BLM lands can affect groundwater in 12 basins characterized as either in overdraft or stressed” [Section IV.6 of the DRECP].

## 2. Response to Comments

In terms of construction usage, the 550 MW Desert Sunlight 250 project (on 4,400 acres of land) – and the 1,550 acre-feet of water allocated to its construction – can be used as a metric. Forty projects of that size would produce just over the DRECP’s targeted 20,000 MWs in renewable energy. Assuming that those forty projects would use a similar amount of water during their construction, construction of 20,000 MWs of new renewable energy projects would consume 620,000 acre-feet, which equates with approximately 20 billion gallons of water.

In their maintenance and operations, the utility-scale solar projects in the Lucerne Valley DFA would, according to data from the draft DRECP, consume almost 1,000 acre-feet of water **per year**, which is enough water to fill four Rose Bowls to the brim. On a DRECP-wide basis, if all 20,000 MWs of generation were to come from the least water-intensive generation method – which is solar PV (as opposed to solar thermal, which requires many multiples more water in cleaning, as well as a great deal of additional water for cooling operations) – and the PV panels were washed only six times per year, the cleaning of the panels alone would consume .15 acre-feet per year per megawatt of generation, which would amount to a total water expenditure of approximately 3,000 acre-feet per year (20,000 times .15 = 3,000).

O1-12  
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Projects on the BLM land will be drawing from the same groundwater basins that the rest of the County relies on – in effect, public and private “straws” will all be drawing from the same figurative milkshake.

This put the onus on the PEIR to conduct a far-reaching – and independent<sup>22</sup> -- analysis of the cumulative effects that the projects fostered by the CWP (and the Cumulative Projects)

O1-13

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<sup>22</sup> Developers routinely underestimate the amount of water required for utility-scale projects.

At the onset of the Agincourt and Marathon solar projects (now known as Lone Valley Solar), the proponents agreed to purchase from the Mojave Water Agency 10 acre-feet of water; instead, according to our information, they wound up using more than 50 acre-feet (10 acre-feet came directly from the Morongo Basin pipeline, and the other 40 acre-feet were purchased from a local farmer). And these projects have been spewing tons of dust. The same thing has occurred with respect to the Soltec PV project in Newberry Springs.

The Desert Sunlight Solar PV facility in Riverside County was approved based on the promise of its proponents to limit themselves to 1,400 acre-feet of groundwater during construction. But, after they broke ground, they said they would need 1,500 acre-feet of water (which they later increased by another 50 acre-feet). The developers took all of that water from an aquifer that has not gotten any re-charge in hundreds of years, according to a U.S. Geological Service survey.

Antelope Valley Solar Ranch, located in Lancaster, near Route 138, was built by First Solar, which seems to be the contractor of choice for many solar photovoltaic projects. The AVAQMD cited First Solar for violations of air quality standards on at least two separate occasions. The AVAQMD was quoted as saying that there was “a myriad of things [First Solar] could have done that we didn’t think they were doing to prevent the violations.”

## 2. Response to Comments

would have on our inter-connected aquifer systems, particularly given that the proliferation of large-scale, water-thirsty projects, like the Cadiz Valley Water Conservation and Storage Project, the Eagle Mountain Pumped Storage Hydroelectric Project (1,300 MWs) and any major efforts to remediate the Salton Sea, will stress already fragile water reserves.

Hence the PEIR was required to: (1) conduct and incorporate a comprehensive assessment as to how the siting of new utility-scale projects – in combination with other factors, including the plethora of utility-scale and transmission projects that will be developed on public land under the BLM LUPA -- affect relevant groundwater basins, i.e., to what degree would their sustainability be threatened; and (2) conduct a baseline study as to the current status of each affected aquifer – how much potable and non-potable water is each such groundwater basin currently holding? How much water is being pumped out of each basin by the residents and businesses currently relying upon them? How much water can be expected to recharge the basins, either from natural sources or from the State Water Project? Are the groundwater basins sustainable in view of the demands currently being made on them (including the demands that would be made on them by the Proposed Project and substation), and in view of their recharge rates, or are these basins approaching collapse, i.e., what are their tipping points? What is the likely effect of ongoing drought on our groundwater basins?

Even at that, such an analysis would provide a very limited, snapshot-in-time prognostication that may not accurately portray our groundwater basins' future sustainability. At the meeting of the BLM's Desert Advisory Committee on September 27, 2014, in Pahrump, Nevada, Peter Godfrey, a BLM water specialist who was one of the authors of the groundwater portions of the draft DRECP, stated that, in order to assess our aquifers' future sustainability, a long-term time horizon of as much as 30 years is required. In other words, we won't really know whether these projects have compromised our groundwater basins until after they have passed the point of no return. The PEIR should have factored into its analysis that it may be impossible, given practical temporal limitations, to determine with any real degree of certainty whether the utility-scale projects triggered by implementation of the CWP, and the Cumulative Projects, will debilitate local groundwater basins, which strongly suggests that a "no action" alternative merited extraordinary attention in the PEIR.

The PEIR did not provide an assessment of the amount of water that would be sufficient to prevent fugitive dust from new utility-scale projects, nor did it assess whether *any* amount of water would -- after a particular site is seriously disturbed through construction, operation and maintenance of the two proposed projects -- keep it from plaguing an entire region. D/CO 1.4 of the County's General Plan's Conservation Element, which sets out the requirement to "[r]educe disturbances to fragile desert soils as much as practicable in order to reduce fugitive dust . . ."

The PEIR did not analyze whether prevailing soil types would be conducive to fugitive dust blown off a de-vegetated site over the years by prevailing desert winds. Such an analysis would be critical in determining how much water new utility-scale projects would really consume, especially given that construction and operational activities would reduce the permeability of the soil.

O1-13  
Cont'd

## 2. Response to Comments

Also missing from the PEIR is any meaningful attention to the issue of Valley Fever, and to well-known facts about how disruption of the desert soil stirs up the microscopic spores that cause Valley Fever which can travel on the wind as far as 75 miles. The PEIR needed to have addressed, in assessing environmental impact in terms of Valley Fever causation and dissemination, that: (1) soil disturbance in the Western Antelope Valley resulting from large-scale renewable energy development, and from construction of SCE's grid line and power station infrastructure, is suspected of causing a recent outbreak of Valley Fever in that region; and (2) any water that would be used to temporarily suppress dust would, unfortunately, cause Valley Fever spores to reproduce, because they thrive on alternating periods of extreme wetness and extreme dryness.

O1-13  
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In short, the PEIR did not critically and adequately address the groundwater issue, nor did it incorporate a comprehensive and cumulative study of the impacts on groundwater reserves that renewable energy projects would have, with an emphasis on establishing the crucial "trigger points" at which groundwater pumping would render specific affected groundwater basins unable to meet the needs of the County's residents and businesses.

#### **4. The PEIR Did Not Consider the "Indirect and Secondary Effects," "Growth-Inducing Impacts" and Overall "Cumulative Effects" that Would Result from Implementation of the CWP.**

Under Section 15358(a)(2) of the CEQA Guidelines, indirect or secondary effects "may include growth-inducing effects and other effects related to induced changes in the pattern of land use...and related effects on air and water and other natural systems, including ecosystems."

The CEQA Guidelines further note that indirect or secondary effects include "an indirect physical change in the environment...which is not immediately related to the project, but which is caused indirectly by the project." (Section 15064 (d)(2)).

O1-14

Further, CEQA requires that an EIR give full consideration to "growth-inducing impacts." Specifically, CEQA Guidelines, Section 15126.2(d), says that environmental documents must "... discuss the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly in the surrounding environment . . ." Included in this analysis is the following question: would the utility-scale and other large-scale development fostered by implementation of the CWP – by the designation of utility-scale as a typical RLM use and by discarding the legal protections afforded to rural residents by their existing Community Plans -- encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively?

Still further, CEQA mandates a consideration of "cumulative effects" of a proposed project. Section 15355(b) of the CEQA Guidelines says that "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects."

## 2. Response to Comments

Section 15131(a) states that an “EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated social changes resulting from the project to physical changes caused in turn by the economic or social changes.” As stated in Section 15131(b), “[e]conomic or social effects of a proposed project may be used to determine the significance of physical changes caused by the project.”

O1-14  
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The PEIR did not include a discussion of the many direct, or indirect or secondary, growth-inducing – or cumulative – effects that would result from implementation of the CWP as currently formulated.

**A. The Proliferation of Utility-Scale Projects Fostered by the CWP Will Be Used to Validate the Proposed Calcite Substation, Which Could, in Turn, Be Cited as Justifying the Revival of the Coolwater-Lugo Transmission Project.**

Southern California Edison (“Edison”) has proposed putting a new substation – the above-referenced Calcite Substation – in an ecologically fragile portion of North Lucerne Valley, citing the Cumulative Projects proposed there as justification for a new substation. Edison touts the Calcite Substation as the linchpin for many additional generating projects in the area.

Edison’s website makes no bones at all about why it thinks a new Calcite Substation should be established in Lucerne Valley: “[t]he project will connect [i.e., encourage the proliferation of] new renewable generation projects in the San Bernardino County High Desert to the transmission grid.”

The new utility-scale projects that would be fostered by the CWP would be cited as justifying the Calcite Substation, and the Calcite Substation would, in turn, be cited as justifying still more utility-scale projects in the RLM, as well as the solar facilities referred to in this letter as the Cumulative Projects.

O1-15

With a bevy of new utility-scale projects in the pipeline all clustered in North Lucerne Valley around a Calcite substation, and with additional such projects established in the surrounding RLM, Edison may well attempt a revival of the highly controversial, intensely opposed Coolwater-Lugo Transmission Project, which proffered – as one of its chief justifications – the dubious proposition that new transmission would be needed to interconnect anticipated new renewable energy projects.

In short, implementation of the CWP would have an enormous “growth-inducing impact.” The County is lead agency, and its job was to thoroughly analyze the impact of Coolwater-Lugo, and to discuss alternatives that do not open the floodgates to more industrial-scale development. The PEIR did not do that.

## 2. Response to Comments

**B. Each New Utility-Scale Project Fostered in the RLM by Implementation of the CWP Would Have the “Secondary Effect” of Creating a “Beach-Head” for the Proliferation of Other Such Projects, All of Which Incrementally Industrialize Hitherto Intact Desert Parcels, Thereby Creating Classic “Induced Changes in the Pattern of Land Use.”**

Desert areas, wild or rural in character, have little attraction for industrial-scale renewable energy facilities, so long as no means exist to deliver the electricity to the grid. Hence, proponents of new renewable energy projects seek to site them next to substations (either those which are in existence or which are predicated on approval of one or more utility-scale projects), or next to other existing renewable energy facilities in order to “piggy-back” on transmission lines connecting their neighbors’ renewable projects to the grid. Hence approval of one utility-scale renewable project in the desert has the “secondary effect” of creating a “beach-head” for the proliferation of other such projects in its immediate vicinity, all of which incrementally industrializes hitherto intact desert parcels, thereby creating classic “induced changes in the pattern of land use.”

Such projects, because they result in profound and permanent destruction of the natural environs, are often posited as rendering the surrounding desert lands “disturbed,” i.e., these parcels are mischaracterized as biologically-defunct, “damaged goods” no longer possessing environmental, aesthetic and recreational worth. Therefore, they are often mistakenly deemed ripe for more large-scale commercial development, regardless of their existing rural desert designation and irrespective of the above-referenced land use policies dedicated to protecting that character.

There are still further “secondary” and “growth-inducing” effects. Once utility-scale renewable projects begin to move in, rural residents move out; this is true because such projects have historically made bad neighbors. The exodus of rural residents would, in turn, accelerate the process of industrialization as renewable project proponents seek to develop former, so-called “disturbed” home-sites.

Attention should also have been given in the PEIR to the growth-inducing effects in the arena of inter-connection and transmission, and the ensuing “closed loop” effect, in which a remotely-located generating project is used as a justification for the construction of extensive, environmentally-threatening transmission facilities, which in turn become a justification for more generation plants, and so on. CEQA requires an analysis of such secondary effects and growth-inducing impacts, because otherwise these very real consequences grow and multiply “in the cracks” between one project and the next, never undergoing direct scrutiny.

In short, the enabling of new utility-scale renewable projects, which, in turn, enable new transmission infrastructure projects like a Calcite substation (that, in turn, beget even further renewable projects), would have an obvious “secondary effect” and an “induced change in the pattern of land use.” (Section 15358(a)(2)). The environmental impact of each new generating plant on the desert is large and enduring. Thus the enabling of utility-scale renewable energy projects causes “an indirect physical change in the environment . . . which is not immediately

O1-16

## 2. Response to Comments

related to the project, but which is caused indirectly by the project.” (Section 15064 (d)(2)). But the PEIR did not discuss these crucial factors and their implications.

O1-16  
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Moreover, as part of an “Environmental Justice” analysis (which is more fully addressed below in Section 9), the PEIR should have addressed the long-term and short-term effects that a proliferation of centralized energy generation facilities would have on the economic welfare of the County’s residents. The County’s economy is heavily dependent on tourism. It has been estimated at **\$1 Billion per year** according to a University of Idaho study discussed in Basin Energy Assessment Team’s “Renewable Energy Analysis” (October 2013). As part of an effort to promote tourism, Hwy. 247 has been proposed as (and is under consideration for) designation as an official state scenic highway; filling adjacent desert lands with vast new solar fields and transmission would create visual blight that will detract from that effort.

Utility-scale projects require extensive scraping, grading, excavation for trenches, as well as the cutting, trimming and flattening of on-site vegetation. This intensive and obtrusive activity destroys desert soil, which results in permanent loss of a fragile mini-ecosystem, and the loss of carbon dioxide sequestration capability, which in this desert happens below the surface.<sup>23</sup> Moreover, the required grading and trenching destroys the desert’s vital caliche surface layer and the micro-biologically-rich subsurface. The desert has been likened to a “reverse rain forest,” where the most biologically productive systems – the root systems – are underground.

O1-17

Hence in order to comply with CEQA, the PEIR was required to assess, in terms of cumulative effects, the degree to which implementation of the CWP would lead to a release, rather than a reduction, of greenhouse gases, and these offsetting negative effects should have been carefully quantified in the PEIR (and, as noted above, the capacity of utility-scale to release dust, Valley Fever spores and fine particulates, among other things, should have also been addressed in the PEIR).

Another effect of utility-scale development is that the network of perimeter and service roads such facilities require would invite and enable OHV use on the adjacent open desert. The PEIR did not address this issue.

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<sup>23</sup> In order to be CEQA-compliant, the PEIR should have included in its analysis a study of the degree to which the desert’s natural ability to sequester carbon would be lost. See “Solar Power in the Desert: Are the current large-scale solar developments really improving California’s environment?” UC Riverside. The authors of this article, Michael F. Allen and Alan McHughen, point out in their study, among many other things, that the benefits of reduced GHG emissions from a large-scale solar project are finite, because the project has a limited life, whereas the detriments caused by the destruction of soils entailed by the building and maintenance of the power plant and the related transmission facilities are extremely long-term. “Understanding the lifespans of the solar plants, compared with this long-term slow C [carbon] balance is a critical need for determining if these solar developments represent a net long-term reduction in greenhouse gases.” The article concludes that solar projects represent a net loss in that respect.

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### 5. The PEIR Did Not Include a Complete and Comprehensive Assessment as to the Extent to Which the Utility-Scale Projects Fostered by the CWP Would Conflict with the Planning Goals and Policies Enunciated by the County.

According to California Code of Regulations Section 15125(d), an “EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans.” More specifically, according to Item X(b) of Pa. G to the CEQA Guidelines, EIRs must address the following question: “[does the proposed project] conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?”

O1-18

Our State’s General Plan Guidelines require (at p. 22) that “[e]ach element’s data, analyses, goals, policies, and implementation programs must be consistent with and complement one another,” and that “[a]ll principles, goals, objectives, policies, and plan proposals set forth in the area or community plan must be consistent with the overall general plan.” The PEIR did not consider the extent of the internal inconsistencies that would be created in the CWP by designating utility-scale as a typical RLM use and by dispensing with the land use protections found in the existing Community Plans.

#### A. The RECE.

The PEIR did not address the conflict between fostering an influx of utility-scale projects, through implementation of the CWP, and the policies and goals – the “core values” -- reflected in the pending RECE. This is a striking omission, especially given that these policies and goals embody a hard-won, all but set-in-concrete consensus between the County’s populace and its governing bodies, one that was forged over many arduous years of public meetings – in the Countywide SPARC, REVEAL and Community Plan processes -- regarding how the County’s planning vision should be cast.<sup>24</sup> This is confirmed in the discussion appended to subsection (d) of CEQA Regs. 15125, which states, in relevant part – while referring to regional plans developed “as a way of dealing with large-scale environmental problems” -- that “[w]here individual projects would run counter *to the efforts identified as desirable or approved by agencies in the regional plans*, the Lead Agency should address the inconsistency between the project plans and the regional plans.” (Emphasis added.)

O1-19

The policies and goals embodied in the RECE are discussed below.

O1-20

<sup>24</sup> To show just how far we have come in reaching this consensus, one need only look at the County’s February 24, 2015 Renewable Energy and Conservation Element Framework: Purpose, Values and Standards, which commenced with the ominous assertion that the State’s renewable (RPS) energy mandates have “major implications for [the County] and its people.” The Framework’s basic thrust was that, in order to comply with those mandates, vast areas of the County would -- subject to some ameliorating siting standards -- have to be sacrificed to utility-scale development. By way of contrast, the RECE calls for confining them to five specified fairly remote areas (this point will be discussed below).

## 2. Response to Comments

The RECE clearly evinces an intention by the County to foster community-oriented solar and to all but ban further utility-scale solar projects. In so doing, the RECE cites the many virtues of community-oriented solar: it promotes energy independence, reduction of the need for new transmission, the sustaining of sensitive natural resources and habitats and local economic growth. In that regard, the RECE promotes as a primary “core value” the need to maintain a “high quality of life for residents of the County,” as well as the need to bar renewable energy projects that “substantially conflict with surrounding land uses, especially existing communities or residential areas where residents object to the visual character of RE projects.”

Reflecting the County’s strong bent against utility-scale generation, the RECE sets out strict siting criteria for such facilities; in fact, they are so strict --- when it comes to areas like Lucerne Valley – that they *de facto* banish utility-scale projects from them. RE Policy 5.2 of the RECE, as well as Policy 5.4, strongly encourage utility-scale generation on the five areas identified in the Resolution. Policy 5.4 makes it clear that utility-scale development elsewhere will be required to meet a higher standard of evaluation for appropriate site selection, and that a “two-step application process” will be required in order to evaluate site selection early in the process. If the Proposed Project application were run through that two-stage process, it would never pass the first stage in view of the RECE’s stringent site selection criteria. Policy 4.10 outright bans applications for new utility-scale projects in Community Plan areas and in Rural Living zones.

O1-20  
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The DRECP, RETI 2.0, the IEPR and REVEAL/SPARC make the achievement of federal and state renewable energy mandates their paramount consideration. Under them, landscape-level siting criteria are to be created that allows for the fast-tracking of utility-scale renewable projects into the County’s rural regions. The underlying, unstated assumption has been that the County’s rural communities and wildlands would have to bear the brunt of this initiative and that the primary goal is getting lots of projects up and running fast where the land is relatively cheap, where the sun shines and where the wind blows.

But County government has declined to follow this approach, as demonstrated by the Board of Supervisor’s adoption of a “County of San Bernardino Position Paper on the Draft Desert Renewable Energy Conservation Plan,” dated February 3, 2015, and of a February 17, 2016 Resolution, both of which will be discussed further below.<sup>25</sup>

<sup>25</sup> For instance, the Supervisors issued:

(a) a “County of San Bernardino Position Paper on the Draft Desert Renewable Energy Conservation Plan,” dated February 3, 2015, stating that the communities of Lucerne Valley, Newberry Springs, Stoddard Valley, Johnson Valley and Apple Valley are not appropriate for Development Focus Areas, which are places in which the DRECP would allow utility-scale renewable energy projects to be established; and

(b) a February 17, 2016 Resolution designating five sites -- which are seriously degraded, away from Lucerne Valley and other rural communities, and relatively close to existing transmission – as the only places that utility-scale can go, subject to the project’s otherwise satisfying the County’s criteria.

## 2. Response to Comments

The adoption of Policy 4.10 by the Board of Supervisors, on February 28, 2019, represented a decisive rejection of this planning paradigm, and a strong statement that this County's priority, when it comes to setting land use policy, is protection and preservation of rural communities, open space and natural habitats.

The introduction of new utility-scale projects in the RLM, through implementation of the CWP, would compromise the County's above-referenced "core values." If utility-scale renewable energy projects are allowed to invade a rich and living desert biome like the one established in the County's deserts and mountains, a welter of renewable energy projects could be ushered in that end up being inimical to the letter and spirit of the goals and policies stated in the RECE. And piecemeal, inconsistent renewable energy development could ultimately defeat the central purpose behind formulating the RECE, which is to create and implement a comprehensive planning vision for renewable energy development that serves the needs of all businesses and residents of this County.

O1-20  
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The PEIR nevertheless omitted an assessment of the degree to which the implementation of the CWP – the degree to which new utility-scale projects would be fostered by designating utility-scale projects as a typical RLM use and by jettisoning the protections against inappropriate development found in the current Community Plans -- would conflict with the policies and goals stated in the RECE. Hence the PEIR lacks a CEQA-compliant conflict analysis. Fundamental to such analysis would have been the following over-arching principle in the County's land use regime: in view of the harm that industrial operations visit on the visual integrity, economy, social ecology and environmental health of rural residents, they do not make good neighbors.

### **B. The Supervisors' February 17, 2016 Resolution.**

The PEIR is deficient because it did not consider the conflict between implementation of the CWP and the land use policies and goals stated in the February 17, 2016 Resolution of the County's Board of Supervisors (the "Resolution"), which designated five sites -- which are seriously degraded, away from Lucerne Valley and other population centers, and relatively close to existing transmission – as the only places that utility-scale should go, subject to the project's otherwise satisfying the County's criteria.

O1-21

In order to comply with Section 15125(d) of CEQA, the PEIR should have specifically addressed the inconsistency between each of the above-referenced conservation-oriented land use policies and goals and the increase in utility-scale projects fostered by implementation of the CWP. In order to pass muster under the CEQA – and in view of the fact that such implementation would industrialize a large portion of the County's rural areas – it was especially crucial that a forthright, in-depth and meaningful analysis be supplied, but none was provided in the PEIR.

In the Resolution – which is entitled "Establishing the County's Position" -- the County's Board of Supervisors designated five sites -- which are seriously degraded, away from population centers, and relatively close to existing transmission – as the places that utility-scale should go, subject to the projects otherwise satisfying the County's criteria. The Resolution was adopted by a unanimous vote.

## 2. Response to Comments

Note that the purpose of the Resolution was to concentrate utility-scale projects in specified areas, instead of allowing them to proliferate throughout the County, as would be the case if utility-scale is designated in the CWP as a typical RLM use.

In selecting those areas most amenable to utility-scale projects, the Board of Supervisors gave attention to such important factors as close access to transmission, no adjacent human communities and the prevalence of severely degraded biomes. The Supervisors quickly eliminated Lucerne Valley and the other North Slope communities because of high conflicts with these factors. The Supervisors were undoubtedly also influenced by these two sets of maps:

(1) a map included in Kristeen Penrod's above-mentioned (SC Wildlands) "California Desert Connectivity Project" (Penrod et al. 2012); and

(2) DRECP Databasin maps showing: (a) the DRECP's DFAs, Variance Lands and Unallocated Lands overlaid on the Desert Tortoise TCA Habitat Linkages; (b) the ACECs (Areas of Critical Ecological Concern) and NLCS (National Landscape Conservation System) areas under the DRECP where utility-scale would be prohibited; (c) Overdraft Groundwater Basins in the County; (d) Conservation Values; (e) Special Recreation Management Areas/Extensive Recreation Management Areas; and (f) existing transmission.

Those maps – and the fact that Lucerne Valley, Apple Valley, Johnson Valley and Morongo Basin, among others, host well-established towns and dispersed desert rural communities that would be negatively impacted by industrial-scale renewables (among many other considerations, utility-scale facilities draw from already overdrafted groundwater basins) – compelled the conclusion, through a simple process of elimination, that the County's north and eastern slope valley areas must be kept off-limits to such large-scale development; they also confirm that there are highly degraded, transmission-adjacent, former and current industrial, mine and brownfield sites further north -- near Trona, Hinckley, North of Kramer Junction, El Mirage and Amboy -- where such development could be permitted, i.e., the five sites designated in the Resolution.<sup>26</sup>

Opening the entire RLM region to utility-scale energy development – and turning those communities and towns into small, non-industrial "islands" (which would, when enveloped with utility-scale development, inevitably wither away) -- would create obvious and unavoidable conflicts with the County's planning preferences and priorities, as expressed in the Resolution, but the PEIR did not address this conflict.

<sup>26</sup> The five sites also have the virtue of being located: (1) over ample groundwater supplies (moreover, the groundwater underlying the Trona, Hinckley and Amboy sites is non-potable, and can only be put to industrial uses); (2) outside of any military flight corridors; (3) on land that has a flat enough gradient to host utility-scale solar development; and (4) away from communities affected by utility-scale development.

## 2. Response to Comments

### **C. The Lucerne Valley Community Plan.**

The PEIR did not assess the conflict between the CWP's pro-utility-scale policies and the current Lucerne Valley Community Plan (the "Community Plan"), which has long been part of the current version of the County's General Plan.<sup>27</sup>

The Community Plan identifies: (1) as "Unique Characteristics" (LV1.3.1) that "Lucerne Valley offers a rural lifestyle, characterized by the predominance of large lots, limited commercial development and the prevalence of agricultural and animal raising uses in the area. The desert landscape and natural resources further define the rural character of the community;" and (2) as a chief concern (LV1.3.2) of residents that growth pressures will "threaten the features of their rural community," including its "natural beauty [which is] characterized by an abundance of open space and scenic vistas . . ."

Further, as one of its primary "Community Priorities," the Community Plan specifies (LV1.3.3) the need to "[r]etain the rural character of the community by maintaining low density residential development and *commercial development that serves the needs of local residents*" (emphasis added); as well as the need to maintain (LV/LU 1.1) "*strict adherence* to the Land Use Policy Map unless proposed changes are *clearly demonstrated* to be consistent with the community character" (emphasis added).

O1-22

Most significantly, the Community Plan, in its Goal LV/LU-1, states its primary land use goal as follows: "Retain the existing rural desert character of the community."

The PEIR did not analyze the conflict that implementation of the CWP would have with the Community Plan, or the fact that opening the RLM area around the Lucerne Valley Community Plan area to utility-scale development would represent an abrupt and pronounced departure from the rural desert character of the surrounding area and would incrementally advance the industrialization of the desert, all of which would encourage further consumption of irreplaceable, community-defining natural open space and scarce resources like water.

### **D. The County Development Code and General Plan.**

The DEIR did not consider the extent to which the proliferation of utility-scale projects -- as a result of the CWP's implementation -- would conflict with various portions of the current Development Code and General Plan, including (but not limited to) the following:

1. Policy LU 1.2 (ensure compatibility of new development with "adjacent land uses and community character");
2. Policy LU 1.4 ("[e]ncourage preservation of the unique aspects of the rural communities and their rural character");

O1-23

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<sup>27</sup> According to the Lucerne Valley Community Plan, it is "an integral part of the overall General Plan," and it is "to provide goals and policies that address the unique land use issues of the Community Plan area that are not included in the Countywide General Plan."

## 2. Response to Comments

3. Policy CO 8.1 (maximize beneficial effects and minimize adverse effects associated with the siting of major energy facilities and avoid inappropriately burdening certain communities);

4. Policy D/CO 1.2 (development must be compatible with existing topography and scenic vistas, and protect natural vegetation);

5. Policy D/CO 3.1 and 3.2 (protect the night sky);

6. the County Development Code: Section 82.19.40 of the County Development Code (development criteria within scenic areas); Section 84.29.035 (required findings for approval of commercial solar facilities) and Section 84.29.040;

7. Goal CO 5 (the County will protect and preserve water resources for the maintenance, enhancement and restoration of environmental resources); and

8. Goal S1 (“The County will minimize the potential risks resulting from exposure of County Residents to natural and man-made hazards....”).

O1-23  
Cont'd

### **E. The California Protected Areas Database (CPAD).**<sup>28</sup>

The PEIR did not consider the direct conflict between the open space designation accorded by CPAD and the intensive re-purposing of the RLM that would be occasioned by implementation of the CWP.

O1-24

### **6. The PEIR Did Not Consider How Designating Utility-Scale as a Typical RLM Use Would Render the CWP Internally Inconsistent.**

According to the CWP’s Table LU-1 Notes, the RLM is intended to protect environmental assets, and to minimize “expansion of development outside of existing communities.” In that regard, the Table LU-1 Notes state that the “Primary Purpose” of the RLM is to:

O1-25

“• Manage, preserve, and protect natural resources such as agricultural/grazing lands, watersheds, minerals, and wildlife habitat areas, as well as open space areas not otherwise protected or preserved

▪ Provide areas for military operations and training while minimizing impacts on and from surrounding civilian uses

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<sup>28</sup> CPAD is, according to the state’s official website, a “GIS dataset depicting lands that are owned in fee and protected for open space purposes by over 1,000 public agencies or non-profit organizations. CPAD depicts the wide diversity of parks and open spaces in California, ranging from our largest National Forests and Parks to neighborhood pocket parks.”

## 2. Response to Comments

▪ Allow for limited rural development while minimizing the expansion of development outside of existing communities.”

The “Description of Typical Uses” in the CWP’s Table LU-1 Notes is perfectly consistent with that conservationist/preservationist statement of purpose, *with the one glaring exception highlighted below*:

O1-25  
Cont’d

“▪ Natural resource conservation, such as watersheds, habitat areas and corridors, wilderness study areas, areas of critical environmental concern, and national conservation lands

- Mineral resource extraction and processing, commercial agriculture and grazing
- Military facilities, operations, and training areas
- Recreation areas
- Community-scale and *utility-scale energy facilities* (see note 3 on limitations [which is quoted in Fn. 4 above])
- Single family homes on very large parcels
- Limited and low density commercial development.
- Lands under the control of the state or federal government or tribal entities.”

Inviting utility-scale development into the RLM zone – by calling it a typical use there -- would serve only to steadily deplete the very natural resources that the RLM land use category is intended to protect and preserve, and to undercut its stated conservationist/preservationist purposes.

The PEIR did not take this inconsistency into account, nor did it assess the resulting environmental impacts.

### **7. The PEIR Did Not Meaningfully Consider All Reasonable Project Alternatives: Nowhere Did It Consider One Based on Dropping the Designation of Utility-Scale as a Typical RLM Use or on Retaining the Existing Community Plans.**

Section 15126.6(a) of the CEQA Guidelines requires that an EIR describe a range of reasonable alternatives to a proposed project, or a range of reasonable alternatives to the location of the project, that could feasibly attain the basic objectives of the project. An EIR does not need to consider every conceivable alternative project, but it does have to consider a range of potentially feasible alternatives necessary to permit a reasoned choice that will avoid or lessen impacts.

O1-26

## 2. Response to Comments

The PEIR claimed (in Chapter 7) that it developed and considered meaningful alternatives by designing them “to identify suitable sites to accommodate the net unincorporated housing growth of approximately 18,000 units projected in SCAG’s 2016 RTP/SCS [a population growth projection under the auspices of the Southern California Association of Governments].”

The PEIR considered (in its Chapter 7): a “No Project” alternative (which assumed that the existing General Plan would remain in place in its entirety, with no new CWP), a “Master Planned Development” alternative (which assumed unincorporated residential growth in new master-planned communities in the North and East Desert regions, where master developers would be responsible for ensuring adequate water supply as well as the development and maintenance of all new infrastructure), a “Concentrated Suburban Growth” alternative (which mirrored the proposed CWP, with limited changes to land use designations in the Apple Valley SOI and Bloomington community, land use changes to reduce potential housing growth and reduction of retail and public employment growth in the Apple Valley SOI to reflect lower levels of housing growth), and a “Dispersed Rural Growth” alternative (under which low density, dispersed rural growth with few environmental constraints is assumed). The PEIR discarded the last alternative listed above and purported to evaluate the others, ultimately rejecting each of them.

None of these alternatives considered the extent to which they would encourage utility-scale development or large-scale commercial and industrial development in the County. And missing from the PEIR are any alternatives based on, or that include as variants, dropping the designation of utility-scale as a typical RLM use under the CWP, or retaining the existing Community Plans (in lieu of replacing them with the ineffectual Community Action Guides). We will refer to those two alternatives/variants as the “No Designation” and the “Community Plan Retention” alternatives/variants.

O1-26  
Cont'd

Both the No Designation and Community Plan Retention alternatives/variants would be, in the words of Section 15126.6[b], “capable of avoiding or substantially lessening” significant effects of the Project, which effects would include significantly increased large-scale development in the County occasioned by opening the RLM to utility-scale development and by eliminating important and legally enforceable development-curbing protections in the existing Community Plans.

Section 15126.6[b] requires that alternatives be considered even if they “would impede to some degree the attainment of the project objectives,” but the No Designation and the Community Plan Retention alternatives/variants would actually promote the preservationist goals and planning ethos underlying the RECE and Policy 4.10 because adoption of those alternatives/variants would enhance the ability of the County and its communities to control and limit large-scale development which is inconsistent with the rural and natural character of its desert and mountain regions. The PEIR should have considered that, in the absence of the No Designation and Community Plan Retention alternatives/variants, control over large-scale development would be surrendered to developers intent on deriving profit by industrializing the County’s wildlands and open space.

## 2. Response to Comments

Section 15126.6[b] requires that alternatives be considered even if they “would be more costly.” But it is far from clear that adopting the No Designation and Community Plan Retention alternatives/variants would increase costs for the County, since this could be accomplished with the stroke of a pen. The PEIR should have studied whether and to what extent adopting the two referenced alternatives/variants would save the County money, perhaps by reducing the time and resources that County staff and decision-making bodies would otherwise have to devote to consideration of an influx of utility-scale applications in the RLM. The PEIR should have also considered whether their adoption might reduce the cost of providing fire, life, police and other associated County services.

O1-26  
Cont'd

The PEIR should have also examined whether and to what extent retaining the existing Community Plans would reduce costs for the County, perhaps by reducing the time and resources that it would have to devote to projects that would otherwise be barred by the Community Plans.

Because the PEIR did not consider the No Designation and Community Plan Retention alternatives/variants, it did not comply with Section 15126.6 of the CEQA Guidelines.

### **8. The PEIR Did Not Meaningfully Consider Significant, Unavoidable and Irreversible Adverse Impacts Arising from the Designation of Utility-Scale as a Typical RLM Use or from Discarding the Existing Community Plans.**

Section 15126.2(b) of the CEQA Guidelines requires that an EIR discuss significant impacts associated with a project that cannot be avoided, even with the implementation of feasible mitigation measures. Section 15126.2(c) requires that an EIR meaningfully assess any irreversible changes that might be occasioned by a proposed project.

The PEIR made no assessment of the extent to which designating utility-scale as a typical RLM use, and jettisoning of the current Community Plans, would encourage large-scale residential, commercial and industrial development, including (but not limited to) a proliferation of utility-scale projects, that would seriously, inevitably and permanently degrade the environment.

O1-27

The PEIR did not assess the cascade of significant and unavoidable impacts that would be unleashed across the board on, among other things, air quality/health, aesthetics, biological resources (i.e., the destruction of recognized wildlife corridors and species collapse among local flora and fauna), soils and the viability of local groundwater basins. Moreover, the PEIR did not take into consideration that future generations would be committed by the CWP to transforming the RLM into a utility-scale industrial zone, and would inflict large-scale development of varying types within and adjacent to Community Plan areas.

In fact, the only “significant irreversible changes” that the PEIR points to (p. 9-1, et seq.) are that a “buildout” in accord with the CWP would cause increased residential development (that would require the commitment of vacant unincorporated land for the construction of

## 2. Response to Comments

structures), which would in turn require increased social and public maintenance services, increased traffic and increased energy use, which is deemed less than significant.

The only “significant unavoidable adverse impacts” identified (p. 6-1, et seq.) are that buildout of the CWP would generate a net population increase of 49,680 and 12,546 more jobs, which would result in an increase in impacts on air quality, the loss of special status vegetation communities, GHG emissions, increased wildfire risk, the loss of mineral resources and increased construction and traffic noise.

O1-27  
Cont'd

No assessment, let alone mention, was made in the PEIR of the degree to which the erosion of protections afforded by the RECE and the Community Plans, as proposed by the CWP, would irrevocably industrialize a vast RLM region, and negatively impact the quality of life within the Community Plan areas.

### **9. The PEIR Lacks an In-Depth Study of the Array of Environmental Justice<sup>29</sup> Impacts that Would Arise from Implementation of the CWP.**

Environmental Justice (“EJ”) concerns are accorded an immense amount of focus and weight in this state, and *all* social, economic and physical impacts that a proposed project would impose on the surrounding communities must be analyzed as part of an EIR.

Under CEQA, impacts to the environment are not limited to the natural environment, but also include “substantial adverse effects on human beings, either directly or indirectly.” CEQA Guidelines, Section 15065(d). Along those same lines, the official website for the California Office of Attorney General (oag.ca.gov) states, in an attachment to its “CEQA and General Planning” section – entitled “Environmental Justice at the Local and Regional Level Legal Background” (the “EJ Guidelines”) – that:

O1-28

“Human beings are an integral part of the ‘environment.’ An agency is required to find that a “project may have a ‘significant effect on the environment’ if, among other things, “[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly[.]” (Pub. Res. Code, § 21083, subd. (b)(3); see also CEQA Guidelines, § 15126.2 [noting that a project may cause a significant effect by bringing people to hazards].”

The EJ Guidelines also state that: (1) a “local lead agency [is required] to determine whether pollution from a proposed project will have significant effects on any nearby communities, when considered together with any pollution burdens those communities already are bearing, or may bear from probable future projects;” and (2) “economic and social effects may be relevant in determining significance under CEQA in two ways . . . First, as the CEQA

<sup>29</sup> Environmental Justice is defined by the Environmental Protection Agency as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”

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Guidelines note, social or economic impacts may lead to physical changes to the environment that are significant . . . Second, the economic and social effects of a physical change to the environment may be considered in determining whether that physical change is significant [citations to legal authorities were omitted for purposes of brevity].” See also Section 15131(b), which states that “[e]conomic or social effects of a proposed project may be used to determine the significance of physical changes caused by the project.”

O1-28  
Cont'd

In line with the above-cited EJ Guidelines and CEQA statutes, the following EJ concerns would be triggered by implementation of the CWP as presently formulated:

**A. Rural Communities Would Not Reap Any Benefits from the Large-Scale Development that Would Be Encouraged by Designating Utility-Scale as a Typical RLM Use and by Dispensing with the Legal Protections Found in the Existing Community Plans.**

O1-29

The PEIR should have considered whether and to what extent large-scale energy generation and transmission would place burdens on rural communities -- some of which are considered disadvantaged communities<sup>30</sup> -- such as having to give up rural lifestyles, direct access to nature and unimpeded natural views; possible reductions in home values should have also been studied. At the same time, the PEIR should have considered whether rural communities would derive any benefit from industrialization, taking into consideration that the power generated would be exported to the grid for use outside the County, and that profits would go to the developers.<sup>31</sup>

<sup>30</sup> Lucerne Valley is, in fact, a Disadvantaged Community (2012-16 American Survey/Census) Census Designated Place (CDP), with a median income which is roughly half of the state’s median income. The EIR with respect to the Proposed Project must give serious consideration to the Proposed Project’s likely effects on the people who would be living in its proximity.

<sup>31</sup> California has such a glut of renewable energy that, for eight days in January and nine in February of 2017, the state had to pay Arizona to take all the surplus, even as natural gas power plants – eight such plants are being refurbished – continued to generate, according to a June 22, 2017 *Los Angeles Times* article, entitled “California has invested heavily in solar power. Now there’s so much that other states are sometimes paid to take it.” It also reports that curtailments of solar and wind power production for the first quarter of 2017 were more than double the same period in the previous year, and the surge in solar power could push the number even higher in the future. Because of this surplus, existing power plants run, on average, at slightly less than one-third of capacity. And some plants are being closed decades earlier than planned. But the overbuilding of new plants and transmission continues apace because – according to industry insiders cited in the article – such construction receives a “lopsided incentive”: “utilities can build in the construction costs into the amount that the utility can charge electricity users – no matter how much or how little is used.” In other words, such charges include a guaranteed rate of return, i.e., profit, for the utilities.

## 2. Response to Comments

### **B. Rural Communities Would Directly Suffer All of the Substantial Downsides Generated by Such Development.**

Dust, noise<sup>32</sup> and intrusion from heavy equipment (and hundreds of workers) is an inevitable by-product of the construction and operation of utility-scale facilities. Local communities would certainly bear the brunt of this. The PEIR failed to analyze how much dust, noise and intrusion would likely result, what the health effects would be or what the situation would be if utility-scale is not designated as a typical RLM use.

01-29  
Cont'd

The PEIR did not assess whether and to what extent dust plumes would be unleashed during the operational life of the projects, particularly given the strong prevailing desert winds, nor did the PEIR consider that, if the appeal of rural communities were to be destroyed by industrialization, the value of the homes in them might decline, all of which could result in some homes being abandoned. If so, rural communities would sink into blight and become derelict communities, and, instead of the current, vibrant human communities that exist side-by-side with thriving natural communities, there could be tens of thousands of solar panels left silently pivoting in the degraded landscape. Again, the PEIR was remiss for not having considered any of these potential impacts.

### **C. The CWP Would Create a Proliferation of Additional Utility-Scale Projects, Imposing Additional III Effects on Community Members.**

This proliferation of utility-scale projects would put rural communities at the epicenter of tens of thousands of dust (and Valley Fever spore)-spewing industrialized acres, thereby making their residents the focus of an undue and highly disproportionate amount of health-compromising fugitive particulates and other pollutants.<sup>33</sup>

01-30

Each of the EJ considerations discussed above should have been, but were not, addressed in the PEIR.

### **10. The PEIR Did Not, as Required by Section 15123(b)(2) of the CEQA Guidelines, Identify Areas of Controversy Known to the Lead Agency, Including Issues Raised by the Public.**

01-31

The PEIR makes the following assertion (p. 1-12):

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<sup>32</sup> This would include the crackle and hum put out by new high tension lines that would need to be installed to service utility-scale projects.

<sup>33</sup> The EJ Guidelines cite Gov. Code, § 65040.12, subd. (e), which states that “[f]airness in this context means that the benefits of a healthy environment should be available to everyone, and the burdens of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects.”

## 2. Response to Comments

“There are no specific areas of known controversy concerning the proposed Project. Although the County has no knowledge of expressed opposition to the Project, numerous comments have been received related to potential Project impacts associated with the implementation of the proposed CWP . . .”

In reality, members of our coalition<sup>34</sup> have, on multiple occasions over a course of years – both in public comments and in correspondence -- pronounced themselves fundamentally opposed to many aspects of the proposed CWP, including (but not by any means limited to) its designation of utility-scale energy projects as a typical RLM use and its proposed elimination of the legal protections afforded by the existing Community Plans. We have not simply quibbled with potential impacts that the CWP might engender.

In that regard, we have:

1. provided the County with a comment letter, dated November 21, 2017, regarding the shortcomings found in the “Countywide Continuum” that rendered it unacceptable;
2. participated in the September 21, 2017 Planning Commission meeting regarding such shortcomings in the “Countywide Continuum;”
3. participated in October 2017 open house meetings to address such shortcomings in the “Countywide Continuum;”
4. participated in the September 2018 “Regional Meetings” to discuss the reasons why we opposed the then current draft of the CWP – one such meeting was the September 12, 2018 Lucerne Valley “Regional Meeting” at which representatives of PlaceWorks, the Project consultant, and of the Land Use Services Dept. (the “LUSD”), were present (we sharply criticized many aspects of the CWP at the Lucerne Valley meeting, and a PlaceWorks representative, Colin Drukker, took physical notes concerning our comments);
5. submitted an October 19, 2018 letter to the County in opposition to the then current draft of the CWP;
6. exchanged (through Chuck Bell, of LVEDA) emails with the LUSD requesting sweeping revisions to the CWP; and
7. submitted a May 19, 2019 letter to the County in opposition to the then current draft of the CWP, which drew a June 7, 2019 rebuttal letter from Jerry L. Blum, LUSD’s Countywide Planning Coordinator.

O1-31  
Cont'd

<sup>34</sup> Other concerned members of the public, including scientists, community leaders and environmentalists have also commented on the CWP.

## 2. Response to Comments

Each criticism of the CWP stated in this letter has already been made by us at in the meetings and letters referenced above (true and correct copies of which are attached to this letter). Because the PEIR did not address our verbal and written opposition, it has not complied with Section 15123(b)(2) of the CEQA Guidelines, which required the PEIR to identify areas of controversy known to the lead agency, including issues raised by the public.

O1-31  
Cont'd

### 11. Conclusion.

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR include and discuss issues to be resolved, including the choice among alternatives and whether or how to mitigate significant impacts. The major questions to be resolved, as stated in the PEIR (p. 1-11 – 1-12), are set out in quotes below, and are followed (in the indented and italicized sections below) by what we believe are the correct responses to those questions:

“1. Whether this PEIR adequately describes the environmental impacts of the Project.”

*The PEIR did not address environmental impacts arising from the designation of utility-scale as a typical RLM use and from replacing the existing Community Plans with Community Action Guides, so the PEIR did not adequately describe the environmental impacts that would be occasioned by the implementation of the CWP.*

“2. Whether the benefits of the Project override those environmental impacts which cannot be feasibly avoided or mitigated to a level of insignificance.”

*The PEIR did not identify any benefits that would arise from designating utility-scale as a typical RLM use, or from replacing the existing Community Plans with Community Action Guides. The inclusion of those two features in the CWP would harm the County, its residents and the natural environment by increasing large-scale development, including utility-scale development, all of which would have an array of significant, irreversible and unacceptable environmental impacts. Despite this, the PEIR did not discuss whether or not such impacts could be avoided by eliminating those two features from the CWP, even though it is clear that their elimination would obviate all such impacts.*

O1-32

“3. Whether the proposed land use changes are compatible with the character of the existing area.”

*Designating utility-scale as a typical RLM use and replacing the existing Community Plans would, as stated above in this letter, potentially conflict with the character of the existing rural areas of the County. Currently, most of the desert has a well-established, dispersed rural population which successfully coexists with an intact natural environment. This unique, and delicate, balance between human and natural communities would not be compatible with – and*

## 2. Response to Comments

would be potentially destroyed by -- large-scale development, including utility-scale renewable energy projects.

“4. Whether the identified goals, policies, or mitigation measures should be adopted or modified.”

*The PEIR did not identify any benefits that would arise from designating utility-scale in the CWP as a typical RLM use, or from discarding the existing Community Plans. In point of fact, adding those two measures to the CWP would cause an environmentally-sensitive desert landscape to be degraded, and it would ruin rural communities. Nevertheless, the PEIR did not consider adoption of a CWP in which those two features are eliminated.*

“5. Whether there are other mitigation measures that should be applied to the Project besides the Mitigation Measures identified in the PEIR.”

*The PEIR did not posit any measures that would mitigate the effects of designating utility-scale as a typical RLM use or of discarding the existing Community Plan; indeed, the PEIR did not address such effects.*

O1-32  
Cont'd

“6. Whether there are any alternatives to the Project that would substantially lessen any of the significant impacts of the proposed Project and achieve most of the basic Project objectives.”

*As noted above in Section 7 of this letter, the PEIR did not discuss the No Designation or Community Plan Retention alternatives/variants, adoption of which would substantially lessen significant impacts of the CWP without compromising the CWP's basic objectives.*

In short, because the PEIR did not address the array of environmental impacts that would flow from the designation of utility-scale as a typical RLM use and from doing away with the existing Community Plans, it did not provide CEQA-compliant responses to any of the questions posed above.

We welcome the opportunity to comment on the PEIR, and look forward to continuing participation in this process.

Very truly yours,

**Community Associations, Businesses and Organizations:**

## 2. Response to Comments

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## 2. Response to Comments

### **O1. Coalition of Community Groups, Businesses, Organizations and Individuals in the High Desert of San Bernardino County, dated August 14, 2019.**

O1-1 Comment acknowledged. The County has coordinated with the members of the Coalition through in-person meetings, conference calls, responses to comment letters, and preparation of additional documentation on the topic of the proposed Countywide Continuum and Policy Plan, as well as on goals and policies adopted through the separate effort of the Renewable Energy and Conservation Element. Some of the feedback from members of the Coalition have been incorporated directly into the Countywide Plan, such as the retention of previous Community Plan content into the Community Action Guides.

O1-2 The County Policy Plan proposes to replace the current Resource Conservation (RC) land use category with a new Resource/Land Management (RLM) land use category and an expansion of the Open Space (OS) land use category. The County Policy Plan proposes to expand the application of the OS land use category to very large portions of the area currently designated RC to reflect the vast areas permanently preserved and/or protected in some manner by local, regional, state, and federal ownership, designation, or regulations. The balance of the area currently designated RC is proposed for RLM in recognition of the need to manage, preserve, and protect natural resources while minimizing the expansion of development outside of existing communities.

Though utility-scale energy facilities have been and will continue to be a permitted use in the unincorporated county, the potential locations for such uses have already been substantially reduced through the policies adopted in the Renewable Energy and Conservation Element (RECE). In 2019, the County amended the RECE to prohibit utility-oriented renewable energy development in the RL land use district, currently adopted Community Plan areas, and other community planning areas as determined in the Development Code update. Additional policy amendments were adopted regarding focusing on existing energy generation sites and greater collaboration to encourage development of utility-oriented renewable energy generation facilities on public lands, apart from unincorporated communities. The adopted changes (see below) will be reflected in the Countywide Plan.

RE Policy 4.10: Prohibit utility-oriented RE project development on sites that would create adverse impacts on the quality of life or economic development opportunities in existing unincorporated communities. Any exceptions or revisions to the following policy direction would require approval by the Board of Supervisors.

RE 4.10.1: Prohibit development of utility-oriented RE projects in the Rural Living land use districts throughout the County.

RE 4.10.2: Prohibit development of utility-oriented RE projects within the boundaries of existing community plans, which at the time of adoption of this Element are the Bloomington, Muscoy, Bear Valley, Crest Forest, Hilltop, Lake Arrowhead, Lytle Creek,

## 2. Response to Comments

Oak Glen, Homestead Valley, Joshua Tree, Lucerne Valley, Morongo Valley, Oak Hills and Phelan/Pinon Hills Community Plans.

RE 4.10.3: Establish exclusion areas in the Development Code regulations for renewable energy development, beginning with the prohibitions in Policies 4.10.1 and 4.10.2 and provide for additional exclusion areas, such as new community plan areas, to be designated by amendment to the Development Code.

RE Policy 5.2: Utility-oriented RE generation projects on private land in the unincorporated County will be limited to the site-types below, in addition to meeting criteria established herein and in the Development Code:

1. Private lands adjacent to the federal Development Focus Areas supported by the Board of Supervisors that meet siting criteria and development standards
2. Waste disposal sites
3. Mining sites (operating and reclaimed)
4. Fallow, degraded and unviable agricultural lands
5. Airports (existing and abandoned or adaptively re-used)
6. Brownfields
7. California Department of Toxic Substance Control Cleanup Program sites
8. Resource Conservation and Recovery Act sites
9. Sites within or adjacent to electric transmission and utility distribution corridors
10. Existing energy generation sites
11. Industrial zones proven to not conflict with economic development needs
12. Other sites proven by a detailed suitability analysis to reflect the significantly disturbed nature or conditions of those listed above

RE Policy 5.9: Collaborate with utilities, the California Energy Commission (CEC) and the Bureau of Land Management (BLM) to plan for RE generation facilities to be located on public lands, apart from existing unincorporated communities.

Additionally, over a dozen other policies were adopted in the RECE in 2017 that provide further direction, requirements, and restrictions to further environmental compatibility and appropriate siting of renewable energy facilities.

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In the proposed Land Use Element, Table LU-1, Land Use Categories, the column listing typical uses for the Resource/Land Management (RLM) includes “Community-scale and utility-scale energy facilities (see note 3 on limitations).” This has been revised as “Renewable energy facilities consistent with the Renewable Energy and Conservation Element (see note 3 on limitations)” Additionally, note 3 was revised slightly to state,

The list of typical uses is also subject to and limited by policies in every element of the County Policy Plan. Policy 4.10 of the Renewable Energy and Conservation Element, for example, prohibits utility-oriented renewable energy projects in the Rural Living land use category and any land use category within the boundaries of multiple community planning areas.

The County considers the land proposed for RLM—that which is outside of community planning areas and outside of areas proposed to be designated as Open Space—to be suitable for land uses associated with managing essential resources like minerals and solar energy. As cited in the comment letter and previous correspondence with members of the Coalition, the siting and development of utility-scale energy facilities would be further subject to regulations in the Development Code. The proposed County Policy Plan also includes policies LU-2.1, Compatibility with existing uses; LU-2.2, Compatibility with planned uses; LU-2.3, Compatibility with natural environment; LU-2.5, Hillside preservation; NR-4.1, Preservation of scenic resources; and NR-5.1, Coordinated habitat planning.

Regardless of the County’s assessment of land use compatibility, the vast majority of land proposed for RLM is owned and/or under the administrative authority of the federal government. The County has no jurisdictional land use authority on land owned or under the administrative control of the federal or state government.

About 90 percent of the total acreage of the land proposed for RLM is either inside of community planning areas and/or under the ownership or administrative control of federal or state governments, leaving only 10 percent of the land where the County could permit utility-scale energy facilities (provided they are compliant with all other County, State, and federal policies, plans, and standards). While the remaining balance is still quite large (relative to typical sizes of communities or incorporated areas), other current and proposed policies (as noted previously in this response) would further discourage the introduction of utility-scale energy facilities throughout much of the potentially suitable lands.

Accordingly, given the strength of current and proposed policies, the County considers inclusion of utility-scale energy facilities in Table LU-1 for RLM to be accurate and informative for the public and future decisions. The County does not agree that such a listing, when combined with dozens of current and proposed policies and restrictions,

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would enable developers or applicants to contend that utility-scale energy facilities are presumptively appropriate throughout the RLM.

O1-3 As referenced in the comment letter and as stated in the response to comment O1-2, the County amended the RECE to prohibit utility-oriented renewable energy development in the RL land use district, currently adopted Community Plan areas, and other community planning areas as determined in the Development Code update.

As stated in the response to comment O1-2, the County does not consider the listing of utility-scale energy facilities as a typical use to perpetuate or imply any specific amount of development. The intent of listing a description of typical uses is to convey the nature of land uses that may be developed in a given category.

The County does not consider the inclusion of utility-scale energy facilities to be a *de facto* amendment of the RECE. Throughout the entirety of the RECE, only one land use district is mentioned—Rural Living in the set of policies grouped under Policy 4.10, which address where utility-oriented RE project developments are prohibited.

As stated in the response to comment O1-2, the County Policy Plan proposes to replace the current Resource Conservation (RC) land use category with a new Resource/Land Management (RLM) land use category and an expansion of the Open Space (OS) land use category. The RECE did not include any reference to the RLM land use category because such a category had not yet been adopted by the County. However, the RECE was also silent (text or policies) regarding the RC land use zoning district, which would be the equivalent district for the RLM land use category. The County, under the currently adopted General Plan Land Use Element, has permitted utility-scale energy facilities in the Resource Conservation Land Use District. The County Development Code, both prior to and after the adoption and amendment of the RECE, explicitly permitted and continues to permit renewable energy generation facilities, electrical power generation, and utilities facilities in the Resource Conservation and Agriculture land use zoning districts with a conditional use permit. Accordingly, the County does not consider the listing of utility-scale energy facilities as a typical use to be an amendment or distortion of the content and policies adopted in the RECE.

As referenced by the commenter, the PEIR clarifies that the RECE will be incorporated into the CWP after the CWP is adopted, and that renewable energy developments are not part of this project (i.e., the CWP) and therefore are not addressed in the PEIR. Relative to the existing General Plan, the creation of the new RLM district does not expand the geographical area that would potentially allow renewable energy development projects beyond what is already permitted by the County's existing General Plan and Development Code. Moreover, the RECE policies would further restrict properties and conditions under which energy facilities could be approved. In accordance with the California Environmental Quality Act (CEQA), an Addendum to the Program Environmental

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Impact Report for the San Bernardino County General Plan Update (2007), including the Supplemental EIR for the Greenhouse Gas Reduction Plan (2011), was completed and approved for the RECE. The Addendum presented evidence to support the conclusion that no additional environmental analysis was required to adopt the RECE as a new element of the County General Plan, because none of the conditions specified in Section 15162 of the State CEQA Guidelines applied to the RECE.

State law requires that all of the elements in a general plan (or the equivalent Policy Plan) be internally consistent. Accordingly, the siting and development of utility-scale energy projects would be governed not just by the RECE, but by the entirety of the Countywide Plan, regardless of a proposed project's location (with the exception of projects proposed on land outside of the County's jurisdictional land use authority).

About 90 percent of the total acreage of the land proposed for RLM is either inside of community planning areas and/or under the ownership or administrative control of federal or state governments, leaving only 10 percent of the land where the County could permit utility-scale energy facilities (provided they are compliant with all other County, State, and federal policies, plans, and standards). The vast majority of areas of critical environmental concern (mapped in Policy Map NR-2), are owned by or under the administrative land use authority of the federal government.

While the remaining balance is still quite large (relative to typical sizes of communities or incorporated areas), other current and proposed policies (as noted elsewhere in this response) would further discourage the introduction of utility-scale energy facilities throughout much of the potentially suitable lands.

