

LAND USE SERVICES DEPARTMENT

ADVANCE PLANNING DIVISION
385 North Arrowhead Avenue, San Bernardino, CA 92415-0182
(909) 387-4147 • Fax (909) 387-3223
<http://www.sbcounty.gov/landuseservices>



COUNTY OF SAN BERNARDINO
PUBLIC AND SUPPORT
SERVICES GROUP

JULIE RYNERSON ROCK
Director of Land Use Services

January 29, 2009

To: Interested Individuals and Organizations

RE: NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE LEWIS OPERATING CORP., LHC ALLIGATOR, LLC., DEEP CREEK (APPLE VALLEY) PROJECT. THE APPLICATION IS FOR A GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DISTRICT FROM AG-SCP (AGRICULTURAL WITH A PRIMARY SIGN CONTROL OVERLAY) TO RS-20M (SINGLE RESIDENTIAL- 20,000 SQUARE FOOT MINIMUM LOT SIZE) AND A TENTATIVE TRACT MAP (TTM #16569) FOR 202 SINGLE-FAMILY RESIDENTIAL LOTS AND 6 LETTERED LOTS, ON APPROXIMATELY 249 ACRES, IN THE UNINCORPORATED APPLE VALLEY AREA. (SCH #2005071104)

The San Bernardino County Land Use Services Department will be coordinating the preparation of an Environmental Impact Report (EIR) for the Lewis Operating Corp., LHC Alligator, LLC., Deep Creek (Apple Valley) Project which includes an application for a General Plan Amendment to change the land use district from AG-SCp (Agricultural with a primary Sign Control Overlay) to RS-20m (Single Residential- 20,000 square foot minimum lot size) and a Tentative Tract Map (TTM #16569) to create 202 single-family residential lots and 6 lettered lots to be developed in phases on approximately 249 acres, in the unincorporated Apple Valley area (the "Project").

On June 9, 2003 Lewis Operating Corp. ("Applicant") submitted the above-stated application to the County of San Bernardino ("County"). An Initial Study/Mitigated Negative Declaration (the "MND") was prepared by County staff for the Project for the purpose of complying with the California Environmental Quality Act (CEQA). The MND included various technical studies and other available information. As required by CEQA, the Draft MND was circulated for public review for thirty days (from July 21, 2005, through August 19, 2005). Comments were received from members of the public, including comments regarding land use compatibility, traffic impacts, and impacts to agricultural resources. On October 6, 2005, the County Planning Commission recommended that the County Board of Supervisors adopt the MND and approve the Application. On November 22, 2005, the Board of Supervisors, by unanimous decision, voted to adopt the MND and approve the Project. All Project information is available for review at the County Land Use Services Department, Advance Planning Division, 385 N. Arrowhead Ave. (1st Floor), San Bernardino, CA 92415-0182.

On December 21, 2005, Deep Creek Agricultural Association ("Deep Creek"), an unincorporated association of individuals with concerns related to the Project, filed *Deep Creek Agricultural Association v. County of San Bernardino (Lewis Operating Corporation et al.)*, in the San Bernardino County Superior Court as Case No. SCV 133 201 (the "Action"). The Action was commenced with a Petition for Writ of Mandate seeking to set aside the approval of the Application, alleging a series of substantive and procedural failures to comply with CEQA. Among the claims asserted by Deep Creek in the Action were allegations that the County had failed to identify or properly mitigate environmental effects of the Project, including those related to land use, air quality, traffic, loss of agricultural land, water quality, sewage, biological resources, and noise.

On September 13, 2006, the Superior Court heard the arguments of the parties in the Action and announced its ruling. On November 2, 2006, judgment (the "Judgment") reflecting the previously-announced ruling was signed by the Court and subsequently entered. The Judgment was entered in favor of Deep Creek on its claim that the traffic analysis was insufficient. The Court ruled that Deep Creek had "provided substantial evidence that a fair argument exists that the Project does not comply with [CEQA] because [the County] has inadequately studied the Project's traffic impacts." With respect to all other allegations of Deep Creek in the Action, the Court ruled in favor of the County.

MARK UFFER
County Administrative Officer

NORMAN A. KANOLD
Assistant County Administrator
Public and Support Services Group

BRAD MITZELFELT
PAUL BIANE

Board of Supervisors
First District NEIL DERRY
Second District GARY C. OVITT
Fifth District JOSIE GONZALES

Third District
Fourth District

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The judgment vacated all Project approvals and directed that, if the County was to exercise "its lawful discretion to re-approve the Project," the County must first prepare an environmental impact report ("EIR") to "address the potential traffic impacts of the Project." The Judgment also stated that, pursuant to Public Resources Code § 21168.9, the only required additional analysis to be contained in the [EIR]...shall be an analysis of the potential traffic effects of the Project."

Deep Creek filed a timely appeal of the Judgment to the Court of Appeal of the State of California, Fourth Appellate District (the "Court of Appeal"), and a cross-appeal was filed with respect to the Superior Court's judgment in favor of Deep Creek on the traffic analysis. Among the claims asserted by Deep Creek in the appeal were allegations that the Superior Court erred in requiring the County only to assess traffic impacts of the Project, and that the County should have been order to further identify and/or properly mitigate certain environmental effects of the Project. On March 24, 2008, the Court of Appeal determined that, in addition to assessing traffic impacts, the County must also provide additional analysis of the Project's impacts upon biological resources.

This letter is a request for environmental information that you or your organization believes should be addressed in the EIR. Due to time limits, as defined by the California Environmental Quality Act (CEQA), your response should be sent at the earliest possible date, but no later than thirty (30) days after publication of this notice. For further details, please refer to the attached comprehensive Notice of Preparation. This Notice of Preparation is also posted on the County web page at www.sbcounty.gov/landuseservices, and available for review at the following locations.

Land Use Services Department
Advance Planning Division
385 North Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

Land Use Services Department
Current Planning Division
15456 West Sage Street
Victorville, CA 92392

Apple Valley Library
Natalie Griffen, Librarian
14901 Dale Evans Pkwy.
Apple Valley, CA 92307

Victorville City Library
Lenda Walker, Librarian
15011 Circle Drive
Victorville, CA 92392

Comments and questions may be directed to Matthew Slowik, Senior Planner, 385 North Arrowhead Avenue, 1st Floor, San Bernardino, CA 92415-0182

Sincerely,

MATTHEW W. SLOWIK, MURP, MPA
Senior Planner
Advance Planning Division

Enclosures: Notice of Preparation
Distribution List
Vicinity Map

MARK UFFER
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