

**TO:** Mayor and Council Members  
Marlene Best, City Manager  
Shawn Hagerty, City Attorney

**FROM:** Annette Ortiz, CMC, City Clerk

**DATE:** September 14, 2022

**SUBJ: Updated Council Meeting Materials – September 14, 2022**

**PUBLIC HEARING:**

- (8) Public Hearing for the Development of Fanita Ranch, to Consider Certifying Final Revised Environmental Impact Report Including Recirculated Sections of the Final Revised Environmental Impact Report (AEIS2017-11, AEIS2022-4), and Approving the Fanita Ranch Development Plan and Development Review Permit (DR2022-4), Vesting Tentative Map (TM2022-1), and Conditional Use Permits for Public Parks (P2022-1 And P2022-2), and a Fire Station (P2022-3) (Development Services – Planning)**

The attached correspondence for above mentioned Item was received and is provided for your consideration.



## James Jeffries

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**From:** Alison "Aweesan" Liebrecht <[REDACTED]>  
**Sent:** Wednesday, September 14, 2022 10:47 AM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; John Minto; Dustin Trotter; Clerk Info; Marlene Best  
**Subject:** Fanita Ranch Vote-Please Reconsider

Dear City Council,

Just over two (2) years ago, I urged you to vote **No** on Fanita Ranch Development and am repeating myself today. I outlined three (3) concept considerations to improve Santee long-term rather than sprawling as the 'blanket' response to it, which I will recap and attach for your reconsideration on today's Council Vote: **Safety, Quality of Life, and City Revenue.**

What stings the most is Measure N was passed to assure residents make the final decisions at the ballot yet Council and developers ignore our voice to make them. Residents are increasingly suspicious at the lack of ethics we're seeing in politics today and this maneuvering is no exception.

**SAFETY FIRST:** The massive sprawl project should be rejected on this alone. Placing over 8,000 new residents in a CalFire-designated "**Very High Fire Hazard Severity Zone**" is *irresponsible*. It would be **negligent** to approve the project while understanding our existing residents rely upon the same roads for evacuation and daily commutes. On September 9<sup>th</sup>, 2022, The National Weather Service had severe wind gusts (up to 109 MPH in Cuyamaca), on a day where Cal Fire shows the Caesar Fire (Hwy 78/Ramona), Sandia Fire (near Hemet), Border Fire (Hwy 94/Barret Lake that burned for 13 days) were actively burning. With traffic returning to pre-COVID quarantine levels, this development would further impede residents' safety during an evacuation. It would not be "orderly" and residents would face entrapment on the few egress routes we currently have. ***This was a main reason for the SD Superior Court to rule against this development this past March 2022.*** The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

**QUALITY OF LIFE:** Campaign promises have said that infrastructure, roads, and homelessness would be top priorities yet not much has been done other than discuss that these are, in deed, problems. Our landfill – lovingly called "Mount Trashmore" by the trail user community and long-time residents as being the view for all the new houses of the Weston Development – is quickly running to capacity. A Voice of San Diego article(1/24/2022) shows that according to a County of SD survey conducted in 2017, we have around 30-40 years max before it's closed, and that was before all the new construction in Santee. Ignoring this and the reports that our water supplies are deteriorating at a greater rate is a catastrophic failure. The short-sightedness of the proposed Fanita Development will bite – and unfortunately – burn us. **\*See above REPI reference**

I urge you to take a walk from the Stowe Pass trailhead on Fanita Parkway/Ganley, past the water reclamation plant towards Sycamore Canyon Trailhead. You'll see the canyons, wildlife, native plants, and peace that many people had moved to this area for but is now in danger of being bulldozed. Not in our lifetimes or our children's children's lives will this be replaced. This refuge is one the of the last of its kind. Bulldozing it for more sprawl – sprawl that doesn't remedy the congestion we currently have and most certainly will not be enough for when 8,000 + new, prospective residents move in – is *reckless and wasteful*. They will have even

more complaints of the poor infrastructure and gridlock as Council will kick the can to the “someone else” that will never come to remedy this situation once and for all. Repair and improve what we have.

As an employee of a housing commission, my job is to help my team help our clients find affordable housing. I am not certain that any City is aware at how unaffordable low-to-no income “affordable” rents currently are because it remains out of reach for even our middle-class, forcing families out of the area and out of state. I see lots of new construction for high-density apartments yet we can’t place people in them because even with assistance, rent portions cut too far into their ability to provide for their families and we have burgeoning requests to move. (House-poor is a reality.)

**THE BOTTOM LINE: Revenues.** Understanding our need to generate income to make income and sustain upgrades, a better approach would focus on industry development and retention in the City of Santee. Not needing more fast-food restaurants, play on our strengths of manufacturing, building, and repair shops; core to our blue-collar work ethos. We should be courting larger firms and industries to build their business here harder than we are now in order to curb the egress of people moving out of Santee to find work -or better pay. This point, too, dovetails into the previous point of better quality of life as more residents could enjoy better jobs with zero commute time. I would also ask your consideration for abandoned lots already within the City limits (like lots off Edgemoor Dr./Mission Gorge Rd., as one example) that can connect to existing infrastructure is a much better route for any housing developments. A committee or survey can identify other areas that could be developed for high-density homes/apartments.

For the reasons cited above and more, **please do not use the developer's misleading promises to rationalize a vote to approve the Fanita project. Consider our safety, quality of life, and finally - revenues, with better planning. Please allow all residents of Santee to make the final decision as promised.**

Thank you for your time and consideration.

Respectfully,  
Alison Liebrecht

Santee  
Resident

From: Alison "Aweesan" Liebrecht <[REDACTED]>  
Date: August 25, 2020 at 19:44:25 PDT  
To: JMinto@ci.santee.ca.us, lkoval@cityofsantee.ca.gov, RonnHall@ci.santee.ca.us, SShoulahan@ci.santee.ca.us  
Cc: cityclerk@cityofsantee.gov  
Subject: No on Fanita Ranch Housing Development  
Reply-To: Alison Liebrecht <[REDACTED]>

Dear City Council,

I am writing to ask you to vote **No** on Fanita Ranch should it come up for vote at a future council meeting. While there are other ways we can make needed improvements to Santee by exploring these three (3) concept considerations:

**SAFETY FIRST:** The massive sprawl project should be rejected on this alone. Placing over 8,000 new residents in "Zone 1" is *irresponsible*. It would be **negligent** to approve the project while understanding our existing residents. Not enough research has been done to plan for sustainable transportation. Simply adding a lane on the 52 West would assuage the *already appalling* traffic flows. With fire seasons almost year-round and worsening, we are condemned to stand-still trying to get on the 52 in the event of an evacuation let alone allowing for emergency vehicles to respond.

**QUALITY OF LIFE:** Not enough research has been done or offers made to plan for **sustainable transportation** to avoid "unavoidable impacts", which, according to the Revised EIR, "impacts to intersections, street segments, and fire response are unavoidable." Providing solid options in the form of street improvements to existing alternatives to cars such as encouraging subsidies for ride sharing and bike routes is sustainable. Dovetailing with my first point in this letter is to encourage more use of the options and thus improving health and well-being in our community.

**THE BOTTOM LINE: MONEY.** Understanding our need to generate income to make income and sustain up and retention in the City of Santee. Not needing more fast-food restaurants, play on our strengths of manufacturing and service ethos. We should be courting larger firms and industries to build their business here harder than we are now in order to get better work -or- better pay. This point, too, dovetails into the previous point of better quality of life as more residents work locally. Please ask your consideration for abandoned lots already within the City limits (like lots off Edgemoor Dr./Mission Creek). Investing in infrastructure is a much better route for any housing developments. A committee or survey can identify other options.

While I am wanting to preserve trails and access to the land in and around the proposed Fanita Ranch development, please do not let the developer's misleading promises to rationalize a vote to approve the Fanita project. Consider our safety and future planning. **Please vote NO on Fanita Ranch.**

Thank you for your time and consideration.

Respectfully,  
Alison Liebrecht  
Santee Resident



# Allen Matkins

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**Jeffrey A. Chine**  
E-mail: [jchine@allenmatkins.com](mailto:jchine@allenmatkins.com)  
Direct Dial: 619.235.1525 File Number: 186540.00009/4883-2953-7587.1

September 14, 2022

Santee City Council  
c/o Annette Fagan Ortiz, MCA, CMC, City Clerk  
10601 Magnolia Avenue  
Santee, CA 92071

Email: [clerk@cityofsanteeca.gov](mailto:clerk@cityofsanteeca.gov)

## **Re: Tonight's Public Hearing for Consideration of Fanita Ranch Project**

Dear Mayor Minto and City Councilmembers,

Our firm represents HomeFed Fanita Rancho LLC (“**HomeFed**”), the applicant for the above-referenced project. As the staff report explains, California is in the midst of a housing crisis and the negative consequences affect all residents of the state. To help address the unacceptable situation, this City Council in August of 2021 enacted Urgency Ordinance No. 592, the Essential Housing Program, designed to boost housing production and improve housing affordability in the City. The Fanita Ranch project is an example of the Program in action. We will not repeat the many ways in which Fanita Ranch addresses housing needs here in the City and in the region. The staff report ably describes those project attributes.

Local electorates have historically played a role in restricting the development of adequate housing to California’s detriment. As the Legislative Analyst’s Office (California Legislature’s nonpartisan fiscal and policy advisor) described, local resident opposition, growth control measures, moratoria and growth caps, and placing land use decisions before voters have presented significant barriers to housing production. (Legislative Analyst Office, *Considering Changes to Streamline Local Housing Approvals* (May 17, 2016), available at [Considering Changes to Streamline Local Housing Approvals](#); California’s High Housing Cost: Causes and Consequences (2015) [California’s High Housing Costs - Causes and Consequences](#), attached hereto.) The LAO emphasized that policies which either directly or indirectly limit growth by making housing project approval more difficult (e.g., by adding additional vote and approval requirements) “have been effective at limiting growth and consequently increasing housing costs.” (California’s High Housing Cost: Causes and Consequences, *supra*, at p. 16.) It continued, “One study of growth controls enacted by California cities found that each additional growth control policy a community added was associated with a 3 percent to 5 percent increase in home prices.” (*Id.*)<sup>1</sup>

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<sup>1</sup> See also, Stanford Institute for Economic Policy Research. Streeter, Jialu L. (May 2022)

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The Legislature found that these barriers to housing production, among others, threaten the economic, environmental, and social quality of life for all Californians. (See, e.g., Gov. Code, § 65589.5, subs. (a)(1)(A)- (a)(1)(D), (a)(2)(A) – (a)(2)(L), SB 330, Sec. 2 and 3.) It therefore explicitly acted to constrain voters’ initiative and referendum powers through 2030 to ensure that housing can get built at all affordability levels. (See, SB 330.)

We therefore applaud the City Council for taking bold and affirmative steps to address the housing crisis locally.

Very truly yours,



Jeffrey A. Chine

JAC:sn

cc: Chris Foulger  
Kent Aden  
Jeff W. O’Connor  
Marlene Best, City Manager  
Shawn D. Hagerty, Esq.  
Amanda Daams, Esq.

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*Homelessness in California: Causes and Policy Considerations*, [SIEPR Policy Brief May 2022 v05.pdf - Google Drive](#) [citing added costs of growth control measures and delays]; UC Berkeley Turner Center for Housing. Kok, Nils, Paavo Monkkonen and John M. Quigley (2014) *Land Use Regulations and the Value of Land and Housing: An Intra-Metropolitan Analysis*. *Journal of Urban Economics* 81(3): 136-148. [finding that cities requiring a greater number of discretionary reviews and approvals to obtain a building permit or a zone change have higher land prices, even after controlling for locational, geographic, and demographic characteristics]; McKinsey Global Institute (2016) “*Closing California’s Housing Gap*.” McKinsey & Company. [closing-californias-housing-gap-full-report.pdf \(mckinsey.com\)](#) [noting time costs can contribute 30 percent to the finished cost of a home, and estimating that California could reduce the cost of housing by more than \$12 billion in just 5 years through accelerating residential project approvals times by an average of 4 months.]

**From:** Austin Weinman [REDACTED]

**Sent:** Tuesday, September 13, 2022 3:00 PM

**To:** John Minto <JMinto@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>; Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Subject:** Fanita Ranch Approval

Dear City Council members,

My name is Austin Weinman and this email is to show my support of Fanita Ranch. Fanita Ranch has been planned for too many years. It's time to approve it so my family will have a better chance of the American Dream.....owning a home! I have reviewed the information on Fanita and it looks awesome. HomeFed has been developing Master Planned communities in San Diego County for 25 years. They know how to create a community that people want to call home.

The amenities that are planned are incredible. Miles of trails, a walkable sustainable community is exactly what we are looking for. Acres and acres of parks and an organic farm are fantastic. Please approve Fanita Ranch so I can have the opportunity to own a home.

Thank you,

Austin Weinman

## Wendy Stratton

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**From:** Barb Foy [REDACTED]  
**Sent:** Monday, September 12, 2022 10:25 AM  
**To:** Rob McNelis  
**Subject:** Fanita Ranch Item 8 Vote NO

Dear Mr. McNelis and City Council,

Santee residents voted on Measure N, and the results were clear. We the citizens of Santee are the ones who determine what happens regarding the development/environmental disaster called Fanita Ranch

You cannot ignore a fair and democratic vote by the residents of Santee. This city is not owned by Donald Trump who falsely challenges the results of legal elections. We the people have spoken.....many times over the years. As our representative you must vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Thank you,

Barbara Foy  
Santee Resident

**From:** [Bill Grolz](#)  
**To:** [Chris Jacobs](#)  
**Cc:** [John Minto](#); [Ronn Hall](#); [lurakoval@cityofsanteeca.gov](mailto:lurakoval@cityofsanteeca.gov); [Rob McNelis](#); [dustintrotter@cityofsanteeca.gov](mailto:dustintrotter@cityofsanteeca.gov)  
**Subject:** City Council 9/14//2022 Item #8 Fanita Ranch DISAPPROVE  
**Date:** Sunday, September 11, 2022 3:51:17 PM

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**City Council 9/14/2022 FANITA RANCH Item 8- DISAPPROVE!**

**For the administrative record:**

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the ILLEGAL exclusion of a public vote on the Fanita Ranch project is unethical, un-democratic and un-American. I strongly urge you to vote against it.

Placing a 3,000 unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,

Bill Grolz

  
Santee, Ca



**From:** [Frank Landis](#)  
**To:** [John Minto](#); [Dustin Trotter](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** CNPSSD comment on September 12, 2022 Santee City Council Agenda Item 8, Fanita Ranch  
**Date:** Monday, September 12, 2022 2:55:09 PM  
**Attachments:** [CNPSSD comment to Santee City Council on Fanita Ranch RFEIR 20220912.pdf](#)  
[CNPSSD Rebuttal on Fanita Ranch RFEIR 20220912.pdf](#)  
[w29621.pdf](#)

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Dear Santee City Council members and Mr. Jacobs,

Please find attached comments and supporting documentation from CNPSSD on Agenda Item 8 (Fanita Ranch) on the 9/14/2022 hearing. Let me know if you received this email and can open the attachments.

Sincerely,

Frank Landis, PhD  
Conservation Chair  
CNPSSD

# California Native Plant Society

San Diego Chapter of the California Native Plant Society  
P O Box 121390  
San Diego CA 92112-1390  
conservation@cnpsd.org | www.cnpsd.org

September 12, 2022

Mayor John Minto  
Councilmember Dustin Trotter  
Councilmember Ronn Hall  
Councilmember Laura Koval  
Councilmember Rob McNelis  
Santee City Hall  
10601 Magnolia Avenue  
Santee, California 92071

By email to: [jminto@ci.santee.ca.us](mailto:jminto@ci.santee.ca.us); [dtrotter@cityofsanteeca.gov](mailto:dtrotter@cityofsanteeca.gov); [ronnhall@ci.santee.ca.us](mailto:ronnhall@ci.santee.ca.us); [lkoval@cityofsanteeca.gov](mailto:lkoval@cityofsanteeca.gov); [rmcnelis@ci.santee.ca.us](mailto:rmcnelis@ci.santee.ca.us); [cjacobs@cityofsanteeca.gov](mailto:cjacobs@cityofsanteeca.gov)

## **RE: September 12, 2022 Santee City Council Agenda Item 8, Fanita Ranch: OPPOSE**

Dear Santee City Council Members,

Thank you for the opportunity to comment on the draft of the Final Revised EIR (“FREIR”) for Fanita Ranch (“Project”). CNPS promotes sound plant science as the backbone of effective natural areas protection. We work closely with decision-makers, scientists, and local planners to advocate for well informed and environmentally friendly policies, regulations, and land management practices. Our focus is on California's native plants, the vegetation they form, and on lessening the damage to both people and native plants from wildfires..

We strongly urge you to vote this Project down in Item 8

Here we want to show why voting this project down will save the City a predictable, \$500 million disaster..

- Houses built to California building code are not fireproof, according to the code itself in section 7A. Fire resistant is not fireproof. The measures given in the FREIR will not make the homes fireproof, because they do not exceed code
- According to a recent, independent analysis (attached and summarized below), on average 20% of code-compliant new homes have burned in California since 2007, all in extreme, wind-driven fires. The fire protection and evacuation plans proposed in the FREIR are necessary, but not sufficient, to the protect lives and property of all Fanita Ranch residents. This is obvious throughout the documents, because they quite rightly refuse to guarantee that no homes will burn.



*Dedicated to the preservation of California native flora*

- The cost of cleanup, rebuilding, and rehousing displaced families comes close to \$1 million per single-family home. There is substantial evidence that all these costs will come from impacts that should be analyzed under CEQA, so they cannot be ignored.
- If 20% of Fanita Ranch’s single family homes burn, the damage from those alone (not including multifamily housing or other structures) will run close to \$500 million. Since Santee’s City budget is closer to \$50 million than \$500 million, Fanita Ranch burning will have a huge impact on City finances, even if State and Federal agencies help out.
- Because Santee City residents will bear the brunt of this, both in service cutbacks and higher fire insurance costs, it seems prudent to follow Measure N’s dictates and ask them if they want to assume the risk, rather than rushing to judgment now.

### **CEQA and Building Code Background**

The key CEQA question--would the project “expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?”—does not specify that the people impacted are only the site residents, as the FREIR presumed. Someone has to pay to clean up and fix the damage, and they are impacted by this project. This was not analyzed. It needs to be analyzed, because huge wildfire losses are what are driving insurance companies to raise fire insurance rates or cancel coverage altogether. If Fanita Ranch is built, the ripple effects will be regionwide.

In the Response To Comments, the City mistakenly claimed that these economic costs need not be analyzed under CEQA. Since these are costs for cleanup, dealing with the newly homeless, and rebuilding on the site, of course there is substantial evidence these are Project impacts. Had the homes not been built, none of these problems would have occurred.

Building to code helps reduce the chance of a building burning down, but it is not intended to make buildings fireproof. Chapter 7A of the California Building Code states that “[t]he purpose of this chapter is to establish minimum standards for the protection of life and property by increasing the ability of a building located in any Fire Hazard Severity Zone within State Responsibility Areas or any Wildland-Urban Interface Fire Area to resist the intrusion of flames or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.”

Chapter 7A *does not warranty* that a building built to code is fireproof or even suitable for shelter in place. While we agree that sheltering in a new home might be safer than getting stuck in a car as in the tragic Paradise fire, it is a far cry from being designed for true shelter in place.

Note, again, that the \$500 million in estimated damages comes from assuming that 80 percent of the homes survive an extreme, wind-driven fire, two of which have already hit the site. Fanita Ranch is so large that even small losses are catastrophic.

### **Incomplete Analysis of Fire Impacts in the FREIR**

As noted above, the basic fire impact question is whether the project would “expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?” Per the FREIR (p. 4.18-35) “The wildland fire risk and features prescribed in the FPP (Appendix P1) have been analyzed and developed to reduce risk to acceptable levels at Fanita Ranch by applying comprehensive guidelines developed by a technical panel of 17 professional fire prevention officers and fire protection specialists and planners” and (p. 4.18-37) “The project’s redundant fire protection features, quick emergency response, evacuation routes and plans, and the contingency option of sheltering on site in

protected spaces would ensure that people and structures would not be exposed to a significant risk of loss, injury or death involving wildland fires.”

This is misleading. If there is no risk to significant damage to structures, why the elaborate evacuation plan? The analysis tries to have it both ways: that people will be efficiently evacuated, so they're safe. and even if they can't be evacuated, they'll be perfectly safe in their homes, because their homes will not burn. Will any firefighter or consultant actually stand up and promise this? Of course not. **The Project is proposed for a dangerous site that is mapped as “very high fire hazard” because it has burned multiple times. The people and legal entities who will be impacted by a fire on the Project site need to have a real voice in the deciding whether the Project is approved, and with what binding conditions.**

In the FREIR, the fire risk was incorrectly analyzed. The Project site faces two types of wildfires, not one. While mitigation measures to both types of fires were discussed, the analysis mixes and confuses them, making the incorrect conclusion that the risks for both types were completely mitigated, when in fact only the risks of the lesser wildfire type was. Below we will start to disentangle the mess.

### ***Two Types of Fires and Mitigating For Each***

As background, not all fires are equal. Every year, California experiences many tiny fires and a few extreme monsters, a “fire ants and Godzilla” distribution. Between 2008 and 2021, California dealt with between 4,923 and 9,917 fires every year. Of these fires, only between 17 and 95 grew to burn more than 1,000 acres. This is illustrated in Wikipedia's list of fires that were over 1,000 acres, called “Big Fires” in Table 1 on the next page.

As noted, there were only 17 to 95 “Big Fires” every year, or less than 2% of the total number of fires. Unfortunately, these 1,000 acre-plus fires burned between 75 and 99% of the total acres burned every year.

Worse, the biggest 2 to 8 fires each year (The “Godzillas”) burned over 50% of the total acreage burned in California that year. These monsters are inevitably wind-driven catastrophes that burn for days to months, whose total energy release (around  $10^{17}$  joules) is on the same scale as the winds in a medium-sized hurricane. There's a scaling problem with assuming that humans can stop this kind of energy release, even if they're trained wildland firefighters.

This is why the metaphor of “fire ants and Godzilla” is apt. If all of the fires California firefighters deal with every year are tiny “fire ants,” the firefighting strategic equivalent of applying insecticide (building fire breaks, putting out small fires) is the best answer, and California's firefighters are extremely good at this. At least 98% of all fires in any given year are kept to under two square miles (1,280 acres).

The problem is that “fire ant” measures don't work on big wind-driven fires, the Godzillas, where embers can fly for miles past fire breaks to ignite spot fires. Techniques that are effective in extinguishing small fires are ineffective in dealing with wind-blown wildfires. In a majority of cases, weather changes eventually halt the biggest fires.

Thus there are two sets of necessary fire mitigation measures. For small-scale fires, having defensible space around structures, building fire breaks, clearing annual weeds away from road edges and houses, and directly fighting fires work quite well.

For big fires, the major tactics are evacuating people out of harm's way, and using fire-resistant landscaping and building techniques to minimize ignition from flying embers. As a desperation defense or in purpose-designed, code-exceeding systems, sheltering in place can work. Unfortunately, none of these are foolproof, especially sheltering in place in a building

built to code. The Codes probably reduce risk by 80%, not 100%. They are necessary, not sufficient.

**Table 1.** Summary fire data from 2008 to 2021, per Wikipedia, as scraped from Cal Fire official documents. Total acres burned per year and number of fires/year are self explanatory. Wikipedia broke out fires >1000 acres, which here are labeled “Big Fires.” Invariably, only a few big fires (2-8) accounted for over 50% of the total acres burned that year in each state. The Big Fires accounted for 75-99% of all acres burned, even though they are always less than 2 percent of the number of fires in the state.

Year	Total Acres Burned/Yr	#Fires/Yr	Number of “Big Fires” (>1,000 Acres)	Number of Big Fires that burned >50% of total acres/yr	Percent of Total Acreage Burned by Big Fires
2008	1,593,690	4,923	95	8	92.36%
2009	422,147	9,159	38	2	96.49%
2010	109,529	6,554	17	6	63.68%
2011	168,545	7,989	24	4	87.70%
2012	869,599	7,950	43	4	82.34%
2013	601,625	9,907	28	3	87.86%
2014	625,540	7,865	37	4	84.13%
2015	893,362	8,745	23	5	77.61%
2016	669,534	7,349	33	6	75.37%
2017	1,381,405	9,133	61	7	92.97%
2018	1,893,913	8,527	58	5	83.17%
2019	259,823	7,860	36	2	99.40%
2020	4,397,809	9,917	74	5	94.70%
2021	2,569,009	8,527	39	3	97.00%

In summary, the Project’s fire protection plan has to protect against two kinds of fires, and it does have some mitigation features to protect against both. Furthermore, we agree that small fires, a category which includes the majority of the fires that have occurred on the site, are unlikely to cause damage to humans or buildings.

We disagree that the measures taken are sufficient to protect humans and property from harm by large, wind-driven fires. Since two of these monsters have burned the site, any project built on it is vulnerable, because such fires are channeled by landscapes and burn the same areas repeatedly. As the data above show, almost all losses of buildings and lives happen in the big fires. The FREIR recognizes this in its evacuation plan, but it mistakenly asserts that the measures it proposes will make insignificant the risk to property during extreme, wind-driven fires. This is a mistake, because there are no quantitative measures that demonstrate this. The risk to property is why there is an evacuation plan in the first place!

***Financial Impacts of Fire on the Project Site***

The *financial costs* implicit in “acceptable levels of risk” were not analyzed in the FREIR. Again, there is substantial evidence that the costs arise from impacts that should be



analyzed under CEQA. Financial impacts are useful for decision makers like the Santee City Council, because they allow aggregation of everything from cleanup to rehoming to rebuilding costs.

Here is an estimate of such costs. It is based on working paper 29621 published in December 2021, by two researchers from the National Bureau of Economic Research, Patrick Baylis and Judson Boomhower.<sup>1</sup> Their work is not focused on Fanita Ranch, but rather on the benefits and costs of California's building code with respect to wildfire losses. California's 2007 building code is the strictest in the nation. They wanted to determine whether it actually reduced the number of homes lost to wildfires, what the costs for rebuilding a burned home in California are, whether it is cost-effective to build to the 2007 code, and cost-effective to retrofit other homes to meet modern standards. In doing this work, they compiled a detailed database of over 46,000 single-family homes in California that were damaged or destroyed by wildfires. Their analysis is useful in this case because it is impartial with respect to the FREIR, and importantly because it puts quantitative estimates on the Project's fire risk, something largely missing from the FREIR.

Briefly, what Baylis and Boomhower discovered was that about 35% of California homes built before 1989 burned when hit by a wildfire, while homes built after 2007 burned about 20% of the time. Thus they conclude that the current building code does reduce fire risk substantially.

By their estimate, if a single-family home burns in California, it costs around \$150,000 to haul away debris and clean up the site, \$61,696 for the displaced family to rent a dwelling for two years while their home is rebuilt, and \$766,725 to rebuild the home, for a total cost per home burned of \$978,421.

**How much would a wildfire hitting the proposed Fanita Ranch project cost? If we assume that 2,514 single-family homes would be built on Fanita Ranch and that 20 percent of these homes burn, we estimate that 503 homes will burn every time a major wildfire burns the Project. It would cost an estimated \$75,450,000 to haul away the remnants of those homes and clean the site, an estimated \$31,033,088 to house the 503 displaced families while their homes are being rebuilt, and an estimated \$385,662,675 to rebuild the 503 single-family homes, for a total estimated cost of \$492,145,763 per large fire.**

**Note that \$492,145,763 is a gross underestimate of the Project's total "acceptable risk." It includes losses only to single-family homes, not to townhomes, condominiums, businesses, or other structures. It makes the optimistic assumption that the cost model is accurate for Santee, although San Diego County has one of the most expensive housing markets in the nation. It also does not account for the impacted rental market, long permitting times, possible litigation delays, or inflation. Among other things.**

**Why is this at such sharp odds from the FREIR's conclusion?** As noted in the previous section, the FREIR analysis, especially of mitigation effectiveness, is largely qualitative. It is predicated on the notion that the site has to prepare only for generic wildfires when the evidence strongly suggests that little fires and wind-driven infernos are radically different and require radically different strategies. Small fires can be fought, but in wind-driven infernos are what cause the 20% home losses.

While we present quantitative evidence that 20 percent of built-to-code homes are lost in wildfires, this shouldn't have been news, because similar losses were reported in the Paradise,

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<sup>1</sup> Baylis, PW and J Boomhower. 2021. Mandated vs. Voluntary Adaptation to Natural Disasters: The Case of U.S. Wildfires. <http://www.nber.org/papers/w29621>

Woolsey, and other fires years ago. Why did the FREIR not contain an analysis of the limitations of the building code? It is the best in the US, but it does not make for fireproof homes.

***Who is impacted by Project wildfire losses?***

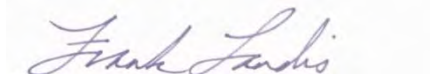
- Residents
- The owners of homes and buildings
- Workers in the businesses and other employees and contractors
- Companies insuring homes, buildings, and businesses
- The City of Santee, for lost property taxes, damage and cleanup expenses, firefighting, etc.
- Those who plan to minimize the amount of organic debris going into landfills (County and State)
- The area rental market (for displaced Project residents)
- Stormwater facilities downstream
- State of California, who will likely be asked to make good on uninsured losses. The California Attorney General's office has intervened in multiple fire-related CEQA cases. Were they notified?
- Federal government, who will also likely be asked to make good on uninsured losses.

**Were the proper representatives of all of these groups notified that this Project could impact them or their interests?**

**The widespread and unmitigated financial impacts of this Project strongly suggest that the Project needs to go before the voters. Will it? The Santee City Council may decide that a half-billion dollar financial risk is insignificant, but it is worth asking Santee's voters if they agree.**

Thank you for taking these comments. A rebuttal of the FREIRs responses to the original comments is attached, as is the paper with the research cited here.

Sincerely,



Frank Landis, PhD  
Conservation Chair  
California Native Plant Society, San Diego Chapter

**CC: Rebuttal Letter  
NBER Paper 29621**

# California Native Plant Society

San Diego Chapter of the California Native Plant Society  
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September 12, 2022

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## **RE: Recirculated Sections of the Final Revised EIR for Fanita Ranch. REBUTTAL**

Dear Mr. Jacobs,

Thank you for the opportunity to offer a rebuttal to the Response to Comments on the draft of the Final Revised EIR (“FREIR”) for Fanita Ranch (“Project”). This rebuttal is submitted on behalf of the California Native Plant Society (“CNPS”) in advance of the September 14, 2022 meeting of the Santee City Council.

Aside from the rewritten introduction, the rest of the document is the comment letter. Summarized responses to comments are interlaced as labeled, followed by rebuttals to the responses.

Please include this document in the official record for this FREIR and any other proceeding that includes the FREIR.

--Start of Rebuttal--

### **Fire Impacts and Incomplete Analysis**

One basic fire impact question is whether the project would “expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?” Per the FREIR (p. 4.18-35) “The wildland fire risk and features prescribed in the FPP (Appendix P1) have been analyzed and developed to reduce risk to acceptable levels at Fanita Ranch by applying comprehensive guidelines developed by a technical panel of 17 professional fire prevention officers and fire protection specialists and planners” and (p. 4.18-37) “The project’s redundant fire protection features, quick emergency response, evacuation routes and plans, and the contingency option of sheltering on site in protected spaces would ensure that people and structures would not be exposed to a significant risk of loss, injury or death involving wildland fires.”

This is misleading. If there is no risk to significant risk to structures, why the elaborate evacuation plan? The analysis tries to have it both ways: that people will be efficiently



*Dedicated to the preservation of California native flora*

evacuated, so they're safe. and even if they can't be evacuated, they'll be perfectly safe in their homes, because their homes will not burn. Will any firefighter or consultant actually stand up and promise this? Of course not. **The Project is proposed for a dangerous site that is mapped as "very high fire hazard" because it has burned multiple times. That danger needs to be understood, the risk needs to be quantified, and the people and legal entities who are impacted by a fire on the Project site need to have a real voice in the deciding whether the Project is approved, and with what binding conditions.**

In the FREIR, the risk was incorrectly analyzed. The Project site faces two types of wildfires, not one. While mitigation measures to both types of fires were discussed, the analysis mixes and confuses them, making the incorrect conclusion that the risks for both types were adequately mitigated, when in fact only the risks of the lesser wildfire type was. Below we will start to disentangle the mess.

The FREIR risk analysis is also incomplete, in that it did not include financial impacts of fire. These appear to be substantial, over nine times the City of Santee's current annual budget.

A variety of people and legal entities will be impacted by a fire on the Project site, not just the residents. Their input and concurrence is needed to help mitigate these impacts. It is unclear whether all of them were identified in the FREIR and notified of their potential vulnerability, so that they could comment on the process. These concerns are detailed below.

**In the Response to Comments (RTC), O4-4, the rebuttal is** "The City acknowledges the comment and notes that it raises economic, social, or political issues that do not appear to relate to any physical effect on the environment. There is no requirement under the California Environment There is no requirement under the California Environmental Quality Act (CEQA) to evaluate such economic or financial effects. This comment does not raise a significant environmental issue regarding the adequacy or accuracy of the information provided in the Recirculated Sections of the Final Revised EIR. Therefore, no further response is required."

**In Rebuttal:** This is a misreading of substantial evidence under CEQA, which says (section 15384(a)): "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence"

A house burning down in a wildfire is an environmental impact caused by the project building that house in that location. The costs are directly caused by the house burning down, which is caused by the project. Thus this meets the definition of "Substantial Evidence" and must be considered. It was not.

Furthermore, the impacts of burned houses directly cause waste disposal impacts (more so if toxic materials are involved, and more so still if the site is not secured before rains and burned wastes are washed into waterways). They also impact existing housing, because the newly homeless must be sheltered too. While these were summarized as costs, they are costs related to physical impacts considered under CEQA. These are also impacts that were not analyzed.

**Two Types of Fires and Mitigating For Each**

As background, not all fires are equal. Every year, California experiences many tiny fires and a few extreme monsters, a “fire ants and Godzilla” distribution. Between 2008 and 2021, California dealt with between 4,923 and 9,917 fires every year. Of these fires, only between 17 and 95 grew to burn more than 1,000 acres. This is illustrated in Wikipedia’s list of fires that were over 1,000 acres, called “Big Fires” in Table 1 on the next page.

As noted, there were only 17 to 95 “Big Fires” every year, or less than 2% of the total number of fires. Unfortunately, these 1,000 acre-plus fires burned between 75 and 99% of the total acres burned every year.

Worse, the biggest 2 to 8 fires each year (The “Godzillas”) burned over 50% of the total acreage burned in California that year. These monsters are inevitably wind-driven catastrophes that burn for days to months, whose total energy release (around  $10^{17}$  joules) is on the same scale as the winds in a medium-sized hurricane. There’s a scaling problem with assuming that humans can stop this kind of energy release, even if they’re trained wildland firefighters.

**Table 1.** Summary fire data from 2008 to 2021, per Wikipedia, as scraped from Cal Fire official documents. Total acres burned per year and number of fires/year are self explanatory. Wikipedia broke out fires >1000 acres, which here are labeled “Big Fires.” Invariably, only a few big fires (2-8) accounted for over 50% of the total acres burned that year in each state. The Big Fires accounted for 75-99% of all acres burned, even though they are always less than 2 percent of the number of fires in the state.

Year	Total Acres Burned/Yr	#Fires/Yr	Number of “Big Fires” (>1,000 Acres)	Number of Big Fires that burned >50% of total acres/yr	Percent of Total Acreage Burned by Big Fires
2008	1,593,690	4,923	95	8	92.36%
2009	422,147	9,159	38	2	96.49%
2010	109,529	6,554	17	6	63.68%
2011	168,545	7,989	24	4	87.70%
2012	869,599	7,950	43	4	82.34%
2013	601,625	9,907	28	3	87.86%
2014	625,540	7,865	37	4	84.13%
2015	893,362	8,745	23	5	77.61%
2016	669,534	7,349	33	6	75.37%
2017	1,381,405	9,133	61	7	92.97%
2018	1,893,913	8,527	58	5	83.17%
2019	259,823	7,860	36	2	99.40%
2020	4,397,809	9,917	74	5	94.70%
2021	2,569,009	8,527	39	3	97.00%

This is why the metaphor of “fire ants and Godzilla” is apt. If all of the fires California firefighters deal with every year are tiny “fire ants,” the firefighting strategic equivalent of applying insecticide (building fire breaks, putting out small fires) is the best answer, and



California's firefighters are extremely good at this. At least 98% of all fires in any given year are kept to under two square miles (1,280 acres).

The problem is that "fire ant" measures don't work on big wind-driven fires, the Godzillas, where embers can fly for miles past fire breaks to ignite spot fires. Techniques that are effective in extinguishing small fires are ineffective in dealing with wind-blown wildfires. In a majority of cases, weather changes eventually halt the biggest fires.

Thus there are two sets of necessary fire mitigation measures. For small-scale fires, having defensible space around structures, building fire breaks, clearing annual weeds away from road edges and houses, and directly fighting fires work quite well.

For big fires, the major tactics are evacuating people out of harm's way, and using fire-resistant landscaping and building techniques to minimize ignition from flying embers. As a desperation defense or in purpose-designed systems, sheltering in place can work. Unfortunately, none of these are foolproof, especially sheltering in place in a building built to code.

**RTC** largely concurs with this information, with the exception that embers carried on fire wind are not mentioned.

**In Rebuttal**, we simply note that the record for wind-thrown embers starting another fire is probably around 10 miles in the Bunyip Ridge fire in Australia, and even the Wikipedia page for the 2018 Camp Fire ([https://en.wikipedia.org/wiki/Camp\\_Fire\\_\(2018\)#/media/File:Camp\\_Fire\\_oli\\_2018312\\_Landsat.jpg](https://en.wikipedia.org/wiki/Camp_Fire_(2018)#/media/File:Camp_Fire_oli_2018312_Landsat.jpg)) clearly shows a major spot fire several miles ahead of the main fire front. Any model of fire spread that fails to account for wind-thrown embers is incomplete.

Building to code helps reduce the chance of a building burning down, but it is not intended to make buildings fireproof. Chapter 7A of the California Building Code states that "[t]he purpose of this chapter is to establish minimum standards for the protection of life and property by increasing the ability of a building located in any Fire Hazard Severity Zone within State Responsibility Areas or any Wildland-Urban Interface Fire Area to resist the intrusion of flames or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses."

Chapter 7A *does not warranty* that a building built to code is fireproof or even suitable for shelter in place. While we agree that sheltering in a new home might be somewhat safer than getting stuck in a car as in the tragic Paradise fire, it is a far cry from designed for true shelter in place. **Why was it labeled as such?**

**In RTC (O-4-5, O-4-8) states** "the latest version of the California Building Code, specifically because they were found to perform exceptionally well to save homes from wildfire threats." Elsewhere it is noted that the relevant fire code has been update since 2007 and the comments are on obsolete versions.

**In Rebuttal**, we agree that a 20% loss rate counts as saving 80% of homes. However, "exceptionally well" fails to rebut our analysis **using substantive data**. Our analysis is predicated on two key points, neither of which were addressed in the RTC.

1. Building Code Section 7A is not, as described above, designed to create fireproof homes, only minimal standards. That language has remained unchanged to the current year. City of Santee does not require it either.
2. The impact model is not to the 80% of homes saved by building to code, but to the 20% lost. When 20% of a development is 503 homes burned, that is a huge, and hugely significant, impact..

Furthermore, the RTC, like the FREIR, rests on assertions, not on substantial evidence as described above. If Santee's building codes provides for fireproof homes, where are the data to support this? If the mitigation measures, coupled with building codes, make all homes fireproof, where are the quantitative data that show this? These data needed to be in the FREIR, and they are not.

In summary, the Project's fire protection plan has to protect against two kinds of fires, and it does have some mitigation features to protect against both. Furthermore, we agree that small fires, a category which includes the majority of the fires that have occurred on the site, are unlikely to cause damage to humans or buildings. **Resistance to small fires is necessary, not sufficient, to reduce fire risk on the site, because the majority of the risk comes from Big Fires and especially from Godzilla-scale fires like the Cedar or Witch fires of years past.**

We disagree that the measures taken are sufficient to protect humans and property from harm by large, wind-driven fires. Since two of these monsters have burned the site, any project built on it is vulnerable. As the data from California show, almost all losses of buildings and lives happen in the big fires. The FREIR recognizes this in its evacuation plan, but it mistakenly asserts that the measures it proposes will reduce the risk during extreme, wind-driven fires, to "below significance." This is a mistake, because there are no quantitative measures of safety provided, only assertions by people who have worn uniforms. **What substantial, quantitative evidence exists to demonstrate what the threshold for non-significant fire impacts to people and structures is? What evidence and analysis demonstrates that the Project's measures lower risks from big fires below this threshold?**

**The RTC (04-6)** states that the quantitative evidence to rebut this assertion is in the FPP and other documents.

**Rebuttal:** The problem is that mitigating impacts below the level of significance requires a fireproof development, with effectively zero losses, given the scale of Fanita Ranch. In this case, the available data suggest that 20% of single-family homes will be lost in an extreme, wind-driven wildfire.. That is a loss of 503 single family homes, with direct impacts that may well cost \$1 million per home lost to mitigate and rebuild. Thus the plans proposed still leave behind substantial, unmitigated impact. This is not a hypothetical impact, as the site's known fire history shows that it has been burned by two wind-driven wildfires in the last century.

### ***What Working Shelter-In-Place Looks Like***

The Project proposes that buildings built to code can be used for safe shelter in place. The code makes no such assertion. To illustrate the difference between "built to code" and "safe for shelter in place," we need an example.

The best-known local example of a true shelter-in-place system for three thousand people is Pepperdine University,<sup>1</sup> which has deployed their continually-updated system successfully in a number of big fires. The differences between their current version and the Proposed Project are instructive, because they demonstrate why shelter-in-place on the Project site is a last resort in a growing disaster.

Pepperdine's sits at the mouth of fire-prone Malibu Canyon. Even when the campus was designed in the 1970s, the site was known to burn, and in fact it did burn while the buildings were under construction. Pepperdine's problem is that many of its students don't have cars, so

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<sup>111</sup> <https://la.curbed.com/2018/11/20/18097889/wildfire-pepperdine-malibu-shelter-in-place>

they can't easily evacuate down Pacific Coast Highway, even if the normal evacuation gridlock would let them leave. Because of its large and vulnerable population, the campus was designed to be fire resistant with its distinctive "Modernist Mediterranean" style, and the huge lawn surrounding it is supposed to be a fire defense. Nevertheless, the real defense is that everyone on campus shelters in the library and administration during big fires, while ten fire engines from the nearby Malibu Fire Department stand guard around those buildings. Campus staff stock emergency supplies in the shelter buildings and regularly conduct full fire drills for everyone. The backbone of the system are the staff, not the residents, and the staff work regularly to update their safety program in concert with the City of Malibu.

This is the only large-scale shelter-in-place system we know of in Southern California. **What additional planning, staffing, resources, and structures, and coordination with the City of Santee and firefighting agencies would the Project have to add to provide safety comparable to what Pepperdine has demonstrated? This is what is needed for shelter in place.**

**RTC O4-7** suggests that Rancho Santa Fe and surrounding developments are a better model than Pepperdine.

**Rebuttal:** Unfortunately, the counterexamples are worse, because we were unable to find evidence that the residents have ever systematically tested their systems to see if they work. So far as we have been able to determine, residents in these areas routinely evacuate rather than shelter in place. Pepperdine, in contrast, has sheltered people in place at least six times during extreme, wind-drive wildfires. The key difference is that, in addition to buildings, Pepperdine has staff and systems that are in place and tested annually. Rancho Santa Fe apparently tells its residents their homes are designed for shelter-in-place, without having staff, systems, or regular community-wide drills to make sure everything is prepared for shelter-in-place. In the absence of good evidence that the Rancho Santa Fe model works, we suggest Pepperdine is a better model, especially for affordable housing.