The County Policy Plan would likely need to be amended were it inconsistent with current or future protections and restrictions provided by habitat plans adopted by the County that address unincorporated lands or restrictions enforced by the state or federal government. However, the identification of utility-scale energy facilities as a typical use in the RLM land use category is not inherently in conflict with a habitat plan that covers a specific area. The County relies on more specific planning documents like habitat conservation plans to implement the Policy Plan and provide more detailed, area-specific policy direction. The participation of the County in landscape-scale conservation planning and hab natural resource management plans is reinforced in Policy NR-5.1 of the proposed County Policy Plan.

- O1-4 This comment contends that the proposed CWP would introduce industrialization into the RLM area and that it would not result in a positive change to preserve the environment. As described in Response O1-2 and listed in the RECE policies in that response, potential utility-oriented renewable energy development project would be limited to properties that are already disturbed, including waste disposal, mining, degraded/fallow agriculture, airports, and mining sites. Such projects would not displace

## 2. Response to Comments

designated USFWS Critical Habitat or any natural habitat or other valuable environmental resources. As noted in this comment, development of these disturbed properties would represent a long-term, irreversible commitment of these parcels. As noted above, the RECE is not part of the ‘project’ evaluated in the Draft PEIR for the CWP, and future development of renewable energy projects on private lands would proceed in accordance with the RECE policies. Future projects would also be subject to project-level environmental review under CEQA.

- O1-5 As detailed in response O1-2, the RLM classification and designation of utility-scale projects as a typical use would not encourage or accelerate development of utility-scale energy projects any more than the previous General Plan, which also allowed these uses with a conditional use permit. It would not revise the RECE, which would be incorporated into the CWP upon adoption of the CWP. All policies that further restrict renewable energy projects would remain intact.

As reproduced above, the RECE includes Policy 5.2, which limits development of utility-oriented RE projects to disturbed sites. Furthermore, it requires that sites are “within or adjacent to electric transmission and utility distribution corridors” (provision No. 9 above). This would inherently limit the ‘acreage-consuming infrastructure’ assumed by this commenter for future projects.

This commenter also contends that the Draft PEIR could have projected future utility-scale growth based on California Renewable Energy Standard (RPS) for 2040 and SB 100 renewable energy requirements for the state. Although it would be possible to estimate the renewable energy needed to meet these goals, the distribution of public vs. private facilities, and potential development projects within the unincorporated county would be speculative. Moreover, the environmental impact of future projects would be substantially restricted by the RECE policies, and these projects would be the subject of project-specific CEQA review, including public participation and comment.

This comment concludes that the PEIR should have assessed the degree to which utility-scale projects under the CWP would impact the county’s wildlands, open space, and communities. As summarized under response O1-2, the restrictions on future utility-scale renewable energy projects under the RECE would restrict development to disturbed sites with available utility corridors for energy transmission. The RECE would encourage the construction of community-oriented renewable energy project to ensure that benefits of a project offset its costs to the community. Project siting and design for such facilities were anticipated to be six acres or less and on-site or adjacent to already developed properties. Moreover, the 2019 amendment to the RECE prohibits RE project development within currently adopted Community Plan areas and other community planning areas as determined in the Development Code update.

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O1-6 The CWP would not result in a proliferation of utility-scale projects in the County. The creation of the new RLM district does not expand the geographical area that would potentially allow renewable energy development projects beyond what is already permitted by the County's existing General Plan and Development Code. As stated in Draft PEIR Chapter 2 and reproduced by this commenter, the RECE will be incorporated into the CWP after the CWP is adopted, and renewable energy development are not part of the project addressed in the Draft PEIR. The Addendum approved for the RECE notes that attempts to evaluate actual physical effects to the environment, with nearly two million, unincorporated, privately held acres under County jurisdiction, would be an exercise in conjecture. The Addendum, however, also notes that the GHG Plan SEIR embraced and evaluated multiple renewable energy and conservation scenarios that, as applied to new and existing development, resulted in a level of quantified impacts used as a basis for its impact analysis. These impacts apply directly to the RECE, as many of the GHG Plan's greenhouse gas reduction policies are directly tied to implementation policies in the RECE.

O1-7 The County understands the reluctance of community members to relinquish what they believe to be safeguards in their Community Plans. As stated in previous correspondence, as part of the Countywide Plan preparation, the County took a fresh look at the purpose, functionality, and cost implications of Community Plans. The County determined then and still believes that it does not have the financial resources to implement many of the policies in the current Community Plans without potentially compromising existing local and regional levels of service. The updated goals and policies guide and improve the County while remaining fiscally sustainable. The new system also allowed the County to eliminate what it still considers a substantial amount of redundancy and to resolve consistency issues by consolidating all goals and policies into one Policy Plan. Finally, the County was able to expand the application of key goals and policies beyond single communities to help guide multiple communities and regions.

The County believes the community planning areas are provided protection from "destructive development" through the policies of the currently adopted RECE and the following proposed County Policy Plan policies:

### Land Use Element

- **Goal LU-2 Land Use Mix and Compatibility.** An arrangement of land uses that balances the lifestyle of existing residents, the needs of future generations, opportunities for commercial and industrial development, and the value of the natural environment.
  - Policy LU-2.1 Compatibility with existing uses
  - Policy LU-2.2 Compatibility with planned uses
  - Policy LU-2.3 Compatibility with natural environment
  - Policy LU-2.5 Hillside preservation

## 2. Response to Comments

- **Goal LU-4 Community Design.** Preservation and enhancement of unique community identities and their relationship with the natural environment.
  - Policy LU-4.1 Context-sensitive design in the Mountain/Desert regions
  - Policy LU-4.5 Community identity
  - Policy LU-4.7 Dark skies
- **Goal LU-6 Amendments to the Policy Plan.** Growth and development in the unincorporated county in a manner that requires few and infrequent amendments to the Policy Plan.
  - Policy LU-6.1 Residential amendments that increase density in the Desert and Mountain regions
  - Policy LU-6.2 Large residential development in the Desert and Mountain regions
  - Policy LU-6.3 Commercial amendments
  - Policy LU-6.4 Industrial amendments near schools and parks

### Natural Resources Element

- **Goal NR-4 Scenic Resources.** Scenic resources that highlight the natural environment and reinforce the identity of local communities and the county.
  - Policy NR-4.1 Preservation of scenic resources
  - Policy NR-4.3 Off-site signage
- **Goal NR-5 Biological Resources.** An interconnected landscape of open spaces and habitat areas that promotes biodiversity and healthy ecosystems, both for their intrinsic value and for the value placed on them by residents and visitors.
  - Policy NR-5.1 Coordinated habitat planning
  - Policy NR-5.2 Capacity for resource protection and management
  - Policy NR-5.3 Multiple-resource benefits
  - Policy NR-5.7 Development review, entitlement, and mitigation

In particular, Policy LU-4.5 directs the County to ensure that new development is consistent with the physical and historical character and identity of an unincorporated community planning area. This policy also directs the County to ensure consistency with the values and aspirations as defined by each community in its Community Action Guide. To further assist the County in determining the consistency of new development with a community's character, Table LU-3, Community Character, identifies key characteristics and features that new development should reinforce and/or not detract from in order to maintain and protect the identity and character of the community planning areas.

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The intent of the 2007 Community Plan Goals and Policies Matrix, as stated in the document's introduction, is to enable residents to better understand how the County updated the current Community Plan goals and policies as well as where they will be found or addressed in the future. The matrix did not state that the proposed County Policy Plan goals were the same as those in the 2007 Community Plans.

The commenter also noted that the Draft PEIR did not include the "requisite" statement of overriding considerations. Per CEQA Guidelines Section 15093, when a lead agency approves a project that will result in significant effects which, pursuant to the Final EIR, are not avoided or substantially lessened, the agency is required to state in writing the specific reasons to supports its action based on the Final EIR and/or other information in the record. The decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks. The commenter is correct in noting that a statement of overriding considerations would be required to adopt the proposed CWP. The Draft PEIR has concluded that implementation of the CWP would result in significant and unavoidable impacts. This statement is required to be adopted at the time a project is approved and is typically not drafted until the after the Final EIR is completed, and the projects' Findings (pursuant to CEQA Guidelines Section 15091) have been prepared.

O1-8 As detailed in the previous responses to this comment letter, the CWP's RLM district would not increase opportunities for utility-scale projects in the County compared to the existing General Plan. It would not expand the geographical area that would potentially allow renewable energy development projects beyond what is currently permitted by the County's existing General Plan and Development Code. Moreover, the RECE substantially reduced the potential locations for such uses through adopted policies. In 2019 the County amended the RECE to prohibit utility-oriented renewable energy development in the RL land use district, currently adopted Community Plan areas, and other community planning areas. The potential environmental impacts of implementing the RECE were addressed in an Addendum to the Program Environmental Impact Report for the San Bernardino County General Plan Update (2007), including the Supplemental EIR for the Greenhouse Gas Reduction Plan (2011)(RECE General Plan Amendment, CEQA Addendum dated September 2016).

The Draft PEIR for the proposed CWP is required to address the project as proposed. Draft PEIR Chapter 3 provides the CWP project description that serves as the basis for the impact analysis. This section describes the project background, existing Community Plans and boundaries, and the structure for the new CWP as discussed in response O1-7. In accordance with CEQA, the potential environmental impacts of implementing the project (CWP) are evaluated relative to existing, physical conditions. As such, the Draft PEIR focuses on the County Policy Plan that includes the proposed land use designations and policies that have the potential to result in physical environmental impacts. To the

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extent that it would be appropriate to analyze the CWP in comparison to the existing Community Plans, this analysis would belong in the Alternatives analysis for the No Project Alternative (Existing General Plan). Alternatives, however, are analyzed at a less detailed level to provide a relative comparison of impacts to the proposed project. Review of the existing 14 Community Plans and related policies would be beyond CEQA requirements for alternative analyses.

- O1-9 As reiterated in previous responses, the RECE is not part of the project analyzed for the CWP Draft PEIR, and review of potential impacts are addressed in the Addendum to General Plan Program EIR and the Supplemental EIR for the GHG Reduction Plan. Moreover, as concluded in response O1-8, the proposed CWP and RLM land use designation would not increase the potential for utility-scale renewable energy projects relative to the RECE. The air quality and dust analyses included in Draft PEIR Section 5.3, *Air Quality*, meet the programmatic EIR requirements to address the potential environmental impacts of the proposed CWP. Note also that an evaluation of the potential extent of Valley Fever spores in various soils and their potential to be wind-blown by construction activities related to implementation of the CWP is beyond the scope of CEQA.
- O1-10 The RECE Addendum noted that the primary scenic concerns of county residents include preservation of views in the desert communities and limited development on ridge tops in the mountain communities. The Addendum acknowledged that wind generators are often located along hillsides and ridgelines (in order to take advantage of wind conditions), creating objectional intrusions on the landscape. The RECE Addendum recognized the significant, unavoidable impacts associated with energy projects as evaluated in the General Plan EIR and the GHG Reduction Plan Supplemental EIR and concluded that adoption of the RECE would not result in new or substantially more severe significant impacts. All future projects would be subject to applicable state regulations and requirements and further CEQA analysis.
- O1-11 Please refer to responses O1-3 and O1-8. The proposed CWP would not “trigger” development of utility-scale renewable energy projects. Under the currently adopted General Plan Land Use Element, the County has permitted utility-scale energy facilities in the Resource Conservation Land Use District. The County Development Code, both before and after the adoption and amendment of the RECE, explicitly permitted and continues to permit renewable energy generation facilities, electrical power generation, and utilities facilities in the Resource Conservation and Agriculture land use zoning districts with a conditional use permit. Accordingly, the County does not consider the listing of utility-scale energy facilities as a typical use to be an amendment or distortion of the content and policies adopted in the RECE.

The RECE will be incorporated into the CWP after the CWP is adopted, and therefore, renewable energy developments are not part of the project analyzed in the Draft PEIR.

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As described above, pursuant to the RECE (as amended in 2019), development of utility-scale renewable energy projects would be limited to disturbed sites, and therefore would not result in the biological resource impacts described in this comment. Moreover, private, community-level renewable energy developments are anticipated to be six acres or less. All renewable energy projects would be subject to future, project-level CEQA review.

The RECE Addendum relied on the findings of the GHG Reduction Plan Supplemental EIR, which concluded that project implementation would result in new or substantially more severe significant impacts beyond those considered in the General Plan Program EIR. A Statement of Overriding Considerations was adopted by the Board of Supervisors for biological resources. With the subsequent RECE Amendment as approved in 2019 (see Response O1-2), biological resource impacts related to renewable energy development would be substantially reduced.

- O1-12 As reiterated in previous responses, the RECE is not part of the project analyzed for the CWP Draft PEIR, and review of potential impacts are addressed in the Addendum to General Plan PEIR and the SEIR for the GHG Reduction Plan. Moreover, as concluded in response O1-8, the proposed CWP and RLM land use designation would not increase the potential for utility-scale renewable energy projects compared to the RECE. And finally, the Addendum prepared for the RECE concludes that impacts to groundwater and water supply are adequately addressed for renewable energy projects in the SEIR for the GHG Reduction Plan.
- O1-13 Please refer to responses O1-9 and O1-12. The potential environmental impacts of utility-scale renewable energy projects are addressed in the Addendum prepared for the RECE and the previous CEQA documents on which it relies. Moreover, the detailed cumulative analysis as recommended in this comment for potential renewable energy projects within the jurisdiction of the County in conjunction with projects on BLM land is beyond the scope of this programmatic-level EIR for the CWP.
- O1-14 The comment asserts that the Draft PEIR did not adequately address the potential cumulative effects, direct and indirect impacts, and growth-inducing impacts of the proposed CWP. The specific approach to address each topical impact is described in Draft PEIR Section 4.4 in accordance with CEQA requirements. The commenter does not specify the indirect or secondary impacts that they believe have not been addressed, with the exception of raising the potential impacts of the utility-scale renewable energy projects. As described in previous responses, the RECE was previously approved with its own CEQA processing and is not a part of the project for the CWP Draft PEIR. Moreover, the RLM land use designation and substantial development restrictions of the RECE would not facilitate or foster development of utility-scale renewable energy projects beyond the 2007 General Plan, Supplemental GHG Reduction Plan, and RECE. The CWP would designate approximately 5.8 million acres as RLM. Approximately 90 percent of the total acreage of the land proposed for the County's RLM is either inside

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of community planning areas and/or under the ownership or administrative control of federal or state governments, leaving only 10 percent of the land where the County could permit utility-scale renewable energy facilities (provided they are compliant with all other County, State, and federal policies, plans, and standards). In comparison, the multiagency Desert Renewable Energy Conservation Plan (DRECP) was developed as a comprehensive habitat conservation plan for streamlined federal permitting for renewable energy projects on 22 million acres of public land (state and federally owned). The EIR/EIS for the DRECP was approved in September 2016 (Record of Decision).

Potentially growth-inducing impacts of the proposed CWP are addressed in Draft PEIR Section 9.2.

- O1-15 Adoption of the CWP and RLM land use designation would not increase the potential for utility-scale renewable energy projects relative to the RECE. It would not foster, encourage, or validate previously approved renewable energy projects nor affect projects in the entitlement process. Individual projects would continue to be reviewed objectively and would be subject to the public disclosure and participation processes inherent in the California Environmental Quality Act, to which the County shall comply.
- O1-16 Please refer to previous responses to this letter, including O1-7. The County believes the community planning areas are provided protection from “destructive development” through the policies of the currently adopted RECE and the numerous proposed County Policy Plan policies (many of which are listed in response O1-7).
- O1-17 Addressing a project’s economic effects, with the exception of effects that would result in physical environmental effects, is beyond the scope of CEQA and the CWP Draft PEIR. Moreover, whether or not Highway 247 will be designated an official state scenic highway is speculative, and the effect of such a designation on the level of tourism and the economy would also be speculative.

As noted in previous responses to this comment letter, the RECE is not part of the project as analyzed in the CWP Draft PEIR. The environmental impacts of utility-scale energy projects are addressed in the CEQA Addendum for the RECE, including the Supplemental EIR for the Greenhouse Gas Reduction Plan. And finally, note that development issues related to site-specific issues such as soil types, Valley Fever spores, and access roads, are beyond the programmatic scope of a General Plan EIR. Future, specific projects will be required to comply with focused review under CEQA.

- O1-18 Draft PEIR Section 5.10, *Land Use and Planning*, addresses the proposed CWP’s consistency with applicable plans, policies, and regulations. As detailed in Response O1-2, the CWP’s RLM district would not increase opportunities for utility-scale projects in the County compared to the existing General Plan. It would not expand the geographical area that would potentially allow renewable energy development projects beyond what is already permitted by the County’s existing General Plan and Development Code.

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Moreover, the RECE substantially reduced the potential locations for such uses through adopted policies. In 2019 the County amended the RECE to prohibit utility-oriented renewable energy development in the RL land use district, currently adopted Community Plan areas, and other community planning areas, as determined by the development code update. The proposed CWP does not introduce any conflicts with applicable land use plans, policies, or regulations and does not create any internal inconsistencies within the CWP.

- O1-19 The proposed CWP is consistent with the RECE. Upon the adoption of the County Policy Plan, the RECE, as an element of the current General Plan, will become part of the overall County Policy Plan (as will the currently adopted housing element).
- O1-20 This comment acknowledges the strict siting criteria for potential utility-scale renewable energy projects in the RECE, including policy 4.10 that prohibits utility-oriented renewable energy projects in the Rural Living land use districts and any land use district within the boundaries of multiple community planning areas. The comment further asserts that the introduction of the utility-scale projects in the RLM could compromise the County's "core values" and could ultimately defeat the central purpose behind formulating the RECE. As referenced in the comment letter (O1-3), the RECE will be incorporated into the CWP after the CWP is adopted. The policies prohibiting utility-scale renewable energy projects in the Rural Living land use districts and any land use district within the boundaries of multiple community planning areas would not be modified. Response O1-3 describes the relationship between the previous land use designations and the RLM designation. The policy protecting Rural Living land use districts would continue with incorporation of the RECE into the CWP.
- O1-21 The RECE was adopted in 2017 and amended in February 2019, both subsequent to the February 17, 2016, Board of Supervisors resolution referenced in this comment. It is beyond the scope of the Program EIR to evaluate consistency with decision-maker resolutions, but as noted previously, Draft PEIR Section 5.10 evaluates CWP consistency with applicable plans, programs, and regulatory requirements. The RECE will be incorporated as part of the CWP upon CWP adoption, and since the referenced resolution predates the RECE adoption and amendment, it would seem that the RECE reflects the Board of Supervisors' position on renewal energy policies and restrictions as discussed in this comment.
- O1-22 Please refer to Response O1-8 regarding CEQA's requirement to compare the proposed project (CWP) to existing conditions, and the definition of the proposed CWP relative to Community Plans.
- O1-23 The CWP updates the existing General Plan, and upon adoption would supersede it. Therefore, the Draft PEIR focuses on the impacts of implementing the CWP and does not have to evaluate potential conflicts with the existing General Plan that it will replace.

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The development code will be updated to be consistent with the new County Policy Plan upon adoption of the CWP.

O1-24 This comment relates to a GIS database. Updates of relevant databases to reflect updated plans and programs is not within the realm of CEQA.

O1-25 As detailed in Response O1-2, the CWP's RLM district would not increase opportunities for utility-scale renewable energy projects in the County compared to the existing General Plan. It would not expand the geographical area that would potentially allow such projects beyond what is already permitted by the County's existing General Plan and development code. The CWP is internally consistent, and the Draft PEIR sufficiently addresses potential impacts related to land use and planning.

O1-26 CEQA requires the evaluation of a reasonable range of alternatives that have the potential to reduce or eliminate significant environmental impacts of the project as proposed and which could feasibly attain most of the basic objectives of the project. As described throughout the responses to this letter, the RLM designation would not increase the potential for utility-scale renewable energy projects beyond projects that could be approved under the existing General Plan and Development Code. It would not change the likelihood of development of this use relative the approved RECE, and the RECE is not part of the project description for which an alternative can be defined for the Draft PEIR. Moreover, it is unclear whether the commenter recommends an alternative that would allow the utility-scale renewable energy projects, but would like an evaluation of the alternative if the word "typical" was dropped from the description. Therefore, dropping this designation would not be a meaningful alternative and would not have the potential to reduce environmental impacts.

The No Project alternative evaluates the relative environmental impacts under implementation of the existing General Plan in comparison to the proposed CWP. It is beyond the scope of CEQA alternatives analysis to evaluate each policy in the existing General Plan, including the 14 community plans. Moreover, the RECE policies (see response O1-2) prohibit development of utility-scale renewable energy projects in community planning areas and limit development of such projects to disturbed lands and properties void of sensitive habitat and resources. The broad range of alternatives analyzed represents a reasonable range of alternatives with the potential to reduce/eliminate significant impacts of the proposed CWP. The County believes that the current project alternatives provide a wide-range of alternatives to assist decision-makers in understanding and weighing the environmental impacts associated with CWP implementation in comparison to the benefits of implementing the CWP.

This comment also suggests that the Draft PEIR should have evaluated whether adopting the two variants of the CWP (No Designation and Community Plan Retention) would save the County money, perhaps by reducing the time and resources that County staff and

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decision-making bodies would otherwise have to devote to consideration of an influx of utility-scale applications in the RLM. This type of economic consideration is not in the realm of CEQA or the Draft PEIR for the CWP. Although economic and social effects may be presented in an EIR (CEQA Guidelines, Section 15131, Economic and Social Effects), these impacts shall not be treated as significant effects on the environment. They are relevant to the extent they indirectly result in physical impacts to the environment.

O1-27 Please see previous responses. The Draft PEIR evaluates the potential impacts of the proposed CWP, which includes allowable uses and the new policies in the County Policy Plan. Renewable energy projects are specifically the scope of the approved RECE and related, approved CEQA Addendum. The land use, planning, and infrastructure decisions for the Community Plan areas are part of the County Policy Plan and evaluated in the Draft PEIR. The restructuring of the General Plan to replace the existing Community Plans with the County Policy Plan in conjunction with Community Action Guides (with a greater focus on community self-reliance, grass-roots action, and implementation) is not within the scope of the Draft PEIR. The assertion that the designation of utility-scale renewable energy projects would result in a proliferation of such projects has not been substantiated, particularly in light of the stringent RECE policies restricting these projects to disturbed properties and prohibiting them within Community Planning areas. The degree to which additional, unavoidable, and irreversible adverse impacts could occur that have not been addressed in the Draft PEIR is speculative. The County disagrees that the protections afforded by the RECE and Community Plans would be eroded. To the contrary, the RECE would be integrated into the CWP, and supplemental policies (including those listed in Response O1-2), along with PEIR mitigation measures, would strengthen existing environmental protections.

O1-28 The County recognizes the relationships that the commenter raises with respect to CEQA and the environmental effects projects can have on human beings. The environmental justice background and information related to general planning and CEQA, as provided in the legal background summary on the Attorney General's website, is also appreciated. The County, however, disagrees that the Draft PEIR should provide "an in-depth study of the array of environmental justice impacts" that would arise from implementation of the CWP. The Draft PEIR complies with CEQA requirements for assessing the potential impacts of the proposed CWP, and CEQA does not currently require an in-depth review of potential impacts on disadvantaged or potentially overburdened communities.

The CWP and the Draft PEIR, however, have been supplemented and revised to respond to the Attorney General's comment letter on both documents. Please refer to their letter and the County's response (comment letter A3). Revisions to the Draft PEIR include supplementing background and setting information to disclose SB 1000 requirements and the delineation of environmental justice communities as determined in the EJ Background report for the CWP. The comprehensive background report has also been appended to this Final PEIR (see Appendix \_\_\_\_). Chapter 3, *Revisions to the Draft PEIR*, includes

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revisions/supplements to the CWP policies to respond to EJ comments from the Attorney General. As detailed in response to the Attorney General's comment letter, a health risk assessment was also prepared to address the potential health impact of increased diesel emissions to disadvantaged, EJ communities.

- O1-29 This comment, as others in this comment letter, is based on the presumption that the utility-scale renewable energy development projects would be inherently encouraged and fostered by the definition of this use as a "typical" use in the RLM land use district. Response O1-2 explains the relationship between the proposed designation and the allowed uses in the existing General Plan and RECE. In comparison to the existing General Plan, the new RLM district does not expand the geographical area that would potentially allow renewable energy development projects beyond what is currently permitted by the County's existing General Plan and development code. Moreover, the RECE policies further restrict properties and conditions under which energy facilities could be approved.

Previous responses also clarify that, pursuant to CEQA, the Draft PEIR evaluates the potential environmental impacts of the proposed CWP. Chapter 3, *Project Description*, describes the project background, including replacement of the Community Plans, and explains that the Draft PEIR focuses on analyzes the impact of the County Policy Plan (land use and policies). Evaluation of the existing General Plan, including Community Plans, would be for purposes of comparing the proposed project to the No Project alternative. It is beyond the scope of Alternatives analyses to evaluate detailed policies in the existing General Plan, including the 14 individual community plans.

As noted in Response O1-28, CEQA does not require an in-depth analysis of EJ or disadvantaged communities. SB 1000 is a requirement for general plans to address environmental justice. EJ policies benefit disadvantaged communities, but as of the preparation of this DEIR, CEQA does not require that burdens specific to disadvantaged communities be addressed. Moreover, the potential impacts on rural lifestyle and potential impacts on home values are not CEQA considerations. Social and economic impacts are required to be evaluated pursuant to CEQA to the extent that they directly or indirectly result in physical environmental impacts.

The RECE was previously approved and is not considered part of the project evaluated for the CWP Draft PEIR. The respective air quality, noise, and biological resources sections of the Draft PEIR address construction and operational impacts of CWP implementation, and as applicable, evaluate these impacts by four county subregions (Valley, North Desert, East Desert, and Mountains). Specific impacts related to renewable energy projects, such as dust, noise, and visual impacts, however, are not addressed in the CWP EIR but in the GHG Reduction Plan Supplemental EIR and Addendum for the RECE.

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Note also that future renewable energy projects would require project-specific CEQA review and public participation at a greater level possible than in the programmatic documents prepared to date.

- O1-30 Please refer to Responses O1-28 and O1-29 about addressing environmental justice considerations in EIRs. Potential hazards, including area-specific Valley Fever spore, would be the subject of project-specific environmental review.
- O1-31 Comment acknowledged. In documenting the public scoping process, the Draft PEIR acknowledges agency and community input and concerns regarding the project and requests for the EIR in 30+ pages of detailed tables by commenter. These tables are referenced in Section 1.7, *Areas of Controversy*. The San Bernardino County CWP represents a comprehensive planning process for approximately 20,000 square miles of land covering very unique subregions and development and conservation issues. It would not be possible to address all the potential areas of controversy or history in this introductory section of the Draft PEIR. This section has been revised, however, to read as follows. This revision is also included in Chapter 3, *Revisions to the Draft EIR*:

### 1.7 AREAS OF CONTROVERSY

In accordance with Section 15123(b)(2) of the CEQA Guidelines, the PEIR summary must identify areas of controversy known to the lead agency, including issues raised by agencies and the public. ~~There are no specific areas of known controversy concerning the proposed Project. Although the County has no knowledge of expressed opposition to the Project,~~ **Development of the CWP was a process that took more than 4 years of plan development and public outreach and participation. With a plan area encompassing approximately 20,000 square miles and four distinct subregions, a proactive and organized constituency provided extensive input, including specific opposition to some proposed components of the CWP. Numerous requests and** comments have been received **during the CWP and CWP Program EIR process** related to potential Project impacts associated with implementation of the proposed CWP, including: transportation, air quality, cultural tribal resources, water quality, biological resources and conservation, environmental justice, land use compatibility, impact of renewal energy projects, aesthetics and viewshed impacts. These comments were received as part of the PEIR scoping process and are summarized in Chapter 2.0, *Introduction*, Tables 2-1 and 2-2, from the Notice of Preparation comments and public scoping meeting, respectively. The 30-day public review period for the NOP was from October 17, 2017, through November 20, 2017, and the public scoping meeting was held on October 26, 2017, at the San Bernardino Government Center, 385 N. Arrowhead Avenue, San Bernardino, CA 92415. Remote videoconferencing of the scoping meeting was also made available at the Jerry Lewis High Desert Government Center, 15900 Smoke Tree Street, Suite 131, Hesperia, CA 92345, and the Bob Burke Joshua Tree Government Center, 63665 Twentynine Palms Highway, Joshua Tree, CA 92252.

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- O1-32 This comment essentially summarizes the primary issues raised by this commenter throughout the letter and has been addressed in preceding responses.

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LETTER O2 – Lucerne Valley Economic Development Association (Part 1) (8 page[s])

02

### **LUCERNE VALLEY ECONOMIC DEVELOPMENT ASSOCIATION (LVEDA)**

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Date: 8/14/19

### **COUNTYWIDE PLAN EIR COMMENTS**

#### **RESUBMITTAL OF OUR COUNTYWIDE PLAN EIR SCOPING COMMENTS – for a reminder of what wasn’t included in the Draft EIR.**

NOTE: We incorporate by reference the “Coalition Letter” that LVEDA signed onto.

Some of LVEDA’s recently submitted comments on the Lucerne Valley Community Plan are relevant to the Countywide Plan EIR and we request they be incorporated by reference. Countywide Plan environmental impacts are global and generic in nature and thus difficult to assess. Most comments below focus more on mitigation than on the Plan’s specific impacts – which will inherently and cumulatively increase due to more population with minimal County enforcement.

### **Aesthetics**

Maintain the natural view sheds of desert communities along roads designated “County Scenic” – and especially Hwy 247 being applied for as “State Scenic”. Refer to Caltrans all project applications along roads listed by the State as “eligible” for scenic status for analysis of impacts and intrusions adversely affecting said status.

Use zoning and development standards to reduce the potential for aesthetic disruptions.

02-1

## 2. Response to Comments

Beef up Code Enforcement's budget and staff to deal with abandoned structures, illegal dumps, etc.

### Agriculture/Forestry Resources

Continue current policy of 'no permit required' for general agricultural practices – except large-scale chicken/egg ranches – specified animal concentrations – marijuana farms, etc.

County EHS notify well drillers when they pull permits for locations in the adjudicated portion of the desert of the need to inform their clients to contact the Mojave Basin Watermaster (Mojave Water Agency) re: the requirement to obtain water rights if pump over 10 ac'/year – no matter the size of the parcel.

County adopt a 'soil amendment' ordinance requiring the sources and haulers of bio-solids/compost/green waste mulch to register with the County Dept. of Agriculture the locations and owners where said commodities are being deposited – to only be applied pursuant to Best Management Practices and agronomic applications included in the ordinance - and provided to the recipient parties.

County Dept. of Ag. work with the Mojave Desert Resource Conservation District and USDA's Natural Resource Conservation Service re: Best Management Practices for starting a new farm to avoid blowing dirt – upset neighbors – etc.

Code Enforcement monitor/respond to complaints re: blowing dirt/dust off an agriculture field or other land disturbance – with beefed up regulations in the Development Code.

County and Cal Fire, etc. actively support and perform dead tree and biomass removal – and tree thinning in overgrown forests both on private and public lands to reduce fire potential and to maintain a healthier forest and protect watersheds.

### Air Quality

Work with MDAQMD to regulate and control stationary source emissions – but oppose any further State GHG onerous requirements – especially for mineral production.

02-1  
Cont'd

## 2. Response to Comments

Enforce current Development Code stipulations re: illegal and legal land scraping – brush removal – etc. to avoid blowing dirt/dust off parcels onto another – plus

reduce PM10 and smaller particles into the ambient air stream for miles downwind (major current problem the County is not dealing with).

### Biological Resources

Implement a County-wide HCP to simplify and expedite permitting where a project could result in a ‘taking’ of a listed species.

Maintain the integrity of biological/wildlife corridors by not allowing intrusive projects within them.

No removal or disturbance of native vegetation for RE projects.

Enforce existing Codes re: illegal grading and de-brushing not associated with agriculture or legal developments.

### Cultural Resources

Cultural resources aren’t just related to historic Native American or pioneer artifacts and structures – but also community customs and cultures that need to be protected from intrusive developments that dilute their integrity and ruin community values. Each community plan needs to include lists provided by the residents of the features and elements they want preserved.

Avoid requiring cultural surveys where it is known no such resources exist.

### Geology/Soils

Important geological features need to be protected from certain developments that intrude on them and disrupt their scenic qualities.

The Plan and Dev. Code need to be updated re: what soil types can accommodate specific development types w/o creating wind-blown erosion – and which need specific mitigation measures. Soil disturbance from illegal land scraping and de-brushing – solar projects – fallowed agricultural fields - results in constant blowing dirt onto adjacent parcels and becomes ambient for long distances. PM 10 and finer particles are the most prevalent – a definite health impact and violations of both the current County Dev. Code and in some instances MDAQMD regulations.

02-1  
Cont'd

## 2. Response to Comments

This is becoming one of the primary complaints from various communities that the County needs to deal with in the Plan and Code updates. No solar plant currently in place and operating has complied with even the projects' mitigation

requirements – none of which are adequate based on the extent of the disturbance – the fine/sandy soils – and the lack of suitable soil stabilization measures. Complaints to County Code Enf. and the MDAQMD have not been adequately dealt with or resolved – even when CE staff can get to the site and witness the problem. This will probably be one of the biggest impacts from the types and extent of land-uses and population increases that the Countywide Plan will allow.

### Greenhouse Gas Emissions

The County will obviously try to do what it is supposed to via State and Fed. regs. – some of which have marginal benefit related to the local, economic cost. This is a world-wide issue and problem and the County doesn't need to get too excited about thinking it can solve the problem alone. We need to factor in the long-term reductions of greenhouse gasses due to renewable energy projects in the County and throughout the southwest – but need to account for emissions from manufacture and installation of solar panels, etc. No free lunch. Desert soils and vegetation have high rates of carbon retention – which is released when disturbed – not restored in human timeframes – preservation of which is probably one of the County's best ways to participate in said GHS reductions.

02:1  
Cont'd

### Hazards & Hazardous Materials

Years ago we started our volunteer Lucerne Valley household hazardous waste collection program. The County needs to help organize and support more such efforts in desert communities to help keep said materials out of the landfills – and of course reduce illegal dumping. County Fire (Haz. Mat. Division) does the best job it can – but needs more support.

### Hydrology/Water Quality

As politically difficult as it always is – the Plan needs to limit more population growth and certain land-uses (via zoning, etc.) to levels which can be sustained by the long-term availability of water supplies based on projected averages – with likely reduced imports and local supplies due to what experts believe to be caused

## 2. Response to Comments

by climate warming/change. And not just for the desert/mountain areas – but County wide. If their projects are approved - major new subdivisions and large water-consuming industries need to purchase water entitlements from holders of State Project Water rights in amounts equivalent to their usage – and transfer them to their local State Water Contractors for import. Current residents should not have to subsidize new development with any future water use reductions.

The County needs to resume the allowance of hauled water to new single-family residential development in rural areas with no or non-potable groundwater exists – or where the cost of a well is beyond the ability of our residents in “Economically Disadvantaged Communities” to afford. The County EHS’s internal department policy was never codified in an ordinance or the Dev. Code. Parties are working on amending state legislation dealing with hauled water.

Water quality is primarily the jurisdictions of the State Water Boards. There was never any evidence of a water quality problem from hauled water from a licensed source and hauler.

County Flood Control and EHS? need to get better management and enforcement of urban storm water that pollutes local and Mojave River aquifers – in addition to our reservoirs.

02-1  
Cont'd

### Land Use/Planning

This is obviously the core of the updated Countywide Plan – but the analysis of which will probably get shined on because it is so difficult to deal with. Not much we can say other than land-uses and zoning that do not conform to community standards, values, resource availability and all the other environmental elements of this Plan - will have a significant adverse impact. But projects inconsistent with all that will likely still be approved with overriding considerations that will probably not get contested. Just be honest about it and call it a “significant adverse impact that cannot be mitigated or compensated”.

No ‘Big Box’ stores in rural communities and any franchise store should be locally owned and operated to better conform to rural-based customs and cultures.

We have been advocating rural standards for unincorporated communities for years – a major policy in the 2007 community plans – yet we are still subject to urban requirements (ie: A left turn pocket that made a left turn in the other

## 2. Response to Comments

direction illegal – and a sidewalk to nowhere – for a Dollar Store in Lucerne Valley that we didn’t want and doesn’t comply with our 2007 C. Plan).

### Mineral Resources

The County needs to better understand that you can only mine where the minerals are – it’s the stuff we all absolutely need and we can’t lock it up or make it difficult to obtain a permit whether a SMARA project or not. We have minerals that can be efficiently and economically mined – obviously with short-term impacts – certainly need to require Best Management Practices for reclamation. Gold mines in the E. Mojave that were operated in the 70’s and 80’s have been reclaimed almost to the level of not even recognizing where they were.

County BOS needs to work with USFS and BLM to expedite mining projects on public lands – not let the Feds. derail valid projects or just stall because they don’t like them. We cannot allow major dependency on critical minerals from foreign sources.

02-1  
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### NOISE

This is a land-use issue and problem – projects that create noisy stuff next to non-noisy stuff. With all the CNEL and DBA analyses normally required – need to include not only construction related noise – but long-term project noise – and not just for industrial/commercial projects. Highway/road traffic noise needs to be better reflected in approvals of residential subdivisions – with buffering land-uses in between them.

### Population and Housing

This is also a land-use issue – providing housing for the expected population. Housing that is relatively affordable and rent control ordinances can help our current and future residents – but what is too affordable (ie: in some of our rural communities) allows the influx of undesirable demographics – which in turn require significant amounts of government services – especially law and code enforcement. And what developer wants to build apartment units knowing that rent control might be implemented?

## 2. Response to Comments

The County – mostly cities – need to come up with some level of housing for our homeless. Partnerships with the Salvation Army, churches, etc. might be the best option- they know what to do. Homeless in the Mojave River have started fires in the river’s bottom lands that have caused significant damage to riparian vegetation and listed bird species – and will continue unless resolved.

### Public Services

There will never be enough tax revenue to fund public services as much as we need or want. If there was – we would be complaining about high taxes. However law and code enforcement are the most needed services for our desert communities – both lacking and need more focus and \$. Road maintenance is probably next in line based on what we hear.

### Recreation

Not sure how this fits into a Countywide Plan – but it’s important to adequately fund County Regional Parks (Mojave Narrows needs a lot of weed work and removal of dead and down matter in the Mojave River bed) and County Service Area’s community parks. The County needs to make more effort in working with USFS and BLM to keep trails open and maintain better public access.

02-1  
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### Transportation/Traffic

What used to be SANBAG – now called ?? – needs to compensate communities like Lucerne Valley for road repairs resulting from tremendous amounts of truck traffic that hauls cement, limestone, and aggregate to within and outside the County – even the State – which because said loads are considered raw products and not a final sale – don’t qualify for Measure I road/sales tax. We produce goods for other areas that get a sales tax when the commodities are turned into a final product – but suffer the high truck volumes and road impacts – and need to get alternative funding to compensate. This is an ‘Environmental Justice’ issue – especially for a “Disadvantaged Community”.

Desert rural road standards need to be implemented by both County and Caltrans (which requires County working with Caltrans).

### Tribal Cultural Resources

## 2. Response to Comments

Tribal consultations are basic requirements – but the County needs to adopt stronger time limits for responses. Most projects have little or no effects on said resources.

### Utilities and Service Systems

The County needs to become a CCA (Community Choice Aggregate/Advocate) in order to facilitate local communities obtaining a 'community solar project' – strictly for its own use tied to its local transmission/substation systems.

County lobbyists need to engage more with the CPUC and CEC in their actions and decisions affecting our County.

County needs to work with SCE to lower the costs of power extensions – inhibiting the ability of land owners in rural areas to build a residence.

02-1  
Cont'd

## 2. Response to Comments

### O2. Lucerne Valley Economic Development Association (Part 1), dated August 14, 2019.

O2-1 As noted in the introduction, this comment letter is a resubmittal of Lucerne Valley Economic Development Association's (LVEDA) scoping comments for the Draft PEIR as originally submitted 11/20/17 and included in Draft PEIR, Appendix A. Chapter 2, *Introduction*, Table 2-1, *NOP Written Comments Summary*, addresses the Draft PEIR scoping comments received from the LVEDA. As noted in the table, the majority of the comments were requests for issues to be addressed in the CWP. Few comments related directly to recommendations regarding the scope of the Draft PEIR. As acknowledged by the commenter, the comments do not specifically comment on the Draft PEIR as publicly distributed for review.

Specific comments related to the scope of the Draft PEIR included aesthetics and noise comments. LVEDA commented that the natural viewsheds of desert communities along roads designated "County Scenic" need to be maintained through the use of zoning and development standards. Chapter 5.1, *Aesthetics*, addresses viewsheds along designated scenic highways. And per LVEDA's noise-related comment, long-term project noise, including highway/road traffic noise, is addressed in Section 5-12, *Noise*, of the Draft PEIR.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O3 – Lucerne Valley Economic Development Association (Part 2) (11 page[s])

O3

### LUCERNE VALLEY ECONOMIC DEVELOPMENT ASSOCIATION (LVEDA)

To: Linda Mawby (By Email: [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov))  
Senior Planner  
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Countywide Plan Coordinator

From: Chuck Bell, Pres. [chuckb@sisp.net](mailto:chuckb@sisp.net) 760 964 3118  
P. O. Box 193  
Lucerne Valley, Ca 92356

Date: 8/14/19

### COUNTYWIDE PLAN EIR COMMENTS

**RESUBMITTAL OF OUR 9/3/18 COMMENTS RE: 2007 PLAN TRANSITIONS TO THE NEW "PLAN".** We appreciate Jerry's responses to this and other letters we submitted. The purpose of re-sending this is to remind the County of the critical goals/policies/actions from our 2007 Lucerne Valley Community Plan that we want incorporated into the new Plan – some of which are – some not – some so generic and diluted and thus ineffective. Our 2007 Plan's environmental 'protections' have been the baseline since then. What's not incorporated into our new Plan – or not in the Countywide Policy Plan – could result in environmental consequences.

O3-1

We appreciate the inclusion of our 2007 Plan's goals/policies on the link. When we dealt with the first draft of our "Action Plan" - basically rejecting it as 'not a real plan and impossible for communities to achieve' – we and other communities were dead serious in our request to just update our 2007 Plan with a Renewable Energy section – some updates - and be done with it. Obviously it didn't happen and we spent countless hours writing very specific comments. Looks like it didn't do any good – waste of time. When we saw the link to the old plans we were hopeful that 'carryovers/transfers' from the Lucerne Valley 2007 Plan to the current draft Plan (and all the parts that constitute it) would clearly match and include the 2007 verbiage and intent. Some sort of do – some are not clear, masked in generic, non-specific jargon – some just shined on. Many of you

## 2. Response to Comments

weren't around in 2007 – but we spent countless hours working on that Plan – with pride and appreciation that most if not all what we asked for was included. Looks like we are losing most of it now – the good stuff – or so diluted we won't recognize most of it in the new Plan. And so we probably will waste more time with more comments - trying to fix something that seems to be in concrete (without a good foundation) – but we have no choice to deal with it – the good, bad and ugly. Based on what transpired since the last draft – more than likely – a major waste of time and more distrust of this process – likely led by consultants.

Most of the following comments relate to the lack of specificity of how and where our original 2007 Plan's policies/goals would be incorporated into the new Plan – whatever and wherever that really is (General Plan/Policy Plan/Action Plans/separate maps/etc. – parts of it hither and yon all over the web page). This process – while maybe in sinc with the typical 'Planning 101' college course – dilutes the very essence of 'local planning' – what real community Plans are supposed to be. If you want each community to come up with all their local wants and wishes via the "Action Plans" – good luck. We know the County can't and won't do everything we want for our communities and our Plans – and it is up to we citizens to force the issues and promote them – but at the very least – our local issues, goals and policies need to be in OUR "Community Plan" whether part of the "Action Plan" or not – so collectively we all know what we expect for the future.

O3-1  
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COMMENTS: (Our comments in BLUE CAPS. "LU" is the 2007 Plan.)

LU 1.3 Encourage new development to provide a mix of lot sizes but discourage parcel sizes less than 2.5 acres. In the event that a future development project proposes a subdivision covering 40 acres or more of lots 2.5 acres in size or less, require the project to be reviewed through a Planned Development application process. **NOT ADDRESSED IN THE TRANSITION.**

LU 1.6 Develop standards for outdoor storage to ensure compatibility with surrounding development. This can be accomplished by:

A. Prohibiting the use of truck semi-trailers as storage containers in commercial districts without appropriate screening.

## 2. Response to Comments

B. Limit the height, size and volume of outdoor storage containers by land use district

C. Require adequate screening of outdoor storage in commercial and industrial districts. Adequate screening may vary by zoning and land use type. THIS ALSO IS MEANT FOR EXISTING DEVELOPMENT REQUIRING CODE ENF. DOESN'T LOOK LIKE IT IS CARRIED OVER TO THE EXTENT THE 2007 PLAN DICTATED.

LU 1.8 Prohibit commercial Off-Highway-Vehicle tracks/facilities on private parcels less than 160 acres. Off-Highway-Vehicles tracks/facilities shall only be allowed within the RC District. NEW PLAN PHRASING IS TOO GENERIC AND DOESN'T GET TO THE POINT RE: PARCEL SIZE AND ZONING..

LU 2.3 Support the designation of Neighborhood Commercial (CN) districts on Highways 18 and 247 near major intersections commensurate with the needs of residents in the area. NOT WELL ADDRESSED IN THE TEXT – UNLES DEALT WITH ELSEWHERE?

LU 3.3 Direct future commercial development to locate within the Rural Commercial (CR) land use district, as delineated by the Land Use Policy Map at the time of adoption of this plan, between Custer Road east to Allen Way. As this Rural Commercial district reaches development capacity, proposed expansions of the Rural Commercial land use district shall be located adjacent to the current district and expanded initially south to Furst Street, and ultimately, to be extended to the north side of Clark Street. SPECIFICALLY FOCUSED IN OUR 2007 PLAN – SEEMINGLY NOT IN THE NEW PLAN. OR WHERE WILL IT BE?

LU 3.4 Support the expansion of the Regional Industrial (IR) land use district up to ½ mile wide on each side of the rail spur from Crystal Creek east to Highway 18, to create an industrial corridor along the existing rail line. Support future projects within this corridor that .....IT LOOKS LIKE THIS GETS INCORPORATED INTO THE NEW PLAN – BUT NOT CLEAR?

O3-1  
Cont'd

## 2. Response to Comments

LU 3.5 Upon completion of land exchanges with the BLM that are adjacent to industrial and mining uses, convert those new private lands to a designation of Regional Industrial (IR).

SO IS THIS STILL IN OUR PLAN - TO CHANGE ZONING TO INDUSTRIAL IF AND WHEN CONVERTED TO PRIVATE? THIS IS A SPECIFIC ACTION AND NOT CLEAR WHETHER IT IS TRANSFERRED OR NOT.

LU 3.6 Heavy, industrial-type agricultural uses should be located within the Agricultural (AG) land use district, as delineated by the Land Use Policy Map at the time of adoption of this plan, in the north/northeast portion of the community plan area where adverse impacts on residential uses, groundwater, and downwind air quality will be minimized. NOT CLEAR IF THIS IS CARRIED FORWARD AS STATED – ESPECIALLY SINCE THE NEW RLM DISTRICT THAT INCLUDES AG. DOESN'T DIFFERENTIATE BETWEEN HEAVY AG. (DAIRIES/FEED LOTS/ETC.) VS. TYPICAL AG. (FIELD AND TREE CROPS).

CI 1.4 Coordinate with SANBAG and Caltrans on planning efforts, including the High Desert Corridor Plan. The County shall support expansion of the High Desert Corridor Plan **beyond the current Apple Valley boundary**, eastward to Camp Rock Road, in order to facilitate funding for future improvements. THE TRANSITION DOESN'T REFLECT OUR ABSOLUTE MANDATE THAT THE COUNTY HELP US GET THE HDC BOUNDARY EXTENDED EASTWARDE IN ORDER TO FUND AND GET IMPROVEMENTS ON HWYS 18 and 247 TO ACCOMMODATE THE INCREASED LOCAL AND LONG-HAUL TRAFFIC CREATED BY THE HDC – THE WESTERN BOUNDARY OF WHICH CURRENTLY ENDS IN EASTERN APPLE VALLEY. INCREASED TRAFFIC WILL REQUIRE MAJOR IMPROVEMENTS TO HWYS 18 AND 247 EAST TO AND THROUGH LUCERNE VALLEY.

CI 1.5 Do the following relative to SR-18:

- A. Reclassify SR-18 within the plan area as a four-lane major highway.
- B. Work with Caltrans to plan center lane/turn pockets on SR-18, between Custer Road, or High Road, on the west to Crystal Creek Road, in order to provide improved access to the commercial corridor.
- C. Work with Caltrans to plan center lane/turn pockets on SR-247 from the current 4-way stop east to Camp Rock Road. THIS IS SPECIFIC TO LV –

Q3-1  
Cont'd

## 2. Response to Comments

ABSOLUTELY REQUIRED – AND SEEMINGLY NOT INCLUDED IN THE NEW PLAN – NOT EVEN HINTED TO IN ALL THE JARGON WHICH DOESN'T RELATE TO SPECIFIC IMPROVEMENTS.

Action Statement C3. Continue efforts to designate California State Highway 247/Old Woman Springs Road declared a Scenic Highway. NOT JUST OW SPRINGS RD. – BUT ALSO THE BARSTOW ROAD SECTION – THE TOTAL OF HWY 247.

CI 1.7 Identify Furst Street, between Custer Road and SR-18 to the east, as a future paved street. HUH? PAVING **NOT** COMPLETED. NOT ALL OF IT COUNTY R/W.

CI 1.8 Classify Clark Road as a future two-lane collector between Buena Vista on the west to SR-18 on the east. BEING OUTSIDE THE COUNTY MAINTAINED SYSTEM IS NOT THE POINT. THIS WAS FOR A SPECIFIC LONG-TERM DESIGNATION AND PROJECT TO ALLEVIATE TRAFFIC ON HWY 18 THROUGH TOWN.

O3-1  
Cont'd

Policy Map TM 1C Roadway Network | North Desert Region, Victor Valley & Barstow. The proposed roadway designations are shown for Lucerne Valley based on a traffic model analysis conducted for the Countywide Plan. THIS MAP SEEMS TO ONLY INCLUDE THE MAJOR ROUTES. IS THERE A SEPARATE ONE FOR "ROADWAYS"?

(County notes): The following list provides an update of road conditions and improvements:

- A. Foothill Road from Custer Avenue to Highway 18 – Only portions of this road are in the CMRS, still unpaved
- B. Ladera Road from Highway 18 to Rabbit Springs Road – Only a small portion in a housing development adjacent to SH 18 is paved and in the CMRS, the rest is not in the CMRS and unpaved. No right-of-way exists for this road north of SH 247 (Old Woman Springs Road)
- C. Midway Road from Highway 247 to Highway 18 – Unpaved and this portion is not in the CMRS
- D. Buena Vista Road from Highway 18 to Buenos Aires Road - Unpaved and with only intermittent portions in the CMRS

## 2. Response to Comments

E. Exeter Road from end of current pavement to Ivanhoe Road. - Unpaved and only a portion in the CMRS

F. Furst Street from Custer Avenue to Highway 18. – Unpaved, not in the CMRS, and would require substantial right-of-way acquisition. WE APPRECIATE THIS DETAILED RESPONSE TO THIS 2007 ROADS REQUEST – BUT THE SPECIFICS LOOK LIKE THEY GET LOST IN THE GENERIC TEXT. WE FULLY UNDERSTAND THAT THESE PROJECTS CAN’T BE DONE UNDER THEIR CURRENT STATUS. THE INTENT IS FOR OUR 10 YEAR PLANS TO LIST THESE PROJECTS THAT WILL BE REQUIRED FOR FUTURE GROWTH – SOME ARE NEEDED NOW. MAYBE THEY WILL BE LISTED – BUT WHERE?

CI 2.1 Use rights-of-way and easements not needed for road construction for bicycle, pedestrian and equestrian paths and require trails concurrent with road widening and improvements. THE FOCUS HERE IS MAINTAINING/SETTING-ASIDE EXISTING EASEMENTS – A SPECIFIC FUNCTION OF OUR OLD PLAN..

CI 2.2 Where feasible separate equestrian/pedestrian traffic from vehicular traffic on major roadways to protect the safety of trail users. OUR FOCUS WAS ALSO EQUESTRIAN TRAILS – WHICH NEED TO BE INCLUDED. WE ARE A RURAL COMMUNITY – NOT URBAN (AT LEAST YET). THERE IS TOO MUCH URBAN ORIENTATION (PLANNING 101) IN THIS NEW PLAN.

CI 2.3 Where safe traffic conditions permit, bicycle paths should be paved shoulders on paved County-maintained roads, with a network that provides sufficient circulation through the community. WHY NOT SPECIFY ‘PAVED SHOULDERS ON PAVED COUNTY ROADS’ AS ONE OPTION FOR BIKE PATHS? Priority shall be given to the development of a pedestrian bridge and/or widening of the SR-18 Bridge over the flood channel to facilitate safe pedestrian and bicycle crossings. THIS WAS A CRITICAL SPECIFIC PROJECT THAT NEEDS TO BE INCLUDED IN THE PLAN – AS IT WAS IN THE 2007 PLAN – NOT SOMETHING WE NEED TO PLAN ALL OVER AGAIN AND REGURGITATE VIA OUR SO-CALLED ‘ACTION’ PLAN.

Policy IU-1.1 Water supply. We require that new development be connected to a public water system or a County-approved well to ensure a clean and resilient supply of potable water, even during cases of prolonged drought. DOES THIS ONLY REFER TO DEVELOPMENT CONNECTED TO AN IE: A MUTAL WATER SYSTEM? WE ASSUME IT DOESN’T INCLUDE MORE REMOTE LOW DENSITY RESIDENTIAL DEVELOPMENT WITHIN RURAL LIVING’S 2.5 ACRES THAT CANNOT BE CONNECTED

O3-1  
Cont'd

## 2. Response to Comments

TO A CENTRALIZED WATER SYSTEM? AND WHAT CONSTITUTES 'NEW DEVELOPMENT' – NEW SUBDIVISIONS ONLY – OR ALSO A SINGLE FAMILY HOME?

Action Statement D3. Coordinate with County Flood Control to improve flood mitigation measures throughout the community and advocate for a stormwater retention basin to effectively capture stormwater runoff. **NEED TO ADD RECHARGE BASINS TO PERCOLATE STATE WATER VIA THE MORONGO PIPELINE.**

CO 1.3 Reduce disturbances to fragile desert soils as much as practicable in order to reduce fugitive dust. The County shall consider the following in the development of provisions to limit clearing.

A. Parcels of one acre or larger shall not be disturbed or cleared of native vegetation unless for the installation of building pads, driveways, landscaping, agriculture or other reasonable uses associated with the primary use of the land.

B. Fire abatement or local clean-up efforts shall be accomplished by mowing or means other than land scraping whenever possible to minimize fugitive dust and windblown sand. When de-brushing or blading is considered the most feasible alternative, additional methods shall be required for erosion control.

C. The County Office of Building and Safety may issue permits for further grading or clearance of vegetation subject to Land Use Review. **THESE ARE SPECIFIC MEASURES – SOME ALREADY IN THE EXISTING DEV. CODE THAT WE NEED IN OUR PLAN. THE 'CARRYOVER' IS TOO GENERIC TO DO ANY GOOD.**

O3-1  
Cont'd

CO 1.4 Support implementation of the Carbonate Habitat Management Strategy to the greatest extent practicable. **THIS IS A SPECIFIC FOCUS FOR LUCERNE VALLEY AND NEEDS TO BE INCLUDED IN THE NEW PLAN.**

Goal CO 2 Protect agricultural lands from the effects of non-agricultural development. **THE CARRYOVER IS NOT SPECIFIC AND TOO MUSHY.**

*The minimal parcel size in the Agriculture zone is 10 ac. Increasing the minimum lot size may be considered in the Development Code update that will follow adoption of the Countywide Plan. WILL THIS BE A PUBLIC PROCESS?*

Policy NR-3.3 Management of designated areas. We coordinate with public and nongovernmental agencies to sustainably manage and conserve land within or adjacent to locally-, state-, or federally-designated open space or resource

## 2. Response to Comments

conservation areas. NEED TO INCLUDE PROTECTING 'PUBLIC ACCESS' TO SAID LANDS THAT WE HAD IN OUR 2007 PLAN.

Policy NR-3.4 Land exchange. We coordinate with state and federal agencies to exchange publicly owned lands in order to provide additional areas for open space, recreation, and resource protection. We also request the right of first refusal on publicly owned lands made available for purchase to the public. DOES THIS MEAN THE COUNTY WANTS FIRST SHOT AT ANY SUCH PURCHASE? BLM'S PUBLIC PURPOSE ACT ALSO ALLOWS FOR TRANSFERS OF BLM PARCELS TO THE COUNTY FOR PARKS, FLOOD CONTROL, ETC. USES.

OS 1.3 Where possible, require that open space areas set aside within individual developments be contiguous to natural areas adjacent to the site. Isolated open space areas within development shall be specifically discouraged, but may be accepted if no adjacent open space areas are available. "CONTIGUOUS TO NATURAL AREAS" IS MORE SPECIFIC THAN THE CARRYOVER.

OS 1.5 The foothills of the San Bernardino Mountains are recognized as an important open space area that provides for wildlife movement and other important linkage values. Projects shall be designed to minimize impacts to wildlife movement in this area. FOCUS HERE IS ON COUNTY REQUIREMENTS FOR PROJECT DESIGN – NOT JUST ALL THE NICE WORDS ABOUT COORDINATION AND GENERIC COMPLIANCE IN THE NEW PLAN.

