
NOTICE OF PREPARATION

Deep Creek EIR

LEAD AGENCY:

The County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182

Contact: Matthew Slowik, MURP, MPA
Phone: (909) 387-4372

Consultant:



RBF Consulting
3300 E. Guasti Road, Suite 100
Ontario, CA 91764
Contact: Mr. Matthew Burris, AICP, LEED AP
(909) 974-4918

July 26, 2007

I. PROJECT CHARACTERISTICS

Summary of Proposed Project

The Project is a request for a General Plan Amendment to change the official land use district from AG-SCp (Agricultural with a primary sign control overlay) to RS-20m (Single Family Residential with a 20,000-square foot minimum parcel size) and Tentative Tract 16569 for 202 single-family residential lots and 6 lettered lots to be developed in four phases on approximately 249 acres in an unincorporated area of San Bernardino County. Wastewater services will be provided by individual septic systems on each residential lot. The size of lots will average approximately 43,051 square feet, with the median lot size being approximately 43,948 square feet. Of the proposed 202 lots, 68 lots located on the upper terrace of the Project site will measure less than one acre in size (0.74 acre minimum).

The Project includes a proposal to construct a drainage corridor trending in a north-south direction through the western half of the site in order to alleviate drainage impacts. Additionally, the Project includes the construction of approximately 25,300 linear feet of new streets, and the construction of a perimeter wall surrounding the Project.

The Project would be developed in approximately seven (7) phases.

II. PROJECT LOCATION AND SETTING

The Project site is located in western San Bernardino County, east of the City of Hesperia, and south of the Town of Apple Valley. The Project site is located within the Apple Valley Sphere Of Influence, and is located approximately 10 miles east-northeast of the interchange of Interstate 15 (I-15) and State Route 395. The Project is located east of Deep Creek Road and north of Round Up Way, between Deep Creek Road and the Burlington Northern and Santa Fe (BNSF) Railway tracks. Additionally, the Project site is located in the southwestern Mojave Desert and north of the San Bernardino Mountains.

Direct local access to the Project site is currently provided by Ocotillo Way, which is an unpaved roadway. Access to the site from I-15 can be achieved by traveling east on Main Street, east on Rock Springs Road, and north on Deep Creek Road.

The Project site is currently used for cattle grazing, and is mostly covered by grasslands and scattered Joshua trees. The natural community is moderately disturbed by grazing livestock.

The Project site is located on alluvium that has been terraced by mass grading and agricultural activities, altering the natural character of the Project area, and is located approximately one mile east of the Mojave River. The Project site drains to the northwest. The Project site is situated within an area of rural residential use, agricultural operations, and disturbed land. The adjacent land is primarily vacant, with scattered residential uses. A single metal building is located on-site and the site is partially fenced. Cattle operations are located directly south of the Project site.

III. BACKGROUND AND HISTORY

On June 9, 2003 Lewis Operating Corp. (“applicant”) submitted an application to the County of San Bernardino (“County”) for approval of a General Plan Amendment, tentative tract map, and related entitlements (the “Application”) to allow development of 202 residential lots and six (6) lettered lots on approximately 249 acres in the unincorporated area of the County and within the sphere of influence of the Town of Apple Valley (the “Project”). 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 action, voted to adopt the MND and approve the Application. That previously adopted MND, its related technical studies, the Application, and information related to approval of the Application are available for review at the County Land Use Services Department address shown below.

On December 21, 2005, Deep Creek Agricultural Association, an unincorporated association of individuals with concerns related to the Project (“Deep Creek”), filed a Petition for Writ of Mandate in San Bernardino County Superior Court seeking to set aside the approval of the Application, alleging a series of substantive and procedural failures to comply with CEQA (San Bernardino County Superior Court Case No. SCVSS 133201) (the “Action”). 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 Court heard the arguments of the parties in Action and announced its ruling. On November 2, 2006, judgment reflected that ruling was signed by the Court and subsequently entered (the “Judgment”). The Judgment was entered in favor of Deep Creek on the basis that Deep Creek had “provided substantial evidence that a fair share 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.