### ***Financial Impacts of Fire on the Project Site***

The *financial costs* implicit in "acceptable levels of risk" were not analyzed. **Why not?** Here is an estimate of such costs. It is based on working paper 29621 published in December 2021, by two researchers from the National Bureau of Economic Research, Patrick Baylis and Judson Boomhower.<sup>2</sup> Their work is not focused on Fanita Ranch, but rather on the benefits and costs of California's building code with respect to wildfire losses. California's 2007 building code is the strictest in the nation. They wanted to determine whether it actually reduced the number of homes lost to wildfires, what the costs for rebuilding a burned home in California are, whether it is cost-effective to build to the 2007 code, and cost-effective to retrofit other homes to meet modern standards. In doing this work, they compiled a detailed database of over 46,000 single-family homes in California that were damaged or destroyed by wildfires. Their analysis is useful in this case because it is impartial with respect to the FREIR, and importantly because it puts quantitative estimates on the Project's fire risk, something largely missing from the FREIR.

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<sup>2</sup> Baylis, PW and J Boomhower. 2021. Mandated vs. Voluntary Adaptation to Natural Disasters: The Case of U.S. Wildfires. <http://www.nber.org/papers/w29621>

Briefly, what Baylis and Boomhower discovered was that about 35% of California homes built before 1989 burned when hit by a wildfire, while homes built after 2007 burned about 20% of the time. Thus they conclude that the current building code does reduce fire risk substantially. By their estimate, if a single-family home burns in California, it costs around \$150,000 to haul away debris and clean up the site, \$61,696 for the displaced family to rent a dwelling for two years while their home is rebuilt, and \$766,725 to rebuild the home, for a total cost per home burned of \$978,421.

**How much would a wildfire hitting the proposed Fanita Ranch project cost? If we assume that 2,514 single-family homes would be built on Fanita Ranch and that 20 percent of these homes burn, we estimate that 503 homes will burn every time a major wildfire burns the Project. It would cost an estimated \$75,450,000 to haul away the remnants of those homes and clean the site, an estimated \$31,033,088 to house the 503 displaced families while their homes are being rebuilt, and an estimated \$385,662,675 to rebuild the 503 single-family homes, for a total estimated cost of \$492,145,763 per large fire.**

**Note that \$492,145,763 is a gross underestimate of the Project's total "acceptable risk." It includes losses only to single-family homes, not to townhomes, condominiums, businesses, or other structures. It makes the optimistic assumption that the cost model is accurate for Santee, although San Diego County has one of the most expensive housing markets in the nation. It also does not account for the impacted rental market, long permitting times, possible litigation delays, or inflation. Among other things.**

**Why is this at such sharp odds from the FREIR's conclusion?** As noted in the previous section, the FREIR analysis is largely qualitative. It is predicated on the notion that the site has to prepare only for generic wildfires when the evidence strongly suggests that little fires and wind-driven infernos are radically different and require radically different strategies. Small fires can be fought, but in wind-driven infernos, evacuation and structure design are what cause the 20% losses.

While we present quantitative evidence that 20 percent of built-to-code homes are lost in wildfires, this shouldn't have been news, because similar losses were reported in the Paradise, Woolsey, and other fires years ago. **Why did the FREIR not contain an analysis of the limitations of the building code?** It is the best in the US, but it does not make for fireproof homes.

In this section, we point out that the CEQA question--would the project "expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?"—**does not specify that the people impacted are only the site residents. Someone has to pay for the damage, and they are impacted by this project. The impacts from even 20% of Fanita Ranch burning dwarf the City of Santee's annual budget.**

**The RTC (O-4-8)** links back to O-4-4.

**Rebuttal:** Already given in Rebuttal O-4-4. There is substantial evidence linking the financial costs to environmental issues that CEQA does cover, because the latter generates the former.

Again, decreasing housing loss by 80% does not decrease it below the level of significance when thousands of homes are under threat, and when the mitigations of home loss and unhousing families total around a million dollars.

***Who is impacted by Project wildfire losses?***

- Residents
- The owners of homes and buildings
- Workers in the businesses and other employees and contractors
- Companies insuring homes, buildings, and businesses
- The City of Santee, for lost property taxes, damage and cleanup expenses, firefighting, etc.
- Those who plan to minimize the amount of organic debris going into landfills (County and State)
- The area rental market (for displaced Project residents)
- Stormwater facilities downstream
- State of California, who will likely be asked to make good on uninsured losses. The California Attorney General's office has intervened in multiple fire-related CEQA cases. Were they notified?
- Federal government, who will also likely be asked to make good on uninsured losses.

**Were the proper representatives of all of these groups notified that this Project could impact them or their interests? Which ones were left out? What is the plan to notify the ones left out? Will comments be reopened?**

**The widespread and unmitigated financial impacts of this Project strongly suggest that the Project needs to go before the voters. Will it? If the Santee City Council decides that a half-billion dollar financial risk is insignificant, perhaps it is worth asking the voters if they agree?**

**The RTC (O-4-9):** does not address this, except to refer to Thematic Response 2.

**In Rebuttal,** The comment stands. If a Project will predictably generate costs around \$500 million or more caused by its environmental impacts, then contacting those who will be burdened by those costs is necessary, the same way an adjacent property owner would be asked to comment on project noise if they will have to finance physical measures to deal with that noise. Since the City of Santee has Measure N as a mechanism to poll a large section of the population affected, putting this Project to the voters would go a some ways toward insuring that they, at least, got to weigh in.

In sum, the impacts to wildfire have not been mitigated below the level of significance by the FREIR. More work needs to be done before this document is complete. If quantitative estimates of the impacts cannot be estimated, and if the Projects impacts cannot be lowered below the level of significance, given the enormous financial risks the Project holds, it is probably more prudent to avoid the risks entirely by not building it.

**The RTC** response is covered in O-4-9, and does not address this summary so far as we can determine.

**NEW INFORMATION: Crotch's bumblebee (*Bombus crotchii*)**

The following section is attached with permission of CNPS by Frank Landis, who is writing as a member of the public in this section, not representing CNPS. This happens when a review of a document turns up an omission that other groups are not advocating for. CNPS does not advocate for insects, although pollinators are critically important to the continued survival of native plants.

The issue here is Crotch's Bumblebee (*Bombus crotchii*). This rare bumblebee is currently a candidate for listing under the California Endangered Species Act, and as such, it is



entitled to the protection it would receive as if it were listed, until CDFW makes a final determination of its status.

In April, 2019, the Fish and Game Commission voted to give Crotch's Bumblebee candidate status. That decision was legally challenged in September 2019, and overruled in November 2020. On May 31, 2022, before the FREIR was sent out for public comment, the appellate court overturned the lower court's ruling and reinstated Crotch's bumblebee as a candidate species.

This matters because, according to the CNDDDB, Crotch's bumblebee has been collected five times in Mission Trails and East Elliott between May 2011 and late July 2020. It was also captured in June 2010 on Miramar just south of Poway. All these collections are within about three miles of the Project site. All its known food plants are documented as occurring on the site in the May 2020 Biological Technical report for the previous DREIR on the Project. The vegetation communities described for the Project site in that document are also consistent with known Crotch's bumblebee habitat.

**Why was Crotch's Bumblebee not surveyed for in the previous iteration of the Project EIR?** This question should be answered in the response, but it is quite evident that no effort was made to survey for bees or flies for the EIR. Butterflies were the only pollinators systematically surveyed for, and the only wasp recorded was the large, obvious Tarantula Hawk that even botanists readily notice. There is no mention even of honeybees being observed in the field, let alone bumblebees. Had any attempt been made to search for bees, surely the ubiquitous presence of honeybees would have been noted!

**Thus, the Project has a high likelihood of a candidate listed species on the site, and no attempt was made to survey for that species. The species' legal condition changed before the DFEIR was issued in June, so it should have been the subject of focused surveys, and those surveys should have been performed in the last few months. This was not done, even though it is a straightforward effort.**

The solution is simple: conduct focused surveys for Crotch's bumblebee on the Project site during the appropriate season (spring and summer). If the species is present, determine if it will be impacted by the Project or not. If it will be impacted, create suitable mitigations. If existing mitigation plans already protect it, present substantial evidence that this is the case. If it is not present on the site, present evidence of a suitable search.

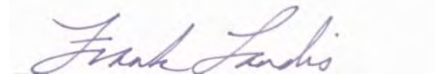
**This species was not covered by previous litigation, nor by previous EIRs. Here I present substantial evidence to warrant a survey to determine its status on the Project site, whether the Project impacts a population, and how to avoid or mitigate any impacts as required.**

**RTC (O-4-9)** explains the process for listing the Crotch's Bumblebee. Then it goes on to state that it has low potential to occur onsite, due to inappropriate habitat and few records, and alleged doubts on the identification of the latter.

**In Rebuttal**, I disagree with the second sentence. The RTC does not accurately describe the Project's vegetation, which from personal observation is open enough to support Crotch's Bumblebee, as their habitat is described. All the plant genera reported as nectar sources appear on the EIR plants list. When I searched CNDDDB, I found many more, and more recent, collections in the immediate vicinity than the RTC claims, and these are referred to above. Some of the specimens were collected by Dr. James Hung, who comprehensively surveyed the bees of San Diego County for his doctoral research and is widely considered a leading expert on San Diego's bees, so likely the identifications are valid and current. The evidence strongly suggests that Crotch's Bumblebee has a high probability of occurring on the Project site.

Thank you for taking this rebuttal statement on the Response to Comments for CNPSSD's comment on the Fanita Ranch FREIR. Please enter this document in the record for the FREIR and all subsequent processes that are linked to it.

Sincerely,

A handwritten signature in cursive script that reads "Frank Landis". The signature is written in dark ink on a light-colored, slightly textured background.

Frank Landis, PhD  
Conservation Chair  
California Native Plant Society, San Diego Chapter

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MANDATED VS. VOLUNTARY ADAPTATION TO NATURAL DISASTERS:  
THE CASE OF U.S. WILDFIRES

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Mandated vs. Voluntary Adaptation to Natural Disasters: The Case of U.S. Wildfires  
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**ABSTRACT**

Despite escalating disaster losses and predicted increases in weather-related catastrophes, takeup of protective technologies and behaviors appears limited by myopia, externalities, and other factors. One response to such frictions is to mandate adaptive investment. We measure the effect of California's wildfire building codes on own- and neighboring structure survival using administrative damage and assessment data for most US homes experiencing wildfires since 2000. Differences across jurisdictions and vintages reveal remarkable resilience effects of building codes initially prompted by the deadly 1991 Oakland Firestorm. Codes also benefit neighbors. We use the results to estimate net social benefits of wildfire building standards.

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Worldwide natural disaster losses averaged \$218 billion per year during 2016–2020, a 60% increase in real terms over the preceding 30 years.<sup>1</sup> This trend is predicted to accelerate under future climate change. Efficient investment in adaptation is essential in the face of these escalating risks. Yet takeup of protective technologies and behaviors appears to be hindered by a constellation of market frictions. Homeowners misperceive disaster risks and thus the value of protective investments (Hallstrom and Smith 2005; Donovan, Champ, and Butry 2007; Gallagher 2014; McCoy and Walsh 2018; Bakkensen and Barrage, Forthcoming). Monitoring costs and other insurance market imperfections mean that mitigation behaviors may not be accurately reflected in property insurance prices (Kunreuther and Michel-Kerjan 2011; California Department of Insurance 2018; Wagner, Forthcoming). Public disaster spending programs may reduce private incentives for property protection (Kousky, Luttmer, and Zeckhauser 2006; Deryugina 2017; Baylis and Boomhower 2019). And in some settings, spatial externalities across neighboring properties lead to diverging private and social benefits of mitigation (Shafran 2008; Costello, Qu  rou, and Tomini 2017).

One widely-adopted approach to these market failures is to provide information and subsidies to increase voluntary takeup.<sup>2</sup> A more controversial but increasingly common alternative is to *mandate* investments in resilience.<sup>3</sup> Mandatory standards ensure wider adoption. However, if the regulator misjudges the effectiveness of the required actions, the level of the hazard, or individual risk

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1. Loss data are from Munich RE and are in 2020 dollars.

2. Examples in the U.S. include the Ready campaign and Ready.gov website; the Community Rating System under the National Flood Insurance Program; the StormReady, Hurricane Protection Week, and National Tsunami Hazard Mitigation programs; the Firewise USA program; and the Community Wildfire Protection Plan program.

3. Florida has construction standards for hurricane winds, and codes also exist in various regions for winter storms and non-weather disasters such as earthquakes and tsunamis (Federal Emergency Management Agency 2020). In flood-prone areas, U.S. federal rules require homes to be elevated and some localities have imposed even stricter requirements. California, Utah, Nevada, and Pennsylvania have statewide wildfire building standards while in other states, notably Colorado, wildfire codes have been adopted at the local level (Insurance Institute for Business and Home Safety 2019). Australia, New Zealand, France, and Italy also have wildfire building codes (Intini et al. 2020).

preferences, some individuals may be compelled to make costly investments they would have preferred to avoid even if fully informed and fully accountable. Implementing mandatory standards is also more politically challenging.<sup>4</sup> Despite the important differences between these instruments, there is little empirical evidence about outcomes under a mandated resilience regime compared to a counterfactual of purely voluntary take-up.

In this paper, we consider the case of wildfire building codes in California. California has suffered over \$40 billion dollars in wildfire property damages in the past 5 years. The state also has among the strictest wildfire building codes in the world. We provide the first comprehensive evaluation of the effect of these codes on own-structure survival as well as neighbor spillovers via structure to structure fire spread. We then embed these empirical estimates in an economic model to calculate net social benefits of wildfire building codes as a function of local wildfire hazard and number of close neighbors.

This analysis takes advantage of a new dataset that includes property-level data for almost all U.S. homes exposed to wildfire between 2000 and 2020. We compiled the data by requesting post-incident damage censuses from numerous emergency management agencies and individual county assessors. We merged these lists of damaged homes to assessor data for the universe of (destroyed and surviving) homes inside wildfire burn areas. The data show that even during catastrophic wildfires, more than 50% of exposed homes survive. One of the key advantages of the new data is the ability to observe and learn from these surviving homes. The property-level loss information also distinguishes the wildfire data from floods and other disasters where loss data are typically available at the zip code or Census tract level. In addition to the new loss data, the empirical work also leverages emerging tools in spatial analysis, including high-resolution aerial imagery and precise “rooftop” geocoding of structure locations.

The empirical design leverages rich variation in building code requirements

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4. For example, efforts to adopt statewide wildfire building standards in Oregon and Colorado have failed politically (Sommer 2020).

across space and over time. The complex nature of building regulation in California creates a patchwork of wildfire standards across localities. We also observe fires in other states that do not have wildfire building codes. In all of these places, we observe homes built before and after changes in California’s codes. This identifying variation yields credible counterfactual predictions for how homes would have performed in the absence of California’s standards. Our preferred statistical model is a fixed effects regression that compares the likelihood of survival for homes of different vintages on the same residential street during the same wildfire event. These street fixed effects allow us to compare groups of homes that experience essentially identical wildfire exposures.

We find remarkable vintage effects for California homes subject to the state’s wildfire standards. A 2008 or newer home is about 16 percentage points (40%) less likely to be destroyed than a 1990 home experiencing an identical wildfire exposure. There is strong evidence that these effects are due to state and local building code changes - first after the deadly 1991 Oakland Firestorm, and again with the strengthening of wildfire codes in 2008. The observed vintage effects are highly nonlinear, appearing immediately for homes built after building code changes. There are no similar effects in areas of California not subject to these codes or in other states that lack wildfire codes.

We also find that code-induced mitigation benefits neighboring homes, consistent with reduced structure-to-structure spread. These neighbor effects are in keeping with anecdotal reports of home-to-home spread as a factor in urban conflagrations (Cohen 2000; Cohen and Stratton 2008; Cohen 2010).<sup>5</sup> Our results imply that, all else equal, code-induced mitigation by a neighbor located less than 10 meters away (within the distance fire experts refer to as the home ignition zone) reduces a home’s likelihood of destruction during a wildfire by about 2.5 percentage points (6%). This benefit is even larger when homes have multiple close neighbors.

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5. We are also aware of at least one insurance company which will not sell homeowners insurance to homes located next to a home with a wood roof in high-risk areas (Allstate Indemnity Company 2018).

Finally, we embed our estimates of building code benefits in an economic model and calculate the approximate net social benefits of such a policy for a random sample of California homes in wildfire hazard areas. Like other disaster risks, many homeowners are only partially insured (or in the extreme, wholly uninsured) against the full cost of replacing a structure destroyed by wildfire (Klein 2018; California Department of Insurance 2018). This means that the benefits of building codes include not only reductions in expected losses but also additional insurance value due to reduced household exposure to uninsured risk. Our calculations find that wildfire building codes deliver unambiguously positive benefits in the most fire-prone areas of the state, especially where homes are clustered closely together and thus create large risk spillovers. In areas with more moderate wildfire risk, building standards for new homes can also be justified given reasonable assumptions about household risk aversion, future increases in wildfire hazard, and/or co-benefits of building codes (such as reductions in public expenditures on wildland firefighting). On the other hand, the costs of retrofitting existing homes to meet current wildfire building standards are substantial and our analysis suggest full retrofits are only economic in areas with extreme wildfire hazard.

These results are broadly relevant to natural disaster management. In this important setting, a standards-based approach achieved substantially greater compliance with risk mitigation practices. The policy nearly halves loss risk when structures are exposed to the hazard. Moreover, a cost-benefit calculation implies that low takeup in the absence of standards is likely driven by market failures as opposed to a lack of cost-effectiveness. These facts can inform policies to mitigate other risks like floods, hurricanes, tornadoes, and heat waves, where voluntary takeup of adaptation investments also appears to be limited.

This work also has immediate implications for wildfire policy. Our results imply there are gains to be realized from strengthening building codes in other states and countries to match California's. This evidence is relevant to current



proposals in Oregon, Washington, and other states.<sup>6</sup> Meanwhile, California is moving to expand the geographic coverage of designated wildfire hazard zones and reduce the ability of local jurisdictions to opt out of recommended standards.<sup>7</sup> Separately, new California legislation from 2020 provides financial incentives for retrofits of existing homes in wildfire-prone areas.<sup>8</sup> The law specifically calls for support of “cost effective” retrofits, a concept for which the evidence in this study is essential. Additionally, policymakers are confronting pressing issues of insurance rate reform in response to mounting wildfire losses. One key debate is the degree to which individual investments improve structure survival and should thus be rewarded through regulated insurance discounts (California Department of Insurance 2018). This paper’s evidence on the effectiveness of such investments during real wildfires bears directly on this question.

Our work builds on previous studies of natural hazard mitigation. For wildfires, a number of engineering and forestry studies describe the effects of construction materials and vegetation management on structure resilience (Gibbons et al. 2012; Syphard et al. 2012; Syphard, Brennan, and Keeley 2014; Alexandre et al. 2016; Syphard, Brennan, and Keeley 2017; Kramer et al. 2018; Syphard and Keeley 2019). Our paper focuses on the effects of a mandatory mitigation policy, while these previous studies measure technology effectiveness (i.e., survival of homes whose owners did vs. did not choose to take mitigation measures). Two studies on the related topic of hurricanes do consider building codes, with conflicting results. Dehring and Halek (2013) is a small case study of several hundred homes during Hurricane Charley in 2004. Simmons, Czajkowski, and Done (2018) study aggregate zip-code level data on annual insurance claims by homes built in different decades to infer benefits of hurricane building codes in Florida. In contrast, our study uses highly

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6. See, e.g., Profita, Cassandra. “The Labor Day Fires Burned Towns and Homes. Oregon Has a Plan to Avoid a Repeat.” Oregon Public Broadcasting, September 7, 2021.

7. S.B. 63, 2021–2022, California. [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB63](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB63).

8. A.B. 38, 2019–2020, California. [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB38](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB38).

granular property- and event-level loss data for a large sample of wildfires covering several states. Across a range of natural hazards, a parallel engineering literature attempts to calculate the value of building codes through modeling and simulation (e.g. Federal Emergency Management Agency 2020). Finally, our work is methodologically related to a separate literature in economics on building codes and household energy consumption (Jacobsen and Kotchen 2013; Levinson 2016).

This study makes five contributions. First, we provide the first comprehensive evaluation of the effects of wildfire building codes on structure survival. Beyond the wildfire context, this result improves our understanding of disaster resilience under standards-based vs. voluntary policies. Second, we provide the first empirical estimates of the spillover benefits of wildfire mitigation investments to neighboring properties. Third, we compile a comprehensive dataset of structure-level outcomes in wildfires across several states that, to our knowledge, is the most complete accounting in existence. This new dataset will enable future work on the economics of catastrophic wildfire risk. Fourth, we approach the topic in a causal framework with an explicit empirical design, where previous work is primarily descriptive or relies on regression adjustment. Finally, we embed the empirical estimates in an economic model to calculate net social benefits that account for local hazard, neighbor externalities, and household risk aversion.

The rest of the paper proceeds as follows. Section 1 discusses structure survival in wildfires and California’s history of building code updates. Section 2 describes the data and spatial analysis. Section 3 outlines the empirical strategy, and Section 4 presents the results. Section 5 develops the model of net social benefits and Section 6 concludes.

## **1 Wildfire Building Codes in California and Other States**

*“Unlike a flash flood or an avalanche, in which a mass engulfs objects in its path, fire spreads because the requirements for com-*

*bustion are satisfied at locations along the path... A wildland fire cannot spread to homes unless the homes and their adjacent surroundings meet those combustion requirements.” Jack D. Cohen, Journal of Forestry, 2000.*

Established forestry and engineering evidence supports the importance of the so-called home ignition zone in determining structure resilience to wildfires. The home ignition zone includes the design of the home itself as well as an imagined area extending 30 meters away from the structure. Fire scientists emphasize the elimination of flammable materials inside this zone (e.g., Cohen 2000, 2010; Calkin et al. 2014). This guidance applies to both vegetation around the home (“defensible space”) and the construction of the home itself, especially the roof.

Among U.S. states, California has gone the furthest in mandating takeup of wildfire resilience investments by property owners. However, the application of these codes varies throughout the state. In areas where CAL FIRE provides firefighting services (State Responsibility Area or SRA), the state directly determines building standards. Within incorporated cities and other areas with their own fire departments (Local Responsibility Area or LRA), local governments have historically had greater control over code requirements.

The development of the modern standards began with the Oakland Hills Firestorm of 1991, which killed 25 people and caused \$1.5 billion in property damage. The tragedy led to a series of legislative actions during the mid-1990s that required more fire-resistant roofing and maintenance of vegetation immediately adjacent to the home. The first of these was the so-called Bates Bill of 1992 (Assembly Bill 337). Among other changes, the Bates Bill encouraged stronger building standards in LRA areas by requiring CAL FIRE to produce maps of recommended Very High Fire Hazard Severity Zones (VHFHSZ). In LRA areas, local governments could then choose whether or not to adopt these recommended hazard maps (and thus the accompanying building standards). This designation process unfolded over several years, with hundreds of local governments adopting or rejecting CAL FIRE’s proposed VHFHSZ maps at

different times. According to Troy 2007, 151 of 208 local governments (73%) either adopted the VHFHSZ regulations or claimed to have promulgated equally strong existing rules.<sup>9</sup>

On the heels of the Bates Bill, Assembly Bill 3819 of 1994 increased requirements for ignition-resistant roofs. These requirements applied in all SRA areas and in the subset of LRA areas where local governments had adopted recommended VHFHSZs. Roofing materials are rated Class A, B, C, or unrated.<sup>10</sup> Starting in 1995, the law required Class B roofs on newly-constructed or re-roofed homes in regulated areas. In 1997, the requirement increased to Class A roofs in high-hazard areas (a substantial improvement in fire resistance). Finally, Assembly Bill 423 in 1999 simplified enforcement of the new roofing codes by outlawing the use of unrated roofing materials throughout the state.

The collective effect of these mid-1990s building code reforms was to substantially increase the fire resistance of roofs on newly-constructed homes in regulated areas after about 1997. The roofing requirements also applied to existing homes, but only at the time of roof replacement. Any homeowner in a regulated area who replaced more than 50% of the roof surface in a single year was in principle obligated to comply. The defensible space provisions also applied to existing and new homes. However, in practice, the primary point of enforcement for these codes was at the time of new construction; enforcement effort for existing homes was limited (see e.g., Maclay 1997).

California strengthened its wildfire codes again in 2008 with the so-called Chapter 7A standards of the California Building Code. These requirements apply to all homes built in 2008 or later in SRA areas and in LRA areas where proposed VHFHSZ designations have been accepted. The codes apply to many dimensions of new homes. Roofs must be rated class A or B, eaves

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9. For a detailed qualitative study of the determinants of local VHFHSZ adoption decisions, see Miller, Field, and Mach (2020).

10. These ratings are earned through laboratory testing; for example, the Class A test involves placing a 12-inch by 12-inch burning brand on the roof material under high wind conditions. The material must not ignite for 90 minutes.

and exterior siding must be fire resistant, vents must be covered by a fine wire mesh to resist ember intrusion, windows and doors must resist fire for at least 20 minutes, and decks and other building appendages must be built of non-combustible materials. Chapter 7A also includes additional requirements for defensible space.

The damage data collected for this study also include wildfires in Arizona, Colorado, Oregon, and Washington. None of these had statewide wildfire building standards at the time of the included fires (Insurance Institute for Business and Home Safety 2019). Some local governments – particularly in Colorado – have adopted local standards that include a diverse mix of rules about roofs, other construction materials, and/or defensible space. Our empirical analysis excludes a small number of fires in the comparison states that overlap areas known to have local wildfire building standards.<sup>11</sup>

While the non-California homes in this study are not subject to mandatory standards, they are targeted by a range of information and incentive programs that seek to increase voluntary home hardening. Programs active in these states include FireWise USA (National Fire Protection Association), the Community Wildfire Protection Plan program (United States Forest Service and Department of Interior), the Fire Adapted Communities Coalition (numerous public agencies and NGOs), the Ready, Set, Go! program (International Association of Fire Chiefs), and numerous other initiatives.

## 2 Data and Spatial Analysis

This section describes the construction of the database of wildfire damages, property tax assessment information, and structure locations.

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11. These are the 2012 Waldo Canyon Fire, 2013 Black Forest Fire, and 2018 Mile Marker 117 Fire in El Paso County, Colorado (Quarles et al. 2013) and the 2012 High Park Fire and 2020 Cameron Peak Fire in Larimer County, Colorado (Larimer County 2020).

## 2.1 Homes and Damage Data

### Damage Inspection Data

We sought to assemble as comprehensive a database as possible of administrative records for homes destroyed or damaged by wildfire in the United States. For recent wildfires in California, this information is managed by CAL FIRE. For earlier California fires and for fires in other states, we contacted individual county assessors (who track these damages in order to update property tax assessments) and other agencies to request historical records of structure damages. To our knowledge, the resulting database is the most complete accounting that exists of U.S. homes lost to wildfire.

*California 2013–2020:* In California, the CAL FIRE Damage Inspection (DINS) database is a census of destroyed and damaged homes following significant wildfire incidents during 2013–2020. The data include street address and assessor parcel number (APN); limited structure characteristics; and for some fires, an additional sample of undamaged homes. The damage variable has four levels: destroyed ( $> 50\%$  damage), major (26–50%), minor (10–25%), and affected (1%–9%). Of these, “destroyed” is the most commonly reported damage category and the only category that appears consistently across all fires. The lack of partially-destroyed structures is consistent with case study observations in Cohen (2000) and subsequent research. We thus follow the literature and focus on “destroyed” as our primary outcome.

*California 2003–2013:* Data for pre-2013 wildfires in California come from two sources. For the 2003 and 2007 San Diego fire storms, we received damage assessment data from San Diego County. For other counties, CAL FIRE staff provided us with a large collection of unformatted historical damage assessment reports that we compiled and standardized to be usable for research.

*Other States:* Using ICS-209 incident reports, we identified the 15 counties in states other than California with the greatest number of structures lost to wildfire since 2010. We then contacted county assessors in each of these

counties to request damage data. We have successfully received structure-level damage data from 11 of these 15 counties.

Appendix Table 6 includes the full list of wildfires in the dataset.

### **Property Tax Assessment Data**

We merge the damage records to comprehensive assessment data for all U.S. homes from the Zillow ZTRAX database. The ZTRAX data include information on year built, effective year built (in the case of remodels), building square footage, and other property characteristics. The merge from damage data to ZTRAX uses assessor parcel numbers, and we validate the accuracy of this merge by comparing street addresses across the two datasets. We restrict the data to include only single family homes, which account for most properties inside the wildfire perimeters in our sample. For each incident, we merge the damage data to the most recent historical assessment data from the pre-fire period. In other words, we merge to the population of single family homes that existed immediately prior to the start of the fire. Appendix Table 6 shows the number of single family homes inside of each wildfire perimeter and the share destroyed.

## **2.2 Spatial Analysis and Dataset Construction**

### **Identifying Structure Rooftop Locations**

This study uses the physical locations of the homes in the data in two ways. First, homes must be spatially assigned to building code jurisdictions and to wildfire burned areas. Second, the measurement of spillovers across properties requires precise distances between neighboring structures. The street address-based geocoding methods typically used in academic research are not sufficiently detailed for this second purpose, which requires accurate structure locations at a meter scale. We solved this challenge by combining several spatial datasets to identify precise rooftop locations. First, we limit the population of ZTRAX homes to all homes in zip codes where at least one home was destroyed. We then merge these ZTRAX records to parcel boundary maps

from county assessors using assessor parcel numbers. This yields a parcel polygon for each home. We then use comprehensive building footprint maps from Microsoft to identify the largest structure overlaying each parcel.<sup>12</sup> We call this location the “footprint location.” Figure 1 shows an example for Redding, California in the area of the 2018 Carr Fire. Gray lines are parcel boundaries from the Shasta County Assessor. Blue polygons are building footprints. The purple and yellow markers show the assigned rooftop locations for each structure. Yellow markers show homes that are reported as destroyed in the damage data.

This rooftop geocoding method generates highly accurate locations, but it is dependent on the availability of high-quality parcel boundary GIS data. In areas where such data are not available (representing 13% of homes in the final analysis dataset), we instead geocode home locations using the ESRI StreetMap Premium geolocator, a commercially-available address-based product. Our quality checking shows that these locations (henceforth “address-based locations”) are generally reliable to the parcel level but not always to the structure rooftop level. Appendix Section C describes the geocoding in more detail.

## **Validating Locations and Damage Reports**

We quality check the calculated property locations and the damage report data using high-resolution aerial imagery from NearMap. The base image in Figure 1 shows an example. The detailed imagery allows us to manually confirm the accuracy of structure locations, which closely coincide with the blue building footprints in the figure. In addition, the NearMap imagery includes post-fire surveys for many of the incidents in our database. Figure 1 illustrates how destroyed properties are readily visible in these surveys, which allows us to confirm the accuracy and completeness of the damage data. Appendix Table 4 reports accuracy rates in a random sample of homes. For damage reports, 99%

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<sup>12</sup> The Microsoft U.S. Building Footprints Database is publicly available at <https://github.com/microsoft/USBuildingFootprints>.



of reported outcomes match the ground truth imagery. For rooftop locations, 98% of the assigned structure locations are on top of the structure rooftop in the ground truth imagery (with 99%+ accuracy in densely developed areas). Locations that rely on street address based geocoding tended to be accurate to the parcel but not always to the actual structure rooftop – about 75% of these assigned locations are on top of the structure rooftop in the ground truth imagery.

### **Spatial Merge to Wildfire Perimeters and Code Jurisdictions**

We restrict the dataset to homes located within final wildfire perimeters (plus a 20-meter buffer). Depending on the state and time period, these digital perimeter maps come from the California Forest and Range Assessment Program (FRAP), the Monitoring Trends in Burn Severity (MTBS) dataset, or the National Interagency Fire Center (NIFC). We merge the homes data to spatial data on fire protection responsibility (SRA vs. LRA) and designated fire hazard (FHSZ) that together determine building codes in a given location in California. We use historical GIS maps provided by CAL FIRE to assign homes to code regimes according to the codes in effect when the home was built.<sup>13</sup>

### **Calculating Distances Between Neighboring Homes**

We construct two measures of distance between homes. The first is the minimum distance between the building footprint polygons associated with the two structures (henceforth the “wall-to-wall” distance). This measure is only available for homes where we assign locations based on building footprints. The second metric uses the distance between assigned point locations, which are available for all homes in the dataset. We call this metric the “centroid to centroid” distance because these points are meant to correspond to the center of the roof. The wall to wall distance is our preferred measure because it more

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13. For SRA/LRA boundaries, the historical map data include updates in 1990, 1996, 2003, 2005, and annually from 2010–2020. For FHSZ, the historical map data include updates in 1985, 1998, 2007, and 2008.

accurately captures space between homes and because the footprint-geocoded locations are more accurate than the address-based location points (Appendix Table 4). Our main estimates of neighbor spillovers use the restricted sample of homes for which wall to wall distances are available. For robustness, we also show specifications that use centroid to centroid distances and the full sample of homes.

We identify up to 15 nearest neighbors within one kilometer for each home in the final dataset. Panel (b) of Figure 1 shows two examples. Each image shows wall-to-wall distances (in meters) from the structure marked “0”. Appendix Table 2 summarizes the distribution of number of neighbors at various distances.

### **Data Summary**

The final dataset includes 55,408 single family homes exposed to 112 wildfires in California, Arizona, Colorado, Oregon, and Washington between 2003 and 2020. Thirty-nine percent of these were destroyed. Appendix Figure 1 shows the distribution of year built and fraction destroyed by year built for the full dataset. Appendix Table 6 reports the number of exposed and destroyed homes for each fire.

## **3 Empirical Strategy**

This section describes the empirical design used to measure the effect of wildfire building codes on structure survival. To fix ideas, Figure 2 provides an example of the merged dataset for the 2018 Woolsey Fire in Los Angeles County. The green and purple markers indicate locations of surviving and destroyed single family homes inside the final fire perimeter. The street map data give a sense of development density. The intensity of losses varies significantly within the burned area. Near Malibu, a large share of affected homes were lost. Further north, however, there are several areas where most homes inside the fire perimeter escaped destruction. These differences reflect varying fire

conditions, firefighter response times, landscape vulnerability, structure characteristics, and potentially numerous other factors. This heterogeneity adds noise to empirical analysis of structure survival. It may also introduce bias if year built or other structure traits vary similarly within burned areas. We address these challenges using an empirical design that compares the likelihood of survival for homes of different vintages on the same residential street during the same wildfire. We attribute these vintage effects to building codes by comparing vintage effects across jurisdictions with and without wildfire building codes.

### 3.1 Treatment Groups

Throughout the rest of the paper, we consider three types of jurisdiction. The first is SRA, where compliance with California building codes was mandatory. The second is LRA areas that were ever recommended by CAL FIRE as VHFHSZ areas (henceforth, “LRA-VHFHSZ”). To be clear, this group includes all proposed VHFHSZ regardless of whether local governments accepted the designation. There is no centralized database that records local VHFHSZ adoption decisions, but Troy (2007) reports high rates of adoption.<sup>14</sup> The final treatment group is areas without wildfire building codes (henceforth, “no-codes”). This includes LRA areas in California that were never recommended for consideration as VHFHSZ, as well as fires in areas of Arizona, Colorado, Oregon, and Washington without any state or local wildfire building codes. Appendix Table 1 reports the number of homes in each treatment group.

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14. In addition, historical news accounts show that cities that rejected the official VHFHSZ designation often still adopted the underlying code requirements in the recommended areas. This seems to have been an attempt to achieve the state-recommended resilience requirements while avoiding the VHFHSZ label due to fears about property values (Sullivan 1995; Snyder 1995; Stewart 1995; Yost 1996; Grad 1996). One state fire official’s response: “We didn’t care if they called it a nuclear-free zone, as long as they adopted the regulations” (Maclay 1997).

## 3.2 Own-structure survival

### Event study figures

We begin the regression analysis with the following event study-style model for home  $i$  on street  $s$  exposed to wildfire incident  $f$ . We estimate this model separately for the SRA, LRA-VHFHSZ, and no-codes groups.

$$1[Destroyed]_{isf} = \sum_{v=v_0}^{v=V} \beta_v D_i^v + \gamma_{sf} + X_i \alpha + \epsilon_{isf} \quad (1)$$

The outcome variable is equal to one for destroyed homes and zero otherwise. The  $V$  variables  $D_i^{v_0}, \dots, D_i^V$  are indicator variables equal to one if house  $i$ 's year built falls into bin  $v$ . The main parameters of interest are the coefficients  $\beta$  that correspond to these vintage bins. These give the effect of each vintage on probability of survival when exposed to wildfire. The street fixed effects  $\gamma_{sf}$  include separate indicator variables for each street name-zip code combination within fire perimeter  $f$ . These fixed effects sweep away arbitrary patterns of damage across streets within the fire perimeter, so that the model is identified by average differences in survival between homes of different vintages on the same street. We also estimate models with finer and coarser fixed effects, including models with incident instead of street fixed effects.

The additional control variables  $X_i$  include controls for wildfire vulnerability at the home site. These include ground slope, aspect, and vegetation type from LANDFIRE (Rollins 2009). Some specifications also include property characteristics (lot size, building square footage, number of bedrooms).

### Difference in differences

We summarize the overall effects of the wildfire building standards using a difference-in-differences (DiD) model that pools jurisdictions and time periods. We divide the sample into 3 time periods: before 1998; 1998–2007; and 2008 onwards. The latter two periods correspond to the end of the mid-1990s roofing

reforms and the introduction of the Chapter 7A requirements.

### 3.3 Structure to structure spread

To measure the effect of code-driven mitigation on likelihood of structure-to-structure spread, we estimate the effect of building vintage on likelihood of survival for neighboring homes. Our regression models are of the form,

$$1[Destroyed]_{isf} = \sum_{j=1}^J \rho_j NoCode_j + \sum_{j=1}^J \phi_j Code_j + \sum_{v=v_0}^V \beta_v D_i^v + \gamma_{sf} + X_i \alpha + \epsilon_{isf} \quad (2)$$

Like Equation (1), this specification controls for own year of construction and street-by-incident fixed effects. The additional regressors  $NoCode_j$  and  $Code_j$  are the number of neighbors within various distance bins  $j$  that were built before and after wildfire building codes. Homes are considered post-code in 1998 in SRA areas and in the year the area was first recommended as a VHFHSZ in LRA VHFHSZ areas. The coefficients  $\rho_j$  and  $\phi_j$  for  $j = 1, \dots, J$  give the effect of these neighbors on own-structure survival. Our preferred specification uses 10-meter bins of wall-to-wall distance. For robustness, we also estimate a specification using centroid to centroid distances. With this latter measure, we define the closest bin as 0-30 meters because 30 meters roughly corresponds to 10 meters of wall-to-wall distance.<sup>15</sup> We apply some additional sample exclusions when estimating Equation 2: The sample is restricted to California since we can only reliably calculate footprint locations for California homes. We further drop condominiums and townhomes to focus on detached single family homes.

This regression identifies the causal effect of code-induced mitigation by neighboring homes if the code regime for neighboring homes is uncorrelated with other determinants of structure- and neighborhood-level risk. This assumption is bolstered by the street fixed effects, which focus on highly local variation.

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15. The median building footprint area in the sample is 260 m<sup>2</sup>. A hypothetical circular roof would thus have a radius of 9.1 meters and the centroid-to-centroid distance between two such homes would be 18.2 + wall-to-wall distance.

Intuitively, this specification compares homes on the same street during the same wildfire whose nearest neighbors were built in different years. One might still worry, however, that even within these narrow comparisons and even after controlling for own age, the age of a home’s neighbors may still be correlated with other wildfire risk factors. We address this concern by exploring estimates for homes located slightly further away as a placebo check. Properties located 50 to 100 meters away are outside of the 30-meter home ignition zone and so present more limited direct ignition threat, but should otherwise be subject to the same potential omitted variables as directly adjacent homes.

## 4 Results and Discussion

### 4.1 Own-structure survival

#### 4.1.1 Graphical Evidence

Figure 3 shows the raw mean of *Destroyed* for State Responsibility Area homes according to year of construction. About 35% of exposed homes built prior to the mid-1990s were destroyed. These destruction probabilities begin to fall for homes built after the mid-1990s, decreasing quickly to about 20%. This sharp improvement in resilience corresponds in time to the post-Oakland Firestorm building reforms.

There is also some evidence in Figure 3 that homes built before about 1980 may be less likely to be destroyed than homes built just prior to the roof requirements. This may reflect the fact these older homes are more likely to have been re-roofed at least once after the mid-1990s and complied with the requirement for ignition-resistant materials at roof replacement. This pattern would imply a replacement cycle of about 30-40 years. Actual data on roof service lifetimes is scarce, but this period is within the range proposed by the National Association of Home Builders and other sources (National Association of Home Builders 2007). To the extent that some pre-building code homes may be re-roofed with code-compliant materials, our estimates of building code effects are conservative.

Appendix Figure 2 shows that homes built before and after the building code changes are otherwise comparable. There are no meaningful changes in site-level predictors of fire risk, like ground slope, or in structure characteristics such as building square footage.

Figure 4 presents the event study estimates from Equation (1). The top panel shows homes in SRA, where WUI building codes are mandatory. The markers show estimates and 95% confidence intervals for two-year vintage bins. The omitted bin is 1987-1988, so that these estimates can be interpreted as percentage-point differences in likelihood of destruction relative to a 1987 home. The vintage effects are flat prior to about 1993, and then begin to decrease clearly during the 1995–1999 period. The point estimates suggest additional reductions in loss probability following the adoption of the Chapter 7A codes in 2008, although the small number of homes in those bins leads to somewhat noisy vintage estimates. The overall difference in loss probability between a 1987 home and a 2008+ home is about 15 percentage points.

The middle panel shows homes in LRA areas that CAL FIRE recommended for Very High Fire Hazard Severity Zone designation. These areas again show flat trends in resilience prior to the 1991 Oakland Firestorm and subsequent Bates Bill. After the Bates Bill takes effect, the figure shows steady improvements that persist for about 12 years. The slope of these improvements appears more gradual than in SRA areas, which would be consistent with varied timing of adoption of the recommended codes across hundreds of individual municipalities. The post-2008 estimates are again noisy but imply further improvements in resilience following adoption of the Chapter 7A building codes.

Finally, the bottom panel of Figure 4 shows vintage effects for homes in areas not subject to California’s codes. This includes fires in areas of Arizona, Colorado, Oregon, and Washington with no state or local wildfire building codes. It also includes LRA areas in California that were never recommended as Very High Fire Hazard Severity Zones. There are relatively few homes in these groups (Appendix Table 1), so we pool them together and use wider ten-year vintage bins to increase precision. Unlike the top two panels, there

is little evidence of improved resilience for homes built since the mid 1990s in areas without wildfire building codes.

#### 4.1.2 Difference-in-Differences Estimates and Robustness Checks

The regression estimates in Table 1 summarize the effects of building code regimes on structure resilience. We show estimates for SRA, LRA-VHFHSZ, and no-codes areas. The various group by time period estimates can be interpreted as percentage point differences in likelihood of destruction relative to the reference category, which is pre-1998 homes in no-code areas. Column (1) shows the results with street by fire fixed effects. The near-zero coefficient on SRA \* Before 1998 implies that SRA homes built before the end of the mid-1990s building codes reforms perform similarly to homes of the same vintage in no-code areas. In contrast, SRA homes built during 1998–2007 or 2008–2016 perform 11.2 percentage points and 15.9 percentage points better, respectively. Differencing the pre-post differences across code areas yields a DiD estimate of 13.1 percentage points. The same pattern exists for LRA VHFHSZ areas, with no difference before 1998 and substantial improvements in the post-code periods. The DiD estimate for LRA VHFHSZ areas is 12.2 percentage points. Lastly, these improvements are smaller or absent in the no-codes comparison group, where homes built in the latter two time periods show only minor improvements that are not statistically distinguishable from zero. This is further evidence that the improvements in the code areas are due to building codes as opposed to other time-varying factors. The regression also includes controls for topography and vegetation. As expected, slope steepness at the home site increases vulnerability. A home on a 10 degree slope would be six percentage points less likely to survive than an otherwise-identical home on flat ground. This specification also includes fixed effects for the dominant vegetation type in the area of the home.<sup>16</sup>

The remaining columns of Table 1 explore alternative specifications. Col-

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16. We assign vegetation types as the most common fuel model in a 25-meter radius around the home.



umn (2) adds building characteristics from the assessor data. Building square footage, number of bedrooms, and lot size do not appear to have meaningful effects on survival after controlling for year built and street. Home characteristics data are missing for about 20% of homes, which shrinks the sample in this third column. The final three columns show different sets of fixed effects. Column (3) includes separate fixed effects for each group of 100 adjacent homes on each street (ordered by house number). This specification addresses a potential concern that some streets in the sample include many hundreds of homes. The more granular fixed effects do not materially change the estimates. Column (4) groups homes on the same street and side of the street, assuming that house numbers follow the convention of odd and even numbers on opposite sides. This specification also does not change the results. Finally, Column (5) omits the street fixed effects and instead uses incident fixed effects. These incident dummies absorb fire-specific severity and arbitrary time trends in preparedness, but unlike the street fixed effects they do not adjust for differences between exposed homes within the same wildfire incident. The point estimates are slightly larger in SRA areas and slightly smaller in LRA VHFHSZ areas. Notably, the  $R^2$  with incident fixed effects is smaller than with street fixed effects (0.39 vs 0.63). This difference implies that the street fixed effects remove variation in fire severity and other factors within incidents that might otherwise threaten identification. Nevertheless, the estimates are broadly stable across specifications. None of the estimated effects in Columns (2) through (5) are statistically different from those in Column (1).