OS 3.2 Establish a plan for the development of a local trail system. The plan shall incorporate the following recommendations:

- A. Designate separate trails for non-motorized trail use (pedestrian, bicycle, and equestrian trails) and motorized vehicle trails (off-road vehicles).
- B. Provide trail heads that link regional trails, recreational areas, residential areas, neighborhood trail systems, schools and commercial nodes.
- C. Explore methods for providing designated routes for off-highway vehicles to reach the BLM Johnson Valley OHV recreational area within Lucerne Valley. Discourage unauthorized motorized use of the trail network by posting signage, providing barriers where appropriate and enforcing violations. THESE ARE MORE SPECIFIC THAN THE GENERIC TEXT IN THE NEW PLAN – IMPORTANT TO KEEP IN OUR NEW PLAN. NOTE: THIS IS ANOTHER EXAMPLE AMONG MANY OF THIS NEW GENERAL PLAN/POLICY PLAN/ACTION PLANS/SEPARATE MAPS/ETC. ETC. BEING

O3-1  
Cont'd

## 2. Response to Comments

HITHER AND YON ALL OVER THE PLACE – DILUTING THE VERY CONCEPT OF “LOCAL PLANNING” – WHAT REAL COMMUNITY PLANS ARE SUPPOSED TO BE.

OS 3.3 When an approved trails plan is developed require dedication of a pedestrian/bicycle/equestrian trail easement as a condition of approval for all new subdivisions of land if adjacent to the approved trail system. The trail easement shall allow unobstructed trail access and provide connections to off site trails. THIS IS SPECIFIC TO OUR AND OTHER COMMUNITIES AND AT THE VERY LEAST NEEDS TO BE IN THE DEV. CODE.

OS 3.4 Promote safe and attractive trail crossings at logical points on roads and where feasible pursue opportunities to separate equestrian, pedestrian and bicycle traffic from vehicular traffic particularly along SR-18 and SR-247. AGAIN – YOUR CARRYOVER IS FOCUSED ON PEDESTRIAN AND BIKE TRAILS – NOT ALSO EQUESTRIAN. THE POLICY PLAN HAS SOME NEAT STUFF IN IT RE: ‘RURAL COMMUNITIES AND LIFESTYLES – BUT WHEN YOU GET TO THE DETAILS – THIS THING IS MOSTLY URBAN ORIENTED.

OS 4.1 Strictly enforce Off-Road Vehicle laws. WE KNOW THE SHERIFF’S DEPT. CAN’T DEAL WITH THESE ISSUES ON AN ON-GOING BASIS – BUT THE CARRYOVER OF THIS TO THE NEW PLAN IS SO GENERIC TO BE USELESS. ENFORCEMENT NEEDS TO BE MORE INCORPORATED INTO THE NEW PLAN.

Policy LU-4.1 Context-sensitive design in the Mountain/Desert regions. We require new development to employ site and building design techniques and use building materials that reflect the natural mountain or desert environment and preserve scenic resources.

Policy LU-4.5 Community identity. We require that new development be consistent with and reinforce the physical and historical character and identity of our unincorporated communities. AFTER WE FINALLY FOUND ABOUT THE DOLLAR GENERAL STORE FILING IN LUCERNE VALLEY - RICHARD SELBY HAD TO WORK DIRECTLY WITH THE APPLICANT TO SCALE DOWN THE BUILDING SIZE AND ALTER ITS FRONTAGE DESIGN TO MAKE IT LESS OBTRUSIVE (STILL AN EYE-SORE). PLUS WITH IT WE GOT A SIDEWALK TO NOWHERE. HOW CAN WE TRUST PLANNERS TO IMPLEMENT ALL THE WONDERFUL IDEALS IN OUR NEW ‘GENERIC’ PLAN?

O3-1  
Cont'd

## 2. Response to Comments

ED 1.2 Promote the expansion of home based businesses within the plan area. This may be accomplished by the following:

- A. Explore alternative provisions for home based businesses that are compatible with the rural nature of the plan area. This may allow for relief from certain requirements in the event that the business will provide an overall benefit or needed service to the community and that the use is compatible and/or adequately buffered from adjacent uses; and
- B. Establish performance standards to minimize off-site impacts and nuisances.
- C. Reevaluate the current permit process, development code standards and permit fees applicable to home-based businesses to ensure that the process is clear, reasonable and is not cost prohibitive. THIS IS EXTREMELY IMPORTANT FOR LUCERNE VALLEY AND OUR ECONOMICS. ACCORDING TO THE CHART - 'WHERE IT WILL BE ADDRESSED' JUST MENTIONS THE DEVELOPMENT CODE AND REGULATIONS. WHY CAN'T OUR PLAN FLAT OUT SAY IT LIKE OUR 2007 PLAN DID? WE SUPPOSE YOU JUST FIGURE WE WILL COME UP WITH IT IN OUR 'ACTION PLAN' - WHICH WE ALONE CAN'T AFFECT AND CAN'T RELY ON THE COUNTY TO IMPLEMENT. JUST MORE MEANINGLESS RESPONSES.

O3-1  
Cont'd

ED 1.4 Enhance the rail spur's economic attributes by:

- A. Encouraging industrial development along the rail spur in the southern portion of the community plan area and to ship local products by rail.
- B. Promoting land exchanges from the Bureau of Land Management to private ownership along the rail corridor through mechanisms to be established in the West Mojave Plan. AGAIN - A VERY FOCUSED GOAL AND POLICY FROM OUR 2007 PLAN - LOOKS LIKE IT'S GETTING SHINED ON VIA THE GENERIC RESPONSE REPEATED TIME AND TIME AGAIN.

Focus Statement B3. Advocate for limiting industrial development to only those areas adjacent to the existing railroad tracks in southeastern Lucerne Valley. WELL AND GOOD - BUT IT DOESN'T DEAL WITH THE ORIGINAL ISSUE OF THE COUNTY PARTICIPATING AND HELPING US WITH THIS LAND EXCHANGE. THE 2007 PLAN STIPULATED THAT INDUSTRIAL ZONING WOULD BE IN EFFECT UPON TRANSFER OF SAID BLM LANDS TO PRIVATE. DOES OUR NEW 'PLAN' STIPULATE TO THAT? IT JUST LOOKS LIKE IT REFERS TO 'NODES' SOMEWHERE.

## 2. Response to Comments

### O3. Lucerne Valley Economic Development Association (Part 2), dated August 14, 2019.

O3-1 Comment acknowledged and forwarded to the appropriate decision makers.

The following draft policies are:

- 2007 LU 1.3: This is addressed in Policy LU-6.1, Residential amendments that increase density in the Desert and Mountain regions, and Policy LU-6.2, Large residential development in the Desert and Mountain regions.
- 2007 LU 1.6: This will be addressed in the Implementation Plan as it relates to updates to the Development Code.
- 2007 LU 1.8: The County felt that the draft policy would be appropriate to ensure compatibility and buffering regardless of size, and addresses appropriate siting and size in the Implementation Plan as it relates to updates to the Development Code.
- 2007 LU 2.3: The Draft Land Use Plan continues to designate a concentrated node of commercial land use at the intersection of Highway 18 and Highway 247. Policy LU-2.10, Unincorporated commercial development, provides the policy foundation for support of new commercial development.
- 2007 LU 3.3: See response to 2007 LU 2.3.
- 2007 LU 3.4: The Draft Land Use Plan continues to support industrial designations near Crystal Creek toward Highway 18.
- 2007 LU 3.5: A note was added to Action Statement B.3, Action Item #2 regarding community monitoring of land exchanges with BLM adjacent to industrial and mining zones and the community's request that private lands be designated as industrial.
- 2007 LU 3.6: This will be addressed in the Implementation Plan as it relates to updates to the Development Code.
- 2007 CI 1.4: The High Desert Corridor is being proposed by a Joint Power Authority (JPA), created as a separate entity on November 8, 2006. The purpose of the JPA is to connect Antelope Valley in Los Angeles County with Victor Valley in San Bernardino County. Any modifications to the proposed roadway location would occur through the JPA. The County Administrative Office has been involved with the proposed project and JPA.
- 2007 CI 1.5: The direction on SR-18 was incorporated into the Other Potential Actions section of the Community Action Guide (CAG).
- Action Statement C3: The County is working with the SR247 Community Committee to designate California State Highway 247 as a Scenic Highway. Caltrans has requirements that must be met for designation. Caltrans will decide if the entire highway from Yucca Valley to Barstow meets the requirements.

## 2. Response to Comments

- 2007 CI 1.7: This 2007 policy was not carried over to the CWP Policy Plan because it is an implementation action. Public Works makes decisions on paving priorities and sets annual schedules.
- 2007 CI 1.8: The traffic analysis did not indicate a need for Clark Road to be designated as a Controlled/Limited Access Collector. Portions of Clark Road along the identified stretch are outside of the County-Maintained Road System.
- Policy Map TM1C: The web maps provide a way for residents to view roadways down to the most detailed level. All levels of roadways cannot be presented on PDF maps in a legible manner.
- List of roadways and notes: The road paving priorities were incorporated into the Other Potential Actions section of the CAG, along with updated status information. These road paving priorities can be updated and prioritized in the CAG anytime in the future.
- 2007 CI 2.1: The County determined that Policy NR-3.12, Rights-of-way and easement, reflects the extent to which the County is willing to require rights-of-way and easements (along with Policy NR-3.9, Local parks, trails, and recreation, and Policy TM-4.8, Local bicycle and pedestrian networks).
- 2007 CI 2.2: Policy NR-3.9, Local parks, trails, and recreation, reflects the County's support of local communities establishing local trails.
- 2007 CI 2.3: Policy NR-3.9, Local parks, trails, and recreation reflects the County's support of local communities establishing bicycle trails and facilities. The preference for paved bicycle facilities was incorporated into the Other Potential Actions section of the CAG.
- Policy IU-1.1: The draft policy used the term "County approved well" for uses that cannot connect to a centralized water system and "public water system" for those that can. A public water system is defined in the Glossary as "A system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year, or as otherwise defined in the California Health and Safety Code. The three main types of public water systems are: community, transient-noncommunity, and nontransient, noncommunity."
- Action Statement D3: No change made because the Action Statement already states "recharge basins." As described in the CAG, when the community chooses an Action Statement to work on, they will review the statement and the Actions and determine exactly the action they want to make at that time. They may choose to specifically discuss recharge basins to percolate state water via the Morongo Pipeline with the County Flood Control District.
- 2007 LU 1.3: This will be addressed in the Implementation Plan as it relates to updates to the Development Code.

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- 2007 LU 1.4: The Carbonate Habitat Management Strategy was authorized in the early 2000s and will be addressed by the Resource Conservation Investment Strategy.
- 2007 CO 2: Policy NR-7.1, Protection of agricultural land, explicitly addresses the protection of agricultural lands from urban encroachment and other concerns.
- Development Code Update: Yes, the updates of the Development Code will be conducted through a public process.
- Policy NR-3.3: Action Statement A.3 was modified to include language related to protection of public access to open space or resource conservation areas.
- Policy NR-3.4: There are statutes and laws that dictate sales of surplus land. Noticing requirements must be followed for all land disposal.
- 2007 OS 1.3: This will be addressed in the Implementation Plan as it relates to updates to the Development Code.
- 2007 OS 1.5: Language regarding the importance and protection of the foothills was incorporated into the Other Potential Actions section of the CAG.
- 2007 OS 3.2: Language regarding the development of a local trail system was incorporated into the Other Potential Actions section of the CAG
- 2007 OS 3.3: This will be addressed in the Implementation Plan as it relates to updates to the Development Code.
- 2007 OS 3.4: Language regarding the installation of trail crossings was incorporated into the Other Potential Actions section of the CAG.
- 2007 OS 4.1: Enforcement of Off-Highway Vehicles is shared by many entities. The Sheriff's Department is responsible for most unincorporated private lands, the Code Enforcement Division for county flood control channels, and Forest Service and BLM for federal lands.
- LU 4.1 and 4.5: When the Countywide Plan is adopted, the County will use standards and guidance in the Development Code when it evaluates proposed development, but the County does not have architectural design guidelines. The County will also use the goals and policies from the Policy Plan to determine whether a proposed development would positively reinforce or negatively affect the desired community character and identity of an unincorporated community. In particular, Policy LU-4.5 directs the County to ensure that new development is consistent with the physical and historical character and identity of an unincorporated community planning area. This policy also directs the County to ensure consistency with the values and aspirations defined by each community in their Community Action Guides. To further assist the County in determining the consistency of new development with a community's character, Table LU-3 of the Policy Plan land use tables identifies key characteristics and features that new development should reinforce and/or not detract from in order to maintain and protect the identity and character of the community planning areas. Planners for

## 2. Response to Comments

new projects in a Community Planning Area will recommend the applicant review the relevant Community Action Guide and talk with the community about the project in order to develop a project that best achieves consistency with the community's character.

- 2007 ED 1.2: The County Development Code includes requirements for Home Occupations countywide (Chapter 84.12). Procedures and fees are the same for all County residents. Section 84.12.060 does specifically address home occupations in the Desert Region, allowing the Director to consider normally prohibited home occupations on a case-by-case basis.
- 2007 ED 1.4: Language regarding the enhancement of the rail spur's economic attributes was incorporated into the Other Potential Actions section of the CAG.
- Focus Statement B3: As noted in 2007 LU 3.5 above, a note was added to Action Statement B.3, Action Item #2 regarding community monitoring of land exchanges with BLM adjacent to industrial and mining zones and the community's request that private lands be designated as industrial. The County determines new or revisions to zoning designations upon proposal by an applicant during project application review or staff during plan updates. No changes to land use designations are proposed as part of the Countywide Plan.

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LETTER O4 – Defender of Wildlife and Sierra Club (13 page[s])

O4



August 15, 2019

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino Land Use Services Department  
385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415

Delivered via email to [CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov)

RE: Comments on June 2019 Draft Environmental Impact Report – San Bernardino Countywide Plan (State Clearinghouse No. 20171011033)

Dear Mr. Blum:

Thank you for the opportunity to review and comment on the June 2019 Draft Program Environmental Impact Report (PEIR) prepared for the San Bernardino Countywide Plan (Plan). The Draft PEIR is intended to provide program-level California Environmental Quality Act (CEQA) review of the short- and long-term effects of the proposed Countywide Plan on the environment.

These comments are submitted on behalf of Defenders of Wildlife and Sierra Club (Conservation Groups). Defenders of Wildlife is a non-profit environmental organization with 279,000 supporters in California, including 6,500 supporters in San Bernardino County. Defenders is dedicated to protecting all wild animals and plants in their natural communities. To that end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction. Sierra Club is a national nonprofit organization of approximately 1.3 million members and supporters (approximately 250,00 of whom live in California) dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment and to using all lawful means to carry out these objectives. The Sierra Club's concerns encompass protecting our public lands, wildlife, air and water while at the same time rapidly increasing our use

O4-1

## 2. Response to Comments

of renewable energy to reduce global warming.

San Bernardino County is home to a wealth of special status species, habitats, and ecosystems. These species and ecosystems continue to face an array of impacts and stresses; including habitat fragmentation, pollution, invasive species, and climate change, and are vulnerable to further impacts from poorly planned or implemented policies and development.

O4-1  
Cont'd

Defenders supports “complete county” planning that is science based and values the protection of natural resources as part of community and economic vitality. The ideals set forth in the previously established (2013) San Bernardino Countywide Vision can only be achieved with thoughtful, informed decision making. The Draft PEIR’s scope, identification and analysis of impacts, and the consideration of viable, practicable alternatives are essential to meeting the County’s informed vision and associated goals.

### COMMENTS

#### Policy Analysis

The Draft PEIR as stated is intended to inform the public and decision-makers of potential project impacts, identify options to avoid and reduce environmental impacts, look at alternative plans that may avoid or minimize impacts, and encourage inter-agency coordination. The draft PEIR for the Countywide Plan will be prepared in accordance with CEQA Statutes and Guidelines, and it will focus on the primary effects than can be expected to occur after the adoption of the Countywide Plan. Defenders understand that because of this, the PEIR will not be as detailed as an EIR commonly prepared for a specific development or construction project.

Per the Draft PEIR, the County of San Bernardino (SBC) has:

O4-2

“a complex matrix of land uses, land ownerships, and land use designations that influence resource conservation across the landscape. The County proposes to establish goals, together with implementation policies, related to the protection of special-status biological resources and cooperation with federal, state, and local resource agencies. The proposed policies related to the conservation of biological resources are in the natural resources element and the land use element.”

Those policies are:

**Policy NR-5.1 Coordinated habitat planning.** We [SBC] participate in landscape-scale habitat conservation planning and coordination with existing or proposed Habitat Conservation and Natural Resource Management Plans for private and public lands to increase certainty for both the conservation of species, habitats, wildlife corridors, and other important biological resources and functions and for land development and infrastructure permitting.

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**Policy NR-5.2 Capacity for resource protection and management.** We coordinate with public and nongovernmental agencies to seek funding and other resources to protect, restore, and maintain open space, habitat, and wildlife corridors for threatened, endangered, and other sensitive species.

**Policy NR-5.3 Multiple-resource benefits.** We prioritize conservation actions that demonstrate multiple resource preservation benefits, such as biology, climate change adaptation and resiliency, hydrology, cultural, scenic, and community character.

**Policy NR-5.4 Off-base recovery efforts.** We coordinate with military installations to facilitate off-base recovery of threatened and endangered species and landscape-scale conservation.

**Policy NR-5.5 Mitigation and future responsibilities.** We require that new development satisfy habitat conservation responsibilities without shifting conservation responsibilities onto military property.

**Policy NR-5.6 Mitigation banking.** We support the proactive assemblage of lands to protect biological resources and facilitate development through private or public mitigation banking. We require public and private conservation lands or mitigation banks to ensure that easement and fee title agreements provide funding methods sufficient to manage the land in perpetuity.

**Policy NR-5.7 Development review, entitlement, and mitigation.** We comply with state and federal regulations regarding protected species of animals and vegetation through the development review, entitlement, and environmental clearance processes.

**Policy NR-5.8 Invasive species.** We require the use of non-invasive plant species with new development and encourage the management of existing invasive plant species that degrade ecological function.

**Policy LU-2.3 Compatibility with natural environment.** We require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.

**Policy LU-2.6 Coordination with adjacent entities.** We require that new and amended development projects notify and coordinate with adjacent local, state, and federal entities to maximize land use compatibility, inform future planning and implementation, and realize mutually beneficial outcomes.

The County has summarized the anticipated impacts of its proposed Countywide Plan, per draft PEIR Table 5.4-13 (Summary of Potential Resources Impacts by Land Use Change), as follows:

- **Positive impacts to Open Space and Resource/Land Management** relative to existing **Agriculture/Ranches, Commercial and Services, Education, Industrial, Mobile Homes and Trailer Parks, Rural Residential, Single Family and Multi-Family Residential,** and **Under Construction** land uses are expected;

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O4-2  
Cont'd

O4-3

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- **No impacts to Resource/Land Management** on existing **Military Installations** are expected;
- **No impacts** to existing **Open Space and Recreation** land use on County lands relative to **Open Space** and **Resource/Land Management** are expected;
- **No impacts** to existing **Open Space** and **positive impact to Resource/Land Management** to existing **Transportation, Communications, and Utilities** land uses are expected; and
- **No impacts to Open Space or Resource/Land Management in existing Undeveloped County land use, Public/Quasi-Public Facilities or to existing Water use** are expected.

O4-3  
Cont'd

A review of the draft PEIR does not reveal the analysis or basis for the claims that “**Positive impacts to Open Space and Resource/Land Management**” are expected, and concurrently, that “**No impacts to Open Space or Resource/Land Management in existing Undeveloped County land use ... or to existing Water use**” are expected as a result of the Countywide Plan.

Further, the definition at Table 5.4-18 for “**positive land use changes**” is given at the \*\*\* footnote, but it’s unclear what this definition means. The lack of clarity of these statements results in a failure of the fundamental purpose of a CEQA document – to document potential impacts, to enable public review of the Draft PEIR to evaluate its merits and shortfalls, and to support informed decision-making.

The Draft PEIR additionally states that buildout of the Countywide Plan in the Desert Region:

“would result in development occurring within areas designated by the USFWS [United States Fish and Wildlife Service] as Critical Habitat for listed species. Whether or not these areas of buildout would result in adverse modification to Critical Habitat would depend on presence/absence of species constituent elements within specific buildout areas and would be analyzed on a project-specific level as identified in CWP [Countywide Plan] policy NR-5.7 Development Review, Entitlement, and Mitigation.”

O4-4

Yet, the Draft PEIR also ambiguously states:

“Some areas within designated USFWS Critical Habitat are within proposed conserved land uses such as Resource Land Management where they are not currently designated for preservation or within land uses with lower impacts than under existing conditions. Table 5.4-18 summarizes the acreage of Critical Habitat in the Desert Region that falls within development areas and within positive land use changes.”

## 2. Response to Comments

### Policy Analysis Recommendations:

Each of the above cited definitions, table data and summarized Draft PEIR statements need to be unambiguous, consistent with each other as well as fully, clearly and concisely explained in the final PEIR to provide sufficient support for informed decision-making.

The Countywide Plan should be used in individual community planning endeavors and should serve as the over-arching umbrella providing the fundamental direction for long term conservation planning, briefly detailing overall objectives, explaining benefits and providing assurance to developers and the communities with policy for other planning endeavors. This would facilitate land use permitting and promoting opportunities for application of regional mitigation fulfillment needs.

O4-5

We suggest that the sentence “*Some areas ... are within proposed conserved land uses such as Resource Land Management ... where they are not currently designated for preservation?*” is also internally inconsistent in this draft document. This inconsistency should be resolved in the final environmental analysis. All Resource Land Management acreage which has been designated as Critical Habitat where associated acreage is not designated for “proposed conserved land uses,” should also be clearly identified to facilitate understanding of this proposed Plan.

The Draft PEIR would benefit from a clear, concise mapping effort depicting where Critical Habitat is within “Proposed Conserved Land Uses” acreage and by adopting a recovery plan implementation approach within such areas for long term conservation consideration in individual County communities.

We specifically note that not all Resource Land Management acreage is designated for “Proposed Conserved Land Uses,” although this approach would significantly improve the current level of countywide natural resource conservation. However, this is not currently the situation regarding the consideration of Resource Land Management acreage in County permitting endeavors.

### Biological Resources

Overall the affected biological resources which occur in the planning area and associated regulatory mechanisms are identified and discussed appropriately in the Draft PEIR, but this information does not appear to have been integrated in any substantial way into proposed Countywide Plan actions. Further, the analysis of potential impacts to biological resources as a result of certain Countywide Plan action implementation is insufficient. The Draft PEIR also fails to include a sufficient description of how this planning effort dovetails with the ongoing SBC Regional Conservation Investment Strategy (RCIS) planning effort underway, including an appropriate description of planning components that will enhance long term conservation and open space planning for County communities.

O4-6

We do note that Draft PEIR Figure 5.4-5 and Table 5.4-9 (*Special Status Vegetation Communities in the Desert*) identify **Waterways** as a community or component type and the associated mapping

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identifies only open water (e.g. lakes, ponds, etc.) and certain riverine segments of waterways. Most definitions of waterways recognize state streambeds in their entirety, particularly in the desert where there are numerous intermittent and/or ephemeral streams/washes which have previously been mapped and are classified as Waters of the State and subject to Fish and Game Code Regulation and potentially the Clean Water Act.

O4-6  
Cont'd

### **Biological Resources Recommendations:**

Open space **Buffers** and **Wildlife Corridors** under County jurisdiction should be described more fully, as summarized below and should form part of the fundamental Countywide Plan planning base, in addition to those potential open space lands that are situated adjacent to County communities.

Similarly, **Waterways** should be discussed as state streambeds in their entirety. Such lands often connect and benefit multiple adjoining communities and offer significant opportunities for community involvement, investment and benefit. These lands also form a wildlife linkage network invaluable in addressing long-term conservation of at-risk species, climate change adaptation/resilience relative to wildlife conservation. Use of these lands in Countywide planning as a fundamental planning base may also serve to avoid adverse Countywide Plan action impacts to the wildlife and plant communities protected in these areas.

O4-7

The biological resource section narrative of the Draft PEIR could easily be modified to incorporate a discussion of ongoing **SBC RCIS planning with emphases on the Valley and Desert Sub-regions within the Countywide Plan itself**, connected by three roughly parallel swaths through the Cajon Wash and Pass as outlined in this draft PEIR: Cajon Wash, Lytle Creek, and the Etiwanda Fan.

Defenders believes strongly that a greater emphasis should be placed on integrating the RCIS Program into the Countywide Plan. The PEIR should include a description of the mutual open space and long-term conservation benefits that the RCIS planning brings to the Countywide Plan planning endeavor.

Similar to open space buffers and wildlife linkage corridors, there is substantial value to depicting all stream courses as waterways in their entirety, particularly since the County has proposed using some of its jurisdictional waterway areas (Department of Public Works, Flood Control) as mitigation for future projects (and these jurisdictional areas should similarly be mapped). These linear streambeds connect and benefit multiple County communities and actions which occur within them cumulatively affect overall regional water quality.

O4-8

A concise discussion of waterway management in the context of Countywide planning offers significant opportunities for community involvement, investment and benefit. These lands also form a wildlife linkage network invaluable in addressing long-term conservation of at-risk species, climate change adaptation/resilience relative to wildlife conservation. A consideration of these waterways in their entirety would serve to avoid adverse Countywide Plan action impacts to the water, the wildlife

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<p>habitat linkage/travel ways these streambeds provide.</p>	<p>O4-8 Cont'd</p>
<p>The mapping/table nomenclature discussed in the Draft PEIR should be corrected to depict the entirety of previously recognized state streambeds within the planning area and how the Countywide Plan may affect them along their entire lengths. Alternatively, the Draft PEIR could specifically identify that included maps are incomplete and do not detail all entire stream courses and open water areas which occur within the planning area.</p>	<p>O4-9</p>
<p>Draft PEIR Table 5.4-12 <i>Open Space Overlay Features in the Desert Region within County Jurisdiction</i> also has errors and omissions that must be corrected. The table incorrectly identifies a Joshua Tree Monument (which is now a National Park) <b>Buffer</b>. In addition, the table identifies seven county-recognized <b>Wildlife Corridors</b>, including the Mojave River, Rattlesnake Canyon, Little Horsethief Canyon, Pipes Canyon and Deep Creek that are missing important information regarding significant public land acreages, known conflicts/impacts, and notable listed/special status species. It would improve the value of the Draft PEIR to the user if the document included site-specific information summarized below.</p>	
<p><b>Mojave River.</b> Issues of water conveyance, annual/periodic flood control, land &amp; renewable energy development, private lands-public lands-U.S. Army mitigation lands, Army Corps of Engineers, National Park (Mojave National Preserve) interface, homeless dwelling issues, recreational off-road vehicle use, invasive plants, wildland wildfire. Rare species/communities include Arroyo toad, Least Bell's vireo, Southwestern willow flycatcher (critical habitat), Swainson's hawk, Agassiz's desert tortoise, Mojave tui chub, Mojave fringed-toed lizard, Victorville shoulderband snail and nesting/migrating migratory birds.</p>	
<p><b>Rattlesnake Canyon.</b> Issues of water conveyance, annual/periodic flood control, land &amp; renewable energy development, private lands-public lands interface, livestock grazing, recreational off-road vehicle use, invasive plants, wildland wildfire. Rare species/communities include Least Bell's vireo, Southwestern willow flycatcher, and Agassiz's desert tortoise.</p>	<p>O4-10</p>
<p><b>Little Horsethief Canyon.</b> Issues of water conveyance, land (housing) &amp; renewable energy development, private lands-public lands-national forest-California State Parks (Silverwood Lake) interface, homeless dwellings, recreational off-road vehicle use, invasive plants, and wildland wildfire. Rare species/communities include Arroyo toad (critical habitat), Least Bell's vireo, Southwestern willow flycatcher, and Agassiz's desert tortoise.</p>	
<p><b>Pipes Canyon.</b> Issues of recreational off-road vehicle use, invasive plants, and wildland wildfire. Rare species/communities include Giant Joshua Tree Unusual Plant Assemblage, Agassiz's desert tortoise and nesting migratory/resident birds.</p>	
<p><b>Deep Creek.</b> Issues of recreational off-road vehicle use, hot spring access, graffiti, invasive plants, and wildland wildfire. Rare species/communities include Arroyo toad, Least Bell's vireo, Southwestern willow flycatcher, Wild &amp; Scenic River Segment as of 2019 Dingell Recreation and Conservation Act.</p>	

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Defenders also recommends that these seven county wildlife corridors should be depicted on a map. In addition, Defenders recommends that the PEIR describes more fully the components and tenets of the DRECP relative to long term conservation of special status wildlife/plants in these corridors, particularly relative to where Areas of Critical Environmental Concern (ACECs) designated in the DRECP dovetail with these County-jurisdictional Wildlife Corridors.

Finally, the PEIR should correct the following minor errors:

Figure 5.4-6. Subject Bonytail chub – misspelled

Page 5.4-35. Subject Amargosa River – misspelled

O4-10  
Cont'd

### Land Use and Planning

#### Desert Renewable Energy Conservation Plan

In 2016 the Bureau of Land Management (BLM) adopted a Land Use Plan Amendment (LUPA) to the California Desert Conservation Area (CDCA) Plan and Bishop and Bakersfield Resource Management Plans (RMPs) as part of the Desert Renewable Energy Conservation Plan (DRECP).

The Draft PEIR incorrectly identifies the DRECP as an HMP on pages 4-5 and 5.10-5. While the DRECP was developed as an interagency land use plan by the BLM, the USFWS, the California Energy Commission, and the California Department of Fish and Wildlife (CDFW), the final adopted plan was not an HCP as defined by the Endangered Species Act.

O4-11

The LUPA is a set of decisions that establishes management direction for BLM-administered public land through amendments to the three cited land use plans.<sup>1</sup> The DRECP Plan Area includes an estimated 11,982,000 acres (18,721.9 square miles) - a majority of San Bernardino County acreage. Of this total, approximately 83% (9,907,000 acres) is under federal jurisdiction.

The BLM administers more than six million acres of public lands, the Department of Defense (DOD) two million+ acres of military installation acreage, and the National Park Service, more than 1.7 million acres of national park and preserve lands.

Remaining federal lands are managed by the USFWS and the U.S. Forest Service. Lands under state jurisdiction total approximately 258,000 acres, with the California State Lands Commission holding jurisdiction over approximately 219,000 acres. Tribal lands account for approximately 63,000 acres

<sup>1</sup> Bureau of Land Management (BLM). 2016. Desert Renewable Energy Conservation Plan Proposed Land Use Plan Amendment and Final Environmental Impact Statement. BLM/CA/PL-2016/03+1793+8321. Prepared in partnership with the United States Fish and Wildlife Service, California Energy Commission, and California Department of Fish and Wildlife.

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of the DRECP area in San Bernardino County.<sup>2</sup>

The interagency goal of the DRECP is to provide a streamlined process for development of utility-scale renewable energy generation and transmission projects, consistent with federal and state renewable energy targets and policies; while simultaneously providing for the long-term conservation and management of Special Status Species and regional vegetation types, as well as other physical, cultural, scenic and social resources within the DRECP Plan Area. Durable regulatory mechanisms, as outlined in the DRECP, have been adopted to achieve this goal.

While the BLM's LUPA only applies to BLM-administered public lands, this federal agency maintains that landscape-level goals and objectives can best be achieved when land use plans and permitting are implemented across ownership.<sup>3</sup> This is particularly relevant when addressing the management of long-term conservation acreage and wildlife linkage corridors. The BLM encourages local governments to coordinate their planning efforts, such as the Countywide Plan, with this federal agency to better achieve the previously adopted DRECP LUPA goals and objectives.

On page 5.10-15 the Draft PEIR states:

“Although unincorporated areas administered and/or controlled by state, federal, and tribal governments are generally outside of the County’s land use authority, the two-map system will be applied to these areas to convey the long-term land use plans of said entities and provide complete coverage of the unincorporated lands. The land use categories and zoning districts would also directly govern land use if the state, federal, or tribal governments relinquished control over any of these lands in the future.”

On page 5.10-16 the Draft PEIR states “*the proposed Countywide Plan would be consistent with area- and region-wide plans adopted to protect the environment.*”

**This statement cannot be substantiated in the draft PEIR.**

The Draft PEIR does not address the long-term land use plans provided per the DRECP and West Mojave (WEMO) Plan amendments to the California Desert Conservation Area Plan; nor recent legislation and planning adopted for long term conservation (e.g., 2017 Mojave Trails and Sand to Snow National Monuments, 2019 John D. Dingell, Jr. Conservation, Management, and Recreation Act, etc.). Nor does it clearly provide any information to decisionmakers and stakeholders on the consistency between the DRECP land use plan overlain or adjacent to the Countywide Plan. In

<sup>2</sup> BLM. 2015. Desert Renewable Energy Conservation Plan Proposed Land Use Plan Amendment and Final Environmental Impact Statement. BLM/CA/PL-2016/03+1793+8321. Prepared in partnership with the United States Fish and Wildlife Service, California Energy Commission, and California Department of Fish and Wildlife. pg. III.11-12.

<sup>3</sup> BLM. 2016. Desert Renewable Energy Conservation Plan Proposed Land Use Plan Amendment and Final Environmental Impact Statement. BLM/CA/PL-2016/03+1793+8321. Prepared in partnership with the United States Fish and Wildlife Service, California Energy Commission, and California Department of Fish and Wildlife.

O4-11  
Cont'd

O4-12

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particular, the Draft PEIR fails to include any information regarding the consistency between the DRECP land use plan and the Countywide plan with respect to areas designated as critical habitat and acreage claimed as county-jurisdiction wildlife linkage corridors. The lack of consistency analysis results in a failure of the Draft PEIR to substantiate whether there is consistency with Policies LU-2.2, and LU 2.6. In addition, this lack of analysis results in no reasonable basis upon which the county can make a determination of a “less than significant” impact for conflicts resulting from Countywide Plan implementation and applicable plans adopted for the purposes of avoiding or mitigating environmental effect. (Impact 5.10-2).

O4-12  
Cont'd

### **DRECP Recommendations:**

The final PEIR must clarify that the DRECP is a federal land management plan applicable to three federal land use plans, but it is not an HCP which addresses private or county lands.

To effectively substantiate the statement, “*the proposed Countywide Plan would be consistent with area- and region-wide plans adopted to protect the environment*” the Final PEIR must at least briefly address the long-term land use planning provided per the DRECP and West Mojave (WEMO) Plan amendments to the California Desert Conservation Area (CDCA) Management Plan. It should also include a discussion of recent state and federal legislation, as well as planning, adopted for long term conservation within County-jurisdiction lands and how this relates to adjacent jurisdictions (e.g., 2017 Mojave Trails and Sand to Snow National Monuments, 2019 John D. Dingell, Jr. Conservation, Management, and Recreation Act, etc.).

O4-13

How the Countywide Plan would specifically be consistent with region-wide plans such as Habitat Conservation Plans (HCPs), Habitat Management Plans (HMPs), conservation easement lands and mitigation land trust acreage, should also be briefly discussed in the Final PEIR.

The final PEIR should also discuss the 2016 DRECP plan adopted by the BLM identifies several ACECs on BLM-administered public lands in the Countywide Plan planning area which are situated immediately adjacent to County communities and/or County-jurisdictional Wildlife Corridors. These special area designations were based largely on at-risk habitat, critical habitat designated for federally-listed threatened and endangered species and recovery plans for involved listed species. Use of existing federal planning information for these ACECs and adopted recovery plan implementation in a Final PEIR document discussion is recommended to substantiate the County’s Draft PEIR statement that it “*would be consistent with area- and region-wide plans adopted to protect the environment.*”

### **Military Land Use Compatibility**

Policy LU-5.1 of the Draft Countywide Plan PEIR states:

“Military land use compatibility. We coordinate with military stakeholders to ensure compatible land uses in areas where military operations on or off installations could affect

O4-14

## 2. Response to Comments

public health and safety, or where civilian activities could have an impact on current or future military operations. We will coordinate with military stakeholders to resolve existing land use conflicts and protect public safety in the Military Influence Overlay.”

The Draft PEIR could benefit from an analysis of land use zoning and designations, as well as the compatibility of land uses on private land within San Bernardino County on lands adjacent to military installations, as identified in the R-2508 Joint Land Use Study.<sup>4</sup> Considerable military installation buffer land could be zoned to better promote recovery of listed species as well as effective military training and installation management.

O4-14  
Cont'd

A substantial number of adverse uses occur on private land adjacent to military installations within San Bernardino County, as identified in the R-2508 Joint Land Use Study (JLUS). Mr. Dave Dawson, Senior Associate Planner, County of San Bernardino, served on the Technical Committee which played an active and important role in the development of the R-2508 JLUS. Compatibility of uses of private land include addressing military installation encroachment issues are of particular concern because they threaten the mission of DOD installations; and San Bernardino County receives substantial economic benefits from military training activities.

The Final PEIR should address the issue of the conservation of habitat surrounding DOD installations that support the threatened Agassiz's desert tortoise and Mohave ground squirrel. Officials at the Fort Irwin National Training Center, as well as other DOD installations in the County, view conservation of listed species as a key element in sustaining DOD missions and essential to preventing additional future restrictions on military training.

### **Military Land Use Compatibility Recommendations:**

The Final PEIR must include the following:

- Identify private lands for acquisition that are critical to maintaining the missions at the China Lake Naval Air Weapons Station and the Fort Irwin National Training Center.
- Ensure that private lands adjacent to U.S. Army lands acquired to mitigate impacts associated with the expansion of the Fort Irwin National Training Center are zoned for uses that do not adversely impact, directly or indirectly, the habitats on the U.S. Army lands that support the desert tortoise and Mohave ground squirrel.
- Include development restrictions in land use zoning that protect dark sky conditions.
- Include development restrictions in land use zoning that protect groundwater basins from overdraft.
- Include development restrictions in land use zoning that protects wildlife corridors and ensures they will remain functional in perpetuity.

O4-15

<sup>4</sup> California Governor's Office of Planning and Research. 2008. R-2508 Joint Land Use Study. Sacramento, California. [https://www.kerncounty.com/planning/pdfs/final\\_r2508\\_2main\\_doc.pdf](https://www.kerncounty.com/planning/pdfs/final_r2508_2main_doc.pdf).

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Additionally, page 5.19-25 (Section 5.10.6) should refer to Chapter 10, not 11.

O4-15  
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### Transportation and Greenhouse Gas

#### Vehicle Miles Traveled

The Draft PEIR's transportation assessment and resulting impacts analysis are deficient in several ways. Although the DEIR acknowledges that most areas of the County experience high proportions of residents (average 53%) who commute outside the County for work, the Countywide Plan policies do little to address this situation which is expected to worsen especially in the North Desert region. (Transportation Impact Analysis Appendix 2C pdf page 53)

Appendix 2C of the Draft PEIR lists several feasible mitigations to ameliorate this situation, such as offering more local employment, alternative transportation modes, incentive programs for same, increased non-residential development near housing, and planning transit-oriented development. (Transportation Impact Analysis Appendix 2C p. L-1013-1014)<sup>5</sup> However, instead of employing all feasible mitigation, the Draft PEIR simply and impermissibly declares significant unavoidable transportation-related impacts to air quality, GHG and transportation Vehicle Miles Traveled (VMT).

In the latter case, it is important to note that the Draft PEIR chose an extraordinarily low bar of 4% reduction of VMT for its threshold of significance, although it acknowledges that the Governor's Office of Planning and Research recommends a reduction of 15% of VMT as a generally feasible threshold of significance. Yet despite this, the County fails to adopt feasible measures to meet even its chosen low bar for reducing VMT.

O4-16

#### High Desert Corridor

According to Metro, the Los Angeles transportation agency, "The High Desert Corridor (HDC) will accommodate an expected three to six-fold increase in traffic between the Antelope and Victor Valleys."<sup>6</sup> And the PEIR consultant noted that "Increases in goods movement in the County will result in higher truck volumes, even when taking into account future facilities such as the High Desert Corridor and rail into account." (Transportation Impact Analysis Appendix 2C p. L-1012)

O4-17

<sup>5</sup> It should be noted that the warehousing espoused by the Countywide Plan increases pollution from heavy-emitter diesel trucking; moreover, it does not generate high employment and is being increasingly automated.

<https://westernacher-consulting.com/wp-content/uploads/2017/11/Whitepaper-Trend-to-Automation-FINAL-s.pdf>

<sup>6</sup> [http://media.metro.net/projects\\_studies/30-10\\_highway/images/high\\_desert\\_corridor\\_project.pdf](http://media.metro.net/projects_studies/30-10_highway/images/high_desert_corridor_project.pdf)

## 2. Response to Comments

### Transportation and Greenhouse Gas Recommendations

In order to reduce significant impacts to air quality, GHG and VMT, the Countywide Plan needs to revisit its consultant's recommendations and adopt all feasible policies to reduce VMT. Regarding the HDC, at a minimum, the Draft PEIR should analyze the feasibility of constructing the rail transit component of the HDC versus the HDC-proposed road widening components. This analysis is necessary in order to quantify whether indeed the rail portion of the HDC will likely be realized. Without a rail component, there will be vastly increased vehicular emissions that have not been analyzed in the Draft PEIR. These increased emissions would stem both from residential growth promoted under the Countywide Plan as well as from the development of 60 million square feet of warehousing in the North Desert region (as well as many millions of square feet of warehousing in the pipeline for the Valley region) forecasted by SCAG and acknowledged in the Draft PEIR appendices. (Transportation Impact Analysis Appendix 2C p. I-1011-1012)

O4-17  
Cont'd

### Conclusion

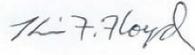
Thank you for the opportunity to review the June 2019 Draft Program Environmental Impact Report (PEIR) prepared for the San Bernardino Countywide Plan. We look forward to reviewing a revised, Final PEIR. Please contact myself at the contact number/address listed on our letterhead, or Defender's California Desert Representative Tom Egan at (760) 221-7531, [tegan@defenders.org](mailto:tegan@defenders.org) or Defenders' County Planning Consultant Kate Kelly at (530) 902-1615. [kate@kgconsulting.net](mailto:kate@kgconsulting.net) with any questions or for additional information.

O4-18

Sincerely,



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### O4. Defender of Wildlife and Sierra Club, dated August 15, 2019.

- O4-1 Comment acknowledged.
- O4-2 This comment restates information provided in the Draft PEIR and does not raise an environmental issue within the meaning of the California Environmental Quality Act (CEQA). The comment is noted for the record and no response is required.
- O4-3 This comment restates information provided in the Draft PEIR Table 5.4-13, *Summary of Potential Resources Impacts by Land Use Change*, and states the PEIR does not reveal the analysis or basis for the claims that “Positive impacts to Open Space and Resource/Land Management” are expected, and that “No impacts to Open Space or Resource/Land Management in existing Undeveloped County land use...or to existing Water use” are expected. The comment further states the definition of “positive land use changes” is unclear, and lack of clarity results in failure of fundamental purpose of a CEQA document.

The PEIR analyzes potential impacts as a result of changes from the current General Plan to the proposed Countywide Plan. Page 5.4-41 and Table 5.4-13 of the PEIR provide the methods by which potential impacts to biological resources were assessed. As described on page 5.4-41 of the PEIR,

... proposed land use changes that would result in development in previously conserved areas (e.g., existing open space to proposed low density residential) or would result in higher density development (e.g., existing rural residential to proposed commercial) had the potential to impact special-status biological resources. Changes in the opposite direction—from more to less dense or from developed to open space—would have a positive impact.

Therefore, where land uses are currently shown as developed (agriculture/ranches, commercial, residential, under construction, etc.) and are proposed in the CWP to be in Open Space or Resource/Land Management, there would be a positive result to biological resources because potential habitat has changed from developable to conserved. As the PEIR describes, Table 5.4-13 gives an overview of where CWP-proposed land uses would be more or less intensive than existing land uses as a way of summarizing potential impacts to biological resources.

The definition for positive land use changes at the footnote of Table 5.4-18 is a summary of the information provided on page 5.4-41 and Table 5.4-13.

Therefore, the Draft PEIR provides a clear description of the methods for analysis to biological resources and provides necessary information to support informed decision-making.

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- O4-4 This comment provides excerpts from the Draft PEIR regarding buildout of the CWP within designated USFWS Critical Habitat in the Desert Region.

This comment restates information provided within the Draft PEIR and does not raise an environmental issue within the meaning of the California Environmental Quality Act (CEQA). The comment is noted for the record and no response is required.

- O4-5 This comment states that the sentence “Some areas...are within proposed conserved land uses such as Resource Land Management...where they are not currently designated for preservation” in the Draft PEIR is internally inconsistent. The comment further states all Resource Land Management acreage which has been designated as Critical Habitat where associated acreage is not designated for “proposed conserved land uses,” should also be identified to facilitate understanding of the CWP. This comment concludes that the DPEIR would benefit from clear, concise mapping effort depicting where Critical Habitat is within “Proposed Conserved Land Uses” and by adopting a recovery plan implementation approach within such areas for long term conservation consideration in individual County communities.

The statement quoted at the beginning of this response was intended to clarify how the proposed CWP land uses would potentially impact designated Critical Habitat. “Positive Land Use Changes” identified in Table 5.4-18 would occur where designated Critical Habitat is (a) currently not protected under its existing land use designations, but would be in a conserved land use (e.g., Resource Land Management) under the CWP; or (b) currently in a more intense land use designation than under the proposed CWP.

The comment states that the PEIR should include a clear mapping effort depicting where Critical Habitat is within “Proposed Conserved Land Uses.” Table 5.4-18 provides information regarding Critical Habitat that would be impacted versus conserved.

- O4-6 This comment states the PEIR does not appear to have been integrated in any substantial way into proposed CWP actions, and the analysis of potential impacts to biological resource is insufficient. The PEIR also fails to include sufficient description of how planning effort dovetails with the ongoing SBC Regional Conservation Investment Strategy (RCIS) effort, including an appropriate description of planning components that will enhance long-term conservation and open space planning for county communities. Additionally, PEIR Figure 5.4-5 and Table 5.4-9, *Special Status Vegetation Communities in the Desert*, identify “Waterways” as a community but the associated mapping identifies only open water and certain riverine segments of waterways. Most definitions of waterways recognize state streambeds in their entirety, particularly in the desert where there are numerous intermittent and/or ephemeral streams/washes that have been mapped and are classified Waters of the State, subject to Fish and Game Code Regulation and potentially the Clean Water Act.

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As stated in the Intended Uses of the EIR (PEIR Section 3.4), the PEIR “is a Program EIR that examines the potential environmental impacts of the proposed Countywide Plan.” As stated in the methodology (Section 5.4.4.1) of the Biological Resource section,

... programmatic impacts are discussed in broad, qualitative terms of habitat types that could be impacted due to the buildout of the CWP. This assessment does not satisfy the need for project-level CEQA analysis for individual projects. Individual projects under the proposed CWP will require project-level analysis at the time these projects are proposed based on the details of the projects and the existing conditions at the time such projects are pursued. Future projects that may result in significant impacts to biological resources will require identification of project-specific mitigation measures at that time consistent with the CWP, the County Development Code, appropriate local HCPs, and federal and state laws, policies, and regulations as applicable.

In PEIR Section 5.10, *Land Use and Planning*, Impact 5.10-3 describes that conservation planning efforts have been initiated in the County but not formally adopted, including a description of the SANBAG Countywide Habitat Preservation/Conservation Framework Study (Phase 1) developed in 2015, and that the second phase of that study is to develop a Regional Conservation Investment Strategy (RCIS). The RCIS planning process is ongoing and it would be speculative at this time to include additional information in the PEIR about how the RCIS planning effort will dovetail with the CWP.

As listed in PEIR Appendix D, Table 4, the Waterway community in the Desert Region includes more than just open water and riverine segments. Table 4 lists “Waterways” as consisting of intermittent stream channels, Madrean warm semi-desert wash woodland/scrub, open water, riparian vegetation, and wetlands. Furthermore, the Regulatory Requirements (PEIR Section 5.4.3.1) of the biological resources analysis describes that the proposed CWP would be subject to and implemented in consistence with existing laws and regulations, which would provide for biological resources protections. With regard to state streambeds, existing regulatory requirements provide for protection of these resources, including RR BIO-1 (Jurisdictional Waters Permitting). Individual projects under the proposed CWP will require project-level analysis at the time they are proposed, which will address their potential effects on waters of the State subject to the Fish and Game Code and potentially the Clean Water Act.

O4-7 This comment states that open space buffers and wildlife corridors under County jurisdiction should be described more fully and should form part of the fundamental CWP base in addition to the potential open space lands that are adjacent to County communities. Similarly, waterways should be discussed in their entirety.

The “Habitat Linkages and Wildlife Corridor” sections in PEIR Section 5.4.1.2, *Existing Conditions*, and Appendix D provide detailed descriptions and mapping of the habitat

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linkages and corridors in each region of the county. Several CWP policies also apply to habitat linkages and wildlife corridors.

- Policy LU-2.3, Compatibility with natural environment, states that “[w]e require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.”
- Policy NR3.1, Open Space Preservation, would benefit wildlife corridors by preserving such resources.
- Policy NR-5.1, Coordinated Habitat Planning, would conserve wildlife corridors through coordination with landscape-scale habitat conservation planning.
- Policy NR-5.2, Capacity for Resource Protection and Management, would benefit wildlife corridors by increasing funding and other resources to protect, restore, and maintain wildlife corridors.

Individual projects under the proposed CWP will require project-level analysis at the time they are proposed, which would address their potential effects on wildlife movement/corridors, open space buffers, and waters of the State. DPEIR Mitigation Measure BIO-1 requires that development projects assess potential impacts to biological resources and, if applicable, include avoidance and mitigation measures to reduce the impact below a level of significance.

O4-8

This comment states that more emphasis should be on integrating the SBC RCIS Program into the CWP in the Valley and Desert Regions, and that the PEIR should describe the mutual open space and long-term conservation benefits that RCIS planning brings to the CWP. The comment further states that depicting all stream courses as waterways in their entirety would avoid adverse CWP action impacts to waterways and the wildlife habitat linkage/travel ways these streambeds provide.

As noted in Response to Comment O4-6, an RCIS is still in development that would cover portions of the County of San Bernardino, and it is too early to integrate the RCIS with the CWP. Under the Policy Plan for biological resources (per Policy NR-5.1 Coordinated habitat planning), the County will:

... participate in landscape-scale habitat conservation planning and coordination with existing or proposed Habitat Conservation and Natural Resource Management Plans for private and public lands to increase certainty for both the conservation of species, habitats, wildlife corridors, and other important biological resources and functions and for land development and infrastructure permitting.

This would apply to the RCIS as it is developed.

The “Existing Conditions” sections for PEIR Sections 5.4, *Biological Resources*, and 5.9, *Hydrology and Water Quality*, describe the drainage and waterway features in the county. The

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descriptions and mapping of these features are provided in terms of vegetation communities, jurisdictional resources, wildlife movement corridors, and flood control. The description and mapping of stream courses and waterways were considered sufficient for the scale of the county and for purposes of a program EIR. The PEIR acknowledges that it does not provide project-level analysis of impacts and that individual projects will require project-level analysis.

- O4-9 This comment states that the Draft PEIR mapping/table nomenclatures should be corrected to depict the entirety of previously recognized state streambeds in the planning area and how the CWP may affect them, or that the PEIR should specifically disclose that the maps do not detail the entire stream courses and open water areas in the planning area.

As noted in Response to Comment O4-8, the description and mapping of stream courses and waterways provided in the PEIR were considered sufficient for the scale of the county and the purposes of a program EIR. The Draft PEIR acknowledges that it does not provide project-level analysis of impacts and that individual projects under the CWP will require project-level analysis.

- O4-10 This comment states that Draft PEIR Table 5.4-12, *Open Space Overlay Features in the Desert Region within County Jurisdiction*, has errors and omissions that must be corrected, including seven County-recognized wildlife corridors that are missing information about significant public land acreages, known conflicts/impacts, and notable listed/special status species. The comment recommends that the seven wildlife corridors be depicted on maps. The comment also recommends that the PEIR describe the DRECP more fully relative to long-term conservation of special status wildlife/plants in these corridors, particularly where the DRECP's areas of critical environmental concern (ACEC) dovetail with the County-jurisdictional wildlife corridors. The comment also notes spelling errors: in Figure 5.4-6, "Bontail Chub" should be "Bonytail Chub," and on Page 5.4-35 under "Jurisdictional Waters," "Armargosa River" should be "Amargosa River."

The listing of Open Space Overlay features in Table 5.4-12 is one source of mapped information on wildlife corridors and buffer areas in the county and was based on the County's Open Space Element from 2007. The County appreciates the detailed information provided in this comment regarding each of these features/areas; however, this information does not raise an environmental issue within the meaning of the California Environmental Quality Act (CEQA). The 2007 Open Space Element map does refer to the "Joshua Tree Monument Buffer" as a buffer, as it is referred to in the Draft PEIR.

Under "Local Habitat Conservation Planning" at the end of Draft PEIR Section 5.4.1.1., *Regulatory Background*, the DRECP is described.

The Draft DRECP was originally developed as an HCP/NCCP and a BLM land use plan amendment covering public and private lands across seven counties, including

## 2. Response to Comments

the entire Desert Region of the County. In 2016, the DRECP BLM Land Use Plan Amendment was adopted by the BLM to address renewable energy, land use, and conservation on BLM lands only in the California Desert Region including the County. The DRECP does not provide HCP/NCCP coverage for private lands in the County.

Since the DRECP was not an approved habitat conservation plan and does not apply to County lands addressed by the Draft PEIR, the proposed CWP is not in conflict with the plan under CEQA. Some of the underlying information used to develop the DRECP, namely the Desert Linkage Network and California Essential Habitat Connectivity linkages, were incorporated into the existing setting for the Draft PEIR to evaluate wildlife movement. ACECs designated on BLM lands under the DRECP were including in baseline mapping of land ownership and land designations used in developing the proposed CWP and Draft PEIR.

O4-11 The County acknowledges that the DRECP did not ultimately result in a final HCP. Draft PEIR Page 5.4-7 says that the “Draft DRECP was originally developed as an HCP/NCCP” but that it “does not provide HCP/NCCP coverage for private lands in the County.” In Draft PEIR Chapter 4, the DRECP is in a list of plans that “have been completed or are being planned in the County,” but the Draft PEIR does not specify approval status of the plans listed.

O4-12 Draft PEIR Page 5.4-25 describes the Sand to Snow National Monument under “Protected and Wilderness Areas.” Critical habitat in the Desert Region for each species relative to County jurisdiction is shown in PEIR Table 5.4-10 and Figure 5.4-6. Habitat linkages and wildlife corridors in the Desert Region are described on Pages 5.4-28 through p. 5.4-33. PEIR Figure 4-11 and Pages 5.4-34 to 5.4-35) describe the Sand to Snow National Monument and Mojave Trails National Monument, and the California Desert National Conservation Area administered by the BLM. Impacts to critical habitat in the Desert Region as a result of proposed land use changes is shown in PEIR Table 5.4-18. An evaluation of the proposed land uses relative to wildlife corridors and linkages is provided on Pages 5.4-70 and 5.4-71. Draft PEIR Appendix I (Pages I-307 through I-310) describe the monuments and land designations (Areas of Critical Environmental Concern) managed by BLM in the county.

The WEMO Plan amendment referenced in this comment is assumed to refer to the West Mojave Route Network Project, which had a Record of Decision signed in October 2019. This amendment to the WEMO Plan amended the BLM California Desert Conservation Area Plan and approved a travel and transportation route network on BLM-public lands. This act was signed into law after Notice of Preparation for the PEIR and was not part of baseline.

The 2019 John D. Dingell Jr. Conservation, Management, and Recreation Act (Public Law 116-9) was signed on March 12, 2019. The Dingell Act amended the California Desert

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Protection Act (CDPA) to designate five off-highway vehicle recreation areas and expanded the Johnson Valley off-highway vehicle recreation area. It also transferred public land administered by the BLM to the National Park Service (NPS) for additions to Death Valley National Park, Mojave National Preserve, and Joshua Tree National Park. Upon enactment of Public Law 116-9, the lands identified became part of the NPS, extinguishing all BLM allocations and designations. The Dingell Act also amends the CDPA to add the Avawatz Mountains, Great Falls Basin, Soda Mountains, Milpitas Wash, and Buzzards Peak Wildernesses to lands administered by the BLM and expands the existing (1) Golden Valley, (2) Kingston Range, (3) Palo Verde Mountains, and (4) Indian Pass Mountains Wildernesses administered by the BLM. The Dingell Act also found that the lands not designated as wilderness in the act or previous acts in the (A) Cady Mountains, (B) Soda Mountains, (C) Kingston Range, (D) Avawatz Mountains, (E) Death Valley, and (F) Great Falls Basin Wilderness Study Areas are released and no longer subject to Section 603(c) of the Federal Land Policy and Management Act of 1976 (FLPMA). The Dingell Act was signed into law after Notice of Preparation for the PEIR and was not part of baseline.

The plans and land use designations mentioned in this comment relate to public (federal) lands that would not be subject to the proposed land use plan changes in the County's jurisdiction.

- O4-13 See also the responses above regarding the plans and designations listed in this comment that relate to public (federal) lands. As described above, the proposed land use designations of the CWP address private lands under the County's jurisdiction and would not conflict with resource plans or designations on public lands.

LU-2.6 states that "We require that new and amended development projects notify and coordinate with adjacent local, state, and federal entities to maximize land use compatibility, inform future planning and implementation, and realize mutually beneficial outcomes." In this way, the Countywide Plan reinforces the need for increased coordination with other entities, like BLM, and for new and amended development projects to ensure that resources managed in BLM lands, like wildlife corridors in ACECs, are adequately addressed.