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 (an “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.”

Consistent with Section 15070 (b)(1) of the CEQA Guidelines, the Applicant had agreed to all revisions in the original Project plans and mitigation measures reflected in the MND. The Project Description set forth below for the EIR which is the subject of this Notice of Preparation consists of the Project as approved by the Board of Supervisors on November 22, 2005, and includes those revisions and mitigation measures set forth in the MND. Therefore, consistent with the Court’s ruling in the Action, Section 15006 (d) of the CEQA Guidelines, and that Project

Description, the scope of the EIR to be prepared for approval of the Project has been narrowed down to an analysis of the potential traffic effects of the Project.

IV. POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROJECT

The Superior Court of the State of California, County of San Bernardino, has determined that the Project may have significant environmental effects pertaining to traffic impacts. Therefore, the County has initiated preparation of an EIR. The EIR will address potentially significant impacts associated with Transportation and Circulation based upon court direction, written responses to this Notice of Preparation (“NOP”), public and agency comments on the NOP, consultation with potentially affected agencies, results of available technical studies, and research conducted throughout the EIR process. The EIR will only analyze potential transportation and circulation impacts associated with the implementation of the proposed Project, in accordance with court direction. The following is a discussion of potential environmental effects that will be further analyzed in the EIR.

Transportation and Circulation: The EIR will summarize the results of a Traffic Impact Analysis (TIA). The TIA will address potential impacts to local roadways, intersections and state highways, as well as Congestion Management Plan (CMP) requirements. The analysis will also address the local issue of potential through-traffic on existing residential streets and potential traffic calming or other measures to minimize effects on existing neighborhoods. The EIR will also address construction-related issues such as traffic control and hauling associated with site grading. Mitigation measures will be identified, including the Project’s fair share of improvements needed for existing or cumulative conditions.

Additional Environmental Topics: The EIR will include a discussion of alternatives to the proposed Project, but that discussion will be conducted consistent with Section 15126.6 of the CEQA Guidelines which provides that alternatives discussed are those which, among other requirements, must “avoid or substantially lessen any of the significant effects of the project.” Because the only potential significant effects of the Project have been determined by the Court to be those related to traffic, the alternatives discussion will be limited to the alternatives, if any, which would avoid or substantially lessen the significant traffic effects, if any, of the Project. Similarly, the Court specifically found that there were no significant cumulative effects of the Project which would be the responsibility of the County. Therefore, the discussion of cumulative effects will be limited to potential cumulative traffic effects. Where consistent with the Court’s ruling limiting the EIR analysis to traffic issues, the EIR also will address growth-inducing impacts, significant irreversible environmental changes that would be involved in the proposed action should it be implemented, and effects found not to be significant.

V. ENVIRONMENTAL REVIEW PROCESS

Following completion of the 30-day NOP public review period, the County will incorporate, if and where appropriate and consistent with the limitations of the Court’s judgment in the Action, relevant information into the EIR, including the TIA and the results of any public sessions related to the scope of the TIA . Subsequently, a Draft EIR will be prepared and circulated for public review and comment for the required 45-day public review period. All individuals that have requested so will be placed on a Notice of Availability list for the Draft EIR. In addition, the Draft EIR and related materials will be available for review at the County of San Bernardino

Land Use Services Department, 385 North Arrowhead Avenue, San Bernardino, California, 92415. Following receipt of all written comments on the Draft EIR, the County will prepare Responses to Comments as part of the Final EIR. The Final EIR will be considered at public hearings by the County Planning Commission and the Board of Supervisors.

Should you have any questions or comments regarding this Notice of Preparation, please contact Matthew Slowik at (909) 387-4372.

Matthew Slowik, MURP, MPA
Senior Associate Planner
County of San Bernardino