In principle, the street fixed effects design could underestimate the effect of building codes due to the spillover benefits that we document in the next section. If code-induced investments also benefit nearby pre-code homes, the difference in outcomes between post-code and pre-code homes will understate the true effect of codes on survival.<sup>17</sup> This attenuation could be exacerbated by street fixed effects, which by construction are focused on homes located relatively close to each other. Such reasoning might lead one to prefer incident

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17. This is a violation of the Stable Unit Treatment Value Assumption, or SUTVA (Rubin 1980).

fixed effects. In practice, as we show in the next section, spillovers are highly localized and are small compared to the own-resilience effects. In the spirit of exhaustiveness, Appendix Table 3 investigates the quantitative significance of SUTVA concerns by controlling directly for the number of pre- and post-code near neighbors in the street fixed effects regression. Ultimately, the differences in the estimated building code effects across these approaches – street fixed effects, incident fixed effects, and street fixed effects directly controlling for spillovers – are small enough that the various results are not statistically different.

## 4.2 Spillovers to neighboring properties

This section discusses the spillover benefits of code-induced mitigation to neighboring homes. Figure 5 shows regression results for Equation (2). The top panel shows effects of the presence of pre-code neighbors at various wall-to-wall distances. One or more pre-code neighbors within 0-10 meters increases own-structure loss probability during a wildfire by about 3 percentage points. These effects attenuate with distance, going to zero at 30-40 meters. Notably, this is the distance that wildfire managers consider to be the home ignition zone - the distance within which flammable material presents a risk of structure ignition (Cohen 2000, 2010; Calkin et al. 2014). The near-zero estimates beyond 40 meters bolster the validity of our research design. If our estimates for the nearest neighbors were biased by omitted predictors of resilience that co-vary within neighborhoods, one would expect that bias to also appear in estimates for homes another few dozen meters away (Figure 1b provides a useful illustration of these small distances).

The bottom panel shows the estimates for post-code neighbors. The confidence intervals for these estimates are wider since we observe fewer post-code homes. However, the point estimates suggest that the presence of close neighbors built under WUI building codes does not increase own-structure loss probability. There is also no implied effect of further-away post-code neighbors on own survival, offering additional placebo evidence to support the identifying

assumptions behind this regression.

Table 2 reports regression estimates for near neighbors that allow effects to vary with the number of neighbors. Column (1) considers neighbors at a wall-to-wall distance of less than 10 meters. A single pre-code neighbor increases own-structure loss risk by 2 percentage points. Two or more pre-code near neighbors increases the effect to 3.1 percentage points. This latter category mostly represents the effect of homes with two neighbors, given that very few homes have more than two neighbors within 10 meters (Appendix Table 2). The estimated effects of nearby post-code neighbors are close to zero. Column (2) shows the same regression using a restricted sample of areas where our measured distances between homes are likely to be particularly accurate. This sample includes denser areas (homes with at least 10 neighbors within a 200 meter radius; see Appendix Table 4) and fires since 2013 (for older incidents, it is more likely that parcel boundaries have changed since the fire). The estimated risk posed by pre-code neighbors is slightly larger in this specification, perhaps due to measurement error in wall-to-wall distances in the full sample. The estimates for post-code neighbors are again zero. As another robustness check, Columns (3) and (4) present similar results based on the centroid-to-centroid distance measure. One pre-code neighbor within 30 meters of centroid distance – roughly equivalent to 10 meters of wall distance – increases own loss risk by 2.6 percentage points, and two or more increases risk by 5 percentage points. Again, the point estimates for post-code neighbors are much smaller and close to zero.

## 5 Net Social Benefits of Building Standards

The empirical results show that compared to reliance on voluntary action alone, California’s wildfire building codes substantially reduced average structure loss risk during a wildfire. They also reduced the risk to a close neighbor’s home. Having documented these large resilience benefits, we now embed the results in a simple economic model in order to benchmark the approximate net social benefits of wildfire building codes. We use our estimates to explore

the minimum annual disaster probability at which universal mitigation investment is welfare-improving, given various values of neighborhood density and household risk aversion. This exercise is intentionally simple and abstracts from many theoretical and practical details that warrant investigation in future work.<sup>18</sup>

## 5.1 An Empirical Model of Hazard Mitigation

$N$  identical individuals own homes in a neighborhood with an annual probability  $p^F$  of a disaster. In the event of a disaster, each home  $i$ 's baseline probability of destruction is  $p_0^D$ . Up-front investment in a binary mitigation measure with cost  $m$  by homeowner  $i$  reduces own loss risk during a disaster by  $\tau_{ii}$  and also reduces loss risk by  $\tau_{ji}$  for a subset of neighbors  $j \neq i$  (for example, in our application  $\tau_{ji}$  is non-zero for neighbors within some distance of home  $i$  and zero for the remaining homes). Mitigation benefits are additive so that a home's destruction probability during a disaster is  $p_i^D = p_0^D - M_i\tau_{ii} - \sum_{j \neq i} M_j\tau_{ij}$ , where  $M_i \in \{0, 1\}$  is the homeowner's binary mitigation decision. We capture myopia with perceived disaster probabilities  $\hat{p}_i^F \leq p^F$ . These perceived probabilities vary across households.

Consistent with stylized facts (e.g., Klein (2018)), disaster losses are partially insured: destruction of the home imposes insured losses  $L^I$  for the insurer and uninsured losses  $L^U$  for the homeowner. We initially assume frictionless property insurance markets that offer coverage at actuarially fair annual premia  $k_i = p^F p_i^D L^I$ . The coexistence of uninsured risk exposure and actuarially fair premiums reflects uninsurable losses (for example, mental and emotional distress) and/or household myopia. The exposition in this section uses a static model with no discounting. Our actual calculations assume that households discount future costs and benefits at a 5% annual rate.

We define two potential measures of net benefit, *risk-neutral cost effectiveness* and *expected utility benefit*. Risk-neutral cost effectiveness is simply the

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18. A more detailed theoretical treatment of private risk mitigation can be found in Costello, Qu erou, and Tomini (2017).

difference in expected cost with and without mitigation. Expected utility benefit accounts for additional benefits from reduced exposure to uninsured risk. Appendix Section D presents a sketch of the expected utility model. Actually calculating expected utility requires strong assumptions about households' risk aversion, permanent income, ability to smooth across time periods, and other factors. We focus the derivation in this section on risk-neutral cost effectiveness (hereafter, "cost effectiveness"). We note that cost effectiveness is a lower bound on net benefits as long as homeowners are not risk-loving.

Total expected cost across households is,

$$\sum_{i=1}^N [p^F(p_0^D - \sum_{j=1}^N M_j \tau_{ij})(L^I + L^U) + M_i m] \quad (3)$$

The social benefit of mitigation by a homeowner is the sum of private and external benefits (reduced loss probability) minus mitigation costs,

$$p^F(\tau_{ii} + \sum_{j \neq i} \tau_{ji})(L^I + L^U) - m \quad (4)$$

In contrast, a homeowner's perceived change in private expected losses with mitigation is,

$$\hat{p}_i^F \tau_{ii}(L^I + L^U) - m \quad (5)$$

The presence of internalities ( $\hat{p}_i^F$ ) and externalities ( $\tau_{ji}$ ) means that Expression (5) is weakly less than Expression (4). If households minimize perceived private expected cost, the voluntary takeup rate will be,

$$\mu = \frac{1}{N} \sum_{i=1}^N \mathbb{1}[\hat{p}_i^F \tau_{ii}(L^I + L^U) \geq m] \quad (6)$$

which depends on the distribution of perceived probabilities. Assuming  $\hat{p}_i^F$  is independently distributed, total actual expected costs under voluntary takeup are  $\sum_{i=1}^N [p^F(p_0^D - \sum_{j=1}^N \mu \tau_{ij})(L^I + L^U) + \mu m]$ .

Now consider a policy requiring mitigation by all households. Total expected

cost is given by setting  $M_i = 1$  for all households in Expression (3). The difference in expected cost under the mandate vs. the voluntary regime is,

$$(1 - \mu) \left[ p^F \left[ \sum_{i=1}^N \sum_{j=1}^N \tau_{ij} (L^I + L^U) \right] - Nm \right] \quad (7)$$

The Samuelson (1954)-style expression inside the outer brackets is the sum of private and external mitigation benefits minus total mitigation costs. The factor of  $(1 - \mu)$  reflects takeup by a fraction  $\mu$  of the population without the mandate. A mandate weakly reduces total expected cost if the social value of mitigation (Expression 4) is positive and strictly increases expected cost if the social value of mitigation is negative.

Before proceeding, it is worth noting some restrictions in this model. We assume additive mitigation benefits. There is some support for this in the data - for example, the approximate linearity of risk spillovers for one vs. two near neighbors in Table 2. A more complex model could instead allow the benefits of mitigation to vary with mitigation effort by others, so that mitigation becomes a strategic game between homeowners.<sup>19</sup> We also assume identical homes and homeowners within the neighborhood and independently distributed perceived disaster probabilities. We explore heterogeneity in fire risk and neighborhood density across neighborhoods (zip codes) in the empirical implementation. Expanding the model to allow for greater heterogeneity within neighborhoods would allow a more nuanced exploration of the distribution of net benefits. We see these extensions as useful areas for future work, but prefer this simple and transparent model for the purposes of benchmarking approximate net benefits.

## 5.2 Implementation

We implement the model for a random sample of 100,000 homes in 424 California zip codes in wildfire hazard areas. Each zip code is modeled as a separate

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19. Shafran (2008) develops such a model for vegetation maintenance in wildfire areas.

neighborhood with its own fire probability and number of close neighbors affected by risk spillovers.

### Mitigation Benefits

The empirical results in Section 4 allow us to estimate  $\tau_{ii}$  and  $\tau_{ij}$ . The reduced form estimates of the effect of building codes on structure survival can be seen as intent-to-treat estimates of the effect of mitigation investment. Given a rate of voluntary takeup for the bundle of mitigation measures in the building code, the standard Wald estimator gives  $\tau_{ii}$  and  $\tau_{ij}$  as the ratio of the reduced form estimates and the difference in takeup rates in the codes and no-codes areas.<sup>20</sup> In the theoretical model, voluntary takeup  $\mu$  depends on beliefs about fire risk and might thus be expected to vary between neighborhoods. In practice, survey data on voluntary mitigation is scarce and the available data do not allow us to calculate neighborhood-specific voluntary takeup rates. Our base calculation uses a voluntary takeup rate of one-third. Appendix Section E describes how we calculate this takeup rate based on CAL FIRE inspections of destroyed and surviving homes for a sample of recent California wildfires, including caveats about limitations of the data (which is nevertheless the best existing survey evidence for our purposes).

Our reduced form estimate for own survival benefit for SRA homes implies a value of  $\tau_{ii}$  of 0.195 ( $\frac{.13.1}{1-0.33} = 0.195$ ). For  $\tau_{ij}$ , our reduced form estimate of neighbor benefits in Table 2 is 2.3 percentage points for neighbors up to 10 meters away in wall-to-wall distance (and close to zero beyond 10 meters). The effect also appears approximately linear in number of neighbors that mitigate, at least over the limited range of number of neighbors that we can observe in the data. Thus, our estimate of  $\tau_{ij}$  is 0.034 for each neighbor within 10 meters ( $\frac{-0.023}{1-0.33} = -0.034$ ) and zero for all further-away neighbors.<sup>21</sup>

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20. See e.g., Angrist and Pischke (2009) p. 127-133. This calculation assumes perfect compliance by homes subject to codes and a homogeneous effect of mitigation on structure survival.

21. In principle, mitigation at further-away homes also benefits home  $i$  through potential “domino effects”: a near neighbor becomes less likely to ignite due to action by that neighbor’s neighbor. Our estimates imply that these effects are small on average (on the order of

## Sampling at-risk homes

Unlike the empirical analysis of building code effects, which uses homes located inside historical wildfire perimeters, the net benefits calculation considers a group of homes sampled randomly from *all* California homes in fire hazard areas. To construct this sample, we start from all California homes in designated wildfire severity zones (SRA or LRA) and filter out zip codes containing fewer than 100 homes. We then randomly draw  $\min(n, 250)$  homes from each remaining zip code where  $n$  is the number of homes in the zip code. This yields a sample of 100,230 homes subject to wildfire building codes in 424 zip codes.

We identify each home’s annual wildfire exposure probability  $p^F$  using data from the United States Forest Service (USFS) Wildfire Risk to Communities project. This measure captures the annual probability of moderate to severe wildfire exposure (Scott et al. 2020).<sup>22</sup> We also identify each home’s number of neighbors within 30 meters of centroid to centroid distance. This roughly corresponds to the number of neighbors within 10 meters of wall-to-wall distance (see footnote 15) and is less demanding to calculate in this new random sample of homes.

## Costs and Losses

Our main estimates of mitigation costs come from Headwaters Economics (2018). That study uses construction estimating tools from R.S. Means to calculate the additional cost to build a home that complies with California’s Chapter 7A wildfire code. Overall, that study reports zero cost difference between code-compliant and standard designs. This counter-intuitive result arises because one aspect of code-compliant construction (exterior siding) is substantially *less* expensive than standard designs. These savings offset increased costs for roofing, landscaping, and other areas. Our main estimate of

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0.034<sup>2</sup>).

22. We use the product of Burn Probability (the total annual wildfire probability) and Flame Length Exceedance Probability 4 (conditional on any fire, the probability that the fire will reach moderate or greater threat status).



code compliance costs ignores savings from code-compliant siding on the theory that owners would make this choice even without standards. This gives a cost estimate of \$15,660. We also report results using alternative cost estimates from the National Association of Home Builders. Their estimated wildfire code compliance costs for newly-built California homes include a low scenario of \$7,868 and a high scenario of \$29,429 (Home Innovation Research Labs 2020).<sup>23</sup> Finally, we show a “retrofit” scenario based on Headwaters Economics’ estimate of \$62,760 to fully replace roofing and exterior walls on an existing home.

Our assumed losses for a home destroyed by wildfire include rebuilding costs, belongings and contents of the home, alternative living costs while the home is rebuilt, and costs for debris removal and hazardous waste cleanup. Rebuilding, contents, and alternative living arrangements costs come from the FEMA Hazus model (Federal Emergency Management Agency 2021). We match as closely as possible the characteristics of the model home used to estimate code compliance costs in Headwaters Economics (2018).<sup>24</sup> We regionally adjust these costs to California using geographic adjustment factors from R.S. Means provided in the Hazus model. The resulting cost of reconstruction and contents losses is \$766,725. The Hazus cost for alternative living arrangements and disruption (e.g., moving costs) for 24 months is \$61,696. For debris removal (which is borne by homeowners) and hazardous waste cleanup (borne by governments), we add a total of \$150,000.<sup>25</sup>

We assume that mitigation investments have a protective lifetime of 40 years.

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23. These are costs to meet the International Wildland Urban Interface Code, which is similar to the Chapter 7A code. In the low scenario, we ignore \$3,839 of gross savings from code-compliant siding as we do for Headwaters Economics (2018).

24. The model home in Headwaters Economics (2018) is a 2,500 square-foot single-story home with 2-car garage constructed in Montana for \$140 per square foot. We use Hazus cost estimates for the same size, number of stories, and garage in the “custom” construction class, the closest corresponding cost category.

25. For cleanup and debris removal costs, see Klein (2018); Lewis, Sukey, “Cleaning Up: Inside the Wildfire Debris Removal Job That Cost Taxpayers \$1.3 Billion.” *The California Report*, July 19, 2018; and Bizjak, Tony, “State’s Effort to Clean Up After the Camp Fire is Off to a Rocky Start”, *Sacramento Bee*, January 13, 2019.

In the absence of mitigation investment, the probability of loss when exposed to wildfire for a home with no close neighbors is 44%.<sup>26</sup> Households discount future costs and benefits at 5% per year.

### 5.3 Results of Net Benefit Calculation

Figure 6 illustrates the results of this calculation. The scatter plot shows zip code-level averages of annual wildfire hazard and number of near neighbors. The wildfire hazard reaches strikingly high levels: several zip codes face annual event probabilities above 2% per year, implying a significant wildfire exposure every 50 years on average. The color scale shows the social benefit of mitigation investment in each zip code following Expression (4). The dashed black line shows a threshold for positive net benefits of building standards. Homes to the right of this line have lower expected costs with mitigation investments than without. The threshold bends to the left as the average number of neighbors increases due to the spillover benefits of mitigation across properties. For a home with zero near neighbors, the break-even annual wildfire hazard is about 0.45%. The break-even annual hazard for a home with 1 near neighbor is 0.39% and for a home with 4 near neighbors it is 0.27%.

These cost effectiveness estimates are a lower bound on the net benefits of universal mitigation. One important reason for this is that many homeowners are substantially underinsured for natural disaster losses. Mitigation investments yield additional welfare benefits by reducing exposure to uninsured risk. Even for properties covered by homeowners insurance, Klein (2018) reports that coverage limits for wildfire-destroyed properties are often up to 50% below actual losses. Table 3 reports break-even annual wildfire probabilities for a home with 1.2 near neighbors (the sample mean) based on the expected utility model in Appendix Section D. Although this model requires additional strong assumptions, these back-of-the-envelope numbers depict how risk aversion might affect program benefits. For example, if code compliance costs \$15,660, a homeowner

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26. The approximate destruction probability for SRA homes under current codes is  $0.4 - .156 = .244$  (Table 1). Combined with the own-structure mitigation effect, this gives the implied loss probability in the absence of mitigation:  $.244 + .195 = 0.44$ .

with a coefficient of relative risk aversion of 5 and an insurance policy covering two thirds of total losses would be better off investing in mitigation wherever the annual probability of a damaging wildfire exceeds 0.33%.<sup>27</sup>

Table 3 also reports results using other estimates of mitigation cost. The zero net cost estimate from Headwaters Economics (2018) leads to positive benefits for any level of hazard. The two additional estimates from Home Innovation Research Labs (2020) bracket the main cost estimate. Finally, the estimated retrofit cost of \$62,760 results in much higher break-even hazard levels for existing homes. This kind of full retrofit to existing homes appears to generate positive benefits only for a handful of areas with extreme fire hazard.

Beyond risk aversion, WUI building codes likely have additional benefits that are not included in our calculations. These include reductions in public expenditures on firefighting during large wildfires (Baylis and Boomhower 2019), reduced demand for public assistance among fire victims (Deryugina 2017), avoided emotional and mental distress, and less need for public safety power shutoffs that interrupt electricity service during high fire-risk periods.<sup>28</sup> Moreover, if imperfections in property insurance markets cause premiums to systematically exceed expected damages, then mitigation becomes more attractive because it reduces the risk which must be insured in the imperfect insurance market. Scientists also agree that annual wildfire probabilities are increasing throughout North America such that net benefits of WUI building codes will grow in the future. On the other hand, a more detailed analysis would need to consider possible heterogeneity in household net benefits. If some individuals have very high perceived private costs of choosing fire resistant materials and landscaping (perhaps due to strong aesthetic preferences), building standards could be costly for these households.

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27. Studies of the property insurance market generally report high implied levels of relative risk aversion. Cohen and Einav (2007) and Sydnor (2010) examine deductible choices in auto and homeowners insurance respectively and find double-digit values for the mean household across a variety of specifications. Evidence from other markets suggests values closer to the low single digits (e.g., Gertner 1993; Chetty 2006).

28. For a systematic review of catastrophic wildfire costs, see Feo et al. (2020).

In summary, our empirical estimates and model calculations suggest that wildfire building codes yield unambiguous benefits in the most fire-prone areas of California, especially when homes are clustered closely together such that there are large risk spillovers. For areas with lower fire risk, the sign of net benefits is more sensitive to modeling choices and the assumed co-benefits of building codes. Further work on the cost-effectiveness of wildfire mitigation measures in low- and moderate-risk areas is an important area for additional research.

## 6 Conclusion

Efficient investment in adaptation is essential in the face of rapidly accelerating disaster losses. Yet takeup of protective technologies and behaviors is thought to be constrained by misperception of risk, insurance market failures, spatial externalities, and other frictions. The pressing question facing researchers and policymakers is how to best respond to these market barriers. One suite of policies focuses on increasing voluntary takeup through information or subsidies. Another option is to override individual decisions and mandate certain investments in hazard areas. These policies may differ substantially in their effects and their political acceptability.

This study contributes evidence on the effects and net economic benefits of a mandatory adaptation policy. We provide the first comprehensive empirical evaluation of California's strict wildfire building codes. The analysis uses a new dataset of property-level data on U.S. homes destroyed by wildfire that was created for this study. The new data combine nationwide property characteristics information with post-fire damage assessment records collected from numerous local and state agencies. This resource has three important advantages: it collects and harmonizes previously disparate damage data; it contains a complete record of homes that survive as well as homes that are destroyed; and unlike data for floods and other losses, it is reported at the individual property level. Beyond this study, the new data will enable additional important research on disaster losses.

The empirical analysis in this study is bolstered by our ability to observe differences in building code regimes over time, across jurisdictions within California, and between California and other states. The empirical strategy isolates the effect of building code changes using a fixed effects design that compares outcomes for pre- and post-code homes on the same residential street. This approach narrows the comparison to homes experiencing essentially identical wildfire exposures.

The results show that compared to reliance on voluntary action alone, California's wildfire building codes reduced average structure loss risk during a wildfire by 16 percentage points, or about a 40% reduction. They also reduced the risk to a close neighbor's home by about 2 percentage points or 6%. These striking results imply materially different levels of resilience in communities with and without such codes. Moreover, the spatial externalities provide a classic rationale for public policy intervention even if homeowners were fully informed and rational about wildfire risk.

Having documented these large resilience benefits, we then show how the empirical results can be embedded in an economic model that accounts for mitigation costs, spatial spillovers, and risk preferences. We use our results and other values from the literature to provide a back-of-the-envelope approximation of the minimum annual wildfire risk at which universal mitigation generates positive net benefits. In the most fire-prone areas of California, the calculation shows large net benefits of building codes for new homes. Given the high cost of fully retrofitting existing homes to modern standards, full retrofits do not pass a benefit-cost test in most areas. An important task for future research is to identify individual low-cost investments that can cost-effectively improve the resilience of existing homes in high hazard areas.

In summary, the data show that an adaptation mandate substantially improved resilience to wildfires and a cost-benefit approximation suggests that low takeup without standards is more likely driven by market failures than by fully-informed individual decisionmaking. These results are immediately applicable to policy debates in the U.S., Canada, Australia, the European

Union, and other jurisdictions that are seeking to respond to escalating wildfire risk. More broadly, these facts should be of interest to policymakers and researchers confronting other hazards like floods, hurricanes, and heat waves where voluntary take-up of self-protective investments seems to be constrained by similar barriers. As climate change continues to increase disaster losses, this type of research on the role of public policy and market incentives in shaping adaptation is increasingly urgent.

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Figure 1: Building and Validating the Dataset

(a) Roof Locations and Damage Reports



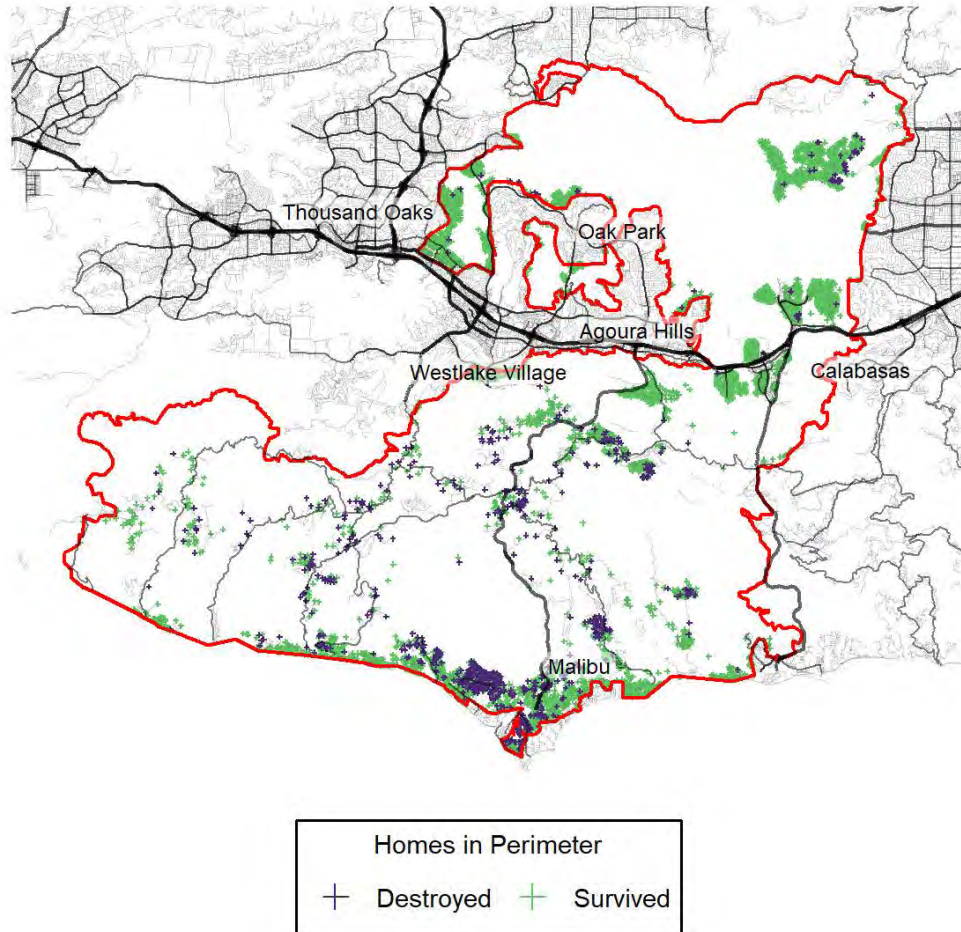
(b) Distance Between Structures



*Notes:* Best viewed in color. **(Panel a)** Homes affected by the Carr Fire (2018). Markers are geocoded structure locations. Green square markers are structures reported as destroyed in the damage inspection data; yellow circular markers are all other homes in the data. The background image is aerial imagery before and after the Carr Fire from NearMap. Blue building shapes and gray parcel outlines are the building footprint data and assessor parcel boundary data used to identify structure locations (see text for details). **(Panel b)** Examples of calculated distances between structure walls. Images are pre-fire aerial imagery of homes affected by the Thomas Fire (2017) and Tubbs Fire (2017). Figure shows the wall-to-wall distance from the structure marked '0' to the other homes.

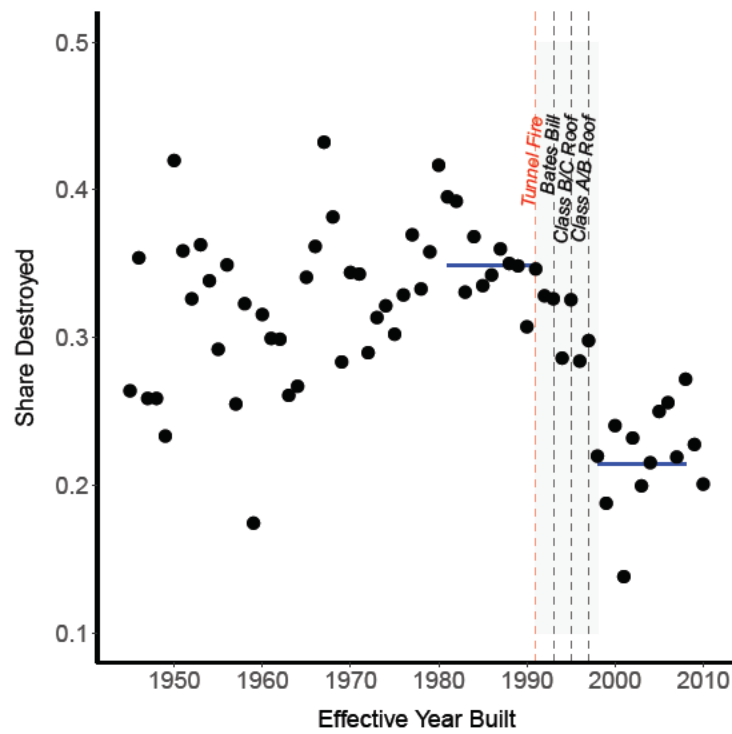


Figure 2: Merged data example: Structure-level outcomes in the Woolsey Fire



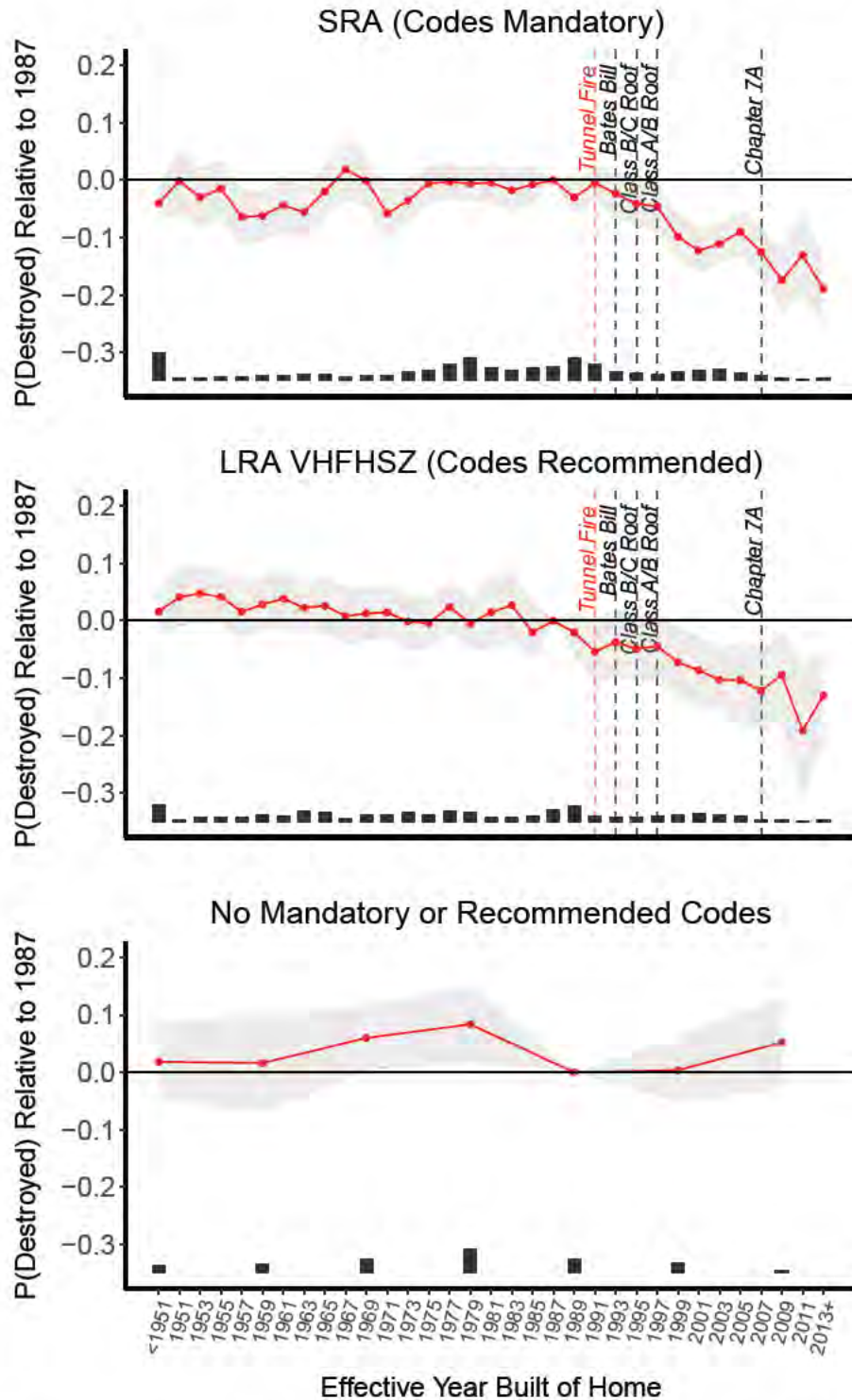
*Notes:* Best viewed in color. Example of merged inspection, assessor, and fire perimeter data for one fire in our dataset. Markers indicate the locations of single family homes inside the final Woolsey Fire perimeter (shown in red). Purple homes are reported destroyed in damage inspection data; green homes are all remaining homes in the ZTRAX assessment data. Street map data are from Open Street Map.

Figure 3: Share Destroyed by Year Built in Mandatory Code Areas



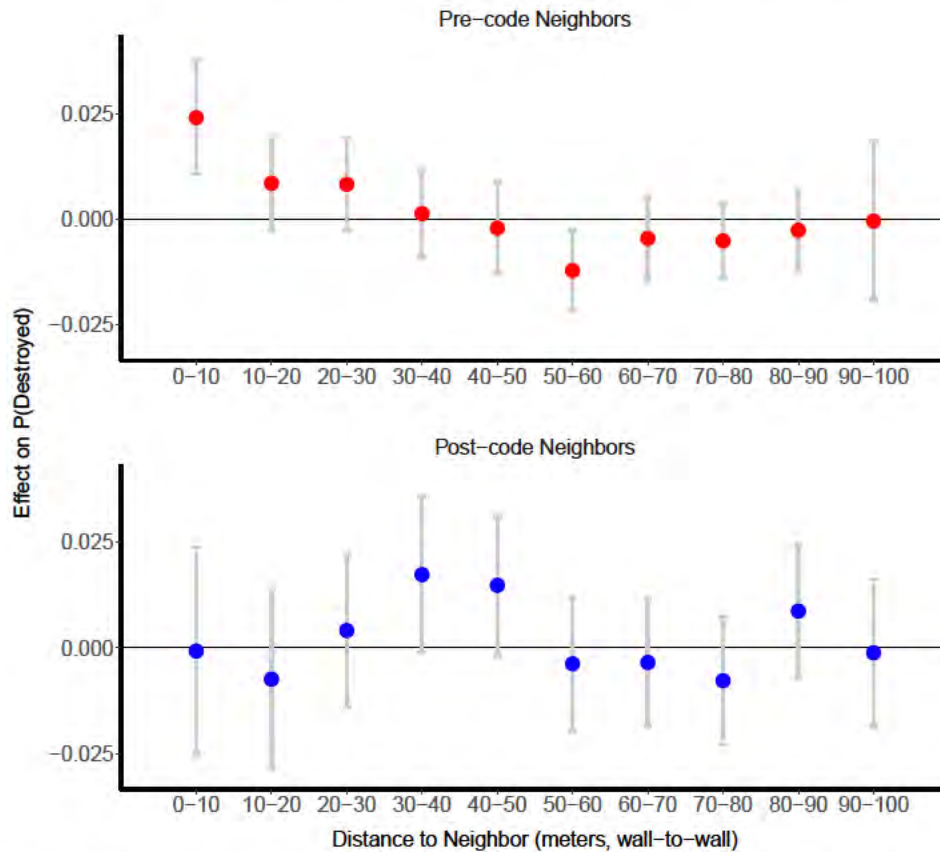
*Notes:* This figure shows the share of homes inside wildfire perimeters that were destroyed, according to the year that the home was built. The sample is limited to homes in State Responsibility Area. The blue lines show ten-year averages.

Figure 4: Estimated Vintage Effects by Building Code Jurisdiction



Notes: Figure plots point estimates and 95% confidence intervals from 3 separate OLS regressions of an indicator for Destroyed on bins of effective year built. Each regression includes street by incident fixed effects and other controls described in the text. Panel (a) shows homes in state responsibility area (SRA). Panel (b) shows homes in local responsibility area (LRA) inside state-recommended Very High Fire Hazard Severity Zones (VHFHSZ). Panel (c) shows homes in states without wildfire building codes (AZ, CO, OR, WA) and LRA areas in California outside of state-recommended VHFHSZ. Standard errors are clustered by street. The histogram below each panel shows the relative number of observations in each bin.

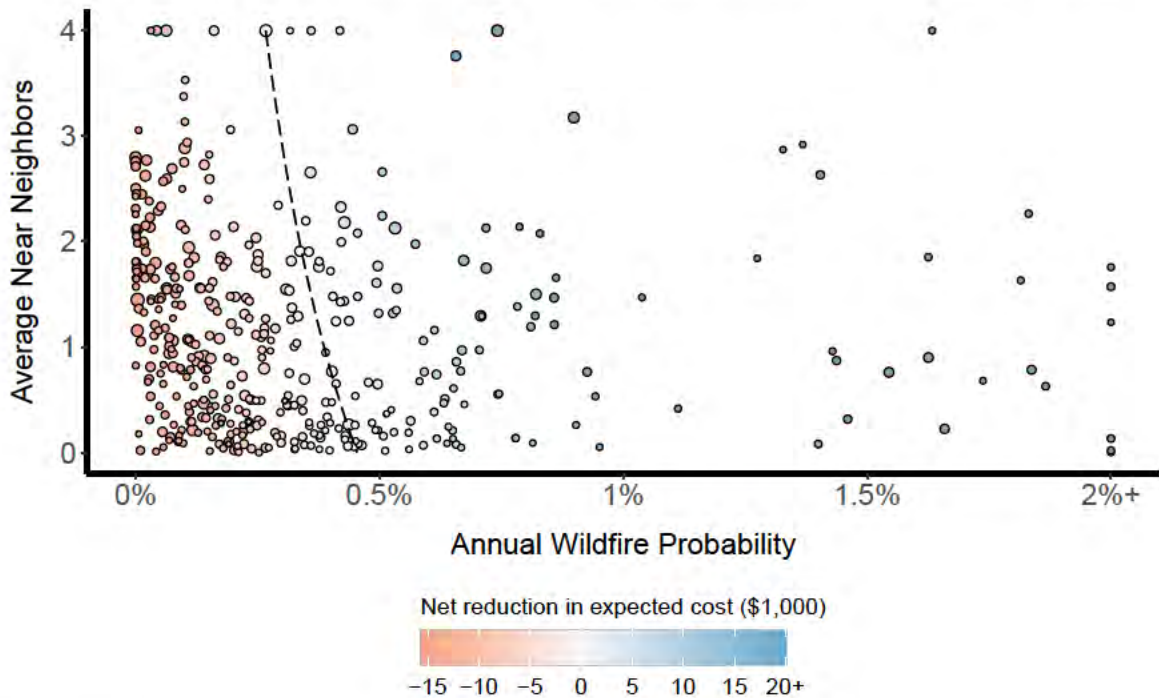
Figure 5: The effect of neighboring homes on survival



*Notes:* Figure shows coefficients and 95% confidence intervals from a single OLS regression of “Destroyed” on the presence of pre- and post-code neighbors at various distances. The top panel shows estimates for indicator variables for the presence of one or more neighbors built without wildfire building codes. The bottom panel shows estimates for indicator variables for the presence of one or more neighbors built after wildfire building codes. The regression also includes own year built (in four year bins), street by incident fixed effects, and topographic controls. Distance to neighboring home is wall-to-wall distance. See text for details.



Figure 6: Lower-bound Net Benefits by Fire Hazard and Number of Neighbors



*Notes:* This figure plots the annual probability of a damaging wildfire and average number of close neighbors for a random sample of 100,230 California homes in areas subject to the Chapter 7A building codes. Markers represent zip-code averages. Marker color indicates average net benefits in the zip code using the cost-effectiveness measure, which is a conservative lower bound on total net benefits. Annual wildfire hazard is from Scott et al. (2020) and represents a snapshot as of 2014. Number of neighbors is the number of homes within a 30-meter centroid to centroid distance. Marker size is proportional to number of homes in the zip code. The dashed line shows a threshold for zero net reduction in expected cost. See text for discussion and alternative scenarios.

Table 1: Regression estimates of building code effects on own survival

	(1)	(2)	(3)	(4)	(5)
SRA * Before 1998	-0.022 (0.033)	-0.045 (0.041)	-0.027 (0.029)	-0.021 (0.037)	-0.029 (0.020)
SRA * 1998–2007	-0.112*** (0.034)	-0.138*** (0.043)	-0.117*** (0.031)	-0.113*** (0.039)	-0.160*** (0.022)
SRA * 2008–2016	-0.159*** (0.036)	-0.190*** (0.044)	-0.164*** (0.033)	-0.151*** (0.041)	-0.204*** (0.027)
LRA VHFHSZ * Before 1998	-0.031 (0.033)	-0.048 (0.050)	-0.038 (0.030)	-0.028 (0.037)	-0.005 (0.021)
LRA VHFHSZ * 1998–2007	-0.121*** (0.034)	-0.142*** (0.048)	-0.126*** (0.032)	-0.127*** (0.038)	-0.095*** (0.025)
LRA VHFHSZ * 2008–2016	-0.159*** (0.037)	-0.178*** (0.050)	-0.162*** (0.035)	-0.163*** (0.041)	-0.130*** (0.030)
No Codes * 1998–2007	-0.038 (0.025)	-0.029 (0.026)	-0.045* (0.026)	-0.044* (0.024)	-0.035 (0.030)
No Codes * 2008–2016	-0.006 (0.033)	0.035 (0.040)	0.012 (0.041)	-0.010 (0.033)	-0.071 (0.044)
Ground slope (degrees)	0.006*** (0.001)	0.005*** (0.001)	0.006*** (0.001)	0.006*** (0.001)	0.005*** (0.001)
Lot size (acres)		-0.000 (0.000)			
Building square feet		-0.000 (0.000)			
Bedrooms		0.001 (0.003)			
Street FE	✓	✓			
Fuel model FE	✓	✓	✓	✓	✓
Street X 100 homes FE			✓		
Street X side of street FE				✓	
Incident FE					✓
Observations	48,843	38,991	48,843	48,843	48,843
R <sup>2</sup>	0.62	0.63	0.63	0.66	0.39
Dep. Var. Mean	0.41	0.46	0.41	0.41	0.41

*Notes:* Table shows estimates and standard errors from five separate OLS regressions. The outcome variable is an indicator for Destroyed. Street fixed effects includes separate dummies for each street-by-incident. Incident fixed effects are dummies for each wildfire. Fuel model fixed effects are dummies for Anderson fire behavior fuel models. Standard errors are clustered by street.

Table 2: Neighbor Effects

	Destroyed			
	(1)	(2)	(3)	(4)
1 pre-code nearby homes	0.020*** (0.007)	0.023*** (0.007)	0.026*** (0.007)	0.027*** (0.007)
2+ pre-code nearby homes	0.031*** (0.009)	0.039*** (0.010)	0.050*** (0.009)	0.051*** (0.009)
1 post-code nearby home	0.001 (0.013)	0.002 (0.013)	0.010 (0.012)	0.001 (0.013)
2+ post-code nearby homes	-0.001 (0.016)	0.001 (0.018)	0.003 (0.018)	-0.009 (0.021)
Own Year Built	✓	✓	✓	✓
Topography	✓	✓	✓	✓
Street FE	✓	✓	✓	✓
Observations	38,226	23,564	44,923	26,842
R <sup>2</sup>	0.64	0.68	0.63	0.68
Distances	Walls	Walls	Centroids	Centroids
Subsample		✓		✓
Dep. Var. Mean	0.40	0.49	0.40	0.51

*Notes:* Table shows estimates and standard errors from 4 separate OLS regressions. The outcome variable is an indicator for Destroyed, and each regression also includes dummy variables for own year built (in four year bins) and street-by-incident fixed effects. Columns (1) and (2) use wall-to-wall distances to assign neighbors, while Columns (3) and (4) use the centroid-to-centroid distance measure. Columns (1) and (3) use the full sample of single family homes, while columns (2) and (4) use a subsample in areas where our distance measures are likely to be particularly accurate. See text for details. Standard errors are clustered by street.