The Draft PEIR acknowledges that proposed development areas could result in significant impacts to wildlife movement corridors (Page 5.4-71) and habitat linkages that link to public (federal) lands. Consistency of the CWP with adopted habitat conservation plans is addressed in Section 5.10, *Land Use and Planning* (Pages 5.10-22 and 5.10-23), and Section 5.4, *Biological Resources* (Pages 5.4-71 and 5.4-72).

- O4-14 Policy LU-5.1 states:

We coordinate with military stakeholders to ensure compatible land uses in areas where military operations on or off installations could affect public health and safety,

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or where civilian activities could have an impact on current or future military operations. We will coordinate with military stakeholders to resolve existing land use conflicts and protect public safety in the Military Influence Overlay.

In this way the Countywide Plan reinforces the need for increased coordination with the Department of Defense to ensure compatible land uses adjacent to their facilities.

- O4-15 The comment does not specify the lands in question; however, the Fort Irwin expansion mitigation lands occur generally southwest of Fort Irwin within a “checkerboard” area of public and private land holdings. The Draft PEIR identified this whole region as land use category Resource/Land Management, which would be compatible for lands adjacent to mitigation lands.

Additionally, page 5.10-23 (Section 5.10.6) has been amended to cite Impacts 5.10-1, 5.10-2, and 5.10-3, not 5.11-1, 5.11-2, and 5.11-3. See Chapter 3 of this Final PEIR, *Draft PEIR Revisions in Response to Written Comments*.

- O4-16 Though GHG and transportation impacts of the CWP were identified as a significant unavoidable impact, the County considered the impact of vehicle miles traveled (VMT) and GHG emissions when drafting the preferred land use plan. The 2007 San Bernardino County General Plan is the current plan that accommodates growth in the unincorporated areas of the county (see Draft PEIR Chapter 7, *Alternatives to the Proposed Project*). As described in Chapter 7, the proposed project drastically scales back the allowable development potential in the outlying areas of the unincorporated county. For instance:

- The 2007 General Plan would result in a substantial increase in employment as well as more dispersed housing in comparison to the proposed CWP, and the current land use plan would increase vehicle miles traveled and related traffic air quality emissions. (See Page 7-12.)
- The 2007 General Plan would result in more dispersed housing growth and a larger nonresidential building footprint that could expose a greater number of sensitive receptors to pollutants concentrations from construction activity and other sources. (See Page 7-12.)

Thus, the CWP will provide environmental benefits for transportation and GHG compared to the No Project scenario (i.e., the current 2007 General Plan). Therefore, though the magnitude of emissions associated with growth allowed in the unincorporated county under the CWP is considered a significant impact, the No Project scenario would result in substantially higher impacts.

Measures identified in Traffic Impact Analysis, Draft PEIR Appendix L, on Pages L-1013 and L-1014, were incorporated into the project as policies (TM-3.1 through TM-3.3; TM-1.9; TM-4.1 through TM-4.11; and TM-5.1).

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The County adopted its VMT threshold in July 2019. The Draft PEIR uses the thresholds adopted by the County. The County evaluated the maximum amount of VMT reductions that could be attained through land use and transportation demand management (TDM) measures throughout the unincorporated county. Based on the extensive analysis, the County identified that 4 percent was the maximum a development project could achieve in the Valley Region. This was adopted countywide, despite the fact that mitigation measures in the Mountain, North Desert, and East Desert may not achieve this.

The third paragraph of the comment discusses the OPR recommendation of 15 percent VMT reduction below existing and states that the 4 percent below existing is extremely low. However, the 15 percent reduction identified by OPR is based on statewide data compiled by the California Air Resources Board to achieve an 80 percent reduction in GHG emissions by 2050, and it is not necessarily achievable for individual projects. Also, the OPR recommendation is for metropolitan planning organizations (MPO) and is peripherally based on the CAPCOA TDM reduction information, which notes a maximum TDM reduction in suburban areas of 15 percent. Page 15 of the OPR technical advisory states,

In rural areas of non-MPO counties (i.e., areas not near established or incorporated cities or towns), fewer options may be available for reducing VMT, and significance thresholds may be best determined on a case-by-case basis. Note, however, that clustered small towns and small town main streets may have substantial VMT benefits compared to isolated rural development, similar to the transit oriented development described above.

This discussion is based on the fact that rural, unincorporated areas cannot achieve VMT reductions that are achievable in urban and suburban areas. The county is rural in nature and, although it is part of the SCAG MPO, most of the development in the unincorporated area cannot achieve the OPR-recommended reduction targets. Therefore, the County's threshold is based on a realistic and feasible TDM reduction strategy that could be implemented on projects throughout the county. As noted in the County guidelines, the 4 percent TMD VMT reduction is the maximum feasibly achievable reduction that the County could obtain. It is also important to recognize that some strategies, such as TOD development, are not feasible in the unincorporated county area because it has no transit priority areas (they are all in incorporated cities). Policies connecting to these TOD areas are part of the policy direction in the Policy Plan.

The County went through extensive land use outreach and used a land use allocation model to assist with determining feasible development in the area. The land use allocation model, UrbanFootprint, was used to evaluate feasibility of development in specific areas with the intent of comparing land use development scenarios for maximum sustainability. This exercise led to the development of the proposed CWP, but most of the employment in the SCAG region is accommodated in incorporated jurisdictions, locations that the

## 2. Response to Comments

County does not control. Although additional employment growth is anticipated in these cities, the unincorporated county includes feasible employment growth.

Finally, the mobility element does include the following policies that address VMT reductions:

Goal TM-3 Vehicle Miles Traveled: A pattern of development and transportation system that minimizes vehicle miles traveled.

- Policy TM-3.1 VMT Reduction. We promote new development that will reduce household and employment VMT relative to existing conditions.
- Policy TM-3.2 Trip reduction strategies. We support the implementation of transportation demand management techniques, mixed use strategies, and the placement of development in proximity to job and activity centers to reduce the number and length of vehicular trips.
- Policy TM-3.3 First mile/last mile connectivity. We support strategies that strengthen first/last mile connectivity to enhance the viability and expand the utility of public transit in unincorporated areas and countywide.

O4-17 The Draft PEIR evaluated mitigation to reduce VMT impacts from new development in the unincorporated county. In addition, the CWP identifies policies that help achieve the goals of the County with regard to reducing VMT. The County is not a transit agency that has the ability to construct the rail transit component of the High Desert Corridor in lieu of the road-widening components. The impacts identified in the Draft PEIR are based on the planned/programmed improvements identified by the transportation agencies.

Assumptions for the High Desert Corridor were developed consistent with the SCAG RTP-funded transportation network. The RTP description, which is also defined in the Federal Transportation Improvement Program (FTIP), is noted below:

High desert corridor, an approximate 63-mile east-west multi-purpose corridor from Avenue P-8/SR-14 in LA County to Bear Valley Road/SR-18 in San Bernardino County. This multi-purpose corridor includes TSM/TDM, freeway, expressway, tollway, high-speed rail, green energy transmission/production, and bikeway elements.

Since the rail transit component of the High Desert Corridor is identified as a funded improvement in the RTP/SCS, it is reasonable to assume it in the transportation assessment. Furthermore, the County policy noted below supports implementation of this facility:

- Policy TM-5.3 High Desert Corridor: We support the development of the High Desert Corridor to improve the regional goods movement network and foster economic development in the North Desert region.

## 2. Response to Comments

The VMT assessment must incorporate all reasonably foreseeable projects. As noted above, the HDC is programmed in the RTP/SCS, and it is reasonably foreseeable that it will be constructed consistent with those assumptions.

The comment is noted that the RTP/SCS does forecast additional growth in the area, which is also noted in the Draft PEIR appendices.

O4-18 Comment acknowledged.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O5 – Center for Biological Diversity (13 page[s])



CENTER for BIOLOGICAL DIVERSITY

*Because life is good.*

*Protecting and restoring natural ecosystems and imperiled species through  
Science, education, policy, and environmental law*

**VIA ELECTRONIC MAIL**

August 15, 2019

05

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
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Email: [CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov)

**Re: Draft Program Environmental Impact Report for County of San Bernardino  
Countywide Plan for San Bernardino County SCH# 2017101033**

Dear Mr. Blum,

### **I. Introduction.**

These comments are submitted on behalf of the Center for Biological Diversity (“Center”) on the combined Draft Program Environmental Impact Report (“DPEIR”) for the San Bernardino County Countywide Plan (SCH# 2017101033) (“the Project”).

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The Center is a non-profit environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.6 million members and supporters throughout California and the western United States, including in San Bernardino County.

### **II. The DPEIR Fails to Meet the Requirements of the California Environmental Quality Act.**

An EIR is a detailed statement, prepared under the California Environmental Quality Act, Public Resources Code §§ 21000-21178 (“CEQA”), describing and analyzing all significant impacts on the environment of a proposed project and discussing ways of mitigating or avoiding those effects. Pub. Res. Code §21100; 14 Cal. Code Regs. (“CCR”) § 15362. The purpose of an EIR “is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Laurel Heights Improvement Association v. Regents of University of California*, 6 Cal. 4th 1112, 1123 (1993) (emphasis in original) (citations omitted). An EIR should provide decision making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment, to list ways in which the significant effects of a project might be avoided or minimized, and to indicate alternatives to the project. Pub. Res. Code § 21061; 14 CCR § 15002. California courts have emphasized that an EIR should: disclose all relevant facts; provide a balancing mechanism whereby decision makers and the public can weigh the costs and benefits of a project; provide a means for public

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participation; provide increased public awareness of environmental issues; provide for agency accountability; and provide substantive environmental protection.

Many of the inadequacies of the DPEIR results from the failure to provide decision-makers and the public with a substantive analysis of environmental impacts using a thorough analysis of relevant information, and the failure to apply enforceable mitigation measures to address environmental impacts. Because of the combined DPEIR for the Countywide Plan obscures, rather than illuminates, the environmental impacts of the Project, the DPEIR is inadequate to meet both the procedural and substantive mandates of CEQA.

O5-2  
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### A. Analysis of Environmental Effects Resulting from the Countywide Plan

The intended use of the DPEIR cannot be achieved because the DPEIR fails to analyze with adequate specificity the environmental impacts of the Project. The DPEIR is unclear as to the purpose of the DPEIR stating that “Program EIRs are typically more conceptual than Project EIRs, with a more general discussion of impacts, alternatives, and mitigation measures”. DPEIR at 1-3. Then quotes the CEQA guidelines for using Programmatic EIRS to “Provide a more exhaustive consideration of impacts and alternatives than would be practical in an individual EIR”. DPEIR at 1-4. It is critical that the DPEIR exhaustively and clearly address the potential impacts that the PEIR anticipates, which it currently does not. The analyses need to include the new Community Plans and Action Guides because these documents are actions subject to CEQA review as components of the Project. The Countywide Plan, and new Community Plans, and Action Guides will cause a reasonably foreseeable direct and indirect changes to the physical environment. Full environmental review and analysis of the combined Countywide Plan, new Community Plans, and Action Guides must occur at this stage.

The Center objects to the DPEIR based on the inadequacy of the current environmental documents. The DPEIR failed to identify and adequately analyze a range of potential environmental impacts of the Countywide Plan, and has failed to provide enforceable mitigation measures to minimize those impacts. A revised DPEIR must be prepared for the Project that properly identifies and analyzes the impacts of the proposed development and provides specific, detailed, enforceable mitigation measures to minimize impacts that cannot be avoided.

O5-3

Many of the deficiencies of the DPEIR results from the failure to adequately analyze the impacts, including cumulative impacts, and the tendency of the DPEIR to avoid a comprehensive analysis of the impacts that may occur due adoption and implementation of any of the Countywide Plan’s alternatives. CEQA applies to revisions to an agency’s general plan and “reaches beyond the mere changes in the language in the agency’s policy to the ultimate consequences of such changes to the physical environment.” *City of Redlands v. County of San Bernardino*, 96 Cal. App. 4th 398, 408 (Cal. Ct. App. 2002). General plan revisions treated as “first phase” analysis with later developments having separate approvals and environmental assessments must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. *City of Redlands v. County of San Bernardino*, 96 Cal. App. 4th 398, 409 (Cal. Ct. App. 2002).

An adequate EIR for the Project must include, at minimum: (1) identification and analysis of impacts to biological resources based on detailed, scientifically valid analysis of rare,

## 2. Response to Comments

sensitive, threatened and endangered plants and animals (*infra* at § III.A); (2) identification and analysis of the impacts to essential wildlife corridors in the San Bernardino Mountains (*infra* at § III.B.); (3) quantification and analysis of impacts to air quality resulting from the Project (*infra* at § IV); (4) analysis of the Project's contribution of greenhouse gases to the problem of global warming (*infra* at § V); (5) detailed analysis of the potential to increase Fire Hazards (*infra* at § VI); (6) adequate analysis of the impacts to water supply (*infra* at § VII), aesthetics (*infra* at § VIII), and public utilities (*infra* at § IX); and (7) specific, enforceable measures to mitigate impacts to biological resources, air quality, greenhouse gas emissions and other resources in the project area (*infra* at §§ II.B., III.D. IV.B., V.E., VI, VII, VIII, and IX).

O5-3  
Cont'd

A lead agency is required to "use its best efforts to find out and disclose all it reasonably can." CEQA Guidelines §15144. In addition, "[a]n EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment." CEQA Guidelines §15146. The DPEIR does not adequately address both counts. Adoption of a large scale zoning ordinances and general plan revision will minimize the parcel size of large unincorporated areas. The resulting secondary effects that will result from a project of this scale must be analyzed and disclosed at the initial phase of project approval and the County cannot improperly defer analysis to a later phase. Individual homes or projects will not qualify for the same level of environmental review under CEQA as the current project. Impact must be addressed to a level of sufficient detail at the stage when the Project can be influenced or mitigated, and not deferred.

The DPEIR must analyze in a detailed, quantifiable fashion the impacts that will result from the Project and how, specifically, those impacts will negatively affect the environment.

### **B. Mitigation of Impacts Resulting from the Countywide Plan**

The mitigation measures provided in the DPEIR are entirely insufficient to mitigate the Project's true impacts. The DPEIR recognizes that the project will result in a host of significant impacts to air quality, biological resources, greenhouse gases emissions, hazards and hazardous materials, mineral resources, noise, and traffic and transportation. ES at 1-13 to I-39. Recognition of these impacts does not absolve the agency of a good faith requirement to attempt to mitigate the significance of these impacts. The DPEIR also asserts that with mitigation the following resources will have a less than significant impact from the Project: aesthetics, agriculture and forestry resources, cultural resources, geology and soils, hydrology and water quality, land use planning, population and housing, public services, recreation, tribal cultural values, and DPEIR at 1-13 to 1-39. It is critical that mitigation measures be enforceable and verifiable to be valid.

O5-4

The majority of mitigation measures imposed in the DPEIR are vague and unenforceable, allowing the agency to avoid the substantive mandatory requirements to impose mitigation measures that CEQA requires. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. 14 Cal. Code of Regs. § 15126.4(a)(2). CEQA obligates the city or county to incorporate mitigation measures into the policies of the general plan. Public Resources Code §21081.6. Legally binding, enforceable mitigation measures must be incorporated into the Countywide Plan, Community Plans, and

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Action Guides at this phase because these documents allow the growth related impacts that will result in a host of significant impacts.

Enforceable mitigation measures must be integrated before the Countywide Plan can be approved. When mitigation measures are incorporated into a plan, the agency must take steps to ensure that they will actually be implemented as a condition of later development approved under the plan, “not merely adopted and then neglected or disregarded.” *Federation of Hillside Canyon & Canyon Ass’ns v. City of Los Angeles*, 83 CA4th 1252 (2000). For mitigation measures that cannot be specifically formulated without a proposal for a specific facility the general plan should include a firm commitment to future mitigation of significant impacts. *Rio Vista Farm Bureau Ctr. v. County of Solano*, 5 CA4th 351 (1992). Only rarely does the Countywide Plan provide a firm commitment to future mitigation by including specific provisions of the development code as examples for mitigation. Instead, the Countywide Plan avoids substantive mitigation and proposes unenforceable future mitigation such as coordination with local, state, and federal agencies, participating in Regional plans, long term planning, and incentives. Unenforceable language riddled with loopholes and exceptions does not provide the type of mitigation required by CEQA. The Countywide Plan should include concrete, enforceable conditions in the development code to ensure adequate mitigation of impacts

The County has not adopted specific design criteria or performance standards as mitigation measures for the Project and ensured no environmental harm will occur until such design criteria are met. *See, e.g., Sacramento Old City Association et al. v. City Council of Sacramento*, 229 Cal. App. 3d 1011, 1028-9 (1991); *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 375, 418 (1988). These specific design criteria or performance standards must be included for those mitigation measures that address significant impacts. Failure to include specific design criteria, performance standards, or legally enforceable mitigation language for all mitigation is contrary to CEQA.

The DPEIR’s failure to address requisite mitigation is exemplified in by its failure to analyze the mitigation monitoring program and explain how mitigation measures will be implemented to reduce the significance of impacts. The city or county must adopt a reporting or monitoring program for ensuring compliance with mitigation measures. State of California, General Plan Guidelines, Governor’s Office of Planning and Research (2003) at 196. The DPEIR fails to include the proposed mitigation in a Mitigation Monitoring Program which needs to be provided as part of the DPEIR for public review. Absent this type of a clarifying document, the DPEIR does not provide adequate information for the public and decisionmakers to understand how effective mitigation would actually be implemented. It fails in the basic disclosure requirements of CEQA “to inform the public and its responsible officials of the environmental consequences of their decisions before they are made.” *Laurel Heights Improvement Association v. Regents of University of California*, 6 Cal. 4th 1112, 1123 (1993). The DPEIR’s omission of the mitigation monitoring program also fails to provide any discussion or analysis of how those mitigation measures will be monitored to ensure they are applied and not disregarded. It does not allow the public or decision makers the opportunity to review the mitigation monitoring to ensure that the proposals are feasible and not simply window dressing to mask a significant impact. Omission of the mitigation monitoring program fails to describe in detail how those enforceable mitigation standards, such as design criteria or performance standards, will mitigate specific impacts. Without a rigorous discussion of the means employed

O5-4  
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## 2. Response to Comments

to monitor and implement the mitigation it is impossible for decision-makers and the public to understand the true consequences of the environmental effects of a project.

O5-4  
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### III. The DPEIR Fails To Properly Identify and Analyze The Direct, Indirect, And Cumulative Impacts To Biological Resources.

#### A. The DPEIR Fails to Properly Identify and Analyze Impacts to Rare, Threatened, and Endangered Species and Their Associated Habitats

The Countywide Plan process must conform with the California Endangered Species Act (CESA). The CESA has provisions for formal consultations under the CEQA process. Consultation is triggered when a state lead agency under CEQA proposes to authorize, fund, or carry out any project that is likely to jeopardize the continued existence of any state-listed species. Public Resources Code §21104.2.

The DPEIR fails to adequately and properly analyze the project's impacts on biological resources. The DPEIR contains no detailed, quantitative analyses of project impacts on populations of special-status species or habitats. It omits any discussion—let alone analysis—of important edge effects such as domestic pets. The Countywide Plan and the DPEIR fail to properly address the potential impacts of implementation of the Project on the biological resources of the surrounding area including, but not limited to, impacts from direct loss of habitat, habitat fragmentation, loss of access to critical water resources, and invasive plant and animal species.

O5-5

The DPEIR appears not even attempt to provide meaningful information regarding the potential impacts of the Project on endemic, rare, threatened and endangered species. The body of the DPEIR fails to acknowledge or list a host of candidate, sensitive, or special status species. The ones that are listed are not provided a meaningful analysis of how the Project will adversely affect their population or habitat. The CEQA Guidelines require a mandatory finding of significance where the project will, *inter alia*, “substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; [or] substantially reduce the number or restrict the range of an endangered, rare, or threatened species.” 14 CCR § 15065.<sup>1</sup> The County is attempting to turn CEQA on its head by proposing mitigation measures for impacts to species that have not yet been properly identified or analyzed.

The Countywide Plan's approach fails to provide any useful information regarding impacts to biological resources because of the vague analysis “intended merely as a general overview.” DPEIR App H at 6-3. This interpretation fails to provide adequate information to inform decision makers, and disregards previous analysis conducted by the County.

The County attempts to avoid analysis by failing to collect necessary information. The agency should not be allowed to hide behind its own failure to gather relevant data. *City of*

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<sup>1</sup> A sampling of special status species that are neglected from a thorough analysis and the adverse effects resulting from the project that will result from the project is included in Appendix A.

## 2. Response to Comments

*Redlands v. County of San Bernardino*, 96 Cal. App. 4th 398, 408 (Cal. Ct. App. 2002). CEQA requires a rigorous analysis of impacts to provide decision-makers and the public with the information necessary to truly evaluate a project's impacts. The Countywide Plan and DPEIR do not adequately address the impacts to the vast majority of special status species in San Bernardino.

O5-5  
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We request that a biotic resources analysis be included that addresses all special status species and adequately addresses environmental impacts. At a minimum it should incorporate the habitat range for all special status species. This information can be easily compiled by consulting the California Natural Diversity Database. CNDDDB is a rich source of highly accurate, quality-checked data on the locations and status of rare and endangered plants, animals, and natural communities in California.<sup>2</sup> CNDDDB data can be digitally integrated using a GIS to provide overlays for a broad array of special status species. Considering the ease in accessing and compiling this information it is inexcusable that the County relies upon on 1.3% of habitat types for special status species. Additionally, the County should incorporate all Critical Habitat designations that have been published by the Fish and Wildlife Service as presented in the DPEIR. Mapping and analysis should include an adequate buffer to prevent the edge effects of development from impacting special status species. This buffer is particularly important around recognizes reserves for threatened and endangered species. For example, the reserves for the Stephens' kangaroo rat and San Bernardino kangaroo rat, both federally endangered species, should have a ½ mile buffer that has been interpreted as an adequate buffer in the past.

O5-6

The DPEIR and Countywide Plan do not adequately analyze impacts to oak woodlands. If a county determines that a project may have a significant effect on oak woodlands, the county must require one or more significant alternatives to mitigate the significant effect of converting oak woodlands. Pub Res Code § 21083.4. The DPEIR fails to address impacts to oak woodlands even though the DPEIR admits that several types of oak woodlands are present including: Sycamore – Oak riparian forest, black oak woodland, interior oak woodland, coast live oak woodland, and Coast live oak riparian forest. DPEIR at Tables 5.4-20 to 5.4-22. The DPEIR admits they are present but fails to discuss how the Project will impact oak woodlands. Further, the DPEIR does not propose alternatives to mitigate the significant effect of converting oak woodlands to other vegetation types. The DPEIR must analyze the projects impacts to oak woodlands and propose alternatives that do not affect those resources.

O5-7

The DPEIR fails to address direct, indirect, and cumulative impacts to the Santa Ana river. The DPEIR must address the potential to conflict with a local plan implementing protection and conservation of species that rely upon the riparian environment of the Santa Ana River. The County cannot simply ignore pertinent plans that affect resources within its jurisdiction. Significant conservation planning is occurring in relation to the Santa Ana River to forward conservation while allowing limited impactful development. While the DPEIR mentions the Wash Plan and the Upper Santa Ana River Habitat Conservation Plan, it fails to propose potentially adopting the strategies of these important plans into the Countywide Plan. It also fails to commit to not conflicting with these important plans as they are finalized and adopted. At a minimum, the Countywide Plan needs to analyze any potential to conflict with components

O5-8

<sup>2</sup> Important Notice on the Proper use of the CNDDDB: The CNDDDB . . . will not in itself meet the requirements of the California Environmental Quality Act (CEQA), and it does not replace the need for conducting field work. CNDDDB database at [http://www.dfg.ca.gov/whdab/html/rarefind\\_notice.html](http://www.dfg.ca.gov/whdab/html/rarefind_notice.html) (emphasis added).

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of these conservation plans. Much of the growth in San Bernardino County will occur within the Valley region adjacent to the Santa Ana River. Implications of that growth to impact special status species must be addressed.

O5-8  
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Riparian habitat in the Desert Region is rare and *cannot* be replaced. Mitigation banks elsewhere in the region are not adequate, or even effective, mitigation. Existing riparian habitats in the desert region should be completely protected. Desert riparian areas provide essential feeding, breeding and migrating habitat for plants and animals, and as a water source for local communities. If left intact, they contain and direct most flash floods, and provide natural groundwater recharge areas. Rather than allow these areas to be lost to development in exchange for protections for existing habitat elsewhere in the region, the County should protect these areas and require new development maintain the form and function of desert riparian areas.

O5-9

### **B. The DPEIR fails to Adequately Analyze Impacts to Wildlife Corridors.**

In light of the importance of wildlife connectivity and adequate wildlife corridors in the face of continuing climate change, the Countywide Plan must protect these important movement areas and eliminate new development that will interfere with wildlife movement and impair key linkages within the San Bernardino Mountains, Little San Bernardino Mountains, Granite Mountains, and San Gabriel Mountains and other key linkages. The DPEIR fails to adequately analyze and quantify the impacts to wildlife corridors in the project area. As a result, the DPEIR simply concludes that significant adverse effects to wildlife movement is unavoidable. The public has made an enormous investment in conservation in San Bernardino County and has dedicated significant resources to maintaining habitat integrity and areas for wildlife movement in the San Bernardino Mountains, Desert Areas, along the Santa Ana River and its tributaries, and other areas in the County. Because the County has such extraordinary biological resources, it is an anathema to smart planning to limit or sacrifice the existing movement corridors. Existing information is that the DPEIR has assembled allows the County to develop a strategy that facilitate the flow of plants and animals between spatial areas, and suggest viable mitigation measures for adoption by the Project to decrease the impact to these crucial corridors.

O5-10

Intrusion by development into wildlife corridors impedes the migration of species within the corridor and increases the adverse “edge effects” of fragmented habitat. Bond, 2003. The project’s elimination of wildlife habitat, development over the next 25 years, and increase in traffic flow and population is incompatible with wildlife habitat. The project’s encroachment into Wildlife Dispersion Corridors will create a significant adverse effect upon wildlife migration within the area. These biological effects must be fully analyzed in the EIR to determine the alternative that best suits the needs of the community and existing biological constraints.

### **C. Edge Effects**

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

O5-11

## 2. Response to Comments

The discussion on invasive species neglects to mention invasive non-plant species. The best available data on edge effects for southern California habitats document the collapse of native ant population due the invasion of argentine ants up to 200 m (650 ft) from irrigated areas, Suarez et al. 1998, and predation by house cats which decimate small vertebrate populations, Churcher and Lawton 1987; Hall et al. 2000, within 100 to 300 meters (radius of 32 ha home range reported by Hall et al. 2000).

O5-11  
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The DPEIR must address the whole of the action for which it is issuing the permit. CEQA Guidelines § 15063. The DPEIR fails to adequately address the full range of biological impacts from the development. There is absolutely no discussion of direct, indirect or cumulative impacts of the increase in traffic (and thus wildlife road mortalities), noise, lighting, fire risk, and other edge effects from urban development on sensitive species and biological resources of the project site and surrounding area, nor is there any discussion of the growth inducing aspects of the project. The DPEIR must fully disclose, analyze, and mitigate these serious impacts on this important wildlife corridor.

### **D. Mitigation of Impacts to Biological Resources**

The County must propose legally enforceable mitigation measures that reduce the significance of impacts to species. Specific, feasible, and enforceable mitigation measures for impacts associated with fuel modification zones, unpermitted recreational activities, introduction of non-native plants, introduction of pets, lighting, noise, and the loss and disruption of essential habitat due to edge effects are available but were not incorporated in the DPEIR. They include, but are not limited to, the following:

- minimum 300-foot setbacks between developed area, including roads, and sensitive habitat areas
- conditions prohibiting non-leashed outdoor pets (including cats)
- requiring, where appropriate, walls or fences that will inhibit domestic animals from harassing and harming native species including “cat-proof” fencing to prevent feral and house cats from accessing sensitive habitat
- capture programs to control feral cats
- techniques to control non-native invasive species
- prohibiting the use of pesticides and other toxic chemicals around homes and golf courses
- requiring, not simply recommending, the use of native vegetation in landscaping
- providing public education regarding rare, threatened and endangered species and how local communities can help protect them
- requiring gates to restrict access to lands set aside for habitat preservation

O5-12

### **IV. Significant Impacts to Air Quality Must be Adequately Addressed and Mitigated**

Californians experience the worst air quality in the nation, with annual health and economic impacts estimated in at 8,800 deaths (3,000–15,000 probable range) and \$71 billion (\$36–\$136 billion) per year (Cayan 2006). Ozone and particulate matter (PM) are the pollutants of greatest concern (maximum levels are about double California’s air quality standards) and the

O5-13

## 2. Response to Comments

current control programs for motor vehicles and industrial sources cost about \$10 billion per year. The South Coast Air Basin is already in violation of air quality standards for ozone and PM, as well as other criteria pollutants. As a result, this section of the DPEIR is particularly critical, and its flaws particularly alarming.

The DPEIR admits in section 5.3 that the Project will result in significant air quality impacts. This project would exacerbate existing violations of the Clean Air Act and admittedly cause significant air quality impacts even after mitigation. In 2016, the maximum ozone, PM<sub>2.5</sub>, and PM<sub>10</sub> concentrations in San Bernardino County continued to exceed federal standards by wide margins. SCAQMD 2016 AQMP. San Bernardino County has repeatedly recorded the highest violations of federal ozone standards in the South Coast Air Basin over the past decade. SCAQMD 2016 AQMP. Despite these significant impacts the DPEIR provides a cursory analysis of the impacts to air quality and overlooks substantial information.

O5-13  
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### A. The DPEIR Fails to Adequately Analyze Air Quality Impacts

The County must provide a good faith analysis of the Project's impacts to Air Quality, analyzing the project in relation to the current regional, state, and federal standards. The DPEIR must be prepared with a sufficient level of analysis to provide decision-makers with the information needed to make an intelligent decision concerning a project's environmental consequences. 14 Cal. Code Regs § 15151. The agency must use its best efforts to disclose all that it reasonably can about a significant impact. *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm'rs*, 91 CA4th 1344 (2001). The DPEIR fails to address hazardous air pollutants, current federal standards for PM<sub>2.5</sub>, the applicable South Coast Air Quality Management Plan, any data regarding criteria pollutants, and appropriate mitigation to reduce the significance of impacts.

O5-14

### B. The DPEIR Does Not Analyze and Incorporate Adequate Mitigation Measures

The DPEIR and Countywide Plan makes some improvements in addressing some mitigation measures to reduce impacts to air quality over the status quo. However, these mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. 14 Cal. Code of Regs. § 15126.4(a)(2). Because the County requires numerous incentives or unenforceable mitigation measures the severity of impacts is not adequately mitigated.

O5-15

Meaningful mitigation measures are required to reduce the significance of the Project's impacts to Air Quality. Mitigation should be focused on reducing the number of mobile sources that contribute the bulk of pollution. The mitigation measures imposed in the DPEIR fail to address any incentives for mass transit or, require any study or analysis of means to increase mass transit to reduce criteria pollutants. The County should rigorously explore mass transit options to reduce criteria pollutant emissions and improve traffic congestion.

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### V. The DPEIR Fails to Adequately Analyze and Mitigate Greenhouse Gas Emissions from the Project

While the DPEIR addresses greenhouse gases, it ultimately, despite mitigation determines that the impacts from the Countywide Plan is significant and unmitigatable. The Countywide Plan absolutely must provide additional avoidance, minimization and mitigation in order to minimize contributions to this global crisis. The science is clear on climate change and human's hand in causing the increased greenhouse gases that cause climate change.

#### A. California Laws Require the Analysis and Reductions of Green House Gases

The DPEIR must analyze the impacts posed by greenhouse gas emissions resulting from the implementation of the Countywide Plan. The State of California recognizes the threats posed by global warming. To address and rectify the State's increasing contributions to greenhouse gas emissions the State of California has enacted numerous requirements for state and local agencies to address the issue of global warming by analyzing and reversing the emissions of greenhouse gases. California is extremely vulnerable to the impacts of global warming and is also responsible for a significant portion of the U.S. and global emissions of greenhouse gases. Global warming will also have significant impacts on the California economy, which must be addressed by all levels of government. Global warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air-conditioning in the hottest parts of the state which include most of San Bernardino County.

O5-16

CEQA requires an EIR analyze any "significant environmental effects" of a proposed project. Pub. Res. Code § 21 100(b)(1); Cal. Code Regs., Title 14, §§ 15126(a), 15126.2(a), 15143. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in the environment." Pub. Res. Code § 21068. CEQA also provides that the CEQA guidelines "shall" specify certain criteria that require a finding that a project may have a significant effect on the environment:

"(1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(3) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly."

Pub. Res. Code § 21083(b).

The effects of a project must be fully analyzed and mitigation imposed if any of the above triggers are reached. Most individuals in unincorporated areas of the County will rely on their automobile for transportation. In light of the severe impacts cars and trucks have on the level of greenhouse gas emissions in this state, clearly "has the potential to degrade the

## 2. Response to Comments

environment." The cumulative effects of this project on greenhouse gas emissions, when taken in consideration with the impacts statewide of increased population and vehicular travel over the next quarter century, are undeniable. Finally, when considering the impacts of climate change on California, it is impossible to ignore that the impacts of this project will have either direct or indirect effects on human beings. Given the scope of the Plan (both in years, and geographically), the projected increase in vehicle travel that will result, and the fact that it covers one of the fastest growing regions in the State, there is no question that the impacts of this Plan on greenhouse gas emissions and climate change may, and likely will, have significant cumulative environmental impacts for California.

05-16  
 Cont'd

### **B. The impacts of Global Warming on California**

The precise nature of the impacts over the next decades will depend upon whether global greenhouse gas emissions continue to increase at current rates, or whether the current rate of increase is slowed, and emissions actually reduced.

05-17

### **VI. The Countywide Plan Fails to Adequately Analyze and Mitigate Fire Hazards**

The DPEIR fails to adequately analyze and mitigate the hazards resulting from wildland fires. The Countywide Plan fails to properly address to protect its residents from a real threat of fire hazards. New residents might not be fully aware that their homes are imminently threatened with fire, based on evaluation of fire zones by the State. San Bernardino County, particularly the mountain communities, are in an area of extreme fire hazard. Considering the magnitude of the threats to human health, and the economic costs for the private and public sector particularly in light of warmer and drier conditions occurring under climate change, the County should enforce rigorous standards to protect human and other habitat from catastrophic fire.

05-18

The Countywide Plan, Community Plans, and Action Guides should encourage people to concentrate in existing urban communities and discourage developers from building in areas of extreme fire hazard within, and adjacent to, the forest and other open space areas. Stronger setbacks and enforceable restrictions on the density of developments in forested and fire prone areas will benefit the health of the community and health of the forest.

### **VII. The DPEIR's Analysis of Water Supply and Availability is Inadequate**

The analysis of hydrology and water quality is inadequate and requires further analysis and recirculation. The DPEIR improperly defers identification and analysis of many of the project's impacts, as well as formulation of mitigation measures, to a later time when development of specific projects is considered. This deferral frustrates informed decision-making and violates CEQA. "An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences." CEQA Guidelines § 15151. *See Concerned Citizens of Costa Mesa, Inc. v. 32<sup>nd</sup> District Agricultural Association*, 42 Cal. 3d 929 (1986) ("the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."); *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners*, 91 Cal.App.4th 1344 (2001); *Stanislaus Natural Heritage Project v. County of Stanislaus*, 48 Cal. App. 4th 182 (1996).

05-19

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CEQA guidelines require environmental analysis “as early as feasible in the planning process to enable environmental considerations to influence the project program and design.” CEQA Guidelines, § 15004, subd. (b). The Courts have consistently reiterated that concern: [e]nvironmental problems should be considered at a point in the process “where genuine flexibility remains.” A study conducted after approval of a project will inevitably have diminished influence on decision-making . Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA. Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296,307 (citations omitted).

Where, as here, the water supply is uncertain and a shortfall in those supplies theoretically available is likely, the EIR must evaluate that issue, identify other potential sources, and identify and analyze the environmental consequences of tapping those resources. *Santa Clarita Org. for Planning the Environment v. County of Los Angeles*, 106 Cal. App. 4<sup>th</sup> 715 (2003); *Napa Citizens for Honest Government v. Napa County Bd. Of Supervisors*, 91 Cal. App. 4<sup>th</sup> 342, 371 (2001). Where there is remaining uncertainty that the water supply will be available, the EIR must provide mitigation measures that will prevent development until water supply is secured. *See Napa Citizens*, 91 Cal. App. 4<sup>th</sup> at 374. The Draft EIR fails on all counts.

O5-19  
Cont'd

With the focus of sustainable water management for local water supplies, the County needs to provide mitigation measures that are feasible and that will reduce the negative effects on water supplies and quantity. The Countywide Plan should adopt policies and regulations that do the following:

- Reduce residential densities in areas where water supplies are being overdrawn by current development, or where water supplies are compromised by natural or man-made contaminants.
- Discourage and restrict uses with heavy water demands from locating in those same areas.
- Mandate water conservation:
- Adopt landscape regulations that prohibit, or at least limit, plants with heavy water demands. Encourage use of native, drought-tolerant vegetation.
- Adopt standards for and encourage installation of gray-water systems.
- Adopt *and enforce* regulations that restrict the grading of lots and removal of native vegetation to the “envelope” for any new building, including and especially any single-family dwelling.
- Require use of pervious surfaces where feasible for driveways and parking lots, to reduce run-off and maintain some recharge capacity for the site.

### VIII. The County Should Revise and Re-Circulate the DPEIR

Because the DPEIR fails to provide detailed information required by CEQA regarding the Countywide Plan, the County should withdraw the DPEIR and prepare a revised, independent, sufficiently detailed EIR for the Countywide Plan. A lead agency must re-circulate an EIR for further public comment under any of four circumstances:

O5-20

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- (1) When the new information shows a new, substantial environmental impact resulting either from the project or from a mitigation measure;
- (2) When the new information shows a substantial increase in the severity of an environmental impact, except that recirculation would not be required if mitigation that reduces the impact to insignificance is adopted;
- (3) When the new information shows a feasible alternative or mitigation measure that clearly would lessen the environmental impacts of a project and the project proponent declines to adopt the mitigation measure; or
- (4) When the draft EIR was “so fundamentally and basically inadequate and conclusory in nature” that public comment on the draft EIR was essentially meaningless. CEQA Guidelines §15088.5.

O5-20  
Cont'd

Based on the comments above, it is clear that the EIR must be re-drafted and re-circulated. Conditions (1), (2), and (4) above will be met by meaningful and adequate discussion of the Countywide Plan’s impacts, mitigation measures, and cumulative impacts. The combined effect of these omissions makes it clear that the fourth condition has also been met.

### IX. CONCLUSION

In sum, the current DPEIR has not adequately disclosed, analyzed, avoided, minimized, and mitigated the environmental impacts of the Countywide Plan. Because of the document’s shortcomings, the public and decision makers cannot make informed decisions about the proposed Project’s costs in areas including biological resources, water resources, fire hazards, and air quality.

The Center looks forward to reviewing a revised EIR addressing the full range of impacts from the Countywide Plan. Thank you very much for your consideration of these comments.

Sincerely,



Heene Anderson  
Senior Scientist  
Center for Biological Diversity

CC: (via email)

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### O5. Center for Biological Diversity, dated August 15, 2019.

O5-1 Comment acknowledged.

O5-2 This comment summarizes the requirements of CEQA and asserts that the Draft PEIR fails to provide decision-makers and the public with a substantive analysis and enforceable mitigation measures. This comment does not include any specific comments on the Draft PEIR's inadequacy and thus no response is necessary.

O5-3 This comment implies that Draft PEIR Section 1.2.2, *Type and Purpose of This PEIR*, is self-contradictory because it states both that 1) Program EIRs are typically more conceptual than Project EIRs with a more general discussion of impacts, alternatives, and mitigation measures, and 2) according to CEQA Guidelines Section 15168, Program EIRs have the advantage of providing "a more exhaustive consideration of impacts and alternatives than would be practical in an individual EIR." These statements are not contradictory but it is understood why they are confusing. The CWP covers approximately 20,000 square miles and encompasses four distinct subregions, as discussed and evaluated throughout the Draft PEIR. Clearly, analysis of such a large geographical area and a comprehensive planning program is necessarily conceptual compared to an individual development project and project-level EIR. As listed within the context of Program EIR advantages, this type of EIR, however, can more exhaustively address broader-scale impacts and alternatives than a project-level EIR. For example, the transportation modeling for the CWP encompasses the Countywide transportation network and the complex analysis of vehicle trips throughout the region. Similarly, the air quality and greenhouse gas analyses are based on complex modeling for the entire region. Alternatives were based on exhaustive scenario modeling for land use alternatives encompassing each subregion. But the CWP Draft PEIR is conceptual in that, unlike a project-level EIR, it cannot analyze land use, resources, or potential impacts at a parcel level. The County disagrees with the commenter's assertion that the Draft PEIR fails to analyze potential impacts at an adequate level of specificity. This is demonstrated in the individual responses that follow as well as indicated by the fact that the Draft PEIR is supported by 13 topic-specific technical reports, included as its Appendices.

This comment further states that the Draft PEIR should include analysis of the "new Community Plans and Action Guides" because these documents are subject to CEQA and will cause a reasonably foreseeable direct and indirect impact to the environment. Draft PEIR Section 3.3.3, *Description of the Project*, describes the four major components of the CWP: 1) County Policy Plan, 2) Community Planning Continuum, 3) County Business Plan, and 4) Regional Issues Forum. As described under the Community Planning Continuum, the Community Plans have been replaced. The goals, policies, land use, and infrastructure decisions from Community Plan areas are addressed in the County Policy Plan, and the Community Action Guides will offer a set of potential tools and action plans framed in a set of community-driven values and aspirations. This section

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explains that the Draft PEIR focuses on the County Policy Plan because it is this component that includes the proposed land use designations and policies that have the potential to result in physical environmental impacts. Future Community Action Guides may or may not have the potential to result in environmental impacts, but as noted by this commenter, will be subject to CEQA review. The Action Guides, however, represent a subsequent and ongoing implementation phase and would not include land use changes or policies anticipated to result in direct or indirect CEQA impacts.

This comment further alleges that many of the “deficiencies of the Draft PEIR results from the failure to adequately analyze the impacts, including cumulative impacts, and the tendency of the Draft PEIR to avoid a comprehensive analysis of the impacts that may occur...” The County respectfully disagrees, as supported by the topical responses to comments that follow. Moreover, this comment quotes court cases stating the general plan analysis “reaches beyond the mere changes in language in policies to the ultimate consequence of changes to the physical environment.” The Draft PEIR provides detailed, quantified analysis of potential buildout by land use and subregion, then analyzes potential operational impacts accordingly. Similarly, and described below, potential resource impacts are evaluated and quantified as possible. The approach to analyzing cumulative impacts is appropriate for the general plan level of the Draft PEIR, and is described for each topical section in Section 4.4, *Assumptions Regarding Cumulative Impacts*

As described in response to the topical comments that follow, the Draft PEIR does meet the requirements outlined in this comment regarding biological resources, air quality, GHG, fire hazards, water supply, aesthetics, public utilities, and enforceable measures as feasible to mitigate impacts. It also appropriately analyzes the scale of the project and the “secondary” effects of adoption of the CWP. In conclusion, the Draft PEIR does analyze “in a detailed, quantifiable fashion” the impacts that could result from implementation of the CWP, including the impacts that could negatively affect the environment.

- O5-4 This comment asserts that the Draft PEIR mitigation measures are insufficient, vague, and unenforceable. Yet the commenter doesn’t provide any examples or otherwise substantiate this assertion. In the Executive Summary section, Draft PEIR Table 1-2 provides a list of all the impacts and required mitigation measures. This table is 26 pages and includes detailed mitigation measures, including responsibility and timing specifications, for air quality, biological resources, greenhouse gases, minerals, noise, and transportation. Additionally, each topical Draft PEIR section details applicable regulatory measures and CWP policies that mitigate potential impacts.
- O5-5 This comment states that the Draft PEIR contains no detailed, quantitative analyses of project impacts on populations of special-status species or habitats, and does not provide any discussion or analysis of edge effects such as domestic pets and their potential impacts on endemic, rare, threatened, and endangered species. The County is proposing mitigation measures for impacts to species that have not yet been properly identified or analyzed.

## 2. Response to Comments

As stated in Draft PEIR Section 3.4, *Intended Uses of the EIR*, the PEIR “is a Program EIR that examines the potential environmental impacts of the proposed Countywide Plan.” As stated in Section 5.4.4.1, *Methodology*, of the biological resources section,

... programmatic impacts are discussed in broad, qualitative terms of habitat types that could be impacted due to the buildout of the CWP. This assessment does not satisfy the need for project-level CEQA analysis for individual projects. Individual projects under the proposed CWP will require project-level analysis at the time these projects are proposed based on the details of the projects and the existing conditions at the time such projects are pursued. Future projects that may result in significant impacts to biological resources will require identification of project-specific mitigation measures at that time consistent with the CWP, the County Development Code, appropriate local HCPs, and federal and state laws, policies, and regulations as applicable.

Section 5.4, *Biological Resources*, provides quantitative and qualitative analysis of direct and indirect impacts to biological resources in each of the county regions and evaluates these impacts against the CEQA Guidelines Appendix G Thresholds of Significance provided in Section 5.4.2. Potential direct impacts to potential habitat for special-status species are quantified in Table 5.4-15, *Potential Habitat for Special-Status Species in the Valley Region within Proposed Land Use Changes*; Table 5.4-17, *Potential Habitat for Special-Status Species in the Mountain Region within Proposed Land Use Changes*; and Table 5.4-19, *Potential Habitat for Special-Status Species in the Desert Region within Proposed Land Use Changes*. Potential impacts to designated critical habitat for each region are quantified in Table 5.4-14, *Critical Habitat in the Valley Region within Proposed Land Use Changes*; Table 5.4-16, *Critical Habitat in the Mountain Region within Proposed Land Use Changes*; and Table 5.4-18, *Critical Habitat in the Desert Region within Proposed Land Use Changes*.

This analysis of potential impacts in the Draft PEIR was supported by a thorough environmental setting in Section 5.4.1, and a Biological Resources Existing Conditions Report (PEIR Appendix D).

- O5-6 This comment requests a biotic resources analysis of all special status species and their habitat range that adequately addresses environmental impacts. The commenter also asserts that the County should incorporate all critical habitat designations in the PEIR, and mapping and analysis should include an adequate buffer to prevent edge effects (e.g., reserves for the federally endangered Stephen’s kangaroo rat and San Bernardino kangaroo rat should have a ½ mile buffer).

As described in detail in Draft PEIR Appendix D, Section 3.4, Special-Status Species, a variety of authoritative sources were used to provide information on special-status species’ ranges, distributions, and presence in the county, including CNDDB records, the CNPS inventory, USFS occurrence data, USFWS occurrence data, occupied quadrangles as range surrogate for plants, and CDFW Wildlife Habitat Relationship data for wildlife

## 2. Response to Comments

ranges. The biological resources impact analysis used this information to evaluate the potential loss of habitat for special-status species based on buildout of the proposed land uses under the CWP. Please see response to comment O5-6 regarding assessment of impacts to critical habitat. Specific avoidance measures, such as buffers adjacent to critical habitat, will be addressed in project-specific CEQA analysis.

- O5-7 This comment states that the Draft PEIR failed to adequately analyze impacts to oak woodlands and did not propose alternatives to mitigate the significant effect of converting oak woodlands to other vegetation types.

Impacts to special-status vegetation communities are evaluated under Impact 5.4-2. PEIR Table 5.4-20 shows the acreage of potential impacts from developed land uses and partially developed land uses on canyon live oak woodland and coastal live oak woodland in the Valley Region of the county; Table 5.4-21 shows the acreage of potential impacts in the Mountain Region; and Table 5.4-22 shows the acreage of potential impacts in the Desert Regions.

The Policy Plan of the proposed CWP includes policies that address avoidance, minimization, and mitigation of special-status vegetation communities, including:

- Policy NR-5.7, Development review, entitlement, and mitigation, which states that “[w]e comply with state and federal regulations regarding protected species and vegetation through the review, entitlement, and environmental clearance process.”
- Policy LU-2.3, Compatibility with natural environment, which states that “[w]e require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.”

Finally, DPEIR Mitigation Measure BIO-1 requires that development projects assess potential impacts to biological resources and, if applicable, include avoidance and mitigation measures to reduce the impact below a level of significance.

- O5-8 This comment states that the Draft PEIR fails to adequately address direct, indirect, and cumulative impacts to the Santa Ana River; fails to propose potentially adopting strategies of the Wash Plan and Upper Santa Ana River Habitat Conservation Plan into the CWP; and must address the potential to conflict with local plans implementing protection and conservation of species that rely upon the riparian environment of the Santa Ana River.

Potential impacts to the biological resources of the Santa Ana River in the Valley and Mountain regions of the county are evaluated in the Draft PEIR, including impacts to special-status vegetation, special-status species, and wildlife movement. As evaluated under Impact 5.4-5, there are no CWP policies that would negatively affect HCPs, NCCP, or local ordinances. Also as evaluated under Impact 5.4-5, the Upper Santa Ana River Habitat Conservation Plan is an HCP currently in development by several water agencies, and the planned HCP will address primarily aquatic resources of the Santa Ana River

## 2. Response to Comments

potentially affected by water infrastructure projects and operations and maintenance of those facilities. Neither the Upper Santa Ana River HCP nor the Wash Plan are approved, and therefore it would be too speculative to evaluate the effects of the CWP on plans currently in the development stages. Further, individual projects under the proposed CWP will require project-level analysis, which would address their potential effects on the HCPs if the HCPs are approved at that time. Additionally, the proposed CWP includes:

- Policy NR-5.1 Coordinated habitat planning. We participate in landscape-scale habitat conservation planning and coordination with existing and proposed Habitat Conservation and Natural Resource Management Plans for private and public lands to increase certainty for both the conservation of species, habitats, wildlife corridors, and other important biological resources and functions and for land development and infrastructure permitting.

O5-9 This comment states that riparian habitat in the Desert Region is rare and cannot be replaced, so it should be completely protected. CWP policies address avoidance, minimization, and mitigation of special-status vegetation communities, including:

- Policy NR-5.7, Development review, entitlement, and mitigation, which states that “[w]e comply with state and federal regulations regarding protected species and vegetation through the review, entitlement, and environmental clearance process”
- Policy LU-2.3, Compatibility with natural environment, which states that “[w]e require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.”

Additionally, PEIR Section 5.4.3.1, *Regulatory Requirements*, describes that the proposed CWP would be subject to and implemented in consistence with existing laws and regulations, which would provide for biological resources protections. With regard to desert riparian habitats, existing regulatory requirements provide for protection of these resources, including RR BIO-1, Jurisdictional Waters Permitting; RR BIO-5, Special-Status Species; and RR BIO-7 Desert Native Plant Protections.

Further, individual projects under the proposed CWP will require project-level analysis to address their potential effects on desert riparian habitat.

O5-10 This comment contends that the CWP’s encroachment into wildlife corridors and increases in adverse “edge effects” of fragmented habitat will create significant adverse effects on wildlife migration.

Draft PEIR Section 5.4.1 and Appendix D provide detailed information on mapped regional habitat linkages and major washes and riparian corridors that provide for wildlife movement through each region of the county. Biological resources Impact 5.4-5 describes the potential for direct impacts to wildlife movement of the proposed CWP where proposed land uses overlap habitat linkages. The impact analysis also describes potential indirect impacts to wildlife movement from the proposed CWP, including construction

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and operational noise and emissions, light pollution, and increased human activity (“edge effects”). Individual projects under the proposed CWP will require project-level analysis to address their potential effects on wildlife movement.

- O5-11 This comment states the DPEIR fails to adequately address the full range of biological impacts from development, such as indirect impacts to sensitive habitats—including impacts associated with the establishment of fuel modification zones; unpermitted recreational activities; the introduction of nonnative plants and nonnative wildlife (e.g., Argentine ants); the introduction of pets, lighting, and noise; increases in traffic (and thus wildlife road mortalities); and loss and disruption of essential habitat due to edge effects.

Section 5.4 of the Draft PEIR, *Biological Resources*, provides quantitative and qualitative analysis of direct and indirect impacts to biological resources in each of the county regions and evaluates these impacts against the CEQA Guidelines Appendix G Thresholds of Significance, provided in Section 5.4.2.

As stated in Section 5.4.4.1, *Methodology*, “Future projects implemented under the proposed CWP could result in both direct and indirect impacts to biological resources.” An evaluation of indirect impacts to special-status vegetation communities by bioregion is presented in Section 5.4.4.2, *Impacts*. Impact 5.4-2 states,

Indirect impacts could result from generation of fugitive dust, increased sediment loads in runoff from construction activities or the adverse effect of invasive plant species. Indirect impacts could also result from permanent alterations to hydrology upstream of habitats, including increased runoff, sedimentation, or pollutant loads, and increased human activity, which could result in trampling and disturbance.

These potential impacts are discussed by bioregion on Pages 5.4-61 through 5.4-67. CWP policies would address avoidance, minimization, and mitigation of special-status vegetation communities, including:

- Policy NR-5.7, Development review, entitlement, and mitigation, which states that “[w]e comply with state and federal regulations regarding protected species and vegetation through the review, entitlement, and environmental clearance process.”
- Policy LU-2.3, Compatibility with natural environment, which states that “[w]e require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.”

The impact analysis also describes potential indirect impacts to wildlife movement from the proposed CWP, including construction and operational noise and emissions, light pollution, and increased human activity (“edge effects”). Individual projects under the proposed CWP will require project-level analysis to address their potential effects on wildlife movement. Finally, PEIR Mitigation Measure BIO-1 requires that development

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projects assess potential impacts to biological resources and, if applicable, include avoidance and mitigation measures to reduce the impact below a level of significance.

O5-12 This comment states that specific, feasible, and enforceable mitigation measures for impacts associated with fuel modification zones; unpermitted recreational activities; introduction of nonnative plants; introduction of pets, lighting, and noise; and the loss and disruption of essential habitat due to edge effects were not incorporated in the Draft PEIR.

As stated in PEIR Section 5.4.3.2, *Policy Plan*, “The County proposes to establish goals, together with implementation policies, related to the protection of special-status biological resources and cooperation with federal, state, and local resource agencies.” The CWP includes policies that address avoidance, minimization, and mitigation of biological resources. Indirect impacts would be minimized with implementation of:

- **Policy NR-5.7 Development review, entitlement, and mitigation.** We comply with state and federal regulations regarding protected species of animals and vegetation through the development review, entitlement, and environmental clearance processes.
- **Policy NR-5.8 Invasive species.** We require the use of non-invasive plant species with new development and encourage the management of existing invasive plant species that degrade ecological function.
- **Policy LU-2.3 Compatibility with natural environment.** We require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.

Finally, individual projects under the proposed CWP will require project-level analysis to address their potential effects on wildlife movement. Mitigation Measure BIO-1 requires that development projects assess potential impacts to biological resources and, if applicable, include avoidance and mitigation measures to reduce the impact below a level of significance.

O5-13 The Draft PEIR comprehensively assesses the significant environmental effects of the project, presents a reasonable range of alternatives to the proposed project, and provides feasible mitigation measures to reduce and avoid significant environmental impacts. The County disagrees with the commenter that the air quality analysis is cursory and overlooks substantial information (see responses to Comments O5-14 and O5-15).

O5-14 Section 5.3, *Air Quality*, evaluates potential environmental impacts from air pollutants, including criteria air pollutant and toxic air contaminants (TACs). Hazardous air pollutants (i.e., TACs) are evaluated under Impact 5.3-4 on Pages 5.3-40 through 5.3-41. The current federal standards for PM<sub>2.5</sub> are listed in Table 5.3-1, *Ambient Air Quality Standards for Criteria Air Pollutants*. Impact 5.3-1 includes a comprehensive analysis of consistency with the

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latest air quality management plans adopted by the South Coast Air Quality Management District and the Mojave Desert Air Quality Management District. Criteria air pollutants generated by land uses in the unincorporated county under existing conditions and at buildout are provided under Impact 5.3-2. In addition, mitigation measures were included in Section 5.3 to reduce the project's air quality impacts (see response to Comment O5-15).

- O5-15 The Countywide Plan provides an outline for development in the unincorporated areas of the county. Therefore, the mitigation measures in the EIR must cover a broad range of project types that have the potential to occur over the lifetime of the plan. Mitigation Measures AQ-1 and AQ-2 in the PEIR commit the County to require additional studies that are triggered during subsequent environmental review for discretionary projects. The mitigation measures are prescriptive and require that applicants for these development projects incorporate mitigation to achieve the Air District's significance thresholds. Therefore, the mitigation measures are fully enforceable through the County's permit conditions, agreements, or other legally binding actions because they (1) commit the County to mitigation, (2) include specific performance standards that the mitigation will achieve, and (3) provide a list of potential actions that can feasibly achieve the performance standards consistent with CEQA Guidelines Section 15126.4.

The County of San Bernardino does not provide mass transit (bus or rail). Policies in the Countywide Plan encourage the use of alternative modes of transportation (policies TM-3.1 through TM-3.3, TM-1.9, TM-4.1 through TM-4.11, and TM-5.1). In addition, the Countywide Plan identifies coordination with the transit agencies as an essential strategy to achieve the County's overall VMT reduction goals (TM-4.5). However, implementation of transit infrastructure is outside of the County's jurisdictional authority; therefore, this mitigation measure was considered and rejected.

- O5-16 Comment noted. Section 5.7, *Greenhouse Gas Emissions*, provides a comprehensive analysis of the GHG emissions impacts of the project. As noted by the commenter, GHG emissions were identified as a significant unavoidable impact of the project.
- O5-17 Comment noted. Section 5.7 identifies the potential climate change impacts for California on pages 5.7-4 through 5.7-7.
- O5-18 The CWP discourages developers from building in areas of extreme fire hazard. Policy HZ-1.2 of the CWP does not allow new development in high or very high fire hazard severity zones. Furthermore, regulatory requirements described in Section 5.8.3.1 and 5.8.3.3 of the Draft PEIR mandate setbacks and restrictions on the density of developments in forested and fire-prone areas. With the implementation of these regulatory requirements, unincorporated growth under the CWP would not expose people to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with

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wildlands. However, as described in Impact 5.8-6 and 5.8-8, impacts from pollutant concentrations, downstream flooding, or landslides associated with wildfires are significant and unavoidable. Even though the County has numerous policies, regulations, and comprehensive mitigation programs in place, feasible mitigation for these impacts has not been identified.

- O5-19 The National Pollutant Discharge Elimination System (NPDES) permits for the construction and operational phases of future development regulate water quality issues and ensure that impacts are mitigated. These permits mandate studies and plans that need to be conducted prior to approval of a project. At this stage, genuine flexibility still remains, and project-specific mitigation measures can be assessed and implemented based on project-specific impact analyses. These plans are implemented as early as feasible in the planning process to enable consideration in the project design.

With respect to water supply, the Draft PEIR relied on water supply and demand projections provided by local water districts. Local water districts assess available water supply and shortfalls, identify other potential sources, and identify and analyze the environmental consequences of tapping those resources. The Draft PEIR relied on this analysis to show that potential growth would not affect water supply. Furthermore, local water suppliers, cities, and counties will make decisions about land use in accordance with SB 610 and SB 221, which require an affirmative verification of sufficient water supply before larger developments can proceed.

Residential densities, as projected under the CWP, would not be in areas where water supplies are being overdrawn by current development or compromised by natural or man-made contaminants. Also, uses with heavy water demands would not be in areas with a shortage in water supply. All development is in areas with sufficient water supply to service future development, and regulatory requirements are in place to ensure that any development that cannot be serviced by available water supplies cannot proceed. Additionally, policies and regulations relating to water conservation, landscaping regulations, and runoff reduction are described in PEIR Sections 5.18.2.3 and 5.18.3.2. These requirements are sufficient to reduce impacts relating to water supply, hydrology, and water quality.

- O5-20 This comment states that the Draft PEIR should be withdrawn, redrafted, and recirculated because it meets the conditions in CEQA Guidelines 15088.5 that require recirculation, including that 1) new information shows a new substantial environment impact, that 2) new information shows a substantial increase in the severity of an environmental impact and 3) that the Draft PEIR is so “fundamentally and basically inadequate and conclusory in nature” that public comment on the Draft PEIR is essentially meaningless. The County strongly disagrees with this conclusion and does not believe that information to support redrafting and recirculating the Draft PEIR has been provided in this comment letter. The specific responses to this letter; all other responses to agencies, organizations, and

## 2. Response to Comments

individuals in this Final PEIR; and supplemental information and revisions in Chapter 3, *Revisions to the Draft PEIR*, address outstanding questions and information requests for this project. The conditions in CEQA Guidelines Section 15088.5 for recirculation have not been met.

## 2. Response to Comments

LETTER O6 – Morongo Basin Conservation Association (13 page[s])

O6



P.O. Box 24, Joshua Tree, CA 92254  
[www.mbconservation.org](http://www.mbconservation.org)

August 15, 2019

Ms. Linda Mawby (By Email: [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov))  
Senior Planner

Mr. Jerry Blum (By Email: [Jerry.Blum@lus.sbcounty.gov](mailto:Jerry.Blum@lus.sbcounty.gov))  
Countywide Plan Coordinator

County of San Bernardino Land Use Services Department – Planning Division  
385 North Arrowhead Avenue, First Floor  
San Bernardino, CA 92415-0187

Re: Draft Programmatic Environmental Impact Report (State Clearing House No. 2017101033  
(June 2019)

Dear Ms. Mawby and Mr. Blum,

The Board of MBCA and its members and supporters take this opportunity to comment on the Draft Programmatic Environmental Impact Report (PEIR), which is intended to support the updating of the Draft Countywide Plan.

This letter includes by reference the eleven sections of the Coalition letter dated \_\_\_\_ to which MBCA and board members are signatories. The Coalition letter analyses the disadvantages of the process and content of the PEIR as it addresses CEQA and the legitimate concerns of residents for their communities and the natural environment in the North and East Desert Regions.

O6-1

### Our Position

The preparation of this PEIR comes at the pivotal moment in human history with the effects of climate change becoming ever more apparent. The Executive Summary includes no mention of climate change and we contend that this threat should be at the foundation of all analyses. Beyond the discussion of climate change included within Chapter 5-7, Greenhouse Gas Emissions, there is little mention of the elephant in the room – climate change that is projected to affect every aspect of life on the planet.

O6-2

## 2. Response to Comments

A strategy to address the effects of climate change is to foster and promote resilience. Resilience cannot be assured when the land and natural environment upon which the many species, including homo-sapiens, is irreversibly degraded and altered.

The Introduction of the 2011 Countywide Vision states *'in our present circumstances, our first priority is jobs'*. As can be seen with ever more clarity, circumstances are changing very rapidly and while jobs are crucial, the ability of the planet to support human life must become the first priority of the Countywide Plan for which this PEIR is being crafted. Within the time frame that the proposed Countywide Plan is to guide San Bernardino County, further massive changes are sure to be experienced. How to adapt to these changes must be fundamental to the process of crafting this Countywide Plan.

O6-2  
Cont'd

### 5.3 Air Quality

The North and East Desert regions are target areas for utility scale solar development. The new Resource Land Management (RLM) land use category allows it as a typical use across 5,808,833 acres of unincorporated desert lands. However, all that land is not suited for solar development and the PEIR is the document to guide future project applications.

Development of utility solar projects, which can call for scraping or modifying thousands of acres of naturally vegetated or agriculture land with resulting eolian dust, is not referenced in the 5.3 Air Quality chapter. The PEIR relies on the MDAQMD for monitoring and regulation. However, the 1995 Final Mojave Desert Planning Area (MDPA) shows the Plan is woefully out-of-date.

O6-3

*"Mojave Desert Planning Area: The MDAQMD has determined that the Federally designated nonattainment area covers a larger region than was warranted, based on several facts: • The locations of the existing PM10 monitoring sites: The five monitoring sites are located in the southwest corner of the nonattainment area. This means the majority of the northern and eastern portions of the area are not monitored for PM10. Nor does the monitor data reflect ambient air in the northern and eastern portions of the nonattainment area. • The location of the population: The vast majority of the nonattainment area's population and associated anthropogenic PM10 sources (97 percent) live and are located in the southwestern communities. • The location of emission sources: With the significant exception of the two large military bases, most major PM10 sources, including unpaved roads, fall within the southwest corner of the nonattainment area. Sixty-four percent of the PM10 emissions occur within the southwest corner of the nonattainment area."* (page 10)

MDAQMD RULE 403.2 Fugitive Dust Control was adopted in 1996 and covers the following activities, none of which approach the magnitude of a utility solar project:

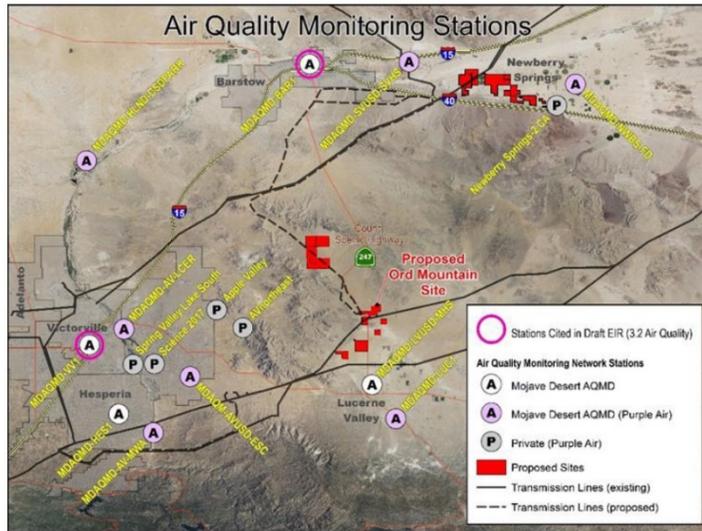
- (i) Construction/Demolition Activity;
- (ii) Heavily Traveled Publicly Maintained Unpaved Roads;
- (iii) Weed suppression activity;

## 2. Response to Comments

- (iv) Limestone processing activity in the Lucerne Valley Area; and
- (v) Activities on Bureau of Land Management (BLM) land.

Dust control methods rely on periodic watering, which has been shown not to control dust on solar sites thus wasting acre feet of this diminishing resource in the Desert Regions. As the climate continues to warm this water will only become less available.

With a history of solar development in the county, Land Use Services is well aware of project related PM10 and PM2.5 problems and yet does not require developer due diligence to monitoring emissions prior to and during construction, operations and environmental recovery, which could take hundreds of years. MDAQMD is now placing Purple Air monitors strategically throughout the air basin. While these monitors cannot be used for regulating projects, they are providing an understanding of the problem not previously grasped.



**Figure 1:** Air Quality Monitoring Stations in the Mojave Desert Air Basin.

O6-3  
 Cont'd

Note: Shaded As and Ps are PurpleAir monitors not approved for regulatory purposes. The map is available <https://www.purpleair.com/map#7.19/34.001/-117.08>

**Comment:** Utility scale solar projects are a major regional source of criteria pollutants PM10 and PM2.5. This source needs to be monitored for background and project emissions and following decommissioning. The current lack of monitoring and the implications for human health and the environment must be discussed in the appropriate sections of 5.3 Air Quality.

## 2. Response to Comments

### 5.3.1.1 Environmental Setting

The Environmental Setting discussion on the MDAB does not inform the decision makers or stakeholders of the subsequent air quality problems that are inherent with utility solar development on soils with the hazard of blowing dust.

The USGS provides this background (see below) and surficial geology maps can be requested from USGS. Data on the soil types specific to the North and Eastern Desert Regions is available from the National Resource Conservation Service located close-by in Victorville. We do not suggest using the U.C. Davis soil data. There is no reasonable excuse for not providing the area geomorphology with soil data to the decision makers and stakeholders. As stakeholders MBCA have provided project specific soils types with our comments on the utility solar projects currently under review.

The following quote is from the USGS Poster: Assessing the geology of large-footprint energy installations in the Mojave Desert, California and Nevada. David R Bedford and David M. Miller. U.S. Geological Survey.

<https://archive.usgs.gov/archive/sites/www.usgs.gov/newsroom/article.asp-ID=2442.html> #42. The poster was provided to Pat Flanagan by David M. Miller and is attached to these comments

*“Large-footprint energy installations such as solar and wind farms are proposed for wide areas of drylands that are publicly owned. These installations impact areas of 400 to 2000 hectares each, requiring land-use assessments that are novel compared to past decisions for relatively small installations such as mine sites and roadways. Solar installations require low-gradient smooth topography, areas for which we have several data sets that can help with evaluations.*

*We use topography (30m DEMs) and surficial geology (1:100,00 scale) for an area of 40,400 km stretching from Lancaster and Mojave on the west to Jean, NV, and Goffs, CA on the east to evaluate potential lands for solar energy installations. That geology was mapped using uniform methods across the northern Mojave Desert so that a consistent data-base is available for analytical purposes. We use slope categories, surficial geology attributes, and land ownership to describe this area in a series of maps.*

*About 48% of the entire area is less than 5% slope, and 8.3% is less than 1% slope, the favored slope category. For this lowest slope category, deposits underlying about 98% of the area are either mixed eolian-alluvial origin or are fine-grained alluvial deposits, and thus susceptible to eolian dust and sand transport, especially after disturbance. In addition, in this low-slope category, 89% of the area is susceptible to flooding, based on the age or geomorphology of alluvial deposit. These maps are examples of several we present for decision-making with respect to hazards and ecological attributes in the face of climate change.”*

*“Land Ownership*

*The most suitable areas determined by slope (0-1%) make up only 9 percent of the study area. Within that area, 76% of the area could potentially be developed based on ownership.”*

06-4

## 2. Response to Comments

0-1% Slope	1-3% Slope	3-5% Slope
BLM 34%	37%	47%
Private 42%	34%	18%

O6-4  
 Cont'd

### 5.06 Geology and Soils

Utility Scale Solar Projects built on soils subject to eolian dust can be hazardous to human health and safety during high wind events. Currently operating utility solar projects in Helendale, Lucerne Valley, Newberry Springs, and within the Morongo Basin are on record for major dust blows. Eolian soils are not discussed in this chapter in a meaningful way and there are no policies within the Hazard Element dealing with the hazard of blowing dust. Possibly,

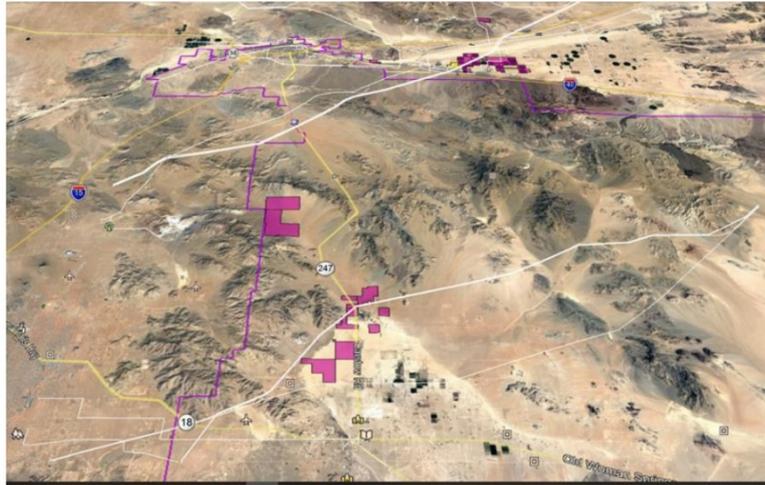
**Goal HZ-1 Natural Environmental Hazards.** Minimized risk of injury, loss of life, property damage, and economic and social disruption caused by natural environmental hazards and adaptation to potential changes in climate. (page 5.6-24)

O6-5

could be applied although a utility scale solar project, based on current experience, should trigger control measures beyond the current Rules for controlling Fugitive Dust.

We propose that low slope areas with soils subject to eolian dust be maintained as open space. This requires a broader treatment of this geologic hazard than is currently provided in the PEIR and CWP.

**Policy HZ-1.9 Hazard areas maintained as open space.** We minimize risk associated with flood, geologic, and fire hazard zones or areas by encouraging such areas to be preserved and maintained as open space.



**Figure 2:**  
 Proposed  
 Utility Solar  
 Projects in  
 Lucerne  
 Valley and  
 Daggett  
 located on  
 the favored  
 low slopes

## 2. Response to Comments

### 5.4 Biological Resources

Impacts to biological resources in 5.4-1 through 5.4-5 are stated as Potentially Significant before mitigation and significant and unavoidable after mitigation.

#### Mitigation Measure BIO-1

*“For each development project that would disturb special status vegetation on vacant land, or that might impact a wildlife movement corridor or jurisdictional waters pursuant to the CWP and subject to CEQA, a qualified biologist shall determine the potential for a significant biological resource impact and determine whether a field survey of the project site is warranted. If warranted, a qualified biologist shall prepare a biological resources technical report meeting current requirements of CEQA, and addressing applicable County goals and policies, applicable Habitat Conservation Plans and Natural Community Conservation Plans, and applicable federal, state, and local regulatory requirements. The report shall include documentation of biological resources present or potentially present (including special-status species, special status vegetation communities, jurisdictional waters, and wildlife movement corridors), an impacts analysis, avoidance measures and mitigation measures to reduce significant impacts to less than significant if applicable and feasible.” (bold applied)*

**Comment:** BIO-1 is not a mitigation measure. All the qualified biologist, no specialty required or given, has to do is make a list and prepare a report. Possibly a different qualified biologist makes the field survey but surveys require a team of biologists following protocols to make their determinations. The report will include the lists and along with the impacts analysis there will be the list of avoidance measures and mitigation measures. If feasible something might be done but no monitoring is required.

Please compare BIO-1 with the 2007 Mitigation Measures for Biological Resources. There are 13 Mitigation Measures many of which begin with: The County shall coordinate with local interest groups, state, and federal agencies, prior to the approval of land use conversion to ensure adequate protections are in place to preserve habitat, or identify buffering techniques, or improve water quality, to create a specific and detailed wildlife corridor map, and it goes on.

Unfortunately, there was no funding for the S.B. County Museum to review and update the Biological Resources Overlay and Open Space Overlay to provide accurate and current spatial data... However, then and now, that data is available from the responsible state and federal agencies and interest groups.

The County can and must provide better guidelines and assurances than BIO-1 if this richest of desert areas is to survive, in any part, our rapidly changing climate.

#### Conservation Planning in the East Desert Area

Section 15126 of the CEQA Guidelines require that an EIR examine ways in which a proposed project could foster, either directly or indirectly, further construction projects which could

O6-6

O6-7

## 2. Response to Comments

affect the environment, individually or cumulatively. The Morongo Basin covers a major portion of the East Desert Region.



**Figure 3:** The Morongo Basin Unified School District boundary used to delineate the area for the Morongo Basin Conservation Report.

The MBCPR can be found here <https://www.sciencebase.gov/catalog/item/552d3f21e4b0b22a157f5226>

*The Morongo Basin Conservation Priorities Report: A strategy for preserving conservation values/ 2012 (MBCPR)*

*"The Morongo Basin Conservation Priority Setting Project was undertaken between 2008 and 2010 as part of ongoing efforts to support the basin's long-term development and conservation. Project efforts are based on goals that originate in community values and are grounded in conservation science.*

*This report presents the results of the project. It is intended to serve as a resource guide to inform conservation choices and support planning activities in the basin. It is our hope that the choices and decisions made as a result of our priority setting will respect our "backyard" desert landscapes while supporting the social and economic well-being of basin communities over the long term."* (page 3)

The Community of Joshua Tree including the National Park, the Marine Base, the Third District Supervisor's representative, local municipalities, non-profits including MBCA and MDLT, and others met monthly guided by a professional planner. The Project developed around 5 conservation values:

1. Protecting Joshua Tree National Park
2. Protecting the Mission of the Marine Corp Air Ground Combat Center
3. Wildlife connectivity and Habitat
4. Maintaining Community Identity
5. Protecting Community Views and Treasures.

This multi-year Project was directed by Stephanie Weigel, a Senior Planner with GIS expertise, and funded through the Sonoran Institute for over **\$100,000**. The Project includes the GreenInfo website, <http://websites.greeninfo.org/morongo/mbcv/live/> which allows an individual or County Planner to search by APN# or address to find the conservation values of any parcel within the project outline. The website has been supported since 2012 by the Morongo Basin Conservation Association and the Mojave Desert Land Trust.

Q6-7  
 Cont'd

## 2. Response to Comments

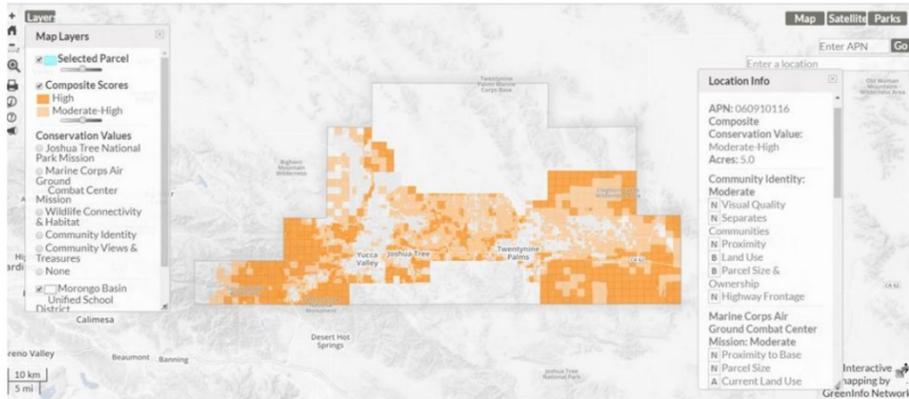


Figure 4: GreenInfo Map of the Morongo Basin Covered in the Report. Locations are accessed by address or APN#.

O6-7  
Cont'd

Clearly the MBCPR provides the baseline information for this major area in the East Desert. Currently it is not accepted by the County.

Ironically, the **Joshua Tree Community Action Plan Statement A.1** directs the community to Partner with organizations such as Mojave Desert Land Trust to conserve natural desert habitats and wildlife corridors and to protect native plants and animals.

**Benchmark:** A desert conservation plan for the community is prepared.

**Champion:** Joshua Tree National Park Association

**Timeline:** 3-8 months

**Cost:** \$5,000

If the County chooses not to accept the Conservation Priorities Report as the baseline for planning decisions in the Morongo Basin, the Community Planning Continuum being proposed in the CWP and stated in the PEIR emphasizing 'Action Plans' and grass roots engagement, must be questioned.

### Mapping Wildlife Movement Corridors

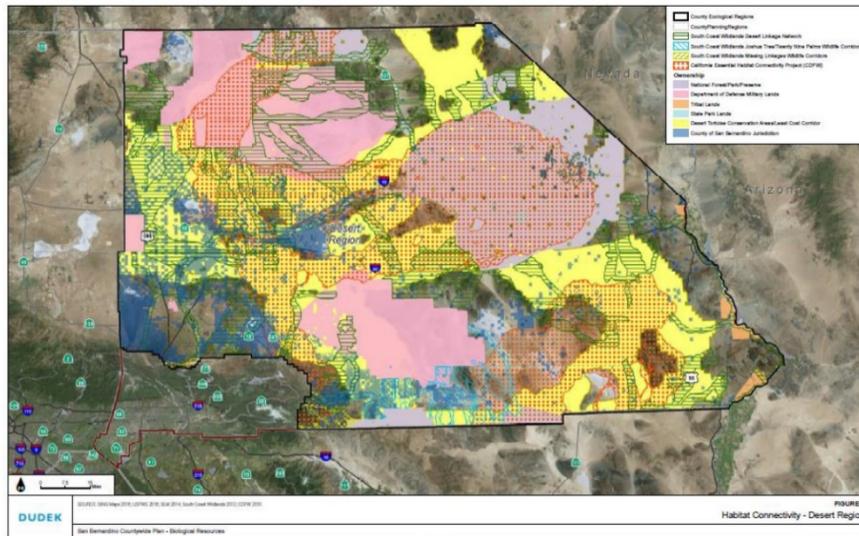
We are all aware that as the climate changes wildlife and vegetation species will need to adjust their ranges to accommodate to the change. This is happening now and management for resiliency must be an import goal of the CWP.

O6-8

*"In addition to potential impacts from CWP policies, future development in undeveloped areas allowed under the proposed CWP could result in direct or indirect impacts to the movement of wildlife through impacts to habitat or fragmentation of open space." (page 5.4-70)*

## 2. Response to Comments

Within Chapter 5. Environmental Analysis Biological Resources, habitat linkages and wildlife corridors are listed for the Valley, Mountain, and Desert Regions. The basic linkage network connecting habitat within and between these regions should be mapped so that the decision makers and stakeholders can see and better understand the extent of flow across the County's open and wild spaces. Clearly individual projects will discover additions and changes to the linkages but that does not lessen the value of seeing the basic design. Achieving clarity will be difficult. Figure 6 in Appendix D: Biological Resources Existing Conditions Report tries and fails to demonstrate connectivity between habitat blocks.



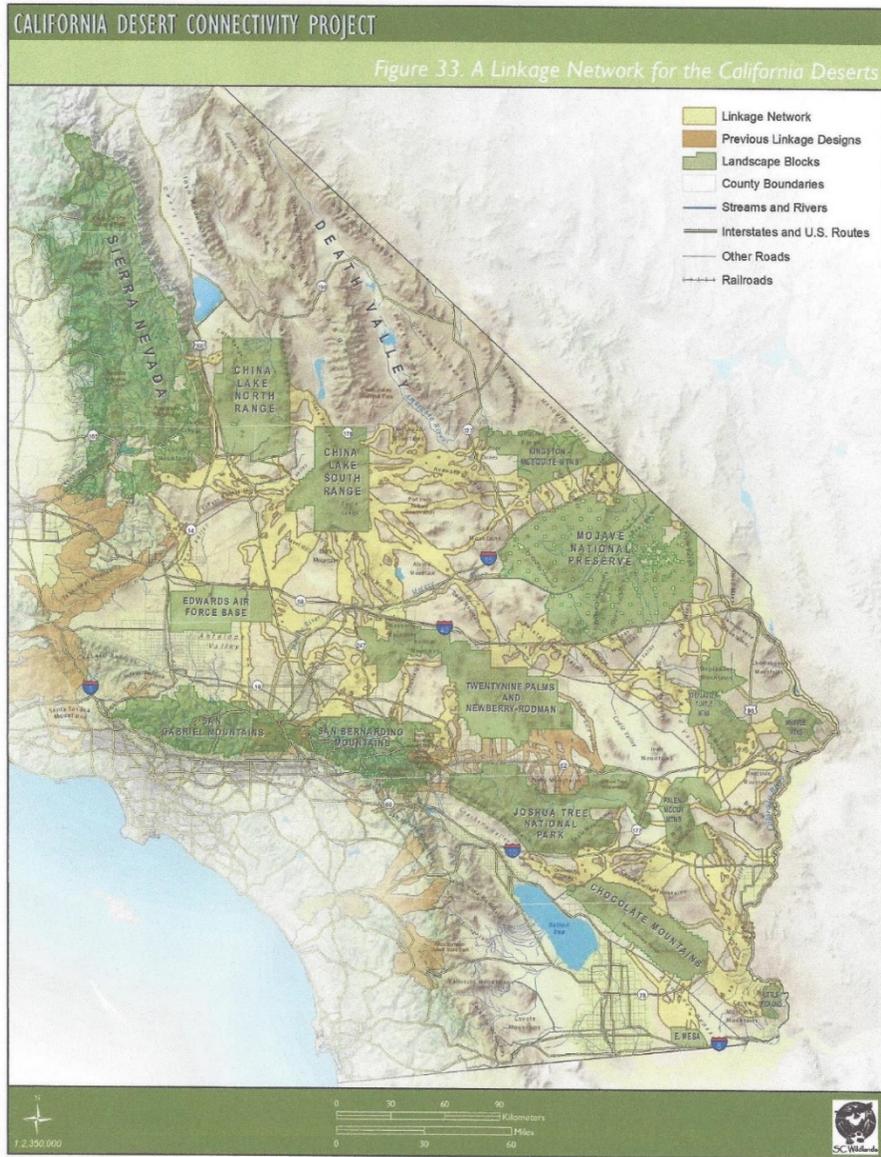
O6-8  
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**Figure 5:** Habitat Connectivity – Desert Region Appendix D Desert Region.

This map provides the viewer with no information. There are no named waypoints to let the viewer know where in the desert they are looking/ The habitat blocks are not named – nothing is named and there are no highways for reference.

Figure 6 below shows SC Wildlands California Desert Connectivity and all the arms are easy to identify, the landscape blocks are named, and major highways are included for orientation. Topography is the background.

## 2. Response to Comments



O6-8  
Cont'd

**Figure 6:** Figure 33 A Linkage Design for the California Desert from the California Desert Connectivity Project.

## 2. Response to Comments

### Maps – General

The above observations on the CWP Habitat Connectivity map can be leveled at many of the maps provided in the PEIR. Maps are supposed to provide visual information. Maps can also lie and deceive, even if not purposefully. I urge you to carefully examine the paper maps provided in the PEIR and also the interactive web maps where layers can be added. Below is HR-2 Parks and Open Space Resources. There are few names for orientation and no roads.

Opening NR-2 on line (Figure 7 below) I was able to identify the colored blocks by clicking them on and off. Roads would have been nice to add. If the option was there, I didn't see it.

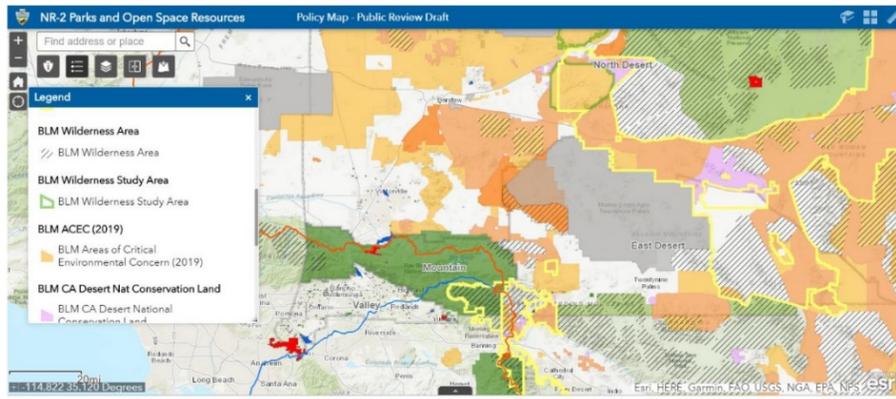
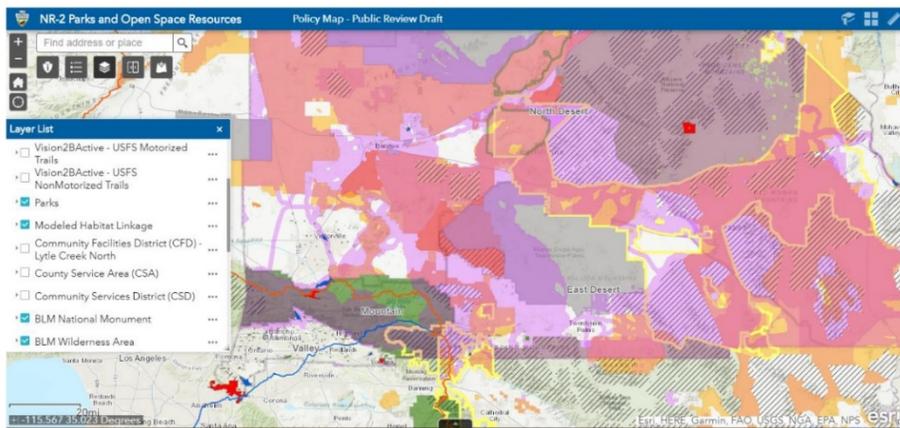


Figure 7: NR-2 Parks and Open Spaces Resources.

Figure 8: Figure 7 with the Habitat Linkage layer added. The pink Linkage layer changes all the colors and obscures the boundaries of the existing layers.



O6-8  
 Cont'd

## 2. Response to Comments

We thank the County for this opportunity to respond the DEIR and assure you that our comments are intended to help improve this long and complex document so that it will function to support our Desert Region in the planning outcomes of the CWP.

Very Truly Yours,



MBCA Board Member

MBCA Board Members

- President - [Steve Bardwell, Pioneertown](#)
- Vice President - [David Fick, Joshua Tree](#)
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- Member - [Meg Foley, Morongo Valley](#)
- Member - [Mike Lipsitz, Landers](#)
- Member - [Ruth Rieman, Flamingo Heights](#)

Please add Brian Hammer to the signature list.

## 2. Response to Comments

### O6. Morongo Basin Conservation Association, dated August 15, 2019.

O6-1 Comment acknowledged.

O6-2 The Executive Summary includes a summary of the greenhouse gas (GHG) emissions impacts of the project, which are evaluated in Section 5.7 of the PEIR. The Countywide Plan includes adaptation and resiliency policies in accordance with Senate Bill 379 to protect the community associated with the effects of climate change. However, climate change impacts on the proposed project are not CEQA impacts. *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478).

O6-3 Section 5.3, *Air Quality*, evaluates impacts from construction activities associated with buildout of the Countywide Plan, including fugitive dust (PM<sub>10</sub> and PM<sub>2.5</sub>)—which includes fugitive dust generated from wind erosion (i.e., eolian erosion)—under Impact 5.3-3. Mitigation Measure AQ-2 lists potential measures beyond those required in MDAQMD Rule 403 to reduce particulates from development activities in the unincorporated county.

The Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD) maintain a comprehensive air quality monitoring network to address state and federal Clean Air Act requirements. The MDAQMD provides attainment plans to reduce particulates to meet the state and federal ambient air quality standards (AAQS) to minimize the health effects of air pollutants. These plans are reviewed and updated by the District to ensure reasonable progress to meeting the AAQS. The health effects associated with particulate matter are identified on pages 5.3-10 through 5.3-11. In accordance with Policy NR-1.3, the County will collaborate with the MDAQMD to monitor and reduce major pollutants affecting the county. This includes existing fugitive dust generated by utility-scale solar projects in the county.

The request for monitoring of existing particulates generated by utility-scale projects in the Morongo Basin is noted; however, the County is not responsible for implementation of the MDAQMD's air quality monitoring network, including the informal Purple Air monitors.

O6-4 Comment acknowledged. The PEIR addressed the geomorphology at a countywide level, broken into Valley, Mountain, and Desert regions using readily available geologic maps and soil data.

O6-5 In accordance with Policy NR-1.3, the County will collaborate with the MDAQMD to monitor and reduce major pollutants affecting the county. This includes existing fugitive dust generated by utility-scale solar projects in the county. As stated in Section 5.3, *Air Quality*, Mitigation Measure AQ-2 lists potential measures beyond those required in

## 2. Response to Comments

MDAQMD Rule 403 to reduce particulates from development activities in the unincorporated county. In accordance with Policy HZ-1.8, new development in wind erosion hazard areas is required to minimize the effects of wind-blown soil through site design features. Examples of wind erosion controls are shown in Table 5.6-2 in Section 5.6, *Geology and Soils*.

- O6-6 This comment states that Draft PEIR Mitigation Measure BIO-1 is not a mitigation measure and suggests comparing Mitigation Measure BIO-1 with the 2007 Mitigation Measure for biological resources, which includes coordination with local interest groups, state, and federal agencies, prior to the approval of land use conversion. The comment concludes that the County must provide better guidelines and assurances than Mitigation Measure BIO-1.

Mitigation Measure BIO-1 would require that development projects assess potential impacts to biological resources and, if applicable, include avoidance and mitigation measures to reduce the impact to below a level of significance.

As stated in the “Intended Uses of the EIR” (PEIR Section 3.4), the Draft PEIR “is a Program EIR that examines the potential environmental impacts of the proposed Countywide Plan.” As stated in Section 5.4.4.1, *Methodology*,

... programmatic impacts are discussed in broad, qualitative terms of habitat types that could be impacted due to the buildout of the CWP. This assessment does not satisfy the need for project-level CEQA analysis for individual projects. Individual projects under the proposed CWP will require project-level analysis at the time these projects are proposed based on the details of the projects and the existing conditions at the time such projects are pursued. Future projects that may result in significant impacts to biological resources will require identification of project-specific mitigation measures at that time consistent with the CWP, the County Development Code, appropriate local HCPs, and federal and state laws, policies, and regulations as applicable.

Additionally, the CWP includes the following policies:

- Policy NR-5.1 Coordinated habitat planning. We participate in landscape-scale habitat conservation planning and coordinate with existing or proposed habitat conservation and natural resource management plans for private and public lands to increase certainty for both the conservation of species, habitats, wildlife corridors, and other important biological resources and functions and for land development and infrastructure permitting.
- Policy NR-5.2 Capacity for resource protection and management. We coordinate with public and nongovernmental agencies to seek funding and other resources to protect, restore, and maintain open space, habitat, and wildlife corridors for threatened, endangered, and other sensitive species.

## 2. Response to Comments

Analyses in the Draft PEIR incorporate the CWP policies and therefore do not restate actions in mitigation measures that would be conducted through implementation of the policies.

- O6-7 This comment states that the Morongo Basin covers a major portion of the East Desert Region and includes factual background information on the 2012 “Morongo Basin Conservation Priorities Report: A Strategy for Preserving Conservation Values” (MBCPR). The comments further states the MBCPR provides the baseline information for this major area in the East Desert and that currently the MBCPR is not accepted by the County. The comment concludes by stating that if the County chooses not to accept the Conservation Priorities Report as the baseline for planning decisions in the Morongo Basin, the Community Planning Continuum being proposed in the CWP and stated in the PEIR emphasizing “Action Plan” and grass roots engagement must be questioned.

The 2012 MBCPR is a document prepared by the Sonoran Institute and the Morongo Basin Open Space Group to identify priorities for biological resource conservation actions in the Morongo Basin area of San Bernardino County. There are numerous approaches to prioritizing conservation lands, and the 2012 MBCPR used an approach that incorporated numerous factors, including wildlife linkages, land ownership, land protection status, and species planning missions, including protection of Joshua Tree National Park, protection of the Marine Corps Air Ground Combat Center, protection of community identity, and protection of community views and treasures. The 2012 MBCPR provides a valuable resource for information about potential target areas for conservation acquisitions or areas suitable for biological mitigation in this portion of the county; however, it was not appropriate for use as the baseline for planning decisions in the Morongo Basin. See **XX** for a description of the comprehensive planning process used to develop the CWP. That being said, elements of the MBCPR were included in the CWP and analysis in the PEIR. The South Coast Wildlands Joshua Tree–Twentynine Palms Wildlife Corridor was the basis of the wildlife corridor inputs into the 2012 MBCPR, and the CWP and PEIR used that habitat linkage data as well as other data sources, including the South Coast Wildlands Desert Linkage Network and the California Essential Habitat Connectivity Project corridors, which were not used in the 2012 MBCPR. Further, the CWP and Draft PEIR used current data on land ownership and protected status of land, both of which are now outdated in the 2012 MBCPR analysis.

- O6-8 This comment states that the basic linkage network connecting habitat within and between the Valley, Mountain, and Desert Regions should be mapped to gain a better understanding of the extent of flow across the county’s open and wild spaces. Draft PEIR Appendix D, Figure 6, fails to demonstrate connectivity between habitat blocks, does not name habitat blocks, nor is there reference to highways. The comment concludes that maps are intended to provide visual information and strongly urges careful examination of the maps provided in the PEIR.

## 2. Response to Comments

Draft PEIR Appendix D, Figure 6, Habitat Connectivity–Desert Region; Figure 12, Habitat Connectivity–Mountain Region; and Figure 18, Habitat Connectivity–Valley Region, display the basic linkage networks connecting habitats that relied largely on existing sources. PEIR Section 5.4.1 and Appendix D provide detailed information on the existing conditions of biological resources in the county, including detailed information on mapped regional habitat linkages and major washes and riparian corridors that provide for wildlife movement through each region of the county. Appendix D, Figure 6, does depict connectivity between habitat blocks, mapping out South Coast Wildlands Desert Linkage Network, South Coast Wildlands Joshua Tree–Twentynine Palms Wildlife Corridors, South Coast Wildlands Missing Linkages Wildlife Corridors, and California Essential Habitat Connectivity Project. Appendix Figure 6 also depicts large habitat blocks based on land ownership, such as lands owned by National Forest/Park/Preserve, Department of Defense Military Lands, Tribal Lands, and Desert Tortoise Conservation Areas/Least Cost Corridor. In addition, Appendix D Figure 6 includes reference to interstate highways and freeways.

## 2. Response to Comments

LETTER O7 – Wildlands (2 page[s])



August 15, 2019

O7

***Via Electronic Mail***

Jerry L. Blum  
Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 N. Arrowhead Avenue, 1st Floor  
San Bernardino, CA 92415  
Email: [CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov)

**Re: San Bernardino Countywide Plan Public Comment on Draft Program Environmental Impact Report**

Dear Mr. Blum:

The following comments are submitted in response to the County of San Bernardino (County) Program Environmental Impact Report (PEIR) for the proposed San Bernardino Countywide Plan (Project) Notice of Availability published on June 17, 2019.

Our comments relate to Section 5.4.3.2 (Policy Plan) under the Biological Resources chapter. We are encouraged the County specifically calls out mitigation banks as a preferred method of mitigating impacts to biological resources. Policy NR-5.6 states:

*“We support the proactive assemblage of lands to protect biological resources and facilitate development through private or public mitigation banking. We require public and private conservation lands or mitigation banks to ensure that easement and fee title agreements provide funding methods sufficient to manage the land in perpetuity.”*

We would ask that the County consider strengthening this language and adopt policy to encourage the use of approved mitigation and conservation banks as the preferred means of mitigation development impacts, similar to the 2008 Federal Compensatory Mitigation Rule which establishes a mitigation hierarchy based on certainty, standards and performance.

Generally, we want to encourage the County to support a preference for approved mitigation credits when available. The purchase of approved credits by development projects in the County provides the County with a biological superior outcome with the most certainty and durability for long term protection of vital biological resources.

O7-1

## 2. Response to Comments

Mr. Jerry Blum, Countywide Plan Coordinator  
August 15, 2019  
Page 2

As background, Wildlands is the manager and owner of the Lytle Creek Conservation Bank (LCCB) located in the Lytle Creek wash area of San Bernardino County and the Black Mountain Conservation Bank (BMCB) in the west Mojave portion of San Bernardino County. These banks are providing permanently protected, professionally managed, large-scale preserves that include management monies established through an endowment. The banks were sited in collaboration with natural resource agencies and represent an environmentally preferable solution for permitted impacts in San Bernardino County.

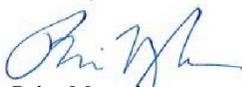
LCCB has been established to provide habitat mitigation credits to compensate for unavoidable impacts to San Bernardino kangaroo rat (*Dipodomys merriami parvus*) (SBKR) and Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*) (SARW) by the U.S. Fish and Wildlife Service. LCCB is located in the alluvial floodplain and active channel of Lytle Creek, just downstream from the confluence of Lytle and Cajon Creeks. The entire Bank is located within an area designated by the U.S. Fish and Wildlife Service as Critical Habitat for the SBKR. Lytle Creek is a tributary to the Santa Ana River, which is identified as important habitat for the SARW.

07-2

BMCB is approved by California Department of Fish and Wildlife to provide habitat mitigation credits for permitted impacts to the listed desert tortoise, Mohave ground squirrel, waters of the state of California and other sensitive habitat types. Located in the western Mojave Desert in San Bernardino County, BMCB was established to conserve and manage for the benefit of native desert species and their habitats in perpetuity. The Bank provides high quality, connected desert habitat in a high priority conservation area in the Mojave Desert. BMCB has documented occurrences of desert tortoise and Mohave ground squirrel and will provide movement between populations for both species. The Bank provides permit applicants and the natural resource agencies an efficient and environmentally preferable method of compensating impacts to listed species and native habitats. Purchasing credits provides a complete mitigation solution for a fixed fee with no trailing costs or obligations.

We appreciate the opportunity to provide the County of San Bernardino with our views concerning the role of private mitigation providers in meeting Project objectives, and look forward to participating further as the process moves ahead. Please feel free to contact me by phone at (916) 435-3555 or by email at [bmonaghan@heronpacific.com](mailto:bmonaghan@heronpacific.com).

Sincerely,



Brian Monaghan  
Senior Vice President

## 2. Response to Comments

### **O7. Wildlands, dated August 15, 2019.**

O7-1 This comment states that Wildlands recommends strengthening the language of Policy NR-5.6 (Mitigation Banking) and adopting a policy to encourage the use of approved mitigation and conservation banks as the preferred method of mitigation impacts to biological resources, similar to the 2008 Federal Compensatory Mitigation Rule. Purchase of approved credits by development projects in the county provides the County with a biologically superior outcome, with the most certainty and durability for long-term protection of vital biological resources.

In addition to CWP Policy NR-5.6, which already provides support for the use of mitigation banking, Draft PEIR Section 5.4.4.2 (Page 5.4-51) further supports the use of mitigation banks in stating that mitigation banking benefits have been shown to result in larger patches of higher value habitat than individual mitigation, reaffirming this as the preferred means of mitigating impacts. PEIR Section 5.4.4.2 (Page 5.4-61) also states mitigation banking would benefit special-status vegetation communities through their preservation in perpetuity, and Page 5.4-68 states that Policy NR-5.6 benefits jurisdictional waters as it is one of the preferred mitigation vehicles of the resource agencies.

Finally, under the 2008 Federal Compensatory Mitigation Rule, mitigation banks, in-lieu fee programs, and permittee-responsible mitigation are recognized mechanisms for providing compensatory mitigation, with mitigation banks being the preferred alternative by the resource agencies.

O7-2 This comment states background information on the Lytle Creek Conservation Bank (LCCB) in the Lytle Creek wash area of San Bernardino County and the Black Mountain Conservation Bank (BMCB) in the west Mojave portion of San Bernardino County.

This comment provides factual background information and does not raise an environmental issue within the meaning of the California Environmental Quality Act (CEQA). The comment is noted for the record and no response is required.

## 2. Response to Comments

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## 2. Response to Comments

LETTER O8 – California Desert Coalition (10 page[s])

O8

August 15, 2019

Senior Planner  
Mr. Jerry Blum (**By Email: [Jerry.Blum@lus.sbcounty.gov](mailto:Jerry.Blum@lus.sbcounty.gov)**)  
Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 North Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415

**Re: Draft Environmental Impact Report (State Clearinghouse No. 2017101033 (June 2019))**

Dear Mr. Blum:

This letter is being submitted on behalf of the California Desert Coalition, (CDC), as a comment letter on the draft Environmental Impact Report (PEIR), with respect to the proposed Countywide Plan (CWP).

CDC is a nonprofit dedicated to educating the public on environmental concerns of San Bernardino County and providing balanced input to decision makers on critical environmental issues affecting the California desert.

Our comments are as follows :

**1. The environmental effect of the significant land use category changes in the proposed CWP, have not been adequately discussed in the PEIR as required by CEQA.**

Under CEQA, a “project” of a California public agency clearly includes changes to zoning categories or classifications that will have a “reasonably foreseeable indirect physical change in the environment”. (CEQA, Section 21065). Under the CWP, the current classifications of Resource Conservation (RC), and Agricultural (AG), are being

O8-1

## 2. Response to Comments

revised to create two new categories, Resource/Land Management (RLM) and Open Space

According to the County's Plan Coordinator, the "main difference between the RC category and the newly proposed land use category is that "the open space and recreational lands in the County have been removed from the RLM and placed in a new category called "Open Space"( Letter from J. Blum to the Lucerne Valley Coalition, dated June 17, 2019). Since different standards for future development are contemplated, these changes in use classifications in the County are significant. The new RLM classification, having almost 6 million acres represents approximately 50% of the County's 12.3 million acres, which is, in size, over 10% of the entire State of California and larger than many U.S. states. The proposal in the draft CWP to create RLM and Open Space categories with different development standards, is clearly a significant change requiring rigorous analysis under CEQA. The question is not whether the new categories make sense, but whether the reasons for and the environmental effects of such change have been adequately analyzed and described to the public in the EIR as required by CEQA

O8-1  
Cont'd

### **2. The PEIR fails to provide an extensive analysis of the environmental effect of the inclusion of utility-scale energy facilities as a "typical" use under the proposed RLM classification.**

Table LU-1 Notes in the Land Use Category Map, provide that a "typical use" within the newly proposed RLM Classification includes "utility-scale energy facilities ". This is a departure from what has been the evolving County policy as expressed in recent Board of Supervisor actions, including the adoption of the Renewable Energy and Conservation Element (RECE), and, most clearly, the Board of Supervisor's Resolution of February 17, 2016. Both as described below.

O8-2

Even though the County must do its part in meeting State renewable energy mandates, given the clear direction of the County Board of

## 2. Response to Comments

Supervisors to tread carefully in approving additional utility-scale solar facilities in the unincorporated areas of the County, significantly more attention to the effect of including this use should have been addressed in the EIR. The legally significant designation of utility-scale energy facilities as “typical” in RLM areas results in a “reasonably foreseeable indirect physical change in the environment”.(CEQA, Section 21065) A primary purpose of an EIR is to explain to the public both the environmental effect of an action and the reason why that particular action has been proposed. The current PEIR is inadequate on either score under CEQA.

O8-2  
Cont'd

**3. The inclusion of utility scale energy facilities as a “typical” use in the RLM classification is a departure from the policy enunciated in the Resolution of the County Board of Supervisors of February 17, 2016 (the 2016 Resolution). The underlying basis for and the effect of this departure from prior policy is not discussed in the PEIR.**

According to the 2016 Resolution five specific areas in the County were designated as appropriate for utility-scale projects based primarily due to the proximity of transmission lines and the previously disturbed condition. The suitable development areas are closest to the following areas :Trona, Hinckley, Kramer Junction, El Mirage and Amboy. By not limiting utility scale energy facilities to the areas previously designated by the Board of Supervisors or even including the basis of a process of review and inclusion of other suitable general areas for additions to the five areas, the CWP has de facto expanded the availability of potential areas where facilities could be sited from five specifically defined areas to most of the undeveloped areas of the County subject to the County’s control.. The question here is not whether a new policy is correct or not, but the reasons for and the environmental effect of such a major policy change, so that the public is informed and able to participate in decision-making.

O8-3

**4. Including utility scale energy facilities as a “typical” use in the RLM classification, even with the updated clarification in the note to RE**

O8-4

## 2. Response to Comments

**Policy 4.10 referring to certain limitations on such facilities in the RLM area, represents a departure from the clear Board of Supervisor’s policy in the final version of the Renewable Energy and Conservation Element (RECE), which encourages limiting utility scale energy facilities to specific predetermined areas, a policy reversal that is ignored in the PEIR**

The following provisions of the RECE indicate a different direction from the current draft of the Plan not discussed in the PEIR :

- a.) “[t]he County will focus utility-scale facilities in well-defined areas...” (RECE, 8/8/2017, amended 2/19, p.4.
- b) “Direct renewable energy facilities to suitable areas in the unincorporated county...” (Id, p.6)
- c). “ RE Goal 5 : Renewable energy facilities will be located in areas that meet County standards, local values, community needs and environmental priorities” (Id., p.15)
- d “ In addition to qualitative siting standards in the Code, this Element encourages utility-oriented RE development on federal land in DRECP Development Focus Areas (DFAs), specifically those supported for this purpose by Board of Supervisor’s resolution. Private lands adjacent to the supported DFAs will also be considered suitable, barring presence of environmental constraints to development.”(Id. ,p.35)

O8-4  
Cont'd

The PEIR does not explain the wording difference between Policy RE-4.10 in the CWP from the February 2019 version of the RECE:

**Current Wording of Policy 4.10 in the CWP (p. 5.18-75, June 2019)**

**“Policy RE-4.10 Utility-Oriented Renewable Energy Projects.** Prohibit utility-oriented renewable energy project development on sites that would create adverse impacts on the quality of life or economic development opportunities in existing unincorporated communities. Any exceptions or

## 2. Response to Comments

revisions to the following policy direction would require approval by the Board of Supervisors. “

### **Wording of Policy 4.10 of final RECE as adopted by the Board of Supervisors :**

**RE Policy 4.10:** Prohibit utility-oriented RE project development on sites that would create adverse impacts on the quality of life or economic development opportunities in existing unincorporated communities.

♣ **RE 4.10.1:** Prohibit development of utility-oriented RE projects in the Rural Living land use districts throughout the County.

♣ **RE 4.10.2:** Prohibit development of utility-oriented RE projects within the boundaries of existing community plans, which at the time of adoption of this Element are the Bloomington, Muscoy, Bear Valley, Crest Forest, Hilltop, Lake Arrowhead, Lytle Creek, Oak Glen, Homestead Valley, Joshua Tree, Lucerne Valley, Morongo Valley, Oak Hills and Phelan/Pinon Hills Community Plans.

♣ **RE 4.10.3:** Establish exclusion areas in the Development Code regulations for renewable energy development, beginning with the prohibitions in Policies 4.10.1 and 4.10.2 and provide for additional exclusion areas, such as new community plan areas, to be designated by amendment to the Development Code.

As can be seen above, the CWP’s replacement of RECE 4.10.1, 4.10.2 and 4.10.3 by a single sentence regarding potential revisions or exceptions to be made by the Board of Supervisors, as well as completely deleting the suggestion of additional “exclusion areas” is either a mistake in the June 2019 version of the CWP or a departure from the clear wording of the latest version of RECE Policy 4.10. In any event, the policy direction of the Board of Supervisors is crystal clear – that there should be areas where utility-oriented facilities are directed (Supra, RECE, p.6,) as well as where they are absolutely prohibited (RECE RE 4.10.1.)

O8-4  
Cont'd

## 2. Response to Comments

### **5. The PEIR Did Not Consider the Environmental Impacts that would Result from Eliminating the Land Use Protections Provided by the Current Community Plans.**

The proposed CWP calls for the currently existing versions of the Community Plans to be replaced with “Community Action Guides”. A Community Plan is an accepted method to prepare a public document which contains specific proposals for future land uses and public improvements in a given community, and is incorporated directly into the General Plan, which provides statutory protection for the goals and objectives in the document. Previously in San Bernardino County, Community Plans were handled in this way, and helped to protect specific community character by prohibiting incongruent development that would detract from the unique character of each community.

The Community Plans’ statutorily based goals and objectives which have been, and will continue to be, crucial to preserving the unique community characteristics of the County’s various unincorporated desert and mountain communities – would be lost forever if replaced with ineffectual Community Action Guides. In short, tried and true legal protections under the Community Plans – ones which have been carefully tailored to reflect the unique aspects of each individual community are to be jettisoned in favor of a set of aspiration-driven “tools” with no legal basis.

08-5

The PEIR and CWP speak as if the goals, policies and objectives stated in the Community Plans had for the most part been relocated to the CWP’s Policy Plan, but this is not the case. Pivotal goals, policies and objectives from the various Community Plans have not been imported and preserved in the CWP’s Policy Plan. In short, the Community Plan’s goals, policies and objectives governing land use, industrial growth, water issues and dust control issues did not make it into the CWP’s Policy Plan, or were revised beyond all recognition in the Policy Plan.

Additionally, the PEIR does not provide specific justifications for making this change from Community Plans to Community Action Plans other than to make general statements about reducing redundancy, creating a more economic implementation of County planning policies, and providing consistency throughout the CWP. However, the Policy Plan does not

## 2. Response to Comments

contain many of the specific goals and objectives that had been contained in the previous Community Plans, which functionally eliminates protection of San Bernardino County's unique rural communities

O8-5  
Cont'd

### **6. The PEIR does not adequately protect the aesthetics and viewshed qualities of San Bernardino County.**

A growing sector of San Bernardino County's economy is tourism, especially that linked with outdoor recreation on public lands and amenity values such as dark night skies, wildlife and scenic vistas. This makes the protection of these elements of paramount importance and underscores the need to uphold the balanced approach to the development of renewable energy resources on the County's public lands

The 2007 San Bernardino County General Plan and the PEIR highlights numerous scenic highway routes that wind their way through the County and serve as conduits for tourism, linking communities such as Big Bear and Joshua Tree and Twentynine Palms and Needles. The General Plan Circulation and Infrastructure Element states that, "San Bernardino County contains vast undeveloped tracks of land that offer significant scenic vistas" and that, "These locations are in danger of deteriorating under growing pressure from urban development and increased recreational activities across the county." However, the PEIR fails to adequately address impacts that could occur because of land uses proposed in the PEIR itself such as designating utility scale renewable energy as a "typical use" in Resource/Land Management and Open Space designations.

O8-6

Solar renewable energy projects, and attendant energy storage facility and substation facilities have an enormous impact on viewshed. Solar utility-scale projects are massive developments that would industrialize beautiful, essentially undeveloped natural desert landscapes. But the PEIR did not analyze the extent to which utility-scale development triggered by the CWP would impinge on and reduce scenic vistas, even though they would clearly cause substantial damage to scenic resources and substantial degradation of the existing visual character and quality of their surroundings. Similarly, the PEIR did not consider the effect that such utility-scale development could have on scenic routes designated by the County, such as Highway 247 – by conflicting with motorists' views of

## 2. Response to Comments

dramatic and appealing desert landscapes and visual features. The PEIR did not take into consideration the fact that utility-scale development triggered by the CWP would conflict with the County's scenic route designation, and therefore does not adequately analyze impacts to protected resources.

O8-6  
Cont'd

### **7. The PEIR fails to provide a clear analysis and zoning framework to protect wildlife corridors, a critical part of the County's natural and biological resources.**

There is an extensive policy framework that supports the protection of wildlife corridors within San Bernardino County, but additional clarity is required in the CWP and subsequent Implementation Plan to ensure that these animal superhighways that are essential to healthy, viable wildlife and plant populations are protected in perpetuity. To assure connectivity for a wide variety of focal species, segments of corridors on both public and private land must be protected. Therefore, San Bernardino County has a vested interest in ensuring that the CWP provides the policies and framework that supports the protection of critical wildlife corridors, especially because of its extensive renewable energy planning, coupled with the extensive federal land use planning that has been undertaken with the West Mojave Plan and the September 2016 Desert Renewable Energy Conservation Plan (DRECP) Land Use Plan Amendment Record of Decision.

O8-7

The Renewable Energy and Conservation Element (RECE) sets a goal to "prohibit renewable energy production in areas identified as critical habitat or as a wildlife corridor for species of concern or as identified by the conservation element without comprehensive and feasible mitigation or avoidance of impacts."

This point was broadly supported by many public comments originally expressed during the San Bernardino County Partnership for Renewable Energy and Conservation (SPARC) during its first round. Comments from the public included:

- Renewable energy development sites should be limited to previously disturbed land
- Small scale distributed generation wind and solar projects are preferred over utility scale projects.
- Protecting the environment and wildlife should be given paramount consideration.

## 2. Response to Comments

The draft CWP's Natural Resources and Biological Resources goal is "An interconnected landscape of open spaces and habitat areas that promotes biodiversity and healthy ecosystems, both for their intrinsic value and for the value placed on them by residents and visitors".

Several of the Biological Resources goal's policies reference wildlife corridors, including Policy NR 5.1 Coordinated Habitat Planning and Policy NR 5.2 Capacity for Resource Protection and Management. Policy 5.1 seeks to "increase certainty for both the conservation of species, habitats, wildlife corridors and other important biological resources and functions for land development and infrastructure permitting through participation in landscape scale habitat conservation planning. Policy NR 5.2 states the county will coordinate with public and non-governmental agencies to seek funding to protect, restore and maintain open space habitat and wildlife corridors for threatened, endangered and other sensitive species.