Table 3: Break-even Hazard under Risk Aversion and Alternative Costs

		Insured %	100	67		33	
				$\gamma = 2$	$\gamma = 5$	$\gamma = 2$	$\gamma = 5$
Cost Estimate	Source						
<b>New Home</b>							
\$ 0	<i>HE-Low</i>		0	0	0	0	0
\$ 4,029	<i>NAHB-Low</i>		0.10%	0.09%	0.08%	0.08%	0.05%
\$15,660	<i>HE</i>		0.38%	0.36%	0.33%	0.30%	0.20%
\$29,429	<i>NAHB-High</i>		0.71%	0.68%	0.63%	0.58%	0.41%
<b>Retrofit</b>							
\$62,760	<i>HE</i>		1.50%	1.46%	1.40%	1.33%	1.15%

*Notes:* Table shows estimated minimum annual wildfire probability for which building standards yield positive net benefits under various assumptions about cost, share of losses insured, and risk aversion. Probabilities are reported as percentages (e.g., 0.32% per year). For partial insurance scenarios,  $\gamma$  is the coefficient of relative risk aversion. Calculations assume 1.2 near neighbors. See text for details of these calculations. Source code HE represents Headwaters Economics (2018) and NAHB represents Home Innovation Research Labs (2020).

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**From:** Bill and Carolyn Mills [REDACTED]  
**Sent:** Tuesday, September 13, 2022 8:44 AM  
**To:** Rob McNelis <RMcNelis@CityofSanteeCa.gov>  
**Subject:** Fanita Ranch-Vote NO

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ,

Thank you,  
Carolyn Mills  
Santee Resident since 1970

**From:** [Catherine Jewell](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Objection to Fanita Ranch development  
**Date:** Sunday, September 11, 2022 2:33:40 PM

---

Dear Mr. Jacobs, We object to a city council illegal approval of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022. The project must face Santee voters. When will it do so? The City “Essential Housing Certification” appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26,000 new vehicle trips per day. Please include our objection in the Administrative Record for the project, Thank you,

Catherine & Steve Jewell

9/12/2022

Dear Mr. Jacobs and City Council,

Measure N passed by the people of Santee qualified a referendum to assure Santee residents were allowed to make the final decision at the ballot on Fanita Ranch.

Approving Item 8 for approval regarding Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project are unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Please save Santee from this disastrous housing project aimed at making money for the builders and their backers. This project is unsafe but ultimately a calamity for the wilderness that is fading away before our eyes, the flowers, wildlife and land can't be reclaimed once lost to concrete. I urge you to VOTE NO on Item 8.

Thank you,  
Robert and Charnelle Merrill  
Just East County citizens

**From:** [cheryl goldsmith](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Monday, September 12, 2022 7:52:41 AM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you



**From:** [Christina Kaylor](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Tuesday, September 13, 2022 6:16:41 AM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,  
Christina Kaylor

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**From:** C.wootton  
**To:** Chris Jacobs; Romm Hall; Laura Koval; Rob McNeil; John Minto; Dustin Trotter  
**Subject:** Please vote No to stop the Fanita Ranch Project  
**Date:** Wednesday, September 14, 2022 12:44:03 PM

---

Dear Mayor Minto, Council Members, and Mr Jacobs,

Please vote No to stop the Fanita Ranch Project

#### **WILDFIRES/WUI**

First and foremost, much of the Fanita Ranch project is surrounded by Wildland Urban Interface. The more people are invited in, the more likely it is that fires will break out.

To quote Sierra Club (see link below), "Most fires are caused by people especially in the wildland urban interface (WUI) all it takes is one spark from a smoke out back, a discarded cigarette, a campfire, fireworks, a car accident, a barbecue. Fires can start when a spark is caused by a lawn mower striking a rock, a faulty electrical box, a fire pit, a candle, faulty or downed power lines that come with urban sprawl." <http://sandiegosierraclub.org/get-involved/conservation/our-priorities/>

**QUESTIONS:** How will you ensure that fires started by people using trails or having accidents be put out quickly before wildfires can be started especially during Santa Ana seasons and high heat conditions? How often will you maintain areas to make sure sprinklers are in good shape, wood fencing and other burnable structures are not built and fire pits or barbecues are not used, especially during fire season?

#### **POTENTIAL DAMAGE ADJACENT PRESERVE and WILDLIFE**

The Goodan Ranch and Sycamore canyon preserve is home to the San Diego thorn-mint, on the Federal endangered species list and covered in the San Diego Multiple Species Conservation Plan NCCP. There are many endangered species located in this preserve. Golden Eagles have been found here. Mountain lions were detected in 2008 specifically because preserves are part of a large contiguous tract of undeveloped land. This provides suitable conditions for this wide ranging species.

**QUESTIONS:** How will you ensure that people from Fanita Ranch will not ride vehicle's and bikes or otherwise destroy this adjacent preserve? People will be encroaching into territories of endangered species, including golden eagles and possibly mountain lions. Have the protectors of Goodan Ranch / Sycamore Canyon Preserve been made aware of the proximity of residence to their preserve? Do they approve of this proximity?

[https://sdmmp.com/upload/SDMMP\\_Repository/0/93mzxyg1f7sdk6hbp482cvrw0q5nj.pdf](https://sdmmp.com/upload/SDMMP_Repository/0/93mzxyg1f7sdk6hbp482cvrw0q5nj.pdf) p 30, 42, 44-5

it also interferes with the wildlife corridors for many different animals and plant species. Endangered bird species are along Santee Lakes.

Golden eagles avoid populated areas and trails, how can this preserve actually protect them?

<http://www.sandiegoeco.org/special-species-campaign-to-save-san-diego-countys-golden-eagles/>

#### **DWELLINGS LOCATED AMIDST WILD LIFE**

People will also have more contact with wildlife. Most people actually do not want contact with wildlife. They do not want to encounter mountain lions, coyotes, raccoons, possums, skunks, bats, rabbits, etc. Most do not want to encounter rats and mice. In fact, there will be poisoning of rats and mice. Because rats and mice will probably end up being poisoned, prey animals are more likely to have an effect on the larger group of predators that are roaming in the preserves, especially to the north. This could include hawks, golden eagles, skunks, mountain lions, foxes, and people's very own pets.

**QUESTION:** How can the poisoning of rats and mice be avoided?

#### **VERNAL POOLS**

Fanita Ranch has vernal pool habitats, and supports many rare plants and animals. San Diego fairy shrimp, and willow monardella. City, county, state and federal laws officially protect vernal pools.

See:

[https://www.biologicaldiversity.org/news/press\\_releases/2012/fanita-ranch-10-19-2012.html](https://www.biologicaldiversity.org/news/press_releases/2012/fanita-ranch-10-19-2012.html)

How will you ensure that no sites will be harmed?

#### **GOLDEN EAGLES**

There has been a Bald Eagle siting at Santee Lakes last year according to various sources.

There have been Golden Eagles, state listed fully protected species around and within Fanita Ranch is over the years.

Golden eagles have been observed flying over the project area over the years. In 1992, EIR Biological Tech Report (BTR) did detect Golden Eagle on the ranch. The present Bio does not. However, The EIR BTR says "All of these flights are assumed to have been transit flights and likely not foraging efforts." This is an assumption not a scientific fact. The project will destroy Golden Eagle foraging habitat so must be mitigated. Lights and new associated power lines may cause problems. Golden eagles have been electrocuted by power lines.

**QUESTIONS:** How do you intend to completely avoid impacts, not mitigate them? What kind of mitigation will you provide as compensation for mitigating Eagle foraging habitat. The analysis must include GOEA activity per USFWS requirements of a 10 mi radius. How will these issues be mitigated? Injury/death cannot be mitigated, must be avoided. How will this be done? There will be loss and there must be avoidance of foraging habitats.

[https://books.google.com/books?id=L15igJ-uhkoC&pg=SA66-PA17&lpg=SA66-PA17&dq=golden+eagles+fanita+ranch&source=bl&ots=N5PO7uulwi&sig=ACfU3U36YPb547k4FMZyOkCiSabYv-NPiw&hl=en&sa=X&ved=2ahUKewiS5P\\_NpMfqAhU7Ap0JHa6DAIgQ6AEwFXoECBoQAO#v=onepage&q=golden%20eagles%20fanita%20ranch&f=false](https://books.google.com/books?id=L15igJ-uhkoC&pg=SA66-PA17&lpg=SA66-PA17&dq=golden+eagles+fanita+ranch&source=bl&ots=N5PO7uulwi&sig=ACfU3U36YPb547k4FMZyOkCiSabYv-NPiw&hl=en&sa=X&ved=2ahUKewiS5P_NpMfqAhU7Ap0JHa6DAIgQ6AEwFXoECBoQAO#v=onepage&q=golden%20eagles%20fanita%20ranch&f=false)

<https://groups.io/g/SanDiegoRegionBirding/message/9253>

<http://www.santeelakes.com/wp-content/uploads/2016/10/NEWBirdlist2016.pdf>

#### **OTHER ENDANGERED SPECIES**

"Fanita Ranch provides habitat for 21 mammal species, 22 species of reptiles and amphibians, and twenty-nine species of butterflies and over 100 bird species. Fanita Ranch is an essential biological reservoir and serves as a strategic biological linkage to adjacent open spaces within the Multiple Species Conservation Program in San Diego County."

The endangered Quino checkerspot and Hermes butterflies, and least Bell's vireo bird are located here. The southern portion of Fanita Ranch has the bulk of 39 pair of Coastal California gnatcatcher and 40 individuals. Coastal California gnatcatcher is on the federally threatened bird species list.

The endangered Hermes butterflies have been documented in north Santee, where the project would be. Furthermore, USFWS is looking for restoration and reintroduction sites for these butterflies.

[https://www.fws.gov/carlsbad/documents/HCB\\_SSA\\_V1.pdf](https://www.fws.gov/carlsbad/documents/HCB_SSA_V1.pdf) (P 25)

**QUESTIONS:** How do you plan to help the protection, restoration and reintroduction effort for these endangered beings?

<https://preservewildsantee.org/fanita-ranch/>

#### **MOUNTAIN LION**

There have been mountain lion sightings in San Diego County. Although many older are tagged, younger lions may not be. The mountain lion is protected as a CESA species, the EIR incorrectly denotes it without such status.

QUESTIONS: Has this project provided compensatory mitigation as required, including cumulative impacts due to increasing human-wildlife interaction?

With all of the trails that will be sculpted through these wildlands, animal contact could result in loss of this wildlife. How will this issue be addressed?

Scripting of mitigation to the future cannot be permitted without performance standards, success criteria, enforcement, guarantee of enforcement and restoration funding, etc. Please explain how you intend to do so.

[https://sdmmp.com/upload/SDMMP\\_Repository/0/93mzxyg1f7sdk6hbp482cvrw0q5nj.pdf](https://sdmmp.com/upload/SDMMP_Repository/0/93mzxyg1f7sdk6hbp482cvrw0q5nj.pdf) p 42  
<http://www.sdparcs.org/content/sdparks/en/AboutUs/mountain-lions.html>

#### GROUND TRUTHING ANALYSIS IS REQUIRED

Also for ALL the above wildlife, models were used in lieu of ground-truthing. Models are not good enough because they tell nothing about abundance, breeding, movement, status, density, seasonal use, etc.

#### DEFERRING MITIGATION DETAILS TO THE FUTURE

In several instances, scripting mitigation details are deferred largely to the future. This is not good enough, there are court cases supporting this.

#### ARCHEOLOGICAL / HERITAGE / Kumeyaay sites

There are archeological/heritage/Kumeyaay grinding stone sites. See the following links.

QUESTION: The Revised EIR discloses that the required consultation with tribes has NOT been concluded. When and how will all sites be mapped out and identified? How will you ensure that no sites will be harmed? When will consultation with Tribes be concluded?

<https://www.cityofsantee.ca.gov/home/showdocument?id=18999>

[https://www.keepsandiegomoving.com/Libraries/Bike\\_Projects/Appendix\\_E\\_Cultural\\_Resources\\_Technical\\_Report.sflb.ashx](https://www.keepsandiegomoving.com/Libraries/Bike_Projects/Appendix_E_Cultural_Resources_Technical_Report.sflb.ashx)

Thanks!

Take care, be safe and well,  
Regards, Cynthia Wootton

San Diego 92119

Sent from my iPhone

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**From:** C wootton [REDACTED]

**Sent:** Wednesday, September 14, 2022 12:15 AM

**To:** Chris Jacobs <CJacobs@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

**Subject:** Please vote No to stop the Fanita Ranch Project

Dear Mayor Minto, Council Members, and Mr. Jacobs,

Please vote No to stop the Fanita Ranch Project.

This project is in a high fire zone with poor evacuation.

Fires affect neighborhoods near Santee and Mission Trails Regional Park. Mission Trails is a cherished recreational center for people all over San Diego. It's ancient trees provide shade during hot summer month. Two mature trees "can produce enough oxygen for a family of four for a year....An average tree can absorb...twice the amount of carbon dioxide produced by an average car's annual mileage."

Fires diminish air quality throughout San Diego while they burn and afterwards when burned trees no longer help reduce our smog, pollution and GHG. Fires can spread to neighboring homes. Traffic and evacuation does not only affect Santee, residents, it affects all the residents around the area who shop and use transit in Santee and their friends and families. Opposition to Fanita Ranch is widespread by residents throughout San Diego County.

I live in San Diego, adjacent to Santee and MTRP. I have dear friends in Santee, I shop there, I often use Highway 52. This affects me as it does many other people.

Thanks!

Take care, be well and safe, Cynthia

Sent from my iPad

## Wendy Stratton

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**From:** [REDACTED]  
**Sent:** Saturday, September 10, 2022 5:35 PM  
**To:** Ronn Hall; Laura Koval; Rob McNelis; John Minto; Dustin Trotter  
**Subject:** Fanita Ranch, Hearing date, Sept 14, 2022 - Opposition

### FOR DISTRIBUTION TO MAYOR AND COUNCIL PRIOR TO HEARING

Sept 9, 2022

Chris Jacobs  
Principal Planner  
City of Santee  
10601 Magnolia Avenue  
Santee, California, 92071

**RE: Fanita Ranch Final Revised EIR, Case File Nos. Environmental Assessment (AEIS 2022-4, AEIS2017-11); Vesting Tentative Map (TM2022-1); Development Review (DR2022-4); Conditional Use Permits for two parks (P2022-1 and P2022-2) and a fire station (P2022-3) - Opposition**

Dear Mr. Jacobs,

Endangered Habitats League (EHL), a regional conservation group, opposes certification of the final EIR and adoption of the various approvals under consideration. Given that re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022, this hearing should be postponed.

In any case, the FREIR remains inadequate as a document for informed decision-making. The fire-related and evacuation defects identified by the court have not been rectified. This is documented in expert comment by Reax Engineering and Griffin Cove Transportation Consulting. The project remains a dangerous hazard to current and future residents. In addition, the project hopelessly fragments prime wildlife habitat and does not mitigate for impacts to the California gnatcatcher.

Finally, the "Essential Housing Project" certification would avoid accountability to the will of the voters, as reflected in a citizens initiative for general plan amendments. Such bypassing of state law should not succeed. Thank you for considering our views.

Yours truly,

Dan Silver

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Dan Silver, Executive Director  
Endangered Habitats League  
8424 Santa Monica Blvd., Suite A 592  
Los Angeles, CA 90069-4267

[REDACTED]  
<https://ehleague.org>

**From:** [Dana Gavis](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Sunday, September 11, 2022 10:02:19 AM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

**Wendy Stratton**

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**From:** [REDACTED]  
**Sent:** Monday, September 12, 2022 9:51 PM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; Dustin Trotter; John Minto  
**Subject:** Fanita Ranch, Item 8

Dear Mr. Jacobs and City Council,

In reference to the Santee city council's planned action to take a vote on approval of the Fanita Ranch housing development on September 14, 2022, I strongly urge the council to vote against approval of this development.

The development site is located entirely within a CALFIRE designated Very High Fire Hazard Severity zone. With steep and rugged terrain on all sides, emergency egress of the development residents would be very constrained in event of a fast-approaching wildfire. With only two surface streets for emergency egress which feed into existing neighborhoods to the south, there is risk that the streets could become gridlocked and impassable, trapping residents of the new and existing neighborhoods if mass evacuations became necessary in event of a fast-approaching wildfire. This would put lives of Fanita Ranch residents and adjacent neighborhood residents at risk.

There is no direct access for residents to SR 67 to the east, nor direct access to Scripps Poway Parkway to the north. Access to SR's 67, 52, and 125 would be available only to the south through several miles of existing neighborhood surface streets.

Several court cases have ruled against previous attempts to build the Fanita Ranch development on this site. In those cases, the rulings were against building the development on the grounds of fire danger and corresponding risks to the lives, injury, and loss of property of residents in new and existing neighborhoods. The most recent ruling was made by the San Diego Superior Court in March 2022.

The Cedar Fire in 2003 burned through that site with incredible speed and intensity, with little to no warning, destroying hundreds of homes in Scripps Ranch bordering to the north, and threatened communities to the south resulting in mandatory short notice evacuations. I was a resident in one of those neighborhoods then and still a resident there today. That is a day which I will never forget.

The citizens of Santee passed Measure N to assure that residents have the ability weigh in on decisions regarding the Fanita Ranch development and any other projects that violate the Santee General Plan. Additionally, a voter referendum was legally adopted to allow Santee citizen input via an up or down vote on the Fanita Ranch development. The most recent EIR addressing fire danger impact and mitigations from this development was created by a consultant firm which was hired and paid for by the Fanita Ranch developer, and very predictably concludes in favor of the development. As such, alternative unbiased input, including citizen input is needed and warranted.

I request that receipt of this email be acknowledged, and that it be retained and made available as a matter of administrative record in opposition to the Santee City Council's approval of the Fanita Ranch development.

Very Respectfully,  
David Kramer  
Santee resident  
[REDACTED]

**Wendy Stratton**

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**From:** [REDACTED]  
**Sent:** Saturday, September 10, 2022 4:50 PM  
**To:** Dustin Trotter; John Minto; Rob McNelis; Laura Koval; Ronn Hall; Chris Jacobs  
**Subject:** Please disapprove Fanita Ranch, Item 8, at your Wednesday meeting

Dear Mr. Jacobs and City Council members,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

The City council is being asked to illegally exclude the required public vote and re-approve the massive 3,000-unit Fanita Ranch sprawl subdivision as Item 8 at your 6:30 PM meeting this Wednesday, September 14. Item 8 approval of Fanita Ranch with the exclusion of the court required public vote on the Fanita Ranch project would be not only be illegal, it would be unethical, anti-democracy and anti-American. I urge you to reject it.

The proposal would more than double the units allowed by the Santee General Plan. I urge the City Council to oppose this sea of new traffic.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone would create significant risk to new residents and to existing residents that must use the same routes for evacuation.

The Final Revised Environmental Impact Report remains inadequate on fire safety issues.

The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program.

Thank you,

Don Wood  
[REDACTED]



# DUDEK

MAIN OFFICE  
605 THIRD STREET  
ENCINITAS, CALIFORNIA 92024  
T 800.450.1818 F 760.632.0164

Marni Borg  
Principal Environmental Planner  
Development Services Department  
Santee, CA 92071

September 13, 2022

Dear Ms. Borg,

Dudek has reviewed the updated San Diego County Operational Area Emergency Operations Plan and Annex Q Evacuation (adopted August 30, 2022) for consistency with the Fanita Ranch Evacuation and Fire Protection Plans. The updated EOP Annex Q, which is most applicable, provides clarifications to previous versions and additional details to assist agencies responsible for preparing evacuation plans and managing evacuations. Our review did not identify new content that conflicts with the Fanita Ranch Evacuation Plan, Fire Protection Plan or their approach or intent. Based on this review, it is our opinion that the provided Fanita Ranch fire and evacuation analysis are valid and none of the analysis or conclusions of these technical reports requires updating.

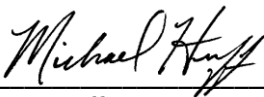
The updated EOP and Annex Q may be viewed in their entirety at this Web location:

[https://www.sandiegocounty.gov/content/sdc/oes/emergency\\_management/oes\\_jl\\_oparea.html](https://www.sandiegocounty.gov/content/sdc/oes/emergency_management/oes_jl_oparea.html)

Please let me know if you have any questions or need any additional information.

Sincerely,

Dudek Fire Protection Planning Team



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Michael Huff  
Principal Fire Protection Planner

cc: Jeff O'Connor, Homefed Corporation

Marni Borg  
Principal Environmental Planner  
Development Services Department

September 13, 2022

Dear Ms. Borg,

This letter provides Dudek's Fire Protection Planning Team's response to the comment letter provided by REAX Engineering on August 30, 2022, after the close of the CEQA comment period. Although the comment letter was not provided within the comment period, it raises several concerns that are addressed in the following paragraphs. Introductory paragraphs on page 1 do not require response.

In summary, the provided comments do not raise new issues that have not already been adequately addressed in the Recirculated Sections of the Final Revised EIR. As such, Dudek's findings and conclusions as provided in the Project's FPP (REIR Appendix P1) remain unchanged. The Project is considered defensible from wildfire and if needed, the Project can be evacuated due to the options provided to evacuation managers.

Comment #1: Item 1 and 1.1 (pages 2 through 5); comment suggests that the FPP's fire history analysis did not include all historic ignitions and that the commenter's inquiry looking at 3 - and 1-mile radii showed more ignitions. The comment suggests that these additional distant ignitions highlight the frequency of ignitions near the project site and the potential for those ignitions to spread into the Project Site and surrounding communities. The comment provides three supporting graphics.

Response #1: The comment is inaccurate regarding the fire history provided in the FPP and alleged limitations regarding the radius used in that document. As stated in the FPP, Dudek utilized a 3-mile buffer for fire history, using the most complete record of fire ignitions available (CAL FIRE Fire and Resource Assessment Program). While the comment provides ignition data from other sources, these sources focus on ignitions that did not develop into wildfires above 10 acres. The ignitions that matter most are those that escape initial containment efforts and that is why they are the focus of the FPP's analysis. The number of fires recorded to occur within 3 miles of Fanita Ranch is not an unusually high number of fires. Most areas of California have had numerous wildfires occur within three miles. The comment also inaccurately summarizes FPP Table 2, which specifically indicates that it is limited to listing 10-acre + fires from the CAL FIRE database occurring within 3 miles of the Project site, along with those that burned onto the site. It does not purport to present all ignitions. Further, the fire history recited, using the various sources for ignitions actually disproves the commenter's main suggestion that distant ignitions result in fires that spread toward and may threaten the project site and surrounding communities. . The comment indicates that there are many more small ignitions not recorded because they all remained below 10 acres in size, which supports the fact that vegetation ignitions do not typically turn into larger wildfire events. In California, 95% of ignitions are controlled below 10 acres<sup>1</sup>.

Comment #2: Item 1.2 (page 5); comment summarizes Santa Ana winds and their effects on fire behavior. The comment suggests that given the project's location within a Very High Fire Hazard Severity Zone (VHFHSZ), the evacuation strategy of the project could be overwhelmed.

Response #2: The comment's summary of Santa Ana winds is generally accurate. However, it must be clear that the VHFHSZ are established via modeling by CAL FIRE that incorporates a site's fire environment, including fuels, terrain, and weather (Santa Ana winds included). Fire hazard severity zones have been established to ensure that new development occurring within these areas is built to a level of fire protection that is acceptable to fire agencies, specifically, building to the ignition resistant requirements of the California Building Code's Chapter 7A and incorporation of access, water, response and defensible space. Thus, the fire hazard severity zone has already contemplated future development and the site specific FPP prepared for the Project conducts an even more robust evaluation of the fire environment and the protective features that are appropriate for a defensible community. The hazard ratings have nothing to do with whether an area can be developed or not, but do signify a higher level of fire safety is necessary. This is similar to seismic ratings - where builders need to include seismic features to make buildings safer when they are located within fault zone areas. In addition, the evacuation strategy is not anticipated to be overwhelmed because it has been contemplated, modeled, coordinated with SFD, and features built in (roadside FMZ, coordinated fire outreach, public education) that provide evacuation managers with flexibility and options. The evacuation strategy cannot be overwhelmed because it is designed to be flexible and enable an adaptive approach with a contingency of on-site, temporary sheltering, if needed.

Comment #3: Item 1.3 (no response required), 1.3.1 indicates a reference to an incorrect table in FPP Appendix B and questions the FPP's fire behavior modeling wind inputs, suggesting that the FPP results are not able to be recreated. The comment focuses on wind as a fire behavior modeling input variable and questions the use of 20-foot wind speeds as inputs in the BehavePlus modeling effort conducted in support of the FPP.

Response #3: As stated on page B-6 of FPP Appendix B, the County of San Diego Department of Planning and Land Use developed guidelines to identify acceptable fire behavior modeling weather inputs. These guidelines identify required wind speed inputs for modeling and state that wind measurements are recorded at 20 feet above the ground. This wind measurement height is standard and consistent among data recorded at remote automated weather stations (RAWS) throughout the country. As noted by the commenter, mid-flame wind speeds are needed to calculate fire behavior outputs in BehavePlus. This is achieved by adjusting 20-foot wind speed values before entering them into the BehavePlus software or entering 20-foot wind speed values and a wind adjustment factor (WAF) into the BehavePlus software simultaneously. Dudek utilized the latter approach, entering a WAF of 0.4 for all BehavePlus modeling runs conducted in support of the FPP. The commenter attempted to recreate modeling efforts using BehavePlus and utilized WAFs identified in a document published by the National Wildfire Coordinating Group (NWCG), specifically using a WAF of 0.6 for chaparral and a WAF of 0.4 for sagebrush in their BehavePlus model runs, which resulted in higher flame length values than those resulting from the analysis conducted for the FPP. Dudek correctly utilized an averaged WAF of 0.4 for all model runs based on the long-term, localized experience of the fire behavior analyst. This WAF was selected to represent vegetation located in mid-slope and top of slope locations on the project site. As identified in the NWCG document identified by the commenter, such slope locations would result in WAFs of 0.3 (mid-slope) and 0.5 (top of slope). The average of these two values (0.4) was used to support preparation of the FPP for the project site. The modeling outputs do not underestimate fire behavior during a Santa Ana wind event. The modeling is repeatable, uses inputs from credible sources, and a WAF that is reasonable and logical and therefore, no adjustments are proposed for the modeling results.

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<sup>1</sup> CAL FIRE, Scott McLean, Orange County Register, September 14, 2017; "Over the last 40 years, there is a surprising trend with California wildfires"

Comment #4: Item 1.3.2 (pages 7 and 8) correctly summarizes the FPP's terrain discussion. The comment also suggests that the FPP did not adequately consider the area's terrain in the modeling, stating that only terrain within and immediately adjacent to the parcels were considered. The comment provides a figure (Figure 6) illustrating the site's slopes.

Response #4: The comment is inaccurate. Dudek modeled the entire Fanita Ranch, which includes large areas beyond the development footprint. Further, fire behavior modeling is based on the premise that it is the terrain (and fuels) directly adjacent to a Project that have the largest potential effect on a project's buildings. This stands to reason, as the closer fuels and steep slopes are, without mitigating measures, the more likely they could develop flames and heat that could intersect buildings or the built environment. However, Fanita Ranch has been designed with wide FMZs around its perimeters, pushing the nearest unmaintained vegetation and steep slopes away to the point that flame lengths in the unmaintained vegetation are less than half the width of the provided FMZ. The distant landscapes and fuels up to a few miles away may impact a community through the ember cast they can produce, but those potential threats have been comprehensively evaluated and addressed for Fanita Ranch's proposed buildings and landscapes.

Comment #5: Item 1.3.3 (page 8) expresses disagreement with the FPP's classification of the development site as non-burnable within the fire behavior models. It also suggests incorrectly that the FPP only models fuels within the Project parcels, ignoring surrounding fuels.

Response #5: Classifying fire-hardened, ignition resistant projects like Fanita Ranch as non-burnable from a wildfire fire behavior modeling effort is standard and supported by after-action reports that indicate wildfire does not burn through these master-planned, fire protected communities like it may through older, less maintained and ignition resistant communities. Wildfire burns into the wide FMZs and is starved of fuel. Embers do not have readily ignitable fuel sources to ignite fires that burn through the community. The use of non-burnable in the Fanita Ranch footprint is considered appropriate and no changes are proposed to the modeling or modeling results. Further, the FPP modeled fuels well beyond the project's immediate adjacency. The entire Fanita Ranch was modeled with FlamMap and then specific areas with BehavePlus, both of which are often-used models with reliable fire behavior predictive capabilities.

Comment #6: Item 1.4 (page 8) focuses on human caused ignitions and claims that any new development increases the ignition risk and potential that the community's protections will be overcome.

Response #6: The comment cherry-picks from the FPP and takes umbrage with conclusions regarding human caused ignition statements made within a study referenced in the FPP. The comment wrongly suggests that the FPP does not consider the potential for human-caused ignitions. In fact, the FPP reads:

Humans (i.e., human related activities or human created features, services (i.e., powerlines and electrical equipment), or processes) are responsible for the majority of California wildfires (Syphard et al. 2007, 2008; Romero-Calcerrada et al. 2008). Certain human activities result in sparks, flames, or heat that may ignite vegetative fuels without proper prevention measures in place. These ignitions predominantly occur as accidents, but may also be purposeful, such as in the case of arson. Equipment and powerlines cause the most fires in San Diego County. After that, roadways are a particularly high source for wildfire ignitions due to high usage and vehicle-caused fires (catalytic converter failure, overheated brakes, dragging chains, tossed cigarette, and others) (Romero-Calcerrada et al 2008)). In Southern California, and San Diego County, the population living at, working in, or traveling through the wildland urban interface is vast and provides a

significant opportunity for ignitions every day. However, it is a relatively rare event when a wildfire occurs, and an even rarer event when a wildfire escapes initial containment efforts. Approximately 90 to 95 percent of wildfires are controlled below 10 acres (CAL FIRE 2019; Santa Barbara County Fire Department 2019).

Research indicates that the type of dense, master planned developments, like Fanita Ranch, are not associated with increased vegetation ignitions. Syphard and Keeley (2015) summarize all wildfire ignitions included in the CALFIRE Fire and Resource Assessment Program (FRAP) database dating back over 100 years. They found that in San Diego County, equipment-caused fires were by far the most numerous – and these also accounted for most of the area burned – followed closely by the area burned by powerline fires. Ignitions classified as equipment caused frequently resulted from exhaust or sparks from power saws or other equipment with gas or electrical motors, such as lawn mowers, trimmers or tractors and associated with lower density housing. In San Diego County, ignitions were more likely to occur close to roads and structures, and at intermediate structure densities.

As exhibits 1 through 3 illustrate, housing density directly influences susceptibility to fire because in higher density developments, there is one interface (the community perimeter) with the wildlands whereas lower density development creates more structural exposure to wildlands, less or no ongoing landscape maintenance (an intermix rather than interface), and consequently more difficulty for limited fire resources to protect well-spaced homes.

The FPP then goes on to correctly cite Keeley for the premise that high-density housing and housing built in an ignition resistant manner poses a lower risk of ignitions than low-density housing.

In sum, the comment fails to recognize that the data does not support a finding of increases in human caused ignitions from fire hardened, master planned communities like Fanita Ranch that provide protections from accidental ignitions spreading off-site. Recirculated Sections of Final Revised EIR Thematic Response 4c, d, and e provides details on how the project's system of protections has a dual role of protecting the community while minimizing on-site ignitions and creating layers of protections so that accidental ignitions do not spread off-site into open space. The comment also ignores the fact that the Fanita Ranch is currently surrounded on at least two sides by roads, development and other humans and human related ignition sources, and arguably on all sides due to the land uses occurring within the greater fuel bed around the Project. Because of this, ignition sources in the area already exist. The Project is, however, actively working to reduce potential new ignition sources and prevent fire spread, both for the Project and for the property-adjacent neighborhoods, through its provided protection requirements (See Recirculated Sections of Final Revised EIR, Thematic Response 4c, d, and e for details).

Comment #7: Item 1.5 (page 9) mischaracterizes standard limitation language to question whether the proposed Project's ability to provide safe refuge sites will be possible.

Response #7: The comment utilizes standard limitation of analysis language required for this type of risk analysis. As stated in the FPP, it is clear that new, ignition resistant buildings, especially those within a large community will not be subject to a high probability of igniting. The FPP states that "When properly implemented on an ongoing basis, the fire protection strategies proposed in this FPP would significantly reduce the potential fire threat to the community and its structures and would assist the SFD in responding to emergencies within and adjacent the Proposed Project Site. The Fanita Ranch fire protection system includes a redundant layering of protection methods that have been shown through post-fire damage assessments to reduce risk of structural ignition." This statement is strong endorsement that the fire protection approach has been designed to protect the community's structures and is required to be maintained to function as intended. Because of this design and ongoing maintenance, the



Project can be compared with other master planned communities with some of the same fire protection features that have been challenged by extreme weather wildfire and performed as anticipated and would provide the ability to temporarily refuge residents on-site. Refer to RTC 5 above for examples.

Comment #8: Item 1.6 (page 9). The comment states that Chapter 7A (CBC) is a minimum code requirement for structures in very high fire hazard severity zones and suggests the FPP's limitation language conflicts with the Project's ability to withstand wildfire.

Response #8: The comment undervalues the protections provided by CBC Chapter 7A. Each of the ignition resistant requirements of Chapter 7A have been thoroughly examined and are the result of After-Action studies (post wildfire assessments) to determine why structures were lost or saved and to then address the vulnerabilities. The requirements of Chapter 7A have been determined to address the primary reasons why buildings are lost by incorporating construction materials and methods that have proven to protect against direct flame impingement, convective or radiant heating, and embers. These requirements are reviewed and updated, as needed, every three years, to ensure that best practices continue to be implemented during the fire code adoption cycle. While there are no guarantees that a structure will not burn, the measures and features provided for Fanita Ranch are cutting edge for protecting communities from wildfire and are anticipated by professional fire protection planners and Santee Fire Department to provide the protections necessary for this development given its fire environment. This is similar to the measures provided for earthquake protection. When a building is constructed within an area considered potentially at risk of seismic activity, the building must be constructed to a higher level of protection.

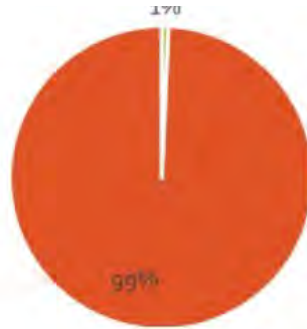
Comment #9: Item 1.7 and provided table (page 9) utilizes specific post-fire data from Ventura following the Thomas Fire to suggest that homes that had some fire protection features and were damaged or lost indicates that the Project's protection and availability to temporary refuge people on-site may become untenable.

Response #9: The comment utilizes Thomas Fire information that is generic and provides no context for whether the damaged or lost buildings were built to Chapter 7A requirements AND included wide, maintained FMZ, or were individual homes in rural areas or part of protected, master planned communities. This lack of detail allows the information to be presented as if the damaged or lost homes were comparable to those that would be built within Fanita Ranch with its system of fire protection. This is not the case. For example, the presence of an eave vent screen does not equate to having ember resistant vents that are designed specifically to keep embers out. Embers are the #1 cause for structure loss and Fanita Ranch focuses on addressing this issue. The homes lost in the Thomas Fire did not have these specialized vents. Per Figure 1 that follows, data<sup>2</sup> from the Thomas Fire that is more appropriate for comparing with Fanita Ranch indicates that there were 855 total structures affected. The number of homes damaged or lost that were built after 2010 (which includes CBC Chapter 7A requirements) to a higher ignition resistance totals 6 buildings. The number of homes damaged or lost that were built before 2010 totals 848 buildings. Therefore, less than 1 percent (0.7%) of the affected buildings were built to ignition resistant standards that are closer to those required at Fanita Ranch compared to the greater number of older, more vulnerable homes without similar fire hardening that were lost. It is not certain that the 0.7% of homes affected were built to the same robust level with the same multi-layered fire protection approach as Fanita Ranch, but the results are clear that newer, ignition resistant communities and structures perform very well against wildfire, particularly where a part of protected master planned communities.

<sup>2</sup> State Fire Marshall's Data as provided by Bob Raymer, PE, Mechanical Engineer with California Building Industry Association analysis.

## Thomas Fire

### 1. Total Structures Affected or Destroyed: 855



- Homes Built After 2010: 6
- Homes Built Before 2010: 848

### 2. Data

#### Total Homes Destroyed/Major Damage/Affected: 855

<b>Built after 1/1/10:</b>	5 destroyed	= 0.0058	(4 homes on same street)
	<u>1 affected</u>	<u>= 0.0012</u>	
	<b>6 Total</b>	<b>= 0.0070 or 0.7%</b>	

Comment #10: Item 2.1 (page 10) compares the Project with the evacuation that occurred during the Camp Fire in Paradise. It further questions the Wildland Fire Evacuation Plan's approach and assumptions as well as communications during an evacuation.

Response #10: The comment compares evacuations at Fanita Ranch, a fire hardened, ignition resistant community within a shrub dominated landscape that is approximately one mile from urbanized areas with Paradise, California which is a community built primarily in the mid 1900's within a forest landscape and approximately 12 miles from lower fuel landscapes. These are vastly different conditions and comparisons between these two communities results in major differences in wildfire behavior and how evacuations are managed. Please refer to Recirculated Sections of Final Revised EIR, Thematic Response 4e specifically for a comparison to Camp Fire and Paradise, as well as Response 4a and b for details regarding wildfire behavior and how evacuations are managed. The primary evacuation scenarios are modeled and how messaging/direction are provided are explained in detail within the Wildland Fire Evacuation Plan.

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Comment #11: Item 2.2 (page 10) questions the WFEP's shelter in place contingency, the level of planning detail for shelter in place scenarios, and then incorrectly quotes from the WFEP regarding Safety Zones.

Response #11: The level of planning within a project-level evacuation plan is intentionally provided at generic levels as every evacuation event is unique, fluid, and is best managed by incident managers in coordination with in-the-field personnel. Technology available for evacuation management in San Diego County is robust and evacuations are managed to move those at risk, per Recirculated Sections of Final Revised EIR, Thematic Response 4a and b. Regarding the shelter in place structures, most of the buildings on site can be considered to include the required ignition resistance and other protections to be used, as a contingency, as a temporary refuge. The shelter in place sites would be designated as such during a wildfire evacuation event by the SFD or law enforcement agency involved with evacuation management. The WFEP indicates that there are several locations where shelter in place could be successfully completed, including the school, the village, large parks, and others, but the appropriate use of these areas would be determined, as needed, during the event. Each of these sites will be far from the wildland areas, surrounded by urbanized development, and highly defensible. The comment confuses Safety Zones (which are for firefighters) with shelter in place sites. Please refer to the Project's WFEP for details regarding Safety Zones and their intended use. Although no community has been directed to shelter in place, it is critical to have this option available as a contingency plan, as an option if an evacuation is interrupted. This is a differentiator for new communities that is not available in older, more vulnerable communities.

Comment #12: Item 2.3 (pages 10 and 11) suggests that the WFEP's limitation language suggests that evacuation will rely on human factors, and that relying on human factors in a fire hazard severity zone will be dangerous.

Response #12: The comment regarding the WFEP's standard limitations/no guarantees ignores the fact that the vast majority of neighborhoods within a fire hazard severity zone and/or WUI area do not include evacuation plans or organized approaches to evacuation, relying entirely on the emergency management system to facilitate evacuations. Taking a proactive approach to evacuation, the Project provides a multi-layered, vetted plan and providing flexibility and optionality for those managing the event. The emergency managers will be working with a community population that is more aware and prepared than most because the Project is conditioned to require the HOA to provide ongoing outreach. More evacuation awareness and readiness will not result in more confusion than one that is not aware. The evacuation component is a highly managed, practiced system of coordination between many agencies. SD County evacuations are very successful and getting more and more efficient with investments in resources and technology. In addition, SFD has analyzed and is comfortable with the community's protection and evacuations plans. Further, any community that is adjacent to Fanita Ranch today is subject to potential for wildfire, but they are not nearly as protected from it as Fanita Ranch is. Most of the Fanita Ranch project's built-in protections are "passive", that is, they do not rely on ongoing human actions; for example, construction methods and materials, fire resistant landscape, hardscape, automatic sprinklers.

Comment #13: Item 2.4 (page 11) claims that the WFEP has not addressed evacuations that may impact existing communities downstream of the Project and that an evacuation that affects one of these communities will include all of them.

Response #13: The comment is incorrect. Wildfire scenarios that were developed with input and coordination from the SFD as the most probable scenarios were evaluated. This included scenarios where Project and existing communities were affected, and targeted populations were evacuated. Evacuations occur via targeted messaging and in the field direction. This is done to minimize potential vehicle congestion and to focus on moving those who



need to be moved vs moving larger populations when it is unnecessary. Please refer to the WFEP and its technical analysis provided by Chen Ryan Associates for details (Appendix D to Appendix P2 of Recirculated Sections). Also, please refer to Recirculated Sections of Final Revised EIR, Thematic Response 4a and b for evacuation procedure details.

Comment #14: Item 2.5 and Figures 8 and 9 (pages 11, 12 and 13) asserts that the FPP did not evaluate a fire ignition within the Project or adjacent to the Project under Santa Ana wind conditions and that in the opinion of the commenter, the increase in ignition probability from the Project significantly increases risk and potential wildfire exposure for downwind communities. The comment provides fire spread modeling results graphics.

Response #14: The comment's provided modeling is not realistic as they assume the fire spreads through the Fanita Ranch community as if it was consistent with the unmaintained open space fuels. This is not the case and is supported by many examples of how modified fuels, maintained landscapes, pavement, hardened buildings do not spread wildfire as indicated in the comment's maps. Please refer to RTC 5 above for examples. Figure 8 indicates an ignition north of the Project. It is not clear how this is a Project ignition and Dudek's fire behavior modeling included ignitions to the north/northeast of the Project. Figure 9 also incorrectly models a fire burning through hardened landscapes. The western leg of this fire spread is possible, but in this case, evacuations would simply be to relocate potentially threatened areas to other on-site areas and/or off-site via the 2nd access. The comment's conclusions regarding safety of area residents and the potential for increased risk is opinion unsubstantiated by facts. The FPP and WFEP have comprehensively evaluated the site, its fire environment, the types of wildfires that may occur, and how evacuations would be managed. In any event, the evacuation traffic model analysis provided by Chen Ryan Associates (Exhibit D to Appendix P2 of Recirculated Sections) considered evacuations from nearby existing neighborhoods together with the project. In each case, the conclusions were that the project is defensible, provides protections for existing neighborhoods, and that evacuations of the Project and the existing community can be managed and completed successfully. Please refer to Recirculated Sections of Final Revised EIR Thematic Response 4a, b, c, d for more details regarding evacuation, shelter in place, and fire protection.

Comment #15: Summary and Concluding Remarks (page 13) indicates that the comment letter highlights several deficiencies in the Recirculated Sections of Final Revised EIR and its analysis, that the FPP does not adequately address ignition probability increases, the additional evacuation traffic's threat to surrounding communities, and that the FPP acknowledges the likely recurrence of wildfire in the area, and how the Project is justified.

Response #15: Per responses to each of the provided comments, the opinion that deficiencies have been identified in the Recirculated Sections of Final Revised EIR's analysis are unfounded. The FPP analyzed and addressed the potential for increased ignitions and appropriate mitigation measures/features were provided as Project conditions to minimize the potential for on-site ignitions and for the potential of an accidental ignition escaping through the wide FMZs into off-site fuels. The FPP further contemplated that if such an ignition escaped and threatened downwind communities, FMZ would be critical for protecting structures. Thus, the FPP requires FMZs be provided for neighboring communities. As noted, the ignition sources and wildfire risk exist today via existing roads, human populations and land uses that surround the Fanita Ranch, so the Project provides a large fuel break on the landscape and provides a FMZ immediately adjacent these communities as an additional fire safety feature. In contrast to the comment's opinion, the WFEP comprehensively evaluates evacuations, including those that may affect existing communities. Lastly, the FPP analysis has considered the fire return interval (instead of ignoring it) and based on the findings, designed a project that can withstand the types and frequency of wildfire the data

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indicates may occur. This effort of addressing identified issues results in development of a safer, more defensible community that is provided fire protection at a level appropriate for the wildfires that may occur in its vicinity.