While numerous policies in both the RECE and the Natural Resource Element reference wildlife corridors, neither element identifies specific resources for which corridors should be covered by the new policies, which is of great importance. It is important to note that the Desert Renewable Energy Conservation Plan (DRECP) utilized extensive data on wildlife corridors that traverse public lands and that the DRECP's Areas of Critical Environmental Concern (ACEC) and National Conservation Lands designations reflect this planning effort. Efforts to protect natural resources, and wildlife corridors on public and private lands in San Bernardino County, should be complementary to maximize the protection of sensitive, threatened and endangered plant and animal species.

O8-7  
Cont'd

We request that San Bernardino County specifically utilize the California Department of Fish and Wildlife's (CDFW) Area of Conservation Emphasis, an effort to analyze large amounts of map-based data, in their planning efforts so decisions can be informed around important conservation, habitat connectivity and climate change resiliency goals. ACE 3.10 was released in February of 2018 and the datasets relevant to wildlife linkages and connectivity are the Terrestrial Connectivity Dataset, which should be used in conjunction with datasets on biodiversity, significant habitats and climate Bernardino County correspondingly update their maps and incorporate new information into planning efforts.

## 2. Response to Comments

In summary, it is our view that the PEIR is inadequate and should be revised and reissued in a CEQA-compliant manner.

08-8

Very truly yours,

California Desert Coalition

By\_Claudia Sall, Secretary

cc. Ms. Linda Mawby (**By Email: [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov)**)

## 2. Response to Comments

### O8. California Desert Coalition, dated August 15, 2019.

O8-1 The County's current Land Use District (LUD) system serves as its zoning and policy map (i.e., a one-map system). The County is proposing to transition to a two-map system that retains the current LUD system as zoning districts and introduces a second land use mapping system that groups the current LUDs into simplified land use categories (LUCs). While the draft land use plan may look different because of the introduction of simplified LUCs, the vast majority of areas retain the same intent, nature, and development potential as under the currently adopted land use plan.

The RC LUD is currently applied to almost all of the land that is proposed to be covered by the RLM and OS land use categories. (Some small areas were proposed for conversion from RL to RLM or OS.) The current OS LUD is applied primarily to public parks. The proposed land use plan would expand the OS land use category dramatically. In effect, the proposed RLM category allows the same uses as the current RC LUD, and the proposed massive expansion of the OS land use category, which is largely limited to open space and recreation (with a focus on land conservation and state/federal open space designations), will only reduce the potential for environmental impacts.

O8-2 Please refer to Response O1-2. The CWP's RLM district would not increase opportunities for utility-scale projects in the county compared to the existing General Plan. It would not expand the geographical area that would potentially allow renewable energy development projects beyond what is permitted by the County's existing General Plan and development code. Moreover, the RECE substantially reduced the potential locations for such uses through adopted policies. In 2019 the County amended the RECE to prohibit utility-oriented renewable energy development in the RL land use district, currently adopted Community Plan areas, and other community planning areas. The potential environmental impacts of implementing the RECE were addressed in an Addendum (dated September 2016) to the 2007 General Plan EIR, including the Supplemental EIR for the Greenhouse Gas Reduction Plan (2011).

O8-3 Please also refer to Response to Letter O2, Lucerne Valley Economic Development Association. This comment states that the inclusion of a utility-scale energy facilities as a "typical" use in the RLM classification is a departure from the policy enunciated in the February 17, 2016, resolution of the Board of Supervisors that identifies specific areas as suitable for utility-scale projects. The comment notes that the areas designated were based primarily on the "proximity of transmission lines and the previously disturbed condition."

As noted in the previous response, in 2019 additional RECE policy amendments were adopted. Among others, these policies set substantial limitations on siting new utility-scale energy projects, including requirements to be within or adjacent to sites with existing electric transmission and utility corridors, and to be limited to previously disturbed sites.

## 2. Response to Comments

Upon CWP adoption, the RECE would be integrated into the CWP, including the adopted RECE changes below:

- RE Policy 4.10: Prohibit utility-oriented RE project development on sites that would create adverse impacts on the quality of life or economic development opportunities in existing unincorporated communities. Any exceptions or revisions to the following policy direction would require approval by the Board of Supervisors.
- RE 4.10.1: Prohibit development of utility-oriented RE projects in the Rural Living land use districts throughout the County.
- RE 4.10.2: Prohibit development of utility-oriented RE projects within the boundaries of existing community plans, which at the time of adoption of this Element are the Bloomington, Muscoy, Bear Valley, Crest Forest, Hilltop, Lake Arrowhead, Lytle Creek, Oak Glen, Homestead Valley, Joshua Tree, Lucerne Valley, Morongo Valley, Oak Hills and Phelan/Pinon Hills Community Plans.
- RE 4.10.3: Establish exclusion areas in the Development Code regulations for renewable energy development, beginning with the prohibitions in Policies 4.10.1 and 4.10.2 and provide for additional exclusion areas, such as new community plan areas, to be designated by amendment to the Development Code.
- RE Policy 5.2: Utility-oriented RE generation projects on private land in the unincorporated County will be limited to the site-types below, in addition to meeting criteria established herein and in the Development Code:
  - Private lands adjacent to the federal Development Focus Areas supported by the Board of Supervisors that meet siting criteria and development standards
  - Waste disposal sites
  - Mining sites (operating and reclaimed)
  - Fallow, degraded and unviable agricultural lands
  - Airports (existing and abandoned or adaptively re-used)
  - Brownfields
  - California Department of Toxic Substance Control Cleanup Program sites
  - Resource Conservation and Recovery Act sites
  - Sites within or adjacent to electric transmission and utility distribution corridors
  - Existing energy generation sites
  - Industrial zones proven to not conflict with economic development needs
  - Other sites proven by a detailed suitability analysis to reflect the significantly disturbed nature or conditions of those listed above
- RE Policy 5.9: Collaborate with utilities, the California Energy Commission (CEC) and the Bureau of Land Management (BLM) to plan for RE generation facilities to be located on public lands, apart from existing unincorporated communities.

## 2. Response to Comments

O8-4 Please refer to Response to Letter O2, Lucerne Valley Economic Development Association. Also note that the May 2019 version of the Draft Policy Plan, including a tracked changes version, explicitly comes into compliance with the February 2019 amendments to the RECE (see link).

- [http://countywideplan.com/wp-content/uploads/2019/05/CWP\\_PolicyPlan\\_PubReviewDraft\\_TrackedChanges\\_20190515.pdf](http://countywideplan.com/wp-content/uploads/2019/05/CWP_PolicyPlan_PubReviewDraft_TrackedChanges_20190515.pdf)

As explained in Draft PEIR Section 2.2.3, *Expanded Discussion of Scoping Comments*, the RECE will be incorporated in its entirety into the CWP after the CWP is adopted. Therefore, renewable energy developments are not part of the project as analyzed in the Draft PEIR.

O8-5 Please refer to Responses O1-7 and O1-8. The Draft PEIR for the proposed CWP is required to address the project as proposed. Draft PEIR Chapter 3 provides the CWP project description that serves as the basis for the impact analysis. This section describes the project background, existing Community Plans and boundaries, and the structure for the new CWP, as discussed in response O1-7. Justification for making the change from Community Plans to Community Action Plans is not within the scope of the PEIR.

O8-6 The CWP's RLM district would not increase opportunities for utility-scale projects in the county compared to the existing General Plan. It would not expand the geographical area that would potentially allow renewable energy development projects beyond what is already permitted by the County's existing General Plan and development code. Moreover, the RECE substantially reduced the potential locations for such uses through adopted policies. In 2019 the County amended the RECE to prohibit utility-oriented renewable energy development in the RL land use district, currently adopted Community Plan areas, and other community planning areas. The potential environmental impacts of implementing the RECE were addressed in an Addendum (dated September 2016) to 2007 General Plan Update PEIR, including the Supplemental EIR for the Greenhouse Gas Reduction Plan (2011).

The RECE Addendum noted that the primary scenic concerns of county residents included preservation of views in the desert communities and therefore limited development on ridge tops in the mountain communities. The Addendum acknowledged that wind generators are often located along hillsides and ridgelines (in order to take advantage of wind conditions), creating objectional intrusions on the landscape. The RECE Addendum recognized the significant, unavoidable impacts associated with energy projects as evaluated in the General Plan EIR and the GHG Reduction Plan Supplemental EIR and concluded that adoption of the RECE would not result in new or substantially more severe significant impacts. All future projects would be subject to applicable state regulations and requirements and further CEQA analysis.

## 2. Response to Comments

O8-7 The California Department of Fish and Wildlife's ACE 3 (Areas of Conservation Emphasis) system is an example of an external dataset that can be considered in a decision-making process, but this dataset is a statewide source not considered of sufficient scale or detail for use as a default policy. As stated by CDFW, "The ACE data represent broad-scale patterns across the landscape, and the value of any single hexagon should be interpreted with caution. ACE is a decision support tool to be used in conjunction with species-specific information and local-scale conservation prioritization analyses."

The County Policy Map NR-2 includes the following data sets related to biological resources:

- Local, Regional, and State Parks
- National Monuments
- BLM Wilderness Areas and Wilderness Study Areas
- BLM Areas of Critical Environmental Concern
- California Desert National Conservation Lands
- National Parks and Preserve
- National Forest

Additionally, the County provided the ability to view mapped wildlife corridor data on this and other maps (data set called "Modeled Habitat Linkage," viewable when activated through the layers tool on the web map). The following description of this data set (also provided as part of the data) can explain why the mapped wildlife corridor data was inappropriate to use as a default data set for where future development or conservation cannot or must take place.

The Modeled Habitat Linkage map shows a statewide network of 850 relatively intact "natural landscape blocks" (ranging in size from 2,000 to about 3.7 million acres) connected by 192 "essential connectivity areas" (Table 3.1). There are fewer essential connectivity areas than natural landscape blocks because each essential connectivity area connects at least 2 and as many as 15 natural landscape blocks. Due to the broad, statewide nature of this map and its focus on connecting very large blocks of mostly protected natural lands, the network omits many areas that are important to biological conservation. Natural areas excluded from this broad-brush linkage network cannot, however, be "written off" as unimportant to connectivity conservation or to sustaining California's natural heritage. Neither should natural areas included in this map be automatically considered critical for conservation or incompatible with all human activities. Note that data mapped through the San Bernardino County Regional Conservation Investment Strategy (RCIS) will supersede this map once it is published (estimated 2019).

Data sources for the modeled habitat linkages in the county include California Essential Habitat Connectivity Project (Spencer et al. 2010), South Coast Wildlands Desert Linkage Network (Penrod et al. 2012), Joshua Tree Twentynine Palms Wildlife Corridors (South

## 2. Response to Comments

Coast Wildlands 2008), Missing Linkages Wildlife Corridors (South Coast Wildlands 2008), and Desert Tortoise Conservation Areas and Linkages (Averill-Murray et al. 2013).

- O8-8 The commenter states that it is their view that the Draft PEIR is inadequate and should be revised and reissued. The County disagrees. The CEQA conditions under which a Draft EIR requires recirculation have not been met. The responses to comments in this Final PEIR contain material and revisions that have been added to the Draft PEIR via Chapter 3, *Revisions to the Draft PEIR*. County of San Bernardino staff has reviewed this material and determined that none of it constitutes the type of significant new information that requires recirculation of the Draft PEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the Countywide Plan will result in a significant new environmental impact not previously disclosed in the Draft PEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I1 – Betty Munson (2 page[s])

I1

Betty Munson  


August 8, 2019

TO:

Ms. Linda Mawby, Senior Planner

(e-mail: Linda.Mawby@lus.sbcounty.gov)

Mr. Jerry Blum, Countywide Plan Coordinator

(e-mail: Jerry.Blum@lus.sbcounty.gov)

County of San Bernardino Land Use Services Department – Planning Division  
385 North Arrowhead Avenue, 1st Floor, San Bernardino, CA 92415

**Re: Draft Environmental Impact Report (State Clearinghouse No. 2017101033 June 2019)**

Dear Ms. Mawby and Mr. Blum:

I frequently visited the Homestead Valley and other regions of the Southern California High Desert since the early 1970s. I became a resident of Johnson Valley in 2000.

I became an officer in the Johnson Valley Improvement Association (JVIA) in 2001. In 2009, I joined the Homestead Valley Community Council (HVCC) of which JVIA is a member organization.

Members of JVIA and the other HVCC organizations devoted many hours of research and discussion, then presented the Homestead Valley Community Plan in 2007 (hereinafter referred to as HVCP 2007), included in the San Bernardino County Plan that year. As an observer and participant in this process, I wish to make a personal comment, pointing out just two defects among many in this environmental impact report for the proposed “Countywide Plan.”

**1) County planners received but have ignored the HVCC objections to the elimination of our 2007 HVCP. Combined with the Supervisors’ recent adoption of the Renewable Energy and Conservation Plan with the protections in its long-discussed Policy 4.10 from industrialization by utility-scale renewable projects, HVCP 2007 makes clear our standards for retaining the rural character of the four Homestead Valley communities.**

We objected in public meetings and in writing, not only to the process which established the Countywide Plan but also to the substitution of so-called “action plans” which sacrificed any legal standing to an impossible creation of various

I1-1

Countywide Plan comment Page 1 of 2

## 2. Response to Comments

Dawn Rowe, Vice-Chairperson and Third District Supervisor;  
[SupervisorRowe@sbcounty.gov](mailto:SupervisorRowe@sbcounty.gov)  
Curt Hagman, Fourth District Supervisor;  
[SupervisorHagman@sbcounty.gov](mailto:SupervisorHagman@sbcounty.gov)  
Josie Gonzales, Fifth District Supervisor;  
[SupervisorGonzales@sbcounty.gov](mailto:SupervisorGonzales@sbcounty.gov)  
Ron Frame  
[Ron.Frame@bos.sbcounty.gov](mailto:Ron.Frame@bos.sbcounty.gov)



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## 2. Response to Comments

### **II. Response to Comments from Betty Munson, dated August 8, 2019.**

I1-1 Comment acknowledged. Please refer to Response O1-7 regarding the County's decision to eliminate the Community Area Plans and create Community Action Guides.

The Draft PEIR Chapter 3 provides the CWP project description that serves as the basis for the impact analysis. This section describes the project background, existing Community Plans and boundaries, and the structure for the new CWP, as discussed in response O1-7. In accordance with CEQA, the potential environmental impacts of implementing the project (CWP) are evaluated relative to existing physical conditions. As such, the Draft PEIR focuses on the County Policy Plan, which includes the proposed land use designations and policies that have the potential to result in physical environmental impacts. To the extent that it would be appropriate to analyze the CWP in comparison to the existing Community Plans, this analysis would belong in the Alternatives analysis for the No Project Alternative (Existing General Plan). Alternatives, however, are analyzed at a less detailed level to provide a relative comparison of impacts to the proposed project. Review of the existing 14 Community Plans and related policies would be beyond CEQA requirements for alternative analyses.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I2 – Paula Deel (2 page[s])

I2

**Peterson, Suzanne**

---

**From:** Paula Deel [REDACTED]  
**Sent:** Monday, August 12, 2019 1:15 PM  
**To:** Linda.Mawby@lus.sbcounty.gov; Blum, Jerry  
**Cc:** Supervisor Lovingood; Supervisor Rutherford; Supervisor Rowe; Supervisor Hagman;  
Supervisor Gonzales; Frame, Ron  
**Subject:** Draft Environmental Impact Report (State Clearinghouse No. 2017101033 (June 2019))

August 12, 2019

Ms. Linda Mawby (**By Email: [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov)**)

Senior Planner  
Mr. Jerry Blum (**By Email: [Jerry.Blum@lus.sbcounty.gov](mailto:Jerry.Blum@lus.sbcounty.gov)**)  
Countywide Plan Coordinator  
County of San Bernardino Land Use Services Department – Planning Division  
385 North Arrowhead Avenue, First Floor  
San Bernardino, CA 92415-0187

**Re: Draft Environmental Impact Report (State Clearinghouse No. 2017101033 (June 2019))**

Dear Ms. Mawby and Mr. Blum:

You have a large area to coordinate and it is vastly different from community to community. That is why each community needs to have a Community Plan that deals with those differences not a “Community Action Guide” that the county may or may not assist residents in accomplishing the Community Focus Statements.

I2-1

I support in its entirety the positions and comments made by email by Stephan A. Mills on the above referenced project.

Sincerely,

Paula Deel  
[REDACTED]

CCs:

Robert Lovingood, Chairperson and First District Supervisor;  
[SupervisorLovingood@sbcounty.gov](mailto:SupervisorLovingood@sbcounty.gov)  
Janice Rutherford, Second District Supervisor;  
[SupervisorRutherford@sbcounty.gov](mailto:SupervisorRutherford@sbcounty.gov)

1

## 2. Response to Comments

Dawn Rowe, Vice-Chairperson and Third District Supervisor;  
[SupervisorRowe@sbcounty.gov](mailto:SupervisorRowe@sbcounty.gov)  
Curt Hagman, Fourth District Supervisor;  
[SupervisorHagman@sbcounty.gov](mailto:SupervisorHagman@sbcounty.gov)  
Josie Gonzales, Fifth District Supervisor;  
[SupervisorGonzales@sbcounty.gov](mailto:SupervisorGonzales@sbcounty.gov)  
Ron Frame  
[Ron.Frame@bos.sbcounty.gov](mailto:Ron.Frame@bos.sbcounty.gov)



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## 2. Response to Comments

### I2. Response to Paula Deel, dated August 12, 2019.

I2-1 Comment acknowledged. Please refer to Response O1-7 regarding the County's decision to eliminate the Community Area Plans and create Community Action Guides.

The Draft PEIR Chapter 3 provides the CWP project description that serves as the basis for the impact analysis. This section describes the project background, existing Community Plans and boundaries, and the structure for the new CWP, as discussed in response O1-7. In accordance with CEQA, the potential environmental impacts of implementing the project (CWP) are evaluated relative to existing, physical conditions. As such, the Draft PEIR focuses on the County Policy Plan that includes the proposed land use designations and policies that have the potential to result in physical environmental impacts. To the extent that it would be appropriate to analyze the CWP in comparison to the existing Community Plans, this analysis would belong in the Alternatives analysis for the No Project Alternative (Existing General Plan). Alternatives, however, are analyzed at a less detailed level to provide a relative comparison of impacts to the proposed project. Review of the existing 14 Community Plans and related policies would be beyond CEQA requirements for alternative analyses.

## 2. Response to Comments

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2. Response to Comments

LETTER I3 – Jean McLaughlin (4 page[s])

08-14-'19 12:26 FROM-

I3

T-289 P0001/0004 F-973

COVER SHEET

To: Jerry Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 North Arrowhead Avenue  
First Floor  
San Bernardino, CA. 92415-0187

FAX # (909) 387-3223

Re: The San Bernardino Countywide Plan

3 Pages to Follow

From: Jean McLaughlin



P.S. - Sent this letter by mail also.

## 2. Response to Comments

08-14-'19 12:26 FROM-

T-269 P0002/0004 F-973

Jerry Blum, Countywide Plan Committee  
County of San Bernardino  
Land Use Services Department  
385 North Arrowhead Avenue, First Floor  
San Bernardino, CA. 92415-0187

August 8, 2019

Re: The San Bernardino Countywide Plan

Dear Mr Blum,

As we all know, San Bernardino is the largest county and encompasses a wide range of geographic areas and populations. What works for one area may not for another - hence the need for specific community plans. Communities have the right to the implementation of theirs and shouldn't be subjected to decisions made by the county that are sometimes condescending to outside interests and in conflict with our plan. Many projects that have been approved and others under consideration have negative long-lasting impacts on our quality of life and the environment, including our National Park, to which we are a gateway community.

13-1

There are so many areas of concern here in Joshua Tree. As a resident, I ask that our supervisors, planning commission, Land Use Services Department, and San Bernardino County honor and uphold our Joshua Tree Community Plan.

The citizens of Joshua Tree held numerous meetings spanning months creating this plan with community input, studies, and facts. It was drafted into a comprehensive plan by a group of dedicated citizens as part of the S.B. County Plan.

13-2

As such, community plans are legally adopted land use documents.

The new Countywide Plan is overwhelming for me to read through, so this is to highlight and emphasize some of my concerns regarding Joshua Tree.

Keep the promise that zoning in Joshua Tree will not be changed to higher density uses, (when representatives were asked at a meeting 9-10-18). Added were changes to lower densities when possible's good but vague.

13-3

2. Response to Comments

08-14-'19 12:27 FROM-

T-269 P0003/0004 F-973

2/3

Outdoor lighting has become more of a problem, needs more public education and stronger code enforcement. Require all new buildings and homes - existing ones as well - to have lower total lumens output and proper shields on all outdoor light fixtures. Include outdoor solar stakes. Some of them are even too bright, especially when too many are installed. Even some of the County buildings have unshielded lights, or orange ones that create a bright glow. And even though Yucca Valley is a city, their lights have a negative impact on Joshua Tree and surrounding areas. Edison Company and the banks are some of the worst offenders.

13-4

Please make homeowners and new buyers and builders aware of plant protections and the importance of not clearing/blading their entire properties. I thought a permit was needed to clear  $\geq \frac{1}{2}$  acre. Often people don't know or don't care. It's sometimes done on weekends or holidays when no overseer is available to contact. The clearing causes erosion, flooding, and property damage in addition to loss of our native plant species and the biodiversity dependent upon it.

13-5

Do not allow building in, filling in, or diversion of, or any man-made "improvements" of desert washes. Keep them in their natural state.

13-6

Do not allow large buildings and chain stores. Dollar General should never have been built here in Joshua Tree.

No more multi-storied tall buildings should be allowed. They create too high of a density and interfere with the viewshed.

Regarding Solar Farms - solar panels belong on rooftops. Acres are taken over and the electricity generated is sent elsewhere with no benefit to us.

13-7

The build-out figure for Joshua Tree is much too high.

13-8

## 2. Response to Comments

08-14-'19 12:27 FROM-

T-269 P0004/0004 F-973

3/3

It does not adequately or realistically take into account the natural resources. Even though Joshua Tree is now able to import water, the allotted amount is not enough to sustain continued development and growth. A few wet years do not make up for the overall drought in California. Climate change must be considered.

13-8  
Cont'd

13-9

Building more dense housing, especially in sensitive areas like the Mojave Desert and Joshua Tree should not be approved. Overbuilding, air pollution, light pollution, and the loss of our biodiversity affects the residents and our National Park directly and negatively.

13-10

Let's plan for the future intelligently and with sustainability in mind.

Respectfully,  
Dawn McLaughlin  
Joshua Tree

## 2. Response to Comments

### I3. Response to Jean McLaughlin, dated August 14, 2019.

- I3-1 This comment is not directly related to the Draft PEIR. It is acknowledged and has been forwarded to decision-makers for their consideration.
- I3-2 Comment acknowledged. Please refer to Response O1-7 regarding the County's decision to replace Community Area Plans.
- I3-3 This comment is not directly related to the Draft PEIR. It is acknowledged and has been forwarded to decision-makers for their consideration.
- I3-4 Under CEQA, the Draft PEIR is required to address the potential impacts of the proposed CWP in comparison to existing conditions. The comments regarding existing lighting issues are not within the scope of the Draft PEIR, but will be forwarded to decision-makers.
- The East Desert Region (which includes Joshua Tree) is not targeted for growth under the CWP. Individual development projects could increase nighttime illumination or glare on a localized level. But the minimal amount of growth anticipated in the region would be expected to have a negligible impact on the region's overall light environment. The region is expected to continue to be a haven for dark skies and viewing of stars, since the region's BLM lands, military-owned land, and designated open space (e.g., Joshua Tree National Park) would not experience growth or development due to implementation of the Countywide Plan.
- I3-5 This comment relates to regulatory enforcement, which is not the purview of CEQA or the Draft PEIR. The comment is acknowledged and has been forwarded to decision makers.
- I3-6 The specific comments regarding future development within Joshua Tree are not within the scope of the Draft PEIR. Please refer to Draft PEIR, Section 5-4, *Biological Resources*, regarding the inventory of existing natural biological resources, and related CEQA mitigation.
- I3-7 Comment acknowledged. Please see responses to Letter O1 from the Coalition of Community Groups, Businesses, Organizations and Individuals in the High Desert of San Bernardino County regarding applicable plans and policies regarding the potential development of renewable energy projects, including solar projects
- I3-8 PEIR Table 3-3, *Projected Growth in San Bernardino County, 2016 to 2040*, in Chapter 3, *Project Description*, shows a projected increase of 39,970 square feet of nonresidential uses and an additional 238 housing units in Joshua Tree over a 24-year period. Furthermore, PEIR Section 5.18.2.4, *Environmental Impacts*, in Chapter 5.18, *Utilities and Service Systems*, compares projected water demand to available water supplies. Net increases in water demand in the East Desert Region would involve a slight increase. Growth in the region would be

## 2. Response to Comments

dispersed among many purveyors' service areas, and impacts to each purveyor's water supplies would be minor.

I3-9 The Draft PEIR addresses potential climate change-related impacts in Section 5.7, *Greenhouse Gases*.

I3-10 Population growth projections for the unincorporated areas under the CWP focus on residential development in two areas: the Bloomington community (Rialto sphere of influence [SOI]) and future master planned communities in the Town of Apple Valley SOI. Little to no growth is projected for other unincorporated areas, including the Mojave Desert and Joshua Tree, based on the availability of water and infrastructure systems, presence of natural hazards and topographical constraints, and the desires of residents.

## 2. Response to Comments

LETTER I4 – Dr. and Mrs. Brent Moelleken (338 page[s]). Please note, due to the large number of pages, only the pages with comments are below. The comment letter in total is provided as Appendix F of this Final Environmental Impact Report.

EnvInC

ENVIRONMENTAL  
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CONSULTANTS, LLC

August 15, 2019

BY EMAIL

I4

Jerry L. Blum,  
Countywide Plan Coordinator - Land Use Services Department  
County of San Bernardino  
385 N. Arrowhead Avenue, 1st Floor  
San Bernardino, CA 92415

**Re: Comments on Draft Environmental Impact Report**

Dear Mr. Blum:

This letter is written on behalf of Dr. and Mrs. Brent Moelleken, owners of a property located in Lake Arrowhead, County of San Bernardino, California. The Moelleken's property is known as Shady Cove. Shady Cove is on the National Registry of Historic properties, and it is subject to an easement with restrictive covenants. The purpose of these comments is to provide evidence and request that the Draft Environmental Impact Report (DEIR) be supplemented with additional analysis of the impacts of the County of San Bernardino continuing to fail to adopt Mills Act ordinances to preserve its historic properties.

I4-1

Along with this letter is a Dropbox link with supporting documentation. We would be happy to work with your team in supplementing the DEIR on these points. The Moellekens, along with many other organizations, are committed to ensuring that valuable historic resources are preserved given the aesthetic, environmental and economic benefits they confer on neighborhoods and, conversely, the negative impacts that ultimately occur when these structures deteriorate and/or are demolished.

The 2007 General Plan recognized the value of historic preservation and included aspiration goals for the County to adopt an ordinance pursuant to the Mills Act under which property owners are granted relief under the tax code based upon the contributions made by those owners to restore and to preserve the resource. Unfortunately, the Board of Supervisors has yet to adopt an ordinance to implement those goals. The current draft General Plan and DEIR similarly recognize the aspirational values of preservation but without analyzing the environmental and economic impacts if the Board of Supervisors fails to adopt an ordinance as the General Plan recommends.<sup>1</sup> Just as affirmative actions have impacts requiring evaluation and mitigation, so do "inactions" -- in this case, the absence of a

I4-2

<sup>1</sup> Policies CR-2.1 and CR-2.2 found on page 5.5-30 of the Draft EIR.

## 2. Response to Comments



ENVIRONMENTAL  
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procedure at the County level (available in many of the incorporated San Bernardino cities) to encourage and to facilitate the preservation of historic resources.

14-2  
Cont'd

Further enclosed is a draft proposed Ordinance similar to that adopted by the County of San Diego in 2004, that serves as an excellent model for San Bernardino County. Staff in San Diego could also provide you with additional documentation and information concerning the net environmental and economic values of preservation.

**HISTORIC BUILDINGS ARE A VALUABLE, EXISTING RESOURCE, THE LOSS OF WHICH IMPACTS THE ENVIRONMENT.**

Aside from the aesthetic benefits, retaining a stock of historic properties and avoiding unnecessary demolition and replacement has several benefits to the environment. In a 2004 Brookings Institution report, demolishing and rebuilding properties requires vast amounts of energy and materials, both of which are increasingly in short supply. In addition, demolition and waste have profound adverse impacts on our landfills. For example, building-related construction and demolition debris constitute about two-thirds of all non-industrial solid waste generation in the United States with average building demolition yielding 155 pounds of waste per square foot while the average new construction project yields 3.9 pounds of waste per square foot of building area.<sup>2</sup> San Bernardino County alone has approximately 75 structures on the National Historic Registry.<sup>3</sup>

14-3

**HISTORIC BUILDINGS TYPICALLY ARE MORE ENERGY EFFICIENT**

Historic buildings are often incorrectly perceived as inefficient energy consumers. Rather, mounting evidence reaches different conclusions. For example, data from the U.S. Department of Energy (DOE) indicates that commercial buildings constructed before 1920 use less energy per square foot than buildings from any other decade up until 2000 (EIA, 2003). Many historic buildings were designed with passive systems before the invention of electric lighting and powered heating and cooling. As a result, these buildings were designed to take advantage of natural

14-4

<sup>2</sup> Bernstein, Ken. "Top Ten Myths of Historic Preservation." *"Top Ten Myths" of Historic Preservation | Office of Historic Resources, City of Los Angeles*. City of Los Angeles Office of Historic Resources. [https://preservation.lacity.org/resources/\\*top-ten-myths\\*-historic-preservation](https://preservation.lacity.org/resources/*top-ten-myths*-historic-preservation).

<sup>3</sup> "National Register of Historic Places - San Bernardino County." National Register of Historical Places - CALIFORNIA (CA), San Bernardino County, n.d. [https://nationalregisterofhistoricplaces.com/ca/san\\_bernardino/state.html](https://nationalregisterofhistoricplaces.com/ca/san_bernardino/state.html).

## 2. Response to Comments



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daylight, ventilation, and solar orientation—the very characteristics that are being used as “sustainable” design attributes today. In addition, historic structures often were constructed with traditional, durable materials such as concrete, wood, glass, and steel. When properties are properly maintained with the help of tax credits, these materials can have a much longer lifespan. In both residential and commercial buildings, energy consumption is dominated by space heating, venting, air conditioning (HVAC) and lighting (DOE, 2008). Buildings accounted for 72% of total U.S. electricity consumption in 2006 and it is predicted this number will rise to 75% by 2025. Fifty-one percent of that total was attributed to residential building use. In historic buildings - as well as new ones - using efficient technologies can reduce greenhouse gas emissions by reducing energy use.<sup>4</sup>

14-4  
 Cont'd

### PRESERVING BUILDINGS ALLEVIATES CLIMATE CHANGE

In the United States, 43% of carbon emissions and 40% of total energy use is attributed to the construction and operation of buildings. The negative environmental impact of buildings is even more significant when taking into consideration the greenhouse gas emissions associated with manufacturing building materials and products. As a key element in sustainable development, the preservation, reuse and “greening” of existing historic buildings present excellent opportunities to reduce our nation’s energy consumption and carbon emissions.<sup>5</sup>

14-5

The DEIR therefore should include in its mitigation measures for climate change the requirement that the County adopts a Mills Act ordinance to provide financial assistance through tax incentives to preserve structures and hence reduce greenhouse gases.

Finally, although economic considerations are not an element of CEQA analysis, numerous studies conclusively demonstrate that historic designation and the creation of historic districts or preserving historic properties like Shady Cove increases property values. Historic designation provides a neighborhood or an individual historic site a caché that sets it apart from ordinary properties, and many buyers desire the unique qualities and ambiance of a historic property. Historic designation also gives potential homebuyers two rare and economically valuable

14-6

<sup>4</sup> Bernstein, Ken. “‘Top Ten Myths’ of Historic Preservation.” *“Top Ten Myths” of Historic Preservation* | Office of Historic Resources, City of Los Angeles. City of Los Angeles Office of Historic Resources. <https://preservation.lacity.org/resources/“top-ten-myths”-historic-preservation>.

<sup>5</sup> Merlino, Kathryn Rogers. “Report on Historic Preservation and Sustainability.” *Report on Historic Preservation and Sustainability*. Washington State Department of Archeology and Historic Preservation, September 2011. [https://dahp.wa.gov/sites/default/files/sustainability\\_SummaryReport.pdf](https://dahp.wa.gov/sites/default/files/sustainability_SummaryReport.pdf).

## 2. Response to Comments

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assurances: that the very qualities that attracted them to their neighborhood will actually endure over time, and that they can safely reinvest in sensitive improvements to their home without fear that their neighbor will undermine this investment with a new “monster home” or inappropriate new development.

14-6  
Cont'd

Please incorporate it and the referenced documents in the Administrative Record for the County of San Bernardino General Plan Update and feel free to contact me if you have additional questions or would like more information.

14-7

Very truly yours,



Collin Walcker

### Enclosures

[https://www.dropbox.com/sh/trvhgp25yaj7cns/AAB\\_c\\_-DaugJNn3JGRf8ocoBa?dl=0](https://www.dropbox.com/sh/trvhgp25yaj7cns/AAB_c_-DaugJNn3JGRf8ocoBa?dl=0)

San Bernardino County Draft EIR

Bernstein, Ken. “Top Ten Myths’ of Historic Preservation.”

National Register of Historic Places - San Bernardino County

Merlino, Kathryn Rogers. Report on Historic Preservation and Sustainability.

## 2. Response to Comments

### I4. Response to Comments from Dr. and Mrs. Brent Moelleken, dated August 15, 2019.

I4-1 The commenter, on behalf of Dr. and Mrs. Bren Moelleken, states that the purpose of the letter is to provide evidence and request that the PEIR be supplemented with additional analysis regarding the County's failure to adopt a Mills Act ordinance to preserve its historic properties. The comment is acknowledged and no response is required.

I4-2 This comment references goals in the 2007 General Plan regarding adoption of an ordinance pursuant to the Mills Act under which property owners are granted relief under the tax code based upon the contributions made by those owners to restore and to preserve the resource. The comment notes that the CWP and PEIR recognize the aspiration goals of preservation and references the following policies (page 5.5-30 of the Draft PEIR):

**Policy CR-2.1 National and state historic resources.** We encourage the preservation of archaeological sites and structures of state or national significance in accordance with the Secretary of Interior's standards.

**Policy CR-2.2 Local historic resources.** We encourage property owners to maintain the historic integrity of resources on their property by (listed in order of preference): preservation, adaptive reuse, or memorialization.

The commenter notes that the environmental and economic impacts of not adopting an ordinance ("as the General Plan recommends") have not been analyzed. The commenter further provides examples of jurisdictions that have adopted ordinances similar to what they recommend.

The General Plan does not "recommend" adoption of an ordinance. In addition to summarizing regulatory requirements, the Draft PEIR includes Mitigation Measure CUL-1 to ensure protection of historical resources. The commenter's letter, supplemental information, and request for decision-makers to consider an ordinance under the Mills Act is forwarded to decision-makers. It is beyond the scope of the General Plan and supporting technical studies to address the economic and environmental impact of adopting versus failing to adopt a historic preservation ordinance that gives property owners tax relief under the Mills Act.

I4-3 Comment acknowledged. Historic-period built environment resources listed on National and State Registers, as well as those designated as Landmarks, are included in the discussion of existing conditions in the cultural resources report (Draft PEIR, Appendix E, Table 5).

## 2. Response to Comments

- I4-4        Comment acknowledged.
- I4-5        Please refer to response to I4-2.
- I4-6        Comment acknowledged.
- I4-7        The comments and referenced documents have been incorporated into the Final Environmental Impact Report and will be included in the Administrative Record..

## 2. Response to Comments

LETTER I5 – Sarah Kennington (10 page[s])

15

August 15, 2019

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 North Arrowhead Avenue, 1<sup>st</sup> floor  
San Bernardino, CA. 92415-0187

Sent to: [CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov)  
[Jerry.Blum@lus.sbcounty.gov](mailto:Jerry.Blum@lus.sbcounty.gov)  
Cc: [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov)

Re: San Bernardino County Countywide Plan Draft Environmental Impact Report  
(State Clearinghouse No. 2017101033 (June 2019))

Dear Mr. Blum:

Thank you for the opportunity to respond with comments to 2019 draft program Environmental Impact Report associated with the pending San Bernardino County Countywide Plan.

15-1

I am a resident of the Gamma Gulch neighborhood in the Pioneertown Communities, in the East Desert Region. I am active in the Homestead Valley Community Council's Scenic Highway 247 Committee. My comments here focus on provisions for County Scenic Resources and Scenic Routes.

The 2019 PEIR lacks the adequate acknowledgement and specificity in threats and protections for County scenic routes, particularly in the East Desert. Retaining Impacts and Mitigations for scenic resources and scenic routes included in the 2007 EIR remains critical to protecting the scenic qualities of the routes.

15-2

A provision in 2007 EIR Mitigation AES-11 missing from the 2019 PEIS Scenic Corridor Analysis is Viewshed (the area within the field of view of the observer.) Including consideration and impacts for viewshed are critical for understanding and creating the protection of the vistas found along Scenic Highways. Specific language for how the viewshed criteria will be determined and development

1

## 2. Response to Comments

Kennington  
PEIR comments  
08-15-19  
Page 2

(location, techniques, materials, style, etc.) aligned must be included in the 2019 PEIR.

The desert landscape and viewshed are great and significant – broad and deep - and can easily be impacted. Scale is relative! What works in the mountains to mitigate a building or other visual “intrusion” will not necessarily work in the desert region – plant trees, right! Without clear guidelines and understanding of how and what can impact our desert landscape we are left with great concern the vistas could indeed be damaged.

15-2  
Cont'd

The 2019 PEIS fails to mention County Development Code Amendment revisions for the Open Space Overlay regarding development within scenic areas 82.19.040. The County Development Code Amendment Open Space Overlay was revised to clarify regulations regarding development along scenic routes. It was intended to satisfy standards for local agency regulations to suffice as a Corridor Protection Program to nominate a scenic route as a State Scenic Highway. This valuable tool for the County should be mentioned.

15-3

### **Have County Scenic Routes been lost?**

*2007 EIR / Mitigation AES-5 The County desires to retain the scenic character of visually important roadways throughout the County. A “scenic route” is a roadway that has scenic vistas and other scenic and aesthetic qualities that over time have been found to have beauty to the County. Therefore, the County designates the following routes as scenic highways, and applies all applicable policies to development on these routes...*

Forty-six County Scenic separate routes were listed in the 2007 EIR. However, County Scenic routes are not individually identified or listed in the 2019 EIR text. They are also inadequately represented, or neglected to be identified graphically, on the map *County Designated Scenic Routes*, Figure 5.1-1, Page 5.1-8.

We’re left to assume and fear that these County treasures – scenic highways and byways – have been eliminated as designated scenic route. More specificity is needed to assure us that scenic routes have not been eliminated and will be protected by the County in the revised Countywide Plan and Draft EIR. The 2019 EIR must retain the list of County scenic highways with scenic designation with appropriate policy and protections.

15-4

Scenic Routes in Pioneertown and adjacent Homestead Valley Communities: The 2007 EIR Table IV-A-2. County Designated Scenic Routes includes several routes in the Morongo Basin Pipes Canyon area (Aesthetics, Mitigation AES-5.) Per our EIR scoping comments (11-20-17), the Pioneertown/Rimrock/Pipes Canyon areas surrounding these scenic routes warrant a **buffer overlay** to protect their scenic qualities. We re-iterate the need for additional protections for this County Scenic Route and others with buffer overlays.

## 2. Response to Comments

Kennington  
 PEIR comments  
 08-15-19  
 Page 3

Pioneertown Road / Pipes Canyon Road is shown in PEIS 2019 Figure 5.1-1. However, another route that was identified in 2007 EIR was not shown in Figure 5.1-1: Burns Canyon Rd. in the Rimrock community of Pioneertown Communities.

I5-4  
 Cont'd

The 2019 EIR does not, but should, anticipate revised Land Use Zone Designations in the General Plan Update to provide protections for these Pioneertown scenic areas and others throughout the Morongo Basin and Homestead Valley.

I5-5

**Include the desert's scenic characteristics in Policy statements!**

**Re.: Policy LU-4.1 Context-sensitive design in the Mountain/Desert regions.** We require new development to employ site and building design techniques and use building materials that reflect the natural mountain or desert environment and preserve scenic resources.

2019 PEIS: **Policy NR-4.1** Preservation of scenic resources. *We consider the location and scale of development to preserve regionally significant scenic vistas and natural features, including prominent hillsides, ridgelines, dominant landforms, and reservoirs. .... Implementation of the Countywide Plan is not expected to result in substantial obstruction of existing panoramic views of mountains, lakes, or other landforms.*

**Policy M/H-1.4** Protection of scenic qualities. *...shores of all mountain lakes or on slopes ...*  
**Policy NR-4.1** Preservation of scenic resources.... *regionally significant scenic vistas and natural features, .... reservoirs.*

**5.5.2 Threshold of Significance AE-2** *Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.*

I5-6

Reservoirs, trees, lakes and shores are characteristic of the mountain regions scenic resources not found in the desert region. It would be appropriate to include characteristics of the desert regions: boulders, rock piles, cinder cones, mesa and volcanic features, Joshua Tree woodlands in examples of panoramic views and features / scenic resources and context based features (also in Policy, including TM-2.5)!

Without specific guidelines / requirements for site and building design techniques and building materials, buildings that do NOT reflect our natural desert environment and preserve scenic resources are inevitable. Close the door to generic franchise design that threatens the communities and the scenic highway corridor. Per Policy NR-3.3 - LUS must work with the local community to define aspirations and acceptable and appropriate parameters style, materials, techniques that reflect them.

**Policy NR-3.3** Management of designated areas – coordinate with public and nongovernment agencies to sustainably manage and conserve land within or adjacent to locally, state, or federally designated open space or resource conservation areas.

**Unanticipated growth and development impacts: ARE significant**

I5-7

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5. Environmental Analysis / Aesthetics *While individual projects could be located adjacent to or visible from scenic roadways, there are no areas of the County where substantial growth or high density urban land uses are planned along such a roadway.*

**AE-3** ...character of some communities ... **East Desert Region** The East Desert Region is not targeted for future growth. No area of the region is expected to experience a major change in community character or visual appearance under the Countywide Plan since most development capacity is in areas allowing very low-density residential uses (i.e., areas designated Rural Living (RL)). **Nonresidential uses would generally be limited to areas that already feature nonresidential uses, such as parcels along SR-62 in the communities of Morongo Valley and Joshua Tree. For this reason, implementation of the proposed Project would not drastically change the visual appearance or character of East Desert communities.**

2019 PEIR 5. Environmental Analysis / AESTHETICS / Scenic Highways:

Analysis / Aesthetics/

*In addition to Caltrans's designated scenic highways, the County designates numerous scenic routes in each planning region. Conclusion Throughout the four regions of unincorporated County, some growth would occur in smaller areas planned for land use changes (outside those listed above) and would also occur in areas not planned for land use changes Scenic Highways.*

*Level of Significance Without Mitigation: Impact 5.1-2 would be less than significant.*

Impact 5.1-2:

*Environmental Analysis diminishes impacts to and lacks protections for Scenic Routes.*

*Particularly the vulnerability of "unbuilt capacity" in the East Desert. While anticipated growth is not anticipated to be substantial – it is anticipated as "sporadic and developed gradually.*

*The proposed Project does change land use designations of some parcels along County-designated scenic routes. These include areas along SR-62 in Morongo Valley and Joshua Tree and areas along SR-247 in Homestead Valley. However, these areas are not targeted for growth, and in most cases, proposed land use changes would allow less intense development than under existing land use designations, changes initiated due to lack of public infrastructure and/or lack of community desire for growth in the affected areas. Countywide policies, impacts to scenic resources within a state scenic highway would be less than significant.*

Even a small development and especially the cumulative effect of a concentration of separate developments can have significant impacts and adversely affect the quality of the landscape view shed and scenic resources. What constitutes "substantial adverse effect on the scenic vista"? Building standards must be carefully defined and articulated. Defining terms and standards is needed. I object to the consistent "less than significant" findings for impacts of the un-built capacity along the Scenic Routes.

Caltrans standards for qualification as a State Scenic Highway require mile-by-mile "Visual Description" of what the travel will see on either direction of the roadway. This includes identification and categorization of "visual intrusions" – minor, moderate, or major. An "intrusion" being any man-made artifact: utility, transmission, landscape modification: grading, scraping, clearing, etc.; building of any sort: homes, businesses, garages, etc. If greater than 25% of the scenic corridor is found to be sufficiently degraded with intrusion, State Scenic Highway status will be denied. Hence, my concern for the need for careful land use and development along highway 247, as with all County Scenic Routes.

15-7  
Cont'd

15-8

15-9

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In addition to the Visual Description, Caltrans proposals for consideration of State Scenic Highway designation require a Corridor Protection Plan. I will say more about the County Development Code Amendment revisions for the Open Space (82.19.040) under Regulatory Background comments.

15-9  
Cont'd

The PEIS 2019 and the Countywide Plan Development Code in regards to scenic routes must acknowledge Corridor Protection Plans for the State Scenic Routes and the possibility that County Overlay Protections along certain routes may require strengthening for Caltrans compliance.

### Build-out / Location and Scale of Development : Analysis / Aesthetics

**Preservation of scenic resources.** *We consider the location and scale of development to preserve regionally significant scenic vistas and natural features, including prominent hillsides, ridgelines, dominant landforms, and reservoirs.*

#### **[Threshold AE-2]**

**Impact 5.1-1** *State scenic highways are shown in Figure 5.1-1. Buildout of the proposed land use plan would involve construction of new land uses on thousands of parcels that feature unutilized development capacity. However, most of this growth is already allowed in the unincorporated County under existing land use regulations and would not be introduced by the proposed Project. Under the Countywide Plan, population growth is generally focused in a handful of "growth areas" identified in this section. Employment growth is focused in the Valley Region, particularly in the Fontana SOI, East Valley Area Plan, and Bloomington. As discussed in Chapter 3 of this PEIR, little to no growth is projected for other unincorporated areas. Accordingly, while the County contains numerous state and County-designated scenic highways, most would not be affected by land use changes contained in the Countywide Plan. The analysis below focuses on the areas of the unincorporated County where most changes to the visual environment would be expected to occur. Level of Significance Without Mitigation: Impact 5.1-2 would be less than significant.*

15-10

**Impact 5.1-2:** *The Countywide Plan would not alter scenic resources within a state scenic highway.*

**Impact 5.1-3:** *The proposed Project would alter the visual appearance and character of some communities in the County. [Threshold AE-3]*

*Level of Significance Without Mitigation: Impact 5.1-3 would be less than significant.*

I challenge the Conclusions of **5.1-2 & 5.1-3** that development impact to Scenic Highways without Mitigation as "*less than significant.*"

Further we object to the accuracy of level of impact and need for mitigation

**5.1.5** Cumulative Impacts to Scenic Vistas and Scenic Resources

**5.1.6** Level of Significance Before Mitigation

*With implementation of RR AE-1 and RR AE-2, impacts of the Countywide Plan related to aesthetics would be less than significant.*

**5.1.7** Mitigation Measures *No mitigation is required.*

**5.1.8** Level of Significance After Mitigation *Impacts would be less than significant.*

While the land surrounding County Scenic Highway 247 is not identified as a "growth area" in the PEIS, as an eligible highway for State Scenic Highway designation (in the proposal to Caltrans is currently being developed by the Homestead Valley Community Council in coordination with LUS) that should be considered for impacts from future development. This is largely rural residential

15-11

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area with numerous communities that are interspersed with commercial and agricultural development and associated zoning. Let's not assume there will be "little or no growth" in this unincorporated area – as the PEIS states. Impacts occurring from projects in the corridor's "unutilized development capacity" are likely and must be considered in the 2019 PEIS for mitigation. The PEIS underplays the potential for development in this vast area that includes much land under County jurisdiction. Changes will certainly occur to the 247 corridor and must be analyzed so as to not jeopardize the quality of visual environment and status for and as a State Scenic Highway. The fact that 247 is eligible for State Scenic Highway status, is receiving encouragement from staff at local Caltrans District 8, and serves as a feeder route or gateway to Joshua Tree National Park speak to the high scenic values worthy of protection.

15-11  
Cont'd

The commercially zoned sections of County Scenic Highway 247 in unincorporated County East and North Desert regions – especially in Flamingo Heights, Landers, and Lucerne Valley – have development capacity that was not adequately addressed in the 2019 PEIS.

A franchise retail store (Dollar General) built in the Flamingo Heights on highway 24 demonstrates a building style that in no way reflects the characteristics of the surrounding Homestead Valley despite the fact it was developed along the County Scenic Highway eligible for State Scenic status. The building is a generic cookie-cutter structure that could be found anywhere in the USA, and shows no effort to blend in and is unfortunate.

15-12

The EIR and Countywide Plan's development code must ensure development along scenic highways, particularly routes "eligible" for State Highway designation (as is highway 247), reflect existing structures, and honors the unique history and environment along the Scenic corridor. More must be done to guide appropriate development and define the characteristics of style in keeping with the area for developers. This will serve to mitigate future development that would otherwise degrade the scenic corridor and community values. We strongly advocate for local committees comprised of stakeholder citizens work with LUS planners to ensure stakeholders interests are understood and honored. Following are specific recommendations to that end:

- Use specific quantifiable, enforceable criteria for commercial development along county Scenic highways to ensure development does not fundamentally alter visual character; in order to ensure LU-3 & LU-5: • *Small businesses that serve local residents and visitors, compatible with the natural environment and surrounding uses.*
- Define view shed and process of development analysis (style, materials, techniques) to honor community history, identity, and aspirations.
- Increase the Scenic Highways corridor in the Open Space Overlay regarding development within scenic areas beyond the standard County

15-13

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scenic route designation beyond the lands within corridor 200' from the scenic highway right-of-way (per Caltrans comment, to Tom Hudson, Director, LUS, 10/23/2014.)

- Ensure Community identity through the engagement (notification, review, ongoing communication, and approval) of citizens' committees working in conjunction with LUS Planners.
- Defining terms and standards. Even a small development and especially the cumulative effect of a concentration of separate developments can have significant impacts and adversely affect the quality of the landscape view shed and scenic resources. What constitutes "substantial adverse effect on the scenic vista"? Building standards must be carefully defined and articulated.
- What are the considerations in the location and scale? The EIR should provide that specificity. What are the Mitigation measures? The desert landscape / view shed is great and can easily be impacted. Scale is relative! What works in the mountains to mitigate a building or other visual "intrusion" will not work in the desert region. Without clear guidelines and understanding of how and what can impact – we are left with great concern the vistas will indeed be damaged.

15-13  
Cont'd

Given increased pressure to develop and growing appreciation of the value of uninterrupted long scenic more must be done to ensure development does not jeopardize the qualities present.

As noted previously in comments, highway 247 is eligible for State Scenic Highway designation. Community grass roots efforts by the Homestead Valley Community Council supported by County Land Use Services and the local Caltrans District 8 Landscape Architect are actively underway and poised to submit a proposal to Caltrans' evaluation. It is a safe bet 247 will be designated in 2019.

15-14

*The PEIS currently states: As in the North Desert Region, a vast majority of the East Desert Region is outside the jurisdiction of the County and is managed by state and federal agencies. Therefore, the numerous County-designated scenic routes in the region (see Figure 5.1-1) will largely be unaffected by implementation of the Countywide Plan. There are no officially designated state-designated scenic highways in the region.*

While, it's too soon to say for certain, I am confident 247 will be green-lighted for approval as a State Scenic Highway by Caltrans and should be anticipated by the EIS to fall into its 20-year life cycle. I strongly suggest the language in the PEIS reflect this probability for the East Desert.

### **5.1.1.1 Regulatory Background – where's the County Open Space Overlay?**

The PEIS lists State Scenic Highways as a state regulatory provision. However it under Regional regulatory conditions, the County Development Code Amendment (**82.19.040**) revisions for the Open Space Overlay regarding

15-15

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development within scenic areas was omitted. The Open Space Overlay Code should be listed as a Regional regulatory provision in the PEIR.

The County Development Code Amendment Open Space Overlay was created to revise and clarify regulations regarding development along scenic routes. It was intended to satisfy standards for local agency regulations to suffice as a Corridor Protection Program to nominate a scenic route as a State Scenic Highway.

Draft Countywide Plan - **82.19.040 Development Criteria within Scenic Areas (2)** *An area extending 200 feet on both sides of the ultimate road right-of-way of State and County designated Scenic Highways as identified in the General Plan. The area covered may vary to reflect the changing topography and vegetation along the right-of-way.*

It should be noted however that County Development Code Amendment revisions for the Open Space Overlay was found to be less protective than Caltrans' Scenic Highway Program. Per correspondence from Steven Magallanes, Caltrans Acting District Landscape Architect, District 8 in a letter to Mr. Tom Hudson, Director LUS Co. of San Bernardino, October 23, 2014 in response to proposed regulatory text (82.19.040):

*Please note that our review was a preliminary assessment of the generally favorable condition of the County's existing and proposed regulatory language as it relates to scenic protection. We would likely have additional comments on the Visual Assessment and Corridor Protection Plan when, and if, the County pursues designation of an eligible route (or routes.) For example, language in 82.19.040 is less protective than Caltrans Scenic Highway Program. 82.19.040 only requires visual quality criteria be applied to "200 feet on both sides of the ...right of way" when evaluating a proposed land-use adjacent to an officially designated Scenic Highway."*

Corridor Protection must show that the expansive desert views - easily extending to a mile or greater along 247, must be significantly increased. 200 feet from the right-of-way might be appropriate in some sections of the County to assure protections for view shed but, that could be found to be inadequate in the desert regions. The existing development code (82.19.040) presents a highly likely impact to the quality of the scenic corridor. 2019 EIR mitigations should anticipate and reflect this.

LUS is currently assisting the Scenic 247 Committee of the Homestead Valley Community Council to complete an application proposing the 247 highway for State Scenic Highway status. Given Mr. Magallanes warning, it is likely the development criteria within Scenic Areas will be found less than adequate.

Commercial development along highway 247 is also a concern. The EIR states a preference for small businesses – given the demographics (low overall

15-15  
Cont'd

15-16

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population base). However, corporate franchise development (Dollar General) has recently impacted 247 and more can be expected. As is often the case with this type of commercial development, the Dollar General building has a generic corporate façade not typical of the overall community character identity shown in neighboring mom and pop stores in the surrounding Homestead Valley.

15-16  
Cont'd

The EIR and Countywide Plan's development code must ensure development along scenic highways, particularly those "eligible" for State Highway designation, reflects existing built structures and honors the unique environment along the Scenic corridor. More must be done to guide appropriate development and define the characteristics of style in keeping with the area for developers. This will serve to mitigate future development that would otherwise degrade the scenic corridor and community values. I strongly advocate for local committees comprised of citizens to work with LUS planners to ensure stakeholders interests are understood and honored.

### High Desert Corridor

**Policy TM-5.3 High Desert Corridor.** *We support the development of the High Desert Corridor to improve the regional goods movement network and foster economic development in the North Desert region.*

15-17

The Draft Countywide Plan includes Policy TM-5.3. However the High Desert Corridor is not mentioned in the 2019 PEIS. This significant land use will impact the North and East Desert regions and particularly the Scenic Highway. As it is being anticipated in the CWP, it must not be overlooked in the EIR.

### Renewable Energy concerns for Rural Living communities: no RLM

PEIS Page 5.10-14 Of concern by many residents is the introduction of utility-oriented renewable energy facilities and other types of industrial development. The Renewable Energy & Conservation Element, adopted in 2017 and amended in February 2019, contains goals and policies that would prohibit utility-oriented renewable energy development in the Rural Living land use district, currently adopted Community Plan areas, and other areas as determined in the Development Code update (RE Policy 4.10). The Countywide Plan is not updating this policy and will incorporate the adopted Renewable Energy & Conservation Element in its entirety.

15-18

For any new development, the Land Use Element contains requirements for development to be located, scaled, buffered, and designed in a compatible manner through Policies LU-2.1, Compatibility with existing uses, LU- 2.2, Compatibility with planned uses, LU-2.3, Compatibility with natural environment, and LU-4.5, Community identity

There are significant threats from industrial scale renewable energy development posed to Scenic Highway 247 that were not mentioned in the EIR. Ord Mt., Calcite and Sienna Solar applications were received prior to the passage of RECE 4.10. While Ord Mt. is on hold, and Calcite and Sienna Solar have not submitted EIRs these developments pose clear and present danger to the scenic quality of Barstow Rd. If these developments were to proceed – which is in the realm of possibilities – they should be identified in the 2019 EIR and mitigations

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considered. Renewable energy projects clearly threaten the scenic qualities of County scenic highways.

15-18  
Cont'd

While the 2007 EIR and County Plan Development Code did not serve to protect of the highway travelers' vista as they drive along the 247 view shed, with RECE, especially 4.10, I would expect the 2019 PEIR will ensure industrial scale RE does not impact scenic qualities, including County Scenic Routes.

The rezoning of RC sections to Resource Land Management (RLM) poses enormous concerns for dangerous impacts to the RL communities. The hard won protections in RECE 4.10 need to be extended to RC. The effect of development surrounding the RL desert communities would create an island effect with surrounding industrialization.