As indicated by these responses, the concerns raised by the commenter are addressed and do not raise any new, unanalyzed issues. The conclusions and findings of the Recirculated Sections of Final Revised EIR are confirmed.

Thank you for the opportunity to submit this response letter.

Sincerely,

Dudek Fire Protection Planning Team:



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Michael Huff  
Principal Fire Protection Planner

Att.:

cc: *Jeff O'Connor, HomeFed Corporation.*



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Chris Lautenberger  
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**30 August 2022**

Peter Broderick, Urban Wildlands Program  
Center for Biological Diversity  
PO Box 11374  
Portland, OR 97211

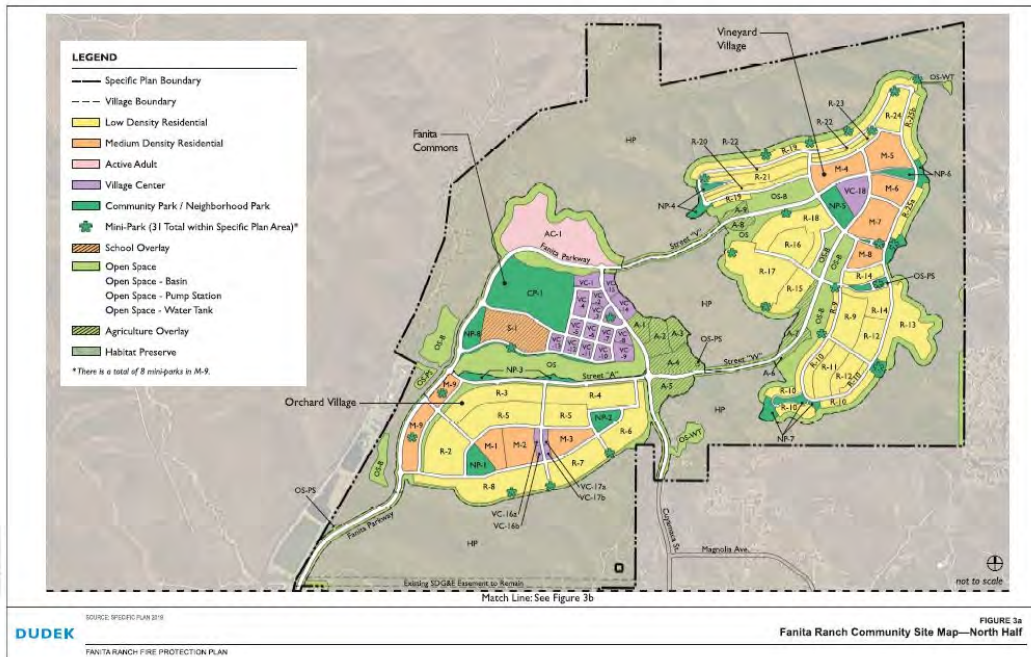
**Subject: Fire risk impacts on evacuation of Fanita Ranch**

Dear Mr. Broderick,

At your request, Reax Engineering Inc. (Reax) has reviewed the following documents associated with the Draft Final Environmental Impact Report (EIR) for the proposed development of Fanita Ranch in the County of San Diego, California:

- *Appendix P-1, Fanita Ranch Fire Protection Plan, June 2022 (FPP)*
- *Appendix P-2, Wildland Fire Evacuation Plan, June 2022 (WFEP)*
- *Draft Environmental Impact Report, June 2022 (EIR), specifically Section 4.18 (Wildfire)*
- *Exhibit 6, Fanita Ranch Project – Santee, California, Recirculated Sections of Final Revised Environmental Impact Report, Griffin Cove Transportation Consulting, PLLC, July 2022*

We have analyzed potential fire/life safety impacts of this planned development based on the claims and responses provided in the listed documents. A summary of our findings is provided herein, organized by section of the Fire Protection Plan or Wildland Fire Evacuation Plan.



**Figure 1. Development footprint of Fanita Ranch from FPP Figure 3a**

## 1. Appendix P-1 Fanita Ranch Fire Protection Plan

1.1 On page 17 of the Fire Protection Plan the concept of analyzing past fire history to gain insight into potential future fires is introduced:

Fire history information evaluated in relation to Fanita Ranch, as described in section 2.2.6 of the Fanita Ranch FPP, indicates that much of the site’s vegetation last burned in 2003. As such, the property’s vegetation is still considered in recovery, with younger plants and reduced fuel loading, but over time, without disturbance, would be expected to increase in biomass.

The topic is revisited in greater depth in Section 2.2.7 on page 22:

Fire history represented in this FPP utilizes the Fire and Resource Assessment Program (FRAP) database. FRAP summarizes fire perimeter data dating to the late 1800’s, but which is incomplete due to the fact that it includes only fires over 10 acres in size and has incomplete perimeter data, especially for the first half of the 20th century (Syphard and Keeley 2016). However, the data does provide a summary of recorded fires and can be used to show whether large fires have occurred in the project area, which indicates whether they may be possible in the future.

The FPP identifies 15 historical fires that have burned within the project site boundaries since 1910. These fires are summarized in FPP Table 2 which is replicated below as Figure 2.

Fire Year <sup>1</sup>	Fire Name	Total Area Burned (acres)
1910	Un-named	1,315
1941	Un-named	406
1942	Un-named	1,221
1943	Un-named	292
1950	Quarry	281
1966	Carlton Hills	330
1974	Un-named	155
1974	Un-named	68
1974	Un-named	25
1975	Un-named	25
1980	Assist #69	745
1981	Assist #72	696
1987	Assist #38	380
1989	Magnolia	46,291
2003	Cedar	280,278

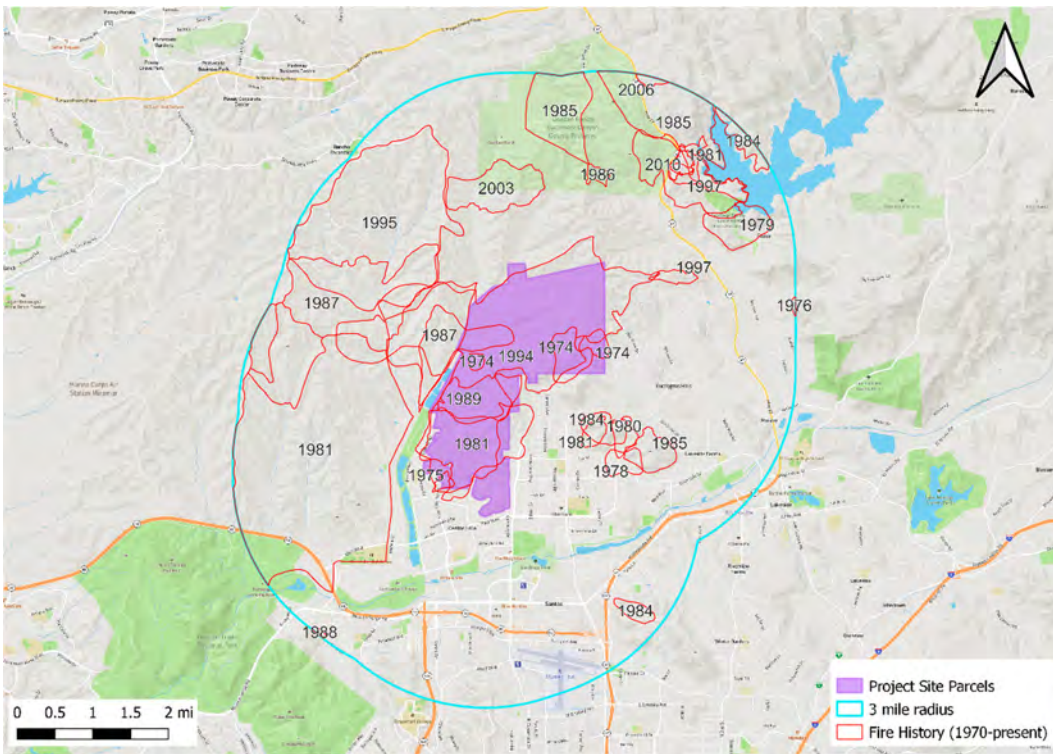
Based on polygon GIS data from CALFIRE's Fire and Resource Assessment Program (FRAP), which includes data from CAL FIRE, USDA Forest Service Region 5, BLM, NPS, Contract Counties and other agencies. The data set is a comprehensive fire perimeter GIS layer for public and private lands throughout the state and covers fires 10 acres and greater between 1878-2018.

**Figure 2. FPP Table 2 showing 3-mile fire history from 1910 to present**

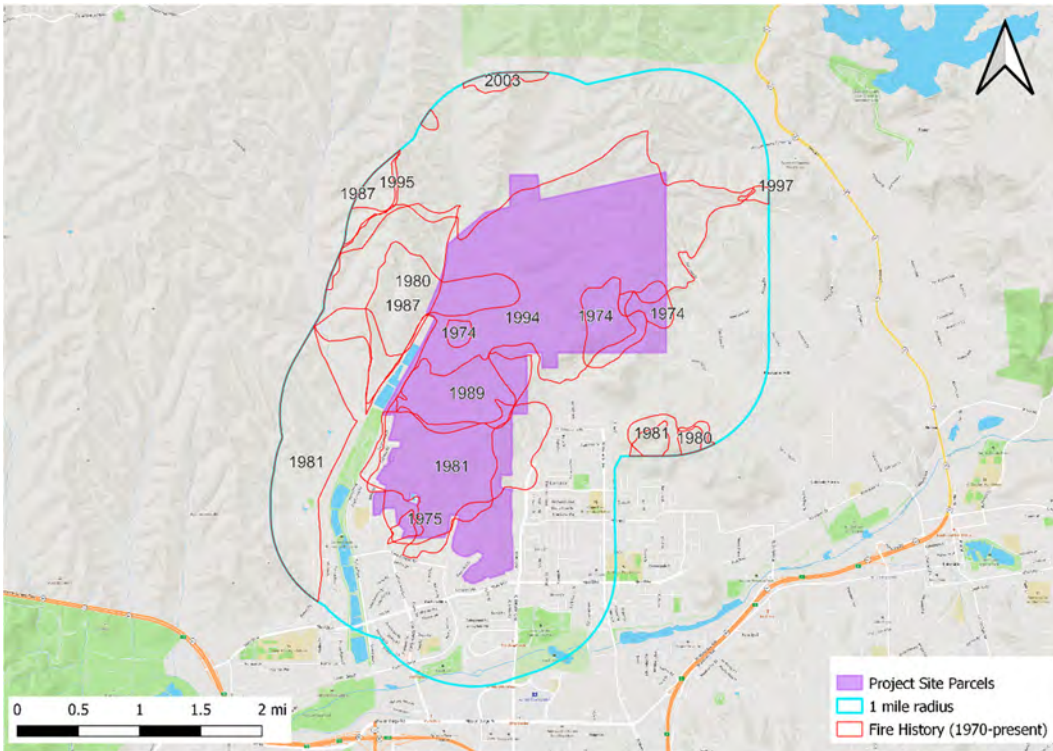
It is important to understand that the fires listed above are only those fires that were large enough to be recorded in CAL FIRE's perimeter database. Since 2002, the CAL FIRE perimeter database has included brush fires only 50 acres in size or larger. However, fires less than 50 acres in size are certainly large enough to trigger an evacuation and destroy structures. Additionally, the fires in FPP Table 2 appear to be only those fires that encroached on the project site. However, we found that since 1970, 32 fires in the CAL FIRE perimeter database have burned within 3 miles of the project site (Figure 3) and 17 fires have burned within 1 mile of the project site (Figure 4). Additionally, we analyzed the United States Forest Service Fire Occurrence Database<sup>1</sup> and found that between 1992 and 2018, there were 19 ignitions within 3 miles of the project site and 6 ignitions within 1 mile of the project site (Figure 5). This highlights the frequency of ignitions near the project site and the potential for those ignitions to spread into the Project Site and surrounding communities.

<sup>1</sup> <https://www.fs.usda.gov/rds/archive/Catalog/RDS-2013-0009.5>

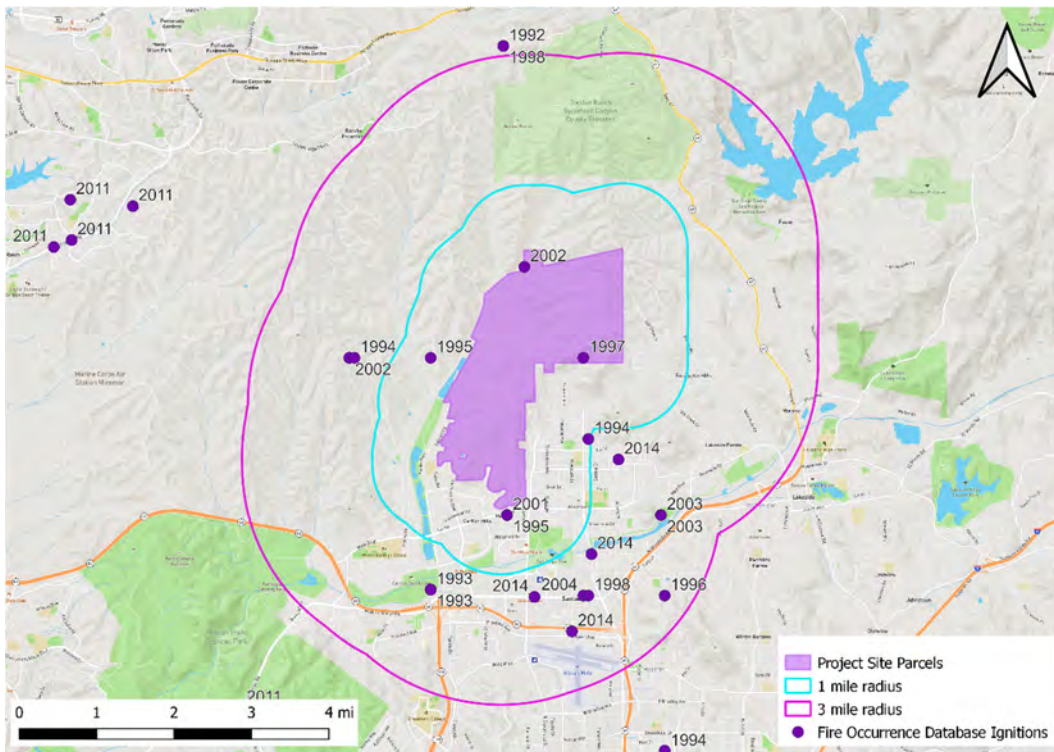




**Figure 3. Fire history within 3 miles of the project site since 1970**



**Figure 4. Fire history within 1 mile of the project site since 1970**



**Figure 5. Fire Occurrence Database ignitions within 1 and 3 miles of the project site**

1.2 The effects of Santa Ana winds (or Santa Anas for short) on fire behavior in Southern California cannot be overstated. Santa Anas are winds that occur when high pressure forms in the Great Basin (Western Utah, much of Nevada, and the Eastern border of California) with lower pressure off the Southern California coast. As air travels westward from the Great Basin, the air rises in elevation over the mountain ranges and dries as a result of orographic lift. As air then descends from these high elevations, the air's temperature rises dramatically (approximately 5 degrees Fahrenheit for every 1000 feet decrease in elevation). This rise in temperature is accompanied by a drop in humidity, further drying the air.

The seasonality of the Santa Ana winds exacerbates the fire risks in Southern California. Southern California typically sees little precipitation between May and November, which is when herbaceous surface fuels are completely cured and live woody fuel moisture (*i.e.* water in shrub-like vegetation) approaches annual lows. Santa Ana winds typically occur in October, November, and December after months of dry conditions. Santa Ana winds may gust to 60 miles per hour or higher. Santa Anas pose major safety concerns for the Fanita Ranch development. As the FPP notes, much of the existing vegetation on the Project site is mixed chaparral, which exhibits rapid rates of fire spread and is conducive to spotting.

These conditions are, in part, why CAL FIRE has classified the area planned for development as a Very High Fire Hazard Severity Zone (FHSZ), the highest wildland fire risk designation in California. Given past fire and ignition history, the annual nature of Santa Ana winds, and the location within Very High FHSZs, it is possible that the evacuation strategy of the proposed development at Fanita Ranch could be overwhelmed under severe fire weather conditions.

1.3 Section 4 and Appendix B of the FPP describe fire modelling that was conducted as part of the Draft Environmental Impact Report. The FPP uses this fire modelling under various weather conditions to provide estimated spread rates and flame lengths that are in turn used to assess the efficacy of planned fuel management zones and other fire protection features. The primary inputs that affect fire modelling

are wind speed, topography, and fuels (including representative fuel models and moisture content). The analysis of each of these components in the FPP is addressed below.

1.3.1 **Wind** In the project area, the primary driver of fire risk is Santa Ana wind events which are often with low relative humidity (less than 10 percent). The FPP used 41 mph as an upper limit on sustained wind speed based on the County of San Diego Wildland Fire and Fire Protection Report Format and Requirements<sup>2</sup>. County requirements list summer, Santa Ana, and peak conditions as distinct weather scenarios that must be included in the report. Peak conditions in the County requirements were set at the highest wind speed recorded by a RAWS during the 2003 Cedar Fire.

Footnote 1 on page B-10 mentions peak wind gusts recorded by Fire Behavior Analysts (FBAN) on the Cedar Fire. The footnote goes on to describe how peak wind gusts for the Project Site were used in BehavePlus modeling. The note also contains a reference to the incorrect table as Table 9 does not exist and Peak Weather fine dead fuel moistures are located in Table 3 of the FPP.

Fire Behavior Analysts recorded peak wind gusts up to 50 mph during the Cedar Fire. Using Table 9 Peak Weather fine dead fuel moisture values and observed wildfire peak gusts for the Project Vicinity, the BehavePlus modeling efforts would result in flame lengths of 66.1 feet, spread rates of 10.1 mph, and fireline intensities reaching up to 51,337 Btu/ft/s. Viable airborne embers could be carried downwind for 2.8 miles and ignite receptive fuels.

Since midflame wind speed, not 20-ft wind gust, is typically used in fire behavior calculations developed with BehavePlus it is not clear how wind gust was taken into account in the FPP. The confusion regarding wind inputs is compounded by the fact that Table 4 of the FPP, which lists weather variables from County of San Diego Standards, includes 20-ft wind speeds. This lack of clarity in data inputs and methodology impedes substantiation of the results presented in the FPP.

Nevertheless, we attempted to recreate the FPP's BehavePlus modelling runs based on the data provided in Appendix B – Fire Behavior Analysis of the FPP. As noted earlier, conversion from 20-ft flame speeds to midflame wind speeds had to be performed manually as it was not provided in the Fire Behavior Analysis. Adjustment factors from the National Wildfire Coordinating Group (NWCG) were used and are shown in Table 1.

**Table 1. NWCG 20-ft Wind Speed Adjustment Factors<sup>3</sup>**

<b>Fuel Model</b>	<b>Adjustment Factor</b>
4 (Chaparral)	0.6
1, 3, 5 (Short grass, Long grass, Brush)	0.4

Using the Summer and Peak weather variables from Table 4 of the FPP, the Summer 20-ft wind speed of 19 mph was converted to midflame wind speeds of 11.4 mph in chaparral and 7.6 mph in sagebrush. Likewise, the Peak 41 mph 20-ft wind speed was converted to a midflame wind speeds of 17.6 mph in chaparral and 16.4 mph in sagebrush. The scenario conditions described in Table 8 were replicated to the extent possible, and our results are reported alongside the results provided in the FPP to facilitate comparison (Table 2-Table 5).

<sup>2</sup> <https://www.sandiegocounty.gov/pds/docs/Fire-Report-Format.pdf>

<sup>3</sup> <https://www.nwcg.gov/course/ffm/fire-behavior/82-midflame-windspeed>



**Table 2. Scenario 1 results comparison – peak weather, 25-35% slope**

Slope (%)	FPP	Current		
	25-35	25	30	35
Flame Length (ft)	66.1	84.9	85.1	85.3
Spread Rate (mph)	10.1	17.5	17.6	17.7

**Table 3. Scenario 2 results comparison – peak weather, 35% slope**

	FPP		Current	
	Chaparral	Sage-chaparral	Chaparral	Sage-chaparral
Flame Length (ft)	63.9-66.1	38.9-40.4	85.3	40.4
Spread Rate (mph)	9.4-10.1	5.4-5.8	17.7	5.8

**Table 4. Scenario 3 results comparison – summer weather, 25% slope**

	FPP	Current
Flame Length (ft)	19.4	19.4
Spread Rate (mph)	1.4	1.4

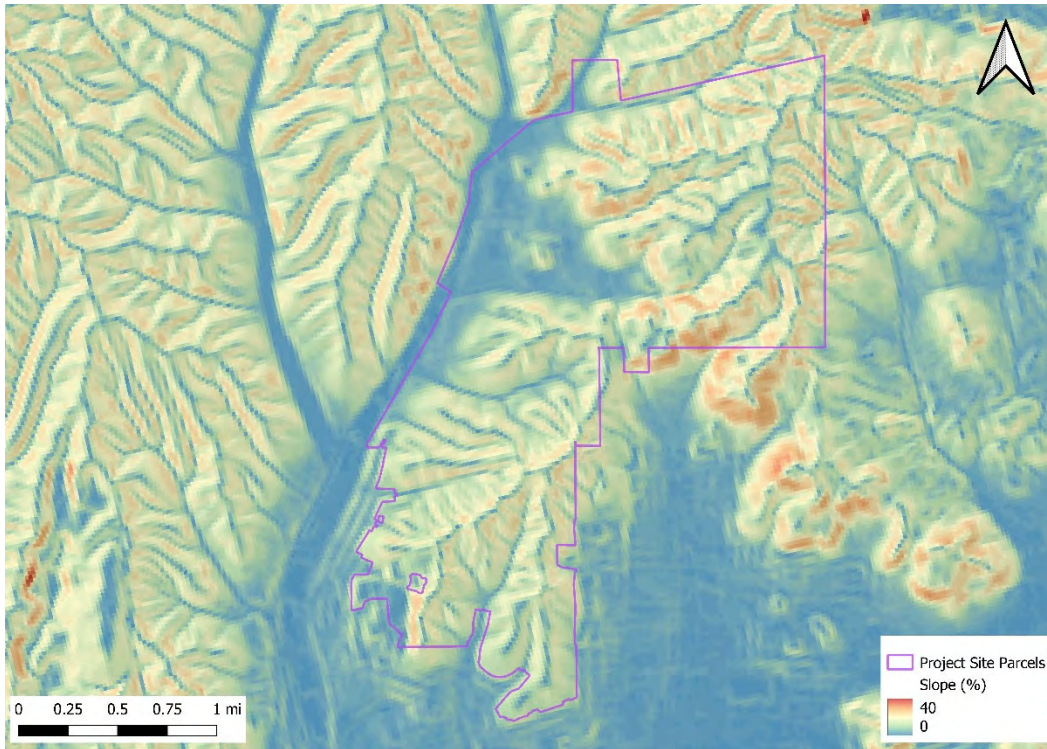
**Table 5. Scenario 2 results comparison – summer weather, 37% slope**

	FPP		Current	
	Chaparral	Sage-chaparral	Chaparral	Sage-chaparral
Flame Length (ft)	28.2	18.0	39.8	19.9
Spread Rate (mph)	1.8	1.2	3.9	1.5

As the above tables show, without thorough documentation of inputs we were unable to reproduce the fire behavior outputs presented in the FPP and it's not possible to determine where the discrepancies arise. However, the comparison does show that the flame lengths and spread rates in the FPP may be underestimating fire behavior typical of the Project Site in certain scenarios, particularly Santa Ana winds.

**1.3.2 Topography** Fires spread faster upslope than on flat ground, and firefighting efforts are hindered by steep slopes. Areas adjacent to the project footprint include complex terrain, with onsite elevations ranging from approximately 140 feet to 300 feet above mean sea level. Most of the terrain is moderate with steep hillsides and ridges that separate the site's sub-drainages. Slopes on the site range from 0% to 32%. The fire modelling in the FPP assigned slope values between 35 to 37% slope.

Slope must be considered in the context of the surrounding terrain, which contains slopes of up to 40% (Figure 6). By analyzing slope only within and immediately adjacent to the project parcels instead of the greater landscape context, the FPP understates the potential role that the surrounding terrain has on fire spread and control from ignitions both inside and outside the project boundaries.



**Figure 6. Slopes within the project site**

1.3.3 **Fuels** The fire behavior modeling in the FPP relies on species composition information to estimate climax fuel conditions. This was done to assess how current fuel conditions compare to potential future, post-development conditions. Fuels within areas proposed for conversion to development (e.g., roads, driveways, structures) were classified as non-burnable post-development. Based on the results of the fire modelling, the FPP concluded that converting flammable fuels into development would decrease fire risk and result in a fire that burns around the Project site, not through it. Naturally, with structures defined as non-burnable in the fuel model, the model does not allow the structures to burn, thereby guaranteeing the FPP’s conclusion that converting “ignitable fuels” into “lower flammability landscape” reduces fire spread.

The FPP only maps fuels within the project parcels. However, when assessing potential fire/life safety impacts of a planned development, it is also important to assess fuels adjacent to the project footprint because fires ignited within the project footprint may spread into adjacent wildland or wildland urban interface areas. By analyzing vegetation only within the project parcels, the FPP does not address the potential role of the surrounding fuels on fire spread.

1.4 Contrary to the claims made within the FPP, new development in the wildland urban interface (WUI) does increase ignition probability because it increases the presence of humans, a primary cause of fires in Southern California, relative to the pre-development condition. The FPP makes several references to a paper authored by Syphard and Keeley<sup>4</sup> to support a stance that high-density housing poses lower risk of ignitions than low-density housing. That article states “We investigated the most common ignition causes in two southern California sub-regions, where humans are responsible for more than 95% of all fires...”. The FPP indicated on page 25 that “...lower density housing poses a higher ignition risk than higher density communities.” However, it fails to mention that housing of any density increases probability of ignition as compared to undeveloped areas because of the introduction of humans and

<sup>4</sup> Syphard, A.D. and Keeley, J.E., “Location, timing and extent of wildfire vary by cause of ignition,” *International Journal of Wildland Fire* **24**: 37-47 (2015).

their vehicles into areas where they were previously absent. As the probability of ignition increases so too does the risk that an ignition will overcome the community’s defensive measures and evacuation plans.

1.5 The FPP states on page 36 that “During extreme fire weather conditions, there are no guarantees that a given structure will not burn or that evacuations will be successful all of the time...”. From this statement, it is unclear how the FPP proposes to guarantee that shelter-in-place buildings will not be one of the structures that burn during extreme fire weather conditions. If it cannot be demonstrated that shelter-in-place structures will resist extreme fire weather conditions, then this is not a viable alternative to evacuation.

1.6 Adherence to Building Code Chapter 7A is a requirement for all new construction within Very High Fire Hazard Severity Zones (FHSZ). This is a minimum code requirement for structures that are subject to elevated probability of exposure to wildfire. The FPP acknowledges on page 87 that the potential for structure loss cannot be completely negated even by meeting minimum Chapter 7A requirements:

While these standards would provide a high level of protection to structures in this development, and would be expected to reduce the potential for ordering evacuations in a wildfire, there is no guarantee that compliance with these standards would prevent damage or destruction of structures by fire in all cases. Nevertheless, the analysis indicates that the potential risk is considered acceptable according to CEQA thresholds and industry standards.

1.7 The damage inspection report from the 2017 Thomas Fire<sup>5</sup> broke down the construction of all buildings damaged or destroyed during the fire in Ventura and Santa Barbara Counties (Figure 7). By referencing the damages table for the City of Ventura, it is seen that the majority of destroyed structures were of fire-resistant construction, had multi-pane windows, and had eave vent screens. Although not a majority, a significant number of the structures damaged or destroyed had enclosed eaves. Data from the Thomas Fire losses indicate that ignition resistant construction may not always be a sufficient defense against wildfires spreading under extreme conditions. Should a fire breach the structural fire resistance of the Project, and the Thomas Fire losses indicate this is possible, the shelter-in-place strategy becomes untenable and interior roadways may become impassable.

CONSTRUCTION MATERIALS AND METHODS – VENTURA CITY						
Construction Method	Roof Construction	Exterior Siding	Window Panes	Eaves	Eave Vent Screen	Deck or Porch
Combustible	15	41				
Fire Resistant	628	600				
Single Pane			155			
Multi Pane			331			
Enclosed				142		
Un-Enclosed				183		
Composite						14
Masonry						180
Wood						67
Yes					325	
No					19	
unknown	6	8	163	308	305	117
Not Applicable				16		271
Total	649	649	649	649	649	649

**Figure 7. Table of damaged/destroyed home construction details from Thomas Incident Damage Inspection Report<sup>5</sup>**

<sup>5</sup> Mitchell, C., Pivaroff, N., Mepani, V., Meyer, T., “Thomas Incident Damage Inspection Report CAVNC 103156,”

## 2. Fanita Ranch Wildland Fire Evacuation Plan

### 2.1. The WFEP states on page 25:

...the primary (first) type of evacuation envisioned is an orderly, pre-planned evacuation process where people are evacuated from the Fanita Ranch community to urban areas further from an encroaching wildfire (likely to urban areas south, west, or north) well before fire threatens.

An orderly, pre-planned evacuation well before fire threatens is an ideal scenario, but reality is often not ideal. For example, during the Camp Fire evacuation, several evacuees had no choice but to abandon their vehicles and flee on foot while surrounded by flames<sup>6</sup>, and multiple fatalities occurred when people were trapped in their cars. The WFEP makes little accommodation for the inherent ambiguity of emergency situations when detailing possible evacuation scenarios (page 25). Nor does it address how changes in evacuation strategy, say from full evacuation to shelter-in-place, would be communicated to residents. Timely, efficient communication from authorities is imperative to protect occupants and the likelihood that an evacuation strategy would need to change under extreme fire conditions is high. The WFEP does not discuss how changes in evacuation strategy would be communicated to residents.

### 2.2. The WFEP does not evaluate contingency shelter-in-place/temporary refuge locations. Since rapid fire spread could prevent full evacuation due to time and road volume constraints, it is important that the community and first responders be provided with acceptable contingent means of safety. The WFEP mentions certain events when shelter-in-place strategies were successfully utilized (page 21). However, these were not planned shelter-in-place events, but rather options of last resort as wildfire overran occupants. There is no discussion as far as how shelter-in-place operations would be conducted, no evaluation of the safety and adequacy of the shelter-in-place refuge areas, and no assessment provided for feasibility of accessing the proposed shelter-in-place locations under various fire scenarios. The WFEP states on page 28 that the shelter structures would include the same level of ignition resistance and landscape maintenance as the rest of the development, before going on to state that “during the fire, the identified safety zones may not be feasible due to distance, location, fire behavior, etc.”

Given the dynamic nature of fire, acknowledgement that contingency shelter-in-place locations may not be feasible calls into question the viability of such strategies. If the shelters cannot be reached by occupants or firefighters in the event of an emergency, their existence is irrelevant and not to be relied upon as a means of protecting people. Finally, it is important to point out that the WFEP acknowledges on page 21 that no community in California has been directed to shelter in place during a wildland fire, even communities which were designed as shelter-in-place communities such as Rancho Santa Fe.

### 2.3. The Wildland Fire Evacuation Plan concludes on page 36 stating: “This Wildland Fire Evacuation Program does not provide a guarantee that all persons will be safe at all times because of the recommendations proposed” and that “There are many variables that may influence overall safety”. The conclusion goes on to recommend that,

...the evacuation process is carried out with a conservative approach to fire safety. This approach must include maintaining the Fanita Ranch fuel modification landscape, infrastructural, and ignition resistant construction components [...]. Fire is a dynamic and somewhat unpredictable occurrence, and it is important for anyone living at the wildland-urban interface to educate themselves on practices that will improve safety.

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<sup>6</sup> <https://abc7news.com/camp-fire-video-bodycam-of-evacuations/4850913/>

These statements imply that the responsibility of a “conservative approach to fire safety” relies on human factors and actions including maintenance and education, post-construction of the proposed development. The Proposed Project lies adjacent to Very High FHSZ and therefore will subject its occupants to a high probability of exposure to wildfire; it is not sufficient to assume that human factors, which are even more dynamic and unpredictable than fire itself and directly involved in evacuation decision making, will ultimately be the deciding factor between life and death when building in an area with such known risks.

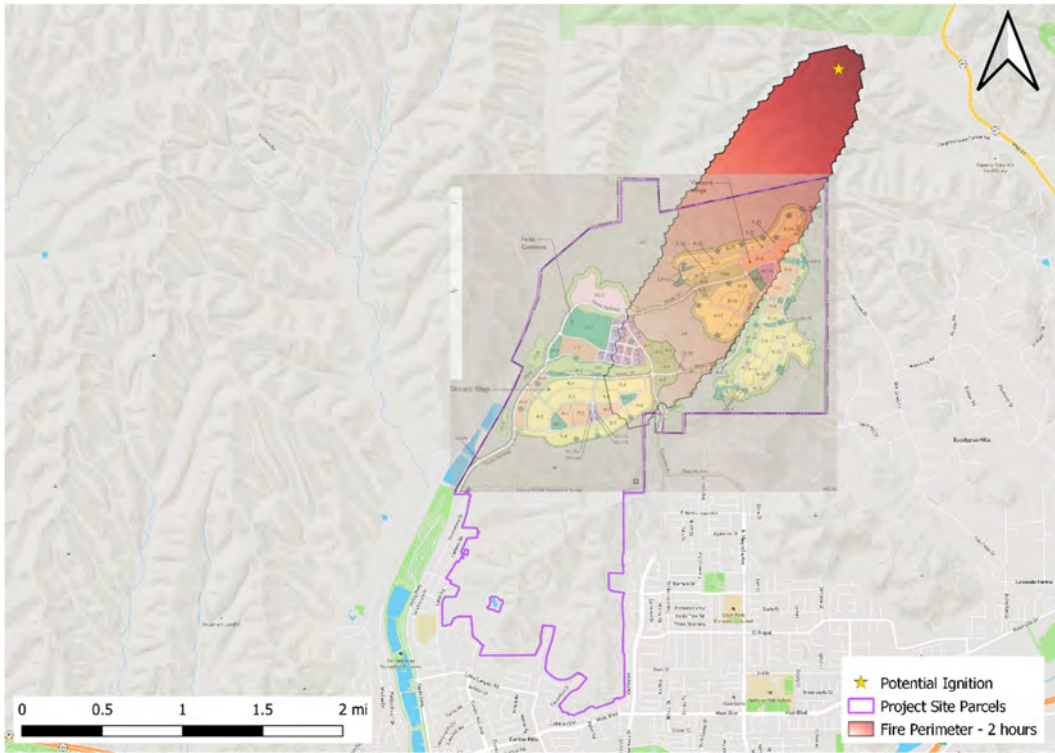
- 2.4. An unaddressed fire safety impact of Fanita Ranch is that a fire which necessitates evacuation of the project site will also necessitate an evacuation of the surrounding developments. WFEP page 21 states:

Depending on the nature of the emergency requiring evacuation, it is anticipated that the majority of the community traffic would exit the project via Cuyamaca Street or Magnolia Avenue. These are the most direct routes for the Fanita Ranch Community. Fanita Parkway may be used by the western portion of the Fanita Parkway Community, depending on the time available for evacuation and the need for additional movement via the southerly route. In a typical evacuation that allows several hours or more time (as experienced for most areas during the 2003, 2007, 2014, 2016, and 2017 wildfires), all traffic may be directed to the south and out Cuyamaca Street and/or Magnolia Avenue.

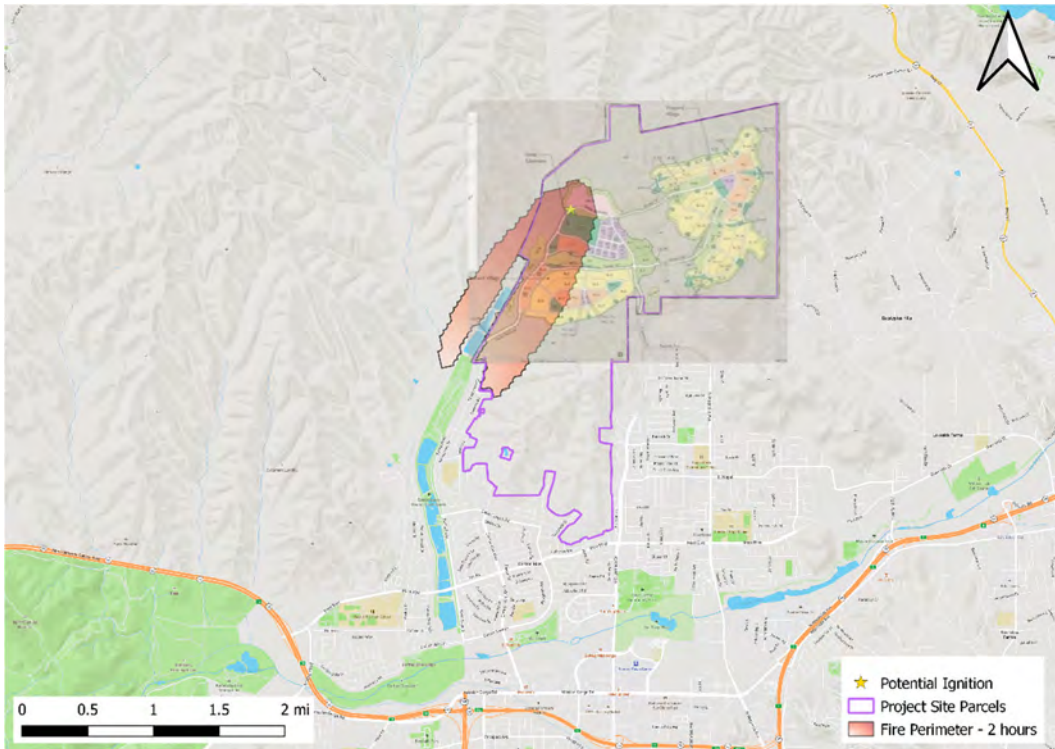
Because the egress roads from Fanita Ranch will merge with existing major evacuation routes along Cuyamaca St., Magnolia Ave., and Fanita Pkwy, the road network must not only be capable of routing Fanita Ranch residents but also the residents from nearby neighborhoods. A wildland fire that requires evacuation of one of these developments will require evacuation of all of them; to treat evacuation of the individual developments as separate, unrelated events neglects the fact that evacuating residents from these developments will rely on the same road network.

- 2.5. Under Santa Ana winds, a fire ignited within or adjacent to the project footprint would spread toward population centers to the southwest of the project site. Potential impacts, especially evacuation impacts, to communities around the proposed Project from fires igniting both within and outside the project site under Santa Ana wind conditions are not addressed in the FPP. To qualitatively illustrate potential impacts to the means of egress in and around the project site, 2 hours of fire spread was modeled with FlamMap under Santa Ana conditions with a wind speed of 30 mph out of the northeast. Modeled fire perimeters are shown in Figure 8 and Figure 9. Both scenarios would likely trigger evacuation protocols for Fanita Ranch and the surrounding communities.





**Figure 8. Offsite ignition that impacts evacuation routes under Santa Ana winds.**



**Figure 9. Onsite ignition that impacts evacuation routes under Santa Ana winds.**

The FPP does not adequately address adjacent communities' increased fire risk from the Fanita Ranch development. Instead, the DEIR and FPP conclude that the project would mitigate any increase in ignition sources with irrigated areas, fuel modification zones, and additional human presence and that the project, due to these irrigated areas, zones, and additional human presence, would improve fire safety for residents

and adjacent communities. I do not agree with this conclusion because a fire ignited in the project site under Santa Ana winds could easily spread Southwest toward population centers through complex, steep terrain and highly flammable chaparral and coastal scrub vegetation types, at rates of several miles per hour with spotting distances more than 1 mile ahead of the flame front. With these spotting distances, embers would be largely unimpeded by fuel modification zones, irrigated areas, etc. Thus, the increase in ignition probability associated with the project has a significant negative impact on adjacent communities' risk from fire and adjacent communities' exposure to significant injury or death during an evacuation.

### **Summary and Concluding Remarks**

This letter highlights several deficiencies in the environmental documentation for the planned Fanita Ranch development. I have also reviewed Neal Liddicoat's July 22, 2022 report on the project, and I agree with his comments.

The Fire Protection Plan does not adequately address the increase in ignition probability caused by the project or the threat to surrounding communities caused by additional traffic during an evacuation. Indeed, the FPP reaches acknowledges on page 25:

Based on Fanita Ranch fire history data for the project vicinity, fire return intervals range between one and twenty-five years, indicating significant wildfire potential in the region and the potential for the Proposed Project site to be subject to occasional wildfire encroachment, most likely from the large expanses of open space to the north and east.

It is difficult to understand how this conclusion justifies construction of a major development. It is imperative that the County take these findings of critical fire risk impacts into account.

Sincerely,



Christopher W. Lautenberger, PhD, PE

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### Professional Profile

Chris Lautenberger is a co-founder of Reax Engineering, a fire protection engineering and fire science firm with offices in Berkeley and Auburn, CA. He is a licensed Fire Protection Engineer with expertise in fire science, fire dynamics, fire modelling, and forensic fire reconstruction. Lautenberger's professional activities involve applying fire dynamics and combustion principles to analyze various aspects of fire and combustion processes, ranging from small-scale smoldering combustion to large-scale wildland fire dynamics. He has published on several aspects of combustion and fire, including flammability, pyrolysis, ignition, fire spread, and fire modeling. Lautenberger has over 20 years of experience applying fire dynamics calculations and fire models in support of scientific research, fire protection engineering design, and forensic fire reconstruction. Chris has developed computer models to analyze trajectories and ignition potential of metallic and woody particles generated by conductor clashing and interactions between vegetation and overhead electrical utilities, wildland fire propagation, and wildland fire risk. Lautenberger has provided expert testimony at deposition and trial on more than 25 occasions on litigation matters related to both wildland and structure fires, including several fires with losses in excess of \$100M. Dr. Lautenberger has co-taught Masters-level courses in Fire Dynamics and Fire Modeling in the Department of Fire Protection Engineering at California Polytechnic State University, San Luis Obispo.

### Professional Licensure

Licensed Professional Engineer, State of California, # FP1676 (Fire Protection Engineering)

### Education

PhD – Mechanical Engineering, University of California at Berkeley, January 2003 - December 2007

- Dissertation title: “A Generalized Pyrolysis Model for Combustible Solids”
- Major field: Combustion
- Minor fields: Wildland Fire Science and Fluid Dynamics

MS – Fire Protection Engineering, Worcester Polytechnic Institute, January 2000 - December 2001

- Thesis title: “CFD Simulation of Soot Formation and Flame Radiation”

BS – Mechanical Engineering, Worcester Polytechnic Institute, August 1995 - December 1999

### Professional Experience

8/08 – present **Reax Engineering Inc.** Berkeley, CA and Auburn, CA *Founding Partner and Principal Engineer*

#### Representative projects:

- *California Public Utilities Commission (CPUC) High Fire Threat District Mapping:* Co-led (along with Pacific Gas & Electric and San Diego Gas & Electric) the Peer Development Panel tasked by the CPUC with developing high fire threat districts that identify areas where overhead electrical utilities present elevated or extreme risks of igniting damaging wildland or wildland urban interface fires. This map was adopted by the CPUC for regulatory purposes in 2018 and is currently used to promulgate regulations related to electrical utility fire safety in California.
- *Next Generation Open Source Wildfire Models for Grid Resiliency:* Currently leading the real-time wildfire spread and risk forecasting component of this \$5M project recently funded by the California Energy Commission. This project provides utilities and other stakeholders with real-time forecasts of active wildland fires as well as landscape-scale burn probabilities up to one week in the future. It also models ignition probability, fire size, and impacts from utility-caused



fires under forecasted wind and weather conditions to inform proactive de-energization decisions.

- *Utility-associated fire risk mapping*: Reax has mapped utility-associated fire risk over more than 500,000 square miles of service territory in the US and Canada on behalf of eight utilities. These techniques leverage numerical weather prediction, fire spread modeling, and high performance computing to generate high resolution maps of powerline fire risk that are then used internally for system hardening and proactive de-energization decisions.
- *Moonlight Fire (United States v. Sierra Pacific Industries et al.)*: Conducted NFPA 921 origin and cause hypothesis testing using fire science and fire modelling in the \$1B litigation surrounding the 2007 Moonlight Fire. Modeled initial fire spread and plume dynamics. Exposed a critical error in opposing expert's fire model that invalidated his opinions.
- *San Mateo Bridge Limousine Fire*: Analyzed ignition and spread of a limousine fire that killed five women as they traveled across the San Mateo Bridge. Modeled initial fire spread using Computational Fluid Dynamics (CFD) and small-scale materials flammability data to quantify available safe egress time and time to incapacitation.
- *Roseville Galleria Fire*: Analyzed ignition, initial spread, and effect of automatic sprinkler system failure on the outcome of the 2010 Roseville Galleria Fire that destroyed several stores, led to partial collapse of the roof and caused over \$50M in damage to a shopping mall in Northern California.
- *Modelling manufacturing of Ceramic Matrix Composites (CMCs)*. Working in conjunction with United Technologies and Pratt & Whitney in a project funded by the Air Force Research Laboratory, adapted Gpyro (a generalized pyrolysis for combustible solids) to model pyrolysis of ceramic matrix composites used in aircraft engines during manufacturing.

#### Selected wildland fire hazard analysis and modeling project work:

- Determined maximum reasonably foreseeable Santa Ana wind speed in Malibu Canyon using wind modeling and pole-mounted anemometers installed specifically for this project
- High resolution smoke plume modeling to assess potential for Libby Amphibole Asbestos (LAA) to be transported by large-scale wildland fires
- Developed de-energization criteria and associated weather monitoring analytics for utilities in California and Nevada
- Analyzed fire hazard/risk associated with major housing developments in San Diego County including Otay Ranch and Newland Sierra
- Developed ELMFIRE (Eulerian Level Set Model of Fire Spread), a parallelized model for simulating wildland fire spread and quantifying wildland fire risk via Monte Carlo simulation
- Conducted high resolution wind/weather modeling to analyze historical fire weather in Southern California
- Assisted utility clients with data requests and analytics associated with preparation of Senate Bill 209 Wildfire Mitigation Plans

#### Selected wildland fire forensic reconstructions and analyses:

- Reconstruction of initial spread of the 2011 Bastrop Complex Fire (Bastrop, TX)
- Analyzed ignition dynamics associated with the 2012 Sheep Fire near Lucille, ID
- Analysis of ignition, initial spread, and smoke transport from the 2009 Murrindindi Bushfire (Victoria, Australia)
- Simulation of smoke transport from the 2010 Crown Fire near Palmdale, CA
- Reconstruction of the spread of the 2008 Iron Complex Fire in Northern California and assessment of the impact of firing activities on timber loss in private inholdings
- Calculation of trajectory and temperature histories of metallic particles allegedly generated by clashing between aluminum and copper electrical conductors and analysis of grass-fire ignition potential, initial spread rate, and plume dynamics (Victoria, Australia)
- Analysis of wildland fires ignited by exhaust particles from a locomotive including analysis of particle trajectories and fuel ignitability (Victoria, Australia)

#### Selected structure and vehicle fire forensic reconstructions and analyses:

- Analysis of a methane generation, transport, and ignition from decomposing manure in a fatal pig barn fire
- Analysis of diesel fuel ignitability by hot surfaces in a fracking rig fire
- Reconstruction of fatal apartment fire where smoke alarms failed to activate (Long Beach, CA)
- Reconstruction of fatal fire in manufactured home including time to smoke alarm activation and analysis of available safe egress time (Castleberry, AL)
- Analysis of crude oil ignitability and time to incapacitation in a fatal fire where the cab of a truck was engulfed in flames from burning crude oil released during an accident.
- Analysis of ignitability of water/antifreeze mixture discharged from residential sprinkler system, analysis of initial fire spread, and assessment of burn injuries (Herriman, UT)
- Origin hypothesis testing for fatal alleged arson fire (Calcasieu Parish, Louisiana)
- Fire cause hypothesis testing and analysis of residential LPG explosion for alleged arson fire (Round Mountain, CA)
- Analysis of role of inoperable fire hydrant on manual fire suppression efforts and associated property damage during total loss fire in residential apartment building (Atlanta, GA)
- Reconstruction of fatal apartment fire: inter-apartment fire spread, time to smoke alarm activation, identification of contributory building code issues (Carrboro, NC)

#### Selected Fire Protection Engineering project work:

- Calculation of Light Rail Vehicle heat release rates in the San Francisco Central Subway using fire growth modeling and fire testing (San Francisco, CA)
- Analysis of rail vehicle design fires, testing, and modeling for Los Angeles County Metropolitan Transit Authority (Los Angeles, CA)
- Material property estimation for fire development modeling in new rail vehicle
- Development of automatic sprinkler protection criteria and analysis of flammable liquids processes at semiconductor plant (Santa Rosa, CA)
- Application of computer fire modeling and egress modeling to determine appropriate smoke exhaust rate for atrium at Marist College (Poughkeepsie, NY)
- Analysis of wildland urban interface fire and life safety concerns at proposed subdivisions in Oakland, CA, St. Helena, CA, and Encinitas, CA
- Sizing of atrium smoke exhaust rate in the new Student Union Building at San Jose State University (San Jose, CA)
- Development of a model for ignition of HEPA filters by embers at the Hanford nuclear waste treatment plant (Richland, WA)
- Modeling smoke and heat detector activation to develop a request for alternate means of protection at a large theater (Cincinnati, OH)
- Analysis of atrium smoke control system in residential highrise (Dallas, TX)

#### Selected thermal sciences & general project work:

- Heat transfer analysis and pyrolysis modeling for municipal solid waste to energy incineration technology
- Thermo-chemical analysis and heat transfer modeling of biomass torrefaction (low temperature pyrolysis) reactor
- Detailed Computational Fluid Dynamics (CFD) modeling of fluid flow and heat transfer in a rotary kiln biochar reactor
- CFD-based furnace modeling, heat transfer analysis, and pyrolysis modeling of proposed screw auger wood chip pyrolysis reactor
- Development of a comprehensive three-dimensional computational model for predicting heat release and emissions from charcoal combustion
- Flammability and thermal property assessment of new wall board product
- CFD modeling of blast wave from a bird bomb
- Thermodynamic analysis of non-traditional methods for carbon capture and sequestration
- Calculation of overhead electrical utility catenary curves and excursions in high winds
- Atmospheric dispersion modeling of pollutant transport using EPA's AERMOD software

- 12/10 – 2021 **California Polytechnic State University, San Luis Obispo** *Instructor*
- Fire Protection Engineering Instructor in Cal Poly’s Masters degree program
  - Teaching responsibilities include FPE 502 Fire Dynamics and FPE 504 Fire Modeling
- 12/07 – 2/11 **University of California at Berkeley** *Post Doctoral Researcher*
- Conducted research on NSF Grant 0730556, “Tackling CFD Modeling of Flame Spread on Practical Solid Combustibles”
  - Assessed predictive capabilities of Fire Dynamics Simulator (FDS) for simulating flame spread and fire growth
  - Modified subroutines to improve predictive capabilities of FDS for flame spread modeling
  - Developed pyrolysis model and material property estimation techniques needed to simulate the pyrolysis of real-world solid fuels
  - Developed computer model for ignition of fuel beds by hot particles and fire brands to predict ignition of fuel beds and initiation of spot fires
- 1/02 – 6/08 **Arup Fire** San Francisco, CA *Fire Protection Engineer*
- Assisted clients with fire safety design and achieving code compliance or performance-based solutions for hospitals, casinos, malls, libraries, schools, museums, airports, and offices
  - Assessed fire performance of buildings using fire modeling and egress analyses in support of alternate methods of design
  - Developed and programmed a CFAST-based Monte-Carlo fire simulator
  - Simulated fire development in a rail vehicle and calibrated the model with large-scale experimental fire test data
  - Representative projects include Wynn Las Vegas, Hard Rock Hotel and Casino Las Vegas, Kaiser Permanente templates, New Los Angeles Federal Courthouse, San Mateo Public Library, California Academy of Sciences, Bay Area Rapid Transit (BART) Montgomery Street Station, and Seattle Public Library
- 10/00 – 12/01 **FM Global Research (formerly Factory Mutual Research Corporation)** Norwood, MA
- Examined existing soot formation and oxidation models in the literature and used this research to postulate a new engineering soot model that is compatible with FDS
  - Worked with FM Global and NIST scientists to add this new model for soot formation and oxidation to FDS, and performed simulations of laminar and turbulent diffusion flames
- 5/00 – 8/00 **Code Consultants, Inc.** Saint Louis, MO
- Responsible for examining proposed building designs for compliance with relevant codes
  - Performed engineering analyses to support equivalencies

## Dissertation and Thesis

- 1/03 – 12/07 **PhD Dissertation** *University of California, Berkeley*
- Developed a generalized pyrolysis/material decomposition model (Gpyro) to simulate the gasification, pyrolysis, and combustion of condensed-phase fuels
  - Developed an optimization technique that uses a genetic algorithm to extract material pyrolysis properties needed for simulation of solid-phase pyrolysis from bench-scale fire tests
  - Performed FDS-based simulations of ignition, flame spread, and fire growth in normal and reduced gravity environments as part of a NASA-sponsored project
- 9/00 – 12/01 **MS Thesis** *Worcester Polytechnic Institute*
- Developed a model for soot formation/oxidation in non-premixed flames
  - Implemented model in FDS to calculate soot formation and flame radiation
- 8/98 – 5/99 **Major Qualifying Project (MQP)** *Worcester Polytechnic Institute*
- Developed an experimental program and ran several real-scale room/corner fire tests in WPI’s room calorimeter to evaluate the flame spread characteristics of composite wall linings

## Peer Reviewed Publications

1. Lautenberger, C., de Ris, J., Dembsey, N.A., Barnett, J.R. & Baum, H.R., "A Simplified Model for Soot Formation and Oxidation in CFD Simulation of Non-premixed Hydrocarbon Flames," *Fire Safety Journal* **40**: 141-176 (2005).
2. Lautenberger, C., Zhou, Y.Y. & Fernandez-Pello, A.C., "Numerical Modeling of Convective Effects on Piloted Ignition of Composite Materials," *Combustion Science and Technology* **177**: 1231-1252 (2005).
3. Lautenberger, C. & Fernandez-Pello, A.C., "Approximate Analytical Solutions for the Transient Mass Loss Rate and Piloted Ignition Time of a Radiatively Heated Solid in the High Heat Flux Limit," *Fire Safety Science* **8**: 445-456 (2005).
4. Lautenberger, C., Rein, G. & Fernandez-Pello, A.C., "Application of a Genetic Algorithm to Estimate Material Properties for Fire Modeling from Bench-Scale Fire Test Data," *Fire Safety Journal* **41**: 204-214 (2006).
5. Rein, G., Lautenberger, C., Fernandez-Pello, A.C., Torero, J.L. & Urban, D.L., "Application of Genetic Algorithms and Thermogravimetry to Determine the Kinetics of Polyurethane Foam in Smoldering Combustion," *Combustion and Flame* **146**: 95-108 (2006).
6. Rich, D., Lautenberger, C., Torero, J.L., Quintiere, J.G. & Fernandez-Pello, C., "Mass Flux of Combustible Solids at Piloted Ignition," *Proceedings of the Combustion Institute* **31**: 2653-2660 (2007).
7. Kwon, J.-W., Dembsey, N.A., & Lautenberger, C.W., "Evaluation of FDS v4: Upward Flame Spread," *Fire Technology* **43**: 255-284 (2007).
8. Avila, M.B., Dembsey, N.A., Kim, M.E., Lautenberger, C., & Dore, C., "Fire Characteristics of Polyester FRP composites with Different Glass Contents," *Composites Research Journal* **2**: 1-14 (2008).
9. Lautenberger, C., Kim, E., Dembsey, N. & Fernandez-Pello, C., "The Role of Decomposition Kinetics in Pyrolysis Modeling – Application to a Fire Retardant Polyester Composite," *Fire Safety Science* **9**: 1201-1212 (2008).
10. Dodd, A.B., Lautenberger, C. & Fernandez-Pello, A.C., "Numerical Examination of Two-Dimensional Smolder Structure in Polyurethane Foam," *Proceedings of the Combustion Institute* **32**: 2497-2504 (2009).
11. Lautenberger, C. & Fernandez-Pello, A.C., "Generalized Pyrolysis Model for Combustible Solids," *Fire Safety Journal* **44**: 819-839 (2009).
12. Lautenberger, C. & Fernandez-Pello, A.C., "A Model for the Oxidative Pyrolysis of Wood," *Combustion and Flame* **156**: 1503-1513 (2009).
13. Hadden, R., Scott, S., Lautenberger, C., & Fernandez-Pello, A.C., "Ignition of Combustible Fuel Beds by Hot Particles: an Experimental and Theoretical Study," *Fire Technology* **47**: 341-355 (2011).
14. Fereres, S., Lautenberger, C., Fernandez-Pello, C., Urban, D.L., & Ruff, G.A., "Mass Loss Rate at Ignition in Reduced Pressure Environments," *Combustion and Flame* **158**: 1301-1306 (2011).
15. Lautenberger, C. & Fernandez-Pello, C., "Optimization Algorithms for Material Pyrolysis Property Estimation," *Fire Safety Science* **10**: 751-764 (2011).
16. Dodd, A.B., Lautenberger, C., & Fernandez-Pello, A.C., "Computational Modeling of Smolder Combustion and Spontaneous Transition to Flaming," *Combustion and Flame* **159**: 448-461 (2012).
17. Matala, A., Lautenberger, C., & Hostikka, S., "Generalized direct method for pyrolysis kinetics parameter estimation and comparison to existing methods," *Journal of Fire Sciences* **30**: 339-356 (2012).
18. Fereres, S., Lautenberger, C., Fernandez-Pello, A.C., Urban, D.L., and Ruff, G.A., "Understanding ambient pressure effects on piloted ignition through numerical modeling," *Combustion and Flame* **159**: 3544-3553 (2012).
19. Wong, W., Alston, J., Lautenberger, C., and Dembsey, N., "CFD Flame Spread Model Validation: Multi-component Data Set Framework," *Journal of Fire Protection Engineering* **23**: 85-134 (2013).
20. Lautenberger, C., "Wildland Fire Modeling with an Eulerian Level Set Method and Automated Calibration," *Fire Safety Journal* **62**: 289-298 (2013).
21. Lautenberger, C., "Gpyro3D: A Three Dimensional Generalized Pyrolysis Model," *Fire Safety Science* **11**: 193-207 (2014).
22. Fernandez-Pello, A.C., Lautenberger, C., Rich, D., Zak, C., Urban, J., Hadden, R., Scott, S., and Fereres, S., "Spot fire ignition of natural fuel beds by hot metal particles, embers, and sparks," *Combustion Science and Technology* **187**: 269-295 (2015).
23. Yashwanth, B.L., Shotorban, B., Mahalingam, S., Lautenberger, C.W., and Weise, D.R., "A numerical investigation of the influence of radiation and moisture content on pyrolysis and ignition of a leaf-like fuel element," *Combustion and Flame* **163**: 301-316 (2016).
24. Lautenberger, C., "Mapping Areas at Elevated Risk of Large-Scale Structure Loss Using Monte Carlo Simulation and Wildland Fire Modeling," *Fire Safety Journal* **91**: 768-775 (2017).
25. Fawaz, M., Lautenberger, C., and Bond, T., "Prediction of organic aerosol precursor emission from the pyrolysis of thermally thick wood," *Fuel* **269**: 117333 (2020).

## Book Chapters

1. Lautenberger, C., Torero, J.L. & Fernandez-Pello, A.C., "Understanding Materials Flammability," in *Flammability Testing of Materials Used in Construction, Transport and Mining*, Edited by V. Apte, Woodhead Publishing, Cambridge, UK pp. 1-21, 2006.
2. Lautenberger, C. & Fernandez-Pello, A.C., "Pyrolysis Modeling, Thermal Decomposition, and Transport Processes in Combustible Solids," in *Transport Phenomena in Fires*, Edited by M. Faghri and B. Sunden, WIT Press, Billerica, MA pp. 209-248, 2008.
3. Lautenberger, C. & Fernandez-Pello, A.C., "Spotting Ignition of fuel beds by firebrands," in *Computational Methods and Experimental Measurements XIV*, Edited by C.A. Brebbia and G.M. Carlomango, WIT Press, Billerica, MA pp. 603-612, 2009.
4. Lautenberger, C. & Hostikka, S., "Large Scale Fire Modeling," in *Flame Retardancy of Polymeric Materials*, Second Edition, Edited by C.A. Wilkie and A.B. Morgan, Marcel Dekker pp. 551 – 585, 2010.
5. Lautenberger, C., Tien, C.L., Lee, K.Y., and Stretton, A.J., "Radiation Heat Transfer," in *SFPE Handbook of Fire Protection Engineering*, 5<sup>th</sup> Edition, Springer, pp. 102-137 (2016).
6. Lautenberger, C., "Pyrolysis," in *Encyclopedia of Wildfires and Wildland-Urban Interface (WUI) Fires*, Ed. Manzello, S.L., Springer (2018).

## Selected Conference Publications and Technical Reports

1. Beyler, C., Hunt, S., Lattimer, B., Iqbal, N., Lautenberger, C., Dembsey, N., Barnett, J., Janssens, M., & Dillon, S. "Prediction of ISO 9705 Room/Corner Test Results". United States Department of Transportation. United States Coast Guard Research and Development Center. Washington, DC. 1999.
2. Lautenberger, C., Stevanovic, A., Rich, D., & Torero, J., "Effect of Material Composition on Ignition Delay of Composites," *Composites 2003*, Anaheim CA, October 2003.
3. Lautenberger, C., Stevanovic, A., Rich, D., Torero, J. & Fernandez-Pello, A.C., "An Experimental and Theoretical Study on the Ignition Delay Time of Composite Materials," *Western States Section/The Combustion Institute*, Los Angeles CA, October 2003.
4. Rein, G., Lautenberger, C., Fernandez-Pello, A.C., Torero, J.L. & Urban, D.L., "Derivation of the Kinetics Parameters of Polyurethane Foam Using Genetic Algorithms," *Fourth Joint Meeting of the US Sections of the Combustion Institute*, Philadelphia PA, March 2005.
5. Rein, G., Lautenberger, C. & Fernandez-Pello, A.C., "On the Derivation of Polyurethane Kinetics Parameters Using Genetic Algorithms and its Application to Smoldering Combustion," *Fourth International Conference on Computational Heat and Mass Transfer*, Paris France, Vol. 1 pp. 578-584, May 2005.
6. Rein, G., Lautenberger, C. & Fernandez-Pello, A.C., "Using Genetic Algorithms to Derive the Parameters of Solid-Phase Combustion from Experiments," *20<sup>th</sup> International Colloquium on the Dynamics of Explosions and Reactive Systems*, Montreal, Canada, August 2005.
7. Rich, D., Lautenberger, C., McAllister, S. & Fernandez-Pello, A.C., "Microgravity Flame Spread Rates Over Samples of Polymer and Polymer/Glass Composites," *Western States Section/The Combustion Institute*, Boise ID, March 2006.
8. Coles, A., Wolski, A., Lautenberger, C.W., & Dembsey, N.A., "Building Code Requirements for Performance Based Designs and Fire Modeling", *Composites 2006*, St. Louis, MO, October 2006.
9. Lautenberger, C., McAllister, S., Rich, D., & Fernandez-Pello, C., "Modeling the Effect of Environmental Variables on Opposed-Flow Flame Spread Rates with FDS," *International Congress on Fire Safety in Tall Buildings*, Santander, Spain, October 2006.
10. McAllister, S., Rich, D., Lautenberger, C., & Fernandez-Pello, C., "Modeling Microgravity and Normal Gravity Opposed Flame Spread over Polymer/Glass Composites," *45th AIAA Aerospace Sciences Meeting and Exhibit*, Reno, NV, January 2007, AIAA Paper 2007-740.
11. Lautenberger, C., McAllister, S., Rich, D., & Fernandez-Pello, C., "Effect of Environmental Variables on Flame Spread Rates in Microgravity," *45th AIAA Aerospace Sciences Meeting and Exhibit*, Reno, NV, January 2007, AIAA Paper 2007-383.
12. Chatterjee, P., de Ris, J.L., & Lautenberger, C.W., "A General Combustion Model for Radiation Dominated Non-premixed Flames," *Fifth International Seminar on Fire and Explosion Hazards*, Edinburgh, UK, 2007.
13. McAllister, S., Rich, D., Lautenberger, C., Fernandez-Pello, C. & Yuan, Z.G., "Modeling Microgravity and Normal Gravity Flame Spread Rates over Samples of Polymer and Polymer/Glass Composites," *Fifth International Seminar on Fire and Explosion Hazards*, Edinburgh, UK, April 2007.
14. Lautenberger, C. & Fernandez-Pello, C., "A Generalized Pyrolysis Model for Combustible Solids," *Fifth International Seminar on Fire and Explosion Hazards*, Edinburgh, UK, April 2007.

15. Coles, A., Wolski, A., & Lautenberger, C., "Using Fire Dynamics Simulator for Fire Growth Modeling," *Interflam 2007*, London, UK, September 2007.
16. Dembsey, N., Avila, M., Kim, E., Lautenberger, C., & Dore, C., "Fire Characteristics of Polyester FRP Composites with Different Glass Contents," *Composites & Polycon 2007* Tampa, FL, October 2007.
17. Lautenberger, C. & Fernandez-Pello, A.C., "Modeling Ignition of Combustible Fuel Beds by Embers and Heated Particles," *Forest Fires 2008*, 2008.
18. Coles, A., Lautenberger, C., Wolski, A., Smits, B., & Wong, K., "Using Computer Fire Modeling to Reproduce and Predict FRP Composite Fire Performance," *Composites & Polycon 2009*, 2009.
19. Kim, E., Dembsey, N., & Lautenberger, C., "Parameter Estimation for Pyrolysis Modeling Applied to Polyester FRP Composites with Different Glass Contents," *Fire and Materials 2009*, 2009.
20. Lautenberger, C., Wong, W., Dembsey, N., Coles, A., & Fernandez-Pello, C., "Large-Scale Turbulent Flame Spread Modeling with FDS5 on Charring and Noncharring Materials," *Fire and Materials 2009*, 2009.
21. Coles, A., Wolski, A., & Lautenberger, C., "Predicting Design Fires in Rail Vehicles," *13<sup>th</sup> International Symposium on Aerodynamics and Ventilation of Vehicle Tunnels (ISAVVT 13)*, 2009.
22. Dodd, A.B., Lautenberger, C., & Fernandez-Pello, A.C. "Numerical Modeling of Smoldering Combustion and Transition to Flaming," *Sixth US National Combustion Meeting*, University of Michigan, Ann Arbor, MI, 2009.
23. Scott, S, Hadden, R., Fereres, S., Lautenberger, C., & Fernandez-Pello, A.C., "Ignition of Combustible Fuel Beds by Embers and Heated Particles," *Western States Section/The Combustion Institute*, Irvine, CA, October 2009.
24. Fereres, S., Lautenberger, C., Fernandez-Pello, C., Urban, D., & Ruff, G., "Effect of Ambient Pressure on Mass Loss Rate at Piloted Ignition," *Western States Section/The Combustion Institute*, Boulder, CO, March 2010.
25. Lautenberger, C., Rich, D., Kramer, M., Fernandez-Pello, C., and Stephens, S., "Communication Infrastructure Provider Assets in the Wildland Setting: CIP Fire Threat Map," June 9, 2010.
26. Lautenberger, C., Wong, W.C., Coles, A., Dembsey, N., & Fernandez-Pello, C., "Comprehensive Data Set for Validation of Fire Growth Models: Experiments and Modeling," *Interflam 2010*, Nottingham, UK, July 2010.
27. Thiry, A., Suzanne, M., Bellivier, A., Bazin, H., Coppalle, A., & Lautenberger, C., "Different Approaches for Fire Source Modeling – Application to Arcueil Experiments," *Interflam 2010*, Nottingham, UK, July 2010.
28. Dodd, A., Lautenberger, C., Fernandez-Pello, C., & Putzeys, O., "Examination of the Spontaneous Transition from Smoldering to Flaming: Comparison of Simulations and Experiments," *Interflam 2010*, Nottingham, UK, July 2010.
29. Fereres, S., Lautenberger, C., Fernandez-Pello, C., Ruff, G., & Urban, D., "Modeling the effect of ambient variables on piloted ignition of solid combustible materials," *Seventh US National Combustion Meeting*, March 2011.
30. Matala, A., Lautenberger, C., & Hostikka, S., "Direct method for estimation of pyrolysis kinetics and comparison to existing methods," *Seventh US National Combustion Meeting*, March 2011.
31. Lautenberger, C., "Modeling Wildland Fire Spread Using an Eulerian Level Set Method and High Resolution Numerical Weather Prediction," *International Congress on Fire Computer Modeling*, October 2012, Santander, Spain.
32. Lautenberger, C., Sexton, S., & Rich, D., "Understanding Long Term Low Temperature Ignition of Wood," *International Symposium on Fire Investigation Science and Technology*, College Park, MD, September 22-24, 2014, p. 361.
33. Zicherman, J., Lautenberger, C., & Wolski, A., "Challenges in Establishing Design Fires for Passenger Rail Vehicles," *Proceedings of Fire and Materials 2015*, Interscience Communications, February 2-4 2015, San Francisco, CA, pp. 749 – 764.

## Short Courses

1. *Lawrence Livermore National Laboratories Fire Modeling Short Course – A Short Course Presented to Fire Protection Engineers*. Co-taught, with Professor James Milke (University of Maryland) and Professor Frederick Mowrer (California Polytechnic State University), a 3-day short course on fire dynamics and fire modeling for Lawrence Livermore and Lawrence Berkeley National Laboratories employees (March 20 – 22, 2012).
2. *First Asia-Pacific Combustion Institute Summer School – Fundamental Combustion Problems in Fire*. Co-taught sessions related to fire science and pyrolysis modelling in Valparaiso, Chile (November 11 – 15, 2019).

## Selected Presentations and Invited Lectures

1. "A Practical CFD Model for Soot Formation and Flame Radiation," *International Conference on Engineered Fire Protection Design*, San Francisco, CA, June 13, 2001.
2. "Effect of Material Composition on Ignition Delay of Composites," *Composites 2003 Convention and Trade Show*, Anaheim, CA, October 2, 2003.
3. "Experimental and Theoretical Study on Ignition Delay of Composites," *Western States Section of the Combustion Institute Fall 2003 Meeting*, Los Angeles, CA, October 20, 2003.
4. "Approximate Analytical Solutions for the Transient Mass Loss Rate and Piloted Ignition Time of a Radiatively Heated Solid in the High Heat Flux Limit," *The Eighth International Symposium on Fire Safety Science*, Beijing, China, September 20, 2005.
5. "Effect of Environmental Variables on Flame Spread Rates in Microgravity," *45<sup>th</sup> AIAA Aerospace Sciences Meeting and Exhibit*, Reno, NV, January 8, 2007.
6. "Generalized Pyrolysis Model for Combustible Solids," *2007 Annual Fire Conference*, National Institute of Standards and Technology, Gaithersburg, MD, April 4, 2007.
7. "Generalized Pyrolysis Model for Combustible Solids," *5<sup>th</sup> International Seminar on Fire and Explosions Hazards*, Edinburgh, UK, April 24, 2007.
8. "Generalized Pyrolysis Model for Combustible Solids," FM Global Research, Norwood, MA, June 19, 2007 (invited seminar).
9. "Pyrolysis Modeling – What Level of Accuracy is Needed to Match Current Gas-Phase Accuracy?," *The Ninth International Symposium on Fire Safety Science*, Fire Spread Modeling Workshop, Karlsruhe, Germany, September 21, 2008 (invited presentation).
10. "Estimating Material Properties for Numerical Pyrolysis Modeling from Laboratory Experiments," *The Ninth International Symposium on Fire Safety Science*, Karlsruhe, Germany, September 21, 2008 (invited presentation).
11. "The Role of Decomposition Kinetics in Pyrolysis Modeling – Application to a Fire Retardant Polyester Composite," *The Ninth International Symposium on Fire Safety Science*, Karlsruhe, Germany, September 26, 2008.
12. "Fire Growth Modeling in Buildings – Where We Are and Where We Need to Be," IIE Seminar, University of Edinburgh, Edinburgh, UK, October 30, 2008 (invited seminar).
13. "Some Unsolved Problems in Fire Dynamics: The Needed Physics and Mathematics," *Mathematical Problems in Fire Safety Engineering Joint Workshop*, Edinburgh, UK, October 31, 2008 (invited seminar).
14. "Large-Scale Turbulent Flame Spread Modeling with FDS5 on Charring and Noncharring Materials," *Fire and Materials 2009*, San Francisco, CA, January 26, 2009.
15. "Fire Growth Modeling: Small-Scale Flammability Tests to Large Scale Fire Behavior," *ASTM E5 Research Review*, Vancouver, BC, June 15, 2009 (invited presentation).
16. "Optimization Algorithms for Material Pyrolysis Property Estimation," *The Tenth International Symposium on Fire Safety Science*, College Park, MD, June 21, 2011.
17. "The Role of Fire Science, Fire Dynamics, and Fire Modeling in Testing Forensic Fire Investigation Hypotheses," IIE Seminar, University of Edinburgh, Edinburgh, UK, August 20, 2012 (invited seminar).
18. "Modeling Wildland Fire Spread Using an Eulerian Level Set Method and High Resolution Numerical Weather Prediction," *International Congress on Fire Computer Modeling*, October 19, 2012, Santander, Spain.
19. "Gpyro3D: A Three Dimensional Generalized Pyrolysis Model," *The Eleventh International Symposium on Fire Safety Science*, Christchurch, New Zealand, February 10, 2014.
20. "Understanding Long Term Low Temperature Ignition of Wood," *International Symposium on Fire Investigation Science and Technology*, College Park, MD, September 22, 2014.
21. "Current Status of Applied Fire Dynamics Simulations," 2015 Northern California/Nevada SFPE Fire Protection Engineering Seminar, San Ramon, CA, April 8, 2015 (invited seminar).
22. "Identifying Areas with Elevated Risk of Large-Scale Structure Loss from Wildland Fires," *The 12<sup>th</sup> International Symposium on Fire Safety Science*, Lund, Sweden, June 14, 2017.
23. "Wildfire Modeling and Risk of Potential Structure Loss," *2018 Annual Society of Fire Protection Engineers Greater Atlanta Chapter Fire Safety Conference*, Duluth, GA, March 14, 2018.
24. "Wildfire Modeling and Risk of Potential Structure Loss," 2018 Northern California / Nevada Society of Fire Protection Engineers Seminar, San Ramon, CA, March 28, 2018.
25. "Smoke Alarm Failures: Owner/Landlord Responsibility," 2018 Inner Circle of Investigators Seminar, Newport Beach, CA, October 4, 2018.
26. "California's 2017 Wildfires: What Happened? And Can we Map Areas Where it Could Happen Again?," 2018 Society of Fire Protection Engineers Annual Conference & Expo, Nashville, TN, October 29, 2018.

27. “Applications and Limitations of Current-generation 2D Wildfire Models,” National Institute of Standards and Technology (NIST) Large Outdoor Fire Modelling Workshop, Gaithersburg, MD, March 18, 2019.
28. “Automated Real-time Ensemble Fire Forecasting in California,” 6<sup>th</sup> International Wildland Fire Behavior and Fuels Conference, Albuquerque, NM, May 1, 2019.
29. “California’s October 2017 Wildfires: What Happened, and Can We Map Areas Where It Could Happen Again?,” Society of Fire Protection Engineers Webinar Series, May 13, 2019.
30. Applications and Limitations of Current-generation 2D Wildfire Spread Models in the Utility Sector,” California Utility Forecasters Meeting, Irwindale, CA, June 25, 2019.
31. “Mapping Wildland Fire Risk in the Western US Using Fire Modeling and Monte Carlo Simulation,” FM Global Research Forum, Norwood, MA, June 28, 2019.
32. “Automated Real-time Ensemble Fire Forecasting in the Continental US,” National Academies Workshop: Modeling and Simulation of Fires, Berkeley, CA, October 7, 2019.
33. “Automated Real-Time Fire Forecasting in California: A Mid-season Assessment,” 2019 Society of Fire Protection Engineers Annual Conference & Expo, Phoenix, AZ, October 15, 2019.
34. “Emerging Technologies for Detecting, Mapping, and Forecasting the Spread of Wildfires,” 2019 National Wildfire Litigation Conference, Bastrop, TX, October 20, 2019.
35. “Overview of Wildland Fire Science and Basic Methods for Modeling Spread,” Environmental Governance and Climate Resilience course, Stanford University, January 21, 2020.
36. “Automated Real-Time Fire Spread and Risk Forecasting,” Northwest Hydroelectric Association 2020 Annual Conference, Seattle, WA, February 19, 2020.

### Publication and Presentation Awards

- Best Paper Overall at *Composites & Polycon 2007*, Tampa, FL, October 2007 for Dembsey, N. *et al.*, “Fire Characteristics of Polyester FRP Composites with Different Glass Contents,” presented by N. Dembsey.
- Best paper (second prize) at the *Fifth International Seminar on Fire and Explosion Hazards*, Edinburgh, UK, April 2007 for Lautenberger, C. & Fernandez-Pello, C., “Generalized Pyrolysis Model for Simulating Charring, Intumescent, Smoldering, and Noncharring Gasification,” presented by C. Lautenberger.
- 2011 International Association for Fire Safety Science Best Thesis Award (Americas Region) for 2007 PhD Dissertation entitled “Generalized Pyrolysis Model for Combustible Solids”. This IAFSS award recognizes the best research dissertation at the PhD and Masters levels in the field of fire safety science and engineering that was completed between 2007 and 2010.
- International Association for Fire Safety Science Best Paper Award (honorable mention) for 2008 paper entitled “The Role of Decomposition Kinetics in Pyrolysis Modeling – Application to a Fire Retardant Polyester Composite,” by Lautenberger, C., Kim, E., Dembsey, N. & Fernandez-Pello, C. [*Fire Safety Science* **9**: 1201-1212 (2008)].
- 2014 Society of Fire Protection Engineer’s Jack Bono Award for the paper from Volume 23 of the *Journal of Fire Protection Engineering* that has most contributed to the advancement and application of professional Fire Protection Engineering for the paper entitled “CFD Flame Spread Model Validation: Multi-component Data Set Framework,” by Wong, W., Alston, J., Lautenberger, C., and Dembsey, N., [*Journal of Fire Protection Engineering* **23**: 85-134 (2013)].
- 2017 Philip Thomas Medal of Excellence. This is awarded to the author(s) of the best paper presented at the previous International Association for Fire Safety Science (IAFSS) Symposium. It is based on five criteria that are used to identify the best paper: pertinence, utility, significance, rationality, and eloquence.

### Conference/Journal Advisory Boards/Technical Committees

- Associate Editor of *Fire Technology*, 2014 - present
- Member of Scientific Advisory Board for *International Congress on Combustion and Fire Dynamics*, Santander, Spain, October 2010
- Member of Technical Program Committee (Compartment Fires) for the *Tenth International Symposium on Fire Safety Science* (IAFSS Symposium), College Park, MD, June 2011
- Member of Scientific Advisory Board for *International Congress on Fire Computer Modeling*, Santander, Spain, October 2012



## **Journal Referee / Peer Review**

- *Advances in Engineering Software*
- *Advances in Materials Science and Engineering*
- *Applied Thermal Engineering*
- *Artificial Intelligence Review*
- *Asia-Oceania Symposium on Fire Science and Technology*
- *Brazilian Journal of Chemical Engineering*
- *Chemical Engineering Science*
- *Combustion and Flame*
- *Combustion Science and Technology*
- *Construction and Building Materials*
- *Earth and Space Science*
- *Ecological Modeling*
- *Energy & Fuels*
- *Engineering Science and Technology*
- *Experimental Thermal and Fluid Science*
- *Express Polymer Letters*
- *Fire and Materials*
- *Fire Safety Journal*
- *Fire Safety Science (IAFSS Symposia)*
- *Fire Technology*
- *Frontiers Mechanical Engineering*
- *Fuel Processing Technology*
- *Industrial & Engineering Chemistry Research*
- *International Colloquium on the Dynamics of Explosions and Reactive Systems*
- *International Journal of Computational Fluid Dynamics*
- *International Journal of Heat and Mass Transfer*
- *International Journal of Thermal Sciences*
- *International Journal of Wildland Fire*
- *Journal of Advances in Modeling Earth Systems*
- *Journal of Computational Science*
- *Journal of Fire Protection Engineering*
- *Journal of Fire Sciences*
- *Proceedings of the Combustion Institute*
- *Science of the Total Environment*
- *Thermochimica Acta*

## Wendy Stratton

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**From:** [REDACTED]  
**Sent:** Saturday, September 10, 2022 3:26 PM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; John Minto; Dustin Trotter  
**Subject:** Fanita Ranch, Item 8 - Disapprove!

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project are unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Thank you,  
Mr. and Mrs. Esry  
35 year Santee Resident

**From:** [gary brooks](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Saturday, September 10, 2022 3:36:17 PM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you  
Gary N Brooks

Sent from my iPhone

HARRY R BOFFMAN JR., M.D.



Santee, Ca. 92071

Dear City Council, Major and Vice Mayor and Staff,

I have been a resident of the city of Santee since 1994.

Please accept this email as support for Fanita Ranch. Fanita Ranch has been part of the City's future development plans for over 30 years. Originally planned for 13,000 homes, it's been whittled down over and over by a few extremists in an effort to respond to NYMBY opposition, but no amount of concessions or planning have made this vocal minority happy. It's time to approve this thoughtful plan so our families have a better chance of owning a home!

HomeFed has been developing Master Planned communities in San Diego County for 25 years. They have brought highly qualified and thoughtful planners, designers, engineers, and development professionals into their planning efforts to ensure Santee gets a stellar community of which can be proud

The amenities planned are incredible miles of trails, publicly accessible parks and open space, acres and acres of parks and open space, a new fire station and an organic farm, a walkable sustainable community is exactly what we are looking for. Please approve Fanita Ranch.

Sincerely ,

A solid black rectangular redaction box covering the signature area.

Harry R. Boffman Jr, MD

**From:** [heather murray](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Sunday, September 11, 2022 7:27:15 PM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

Sent from my iPhone

**From:** [Janet Garvin](#)  
**To:** [Chris Jacobs](#)  
**Cc:** [John Minto](#); [Ronn Hall](#); [dustintrotter@cityofsanteeca.gov](mailto:dustintrotter@cityofsanteeca.gov); [Laura Koval](#); [Rob McNelis](#)  
**Subject:** City Council 9/14/2022 FANITA RANCH Item 8- DISAPPROVE!  
**Date:** Sunday, September 11, 2022 3:40:01 PM

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**City Council 9/14/2022 FANITA RANCH Item 8- DISAPPROVE!**

**Again for the administrative record:**

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the ILLEGAL exclusion of a public vote on the Fanita Ranch project is unethical, un-democratic and un-American. I strongly urge you to vote against it.

Placing a 3,000 unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,  
Janet Garvin

**From:** [Janet Lindy](#)  
**To:** [Chris Jacobs](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [John Minto](#); [Dustin Trotter](#)  
**Subject:** Fanita Ranch, Item\*- DISAPPROVE!  
**Date:** Monday, September 12, 2022 3:18:26 PM

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Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Thank you,

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Janet Lindy

cel [REDACTED]

For your Health/Dental/Vision Insurance needs Call me at 858-805-1307

## Wendy Stratton

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**From:** Janet Mc [REDACTED]  
**Sent:** Monday, September 12, 2022 10:06 AM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; [REDACTED] John Minto  
**Subject:** Fanita Ranch, Measure N and Item 8 on September 14, 2022 Agenda  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr Jacobs and members of the Santee City Council,

WE, THE PEOPLE of Santee have made our voices heard at the ballot box or so we thought. Passing Measure N made it clear that this was an important issue that legally required a vote by WE, THE PEOPLE, not just you, the five. Please honor the constitution and Democracy and allow all Santee voters, even you, to cast a vote on Fanita Ranch as required.

There are many reasons that Santee citizens want to weigh in on Fanita Ranch rightfully called a sprawl subdivision. One of mine includes that I watched it burn while friends evacuated. The severe fire hazard makes it clear that another fire is unavoidable. The residents of 3000+ new homes evacuated past schools on to our already impacted streets makes a safe exit virtually impossible. As a parent, I could be adding to the chaos by fighting traffic to get to my child, wouldn't you? Could this land be conserved for our children with aid from the military's base buffer REPI program? What a thank you to all of our many military folks that live in and commute through our busy city and an accomplishment for this council.

Please vote against Item 8. Increase housing in only safe locations where our citizens have the best chance to survive this real and growing threat of fire. I see and welcome the housing being built in my neighborhood consisting of individual homes, small tracts and "granny flats" to add to the single family homes and apartments that already exist. Infrastructure has at least a chance to keep up with this style of growth.

Sincerely,  
Janet McLees  
Santee voter



From: [Janice](#)  
To: [Chris Jacobs](#)  
Subject: Fanita Ranch  
Date: Monday, September 12, 2022 10:06:53 AM

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I don't usually get involved in any kind of politics but the building of 3000 more homes just blows my mind. How can anyone believe this is good for Santee?

Have you "tried" to drive down Mission Gorge & been stopped at every light? Have you "tried" to park at any of the stores in town & have to park a mile away? Have you "tried" to shop later in the day & not only can't find a place to park but the lines inside are very long? When were you able to water your lawn or wash your car? When were you able to keep your air conditioning at a temp where you are comfortable?

I'm just one little person living in Santee that hates how it's grown & how you have to find alternate streets to Mission Gorge because it's always so full of traffic. I hate to sit at every red light & sometimes thru two cycles if the traffic is really bad. Where are you living that you haven't noticed just how bad it's gotten here? Have you seen 52 in the morning?

I worked in Santee in 1980 when there was very little here. I thought about buying here but there was nothing in town (places to shop) so I lived elsewhere. Forward to 2004 when I moved here. Now there are plenty of places to shop & freeways to get here & there. I had to buy a mobile home because now I'm retired & can't afford a home here. Had I known just how bad it was going to get, I would've looked at other places to buy. Now I can't afford to move & I'm not happy with the way things are. To even think about 3000+ more people & possibly 6000 more cars just makes me angry & sick. What are you doing to what was once a beautiful little city?

Please reconsider & take care of those residents who are already here. We need more water & electricity & somebody to time the lights so we can actually drive across town easily. You are ruining Santee.

-"-  
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Miss Hannah  
RIP

*A man may smile & bid you hail yet wish you to the devil; but when a good dog wags his tail, you know he's on the level. Anon*

**From:** [CPB](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Friday, September 9, 2022 12:35:47 PM

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Dear Mr Jacobs,

I object to the city council decision to proceed with 2949 to 3009 homes plus commercial use, parks and a farm . As a resident of Santee for 38 years I ask that the city use the general plan. I think the city council ignores the residence concerns regarding fires, water, and electric usage all of which we are being asked to conserve.

It's amazing that our council ignores us and denies our request for us to vote on this issue . It's a concern when Home Fed donates to this council election efforts for election. This council is still working on a theater after many years of waiting . This

Council only works for what serves there interest and not for its citizens!

Janis Barnhart

Sent from my iPad

**From:** [Jason Page](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Monday, September 12, 2022 7:33:28 PM

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Dear City Council and Mr. Jacobs,


Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you  
Jason Page  
  
Santee, CA 92071

Sent from my iPhone

## Wendy Stratton

---

**From:** J. Fleming [REDACTED]  
**Sent:** Saturday, September 10, 2022 3:46 PM  
**To:** Rob McNelis  
**Subject:** Disapprove Fanita Ranch

Hello,

I thought re-approval of Fanita Ranch is not permitted for at least one year after the city rescinded project approvals in May of 2022?

I object to a city council approval of the Fanita Ranch project scheduled on 9/14/22.

Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

Jon Fleming  
Santee, CA

**From:** noreply@cityofsanteeca.gov <noreply@cityofsanteeca.gov>

**Sent:** Tuesday, September 13, 2022 7:18 PM

**To:** Rob McNelis <RMcNelis@CityofSanteeCa.gov>

**Subject:** [REDACTED]

Message submitted from the <Santee, CA> website.