15-19

There is no mention of RLM in 2019 PEIS! RLM is incompatible with PEIS Policies LU-2.1; LU-2.2, LU-2.3, LU-4.5. This land use zoning revision must not be implemented in respect to desert rural communities and PEIS Policy. RLM would violate the intent of Policies LU-2.1, LU-2.2, LU-2.3, LU-4.5 and LU-6.4.

15-20

I reference and have endorsed (with my signature) the thorough thoughtful comment letter dated August 15, 2019 submitted by a coalition of individuals and groups. This is an environmental justice issue.

Without specific guidelines / requirements for site and building design techniques and building materials, buildings that do not reflect our natural desert environment and preserve scenic resources are inevitable. Close the door to generic franchise design that threatens the communities and the scenic highway corridor (kudos to the prohibition proposed for the community of Joshua Tree!) LUS must work with the local community to define aspirations and acceptable and appropriate parameters style, materials, techniques that reflect the community.

15-21

Sincerely,  
Sarah Kennington  
HVCC Scenic 247 Committee member

Resident Gamma Gulch neighborhood, Pioneertown Communities  


## 2. Response to Comments

### I5. Response to Comments from Sarah Kennington, dated August 15, 2019.

I5-1 Comment acknowledged.

I5-2 The Draft PEIR addresses impacts to scenic routes in the East Desert under Impact 5.1-2. These impacts are reviewed by county subregion at the appropriate specificity for a programmatic DEIR addressing a 20,000-square-mile area. The analysis acknowledges some land use changes along SR-247 in Homestead Valley, but notes that these areas are not targeted for growth, and in most cases, proposed land use changes would allow less intense development than under existing land use designations.

This commenter suggests that Mitigation AES-11 from the 2007 General Plan EIR should be included in the CWP Draft PEIR to evaluate viewshed impacts along scenic corridors. Mitigation AES 11 noted criteria that should be considered for designated scenic resources, including:

- A roadway, vista point, or areas that provides a vista of undisturbed natural areas:
- Includes a unique or unusual feature that comprises an important or dominant portion of the viewshed (the area within the field of view of the observer).
- Offers a distant vista that provides relief from less attractive views of nearby features (such as views of mountain backdrop from urban areas).

This mitigation is presumed to be directed to assist the County in designating resources, and would not serve at an individual project-level to protect visual resources from development projects. A viewshed analysis for potential impacts along scenic highways is required (as noted by the commenter under Comment I5-3) under the County Development Code for the Open Space Overlay (Section 82.19.040). This is a regulatory requirement with specific components ensuring the analysis on a project-level basis recommended by the commenter.

The County concurs that desert landscape is unique and that measures that would be appropriate in the mountains would not necessarily be appropriate for the desert. As described in Draft PEIR, Section 3.3.3, *Description of the Project*, under the CWP, existing community plans are proposed to be replaced with a Community Planning Continuum with a greater focus on community self-reliance, grass-roots action, and implementation. Goals, policies, land use, and infrastructure decisions for the Community Plan areas will be addressed in the County Policy Plan, and a set of new action-oriented Community Action Guides (CAGs) will offer a set of potential tools and action plans framed in a set of community-driven values and aspirations. These Guides would provide an opportunity to customize guidance for aesthetic policy implementation relative to the desert landscape.

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Furthermore, County Development Code Section 82.19.040 has been added to the PEIR, as shown in Chapter 3, *Revisions to the Draft PEIR*. The code applies to areas extending 200 feet on both sides of the ultimate road right-of-way of State- and County-designated Scenic Highways as identified in the General Plan. A specialized viewshed analysis shall be conducted for projects with significant negative impacts on scenic resources. This analysis shall identify mitigation measures designed to reduce or eliminate potentially significant impacts to the viewshed.

- I5-3 The County agrees that it is appropriate to include the information regarding County Development Code Section 82.19.040 in the Draft PEIR. The code applies to areas extending 200 feet on both sides of the ultimate road right-of-way of State- and County-designated Scenic Highways as identified in the General Plan. A specialized viewshed analysis shall be conducted for projects with significant negative impacts on scenic resources. This analysis shall identify mitigation measures designed to reduce or eliminate potentially significant impacts to the viewshed. This information has been added to the PEIR in Chapter 3, *Revisions to the Draft PEIR*.
- I5-4 Draft PEIR Figure 5.1-1, *County Designated Scenic Routes*, is a reproduction of County Policy Plan Map NR-3, Scenic Routes and Highways. Both accurately reflect county scenic routes as well as State-designated and -eligible routes. Upon adoption of the CWP, Map NR-3 would represent the designated county scenic routes. The web-based map would also be updated upon any County and/or State amendments to their designations. This is more efficient and appropriate than the listing provided as EIR mitigation. The CWP PEIR does not need to list the county scenic highways, and the policy and protections are adequately reflected in Draft PEIR (including the addition of County Development Code Section 82.19.040, as discussed in Response I5-3)
- I5-5 It is unclear what this commenter means by “anticipating revised land use zone designations” in this comment. Impact 5.11.1 in Draft PEIR Section 5.1, *Aesthetics*, reviews the potential for CWP implementation to adversely impact vistas in the East Desert Region. The analysis concludes that the region does have numerous scenic vistas, but that the region is not planned for substantial changes in development patterns, level of urbanization, or the types of development previously allowed. Additionally, Section 5.1 lists the numerous policies that would protect aesthetic resources (see Section 5.1.3.2, *Policy Plan*).
- I5-6 This comment recommends more specific policy language in the proposed CWP to protect visual resources in the desert environment. Policy language and detailed design guidelines are not within the purview of the Draft PEIR. This comment is acknowledged and will be forwarded to decision makers.
- I5-7 This comment provides examples to support comment I5-8. No response necessary.

## 2. Response to Comments

- I5-8 It is neither feasible nor appropriate for a programmatic level EIR covering 20,000 square miles to detail carefully articulated building standards as suggested in this comment. The Draft PEIR provides the potential aesthetics impacts, including cumulative impacts, to the East Desert Region, and provides appropriate substantiation (including regulatory and policy detail) to conclude that the impact is less than significant.
- I5-9 The commenter references specific Caltrans requirements for evaluation of potential impacts to their designated scenic highways. As noted above and in this comment, the County has implemented its own requirements for viewshed analysis of potential impacts to County scenic highways. The detail regarding Caltrans criteria and process is not relevant to the Draft PEIR.
- I5-10 The commenter states that County Overlay Protections along certain routes may require strengthening for Caltrans compliance. Individual projects that could impact State-designated scenic highways and corridors would be subject to future CEQA review and analysis relative to Caltrans criteria. The County is not required to mirror the State's requirements.
- I5-11 This comment suggests that County Scenic Highway 247 is not adequately analyzed or protected by the Draft PEIR, particularly since this highway may be considered by Caltrans for State designation as a scenic highway. As noted, this highway has already been designated by the County as a scenic highway. As such, it is protected by CWP policies, and Development Code Section 82.19.040. Under the code provision, new development which could potentially affect scenic resources along this corridor would require a viewshed analysis in conjunction with CEQA review. The County believes that the Draft PEIR adequately addressed the potential scenic impacts to Highway 247.
- I5-12 Comment acknowledged. This comment does not relate to the adequacy of the Draft PEIR.
- I5-13 This comment recommends that the County work with local committees and stakeholders to ensure that development along scenic highway, including Highway 247, reflects existing structures and honors the unique history environment along respective scenic corridors. The comment provides a bullet list of specific actions and guidance that could be considered. The list also suggests that the Draft PEIR include the level of specificity described in the comment. As noted in previous responses, this kind of specificity is not feasible nor required for a programmatic level EIR, especially in the case of San Bernardino County, which encompasses 20,000 square miles of diverse regions. The planning recommendations are beyond the scope of CEQA and the Draft PEIR and are forwarded to decision-makers. This level of grassroots involvement by local stakeholders and residents, however, would seem appropriate to be incorporated into the Community Action Guides (see Response O1-7 regarding intent of CAGs).

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- I5-14 This comment recommends that the Draft PEIR include language to reflect a high probability that Highway 247 will be designated as a State Scenic Highway. It is not the role of an EIR to speculate, and such speculation regarding Highway 247 would not alter the analysis or conclusions for potential CWP impacts.
- I5-15 The Development Code provision referenced in this comment has been added to the Draft PEIR. Please see Chapter 3, *Revisions to the Draft PEIR*, and refer to Response I5-3. The effort to designate Highway 247 as a State Scenic Highway and the related coordination with Caltrans is noted, but is not within the scope of the Draft PEIR.
- I5-16 Please refer to Responses I5-2 through I5-15.
- I5-17 The County of San Bernardino, County of Los Angeles, and the cities of Adelanto, Victorville, Apple Valley, Lancaster, and Palmdale have formed a Joint Powers Authority (JPA) to develop a new freeway/expressway from SR-14 to I-15. The High Desert Corridor (HDC) began as a proposed highway project connecting the counties of Los Angeles and San Bernardino. However, through the leadership of the HDC Joint Powers Authority together with Metro, SANBAG, and Caltrans, the HDC has evolved into a proposed multipurpose corridor that could connect Antelope Valley in Los Angeles County with Victor Valley in San Bernardino County. Consequently, the HDC study also considers how a high-speed rail connection, a bikeway, and green energy element may be integrated to create a truly sustainable project.
- The High Desert Corridor is not a component of the CWP, and therefore is not addressed in the Draft PEIR. Potential environmental impacts related to implementation of the HDC were addressed the environmental clearance (CEQA and NEPA) for the project that was completed and certified in June 2016.
- I5-18 As described in Draft PEIR Section 2.2.3, *Expanded Discussion of Scoping Comments*, the Renewable Energy and Conservation Element (RECE) was adopted in 2017 and is not being updated through the Countywide Plan. On February 28, 2019, the County of San Bernardino Board of Supervisors amended the RECE, placing further restrictions on development of utility-scale renewable energy projects.
- The RECE will be incorporated in its entirety into the Countywide Plan after the Countywide Plan is adopted. Therefore, renewable energy developments are not part of this project and are not addressed in this PEIR. Individual, future renewable energy development projects, however, would be subject to environmental review under CEQA.
- I5-19 Please refer to Response I5-18 and Response O1-3. The development of renewable energy projects are addressed in the RECE and are not part of the project description for the CWP and the CWP Draft PEIR. In accordance with the California Environmental Quality Act (CEQA), an Addendum to the Program Environmental Impact Report for the San Bernardino County General Plan Update (2007), including the Supplemental EIR

## 2. Response to Comments

for the Greenhouse Gas Reduction Plan (2011), was completed and approved for the RECE. The Addendum presented evidence to support the conclusion that no additional environmental analysis was required to adopt the RECE as a new element of the County General Plan, because none of the conditions specified in Section 15162 of the State CEQA Guidelines applied to the RECE.

- I5-20 The Draft PEIR Chapter 3, *Project Description*, describes the proposed land use designation map and related land use designations, including RLM. This comment suggests that the RLM district would violate the intent of several proposed policies. The commenter, however, does not substantiate the reasons for this assertion. The County believes the policies are consistent with the proposal land use map and allowable uses, including the RLM district.
- I5-21 Please refer to previous responses to this letter, responses to the “Coalition” letter (Letter O2), and responses to the Letter A3 from the Attorney General (with respect to environmental justice issues and supplemental information provided in this FEIR).

## 2. Response to Comments

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## 2. Response to Comments

LETTER I6 – Sarah Kennington and Steve Bardwell (7 page[s])

I6

August 15, 2019

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 North Arrowhead Avenue, 1<sup>st</sup> floor, San Bernardino, CA. 92415-0187  
Sent to: [CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov); [Jerry.Blum@lus.sbcounty.gov](mailto:Jerry.Blum@lus.sbcounty.gov)

Re: San Bernardino County Countywide Plan Draft Environmental Impact Report  
(State Clearinghouse No. 2017101033 (June 2019))

Dear Mr. Blum:

Thank you for the opportunity to respond with comments to 2019 draft program Environmental Impact Report associated with the pending San Bernardino County Countywide Plan.

We are residents of Gamma Gulch, a neighborhood in the Pioneertown Communities of the Morongo Basin, in the County's East Desert Region. We have focused our comments in consideration of the potential environmental effects and protections the Countywide Plan and the Pioneertown Community Plan will have on our community, as well as the adjacent unincorporated communities in the Morongo Basin and the Homestead Valley. We appreciate all efforts to honor community values and preserve the Morongo Basin's quality of life in land use and development issues.

I6-1

**Table LU-3 Community Character** Key Characteristics and Features Rural Desert Communities

**Pioneertown**<sup>6</sup>, ( <sup>6</sup>Pioneertown includes: Gamma Gulch, Pioneertown, Pipes Canyon, Rimrock. )

- A rural lifestyle characterized by the predominance of large lots, limited commercial development, and the prevalence of the desert landscape and natural resources.
- Abundant views of open spaces, natural features, and dark skies.
- Scenic, natural, and/or recreational features that serve as the foundation of the community's local economy and attract tourists.
- Small businesses that serve local residents and visitors, compatible with the natural environment and surrounding uses.

**Concerns that PEIR projected "Project Build-out" & impacts "less than significant."**

Growth in San Bernardino 'overall' is forecast to be "substantial" and "could affect scenic vistas and specific scenic Resources" (5.1.5 Cumulative Impacts.) It is also noted that cumulative Impacts on the Scenic Vistas and Scenic Resources (5.5.5) notes that growth in County "would be substantial." However, the "Project Build-out" for the East Desert region states:

I6-2

[Threshold AE-3] Impact 5.1-3: The proposed Project would alter the visual appearance and character of some communities in the County. **Aesthetics / East Desert Region**

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*The East Desert Region is not targeted for future growth. No area of the region is expected to experience a major change in community character or visual appearance under the Countywide Plan since most development capacity is in areas allowing very low-density residential uses (i.e., areas designated Rural Living (RL)). Nonresidential uses would generally be limited to areas that already feature nonresidential uses, such as parcels along SR-62 in the communities of Morongo Valley and Joshua Tree. For this reason, implementation of the proposed Project would not drastically change the visual appearance or character of East Desert communities. (5.1-18)*

16-2  
 Cont'd

**5.1.5 Cumulative Impacts / Scenic Vistas and Scenic Resources** During the planning period of the Countywide Plan, growth in San Bernardino County would be substantial, as mentioned above (and shown in Table 3-3). **This growth could affect scenic vistas and specific scenic resources.** However, because growth allowed under the proposed Plan would be subject to goals, policies, and regulations that reduce impacts of the Countywide Plan on scenic resources to a less than significant level, the proposed Project's contribution to countywide impacts would not be cumulatively considerable. Cumulative impacts of the Countywide Plan related to scenic vistas and scenic resources are therefore considered **less than significant**.

16-3

### 5.1.4.2 IMPACT ANALYSIS / East Desert Region

Like the Mountain Region, the East Desert Region is not targeted for growth under the proposed Project. As shown in Table 3-3, land use designations in the region are projected to accommodate approximately 394 additional housing units and 65,050 square feet of nonresidential building space. The region does have numerous scenic vistas, including views across desert landscapes, toward mountains and ridgelines, and toward rock formations and outcroppings. **However, the region is not planned for substantial changes in development patterns, level of urbanization, or the types of development previously allowed. Therefore, existing views across desert landscapes and toward topographic features will largely be unaffected;** small, sparsely distributed development projects consistent with the proposed Project are not expected to result in significant adverse impacts on scenic views in the region.

Why is it that projects in the Mountain Region would be subject to project-level design review, including review of aesthetic impacts under CEQA, as "applicable." The Mountain or East Desert are not targeted for growth or expected to experience a major change in community character or visual appearance. However, project-level review is not a requirement in the East Desert Region. There are sensitive areas of the East Desert – especially those adjacent to Open Space Overlay areas near parks and recreational areas that warrant similar attention and scrutiny project-level design review. Project-level review in the Desert Regions is necessary and should be a conducted"

16-4

The Mountain Region is not targeted for growth, and future growth of unutilized development capacity in the region would continue to be severely limited .... **Moreover, any individual development project would be subject to project-level design review, including review of aesthetic impacts under CEQA, as applicable.**

### Rural Residential (RL) zoning

As LU-3 acknowledges, the natural scenic qualities and the undeveloped landscape are the prime drivers of our quality of residential life and the tourist economy – the PEIR and Countywide Policy Plan must do more, be more specific, to insure the scenic characteristics are preserved and protected.

16-5

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**PEIR policies good: located, scaled, buffered, design: 2019 LU-2.1, 2.2, 2.3, 4.5**

For any new development, the Land Use Element contains requirements for development to be located, scaled, buffered, and designed in a comparable manner through Policies LU-2.1, Compatibility with existing uses, LU- 2.2, Compatibility with planned uses, LU-2.3, Compatibility with natural environment, and LU-4.5, Community identity.

RL zoning is low density by the County regions' urban standards. However, even RL-5 in and around our Pipes Canyon/Pioneertown residence opens the door to impactful future subdivision of existing parcels and future growth. Most parcels around Pioneertown in Pipes Canyon and Gamma Gulch are zoned RL-2.5 to RL-5. Many parcels forty acres and larger remain undeveloped which could encourage developers to consider subdivision. In the case of our residence's property alone (52015 Gamma Gulch Rd.) is 38 acres zoned RL-5 = subdivide potential: 7 parcels.

16-5  
Cont'd

If parcels are subdivided to 5-acres size, according to current zoning the area's Community Character (LU-3) and Community identify (LU-4.5) would be lost.

- A rural lifestyle characterized by the predominance of large lots, limited commercial development, and the prevalence of the desert landscape and natural resources.
- Abundant views of open spaces, natural features, and dark skies.

Policy LU-6.2 governs residential development governs development of one or more lots with lot sizes are 2.5 acres or less - on overall 40 or more acres. However what policies and regulations govern impacts of lot-by-lot development of individual "creep" of development by different lot owners? The cumulative impacts of incremental, slow-but-sure growth would be significant and damaging to the rural residential quality of life, and we fear this is likely. More must be done to mitigate this type of development that seems inevitable in the Pioneertown/Rimrock/Pipes/Gamma Gulch communities

RL zoning for large parcels – 40 acres and larger – should be down-zoned to R-10 to maintain appropriate "scale" and "buffer" (Table LU-3), and protect Community identity (LU-4.5)

Stronger measures are needed to mitigate the anticipated impacts of growth in the Pioneertown Communities in compliance with the Land Use Element requirements:

- Re-zone / lower RL density from 2.5 or 5 acres for parcels 40 acres and larger to RL-20, LR-40 or minimally to RL-10 in Scenic areas.

**We support completion of the Pioneertown Community Plan, as well as the other Community Plans and their incorporation into the Countywide Policy Plan. We reject the current strategy of 'Suggested Action Plans'.**

16-6

Our communities want to create a robust, strong and legally binding Community Plan. The "plans" consisting of "Action Items" without policy are not community

3

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plans according to their formal definition under state law and we feel will not provide the community with legal recourse under CEQA.

Community plans must be incorporated into the Countywide Policy Plan to support the EIR decision-making framework and to establish operating rules for implementing community vision. This is necessary for legal enforcement of residents' specific goals and policy for local community land use under CEQA.

As stated in the 2007 Plan EIR, specific needs and circumstances in Community Plans are integral to customizing the Countywide Plan to meet our unique circumstances: *To facilitate consistency, the Community Plans build upon the goals and policies of each element of the General Plan. In addition, policies that are included within the Community Plans are regarded as refinements of the broader General Plan goals and policies that have been customized to meet the specific needs or unique circumstances raised by the individual communities.*

16-2

**We believe the 2019 PEIR must mand<sup>Cont'd</sup> use of science, utilize standard & otherwise recognized wildlife and plant corridors, maintain a forum for adaptive management to guide ongoing regional conservation planning, and enact incentives and regulations for wildlife-sensitive development.**

**Impact 5.10-3: The proposed Countywide Plan would not conflict with an adopted habitat conservation plan. Page 5.10-22 / [Threshold LU-3]**

The 2019 PEIR must provide greater assurance and mitigations where impacts to regional ecology occur.

The Countywide Land Use Map must incorporate wildlife linkage designs for effective decision-making. The EIR must accurately identify data relevant to the Desert Regions and beyond, with updated identification of key resources, including high priority conservation areas.

The Biotic Resources and Open Space map available on the LUS website lists only a small fraction of wildlife corridors and linkages found in the California desert. The County must fully integrate linkage designs to analyze and prevent fragmentation of existing species habitat and linkage design areas. All facets of San Bernardino County's planning, policies, and maps should utilize the following sources that should be referenced in the 2018 EIR:

- The Morongo Basin Conservation Priorities Report
- California Natural Diversity Database
- South Coast Wildlands'
  - A Joshua Tree - Twentynine Palms Connection
  - A Linkage Network for the California Deserts
- Apple Valley Linkage Design

16-6  
Cont'd

16-7

16-8

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There are economic benefits to creating a protected, regional open space network that links “room to roam” for native plants and animals with quality neighborhood and commercial development. Wildlife corridors – within the Basin and connecting to the surrounding Mountain Region and East Desert Region - must be clearly called out and visible in GIS map overlays.

16-9

As envisioned in the 2007 EIR, the “specific and detailed wildlife corridor map for the County of SB to be included in the Open Space and Biological Resource Overlays and added to the General Plan and Policy CO. 2.2”, mapping capacity, long over-due, must finally be realized and relied upon in the 2019 EIR and added to the Countywide Plan as a Program and Policy.

The 2019 PEIR Biotic Resource Overlay should also recognize that some lands need to be to be preserved from development all together.

The San Bernardino County Environmental Element of the Countywide Vision has identified the East Desert as an area of concern in addressing impacts of development. Focal species – plants and animals – have been selected as “umbrella” and “indicators” of ecological health for the area. The 2019 PEIR should incorporate the findings of the Environmental Element to guide and assist future land use decisions.

**Great potential impact of RLM zoning to Habitats & RL – contradicts statement that CWP has no “negative impact”**

The impact the proposed addition of RLM zoning in the Desert Regions’ to replace RC zones would significantly impact habitat of plants and animal species during future development.

The Countywide Plan includes Policy NR-5.1, Coordinated habitat planning, which states that the County participates in landscape-scale habitat conservation planning and coordinates with existing or proposed habitat conservation and natural resource management plans. Policy NR-5.7, Development review, entitlement, and mitigation, reiterates the County of San Bernardino’s compliance with state and federal regulations regarding protected animal and plant species during future development entitlement procedures, including environmental review. There are no Countywide Plan policies that would result in a negative impact to adopted habitat conservation plans.

16-10

The PEIR did not consider any of the environmental impacts that would arise from the CWP’s designation of a new “RLM” zone as one in which utility-scale energy projects are deemed to be “Typical Uses.” We object to the re-zoning of Rural Conservation zoning into RLM zones. This is not in the spirit of RECE 4.10 that is intended to protect rural residents’ quality of life. The fugitive impacts of RLM industrialized zones would hugely impact residents of the East Desert. Why wasn’t this called out in the PEIR? RLM zones must not be introduced into the Desert regions

**We believe that the EIR must address Air Quality through local monitoring by Mojave Desert Air Quality Management.**

16-11

5

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The 2007 EIR Air Quality Impact (AQ-2) correctly acknowledges that growth will expose residents to pollutants. Further, this would be particularly significant to sensitive populations.

The EIR goes on to state incentives to promote proper siting of new technologies, including renewable energy (AQ-9). These air quality mitigations are increasingly critical to the Desert regions in light of new understanding of dust impacts from renewable energy development and Sand Transport Paths.

2007 EIR Project Analysis IV-7 c. Desert Region: *“Due to the persistent winds that blow throughout the year, large portions of the desert surface have been modified into a mosaic of ground surfaces that consists of stones and cobbles known as desert pavement.”*

Residents in Desert Regions are “sensitive receptors” – downwind of increasingly common fugitive dust that affects lungs, occasionally reduces visibility to mere feet when driving, and impacts indoor environments of homes and public buildings. The increasing amount and longevity of wind driven dust events in the past 3-4 years is striking. However, alarmingly, San Bernardino County does not recognize STPs as emission sources.

Since 2013 three solar energy facilities, covering 350 acres, have been constructed in Morongo Basin communities. Construction required 100% grading of the surface and removal of all vegetation. All three emitted dust during construction and continue now, even after operation for 3+ years, to emit dust during high wind events.

PM10 levels must be monitored with properly placed equipment in the Morongo Basin to adequately collect data from dust transmission from the Sand Transport Path. At present, there is no monitoring equipment in the Morongo Basin for a PM10 baseline measure.

PM10 sources also include unpaved roads common in the Mojave desert residential communities, construction sites and other disturbed areas, and now must be recognized to include utility and industrial scale solar sites.

Current LUS requirements during the construction of renewable energy projects include requiring water, chemical stabilization and/or gravel covering for dust control. Additional research into the safety and effectiveness of these mitigations is necessary. Use of water for dust control has been documented to be excessive and far in excess of developers anticipated levels of consumption. The use of water for mitigation is not effective nor is it a good use of our limited water supplies (see 2007 Mitigation HWQ-2.)

We urge that the 2019 PEIR recognize the existence of STPs and the role they have in affecting air quality. More data is needed to map STPs, soil, and geology

I6-11  
Cont'd

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for planners to make sound evaluations on how disturbance of the soil crust and the removal of desert vegetation affects erosion and the release sand/dust. The cumulative affect of projects must also be taken into consideration in evaluating new development in the desert regions.

I6-11  
Cont'd

Air pollution impacts are a social justice issue for County residents.

**The 2019 EIR must acknowledge and anticipate the effects of climate change.**

Climate change must be integral in the 2019 EIR and Countywide Policy Plan and evaluation of the effects and potential mediation strategies for climate change incorporated. Climate change is here, its effects ever more apparent and the urgency to address this issue continuing to grow. The vast areas of undeveloped lands in SB Co. have great potential for sequestering carbon and mitigating climate beyond County boundaries.

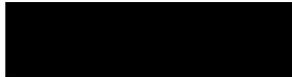
The Countywide Policy Plan must utilize sound science and current best-practices in planning. GIS mapping strategies are critical to proper analysis and implementation of policies. The 2018 Countywide Policy Plan EIR must recognize and anticipate the impacts of climate change through the use of adaptive and resilient techniques to ensure that the Countywide Vision is achieved and maintained for residents.

I6-12

We reference and have endorsed (with ur signatures) the thorough, thoughtful comment letter dated August 15, 2019 submitted by a coalition of individuals and groups. This is an environmental justice issue.

Sincerely,

Sarah Kennington and Steve Bardwell



Cc: Ms. Linda Mawby (**By Email:** [Linda.Mawby@lus.sbcounty.gov](mailto:Linda.Mawby@lus.sbcounty.gov))  
Senior Planner

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## 2. Response to Comments

### I6. Response to Comments from Sarah Kennington and Steve Bardwell, dated August 15, 2019.

- I6-1 This comment is an introductory comment and no response is necessary.
- I6-2 This comment provides excerpts from the Draft PEIR but does not include a comment requiring a response.
- I6-3 This comment provides excerpts from the Draft PEIR but does not include a comment requiring a response.
- I6-4 This comment reproduces narrative from the Draft PEIR Section 5.1, *Aesthetics*, and questions why projects in the Mountain Region would be subject to project-level design review, but that this phrase is not included for Desert Region projects. Projects in both regions would be subject regulatory requirements and policies, as described in this Draft PEIR section. Each section of the Draft PEIR is structured to include a summary of regulatory requirements followed by proposed CWP policies, both of which would mitigate potential project impacts. The regions have not been treated differently, but the policies do recognize their unique characters. The comparable policies for the Desert Region and Mountain Region as reproduced in the *Aesthetics* section of the Draft PEIR are as follows:
- **Policy LU-4.1 Context-sensitive design in the Mountain/Desert regions.** We require new development to employ site and building design techniques and use building materials that reflect the natural mountain or desert environment and preserve scenic resources
  - **Policy M/H-1.2 Building design.** We require architecture and outside facades of residential development that are in keeping with the mountain character; use natural woods, wood composite materials, and masonry as much as practicable
- I6-5 This comment regards detailed zoning and density considerations for the Pioneertown area and does not comment specifically on the contents or conclusions of the Draft PEIR. No response necessary.
- I6-6 Comment acknowledged. Please see Response O1-7.
- I6-7 This comment states that the Draft PEIR must provide greater assurance and mitigation where impacts to regional ecology occur, must incorporate wildlife linkage designs, and must accurately identify data relevant to the Desert Region, including high priority conservation areas.

As stated in Draft PEIR Section 3.4, *Intended Uses of the EIR*, the Draft PEIR “is a Program EIR that examines the potential environmental impacts of the proposed Countywide Plan.” As stated in Section 5.4.4.1, *Methodology*, of Section 5.4, *Biological Resources*, “programmatic impacts are discussed in broad, qualitative terms of habitat types that

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could be impacted due to the buildout of the CWP. This assessment does not satisfy the need for project-level CEQA analysis for individual projects.”

The Draft PEIR Biological Resources section provides quantitative and qualitative analysis of direct and indirect impacts to biological resources in each of the county subregions and evaluates the potential significance of impacts based on Section 5.4.2, *Thresholds of Significance* (which reflect CEQA Guidelines Appendix G). Potential biological resource impacts associated with CWP implementation were evaluated based on the existing conditions inventory as included in Draft PEIR, Appendix D. This analysis of potential impacts in the PEIR was supported by a thorough biological resource environmental setting (Section 5.4.1) and biological resources existing conditions report (Draft PEIR Appendix D). Mitigation measures are provided for identified impacts to reduce impacts to less than significant.

The CWP includes policies specific to wildlife linkages and conservation areas, including: Policy NR-5.1, Coordinated Habitat Planning, which prioritizes landscape-scale habitat conservation planning; and Policy NR-5.2, Capacity for Resource Protection and Management, which includes coordination with public and nongovernmental agencies to seek funding and other resources to protect, restore, and maintain open space, habitat, and wildlife corridors.

I6-8 This comment states that the Biotic Resources and Open Space map lists only a small fraction of wildlife corridors and linkages, that the County must fully integrate linkage designs, and that the County should utilize specific sources listed in the comment.

As described in Section 3.4, Special Status Species, of Appendix D, Biological Resources Existing Conditions, of the DPEIR, a query of the CNDDDB was conducted and results are included as Appendix C of the Existing Conditions Report. As described in Section 3.2, Habitat Linkages and Corridors, of the Existing Conditions Report, the South Coast Wildlands Joshua Tree–Twentynine Palms Connection and Linkage Network for the California Deserts mentioned in the comment were included in the analysis. The Apple Valley MSHCP was also discussed in Appendix D, and this plan was not sufficiently developed to provide an analysis in the Draft PEIR. Please see response to comment O6-7 regarding the Morongo Basin Conservation Priorities Report.

I6-9 This comment states that wildlife corridors must be clearly called out and visible in GIS map overlays and that the 2019 PEIR Biotic Resource Overlay should also recognize that some lands need to be preserved from development altogether.

Policy Map NR-2, Parks & Open Space Resources, available at <http://countywideplan.com/policy-plan/beta/nr/> depicts modeled habitat linkages. Further details regarding mapped linkages are provided Appendix D to the Draft PEIR.

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The Land Use Map of the CWP includes lands that are designated Resource/Land Management and Open Space, which are defined by Table LU-1, Land Use Categories, as follows:

- Resource/Land Management:
  - Manage, preserve, and protect natural resources such as agricultural/grazing lands, watersheds, minerals, and wildlife habitat areas, as well as open space areas not otherwise protected or preserved.
  - Provide areas for military operations and training while minimizing impacts on and from surrounding civilian uses
  - Allow for limited rural development while minimizing the expansion of development outside of existing communities
- Open Space:
  - Provide and preserve publicly owned land for parks and open space and manage, preserve, and protect natural areas, habitats, and wildlife corridors.

Therefore, the CWP includes lands that would be preserved from development.

I6-10 This comment states that the addition of Resource Land Management (RLM) zoning in the Desert Regions to replace Rural Conservation zones would significantly impact habitats and that the PEIR did not consider environmental impacts that would arise in the RLM zone from utility-scale energy projects. The commenter objects to the rezoning of Rural Conservation zoning into RLM zones because it would not protect rural residents' quality of life, and the fugitive impacts of RLM industrialized zones would hugely impact residents of the East Desert.

As described in response to comment I6-9, the RLM includes a variety of land uses, including preserving natural resources, habitat areas, and open spaces as well as allowing for limited rural development. Although utility-scale energy projects are a component of RLM, Policy 4.10 of the Renewable Energy and Conservation Element prohibits utility-oriented renewable energy projects in the Rural Living land use districts and any land use district within the boundaries of multiple community planning areas. Upon adoption of the CWP, the RECE would be integrated into the CWP.

Please also see Response O1-3 regarding the potential for utility-scale renewable energy projects within the RLM district, and the environmental review conducted for the RECE.

I6-11 This comment provides information regarding wind-driven dust impacts in the Morongo Basin, and in particular the potential impact of renewable energy development and Sand Transport Paths (STPs). The commenter requests that the Draft PEIR recognize the existence of STPs and that more data is provided to map STPs, soil, and geology for

## 2. Response to Comments

planners to make sound evaluations on how disturbance of the soil crust and the removal of desert vegetation affects erosion and the release of sand/dust.

As explained in Section 2.2.3, *Expanded Discussion of Scoping Comments*, construction emissions of particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) are addressed in Section 5.3, *Air Quality*. Blow sand is a type of coarse particulate matter (PM<sub>10</sub>). At this programmatic phase of analysis, it is not possible to evaluate the potential impacts of STPs or blow sand at the level of specificity requested by this commenter. Moreover, the programmatic level impacts of renewable energy projects were addressed in the CEQA review of the RECE (see Response O1-3). Future, discretionary projects would require future environmental review to evaluate potential air quality impacts associated with site-specific development.

I6-12      The relevant background, regulatory requirement, existing conditions ,and potential CWP impacts related to climate change are in Draft PEIR Section 5.7, *Greenhouse Gas Emissions*.

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LETTER I7 – Bryan Baker (2 page[s])

I7



August 15, 2019

Jerry L. Blum, Countywide Plan Coordinator  
County of San Bernardino  
Land Use Services Department  
385 N. Arrowhead Avenue, 1st Floor  
San Bernardino, CA 92415  
Email: [CountywidePlan@lus.sbcounty.gov](mailto:CountywidePlan@lus.sbcounty.gov)

RE: Comments on June 2019 Draft Environmental Impact Report – San Bernardino Countywide Plan  
(State Clearinghouse No. 20171011033)  
SUBMITTED VIA EMAIL

Dear Mr. Blum:

I am writing as an individual to comment on the June 2019 Draft Program Environmental Impact Report (PEIR) prepared for the San Bernardino Countywide Plan.

I would like to comment specifically on the sections of the Plan addressing greenhouse gas (GHG) emissions, which are principally in chapter 5.7 (Greenhouse Gas Emissions) but also addressed in 5.16 (Transportation and Traffic). As the Plan points out, the federal government has determined that GHG “threaten the public health and welfare of the American people” (p. 5.7-7). The California state government has made reduction of GHG a high priority via several laws and executive orders (AB 32, SB 375, etc.), and regional government (SCAG) has established goals as well.

The state actions have produced two large goal points: reduction of GHG in the state by 40 percent below 1990 levels by 2030, and 80 percent below 1990 levels by 2050. As the Plan points out, meeting these goals “will require a fundamental shift to efficient, clean energy in every sector of the economy” (p. 5.7-9).

In response, the preferred Plan does recommend some actions to constrain GHG emissions, such as promoting “compact and transit-oriented development” and energy efficiency in new and upgraded buildings (p. 5.7-24).

However, the Plan as recommended does not meet the statewide goals. In fact, as proposed, the Plan does not make substantial effort to reach the goals. The statewide goals are not mere recommendations that the County is free to meet or not meet, depending on its perceived situation and preferences.

I7-1

## 2. Response to Comments

The Plan claims that it is reaching admirable levels by reducing GHG at all in light of expected increases in population. But the entire State of California will be experiencing population growth. Population growth cannot be an excuse for failing to meet GHG reduction goals. It is not legitimate to think that because the County is a small part of the problem that it can excuse itself from participating in needed GHG reductions; if that were the case, every individual County, and every individual political entity on Earth, could easily but tragically excuse itself from action.

17-1  
Cont'd

A couple of the alternatives considered (Limited Suburban Growth, Concentrated Suburban Growth) would reduce GHG slightly more than the preferred alternative, but none of them meets the GHG reduction goals. The County should have prepared a plan that includes at least one alternative that meets the statewide GHG goals.

The County needs to revise its Plan to include actions that will cause it to meet the statewide GHG reduction goals. If that requires further limits on growth in rural areas, or greater commitment to travel reduction, or greater commitment to conversion of fossil-fuel based vehicles to carbon-neutral transportation, then the County must attack those goals with vigor.

17-2

Climate change is a fact that is here today and is changing the planet's ecosystem and livability. Failing to reduce our emissions drastically within the next few decades is not an option. The County must do its part to keep our way of life from being irreparably damaged.

Sincerely,

Bryan Baker



## 2. Response to Comments

### I7. Response to Comments from Bryan Baker, dated August 15, 2019.

- I7-1 Comment acknowledged. As required by CEQA, the Draft PEIR evaluates the potential greenhouse gas (GHG) emissions impacts of implementation of the Countywide Plan and proposes feasible mitigation measures for an identified significant GHG impact. As noted by the commenter, Draft PEIR Section 5.16, *Transportation and Traffic*, also addresses GHGs relative to transportation-related emissions, as evaluated for vehicles with the vehicles miles traveled (VMT) evaluation metric. The analysis does conclude that the CWP would reduce GHG emissions in comparison to existing conditions, and also demonstrates consistency with the California Air Resources Board (CARB) 2017 Scoping Plan. Section 5.10, *Land Use and Planning*, demonstrate the CWP's consistency with the RTP/SCS. Nevertheless, GHG emissions would remain significant and unavoidable. As summarized in the following response (I7-2) and in Draft PEIR Section 5.7.8, *Level of Significance After Mitigation*, at this time, there is no plan past 2030 that achieves the long-term climate stabilization goal established under Executive Order S-03-05, and the state cannot meet the 2050 goal without major advancements in technology.
- I7-2 The County considered mitigation and alternatives to reduce GHG emissions impacts of the project. However, no alternative land use plan has been identified that would achieve the statewide GHG reduction goals; because, as stated in the Draft PEIR, achieving the carbon neutrality goals of the state will require a fundamental shift to clean energy in every sector of the economy. The primary sources of emissions in the unincorporated county are from energy use and on-road transportation sources. The transportation and electricity sectors in the state are transitioning to carbon-neutral sources in accordance with Senate Bill 100 and Executive Order B-55-18. However, for the foreseeable future, there will be blended technology in the transportation sector (i.e., fossil fuel cars and zero emissions vehicles).

## 2. Response to Comments

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## 2. Response to Comments

LETTER I8 – Susan V. Walker (1 page[s])

I8

**Susan V. Walker**



Aug. 15, 2019

Jerry L. Blum

Land Use Services Dept.

San Bernardino County

385 N. Arrowhead Ave. First Flr.

San Bernardino, CA 92415

Dear Land Use Services Dept.:

I am writing for the comment period on the General Plan. In the section #6, I am concerned about the impacts on Air quality. Biologic resources and Greenhouse Gas emissions (6.1, 6.2, & 6.3). These impacts should be minimized as much as possible.

I am specifically concerned about the Action Plan for Lake Arrowhead. I commend the work done on the Community Focus Statement A. I look forward to that being accomplished.

I am in favor of the items in the 2007 Community Plan that were carried forward into the 2019 Action Plan. Yes, we need Hwy 18 which is a state road designated as a scenic highway. The listed wild life corridors must be created and protected. In Rimforest on the Church of the Woods property the wildlife corridor must be protected. The same is true of SkyPark's wildlife corridor.

Thank you for the opportunity to comment.

Sincerely,

Susan V. Walker

I8-1

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## 2. Response to Comments

### **I8. Response to Comments from Susan V. Walker, dated August 15, 2019.**

I8-1 The commenter states a general concern about the impacts on air quality, biological resources and greenhouse gases, referencing Draft PEIR, Chapter 6, *Significant Unavoidable Adverse Impacts*. The commenter notes that these impacts should be minimized as much as possible. As mandated by the California Environmental Quality Act, feasible mitigation measures have been included to reduce these impacts to the extent possible.

The remaining comments in this letter are related to the Lake Arrowhead Community Plan and Action Plan and do not relate to the Draft PEIR. The comments are acknowledged, but no response is required.

## 2. Response to Comments

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## 2. Response to Comments

LETTER I9 – Jane Hunt-Ruble (2 page[s])

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To Jerry L. Blum - Countywide Plan Coordinator  
County of San Bernardino County  
Land Use Services Department

I didn't review the entire Plan due to its length of content and lack of time due to short access to computer/internet. I care about the entire Countywide Plan, but I'm focusing on the Valley regions Community Plans and Biological Resources/Environment. I live in Murcoy and want some clarification on the Community Action Guide's focus on community self-reliance and implementation of Goals, land use policies. All four components of the CWP will affect our community. The CPR and CBP components are of concern to me because of public safety and other services provided by the County for the unincorporated areas include the incorporated areas. Murcoy needs more public safety issues (Sheriff, noise, fireworks, code enforcement violations) need to be addressed and enforced. (5.12) Noise Environmental Analysis Table 5.12-4 Community Noise and Land Use Compatibility did not include noise from vehicular sound systems and fireworks which really impacts the community. are not addressed in the analysis. (5. Biological Resources Environmental Analysis) Policy LU.2.3 concerns me with the compatibility of new development with the natural environment because there will be conflicts between cities and ~~and~~ the counties land use policies.

19-1

19-2

## 2. Response to Comments

(Table 8-1 Impacts Found not to be Significant)

Aesthetics Impacts 5.1-1, 5.1-2, 5.1-3, 5.1-4 were found to be less than significant. How did you determine these impacts weren't significant? Impact 5.14-1 & 5.14-2 would create a need for more deputies in the Sheriff's Dept. because of population growth and more County fire personnel for fire protection services. (9.2)

19-2  
Cont'd

Growth-Inducing Impacts of the Proposed Project. Growth in all areas of the County is going to have a <sup>course</sup> huge impact to Biological Resources, Air Quality, Public Safety, Traffic, Environmental Hazards (Wildfires), Noise and the Health & Wellbeing of the citizens of this County. I've participated in the Counties Trails Committee and the Environment Element Group. I hope the County truly cares about implementing policies that protect the environment which enhances a good quality of life and well-being of its residents.

19-3

Thankyou  
Jane Hunt-Ruble



## 2. Response to Comments

### I9. Response to Comments from Jane Hunt-Ruble, dated - undated.

I9-1 Comment acknowledged. Please also refer to Response O1-7 regarding Community Plans and Community Action Guides. Note also the detailed evaluation of the Muscoy community in the Environmental Justice Background Report (see Appendix D of this Final PEIR) and related environmental justice policies as summarized in Response A3-1.

I9-2 In this comment, the commenter lists several concerns regarding community issues, including safety issues and code enforcement. Public services, including fire and emergency, police, schools, and libraries, are addressed in the Draft PEIR, Section 5.14, *Public Services*. Issues regarding vehicle sound systems and fireworks are not environmental issues required to be analyzed in an environmental impact report. These issues would relate to the County's Development Code and related code enforcement.

The commenter inquires how impacts were determined to be less than significant for aesthetics and for sheriff and fire services. The impact analysis is detailed in the respective Draft PEIR sections, and conclusions regarding significance are compared to the *Thresholds of Significance*, which are defined in each topical section.

I9-3 Comment acknowledged..

## 2. Response to Comments

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## 3. Revisions to the Draft PEIR

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### 3.1 INTRODUCTION

This section contains revisions to the Draft PEIR based on (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of Draft PEIR publication; and/or (3) typographical errors. This section also includes additional mitigation measures, if needed, to fully respond to commenter concerns and provide additional clarification to mitigation requirements included in the Draft PEIR. The provision of additional mitigation measures does not alter any impact significance conclusions as disclosed in the Draft PEIR. Changes made to the Draft PEIR are identified here in ~~strikeout text~~ to indicate deletions and in underlined text to signify additions.

### 3.2 DRAFT PEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the Draft PEIR.

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Page 1-12, Section 1.7, *Areas of Controversy*, Chapter 1, *Executive Summary*. The following text has been modified in response to Comment O1-31 from the Coalition of Community Groups, Businesses, Organizations and Individuals in the High Desert of San Bernardino County.

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### 1.7 AREAS OF CONTROVERSY

In accordance with Section 15123(b)(2) of the CEQA Guidelines, the PEIR summary must identify areas of controversy known to the lead agency, including issues raised by agencies and the public. ~~There are no specific areas of known controversy concerning the proposed Project. Although the County has no knowledge of expressed opposition to the Project,~~ Development of the CWP was a process that took more than 4 years of plan development and public outreach and participation process. With a plan area encompassing approximately 20,000 square miles and four distinct subregions, a proactive and organized constituency provided extensive input, including specific opposition to some proposed components of the CWP. Numerous requests and comments have been received during the CWP and CWP Program EIR process related to potential Project impacts associated with implementation of the proposed CWP, including: transportation, air quality, cultural tribal resources, water quality, biological resources and conservation, environmental justice, land use compatibility, impact of renewal energy projects, aesthetics and viewshed impacts. These comments were received as part of the PEIR scoping process and are summarized in Chapter 2.0, *Introduction*, Tables 2-1 and 2-2, from the Notice of Preparation comments and public scoping meeting, respectively. The 30-day public review period for the NOP was from October 17, 2017, through November 20, 2017, and the public scoping meeting was held on October 26, 2017, at the San Bernardino Government Center, 385 N. Arrowhead Avenue, San Bernardino, CA 92415. Remote videoconferencing of the scoping meeting was also made available at the

### 3. Revisions to the Draft EIR

Jerry Lewis High Desert Government Center, 15900 Smoke Tree Street, Suite 131, Hesperia, CA 92345, and the Bob Burke Joshua Tree Government Center, 63665 Twentynine Palms Highway, Joshua Tree, CA 92252.

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Page 5.1-2, Section 5.1.1.1, *Regulatory Background*, Chapter 5.1, *Aesthetics*. The following text has been modified in response to Comments I5-2 and I5-3 from Sarah Kennington.

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#### *San Bernardino County Development Code*

The following provisions from the San Bernardino County Development Code help minimize aesthetic and light and glare impacts associated with new development projects and are relevant to the Countywide Plan.

- **Chapter 82.19 (Open Space (OS) Overlay).** Section 82.19.040, *Development Criteria Within Scenic Areas*, details criteria to be used within scenic areas in Open Space Overlays with:
  - Unique views of the county's desert, mountain, and valley areas or any other aesthetic natural land formations.
  - Areas extending 200 feet on both sides of the ultimate road right-of-way of State and County designated Scenic Highways as identified in the General Plan.
- **Chapter 83.02 (General Development and Use Standards).** This chapter provides development standards that ensure an environment of stable and desirable character that is harmonious and compatible between existing and future development. Sections within this chapter detail requirements pertaining to maximum building heights, screening and buffering, setbacks, and allowed projections/structures within setbacks.
- **Chapter 83.06 (Fences, Hedges, and Walls).** This chapter establishes requirements for fences, hedges, and walls to ensure that these elements do not unnecessarily block views and sunlight; provide adequate buffering between different land uses, provide screening of outdoor uses and equipment; and provide for noise mitigation. Overall, the requirements are designed to provide aesthetic enhancement of the County. This chapter of the code discusses requirements for fences, hedges, and walls, including maximum height limit, walls required between different land uses, special wall/fencing for different uses, and prohibited fence materials.
- **Chapter 83.07 (Glare and Outdoor Lighting).** This chapter encourages outdoor lighting practices and systems that minimize light pollution, glare, and light trespass; conserve energy and resources while maintaining nighttime safety, visibility, utility and productivity; and curtail the degradation of the nighttime visual environment. Section 83.07.030 provides standards for outdoor lighting in the Valley Region and Section 83.07.040 provides stricter standards for the Mountain and Desert Regions.

### 3. Revisions to the Draft EIR

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Page 5.3-28 and 5.3-29, Section 5.3.3.2, *Policy Plan*, Chapter 5.3, *Air Quality*. The following text has been modified in response to Comment A3-4 from the State of California Attorney General.

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**Policy HZ-3.1** ~~Cumulative h~~**Health risk assessment.** We require ~~projects processed by the County to provide a cumulative~~ health risk assessment when a project ~~could potentially increase the incremental cancer risk by 10 in 1 million or more potentially effects sensitive receptors in unincorporated environmental justice focus areas. We, and we~~ require such assessments to evaluate impacts of truck traffic from the project to freeways. We establish appropriate mitigation prior to the approval of new construction, rehabilitation, or expansion permits.

**Policy HZ-3.2** **Studying and monitoring.** We coordinate with state and regional regulatory entities to monitor pollution exposure, publicize pollution data, and identify solutions in unincorporated environmental justice focus areas. We work with state and regional regulatory entities to obtain grant funding to study cumulative health risks affecting such areas.

**Policy HZ-3.3** ~~Relocation of nonconforming residential units.~~ We pursue grant funding and other assistance to relocate residents living in residential units that are nonconforming uses in unincorporated environmental justice focus areas and to eliminate those nonconforming residential units. **Community emissions reduction plans.** We assist the air quality management districts in establishing community emissions reduction plans for unincorporated environmental justice focus areas and implement, as feasible, those parts of the plans, that are within the jurisdiction and authority of the County, with particular emphasis in addressing the types of pollution identified in the hazard element tables.

**Policy HZ-3.8** **Indoor air quality.** We educate and raise awareness in unincorporated environmental justice focus areas about indoor air quality, and we pursue grant funding ~~for public health initiatives targeting~~ to address asthma and other respiratory illnesses.

**Policy TM-3.3** **First mile/last mile connectivity.** We support strategies that strengthen first/last mile connectivity to enhance the viability and expand the utility of public transit in unincorporated areas and countywide.

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Page 5.3-30, Section 5.3.3.2, *Policy Plan*, Chapter 5.3, *Air Quality*. The following text has been modified in response to Comment A3-4 from the State of California Attorney General.

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**Policy TM-4.1** **Complete streets network.** We maintain a network of complete streets within mobility focus areas that provide for the mobility of all users of all ages and all abilities, while reflecting the local context.

**Policy TM-4.2** **Complete streets improvements.** We evaluate the feasibility of installing elements of complete street improvements when planning roadway improvements in mobility focus

### 3. Revisions to the Draft EIR

areas, and we require new development to contribute to complete street improvements in mobility focus areas. In evaluating complete street improvement, we prioritize those in mobility focus areas that are within unincorporated environmental justice focus areas.

**Policy TM-4.3 Funding.** We partner with SBCTA, Caltrans, and local agencies to fund active transportation systems in the county. We encourage unincorporated communities to apply for funding and cooperate with them in their funding applications for active transportation improvements that are identified in a non-motorized transportation plan that is accepted or adopted by the County.

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Page 5.3-17 and 5.3-18, Section 5.3.1.2, *Regulatory Setting*, Chapter 5.3, *Air Quality*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### SB 1000, Environmental Justice in Local Land Use Planning

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

#### *AB 617, Community Air Protection Program*

In response to Assembly Bill (AB) 617 (C. Garcia, Chapter 136, Statutes of 2017), CARB has established the Community Air Protection Program. AB 617 requires local air districts to monitor and implement air pollution control strategies that reduce localized air pollution in communities that bear the greatest burdens.

Air districts are required to host workshops in order to help identify disadvantaged communities disproportionately affected by poor air quality. Once the criteria for identifying the highest priority locations has been identified and the communities have been selected, new community monitoring systems would be installed to track and monitor community-specific air pollution goals. Under AB 617, CARB must prepare an air monitoring plan by October 1, 2018, that evaluates the availability and effectiveness of air monitoring technologies and existing community air monitoring networks.

Under AB 617, CARB is also required to prepare a statewide strategy to reduce TACs and criteria pollutants in impacted communities; provide a statewide clearinghouse for best available retrofit control technology (BARCT), adopt new rules requiring the latest BARCT for all criteria pollutants for which an area has not achieved attainment of California AAQS, and provide uniform state-wide reporting of emissions inventories. Air districts are required to adopt a community emissions reduction program to achieve reductions for the air pollution impacted communities identified by CARB.

### 3. Revisions to the Draft EIR

In the county, the Muscoy community has been identified as a “year 1” disadvantaged community for its air pollution burden. Communities under consideration for subsequent years (i.e., years 2 through 5), include Bloomington/Fontana/Rialto; Colton/Grand Terrace/San Bernardino (southwest); and Rancho Cucamonga/Ontario (east). SCAQMD adopted the Community Emissions Reduction Plan (CERP) for Muscoy under AB 617 on September 6, 2019. The AB 617 “year 1” communities identified by SCAQMD share common air quality priorities that are driven by the movement of goods throughout the region (e.g., trucks, equipment used at railyards, off-road diesel equipment, and trains). Mobile sources are the overwhelming source of DPM and cancer risk in these communities. Air quality priorities for the Muscoy community include:

- Reducing emissions from heavy-duty trucks transiting the community by working with local land use agencies to establish designated truck routes.
- Promoting the installation of infrastructure needed to support zero emission vehicles and equipment at warehouses.
- Supporting a transition to zero emission transit buses.
- Replacing older, diesel-fueled equipment with cleaner technologies at railyards.
- Reducing children’s exposure to harmful air pollutants by working with local schools to install high efficiency filtrations systems (SCAQMD 2019).

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Page 5.3-22, Section 5.3.1.3, *Existing Conditions*, Chapter 5.3, *Air Quality*. The following text has been added in response to Comment A3-3 from the State of California Attorney General.

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#### **Environmental Justice Focus Areas**

SB 1000’s definition of a disadvantaged community includes areas that: 1) are disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation; and 2) have concentrations of people with low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment. Accordingly, the County refers to those areas considered to be disadvantaged communities under SB 1000 as environmental justice focus areas (EJFA). Figure 5.3-2, *Environmental Justice Focus Area*, shows areas in San Bernardino County that are considered EJFAs.

The California Communities Environmental Health Screening Tool, or CalEnviroScreen (CES), was developed by the Office of Environmental Health Hazards Assessment on behalf of CalEPA. CES is a method for identifying communities that are disproportionately burdened by pollution and/or have a disproportionately vulnerable population. Once such communities are identified, local governments can better understand their needs and target resources appropriately to improve conditions and outcomes in those communities.

CES generates a composite score at the census-tract level that assesses disproportionate impacts on California communities. It uses 18 indicators organized across four categories—pollution exposure, environmental effects,

### 3. Revisions to the Draft EIR

sensitive populations, and socioeconomic factors. These categories are summed into two primary metrics—pollution burden and population characteristics—which CES multiplies to arrive at the CES score. Table 5.3-4 shows the CalEnviroScreen scores for the EJFAs in San Bernardino County. Tables 5.3-5 through 5.3-9 include an environmental justice assessment for the census tracts identified in Table 5.3-4.