**Site Visitor Name:** Julie Leonard

**Site Visitor Email:** [REDACTED]

NO ON FANITA RANCH! IT IS WRONG FOR SANTEE. THE VOTING PUBLIC DOESN'T WANT IT. GIVE US A CHANCE TO VOTE ON IT. WE WILL REMEMBER HOW YOU VOTE. DO THE RIGHT THING. NO ON FANITA RANCH!

## Wendy Stratton

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**From:** Friends of Rose Creek <info@saverosecreek.org>  
**Sent:** Monday, September 12, 2022 10:46 PM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; John Minto; Dustin Trotter  
**Subject:** Fanita Ranch, Item 8 - Disapprove!

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

This business of not allowing voters to have a say is un-American and undermines our democracy. Let the people decide if Fanita Ranch is good for Santee or not

I strongly urge you to vote AGAINST Item 8 – Fanita Ranch project

Also, as fire risks increase due to climate change, placing new projects in a Cal Fire identified severe fire hazard zone is just bad for tax payers who have to shoulder the burden for fire fighting costs.

We the people can't afford to subsidize private development in areas where all taxpayers have to pay for the protection of private property. We might as well just donate our tax dollars to private developers and protect the lives of our first responders by not requiring them to defend poorly located human-built structures.

On behalf of the Friends of Rose Creek.

Warmly,

Karin Zirk, Ph.D. (she/her/hers)  
Executive Director  
Friends of Rose Creek  
\*\*\* Connecting Our Communities \*\*\*  
<https://www.saverosecreek.org>

**From:** [Kelsey Tyler](#)  
**To:** [Chris Jacobs](#)  
**Subject:** RE: Fanita Ranch Final EIR  
**Date:** Monday, September 12, 2022 2:12:29 PM

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Dear Mr. Jacobs,

I object to a city council illegal approval of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

The project must face Santee voters. The City "Essential Housing Certification" appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26,000 new vehicle trips per day.

Please include my objection in the Administrative Record for the project,

Thank you,

Kelsey Tyler

**From:** [Kelsey Tyler](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Monday, September 12, 2022 2:15:03 PM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,

Kelsey Tyler



**From:** [Kim Sullivan](#)  
**To:** [Chris Jacobs](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [John Minto](#); [Dustin Trotter](#)  
**Subject:** Fanita Ranch issue - Item 8  
**Date:** Tuesday, September 13, 2022 9:58:02 AM

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Dear Mr. Jacobs and City Council,

Please vote NO on item 8.

I am very disappointed to hear that the Fanita Ranch issue continues to plague the city of Santee. Even with the passage of Measure N, and the court's upholding Santee voters' majority opinion and ordering to stop the Fanita Ranch development, it seems that the city council is scheming to bring it back again.

I don't normally deal in local politics, but I am appalled by the city's behavior here. Please note that I am not opposed to all new development, and, in fact, live in the new Weston development.

However, it is highly irresponsible to build a 3000-unit project here based on some crackpot plan to "shelter in place" in the likely event of future wildfire. And we all know that it is not responsible at all to expect evacuation to be possible within our current infrastructure (including freeways and highways).

I agree with saner folks who state that the Fanita development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Again, please vote no on Item 8, and know that even though you are actively attempting to exclude the public, we are watching... and voting in elections.

Thank you for reading this,  
Kim Sullivan

[REDACTED]  
Santee CA 92071

[REDACTED]

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**From:** [REDACTED]

**Sent:** Tuesday, September 13, 2022 6:28 PM

**To:** Ronn Hall <RonnHall@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; jtrotter@cityofsanteeca.gov; Laura Koval <LKoval@CityofSanteeCa.gov>; Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Cc:** [REDACTED]

**Subject:** Fanita Ranch, Item 8 - Disapprove!

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democratic, and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

I am requesting return notice that this email has been received by you and The City of Santee.

Sincerely,  
Laurey A. Lewis

**From:** [Laurie Lucie](#)  
**To:** [Chris Jacobs](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [John Minto](#); [Dustin Trotter](#)  
**Subject:** Fanita Ranch, Item 8  
**Date:** Saturday, September 10, 2022 5:28:25 PM

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**RE: Fanita Ranch, Item 8 - Disapprove!**

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Thank you,

Laurie Lucie

[REDACTED]  
Santee, CA 92071

**From:** [LEE SHANNON](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Saturday, September 10, 2022 4:47:20 PM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

Lee Shannon  
Sent from my iPhone

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**From:** Lennea Brown [REDACTED]

**Sent:** Tuesday, September 13, 2022 9:00 PM

**To:** Chris Jacobs <CJacobs@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

**Subject:** Fanita Ranch, Item 8

**Attachment:** Fanita Ranch Letter from Santee Resident Brown

Dear Mr. Jacobs and City Council,

My letter regarding Fanita Ranch, Item 8, on the September 14, 2022 agenda is attached.

I urge you to vote against approval.

Thank you,

Lennea Brown

Santee Resident

September 13, 2022

Regarding: Fanita Ranch, Item 8

Chris Jacobs [cjacobs@cityofsanteeca.gov](mailto:cjacobs@cityofsanteeca.gov)  
Ronn Hall [RonnHall@ci.santee.ca.us](mailto:RonnHall@ci.santee.ca.us)  
Laura Koval [lkoval@cityofsanteeca.gov](mailto:lkoval@cityofsanteeca.gov)  
Rob McNelis [RMcNelis@ci.santee.ca.us](mailto:RMcNelis@ci.santee.ca.us)  
John Minto [JMinto@ci.santee.ca.us](mailto:JMinto@ci.santee.ca.us)  
Dustin Trotter [dtrotter@cityofsanteeca.gov](mailto:dtrotter@cityofsanteeca.gov)

Dear Mr. Jacobs and City Council,


The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Given that Measure N passed, it was surprising to discover that Item 8; Fanita Ranch, is on the Santee City Council's agenda for discussion on September 14, 2022.

Please be aware of the fact that the approval of Item 8, Fanita Ranch, with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democratic and raises considerable questions about the Council and their affiliations. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,

  
Lennea Brown

Santee Resident

**From:** [Lori Scribner](#)  
**To:** [Chris Jacobs](#)  
**Subject:** September 14 City Council Meeting Agenda  
**Date:** Tuesday, September 13, 2022 6:09:18 PM

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Chris:

I OBJECT to item #8 on the agenda for September 14.

Sincerely,  
Lori Scribner

**From:** [Lory Garcia](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Sunday, September 11, 2022 10:43:57 AM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

Sent from my iPhone



**From:** [Luce L](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch OPPOSITION  
**Date:** Saturday, September 10, 2022 11:41:05 PM

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RE: Fanita Ranch Final EIR Dear Mr. Jacobs, I object to a city council illegal approval of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022. The project must face Santee voters. When will it do so? The City "Essential Housing Certification" appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26,000 new vehicle trips per day. Please include my objection in the Administrative Record for the project

Lynda Marrokal

[REDACTED]  
Santee, Ca. 92071

Dear City Council, Major and Vice Mayor and Staff,

Please accept this email as support for Fanita Ranch. Fanita Ranch has been part of the City's future development plans for over 30 years. Originally planned for 13,000 homes, it's been whittled down over and over by a few extremists in an effort to respond to NYMBY opposition, but no amount of concessions or planning have made this vocal minority happy. It's time to approve this thoughtful plan so our families have a better chance of owning a home!

HomeFed has been developing Master Planned communities in San Diego County for 25 years. They have brought highly qualified and thoughtful planners, designers, engineers, and development professionals into their planning efforts to ensure Santee gets a stellar community of which can be proud

The amenities planned are incredible miles of trails, publicly accessible parks and open space, acres and acres of parks and open space, a new fire station and an organic farm, a walkable sustainable community is exactly what we are looking for. Please approve Fanita Ranch.

Sincerely,

[REDACTED]  
Lynda Marrokal @ 1957 Santee

**From:** [Margaret Field](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch- Disapprove!  
**Date:** Saturday, September 10, 2022 5:45:50 PM

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Dear Mr. Jacobs,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Thank you,

--

Dr. Margaret Field  
Professor, American Indian Studies  
San Diego State University

**From:** [Marie Weber](#)  
**To:** [Chris Jacobs](#); [Laura Koval](#)  
**Subject:** Fw: Fanita Ranch 9/14/22 Santee City Council Meeting  
**Date:** Monday, September 12, 2022 6:55:04 PM

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Dr Mr Jacobs and Ms Koval,

I have questions and concerns regarding Fanita Ranch:

- Doesn't Council have to wait a year from Spring 2022 to reapprove the project?
- When is the vote by Santee residents?
- How can Ordinance #592 possibly relate to Fanita Ranch?
- Please explain the "current and immediate threat to the public health, safety or welfare" regarding housing.

- How is "the preservation of public peace" related to housing in Santee?

- What other cities in San Diego County have enacted a similar ordinance?

Santee needs 1,219 units of housing per SANDAG. In the proposed Fanita Ranch development,

-How many units will be extremely low income? (203 needed)

-How many units will be very low income? (203 needed)

-How many units will be low income? (200 needed)

-How many will be moderate income? (188 needed)

Finally, California wants cities to build housing near public transportation hubs.

-What public transportation will Fanita Ranch offer?

The approval of Fanita Ranch at this time appears illegal and highly unethical.

Please include my objection in the record for the Fanita Ranch project.

Sincerely, Marie Weber (Santee resident, district 3)

**From:** [MARSHA MACDONALD](#)  
**To:** [Chris Jacobs](#); [Ronn Hall](#); [Laura Koval](#); [John Minto](#); [Dustin Trotter](#)  
**Subject:** Please stop Fanita Ranch Project  
**Date:** Saturday, September 10, 2022 5:56:02 PM  
**Importance:** High

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Dear Mr. Jacobs and City Council,

It is my understanding that the people of Santee passed Measure N and qualified a referendum to assure that Santee residents make the final decision at the ballot regarding Fanita Ranch.

It is my understanding that Item 8 approval of Fanita with the illegal exclusion of a public vote on the Fanita Ranch project was illegal and is unethical, antidemocratic.

I urge you to please vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire-hazard zone is a significant risk to new and existing residents and to that must use the same severely congested routes for evacuation.

As reported in March of this year (2022) in the *San Diego Union Tribune*, "[Judge halts 3,000-home project in Santee over wildfire concerns.](#)"

And as reported in May of this year (2022) in the *San Diego Union Tribune*, "[The Santee City Council has formally thrown out approval of the long-planned Fanita Ranch housing project, after a judge ruled the proposal didn't adequately consider how new homes could affect wildfire evacuations. The five-member group voted unanimously last week to overturn six resolutions and two ordinances that had given the green light to around 3,000 homes in the hills beyond Santee Lakes.](#)"

The Final Revised Environmental Impact Report remains inadequate on fire safety issues.

What has changed?

And massive wildfires aside, the freeway infrastructure cannot possibly support some 3,000 to 9,000+ more cars that come hand-in-hand with such a huge development project--our freeway infrastructure cannot adequately support the existing amount of workday daily traffic

Lastly, one of the treasures about Santee is its being adjacent to Mission Trails park, its rolling hills, Santee Lakes, annual tree planting---it is a city that prides itself on the environment. That environment will be vastly impaired by such a huge development.

The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,

Marsha MacDonald

Fiona Way

Santee, CA

**From:** [Marsha](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Sunday, September 11, 2022 5:21:31 AM

---

Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you  
Marsha Taylor

**From:** [martin.johnson](#)  
**To:** [Chris Jacobs](#)  
**Subject:** The application to develop Finita Ranch  
**Date:** Tuesday, September 13, 2022 11:11:46 AM

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To: Chris Jacobs, Santee Principal Planner,

We have lived in Santee for 35 years at 10508 Cadwell Road. We have been asked to evacuate our home 3 times for fires. If the wind was blowing in the opposite direction we would have lost our homes. The evacuation routes are very limited in this area , adding 3000 homes is only making it a worse fire hazard. There are other properties that are safe, consider building there, do not build in a fire trap. A lot of us here in Fanita Ranch have had our fire insurance cancelled after a drone evaluation stating severe fire hazard, in fact, our fire insurance doubled. My wife and I want to vote on this issue, the city council does not have the right to deny us to vote on this matter, they may have the right to appeal the outcome, they need to listen to the residents.

Another concern is, will this meet the Governors requirements on affordable housing, all I see is high end community, same as the Weston project across from Westhills. With this being in a fire zone and personally experiencing a recent high insurance rate hike, I don't see how that area would qualify as affordable housing.

Sincerely Martin and Susan Johnson,



**From:** [REDACTED]  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Tuesday, September 13, 2022 2:32:29 PM  
**Attachments:** [cty council.docx](#)

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Hello Chris,

Thanks to a neighbor, I received the Public Hearing Notice City Council Meeting regarding the Fanita Ranch Project on September 11th. I can not attend the meeting scheduled for tomorrow so I've attached a note summing up my comments about this project

Thanks for your consideration,  
Marty Smothermon

September 11, 2022

Re: Fanita Ranch

Dear City Council Members:

When my family & I moved from a suburb of Detroit to Strathmore Drive 52 year ago, Santee was a safe and stable neighborhood. Time marches on and as my children became more independent, they discovered the wonders of Sycamore Canyon and to this day continue to go hiking in the hills, still enjoying the treasure that is ingrained on them as a place to respect and love.

It is a travesty to destroy these beautiful hills and animal habitats. Just a few weeks ago my next-door neighbor's ring camera recorded a group of 3 deer near their driveway. Coyotes still wander the neighborhood, and the owls and hawks are calling in the sky.

The State of California is in a crisis mode with a severe drought and although, solar panels are helping, the power grids are strained every summer when there is a heatwave and outages occur. This development adds to these problems.

Most Santee residents do not work within the city limits and families need more than one income, so they commute to other communities. When you consider the round trips to work plus the day-to-day errands that we all do, there is a potential of 25,000 added cars driving through our town almost every day. We already see traffic grid lock here every morning and afternoon.

Other than added income for the city, and if approved, what added value does this development bring to the community at large?

What are the evacuation plans for a wildfire situation?

Increased pollutants, more worries about potable water, huge burdens on existing power grids, destruction of natural animal habitats. These are NOT GOOD THINGS. Please vote NO.

Marty Smothermon

Santee Resident

## Wendy Stratton

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**From:** Mary Hyder [REDACTED]  
**Sent:** Monday, September 12, 2022 1:26 PM  
**To:** Chris Jacobs; John Minto; Laura Koval; Rob McNelis; Dustin Trotter  
**Subject:** Fanita Ranch Item 8 - Disapprove

Dear Mr. Jacobs, Mr. Mayor and Santee City Council,

I do not know how many times this matter need to be brought up.

I do not see how traffic and fire safety issues were mitigated in the latest EIR. On top of that the voters in Santee voted on a referendum called Measure N to require a vote on a project like this. Why was this matter not put on the 2033 General Election ballot?

As much as I am not a fan of these unmitigated issues if a majority of the residents of Santee voted to approve Fanita Ranch I would accept (but not like) it.

Please do not vote to approve this matter. Please put it on the ballot.

Thank you,

Mary

Mary Hyder  
[REDACTED]

Sent from my iPhone...sorry for any typos

**From:** [Mad Matt](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Saturday, September 10, 2022 2:47:21 PM

---

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The Final Revised Environmental Impact Report remains inadequate on fire safety issues. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Furthermore, there is no housing crisis as described as your urgency ordinance 592 claims. There are plenty of homes available and population is decreasing in the state. 592 is not relevant and FR 8s not a required housing project.

The payoffs that the council members have received to ram this through are borderline criminal and the council members that stand to profit from this need to be exposed.

Thank you,

Matt Cantor

**From:** [michele\\_perchez](#)  
**To:** [Chris Jacobs](#)  
**Subject:** RE: Fanita Ranch REIR comments response  
**Date:** Tuesday, September 13, 2022 8:38:27 PM

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Here is my rebuttal to the responses to my comments in the REIR. Please submit into the Public Record. Thank you.

Response 168-2. I disagree that development of the area will not increase fire risk from homeless encampments. It is well documented that humans are the main cause of wildfires, so more access to the area is likely to result in more fires. All of the fire safety and precautions do not change the risk associated with more people coming to the area.

Response 172-1. My comment saying that increased fire hazard severity increases the risk and to make contrary statement is illogical is reliant on the common sense analysis that wildland fires could result in direct and indirect loss (meaning, of property), injury (meaning, of human and pet lives), and death life (human and pet).

Response 199-2. Not sure I see how a project under the Essential Housing Ordinance needs to occur on the Fanita Ranch project, when there are other properties available within the City limits.

Michele Perchez  
Santee, CA

**From:** [michele\\_perchez](#)  
**To:** [Chris Jacobs](#)  
**Subject:** RE: comments to thematic response 2 Fanita Ranch EIR  
**Date:** Tuesday, September 13, 2022 8:04:52 PM

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RE: Thematic Response 2: Referendum and Measure N applicability

Please admit the following into the public record for Fanita Ranch FREIR document. Thank you.

The assertion of the following portions of the document are meant to justify the denial of a public vote on the Fanita Ranch project, a project that exceeds the density requirements of the property (Policy 12.1, 12.2 of Measure N). As such, it is subject to Measure N, which was passed by the voters in the 2020 General Election.

As the project is in a high fire severity zone designation, the project is subject to voter approval since it does pose an “imminent threat to the health and safety of persons residing in or within the immediate vicinity of, the subject area”. Declaring the project falls under “Essential Housing”, does not erase this fact, no matter any safety measures in place or planned otherwise. Safety measures do not erase the high fire severity zone designation.

Alternative sites for “Essential Housing” do exist within the City, as identified at yearly meetings during which city staff identifies potential housing locations.

The City continues to use a variety of “catch all” statements to release itself of any responsibility to it’s constituents, such as the following: “to the extent any councilmember may have implied the proposed project is seeking a General Plan amendment and, for that reason, is subject to public vote, they were either mistaken or misquoted” (Thematic Response 2 document), and “This Ordinance shall remain in effect until August 25,2026, and may be extended by the City Council.” (Essential Housing Ordinance).

Michele Perchez

Santee, CA

## Wendy Stratton

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**From:** Michele Pope [REDACTED]  
**Sent:** Monday, September 12, 2022 2:16 PM  
**To:** John Minto; Ronn Hall; Laura Koval; Rob McNelis; Chris Jacobs; [REDACTED]  
dtrotter@cityofsantee.ca.gov  
**Subject:** Fanita Ranch Draft EIR

RE: Fanita Ranch Final EIR

Dear Mr. Jacobs, Mr. Mayor, and city council members,

I strenuously object to a city council illegal approval of the Fanita Ranch project scheduled on 9/14/2022. Why are Fanita Ranch project approvals even on the meeting agenda? I understand that re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

The project must face Santee voters - when will this happen? Why can't the City stand by the wishes of the residents?

The city "Essential Housing Certification" appears to be a way of circumventing the Santee voters wishes. We do not want more housing in a severe fire hazard zone, nor do we want more traffic gridlock. No matter how you try to make traffic better, it cannot happen with that many added cars.

Don't the city council members/mayor live in Santee? They must be aware of the current horrendous traffic.

Please include my objections in the administrative record for the project.

Thank you,

Michele Pope  
42 year resident of Santee

**From:** michelle janica [REDACTED]  
**Sent:** Monday, September 12, 2022 2:01 PM  
**To:** Annette Ortiz <AOrtiz@CityofSanteeCa.gov>  
**Subject:** Fanita Ranch

Greetings!

I would like to express my support in the new proposed development of Fanita Ranch. My husband and I were born and raised in San Diego and moved to AZ in 2002. We have since moved back and heard about this development and we are excited and hope it goes through. We are ready to make Santee our forever home and this development is

Amazing!

Please know we support it 100%.

Sincerely,

Robert and Michelle Janica

[REDACTED]  
Santee CA 92071



**From:** [Mike Deacon](#)  
**To:** [Chris Jacobs](#)  
**Subject:** No on Fanita Ranch vote  
**Date:** Saturday, September 10, 2022 4:38:28 PM

---

Dear Mr. Jacobs,

I object to a city council illegal approval of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

The project must face Santee voters. When will it do so?

The City "Essential Housing Certification" appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26,000 new vehicle trips per day.

Please include my objection in the Administrative Record for the project,

Thank you,

Mike Deacon

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

From: Nancy Hauser [REDACTED]

Sent: Tuesday, September 13, 2022 12:04 AM

To: Rob McNelis <RMcNelis@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

Subject: Fanita Ranch

Dear City Council,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

Thank you,  
Nancy Bennett-Hauser  
Vista del Verde HOA

Sent from my iPhone

**From:** [Pat Parmer](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Opposition to Fanita Ranch  
**Date:** Tuesday, September 13, 2022 3:19:26 PM

---

Dear Mr. Jacobs and City Council

We strongly oppose your decision to circumvent the will of your citizens. The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the decision at the ballot box on Fanita Ranch.

Now more than ever, placing a 3,000 unit project with traffic impacts into a Cal Fire severe hazard zone is a significant risk to new and existing residents that must use the same routes for evacuation.

Please support the citizens of Santee in deciding the fate of this project.

Thank you, Pat and Scott Parmer

**Wendy Stratton**

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**From:** Patti [REDACTED]  
**Sent:** Monday, September 12, 2022 11:00 AM  
**To:** Rob McNelis  
**Subject:** Fanita Ranch, Item 8, Disapproval

September 12, 2022

Dear Mr. McNelis and Santee City Council

I urge you to discontinue the assault on Santee City voters regarding the unwanted proposed Fanita Ranch Project. It is mind boggling the disregard you display when you, as a council, removed the voters right to vote on Measure N. We had secured the signatures and yet the council continues to illegally put Fanita Ranch up for passage without a citizen vote!

Fires in our city have increased and yet the Council promotes a 3,000+ housing project in a fire zone! Their routes out of that area will not accommodate the evacuation of all citizens when a fire rages.

Follow the lead of the voters and the rule of law. I urge you to veto this housing development.

Sincerely,  
Patricia Sebastian  
Santee

## Wendy Stratton

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**From:** Brent Burrell - [REDACTED]  
**Sent:** Monday, September 12, 2022 11:47 AM  
**To:** Dustin Trotter; John Minto; Rob McNelis; Laura Koval; Ronn Hall; Chris Jacobs  
**Subject:** No on Fanita Ranch- Agenda item 8

Mayor and Council Members,

I urge you to respect the wishes of your constituents to not approve the Fanita Ranch 3000 Home Project without a public vote. This is an illegal end around attempting to deny the citizens of Santee the right to vote as is our right as spelled out in the provisions of Proposition N which was decisively approved by said voters.

If you vote in favor of Item 8 you will be defying the will the people. Give your constituents the opportunity to decide this matter once and for all. Show me and all of my neighbors that developers don't have you in their back pocket. Prove that you stand for the quality of life in your community and that you haven't sold out to corporate interests.

Peter Burrell  
Santee, CA, 92071

Sent from my iPad

**From:** [Ricardo Jackiewicz](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch Draft EIR  
**Date:** Monday, September 12, 2022 8:12:02 AM

---

From: Ricardo Jackiewicz

9/12/2022

Dear Mr. Jacobs,

I object to a city council illegal approval of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

The project must face Santee voters. When will it do so?

The City “Essential Housing Certification” appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26,000 new vehicle trips per day.

Please include my objection in the Administrative Record for the project,

Thank you,

## Wendy Stratton

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**From:** The Kern Family [REDACTED]  
**Sent:** Saturday, September 10, 2022 7:23 PM  
**To:** Rob McNelis  
**Subject:** Fanita Ranch item 8 - Disapprove

Rob McNelis and Santee City Council,

As a long term resident of Santee, I have always been proud of how the city council has managed our growth. That is no longer the case. It seems that decisions are now being made unethically for personal reasons. Political shenanigans appear to be the new norm. What a shame and embarrassment. We voted long ago to approve a sensible development on Fanita Ranch and we deserve to vote again to approve or disapprove of any plan

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch development is not ethical. Also, it goes against the principles of a democracy where the people decide what is in their best interest. It is not American. I sincerely hope you will vote against it!

The residents of Santee have spoken on this issue numerous times and clearly this proposed development is not acceptable. Building 3000 homes with a significant increase in traffic impacts into a Cal Fire identified severe fire hazard zone would be a significant risk to new residents and to existing residents that must use the same routes for evacuation. The final revised environmental impact report remains inadequate on fire safety issues. The development application needs to be abandoned. The land could be the subject of a more suitable development, approved by the Santee residents. If this can not be achieved then the land should be permanently conserved through the Department of Defense military base buffer program.

Again, please look in the mirror and ask yourself if you are the type of person who wants to go down this unethical path. Vote to reject this rail road job.

Thank you

Robert Kern

Sent from my iPhone

Sent from my iPhone

**From:** [Will Rhatigan](#)  
**To:** [Chris Jacobs](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [John Minto](#); [Dustin Trotter](#)  
**Subject:** Fanita Ranch, Item 8 - Dissapprove!  
**Date:** Tuesday, September 13, 2022 11:21:42 AM

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Dear Mr. Jacobs and City Council,

The San Diego County Bicycle Coalition works to create a San Diego region where riding a bike is a healthy, practical, and convenient transportation choice for as many people as possible. We know that walkable, bikeable communities are better for people's health, the economic bottom lines of cities, and the environment. There is broad recognition of this fact in San Diego County, from SANDAG to most city governments in the region. For these reasons, we are disturbed that that Fanita Ranch Development is still on the table to move forward.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Moreover, this destructive sprawl development would go against every principle of smart, environmentally sustainable growth imaginable. We urge you to vote against it.

Sincerely,

--

**William Rhatigan (he/him/his)**  
**Advocacy Director**  
**San Diego County Bicycle Coalition**  
[will@sdbikecoalition.org](mailto:will@sdbikecoalition.org) // 617-775-9112



**Advocate. Educate. Celebrate!**



SS ①

September 12, 2022 Monday

P2022-3  
P2022-1  
P2022-2

(Public Hearing) (9-14) Case References

Fanita Ranch -

Tm 2022-1  
DR 2022-4

AEIS 2022-4  
2017-11

Fire Danger and Habitat Destruction

To Chris Jacobs project planner

Mayor J Minto

Ronn Hall

Laura Koval

Rob McNeilis

Dustin Trotter + Marlene Best <sup>City</sup> Manager

RECEIVED

SEP 12 2022

Dept. of Development Services  
City of Santee

Attention elected officials!

You are deceiving the people who voted for some of you and pay your salaries!

① We collected the signatures for project initiatives in 2020. We were told by city officials it would be put on the 2022 ballot. You J Minto are trying to weasel out of your obligations to us the people.

(2) We do not have a shortage of "essential housing" in Santee. We have construction and condos and apartments being built on any empty lot! "Affordable" housing is a nation-wide issue.

The whole project is a bad nightmare for everyone except the people filling their pockets with cash!

Anyone care to report campaign funds and extras from Home Fed of subsidiaries?

(3) We live here and have supported this town / city for more years than some of you may have.

You are not smarter or more educated than we the citizens are and we ~~do~~ neither trust your decisions for this city nor approve of them → being current mayor and City Council members.

(4) We voted this project down.

④

Where will this end?

When people have to huddle  
in one room? Don't use water.  
Don't use electricity.  
Don't drive. Stay home.

We the people want our  
initiatives on the

Ballot this year 2022.

No! — Fanita Ranch is  
not essential housing!

Listen to the people who  
live in this climate and  
for many, want a good  
life

That's all we ask.

No more traffic.

No more sellouts to developers  
under lies behind closed doors.

Do you even care? → For all of us?  
For Birds, Animals, children?  
For Elderly citizens?

Sandy Schielke

---

**From:** scott sheridan [REDACTED]

**Sent:** Tuesday, September 13, 2022 3:06 PM

**To:** John Minto <JMinto@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>;  
Laura Koval <LKoval@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>;  
dtrotter@cityofsanteeca.go; Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Subject:** Fanita Ranch Development

Dear City Council members,

This email is to show my support of Fanita Ranch. Fanita Ranch has been planned for too many years. It's time to approve it so my family will have a better chance of the American Dream.....owning a home! I have reviewed the information on Fanita and it looks awesome. HomeFed has been developing Master Planned communities in San Diego County for 25 years. They know how to create a community that people want to call home.

The amenities that are planned are incredible. Miles of trails, a walkable sustainable community is exactly what we are looking for. Acres and acres of parks and an organic farm are fantastic. Please approve Fanita Ranch so I can have the opportunity to own a home.

Thank you,

Scott Sheridan

**From:** [Shelle824](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fajita Ranch  
**Date:** Friday, September 9, 2022 2:03:26 PM

---

Dear Mr Jacobs,

I object to a city counsel illegal approval of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

The project must face Santee voters! When will it do so?

The City "Essential Housing Certification" appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26k new vehicle trips per day!

Please include my objection in the Administrative Record for the project.

Very Respectfully,  
Shelley Waider

[REDACTED]  
Santee, Ca 92071

[REDACTED]  
Sent from my iPad

## Wendy Stratton

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**From:** [REDACTED]  
**Sent:** Monday, September 12, 2022 10:21 PM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; John Minto; Dustin Trotter  
**Cc:** Sherise N. Stark  
**Subject:** RE: 09.14.2022 Council Meeting - Fanita Ranch, Item 8 -Disapprove!

September 12, 2022

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical and anti-democracy. You were elected to represent the voice of your citizens. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. I live in the North Magnolia/Cuyamaca area where potential Fanita Ranch residents would have to evacuate through in the event of a wildfire (which continues to be a very real threat-Dec. 2020 there was a wildfire generating evacuations right near N. Cuyamaca the exact route where evacuations could occur for a Fanita Ranch development). I lived here in Santee when we had voluntary evacuations in the early 2000's. My family and I evacuated area when given evacuation warning until it was safe to return and air was again safe to breathe. Even with the lower population we had nearly two decades ago, it was not a quick process to drive/get out of Santee. Why would we add 3,000 units (x1-4 people each unit = 3,000 to 12,000) more people on top of 2023 population to the small avenues Santee has to evacuate. You are literally putting the lives of Santee citizens at risk and inviting new residents to be added to that risk.

The Final Revised Environmental Impact Report remains inadequate on fire safety issues. I also don't want to deal with Fanita Ranch traffic gridlock in general. I certainly don't want a potential life threatening evacuation gridlock.

The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

---

**Vote NO on Fanita Ranch traffic gridlock**

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Thank you for listening,

Sherise N. Stark (a Santee Citizen who votes each election!!)

**From:** [Gladys "Tuloa" Sanchez](#)  
**To:** [Clerk Info](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Dustin Trotter](#)  
**Cc:** [Duncan McFetridge](#); [Joseph D. Petta](#)  
**Subject:** September 14, 2022 - City Council Agenda Item re Fanita Ranch Project  
**Date:** Wednesday, September 14, 2022 9:56:45 AM  
**Attachments:** [CNFF Ltr re Measure N \(9-14-22\)\(1564295.1\).pdf](#)

---

Good morning,

Please confirm receipt of the attached correspondence in regards to the September 14, 2022 City Council meeting agenda item concerning approval of the Fanita Ranch Project.

Best,  
Tuloa Sanchez



Gladys "Tuloa" Sanchez  
Legal Secretary  
Shute, Mihaly & Weinberger LLP  
396 Hayes Street  
San Francisco, CA 94102-4421  
p: 415/552-7272 x |  
[www.smwlaw.com](http://www.smwlaw.com) | A San Francisco Green Business

SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

JOSEPH D. PETTA  
Attorney  
Petta@smwlaw.com

September 14, 2022

**Via Electronic Mail Only**

City Clerk, Mayor and Members of the City Council  
City of Santee  
10601 Magnolia Ave.  
Santee, CA 92071  
[clerk@cityofsanteeca.gov](mailto:clerk@cityofsanteeca.gov)

Re: September 14, 2022 City Council Agenda Item re Fanita Ranch Project

Dear City Council:

On behalf of the Cleveland National Forest Foundation and Save our Forests and Ranchlands, we submit these comments on the Council's September 14, 2022 agenda item concerning the proposed approval of the Fanita Ranch Project. The City's assertion that Ordinance No. 592 (the "Ordinance") "deemed" the Project consistent with the City's General Plan, and thus that the City's Measure N does not require a popular vote on the Project, is contrary to black letter law. As explained below, the Ordinance is invalid, and reliance on the Ordinance to approve the Project would be a clear violation of state law.

The Ordinance is obviously an illegal work-around to avoid Measure N's popular vote requirement. Measure N amended the City's General Plan and mandates that any general plan amendment that would intensify land use over current General Plan levels must go to a vote of the people. The City purports to have adopted an "urgency" ordinance in 2021, Ordinance No. 592, to create a process whereby projects that City staff determines are "Essential Housing Projects" are automatically "deemed" compliant with the General Plan. As explained in the Final EIR for the Project, the Ordinance's intended effect was to give *City staff* unilateral power to decide which projects are subject to Measure N's popular vote requirement, and which projects are not. This is contrary to Measure N's intent to "require a vote of the people on certain development projects," and to give voters a "right to vote on controversial projects that threaten overdevelopment." Measure N, § 1 (Purpose and Findings).



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Before the EIR's Project Description was changed to assert that the Project would rely on the "Essential Housing Project" designation, the Project originally included a proposed Specific Plan, Development Agreement, and a proposed General Plan Amendment to "increase the units on the site up to 2,949 with a school, or 3,008 without a school." Final EIR at p. 4.10-30; *see also* p. 3-85 (proposing to "[a]mend the General Plan to allow 2,949 units on the project site."). Even after City staff designated the Project an "Essential Housing Project" on December 27, 2021, the Project still proposes between 2,949 and 3,008 new housing units on the 2,636 acre site; the difference is that the proposed Project no longer purports to require any legislative approvals, including a General Plan Amendment. However, but for the Project's "Essential Housing Project" designation, the Project would include a General Plan Amendment. According to the Final EIR, "The proposed project does not include a golf course or lake, meet minimum lot size requirements, provide a dedicated Sports Park accessed by Carlton Hills Boulevard, or include a Development Agreement." Final EIR at p. 4.10-21. Each of these criteria is set forth in the City's General Plan as a mandatory condition of the development of the project site. *See* City of Santee General Plan, Land Use Element, pp. 1-29 through 1-31, *available at* <https://www.cityofsanteeca.gov/home/showpublisheddocument/7191/636336569667170000> (last accessed September 13, 2022).

Under black letter law, an ordinance cannot require that a Project that is patently inconsistent with the general plan be "deemed" consistent with that plan. "The general plan has been aptly described as the 'constitution for all future developments' within the city or county," and thus "[t]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570-71 (citations omitted). "[T]he keystone of regional planning is consistency—between the general plan, its internal elements, subordinate ordinances, and all derivative land use decisions." *Id.* at 572. "Th[is] consistency doctrine [is] the linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law." *Families Unafraid to Uphold Rural El Dorado County v. County of El Dorado* (1998) 62 Cal.App.4th 1332, 1336. Thus, zoning ordinances (Gov't Code § 65860(a)), development agreements (§ 65867.5(b)), subdivision maps (§ 65567), and all other subordinate plans (§ 65359) all must be consistent with the general plan.

The City's claim that the Ordinance "controls any other City plan or ordinance in the event of a conflict," including the General Plan (Final EIR at p. 4.10-21), is simply wrong. The Court's reasoning in *Leshar Communications, Inc. v. City of Walnut Creek* is

instructive. The Court held that a challenged traffic control initiative could not be considered an amendment to the city’s general plan because the ballot measure available to the public had not described it as such: “We cannot at once accept the function of a general plan as a ‘constitution,’ or perhaps more accurately a charter for future development, and the proposition that it can be amended without notice to the electorate that such amendment is the purpose of an initiative.” (1990) 52 Cal.3d 531, 540. Thus, under *Leshner*, a zoning ordinance cannot result in a “pro tanto repeal or implied amendment of the general plan.” *Id.* at 541. Further, “[a] zoning ordinance that conflicts with a general plan is invalid at the time it is passed.” *Id.* at 544. *See also Orange Citizens for Parks & Recreation v. Superior Ct.* (2016) 2 Cal.5th 141, 153.

Even if the City could somehow argue that the Ordinance was intended to amend the general plan, by adopting the Ordinance pursuant to the urgency ordinance statute, the City concedes that it did not follow the procedural steps under state law for adopting general plan amendments. For example, “[d]uring the preparation *or amendment* of the general plan, the planning agency shall provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the planning agency deems appropriate.” Gov’t Code § 65351. A legislative body must refer its proposal to a number of listed public entities before adopting or amending a general plan. § 65352. Planning commissions must hold at least one public hearing and make a written recommendation to the legislative body; legislators must hold at least one public hearing before acting on the recommendation. §§ 65353-65356; *see also* § 65354.5. *See Orange Citizens*, 2 Cal.5th at 152–53. This statutory process would be meaningless if the City could simply declare by urgency ordinance that its “real” General Plan is not the plan the City actually circulated and approved, but instead includes other policies or procedures never presented to the public as part of that Plan.

In stark contrast, in the area of local planning, the Court has emphasized that *voter action*—here, Measure N—is the “most direct form” of community input on a general plan. *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 786. *DeVita*’s protection of the public’s right to “direct” participation in land use planning furthers the “major impetus” underlying the initiative and referendum power: “to enable the people of this state, on the local level and statewide, to reclaim the legislative power from the influence of what in contemporary parlance is called the ‘special interests.’” *Id.* at 795. To effectively reclaim

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this power, the voters' rights must be "greater than that of the [legislative body]," giving the people "the final legislative word." *Rossi v. Brown* (1995) 9 Cal.4th 688, 704.

The City also cannot argue that "Essential Housing Projects" are "exempt" from the popular vote requirement under Policy 12.4 of Measure N. The City claims to have made findings pursuant to that Policy that the Ordinance is "necessary to comply with state law governing the provisions of housing, including but not limited to, Government Code sections 65583 and 65584, and additional affordable housing requirements." Yet by its own terms, Policy 12.4 applies only to proposed general plan amendments, not to ordinances. Thus, the Ordinance as a matter of law could not qualify for Measure N's exemption from the public vote requirement for certain "general plan amendments." Nor could the City assert (which it has not done here) that the Project itself qualifies under Policy 12.4, since the EIR states that "the proposed project does not propose a General Plan Amendment."

For the foregoing reasons, the Ordinance is illegal and invalid. Relying on the Ordinance to approve the Project would violate the state planning and zoning law and controlling California Supreme Court precedent. *See Travis v. County of Santa Cruz* (2004) 33 Cal.4th 757, 767 (construing facial challenge to ordinance as also validly challenging the ordinance's application to a specific property). Because the Project necessarily includes a general plan amendment, Measure N requires a public vote on the Project before it can proceed.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Joseph "Seph" Petta

cc: [jminto@cityofsanteeca.gov](mailto:jminto@cityofsanteeca.gov)  
[rhall@cityofsanteeca.gov](mailto:rhall@cityofsanteeca.gov)  
[lkoval@cityofsanteeca.gov](mailto:lkoval@cityofsanteeca.gov)  
[rmcnelis@cityofsanteeca.gov](mailto:rmcnelis@cityofsanteeca.gov)  
[dtrotter@cityofsanteeca.gov](mailto:dtrotter@cityofsanteeca.gov)

**From:** [Stephen Houlahan](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita FREIR RTC Comments  
**Date:** Tuesday, September 13, 2022 3:52:46 PM  
**Attachments:** [Fanita Ranch EIR Rebuttal 7-13-2022.docx](#)

---

Mr. Jacobs and City Council,

In rebut of the comments made regarding my letter dates July 12, 2022; Harris and Associates fails to adequately respond to the issues.

Comment I36-1 fails to address the issues raised in my letter stating, “a home might be built in what is currently designated as a high fire hazard severity zone due to potential exposure to high flame lengths and ember generation but may actually be low risk of ignition...” this is absolutely false. As evidenced by the recent Border Fire “in east San Diego County that so far burned more than 4,400 acres, destroyed three homes and left two people critically burned” (<https://www.latimes.com/california/story/2022-09-01/san-diego-countys-4-200-acre-brush-fire-just-5-percent-contained-with-1>) and Fairview Fire “ A deadly wildfire that prompted evacuations south of Hemet... the fire resulted in two civilian fatalities and one civilian injury. Officials added that seven buildings were destroyed and several more were damaged” (<https://nbcpalmsprings.com/2022/09/07/brush-fire-kills-two-people-engulfs-structures-in-hemet/>). These fires erupted rapidly, burned thousands of acres of land in a short period of time, resulted in many structures being destroyed, and the loss of life of the human beings that lived nearby. A fire in the Fanita Ranch proposed development would result in far greater damage to property and greater loss of life than these two fires combined.

Comment I36-2 fails to address the issues raised in my letter stating, “... phased/surgical evacuation practice has been implemented with great success”, this is not practical and is simply dangerous when considering the Fanita Ranch Property has no exit route to the north, east, or west. The Border Fire was situated allowing evacuations to the east and west (<https://www.fire.ca.gov/incidents/2022/8/31/border-32/>) while the Fairview Fire allowed evacuations to the north, south, east, and west (<https://www.fire.ca.gov/incidents/2022/9/5/fairview-fire/>) both fires resulting in mortality and morbidity. Approval of this proposal would indicate to the future unknowing residents that they have safe options for escape in the instance of a Santa Anna wind driven fire; when in fact the City of Santee would be asking them to harbor in place risking their lives and the lives of their families.

Comment I36-3 fails to address the issues raised in my letter stating, “Evacuations are thereby able to occur more safely and efficiently”, this is an oversimplification of this issue.

Evacuations are dangerous under the best of circumstances and the opposite of efficient. The safe and efficient evacuation of the Border Fire resulted in, “injuring six people... and hundreds of displaced residents...” (<https://www.kpbs.org/news/public-safety/2022/09/05/border-32-fire-near-tecate-now-90-contained>) and safe and efficient evacuation of the Fairview Fire “... burning 28,307 acres, causing two deaths and destroying 17 structures.” ([Fairview Fire near Hemet could be fully contained Monday](#)) These fires occurred in the last couple of weeks “HERE” in areas similar to Fanita Ranch, with multiple

evacuations routes, with all of the science stated in this inadequate Environmental Impact Report. The Fanita Ranch Project must be rejected to save lives.



**Fairview Fire near Hemet could be fully contained Monday**

Full containment of the deadly Fairview Fire southeast of Hemet could be achieved Monday thanks to moisture from...

Stephen Houlahan

Mr. Jacobs and City Council,

In rebut of the comments made regarding my letter dates July 12, 2022; Harris and Associates fails to adequately respond to the issues.

Comment I36-1 fails to address the issues raised in my letter stating, “a home might be built in what is currently designated as a high fire hazard severity zone due to potential exposure to high flame lengths and ember generation but may actually be low risk of ignition...” this is absolutely false. As evidenced by the recent Border Fire “in east San Diego County that so far burned more than 4,400 acres, destroyed three homes and left two people critically burned” (<https://www.latimes.com/california/story/2022-09-01/san-diego-countys-4-200-acre-brush-fire-just-5-percent-contained-with-1>) and Fairview Fire “A deadly wildfire that prompted evacuations south of Hemet... the fire resulted in two civilian fatalities and one civilian injury. Officials added that seven buildings were destroyed and several more were damaged” (<https://nbcpalmsprings.com/2022/09/07/brush-fire-kills-two-people-engulfs-structures-in-hemet/>). These fires erupted rapidly, burned thousands of acres of land in a short period of time, resulted in many structures being destroyed, and the loss of life of the human beings that lived nearby. A fire in the Fanita Ranch proposed development would result in far greater damage to property and greater loss of life than these two fires combined.

Comment I36-2 fails to address the issues raised in my letter stating, “... phased/surgical evacuation practice has been implemented with great success”, this is not practical and is simply dangerous when considering the Fanita Ranch Property has no exit route to the north, east, or west. The Border Fire was situated allowing evacuations to the east and west (<https://www.fire.ca.gov/incidents/2022/8/31/border-32/>) while the Fairview Fire allowed evacuations to the north, south, east, and west (<https://www.fire.ca.gov/incidents/2022/9/5/fairview-fire/>) both fires resulting in mortality and morbidity. Approval of this proposal would indicate to the future unknowing residents that they have safe options for escape in the instance of a Santa Anna wind driven fire; when in fact the City of Santee would be asking them to harbor in place risking their lives and the lives of their families.