**Table 5.3-4 CalEnviroScreen Scores for Environmental Justice Focus Areas**

CES Rankings		Quartile 1 = Good	Quartile 2 = Moderate	Quartile 3 = Poor	Quartile 4 = Challenged	
Variables/Factors in the CES model:						
<u>POLLUTION EXPOSURE</u>		<u>ENVIRONMENTAL EFFECTS</u>		<u>SENSITIVE POPULATION</u>		
AQ = Air Quality		CS = Toxic Cleanup Sites		AS = Asthma		
PEST = Pesticides		GW: Groundwater Threats		LB = Low Birth Weight		
DW = Drinking Water		HZ = Hazardous Waste		CVD = Heart Disease		
TR = Toxic Releases		IW = Impaired Waters		UE = Unemployment		
TD = Traffic Density		SW = Solid Waste Sites/Facilities		HB = Housing Burden		
				ED = Educational Attainment		
Census Tract	Low Income	Percentile and Quartile Rank			Scores in the Upper Quartile	
		Composite Score	Pollution Score	Population Score	Pollution Factors	Population Factors
<b>El Mirage Valley</b>						
<u>6071009117</u>	Yes	92	63	99	AQ, DW, CS, HW	AS, LB, CVD, ED, POV, UE, HB
<b>North High Desert</b>						
<u>6071009300</u> Barstow	Yes	88	62	95	AQ, DW	AS, LB, CVD, POV, ED, UE
<u>6071010300</u> Daggett/ Newberry Springs/Baker	Yes	77	67	75	AQ, DW, CS GW, HW, SW	LB, UE
<b>Mountain Communities</b>						
<u>6071010802</u> Crest Forest	No	78	60	81	AQ, DW, SW	AS, CVD, UE
<b>Bloomington-Colton</b>						
<u>6071003606</u>	Yes	83	81	74	AQ, DW, TD, HZ	ED, POV, UE, HB
<u>6071004001</u>	Yes	86	91	68	AQ, TD, HZ	ED, UE
<u>6071004003</u>	Yes	98	97	86	AQ, DW, GW, HZ, SW	LB, ED, POV, UE, LI
<u>6071004004</u>	Yes	98	100	78	AQ, DW, TD, CS, GW, HZ, SW	LB, ED, POV, UE
<u>6071003302</u>	Yes	85	88	70	AQ, DW, TR, TD	LB, ED, LI, POV, UE
<u>6071006601</u>	Yes	95	80	97	AQ, DW, TD	AS, LB, CVD, ED, LI, POV, UE
<b>Muscoy-San Bernardino</b>						
<u>6071004104</u>	Yes	98	91	96	AQ, DW, CS	AS, CVD, ED,

### 3. Revisions to the Draft EIR

**Table 5.3-4 CalEnviroScreen Scores for Environmental Justice Focus Areas**

CES Rankings		Quartile 1 = Good	Quartile 2 = Moderate	Quartile 3 = Poor	Quartile 4 = Challenged	
Variables/Factors in the CES model:						
<u>POLLUTION EXPOSURE</u>		<u>ENVIRONMENTAL EFFECTS</u>		<u>SENSITIVE POPULATION</u>		
<u>AQ = Air Quality</u>		<u>CS = Toxic Cleanup Sites</u>		<u>AS = Asthma</u>		
<u>PEST = Pesticides</u>		<u>GW: Groundwater Threats</u>		<u>LB = Low Birth Weight</u>		
<u>DW = Drinking Water</u>		<u>HZ = Hazardous Waste</u>		<u>CVD = Heart Disease</u>		
<u>TR = Toxic Releases</u>		<u>IW = Impaired Waters</u>		<u>UE = Unemployment</u>		
<u>TD = Traffic Density</u>		<u>SW = Solid Waste Sites/Facilities</u>		<u>HB = Housing Burden</u>		
				<u>ED = Educational Attainment</u>		
Census Tract	Low Income	Percentile and Quartile Rank			Scores in the Upper Quartile	
		Composite Score	Pollution Score	Population Score	Pollution Factors	Population Factors
<u>6071004101</u>	Yes	<u>93</u>	<u>85</u>	<u>89</u>	<u>AQ, DW, CS, TR</u>	<u>POV, UE</u>
<u>6071004103</u>	Yes	<u>95</u>	<u>84</u>	<u>95</u>	<u>AQ, DW, CS</u>	
<b>Valley Unincorporated Islands: Chino-Montclair</b>						
<u>6071000303</u>	Yes	<u>94</u>	<u>97</u>	<u>74</u>	<u>AQ, DW, TR, CS</u> <u>HZ, SW</u>	<u>ED, LI, POV</u>
<u>6071000403</u>	No	<u>78</u>	<u>95</u>	<u>52</u>	<u>AQ, DW, TR, HZ,</u> <u>SW</u>	<u>LB, CVD</u>
<b>Valley Unincorporated Islands: Western Fontana</b>						
<u>6071002402</u>	Yes	<u>92</u>	<u>77</u>	<u>93</u>	<u>AQ, TR, SW</u>	<u>AS, CVD, ED,</u>
<u>6071002204</u>	Yes	<u>98</u>	<u>98</u>	<u>87</u>	<u>AQ, TR, CS, HZ,</u> <u>SW</u>	<u>POV, UE, HB, LI</u>
<u>6071002501</u>	No	<u>99</u>	<u>99</u>	<u>90</u>	<u>AQ, TR, TD, HZ,</u> <u>SW</u>	<u>AS, CVD, ED, LB</u>
<u>6071002401</u>	Yes	<u>94</u>	<u>91</u>	<u>85</u>	<u>AQ, TR, CS, HZ,</u> <u>SW</u>	<u>CVD, ED, LI</u>
<b>Valley Unincorporated Islands: San Bernardino</b>						
<u>6071006302</u>	Yes	<u>87</u>	<u>61</u>	<u>94</u>	<u>AQ, DW</u>	<u>AS, CVD, ED,</u>
<u>6071006500</u>	Yes	<u>95</u>	<u>81</u>	<u>96</u>	<u>AQ, DW, CS</u>	<u>POV, UE, HB</u>
<u>6071006100</u>	Yes	<u>76</u>	<u>43</u>	<u>93</u>	<u>AQ, DW</u>	<u>AS, CVD, LB, POV,</u> <u>UE</u>

### 3. Revisions to the Draft EIR

**Table 5.3-5 EJ Assessment in the El Mirage Valley**

<b>Topic</b>	<b>Environmental Conditions</b>
<u>Reduction of pollution exposure and improving air quality</u>	<p><b>Pollution Exposure</b>  <u>El Mirage has hazardous waste cleanup sites from past military and aerospace uses, groundwater threats, and a remediated/closed hazardous waste storage facility.</u></p>
	<p><b>Air Quality</b>  <u>El Mirage is in the Mojave Air Quality Management District. Like much of southern California, the region has air quality issues. The region does not meet federal standards for ozone and respirable particulate matter (PM10) or state standards for ozone and respirable and fine PM2.5.</u></p>
<u>Promoting public facilities (including infrastructure and community services)</u>	<p><b>Water and Sewer</b>  <u>El Mirage has limited water infrastructure and relies on private wells that tap into the aquifer. El Mirage is also reliant on septic tanks and leach fields, with no ability to support the installation of a regional wastewater treatment plant due to the extremely low levels of population and density. Groundwater has been known to be vulnerable to contaminants.</u></p>
	<p><b>Fire and Sheriff</b>  <u>County Fire Station 311 serves El Mirage and responds in an average of 19 minutes, due primarily to the extremely low levels of population and density. Police service is provided by the County Sheriff in Victorville and response time is not known.</u></p>
<u>Promoting health care Infrastructure</u>	<p><b>Health Needs</b>  <u>Health needs for El Mirage are significant—including a 39% adult obesity (13 points above the state average), 30% of working age adults in fair or poor health (50% higher than state averages), 14% diabetes rate (50% above the state average), and higher asthma rates among adults. Heart disease is also a significant concern in the area.</u></p>
	<p><b>Health Care Infrastructure</b>  <u>El Mirage is designated a HPSA for mental health and primary care services and is a medically underserved area. Both areas have limited medical infrastructure, and residents must travel some distance to access facilities in other communities.</u></p>
<u>Promoting food access</u>	<p><b>Food Security</b>  <u>The poverty rate in El Mirage and Oro Grande is 30%, which is twice the state average. As a result, food insecurity is similarly high, affecting 16% of low income households, twice the state average. In El Mirage schools, over 70% of children are eligible for free or reduced-price meals.</u></p>
	<p><b>Food Access</b>  <u>El Mirage has limited grocery outlets, limited to a cluster near SR-395 in Adelanto. There are no WIC (Women, Infants, and Children) vendors and only 1</u></p>

### 3. Revisions to the Draft EIR

**Table 5.3-5 EJ Assessment in the El Mirage Valley**

<b>Topic</b>	<b>Environmental Conditions</b>
	<u>Cal-Fresh-certified vendor in El Mirage. Due to the general lack of access to nearby stores, El Mirage is designated a food desert.</u>
<u>Promoting safe and sanitary housing</u>	<p><b>Housing</b>  <u>As part of the consolidated plan process, residents indicated a need to promote safe and sanitary housing. Although housing is relatively affordable in El Mirage compared to other areas, concerns remain. Residents mentioned that abandoned homes should be demolished or rehabbed; code enforcement is understaffed; more is needed.</u></p>
<u>Promoting physical activity</u>	<p><b>Level of Physical Activity</b>  <u>Among youth ages 5 to 17, 26% participated in at least of one hour of physical exercise regularly versus 24% in the county and 21% in the state. For adults, the percentages of adults who walked more than 150 minutes per week was lower in the area versus the county and state averages.</u></p> <p><b>Opportunities for Physical Activity</b>  <u>Recreational outlets include trails and outdoor sports, including opportunities in state and federal parks. The unincorporated areas in the community plan areas have few developed parks. Road have limited pedestrian and bicycling facilities. This is not uncommon for desert roads.</u></p>
<u>Civil Engagement</u>	<p><b>Community Participation</b>  <u>With daytime Planning Commission and Board of Supervisors meetings and a conventional notification process, it can be difficult for residents in this area to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Additionally, this area is far from public meeting sites, most households do not have good internet access, and approximately 11 percent of households do not speak English well.</u></p>

**Table 5.3-6 EJ Assessment in the North High Desert**

<b>Topic</b>	<b>Environmental Conditions</b>
<u>Reduction of pollution exposure and improving air quality</u>	<p><b>Pollution Exposure</b>  <u>The area’s primary exposure to pollution is groundwater threats, hazardous wastes, and solid wastes. It should be noted, however, that this area extends 200 square miles to the Nevada border. Many of these pollutant sources are in unpopulated areas, far from Daggett, Newberry Springs, and Yermo.</u></p> <p><b>Air Quality</b>  <u>This area is in the Mojave Air Quality Management District. Although the area has very high levels of ozone, there are few other appreciable air pollutants,</u></p>

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**Table 5.3-6 EJ Assessment in the North High Desert**

<b>Topic</b>	<b>Environmental Conditions</b>
	except for a small area around the Barstow BNSF railyard, which has high levels of diesel particulate matter.
<u>Promoting public facilities (including infrastructure and community services)</u>	<p><b>Water and Sewer</b>                      LAFCO identified Daggett as a hotspot for insufficient water supply, water quality concerns, deficient infrastructure, and financial concerns. Unincorporated areas rely on individual septic systems. Drinking water is known to be at risk of contamination from nitrate, lead, and radioactive elements.</p>
	<p><b>Fire and Sheriff</b>                      County Sheriff's Barstow Station serves this area; response times are not available. County Fire provides fire protection services from stations #52, #53, #56, and #4. Response times vary—from 20 to 50 minutes depending staffing for the paid-call firefighter station.</p>
<u>Promoting health care Infrastructure</u>	<p><b>Health Needs</b>                      Health issues include a 28% obesity rate and 10% diabetes rate—all close to state averages. Despite more modest income levels compared to other parts of the county, the health conditions of residents are better than many other areas of the county.</p>
	<p><b>Health Care Infrastructure</b>                      Currently, the area is designated an HPSA for primary care, mental health, and dental services and a medically underserved area/population. There is a significant need for all the major medical services; residents must now travel to Barstow for service.</p>
<u>Promoting food access</u>	<p><b>Food Security</b>                      The poverty rate in the area for adults is high (21%), far above the state average, and 11% of low income households are food insecure. Food insecurity affects children in the area as well. Approximately 78% of children in Barstow Unified School District were eligible for free/reduced-price meals in 2016.</p>
	<p><b>Food Access</b>                      Except for small markets, these areas lack a full-service grocery store, and residents must drive to Barstow. There are no WIC vendors or Cal-Fresh-certified vendor closer than Barstow. Due to limited access to grocery stores, the entire area is designated a food desert by the USDA.</p>
<u>Promoting safe and sanitary housing</u>	<p><b>Housing</b>                      Limited information is available about safe and sanitary housing in the area. Generally, the housing stock has a high proportion of mobile home units on septic service. Given the construction type and age of structures, there is a significant need to rehabilitate aging housing and demolish abandoned or dilapidated homes. Code enforcement issues may be concentrated in certain areas as well.</p>

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**Table 5.3-6 EJ Assessment in the North High Desert**

<b>Topic</b>	<b>Environmental Conditions</b>
<u>Promoting physical activity</u>	<p><b>Level of Physical Activity</b>                      State physical fitness tests show one-third of students need improvement in aerobic capacity. However, the percentage of youth (age 5 to 17) getting regular physical activity is greater (31%) than in California (21%). The level of physical activity (as measured by walking) among adults is lower than state averages.</p>
	<p><b>Opportunities for Physical Activity</b>                      Recreational outlets include trails, hiking, and outdoor sports. Outside of Barstow and schools, formal park facilities are limited to Newberry Springs Park. Roadways have no pedestrian and bicycling facilities or other amenities. However, residents can walk and bicycle on public streets because traffic is very light.</p>
<u>Civil Engagement</u>	<p><b>Community Participation</b>                      With daytime Planning Commission and Board of Supervisors meetings and a conventional notification process, it can be difficult for residents in this area to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Many parts of this area are far from public meeting sites. Additionally, the Daggett, Newberry Springs, and Baker communities do not have good internet access and approximately 10 percent of households do not speak English well.</p>

**Table 5.3-7. EJ Assessment in Mountain Communities**

<b>Topic</b>	<b>Environmental Conditions</b>
<u>Reduction of pollution exposure and improving air quality</u>	<p><b>Pollution Exposure</b>                      While the area is affected by solid waste facilities and some impaired waterways, the greatest concern is drinking water. Drinking water tests have shown elevated levels of arsenic, nitrate, lead, uranium, and other contaminants in certain areas. Maximum contaminant level violations may have also occurred.</p>
	<p><b>Air Quality</b>                      This area is in the South Coast Air Quality Management District. Although the area has very high levels of ozone, air pollutant concentrations are low, except for a small area affected by PM<sub>2.5</sub> around Crestline. Due to the lack of heavy industry and trucking, air quality is good in the mountain communities.</p>
<u>Promoting public facilities (including</u>	<p><b>Water and Sewer</b>                      The Mountain area has 8 public and 16 private water systems. According to</p>

### 3. Revisions to the Draft EIR

**Table 5.3-7. EJ Assessment in Mountain Communities**

<b>Topic</b>	<b>Environmental Conditions</b>
<u>infrastructure and community services)</u>	<u>LAFCO, there are no areas with significant water issues.</u>
	<p><b>Fire and Sheriff</b>  <u>In the Crest Forest area, San Bernardino County Fire response times vary between 6 and 13 minutes. Hilltop communities have a similar fire response time, less than 15 minutes. The entire area is served by the County Sheriff.</u></p>
<u>Promoting health care Infrastructure</u>	<p><b>Health Needs</b>  <u>While there are some variations among different communities, the overall health needs for the Mountain areas generally mirror the county and state. There are few differences in rates of asthma, diabetes, obesity, mental health problems, or other chronic diseases, according to statewide surveys. Obesity rates for the mountain communities (33%) are lower than the County (35%), but higher than in California (26%).</u></p>
	<p><b>Health Care Infrastructure</b>  <u>The Crest Forest area is served by Mountain Community Hospital. All the communities are designated HPSAs for primary care and mental health.</u></p>
<u>Promoting food access</u>	<p><b>Food Security</b>  <u>The poverty rate in the area for adults is like the county and California as a whole, but only 5% of low income households are food insecure, which is half the state and county average. Percentages of children eligible for free and reduced-price meals is 50% in Rim of the World.</u></p>
	<p><b>Food Access</b>  <u>parts of the area south to Rim of the World Highway and parts of Crestline are considered food deserts.</u></p>
<u>Promoting safe and sanitary housing</u>	<p><b>Housing</b>  <u>Limited information is available about safe and sanitary housing in the area. However, residents reported issues with junk and trash, excessive outside storage, inoperative vehicles, group homes, construction without permits, and vacant or seasonal housing.</u></p>
<u>Promoting physical activity</u>	<p><b>Level of Physical Activity</b>  <u>Limited data is available. Based on California Health Interview Survey, youth appear to get more regular exercise than youth in the county and state, but the reverse is true for adults. The size of this area and its unpopulated nature make it difficult to create accurate comparisons.</u></p>
	<p><b>Opportunities for Physical Activity</b>  <u>Recreational outlets include trails, hiking, and outdoor sports. In addition to access to the surrounding National Forest, Bear Valley, Crest Forest, Lake Arrowhead, and Hilltop have public parks. Outside of the downtown areas, roadways generally have limited pedestrian and bicycling facilities. This is not uncommon for areas with mountain roads and periodic inclement weather.</u></p>

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**Table 5.3-7. EJ Assessment in Mountain Communities**

<u>Topic</u>	<u>Environmental Conditions</u>
<u>Civil Engagement</u>	<p><b><u>Community Participation</u></b>  <u>With County Government Centers located outside of the Mountain region, daytime Planning Commission and Board of Supervisors meetings, and a conventional notification process, it can be difficult for residents in this area to provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process.</u></p>

**Table 5.3-8 EJ Assessment in Bloomington and Muscoy**

<u>Topic</u>	<u>Environmental Conditions</u>
<u>Reduction of pollution exposure and improving air quality</u>	<p><b><u>Pollution Exposure</u></b>  <u>Nearly all census tracts (11 of 13) has high levels of air pollution and drinking water contamination concerns. Other pollution exposure issues include traffic density, toxic releases form industry, hazardous waste and cleanup sites from military and industrial land uses.</u></p>
	<p><b><u>Air Quality</u></b>  <u>This area is in the South Coast Air Quality Management District and as a nonattainment status for ozone and particulate matter. Pollutant concentrations are high for particulate matter, including diesel particulate matter due to trucking routes in and around both communities.</u></p>
<u>Promoting public facilities (including infrastructure and community services)</u>	<p><b><u>Water and Sewer</u></b>  <u>Water and sewer challenges are significant. For Muscoy, water service is provided by the Muscoy Mutual Water Company, and septic tanks and leach fields are used for its wastewater needs. For Bloomington, several water districts provide potable water for the community. For sewer, Bloomington was also developed with reliance on septic tanks and leachfield systems.</u></p>
	<p><b><u>Fire and Sheriff</u></b>  <u>San Bernardino County Fire Station #75 serves Muscoy and response times are 4 to 6 minutes, which is generally with NFPA standards. Bloomington Fire Station #76 serves the community and response times are unknown but are assumed to be also within NFPA standards due to the size of the community. Both areas are served by County Sheriff and response times were not available.</u></p>
<u>Promoting health care Infrastructure</u>	<p><b><u>Health Needs</u></b>  <u>Within this area, Muscoy has elevated levels of asthma and high levels of obesity (35%) versus statewide average of 26%, and emergency room admits for cardiovascular disease. For Bloomington, key health needs include diabetes, a 43% obesity rate, and high rate of emergency room admits for heart disease.</u></p>
	<p><b><u>Health Care Infrastructure</u></b>  <u>Access to health-supporting land uses is mixed. While Bloomington is not defined as a HPSA, all areas south of I-10 are designated a medically underserved population/area. Muscoy is also not a HPSA, although utilization of existing clinics in the area is mixed.</u></p>

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**Table 5.3-8 EJ Assessment in Bloomington and Muscoy**

<u>Topic</u>	<u>Environmental Conditions</u>
<u>Promoting food access</u>	<p><b><u>Food Security</u></b>                      The poverty rate in both Bloomington and Muscoy is high. Low income household food insecurity is high in Bloomington (13%) and Muscoy (10%) versus state averages (8%). County has designated both areas as an HPLA–high poverty low access food desert.</p>
	<p><b><u>Food Access</u></b>                      Food access is generally poor. In Bloomington, the area south of I-10 is designated by the USDA as a food desert, but other areas north of the I-10 have adequate access. Muscoy is also considered a food desert. There is a high preponderance of fast food outlets, liquor markets, and convenience stores.</p>
<u>Promoting safe and sanitary housing</u>	<p><b><u>Housing</u></b>                      Limited information is available about safe and sanitary housing in the area. No code enforcement data are available. However, residents reported issues with the need for demolition and/or rehabilitation of homes, illegal dumping, junk and trash, and vacant homes in certain locations.</p>
<u>Promoting physical activity</u>	<p><b><u>Level of Physical Activity</u></b>                      Among youth ages 5 to 17, 20% in Bloomington and 24% in Muscoy participated in at least of one hour of physical exercise regularly versus 24% in the county and 21% in the state. The percentage of adults who walked more than 150 minutes per week was lower in the area versus the county and state averages.</p>
	<p><b><u>Opportunities for Physical Activity</u></b>                      Recreational outlets include bicycling, walking, and active recreation at parks. Roadways generally have limited pedestrian and bicycling facilities. Safety concerns (traffic and trucking) along streets makes active transportation uses generally not optimal.</p>
<u>Civil Engagement</u>	<p><b><u>Community Participation</u></b>                      Despite the area’s proximity to the primary County Government Center, daytime Planning Commission and Board of Supervisors meetings and a conventional notification process can make it difficult for residents in such areas to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Additionally, approximately 13 to 23 percent of households in Bloomington, 15 percent of households in the Colton SOI, and 5 to 13 percent of households in selected portions of Muscoy do not speak English well.</p>

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**Table 5.3-9 EJ Assessment in Valley Unincorporated Islands**

<b>Topic</b>	<b>Environmental Conditions</b>
<p><u>Reduction of pollution exposure and improving air quality</u></p>	<p><b><u>Pollution Exposure</u></b>                      Pollution exposure is significant for valley unincorporated islands, particularly those located within or near to industrial land uses or transportation infrastructure. Locations and issues where the CES scores exceeds the 75<sup>th</sup> percentile are as follows:  <u>Chino-Montclair: drinking water, cleanup sites, and hazardous and solid waste facilities</u>  <u>Western Fontana: cleanup sites, and hazardous and solid waste facilities</u>  <u>San Bernardino: drinking water, cleanup sites, and hazardous and solid waste facilities</u></p> <p><b><u>Air Quality</u></b>                      The San Bernardino Valley is in the South Coast Air Quality Management District and is designated as a nonattainment status for ozone and particulate matter. Pollutant concentrations are high for particulate matter, including diesel particulate matter due to trucking routes in these communities. Of concern, west Fontana and Chino-Montclair areas are near industrial centers. Toxic releases from industrial uses exceed the 75<sup>th</sup> percentile in every census tract within these two communities. None of the other census tracts in unincorporated San Bernardino or the Mentone area score high in toxic releases from industries.</p>
<p><u>Promoting public facilities (including infrastructure and community services)</u></p>	<p><b><u>Water and Sewer</u></b>                      None of the four valley unincorporated islands were noted by the San Bernardino LAFCO as a hotspot for providing water. Wastewater service capacity is being studied by LAFCO. Based on technical reports for the countywide plan, infrastructure in all the unincorporated islands is able to provide water and sanitation services to support projected residential and nonresidential growth over the foreseeable future. However, it should be noted that drinking water contamination levels exceeded the 75<sup>th</sup> percentile in the Chino-Montclair and San Bernardino unincorporated islands.</p> <p><b><u>Fire and Sheriff</u></b>  <u>Chino-Montclair: Montclair FD and Chino Valley FD provides service; response times are unknown</u>  <u>Western Fontana: County Station #72 serves west Fontana; response times are unknown</u>  <u>San Bernardino: County Fire provides services to these areas; response times are unknown</u>  <u>County Sheriff provides law enforcement services for all areas; response times are unknown</u></p>

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**Table 5.3-9 EJ Assessment in Valley Unincorporated Islands**

<b>Topic</b>	<b>Environmental Conditions</b>
<p><u>Promoting health care Infrastructure</u></p>	<p><b>Health Needs</b>  <u>Chino-Montclair: high levels of diabetes (13%), obesity (37%), and emergency room visits for heart disease</u>  <u>Western Fontana: high levels of diabetes (13%), obesity (41%), and emergency room visits for heart disease</u>  <u>San Bernardino: high levels of diabetes (12%), obesity (40%), and emergency room visits for heart disease</u></p> <p><b>Health Infrastructure</b>  <u>While the desert regions are known for a lack of health care infrastructure, most areas in the valley are fairly well-served with health care professionals, with a few exceptions by area.</u>  <u>Chino-Montclair: not designated as a HPSA</u>  <u>Western Fontana: not designated as a HPSA</u>  <u>San Bernardino: designated as a HPSA for medically underserved area /population only</u></p>
<p><u>Promoting food access</u></p>	<p><b>Food Security</b>  <u>A significant portion of children in these areas are eligible for free or reduced meals at local schools. With respect to household food insecurity, rates vary by community.</u>  <u>Chino-Montclair: food insecurity similar to state (8%) and county averages (9%)</u>  <u>Western Fontan: a-high levels of food insecurity among low income households (15%)</u>  <u>San Bernardino: moderate levels of food insecurity among low income households (11%)</u></p> <p><b>Food Access</b>  <u>Food access according to the USDA is generally good, with a few exceptions.</u>  <u>Chino-Montclair: small portion along Mission Boulevard is a food desert</u>  <u>Western Fontana: southeast quadrant is a food desert</u>  <u>San Bernardino: selected unincorporated census tracts are food deserts</u></p>
<p><u>Promoting safe and sanitary housing</u></p>	<p><b>Housing</b>  <u>There is no source of data documenting the condition of safe and sanitary housing in unincorporated islands. Most cities and the County do not track the data nor is this information included in consolidated plans or other mandated reports for individual areas. However, visual inspection indicates a need for housing rehabilitation, demolition of dilapidated structures, code enforcement concerns, property maintenance, and debris and vehicle clearance. While not all unincorporated islands display these issues, many of the lower income census tract areas have one or more of the above</u></p>

### 3. Revisions to the Draft EIR

**Table 5.3-9 EJ Assessment in Valley Unincorporated Islands**

<b>Topic</b>	<b>Environmental Conditions</b>
	<u>conditions affecting neighborhood quality.</u>
<u>Promoting physical activity</u>	<p><b><u>Level of Physical Activity</u></b>  <u>Levels of physical activity are similar for most valley communities as follows.</u>  <u>Chino-Montclair: 22% of youth exercised regularly and 30% of adults walked at least 150 minutes per week</u>  <u>Western Fontana: 21% of youth exercised regularly and 31% of adults walked at least 150 minutes per week</u>  <u>San Bernardino: 24% of youth exercised regularly and 30% of adults walked at least 150 minutes per week</u></p> <p><b><u>Opportunities for Physical Activity</u></b>  <u>As the Valley is urbanized, there are ample opportunities for bicycling, walking, and active recreation at parks. Roadways generally have limited pedestrian and bicycling facilities. However, safety concerns (traffic and trucking) along streets makes active transportation uses generally not optimal. Certain neighborhoods may also have elevated levels of crime and vagrancy that may discourage use of physical activity opportunities.</u></p>
<u>Civil Engagement</u>	<p><b><u>Community Participation</u></b>  <u>Despite the area’s proximity to the primary County Government Center, daytime Planning Commission and Board of Supervisors meetings and a conventional notification process can make it difficult for residents in such areas to learn about and provide input on proposed development in a timely manner that substantively and effectively impacts the decision making process. Additionally, approximately 17 percent of households in the Montclair SOI, 14 to 17 percent of households in the western Fontana SOI, and 7 to 20 percent of households in the City of San Bernardino SOI do not speak English well.</u></p>

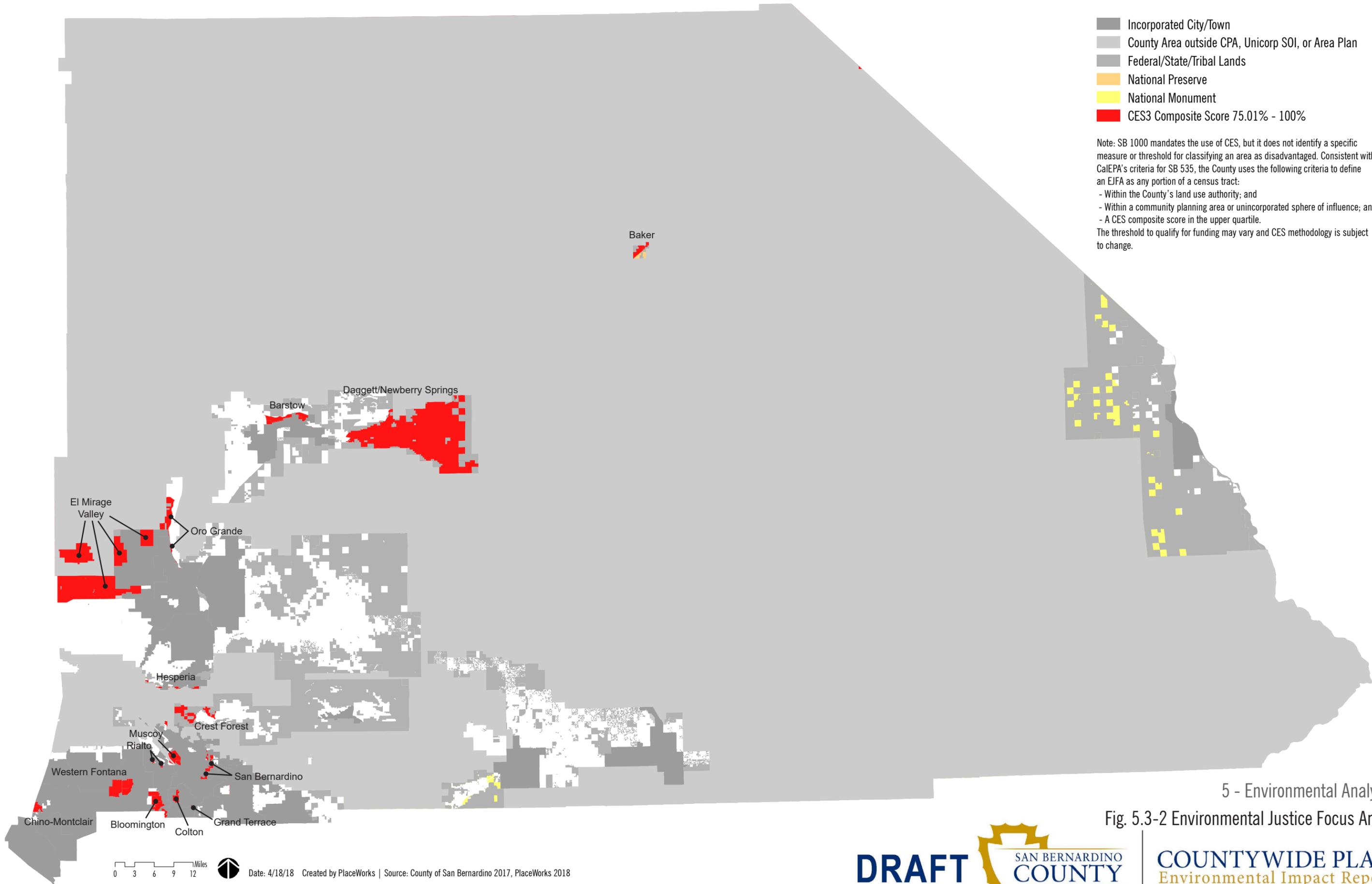
Based on the assessments shown in Table 35.3-5 through 5.3-9, objectives for the EJFA were formulated for the CWP.

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**Table 5.3-10 Objectives for Unincorporated Environmental Justice Focus Areas**

<u>Topic</u>	<u>Objective</u>
<u>Reduction of pollution exposure and improving air quality</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Contaminated soils.</u></b> Remediation of hazardous waste sites and other contaminated sites.</li> <li>▪ <b><u>Water quality.</u></b> Improved water quality and elimination of groundwater threats.</li> <li>▪ <b><u>Air quality.</u></b> Reduction of ozone emissions and particulate matter to levels that meet federal and state standards.</li> </ul>
<u>Promoting public facilities (including infrastructure and community services)</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Fire and Sheriff.</u></b> Improved response times for public safety services.</li> <li>▪ <b><u>Public facilities.</u></b> Improved access to existing and new public facilities that serve community needs for safety, health, and physical activity.</li> <li>▪ <b><u>Water and wastewater infrastructure.</u></b> Adequate leach fields for onsite wastewater treatment systems and safe drinking water.</li> </ul>
<u>Promoting health care Infrastructure</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Health needs and infrastructure.</u></b> Reduction in the number of residents that lack access to health care professionals.</li> </ul>
<u>Promoting food access</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Food access.</u></b> Improved food security and access to fresh food.</li> </ul>
<u>Promoting safe and sanitary housing</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Housing.</u></b> Improved housing conditions for homeowners and renters.</li> </ul>
<u>Promoting physical activity</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Joint use facilities.</u></b> New joint use facilities that reduce barriers to exercise opportunities and increase access to physical fitness facilities.</li> <li>▪ <b><u>Opportunities for physical activity.</u></b> New alternative transportation improvements in mobility focus areas.</li> </ul>
<u>Civil Engagement</u>	<ul style="list-style-type: none"> <li>▪ <b><u>Community participation.</u></b> Increased awareness and understanding of potential projects and more opportunities for meaningful public participation that can affect the decision making process.</li> </ul>

The Countywide Plan, Hazards Element, Figure HZ-10, Environmental Justice and Legacy Communities, identifies communities in San Bernardino County that may be burdened by poor air quality in the SCAQMD and MDAQMD regions. The Muscoy community in the Valley Region was selected as a “year 1” disadvantaged community by SCAQMD under AB 617.



- Incorporated City/Town
- County Area outside CPA, Unicorp SOI, or Area Plan
- Federal/State/Tribal Lands
- National Preserve
- National Monument
- CES3 Composite Score 75.01% - 100%

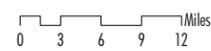
Note: SB 1000 mandates the use of CES, but it does not identify a specific measure or threshold for classifying an area as disadvantaged. Consistent with CalEPA's criteria for SB 535, the County uses the following criteria to define an EJFA as any portion of a census tract:

- Within the County's land use authority; and
- Within a community planning area or unincorporated sphere of influence; and
- A CES composite score in the upper quartile.

The threshold to qualify for funding may vary and CES methodology is subject to change.

5 - Environmental Analysis

Fig. 5.3-2 Environmental Justice Focus Areas



Date: 4/18/18 Created by PlaceWorks | Source: County of San Bernardino 2017, PlaceWorks 2018

**DRAFT**



**COUNTYWIDE PLAN**  
Environmental Impact Report

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Page 5.3-44 through 5.3-48, Section 5.3.7, *Mitigation Measures*, Chapter 5.3, *Air Quality*. The following text has been modified in response to Comments A3-3, A3-4, A3-5, A5-7, and A5-8 from the State of California Attorney General.

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#### Impact 5.3-2

AQ-1 Prior to discretionary approval by the County for development projects subject to California Environmental Quality Act (CEQA) review (i.e., nonexempt projects), project applicants shall prepare a technical assessment evaluating potential air quality impacts related to the project operation phase and submit it to the County Land Use Services Department for review and approval. The evaluation shall be prepared in conformance with South Coast Air Quality Management District (SCAQMD) methodology, for projects in the South Coast Air Basin (SoCAB), and conformance with the Mojave Desert Air Quality Management District (MDAQMD) for projects in the Mojave Desert Air Basin (MDAB). If operation-related air pollutants are determined to have the potential to exceed the SCAQMD/MDAQMD-adopted thresholds of significance, the County Land Use Services Department shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during operational activities. The identified measures shall be included as part of the conditions of approval. Possible mitigation measures to reduce long-term emissions can include, but are not limited to the following, and shall consider new and emerging strategies that may be available during the project lifetime:

- For site-specific development that requires refrigerated vehicles, the construction documents shall demonstrate an adequate number of electrical service connections at loading docks for plug-in of the anticipated number of refrigerated trailers to reduce idling time and emissions.
- Applicants for manufacturing and light industrial uses shall consider energy storage and combined heat and power in appropriate applications to optimize renewable energy generation systems and avoid peak energy use.
- Site-specific developments with truck delivery and loading areas and truck parking spaces shall include signage as a reminder to limit idling of vehicles while parked for loading/unloading in accordance with Section 2485 of 13 CCR Chapter 10.
- Provide changing/shower facilities as specified, at minimum, or greater than in the guidelines in Section A5.106.4.3 of the CALGreen Code (Nonresidential Voluntary Measures).
- Provide bicycle parking facilities equivalent to or greater than as specified in Section A4.106.9 (Residential Voluntary Measures) of the CALGreen Code.

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- Provide preferential parking spaces for low-emitting, fuel-efficient, and carpool/van vehicles equivalent to or greater than Section A5.106.5.1 of the CALGreen Code (Nonresidential Voluntary Measures).
- Provide facilities to support electric charging stations per Section A5.106.5.3 (Nonresidential Voluntary Measures) and Section A5.106.8.2 (Residential Voluntary Measures) of the CALGreen Code.
- Applicant-provided appliances shall be Energy Star-certified appliances or appliances of equivalent energy efficiency (e.g., dishwashers, refrigerators, clothes washers, and dryers). Installation of Energy Star-certified or equivalent appliances shall be verified by Building & Safety during plan check.
- Applicants for future development projects along existing and planned transit routes shall coordinate with the County of San Bernardino and the applicable transit agency to ensure that bus pad and shelter improvements are incorporated, as appropriate.

#### Impact 5.3-3

AQ-2

Prior to issuance of any construction permits for development projects subject to California Environmental Quality Act review (i.e., non-exempt projects), development project applicants shall prepare and submit to the County Land Use Services Department a technical assessment evaluating potential project construction-related air quality impacts. The evaluation shall be prepared in conformance with South Coast Air Quality Management District (SCAQMD) methodology for projects within the South Coast Air Basin (SoCAB), and conformance with the Mojave Desert Air Quality Management District (MDAQMD) for projects in the Mojave Desert Air Basin (MDAB). If construction-related criteria air pollutants are determined to have the potential to exceed the adopted thresholds of significance of the applicable air district, the County Land Use Development Services Department shall require that applicants for new development projects incorporate mitigation measures to reduce air pollutant emissions during construction activities to below these thresholds. These identified measures shall be incorporated into appropriate construction documents (e.g., construction management plans) submitted to the County and shall be verified by the County's Public Works Department. Mitigation measures to reduce construction-related emissions could include, but are not limited to the following, and shall consider new and emerging strategies that may be available during the project lifetime:

- Use of construction equipment rated by the United States Environmental Protection Agency as having Tier 3 (model year 2006 or newer) or Tier 4 (model year 2008 or newer) emission limits, applicable for engines between 50 and 750 horsepower. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site and available for County review upon request.
- Ensure construction equipment is properly serviced and maintained to the manufacturer's standards.

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- Use of alternative-fueled or catalyst-equipped diesel construction equipment, if available and feasible.
- Clearly posted signs that require operators of trucks and construction equipment to minimize idling time (e.g., five minute maximum).
- Preparation and implementation of a fugitive dust control plan that may include the following measures:
  - Disturbed areas (including storage piles) that are not being actively utilized for construction purposes shall be effectively stabilized using water or chemical stabilizer/suppressant, or covered with a tarp or other suitable cover (e.g., revegetated).
  - On-site unpaved roads and offsite unpaved access roads shall be effectively stabilized using water or chemical stabilizer/suppressant.
  - Land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled utilizing application of water or by presoaking.
  - Material shall be covered or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained when materials are transported off-site.
  - Operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.)
  - Following the addition of materials to or the removal of materials from the surface of outdoor storage piles, said piles shall be effectively stabilized to prevent fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
  - Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
  - Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.
  - Limit traffic speeds on unpaved roads to 15 mph.
  - Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.
  - Install wheel washers for all exiting trucks or wash off all trucks and equipment leaving the project area.

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#### Impact 5.3-4

AQ-3 Applicants for new discretionary industrial or warehousing projects or commercial land uses that would generate substantial diesel truck travel—i.e., 100 diesel trucks per day or 40 or more trucks with diesel-powered transport refrigeration units per day based on the California Air Resources Board recommendations for siting new sensitive land uses, or 50 or more truck trips per day if surrounding land uses within 1,000 feet generate 50 or more trucks per day—shall contact the South Coast Air Quality Management District (SCAQMD) or Mojave Desert Air Quality Management District (MDAQMD) in conjunction with County staff to determine the appropriate level of health risk assessment (HRA) required. If preparation of an HRA is required, all HRAs shall be submitted to the County Land Use Services Department and the SCAQMD or MDAQMD for evaluation.

The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and SCAQMD, for projects within the South Coast Air Basin (SoCAB), or MDAQMD for projects within the Mojave Desert Air Basin (MDAB). The HRA shall consider cumulative impacts from industrial/warehouse projects within 1,000 feet of the boundary of the project site. If the HRA shows that the project-level or cumulative incremental cancer risk exceeds ten in one million (10E 06) or the risk thresholds in effect at the time a project is considered, or that the appropriate noncancer hazard index exceeds 1.0 or the thresholds as determined by SCAQMD or MDAQMD at the time a project is considered, the applicant will be required to identify and demonstrate that measures are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms.

Measures to reduce risk impacts may include but are not limited to:

- Restricting idling onsite beyond Air Toxic Control Measures idling restrictions, as feasible.
- Electrifying warehousing docks.
- Require operators of heavy-duty trucks visiting the project site commit to using 2010 model year or newer engines that meet the California Air Resources Board's (CARB) 2010 engine standard of 0.01 grams per brake horsepower-hour (g/bhp-hr) for particulate matter and 0.02 g/bhp-hr for NO<sub>x</sub>.
- Requiring use of newer equipment and/or vehicles.<sup>5</sup>
- Restricting offsite truck travel through the creation of truck routes and require trucks to utilize the truck routes identified.

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<sup>5</sup> A current example of newer vehicles include the use of zero-emissions (ZE) or near zero emissions (NZE) heavy-duty trucks during operations, such as heavy-duty trucks with natural gas engines that meet the CARB adopted operational NO<sub>x</sub> emissions standard at 0.02 g/bhp-hr.

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- Require that entrances and exits are designed to avoid or minimize truck travel on roadways with sensitive receptors.
- Require truck docking bays be positioned away from sensitive receptors.
- Restrict overnight parking of trucks in residential areas.
- Require operators maintain records of all trucks entering and existing the site, including
  - Type of truck (straight truck or tractor-trailer),
  - Vehicle identification number,
  - Model year of the truck, and
  - Truck fuel type.

Measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed project.

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Page 5.3-54, Section 5.3.9, References, Chapter 5.3, Air Quality. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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[South Coast Air Quality Management District]. 2018, July 1. Annual Air Quality Monitoring Network Plan. <http://www.aqmd.gov/home/air-quality/clean-air-plans/monitoring-network-plan>.

———. 2019, September 6. Community Emissions Reduction Plan (CERP), San Bernardino, Muscoy Community.

US Energy Information Administration (EIA). 2018, May (Revised). 2015 Residential Energy Consumption Survey. Fuel Used & End Uses In the South and West Regions (HC 1.8). <https://www.eia.gov/consumption/residential/data/2015/#fueluses>.

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Page 5.5-37, Section 5.5.7, Mitigation Measures, Chapter 5.5, Cultural Resources. The following text has been modified in response to Comment A2-10 from Joseph Ontiveros, Soboba Band of Luiseno Indians.

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CUL-4            If the archaeological assessment did not identify potentially significant archaeological resources within the proposed project area but indicated the area to be highly sensitive for archaeological resources, a qualified archaeologist shall prepare a monitoring plan for all ground-disturbing construction and pre-construction activities in areas with previously undisturbed soil. The archaeologist shall inform all construction personnel prior to construction activities of the proper procedures in the event of an archaeological discovery. The training shall be held in conjunction with the project's initial on-site safety meeting, and shall explain the importance and legal basis for the protection of significant archaeological

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resources. In the event that archaeological resources (artifacts or features) are exposed during ground-disturbing activities, construction activities in the immediate vicinity of the discovery shall be halted while the resources are evaluated for significance by an archaeologist who meets the PQS, and, if necessary, develop appropriate treatment or disposition of the resources in consultation with the County and a representative of the affected Native American tribe. Where it is determined that significant cultural resources with Native American affiliation are discovered, the collection policies, analysis, and curation of any materials from the site shall be determined through consultation with the tribal representative designated by the County. Any significant cultural resources discovered that lack any Native American affiliation ~~if the~~ discovery proves to be significant, it shall be curated with a recognized scientific or educational repository.

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Page 5.7-24 and 5.7-25, Section 5.7.3.2, Policy Plan, Chapter 5.7, Greenhouse Gas Emissions. The following text has been modified in response to Comment A3-4 and A3-8 from the State of California Attorney General.

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- Policy TM-3.1**      **VMT Reduction.** We promote new development that will reduce household and employment VMT relative to existing conditions per capita by at least \_\_\_ [pending] percent relative to existing VMT per capita in each of the county regions (Valley, Mountain, and Desert).
- Policy TM-3.2**      **Trip reduction strategies.** We support the implementation of transportation demand management techniques, mixed use strategies, and the placement of development in proximity to job and activity centers to reduce the number and length of vehicular trips.
- Policy TM-3.3**      **First mile/last mile connectivity.** We support strategies that strengthen first/last mile connectivity to enhance the viability and expand the utility of public transit in unincorporated areas and countywide.
- Policy TM-1.9**      **New transportation options.** We support the use of transportation network companies, autonomous vehicles, micro transit, and other emerging transportation options that reduce congestion, minimize land area needed for roadways, create more pedestrian- and bicycle-friendly streets, reduce VMT, or reduce dependence on privately-owned vehicles.
- Policy TM-4.1**      **Complete streets network.** We maintain a network of complete streets within mobility focus areas that provide for the mobility of all users of all ages and all abilities, while reflecting the local context.
- Policy TM-4.2**      **Complete streets improvements.** We evaluate the feasibility of installing elements of complete street improvements when planning roadway improvements in mobility focus areas, and we require new development to contribute to complete street improvements in mobility focus areas. In evaluating complete street improvements,

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we prioritize those in mobility focus areas that are within unincorporated environmental justice focus areas.

Page 5.7-39, Table 5.7-10, *Consistency with the Local Actions in CARB's 2017 Scoping Plan*, Chapter 5.7, *Greenhouse Gas Emissions*. The following text has been modified in response to Comment A3-8 from the State of California Attorney General.

**Table 5.7-10 Consistency with the Local Actions in CARB's 2017 Scoping Plan**

2017 Scoping Plan Local Actions	Consistency with 2017 Scoping Plan Local Action
<b>Transportation and Land Use</b>	
Update Lead Agency's transportation impact analysis guidelines and congestion management plans to comply with SB 743	<b>Consistent.</b> The County <del>is in the process of establishing</del> has established transportation thresholds for SB 743. <del>[TBD thresholds pending]</del> Pursuant to Policy TM-3.1, the County promotes development that would reduce household and employment VMT per capita <u>relative to existing conditions by at least TBD percent relative to existing VMT per capita in each of the County Regions</u> (Policy TM-3.1).
Adopt general plan policies and diagram designations and zone map and standards that are consistent with the Sustainable Communities Strategy	<b>Consistent.</b> Section 5.10, <i>Land Use and Planning</i> , identifies that the Countywide Plan is consistent with SCAG's RTP/SCS. For example, Policy TM-4.6 identifies that where public transit is available, the County prefers public facilities and activity centers to be within one-half mile of a transit stop.
In appropriate locations, adopt: 1) as-of-right zoning, and 2) design standards and guidelines, to enable mixed use, walkable, compact, infill development that includes a range of housing types and affordability levels	<b>Consistent.</b> The Transportation and Mobility Element of the Countywide Plan provides for on- and off-site street improvements that provide functional alternatives to private car usage and promote active transportation. Policies TM-4.1 and TM-4.2 identify that the County will maintain a complete streets network. The County supports infill development where public services and infrastructure are available. (Policy LU-1.2).

Page 5.8-3, Section 5.8.1.1, *Environmental Setting*, Chapter 5.8, *Hazards and Hazardous Materials*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

**SB 1000, Environmental Justice in Local Land Use Planning**

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or

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related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.9-2, Section 5.9.1.1, *Regulatory Background*, Chapter 5.9, *Hydrology and Water Quality*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### SB 1000, *Environmental Justice in Local Land Use Planning*

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.10-13, Section 5.10.3.2, *Policy Plan*, Chapter 5.10, *Land Use and Planning*. The following text has been modified in response to Comment A3-4 from the State of California Attorney General.

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- Policy TM-4.1**      **Complete streets network.** We maintain a network of complete streets within mobility focus areas that provide for the mobility of all users of all ages and all abilities, while reflecting the local context.
- Policy TM-4.2**      **Complete streets improvements.** We evaluate the feasibility of installing elements of complete street improvements when planning roadway improvements in mobility focus areas, and we require new development to contribute to complete street improvements in mobility focus areas. In evaluating complete street improvements, we prioritize those in mobility focus areas that are within unincorporated environmental justice focus areas.
- Policy TM-4.7**      **Regional bicycle network.** We work with SBCTA and other local agencies to develop and maintain a regional backbone bicycle network.
- Policy TM-4.8**      **Local bicycle and pedestrian networks.** We support local bike and pedestrian facilities that serve unincorporated areas, connect to facilities in adjacent incorporated areas, and connect to regional trails. We prioritize bicycle and pedestrian network improvements that provide safe and continuous pedestrian and bicycle access to mobility focus areas, schools, parks, and major transit stops.
- Policy TM-4.9**      **Bike and pedestrian safety.** We promote pedestrian and bicyclist safety by providing separated pedestrian and bike crossings when we construct or improve bridges over highways, freeways, rail facilities, and flood control areas. We monitor pedestrian and bicycle traffic accidents and promote safety improvements in unincorporated high-accident areas.

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**Policy TM-5.5** **Countywide truck routes.** We support SBCTA’s establishment of regional truck routes that efficiently distribute regional truck traffic while minimizing impacts on residents. We support funding through the RTP to build adequate truck route infrastructure.

**Policy TM-5.6** **Unincorporated truck routes.** We may establish local truck routes in unincorporated areas to efficiently funnel truck traffic to freeways while minimizing impacts on residents. We establish routes where trucks are prohibited in unincorporated environmental justice focus areas and to avoid overlaps or conflicts with safe routes to schools.

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Page 5.10-23, Section 5.10.6, *Level of Significance Before Mitigation*, Chapter 5.10, *Land Use and Planning*. The following text has been modified in response to Comment O4-15 from the Defenders of Wildlife and the Sierra Club.

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Impacts 5.4410-1, 5.4410-2, and 5.4410-3 would be less than significant.

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Page 5.14-1, Section 5.14.1.1, *Environmental Setting*, Chapter 5.14, *Public Services*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### ***California Health and Safety Code***

Sections 13000 et seq. of the California Health and Safety Code include fire regulations for building standards (also in the California Building Code), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise building and childcare facility standards, and fire suppression training.

#### ***SB 1000, Environmental Justice in Local Land Use Planning***

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.14-19, Section 5.14.2.1, *Environmental Setting*, Chapter 5.14, *Public Services*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### **5.14.2.1 ENVIRONMENTAL SETTING**

##### **Regulatory Background**

##### **SB 1000, Environmental Justice in Local Land Use Planning**

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SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

#### **Existing Conditions**

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Page 5.14-27, Section 5.14.3.1, *Environmental Setting*, Chapter 5.14, *Public Services*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### **SB 1000, Environmental Justice in Local Land Use Planning**

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

#### **Existing Conditions**

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Page 5.14-36, Section 5.14.4.1, *Environmental Setting*, Chapter 5.14, *Public Services*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### **Regulatory Background**

#### **SB 1000, Environmental Justice in Local Land Use Planning**

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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#### Existing Conditions

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Page 5.15-2, Section 5.15.1.1, *Regulatory Background*, Chapter 5.15, *Recreation*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### SB 1000, Environmental Justice in Local Land Use Planning

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.16-2, Section 5.16.1.1, *Regulatory Background*, Chapter 5.16, *Transportation*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### SB 1000, Environmental Justice in Local Land Use Planning

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.16-34, Section 5.160.3.2, *Policy Plan*, Chapter 5.16, *Transportation and Traffic*. The following text has been modified in response to Comment A3-4 from the State of California Attorney General.

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**Policy TM-4.1**      **Complete streets network.** We maintain a network of complete streets within mobility focus areas that provide for the mobility of all users of all ages and all abilities, while reflecting the local context.

**Policy TM-4.2**      **Complete streets improvements.** We evaluate the feasibility of installing elements of complete street improvements when planning roadway improvements in mobility focus areas, and we require new development to contribute to complete street improvements in mobility focus areas. In evaluating complete street improvements, we prioritize those in mobility focus areas that are within unincorporated environmental justice focus areas.

**Policy TM-4.3**      **Funding.** We partner with SBCCTA, Caltrans, and local agencies to fund active transportation systems in the County. We encourage unincorporated communities to

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apply for funding and cooperate with them in their funding applications for active transportation improvements that are identified in a non-motorized transportation plan that is accepted or adopted by the County

**Policy TM-4.4** **Transit access for residents in unincorporated areas.** We support and work with local transit agencies to generate a public transportation system, with fixed routes and on-demand service, that provide residents of unincorporated areas with access to jobs, public services, shopping, and entertainment throughout the County.

**Policy TM-4.5** **Transit access to job centers and tourist destinations.** We support and work with local transit agencies to generate public transportation systems that provide access to job centers and reduce congestion in tourist destinations in unincorporated areas.

**Policy TM-4.6** **Transit access to public service, health, and wellness.** In unincorporated areas where public transit is available, we prefer new public and behavioral health facilities, other public facilities and services, education facilities, grocery stores, and pharmacies to be located within one-half mile of a public transit stop. We prefer to locate new County health and wellness facilities within one-half mile of a public transit stop in incorporated jurisdictions. We encourage public K-12 education and court facilities to be located within one-half mile of public transit.

**Policy TM-4.7** **Regional bicycle network.** We work with SBCTA and other local agencies to develop and maintain a regional backbone bicycle network.

**Policy TM-4.8** **Local bicycle and pedestrian networks.** We support local bike and pedestrian facilities that serve unincorporated areas, connect to facilities in adjacent incorporated areas, and connect to regional trails. We prioritize bicycle and pedestrian network improvements that provide safe and continuous pedestrian and bicycle access to mobility focus areas, schools, parks, and major transit stops.

**Policy TM-4.9** **Bike and pedestrian safety.** We promote pedestrian and bicyclist safety by providing separated pedestrian and bike crossings when we construct or improve bridges over highways, freeways, rail facilities, and flood control areas. We monitor pedestrian and bicycle traffic accidents and promote safety improvements in unincorporated high-accident areas.

**Policy TM-4.10** **Shared parking.** We support the use of shared parking facilities that provide safe and convenient pedestrian connectivity between adjacent uses.

**Policy TM-4.11** **Parking areas.** We require publicly accessible parking areas to ensure that pedestrians and bicyclists can safely access the site and onsite businesses from the public right-of-way.

**Policy TM-5.1** **Efficient goods movement network.** We advocate for the maintenance of an efficient goods movement network in southern California.

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- Policy TM-5.2**     **Intermodal facility.** We support the development of an intermodal facility in connection with the Southern California Logistics Airport.
- Policy TM-5.3**     **High Desert Corridor.** We support the development of the High Desert Corridor to improve the regional goods movement network and foster economic development in the North Desert region.
- Policy TM-5.4**     **Grade separations.** We support grade separations to reduce conflicts between rail facilities and roadways, subject to available funding.
- Policy TM-5.5**     **Countywide truck routes.** We support SBCTA’s establishment of regional truck routes that efficiently distribute regional truck traffic while minimizing impacts on residents. We support funding through the RTP to build adequate truck route infrastructure.
- Policy TM-5.6**     **Unincorporated truck routes.** We may establish local truck routes in unincorporated areas to efficiently funnel truck traffic to freeways while minimizing impacts on residents. We establish routes where trucks are prohibited in unincorporated environmental justice focus areas and to avoid overlaps or conflicts with safe routes to schools.

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Page 5.18-30, Section 5.18.2.1, *Environmental Setting*, Chapter 5-18, *Utilities and Service Systems*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### SB 1000, Environmental Justice in Local Land Use Planning

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.18-46, Section 5.18.3.1, *Environmental Setting*, Chapter 5.18, *Utilities and Service Systems*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### *State*

- Porter-Cologne Water Quality Act
- General Construction Permit Order No. 2009-0009-DWQ (as amended by 2010-0014-DWQ and 2012-0006-DWQ)

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- Projects creating and/or replacing 2,500 square feet or more of impervious surfaces will be constructed and operated in accordance with the Statewide Small MS4 Permit, Order No. 2013-0001-DWQ, issued by the SWRCB in 2013.
- SB 1000, Environmental Justice in Local Land Use Planning

#### *Regional*

- Santa Ana RWQCB MS4 Permit Order No. R8-2010-0036

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Page 5.18-52, Section 5.18.4.1, *Environmental Setting*, Chapter 5.18, *Utilities and Service Systems*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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#### *California Green Building Standards Code*

Section 5.408 (Construction Waste Reduction, Disposal, and Recycling) of the 2016 California Green Building Standards Code (CALGreen; Title 24, California Code of Regulations, Part 11) requires that at least 65 percent of the nonhazardous construction and demolition waste from nonresidential construction operations be recycled and/or salvaged for reuse.

#### *SB 1000, Environmental Justice in Local Land Use Planning*

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.18-60, Section 5.18.5.1, *Environmental Setting*, Chapter 5.18, *Utilities and Service Systems*. The following text has been modified in response to Comment A3-3 from the State of California Attorney General.

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### **Regulatory Background**

#### *SB 1000, Environmental Justice in Local Land Use Planning*

SB 1000 adds to the required elements of a general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. This bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities.

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Page 5.17-1, Section 5.17.1, *Environmental Setting*, Chapter 5.17, *Tribal Cultural Resources*. The following text has been modified in response to Comment A2-7 from the Joseph Ontiveros, Soboba Band of Luiseno Indians.

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#### *Archaeological Resources Protection Act*

The Archaeological Resources Protection Act of 1979 regulates the protection of archaeological resources and sites on federal and Indian lands (see further description in Section 5.5, *Cultural Resources*).

#### *Native American Graves Protection and Repatriation Act (NAGPRA)*

NAGPRA is a federal law passed in 1990 that mandates museums and federal agencies to return certain Native American cultural items—such as human remains, funerary objects, sacred objects, or objects of cultural patrimony—to lineal descendants or culturally affiliated Indian tribes.

#### *National Historic Preservation Act*

The National Historic Preservation Act of 1966 (NHPA) coordinates public and private efforts to identify, evaluate, and protect the nation’s historic and archaeological resources. The act authorized the National Register of Historic Places, which lists districts, sites, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and culture.

Section 106 (Protection of Historic Properties) of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) with a reasonable opportunity to comment. In addition, federal agencies need to consult on the Section 106 process with State Historic Preservation Offices (SHPO), Tribal Historic Preservation Offices (THPO), Indian Tribes (to include Alaska Natives), and Native Hawaiian Organizations (NHO). THPOs, Tribes, and NHOs need to be consulted about undertakings that may affect historic properties to which a Tribe or NHO attaches religious or cultural significance.

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# Appendix A. Assessing Regional Criteria Pollutant Emissions Impacts Under CEQA In Light of the Friant Ranch Ruling

## Appendix

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## Appendix B. Amicus Briefs

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## Appendix C. Risk Assessment

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## Appendix D. Environmental Justice and Legacy Communities Background Report

## Appendix

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Appendix E. Coalition of Community Groups,  
Businesses, Organizations and  
Individuals in the High Desert of San  
Bernardino County – Full Letter

## Appendix

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## Appendix F. Dr. and Mrs. Brent Moelleken – Full Letter

## Appendix

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