Comment I36-3 fails to address the issues raised in my letter stating, “Evacuations are thereby able to occur more safely and efficiently”, this is an oversimplification of this issue. Evacuations are dangerous under the best of circumstances and the opposite of efficient. The safe and efficient evacuation of the Border Fire resulted in, “injuring six people... and hundreds of displaced residents...” (<https://www.kpbs.org/news/public-safety/2022/09/05/border-32-fire-near-tecate-now-90-contained>) and safe and efficient evacuation of the Fairview Fire “... burning 28,307 acres, causing two deaths and destroying 17 structures.” (<https://abc7.com/fairview-fire-riverside-county-hemet-wildfire-tropical-storm-kay/12222839/>) These fires occurred in the last couple of weeks “HERE” in areas similar to Fanita Ranch, with multiple evacuation routes, with all of the science stated in this inadequate Environmental Impact Report. The Fanita Ranch Project must be rejected to save lives.

Stephen Houlahan

**From:** [Steve Spletstoesser](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Saturday, September 10, 2022 8:13:27 AM

---

Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you  
Steve Spletts

Sent from my iPhone

## Wendy Stratton

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**From:** Steven Lamoureux [REDACTED]  
**Sent:** Monday, September 12, 2022 12:57 PM  
**To:** Dustin Trotter; John Minto; Ronn Hall; Laura Koval; Rob McNelis; Chris Jacobs  
**Cc:** Steven Lamoureux  
**Subject:** Fanita Ranch

Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

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Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you



**From:** [Susan](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Sunday, September 11, 2022 2:59:24 PM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

## Wendy Stratton

---

**From:** THERESA ACERRO [REDACTED]  
**Sent:** Saturday, September 10, 2022 5:54 PM  
**To:** Chris Jacobs; Ronn Hall; Laura Koval; Rob McNelis; John Minto; Dustin Trotter  
**Subject:** Fanita Ranch, Item 8 - Disapprove!

Honorable Council Members Please Do NOT Act Dishonorably,  
You people are supposed to represent the people of Santee-not a bunch of developers!!.  
Do not ignore the fact that we passed Measure N which gives **us** the right to decide the  
fate of Fanita Ranch. Ignoring our wishes is un-American and certainly not the Santee  
way. Item 8 on the agenda must be rejected as un-American and contrary to the  
guaranteed right of the residents of Santee to make this decision, which we have. We  
want to preserve this land. The Department of Defense Military Buffer Program would  
ensure this and support our military as well.

Theresa Acerro

**From:** [M.E](#)  
**To:** [Chris Jacobs](#); [Dustin Trotter](#); [Laura Koval](#); [John Minto](#); [Rob McNelis](#); [Ronn Hall](#)  
**Subject:** Fanita Ranch, Item 8 - Disapprove!  
**Date:** Wednesday, September 14, 2022 9:09:49 AM  
**Attachments:** [Tangled Plot Santee City Council.pdf](#)

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September 14, 2022

Via Email 8:45 a.m.

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Constituents' lawful, proactive, democratic, engagement in this matter has stood the test of time over decades. Please see this link and/or attachment: <https://obrag.org/2020/09/santee-city-councils-tangled-plot-to-build-fanita-ranch/>

For me, there is the sordid, firsthand awareness and witnessing of appearance of conflict-of-interest by those that have and will further profit from this recklessly, greedy project. I ask again here (as I once did at a council meeting and received no response in the public forum) for basic disclosure: Have seated council members (or any city staff) accepted funding, and/or, any favors/benefits from the developers and associated interests in this project? The people of Santee deserve full disclosure on this question. It is as fundamental as protecting our population from raging wildfire because--public servants that conceal any conflicts-of-interest, yet do not recuse from voting, but seek or acquiesce to workarounds (favoring the project applicant) that disenfranchises/quashes Santee constituents' voices and ballot-box power—burns our community and our democracy's principles, beyond recognition. I have no doubt that this matter will continue to rise in awareness, here in Santee and our region, and scrutiny of it will too.

It behooves you at the Sept 14, 2022 city council meeting to address the above question of conflict-of-interest (COI) or even appearance of COI and let the people assess whether there is reason for concern, with respect to Fanita Ranch. Again, for me, the foundation of good-faith in business is primary and is one of the council's duties of care. As our council members, but also as our neighbors first—just as I hope all Santee-ans care for one another as community—integrity, honesty, justice and ethics are cornerstones of a strong city and will bring sufficient community-supported tax revenue projects/businesses. Thus far, the decades of battling with Santee-ans while perpetuating the "tangled plot" (including failing to publicly disclose COI) heavily drains Santee resources and damages community morale. You can change that. Santee can thrive, by your rejecting this project and signaling to all developers/businesses that fair/good business practice is Santee City Hall's first oath/duty to taxpaying constituents and voters. Please, correct course and vote No.


Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I strongly urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation.

The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)). This is the win/win to go for!

Sincerely,

Theresa McCarthy  
Santee

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# Santee City Council's Tangled Plot To Build Fanita Ranch

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in [Environment](#), [San Diego](#)



*By Colleen Cochran*

Over the past few decades, natural open spaces within 20 miles of the San Diego County coast have been largely devoured by development. The city of Santee's majestic northern Fanita Hills, a 2,600-acre region, has remained intact, although it has been under a land-use siege throughout this

period. Santee's city council seats, which hold the authority to control the destiny of Fanita Hills, have been magnets for building industry contributions, and the windfall of political dollars has created sharp division between Santee residents and their elected officials on the question of whether to develop or conserve the region.

While Santee City Council members might have enabled citizens to weigh in on potential building projects, most of them deviously plotted to squash citizens' participation. Their goal, in particular, has been to prevent citizens from attaining the power to oppose Fanita Ranch, a massive 3,000-unit housing development slated to be built in the Fanita Hills. The development will encompass an area a quarter of the size of existent Santee. Only Councilman Stephen Houlahan has not worked to quell citizens' voices. In fact, he sponsored an initiative that would grant them a say in Santee's development processes.

On September 23, 2020, the majority of Santee City Council members will likely vote to approve an amendment to the city's general plan that will enable Fanita Ranch to be built, despite the fact that many of their citizens oppose the project. Approval of Fanita Ranch will prove disastrous not only for Santee but for all of San Diego County. Construction of the behemoth development will annihilate endangered species, ravage the environment, create a deadly fire trap, ensnarl traffic within Santee and on its connected highways, and it will forever deplete the tenor and quality of life throughout San Diego County.

In hopes of wooing citizens, HomeFed Corporation, the developer, has touted the project's flaccid benefits. Namely, the company has claimed it will, out of sheer benevolence, tack on improvements to Highway 52, it will set up the city for receipt of future tax revenue, and as it cheerily noted on its Facebook page, it will provide a "town green" that will be "the perfect spot to grab a cup of coffee or a bite to eat."

The company that plans to add 8,000 residents, 15 percent of Santee's present population, to the virgin Fanita Hills, asserts environmental stewardship has been at the forefront of its considerations. To prove it, Jeff O'Connor, HomeFed Vice President of Community Development, has been handing out bottled waters to bikers and hikers on the Stowe Trail and reminding them that if Fanita Ranch is not built, the company has every right to close off the section of trail that crosses into HomeFed's property.

Few Santee residents have been swayed by HomeFed's arguments. They have raised their voices at city council meetings, they submitted numerous opposition letters, and many of them posted "More Houses More Traffic" signs on their front lawns. In addition to Santee residents, environmentalists, fire experts, and citizens throughout the county have added their voices in opposition to the development project.

### **Santee Residents Have Been Fighting Fanita Ranch Development Projects for Decades**



Residents of Santee have been fighting, and defeating, proposed Fanita Ranch construction projects for nearly three decades.

In 1999, they stopped a 2,988-unit project through a referendum sponsored by the local environmental organization Preserve Wild Santee. Two-thirds of the electorate voted against that project. In 2007, after a 1,395-unit project had been proposed and the city council had certified the Final Environmental Impact Report (EIR), Preserve Wild Santee and others brought suit against the project applicant Barratt American and the city. The California Superior Court ruled against the project on fire safety issues. When the EIR was revised, the San Diego Superior Court again struck down the council's certification based on fire safety issues. The city and a new developer appealed. The California Court of Appeal confirmed the Superior Court ruling on fire safety, and it determined the project EIR was also deficient on biological resource and water supply issues.

The real estate crash and recession of 2008 changed the political landscape as the courts considered the case against Barratt American. This homebuilder was highly leveraged to the point of bankruptcy and it soon became a willing seller. Environmentalists then initiated the process of acquiring Fanita Ranch so as to retain it as open space linking Mission Trails Regional Park to Sycamore Canyon. Funding was to come from public conservation sources and the U.S. Department of Defense. The Department of Defense would cover 50 percent of acquisition costs through its REPI "Buffer Program," a program available to protect the open space surrounding the western boundary of the 20,000-acre Marine Corps Air Station Miramar from encroachment.

The city of Santee, however, effectively vetoed the environmentalists' acquisition, which left Barratt American bankrupt and all of its lien holders, including Santee, which had outstanding liens against Barratt American totaling over \$1 million, wiped out in a foreclosure auction. In 2011, through the auction process, noteholder Westbrook cleaned the title of the liens. Westbrook had offered the land to environmentalists for \$20 million, but it offered the land to fellow developer HomeFed Corporation at a discounted rate. HomeFed acquired the 2,600-acre Fanita Hills region for about \$12 million.

### **HomeFed's Formula for Hooking the Santee City Council**

The citizens' history of opposition to decimation of their northern hills might have dissuaded HomeFed from the purchase, had the company not held confidence in its ability to cultivate a cozy relationship with the Santee City Council. To maintain that relationship and to ensure a steady team of allies, HomeFed, and other developers and Political Action Committees (PACs) related to the building industry, funded the campaigns of city council candidates. In short, they purchased amendments to the Santee General Plan.

Santee code does not permit PACs to contribute directly to candidates. A research team of Santee citizens recently charted a money laundering web that shows how some political contributions went directly from developers to city council member committee accounts. More contributions went through a number of PAC accounts before benefiting council member campaigns. Only Councilman Stephen Houlahan has not accepted developer funding.

The research teams' web chart shows, for instance, that in 2018, the Building Industry Association of San Diego gave \$20,000 to the San Diego County Deputy Sheriffs' Association. That same year, the Deputy Sheriffs' Association directly spent \$2,000 to elect incumbent Councilman Ronn Hall and spent over \$2,000 on the elections of incumbent Councilman Rob McNelis and the winner of an open seat race, Laura Koval. In 2020, HomeFed's Jeff O'Connor made several contributions to Santee City Council candidate Dustin Trotter, a candidate whose opposition, Samm Hurst, has refused developer contributions.

PAC organizations have funded other PACs. For instance, the Building Industry Association directly funded Public Safety Advocates. It funded, as well, the Deputy Sheriffs' Association, which, in turn, funded Public Safety Advocates. Public Safety Advocates is the organization that was outed for creating deceptive campaign slate mailers directed toward voters on each side of Santee's partisan aisle. These campaign materials sufficiently veiled candidates' pro-developer positions so that many Santee voters were tricked into believing the candidates supported their interests.

Some contributions to PACs cannot, without investigation by an enforcement authority, be proven to have directly flowed from developers, but the contributions certainly smell fishy. For instance, the Deputy Sheriffs' Association has, without disclosure of funding sources, unitemized receipts amounting to over \$700,000 since June of 2016.

Interestingly, HomeFed has had nothing to say about the fact that council members who were likely to vote to amend the general plan to allow for Fanita Ranch were the very same ones who had been accepting developer campaign dollars. The company did, however, find it egregious that Councilman Houlahan might vote "no" on the amendment. The company asserted that because he rejected developer contributions and was outspoken in his support for the idea that citizens should be entitled to vote on whether Fanita Ranch is built, he must have planned to vote "no" on the construction project ahead of having reviewed the project documents. Based on this speculation, HomeFed looked into how it could legally exclude Houlahan from voting.

### **Throttling the Citizens' Vote on Fanita Ranch**

Citizens' best plan for protecting their city from Fanita Ranch sprawl was initiated months after HomeFed submitted its application to build the gargantuan development. Van Collinsworth, Director of Preserve Wild Santee, and Councilman Houlahan sponsored a Santee General Plan Protection Initiative that would require a citizen vote if the Santee City Council amended the general plan to allow for larger development projects outside that plan's stated zoning parameters.

The citizens quickly gathered enough signatures to get the protection initiative on the 2018 ballot. The city council could have then outright adopted the initiative or it could have put the measure on the 2018 ballot, which would have likely resulted in a citizen majority voting "yes" on the initiative. Instead, the city council, under the guise of needing to study the initiative issue more, avoided the constituents' request, and in the meantime, it processed HomeFed's application to build Fanita Ranch.

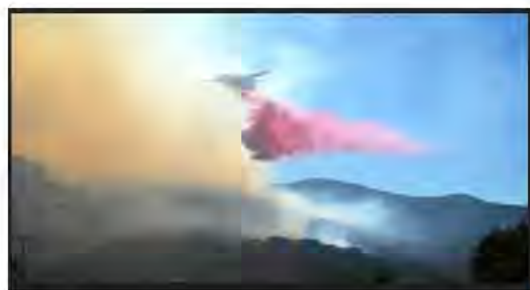
Said Van Collinsworth who attended the city council meeting in which the study was determined to be the best plan of action, "These people try to portray themselves as being fiscally conservative, but during that hearing there wasn't even a word mentioned about the cost of the study. There was no question they were going to move that thing off the ballot by having a study, no matter what it cost."

The council hired London Moeder Advisors for \$40,000, a firm which unsurprisingly determined that Fanita Ranch was necessary to the economic health of Santee. The real estate advisors made this decision, despite the fact that the city of Santee, under current zoning guidelines, already has an annual recurring surplus of \$3.76 million. It also concluded that Santee will likely have a shortage of 1,820 residential units by 2050, and of course, building Fanita Ranch would be best way to prevent that future occurrence.

HomeFed, commenting after London Moeder's economic impact report was released, stated, "If the initiative is passed, it will be much more difficult to amend the city's general plan to address shifts in the economy or meet the community's pressing needs." In other words, only the developers' bedfellows on the city council, and not the citizens themselves, could be trusted to make decisions for Santee.

The study proved to be the perfect stall tactic causing the general plan protection initiative, Measure N, to be moved to the November of 2020 ballot. HomeFed consultants then worked feverishly with city staff in an attempt to bullet proof a Revised Environmental Impact Report for the Fanita Ranch project so that Santee City Council members could approve the general plan amendment prior to the citizens' November vote.





### Fanita Ranch Spells Fire, Traffic and Wildlife Extinction

HomeFed has painted Fanita Ranch as the project that will save Santee. Only, Santee has never needed saving, and Fanita Ranch will likely be its downfall. One of the biggest dangers of the project relates to fire safety. The development will be built in hills that CAL FIRE designated a Very High Fire Hazard Severity Zone, in the precise area that was incinerated by the 2003 Cedar Fire. The complex will provide only two routes by which residents can arrive at or depart from their homes, via Fanita Parkway or Cuyamaca Street. Both of these thoroughfares lead to Mast Boulevard, a street that will become gridlocked should residents throughout Santee need to flee an inferno.

HomeFed had planned to create a Magnolia Avenue extension that would curve to meet Cuyamaca Street and thus would provide residents with an additional route for evacuation during fire, albeit residents would still end up logjammed on Mast Boulevard. HomeFed states it nixed the Magnolia Street extension, ostensibly because the company decided that funds set aside for it would be put to better use if added to the Highway 52 improvement fund. The more pressing reason the extension was scrapped was because the company discovered the extension presented a potential conflict of interest for Councilman Rob McNelis which would preclude him from voting for Fanita Ranch. The precise nature of the conflict has not been revealed.

Fanita Ranch will also introduce more traffic. HomeFed has been cosplaying as Santee's super hero by offering to add lanes to the on-ramp of SR-52 and to streets within Santee. HomeFed, in reality, is like a villain who swoops in to save the day. Because the company will be adding 8,000 new residents to Santee, who en masse will generate over 25,000 vehicle trips per day, the road enhancements simply provide an ineffective fix for a problem HomeFed will create.

Fanita Ranch will destroy the home of 21 species of mammals, 21 types of reptiles and amphibians, and over 100 bird species. The expanse of terrain ranges from heights of 400 to 1,200 feet and, thus, contains a variety of specialized habitats, including chaparral and vernal ponds, that many animals depend upon in order to survive. The Fanita Hills are one of the last remaining havens for Quino checkerspot butterflies, San Diego fairy shrimp, and the least Bell's vireo songbird. These three creatures are listed as endangered under the Federal Endangered Species Act.

### Fanita Ranch Vote Takes Place Wednesday, Sept. 23

On September 23, 2020, the Santee City Council is set to win its battle against its own citizens. Most of its members will likely vote to approve Fanita Ranch, ahead of the citizens' November vote on the general plan protection initiative. Unless, the citizens can pull off a hat trick of upset victories, the plan is for a parade of bull dozers to start rolling into the city. For the next 15 years, which is the amount of time it will take to complete the monstrous building project, residents will endure construction noise, dusty air, and watch their lovely hills get graded and turned into a master-planned atrocity.

To sign up to observe the meeting or to submit a live public comment, go to [cityofsanteeca.gov](http://cityofsanteeca.gov) and click on the Agendas/Minutes tab.



*Colleen Cochran, JD, is a legal editor, nature enthusiast, San Diego County resident, and warrior against climate change.*



{ 9 comments... read them below or [add one](#) }



Mike Dolan [September 23, 2020 at 9:52 am](#)

Hi, that's a great investigative article.

It would probably have larger effect if it was also reprinted in the SDUT.



Thanks for the old fashioned work!

[Reply](#)



MJ Campbell [September 23, 2020 at 12:07 pm](#)

Dear Colleen,

Your article was disturbing and revealing, confirming what I have observed through several past decades to be the slow, oozing destruction of Santee's unique appeal. As a city we have progressed, somewhat, as evidenced by the increasing diversity of inhabitants, while maintaining an enviable low crime rate and a responsive emergency/fire service. While parks and recreation services offer many opportunities for leisure involvement, I can not comprehend the lack of a modern library. Historically, the staff has struggled to maintain a remarkable library presence in Santee. I feel betrayed by the Santee government that supports developers who are starry eyed with greed, and who are romancers with myths of a progressive golden city of million dollar houses and "affordable" (NOT!) housing density. The vision that looms in my eyes is a city that is becoming like most others, sacrificing what is desirable and precious about Santee for the many inevitable consequences of urban sprawl. Is there anything that this voter can do to stem the tide of unwise and greedy overdevelopment in Santee, and the plots to circumvent voters? I predict a future bamboozling! "Do More > Due East", indeed. The suggested inspiration of this motto is to keep on going eastward. I appreciate your patience while listening to my sad story.

[Reply](#)



Wayne Morton [September 24, 2020 at 8:54 am](#)

Same group of people who complain about no housing don't want anything built. All those years you loved the open spaces at someone else's detriment. You were trespassers on others property. Why didn't you invite the hikers over to your property?

[Reply](#)



Mary Bellson [September 24, 2020 at 9:18 pm](#)

I sometimes wish that the people opposed to the Fanita development would offer solutions other than "no", "can't happen", "impossible"... so many false dichotomies. So many countries in Europe have embraced advanced technologies in community development while leading the fight against climate change. Why can't we do that in East County?

[Reply](#)



Robert Germann [April 21, 2022 at 1:41 pm](#)

Hi, I have a solution for housing in Santee and it is line with other communities in Europe and the US. Move the General Aviation airport at Gillespie Field. Then build a nice, planned community on the 300 or so acres with great access to everything in East County.

[Reply](#)



Frank Gormlie [September 25, 2020 at 11:43 am](#)

As Colleen predicted, the Santee City Council voted 4-1 in favor of the Fanita Ranch project, late Wednesday evening.

[Reply](#)



TeTe [October 17, 2020 at 9:48 pm](#)

Excellent journalism that serves the public interest. As volunteers work hard all over Santee, HomeFed seemingly with consequence or reproach from the shameless council-of-4 has been subverting and aggressively interfering with democracy.

No doubt, a second installment on this unfolding, hot local story, would make a huge difference and reverberate in San Diego and perhaps beyond in this make/break-America election period.

It would be quite interesting to learn more about the young, ethnically diverse, aggressive crew that HomeFed admitted during this week's city council meeting, that they have employed and who are on 7-day, all-day shifts, scouting out and stalking volunteers gathering referendum petition signatures of Santee voters with sly and deceitful methods/tactics to remove petition signatures from the referendum petitions. Today, one crew re-imaged their store-front worker as a petition-gatherer to "Help! firefighters" and their usual yellow/black signage was nowhere to be seen; while at another store-front location five yellow/black signage Homefed paid scabs were present where a

single Santee volunteer valiantly manned her petition-signing table that was drawing plenty of signatures. Who are these corporate-paid young adults, so willing to function in vile ways amongst actual residents that are seniors and who they should be able to see are earnest in their endeavor to <http://www.savesantee.com?> What bonus have they been promised? What's with their musical strummings in public? It would be an interesting revelation to learn more about these strange, foolish beings and HomeFed's utilization of them.

How about it OB Rag?

[Reply](#)



TeTe [October 17, 2020 at 9:57 pm](#)

**CORRECTIONS TO MY COMMENT**

without consequence or reproach . . . .

7-day, all-day shifts, scouting out and stalking Santee volunteers that are in a very short time constraint for gathering referendum petition signatures of Santee voters during a pandemic. The paid HomeFed scabs use sly and deceitful methods/tactics to remove petition signatures from the referendum petitions. . .

Thanks for considering my comment and adding the above corrections.  
I am a Santee volunteer with Preserve Wild Santee and witnessed both examples of the scabs above with some pics available.

[Reply](#)



Patricia Welch [January 15, 2021 at 4:14 pm](#)

A very eye opening article!! Thank you for your time, research & knowledge in writing it for us all to review.. What a wicked web can be woven...Sad.....

[Reply](#)

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-  kh September 14, 2022 at 12:25 am on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
In an alternate universe: "To avoid any possible impropriety relating to significant direct and indirect donations to my mayoral campaign from one of the applicants,..."
-  Vern September 13, 2022 at 8:04 pm on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
San Diego - always & forever, "Enron By The Sea".
-  Frank Gormlie September 13, 2022 at 8:02 pm on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
City council voted 7 to 1 in favor of Midway Rising.
-  zonjon September 13, 2022 at 6:39 pm on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
How the heck is this allowed to go forward? Where's the outrage? Why does San Diego always go with the cheapest/lamest choices instead of dreaming...
-  kh September 13, 2022 at 5:21 pm on [San Diego City Council Votes Today on Flawed 'Midway Rising' Deal](#)  
The Citizen's United decision is unfortunate and harmful, but regrettably seems justified and legal to me. The problem isn't exactly the money in politics, but...
-  kh September 13, 2022 at 5:14 pm on [Ocean Beach Planning Board Approves City's Concept Design for New Library](#)  
If the biggest priority is to get it done quickly and on budget, design-build is certainly my preference. But I'd say design-bid-build is more likely...
-  Geoff Page September 13, 2022 at 4:23 pm on [Ocean Beach Planning Board Approves City's Concept Design for New Library](#)  
Well, that doesn't match my experience, the contractor and the designer are a firm and work together under one contract with the owner. It's a...
-  No design, just build September 13, 2022 at 2:47 pm on [Ocean Beach Planning Board Approves City's Concept Design for New Library](#)  
[Library](#)  
In typical design build contracts the Prime is the general contractor and the architects and engineers are working for the general contractor. GCs are incentivized...
-  Mat Wahlstrom September 13, 2022 at 12:37 pm on [San Diego City Council Votes Today on Flawed 'Midway Rising' Deal](#)  
Since I mention the Citizens United decision, here's the petition to the U.S. Senate to overturn it and pass the DISCLOSE Act, <https://act.commoncause.org/petitions/fight-back-against-big-moneys-influence-overtorn-citizens-united-and-pass-the-disclose-act/>
-  Mat Wahlstrom September 13, 2022 at 12:17 pm on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
Exactly, Don. Which is why rushing to give Zephyr the exclusive rights over this land is even more corrupt. Zephyr-owned subsidiary 'Broadway Block Owner LLC'...
-  Judi September 13, 2022 at 12:04 pm on [A Memorial to Shoeshine Willie of Ocean Beach](#)  
I remember when Wilkie was set up inside the Elms Department Store in the 60's. He was always so gracious!
-  Kathryn Burton September 13, 2022 at 11:55 am on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
Don Wood. Your comment is spot on. That is done all the time and is a total racket.
-  Mat Wahlstrom September 13, 2022 at 11:27 am on [San Diego City Council Votes Today on Flawed 'Midway Rising' Deal](#)  
Right? It was crazy when I read it. Let's hope justice is served here.
-  Don Wood September 13, 2022 at 11:24 am on [Will Avalanche of Questions Stall Gloria's Steamrolling of Midway Rising?](#)  
As this article notes "the company has a history of selling its development rights to other builders once entitlements have been secured from local planning..."
-  Frank Gormlie September 13, 2022 at 11:15 am on [San Diego City Council Votes Today on Flawed 'Midway Rising' Deal](#)  
Oh btw, your opening is awesome - had me fooled. Incredible parallels.

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**From:** [Theresa McCarthy](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Friday, September 9, 2022 12:28:15 PM

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Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you,

Theresa McCarthy

---

**From:** Tim Hill [REDACTED]

**Sent:** Tuesday, September 13, 2022 2:59 PM

**To:** Ronn Hall <RonnHall@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Chris Jacobs <CJacobs@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

**Subject:** Fanita Ranch

Dear City Council members,

This email is to show my support of Fanita Ranch. Fanita Ranch has been planned for too many years. It's time to approve it so my family will have a better chance of the American Dream.....owning a home! I have reviewed the information on Fanita and it looks awesome. HomeFed has been developing Master Planned communities in San Diego County for 25 years. They know how to create a community that people want to call home.

The amenities that are planned are incredible. Miles of trails, a walkable sustainable community is exactly what we are looking for. Acres and acres of parks and an organic farm are fantastic. Please approve Fanita Ranch so I can have the opportunity to own a home.

Thank you,

Tim Hill



## Wendy Stratton

---

**From:** Tom Walters [REDACTED]  
**Sent:** Monday, September 12, 2022 4:56 PM  
**To:** Rob McNelis  
**Subject:** Santee Insurance Rates

Dear Mr. McNelis,

I walked the neighborhoods of Santee two years ago - during a pandemic - to collect signatures to place a citizens measure on the ballot.

Just about all the Santee Citizens I talked with were enthusiastically willing to sign the petition because they wanted a direct voice in determining the fate of Fanita Ranch development - unencumbered by a developers promises and by a City Council more attuned to a developer's political contributions than to the Citizens of Santee.

Not surprisingly, this was the same response I received when I pulled a red wagon through the neighborhoods of Santee over 22 years ago, to again give all Citizens a voice in how Santee should grow. I'm sure as a long time Santee resident, you know the outcome of the vote then was overwhelmingly (two-thirds) AGAINST another out-of-state developer's poorly designed, golf-course centered, over-development.

I got involved back then not because I was a "NIMBY" - against development - but because prior to a City Council election, EVERY candidate polled said they were AGAINST any development greater than the general plan's 1200 units. Then after the election, EVERY one of the newly elected council members voted FOR a nearly 3000 unit development. In other words, they lied.

(I should also point out that two of those council members were shown to have accepted campaign contributions illegally contributed from the developer.)

23 years ago the increase in traffic on Santee streets was the biggest reason most citizens didn't want the huge development. That's still the overriding reason. But now many Santee residents have discovered that most insurance companies are no longer willing to insure their home if it's anywhere near the surrounding fire zones.

I hope you'll reconsider the massive up-zoning of Fanita Ranch.

Tom Walters  
[REDACTED]  
Santee, CA

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

From: Save Fanita <[REDACTED]>

Sent: Tuesday, September 13, 2022 10:20 PM

To: Chris Jacobs <CJacobs@CityofSanteeCa.gov>; Laura Koval

<LKoval@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Rob

McNelis <RMcNelis@CityofSanteeCa.gov>; Ronn Hall

<RonnHall@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

Cc: Annette Ortiz <AOrtiz@CityofSanteeCa.gov>

Subject: Fanita Ranch FREIR / Item 8

Attachment: PWS Fanita Ranch Item 8 RTC Rebuttal.pdf

Please confirm receipt of the attached PWS comment letter on the Fanita Ranch FREIR /  
Item 8

Thank you,  
Van Collinsworth



## *Preserve Wild Santee*

September 13, 2022

Mr. Chris Jacobs  
City Council of Santee  
10601 Magnolia avenue  
Santee, CA 92071

**RE: Fanita Ranch Item 8      9/14/22 City Council Meeting  
Fanita Ranch Final Revised EIR, Case File Nos. Environmental Assessment (AEIS 2022-4, AEIS2017-11); Vesting Tentative Map (TM2022-1); Development Review (DR2022-4); Conditional Use Permits for two parks (P2022-1 and P2022-2) and a fire station (P2022-3)**

Dear Mr. Jacobs and City Council,

The Final Revised EIR remains inadequate to address significant fire safety impacts. Response to Comments are largely conclusory and without evidential support. Furthermore, the Item 8 approvals constitute an illegal legislative act.

### **RTC “No Public Vote...”**

City officials and documents have made prior statements regarding Referendum and General Plan Protection Measure N approved in 2020 that confirm Santee residents authority.

Example 1: From every version of City of Santee’s Housing Element Update:

***“Due to the referendum, the effective date of Resolution 094-2020 is suspended, which means that the developer cannot move forward with actual construction of the Fanita Ranch project until the referendum is resolved.”***

Similarly, last May 25, with Item 15, and June 8, with Item 10, when project approvals and the Referendum were rescinded by this council, staff report and legal conclusions stated:

***“If a city repeals the legislation in light of the referendum, the city cannot enact the same or essentially the same legislation for a one-year period.”***

Approval of Item 8, would be enacting “the same or essentially the same legislation.” The action is a legislative act despite City attempts to redefine it with a ruse ordinance. Approval of Item 8 is illegal.

Regarding the peoples’ authority and Measure N, according to East County Magazine:

*“Minto was reluctant to say how he’d vote. He noted that because the project would need an amendment to the city’s General Plan, it would require a public vote. That was mandated in 2020 when Santee voters passed Measure N, which would put any project that needs an amendment to the existing General Plan on the public ballot for approval.”<sup>1</sup>*

The statement from Mayor Minto is correct — the Department of Development Services contradiction is a ruse.

The Housing Element update indicated the the people would have the opportunity to vote on the project due to the Referendum and the people have relied upon that city statement.

With regard to Measure N, the project is subject to and does not comply with the Planned Development Guidelines within the Santee General Plan regarding lot sizes and other components. The project vastly increases density over those allowed by the General Plan Land Use Element.

The project must face voters through either the Referendum or initiative process. If the City is reinstating approval of the project with Item 8, then the City must also reinstate the Referendum vote.

If the City is approving a similar project, the City must wait until May of 2023 to do so and that action still violates the Santee General Plan and would require a public vote subject to Measure N.

The “urgency” scheme devised by the developer’s lawyers to approve the project without gaining approval from Santee resident voters is illegal.

I understand why this ruse was devised. The developer is terrified of Santee voters. Considering the landslide vote against the last 3,000-unit project, it is a near certainty the project will be crushed if Santee voters determine the fate of the project at election.

Santee residents are the ultimate land-use authority. Trying to exclude them is legally perilous and anti-American. I urge you to reject this sham approval process and

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<sup>1</sup> <https://www.eastcountymagazine.org/santee-council-removes-fanita-ranch-november-ballot-collinsworth-cries-foul>

respect the residents of Santee by not trying to extinguish their legal right to decide the project's fate.

**FREIR Response to Comments (RTC):**

**(The conclusory responses are without support and are inadequate).**

**02-1 through 02-7,**

Contrary to the RTC, the Election Code does apply to the Fanita Ranch project. It is the exact same project approved and rescinded, excepting the back-in-again Magnolia Avenue escape route removed for the September 23, 2020 hearing so that conflicted-out Council member Rob McNelis could vote. Manipulating definitions does not change the project. The approval scheduled for 9/14 is illegal.

I can assure you there is no “confusion” over why Measure N was written or why over 6,200 residents signed the Referendum Petition brought forward by Preserve Wild Santee. It was to make certain Santee residents would make the final decision upon the current Fanita Ranch project or any project similar to it.

Contrary to RTC, The Purpose of Measure N specifically called out Fanita Ranch:

*“B. The Importance of Protecting the General Plan: Campaign contributions from special interests can influence or pressure City Council members to approve projects that overburden Santee streets and highways with traffic. The California Fair Political Practices Commission (FPPC) has levied fines in Santee for laundering of campaign contributions when a proposed Fanita Ranch development project requested a density intensifying General Plan Amendment, which Council members approved. Currently, voters do not have a right to vote on controversial projects that threaten overdevelopment.”*

Furthermore, I wrote and brought forward Measure N so that Santee residents would not have to circulate referendum petitions every time a city council sold out its residents to corporate-developers and approved a 3,000-unit or similar project on Fanita Ranch.

In regard to Government Code section 66300 (b)(1)(B):

Building 3,000-units in a Cal Fire designated Very High Fire Hazard Severity Zone creates an imminent threat to the health and safety of new residents on site and to existing residents south of the site and north of Mast Boulevard.

Contrary to RTC, for reasons stated above, the referendum does prohibit consideration of the currently proposed project for one year, as it is the same or similar to the original project approved on September 23, 2020 and referended by the voters of Santee.

Development industry propaganda does not constitute evidence of a housing crisis. There is a crisis of democracy. A select minority continues to accumulate political power and concentrate wealth at the expense of American citizens.

Former President Jimmy Carter (and Habitat for Humanity volunteer) states:

***“The US is now an oligarchy in which unlimited political bribery has created a complete subversion of our political system as a payoff to major contributors.”***

Note - my wife and I also participated in a cross-border habitat for humanity housing project. I am sympathetic to the need for well-placed sustainable housing coupled with living wages so individual families and communities accrue the benefits of home ownership. Luxury housing on Fanita Ranch which places residents in harm's way and permanently damages the environment is not consistent with a vision for sustainable and affordable housing.

There is nothing in State or Federal law that mandates sprawl development within a severe fire hazard zone. State climate laws and policies call for reduction in Vehicle Miles Traveled and discourage Fanita Ranch style auto-dependency.

3,000-units is more than double Santee's RHNA share of approximately 1,219 units. Furthermore, those 1,219-units can be readily accommodated on parcels off of Fanita Ranch as documented in the City's own Housing Element Update. Therefore, the project is well beyond what is necessary to “satisfy the requirements of state housing law.”

The process that originated and adopted Ordinance 592 is itself tainted. The ordinance concept was planted by HomeFed with the Mayor and discussed during a different agenda item. Yet the Council moved forward a request for City legal staff to work on an urgency ordinance. The ordinance itself had a single agenda hearing and there was not a single question or comment by any of the five city council members before it was adopted. The ordinance does not require any public notification of projects under consideration and then allows in the dark unilateral approval by registering the result on an obscure website during holiday hours. The process is a disgraceful sham.

To the extent that any council member (specifically the Mayor) admitted to the public in the press (ECM) that the project requires a General Plan Amendment and requires a public vote under Measure N, he was in fact, correct in stating so.

## **Wildfire RTC**

### **02-8**

The project places houses in the northern most vulnerable portion of the fire corridor. Magnifying the error, all structures are so dense they are vulnerable to cluster burn. Use of the term “ignition resistant” inadvertently admits these structures may ignite. The

FPP does not use worst case scenario data inputs. The RTC cavalierly dismisses the vast increase in mega fires over 100,000-acres during the last 20 years unlike any period in recorded fire history.

## **02-9**

While there is not a comprehensive database which includes the building specifications of all the homes lost to wildfires in California, substantial evidence has been presented to demonstrate that homes built to modern Chapter 7A standards are still being lost to wildfire. See my prior comments and Baylis, PW and J Boomhower. 2021. Mandated vs. Voluntary Adaptation to Natural Disasters: The Case of U.S. Wildfires. <http://www.nber.org/papers/w29621>

If there is a loss of about 20% of Fanita Ranch structures during a mega fire as the data suggests, because of the dense clustering of the structures, contrary to the requirements within the General Plan, the significant risk to life and property is exacerbated.

Furthermore, additional data shows the rate of structure loss accelerating over time, not diminishing. Data from starting from 2005 to June 2022 indicates 97,196 structures destroyed. It took over a decade to destroy 47,000 and about seven years to destroy the next 50,000 structures.

There is an abundance of data for those willing to consider and disclose rather than deny and ignore.

<https://headwaterseconomics.org/natural-hazards/structures-destroyed-by-wildfire/>

RTC assertion with regard to the building standards of the 50,000 homes destroyed is unsubstantiated opinion.

## **02-10**

We just experienced the longest sustained heatwave in August and September since I became a Santee resident in the 1960s. The record setting heat is extensive throughout the western United States and brought more devastating wildfires. Contrary to RTC opinion, sustained heat stresses and kills vegetation creating fuels ready for ignitions. FPP data is cherry picked and ignores the increasing frequency of extremes. There is no response to the chart presented of the Top 20 Largest California Wildfires.

## **02-11**

While extended FMZs can reduce the potential for direct flame impingement, structures are still vulnerable to wind blown embers and damaging convective activity that can allow those embers to penetrate the structures despite extended FMZs. The RTC misses the point that as fire weather continues to grow more extreme, eventually conditions will exceed the protections afforded by PRC 4291 enforcement and higher building standards.

## **02-12**

Use of drones to conduct Defensible Space Inspections would violate residents 4th Amendment right under the US Constitution to protect their property from unreasonable searches. Private inspections/enforcement in San Diego County have resulted in unwarranted profit motivated inspection results with abatement and liens. If the project cannot support civil servant inspectors without profit motivated inspections, it is a further reason to abandon the project.

The fire behavior described for FMZs is descriptive of ground fires under moderate weather conditions and does not account for high wind and high temperature extreme fire behavior.

## **02-13**

Twice yearly task inspections are insufficient as homes and their onsite landscaping becomes more mature. Especially as climate breakdown accelerates.

## **02-14 - 02-15**

HOA's have short-term financial incentives to ignore maintenance requirements. Private enforcement has a corrupting profit motive without proper supervision.

## **02-16**

The 2007 FPP did not overpredict flame lengths by approximately 40 feet. It used reasonably expected inputs for peak seasons and those predictions were duplicated in my own Bahave Plus calculations.



## **02-17**

RTC again ignores the potential for law enforcement to be unavailable or inadequate due to multiple simultaneous incidents or the magnitude of a single incident.

## **02-18**

RTC conveniently forgets the deaths off of Muth Valley Road / Wildcat Canyon area during a Cedar Fire that progressed at unexpected rates. These individuals did not die because they refused to leave. They died because the fire overtook them without warning in the darkness of early morning. Fanita has potential for a similar outcome when homes spaced to close together cluster burn.

## **02-21**

RTC shows a glaring lack of awareness of the topography and vegetation surrounding the internal road network of the Northeast "Vineyard Village." Northern aspect chaparral is already capable of producing flame lengths of 100-feet and fuel loading will continue to grow potential fire intensity until the site burns. Many individual homes would be forced to drive northeast into a firestorm before attempting to exit southwest. RTC mistakenly assumes FMZs halt radiant heat and wind-blown embers.

## **02-22**

RTC acknowledges there is potential for ignitions at close enough locations where the fire progresses at rates to rapid to allow for evacuation. The alternatives discussed leave the population vulnerable to cluster burning structures.

## **02-23 - 02-24**

The process described fails with absent or inadequate numbers of emergency personnel, which is possible and likely during large or multiple incident wildfires. RTC acknowledges the public is not qualified to make judgements on TRAs. The RTC backs away from the emphasis on Ready Set Go found in the plans. Significant adverse impacts remain.

## **02-25**

The current corporate-owner lags on WUI maintenance as documented in prior letters. The same is to be expected over time, but with substantially more interface maintenance required.

**02-26**

RTC is incorrect unsubstantiated opinion. The map of the site demonstrates the opposite. The evacuation plan advises locking doors precluding use of those structures as TRAs. (The opposite of RSG).

**02-27**

RTC admits structures have as little as 10 feet of separation leaving each structure within the 30-foot home ignition zone of other structures. This is a recipe for cluster burns in “fire-resistant” not fire-proof structures. Data has been presented documenting vulnerability of modern higher standard construction.

**02-28**

If evacuation preplans actually exist for the site then they should be disclosed. Opinion does not refute the data presented in regard to potential rates of spread and the impacts of cluster burns.

**02-29**

This project is the same project which required a General Plan Amendment. Word games don't change that fact.

**02-30**

See my prior comments and Baylis, PW and J Boomhower. 2021. Mandated vs. Voluntary Adaptation to Natural Disasters: The Case of U.S. Wildfires. <http://www.nber.org/papers/w29621>  
Modern structures lost in Ventura also provide warning of what to expect on Fanita Ranch. The project does not respect Home Ignition Zones relative to other structures. The RTC fails to present data contradicting real fire events with modern construction.

Also: Emily Guerin. December 9, 2018. Fire-Resistant is not Fire-Proof, California Homeowners Discover,, NPR. <https://www.kunc.qrg/2018-12-09/fire-resistant-is-not-fire-proofcalifqrnia-hqmeowners-discoyer>

**02-31**

RTC acknowledges a PSPSO is possible - “limited in urban areas.” Loss of power for other unintentional reasons are possible as well. RTC opines back up power would be

in “ignition- resistant” structures. These are not fire-proof, leaving them vulnerable. The amount of “residual water pressure” is unknown. RTC does not answer where these pumps will be sited. The comment is not refuted.

#### **02-32 - 02-33**

Fanita Ranch is 18-20 miles off of the coast and not comparable to Rancho Santa Fe on the coast with higher relative humidity and topography where Santa Ana winds have less duration. RTC does not provide documentation for the conclusory statements that fire losses since 2007 are in developments that lack redundant fire safety design.

#### **02-34**

Contrary to the unsubstantiated claims of RTC, I have participated professionally in wildfire evacuations, resource placement for immobile vulnerable residents and circulation control during wildfire incidents. Support for my conclusion that the Wildfire Evacuation Plan is inadequate to mitigate significant public safety impacts comes in my letter both before and after my statement. The analysis in the Environmental documents is biased by the source of funds paying for the work and a lead agency which predetermined the outcome of the CEQA process in anticipation of developer fees and tax revenue.

#### **02-35**

I have provided direct reference to Calfire RSG, the program the Wildfire Evacuation Plan intends to distribute to the public and rely upon and provided a supplementary Cal Fire Evacuation Tips guide which states the same unlocked door procedures. Rather than correcting the error, the RTC doubles down on it with unsupported remarks. Firefighters are not going to be carrying tools in their web gear to unlock or open structures without doing damage. Contrary to RTC opinion, area ignition burn-overs and vigorous convective activity are two examples of situations when firefighters may be in need of refuge that is unavailable. Area of the project “devoid of natural fuels” have not been demonstrated to be a distance of 4 times potential flame lengths to individuals on site and sufficient in size to hold the numbers of personnel and evacuees seeking refuge.

#### **02-36**

RTC again states there will be guidance without the ability to assure such resources will be available during large scale events or multiple simultaneous incidents.

## **02-37**

RTC does not locate safe refuge sites nor provide specifications to evaluate any sites sheltering potential. Conclusory statements are inadequate. There can be no assurance resources will be available to coordinate evacuation movements during large scale events or multiple simultaneous incidents.

## **02-38**

Contrary to RTC, my comment does not assume the entire project will be evacuated in all fire scenarios. What RTC continues to ignore is there are many ignition points within 16 miles of the project site that are capable of generating rates-of spread that will not allow full evacuation of the site. And because the project relies upon high density design vulnerable to cluster burn and contradictory presentations of RSG, the project located in severe fire vulnerable topography has a significant adverse risk to public safety inadequately mitigated. The project refuses to admit the facts and prepare a statement of overriding considerations or abandon the project.

## **02-39 - 02-40 - 02-41 - 02-42**

RTC again ignores or denies the potential for a rapidly moving flame front as large or larger than the project's developed area. In 2003, the Firefighters were overwhelmed at Scripps Ranch by a flame front extending more than a mile in length. A flame front of similar magnitude will overwhelm the intentions for phased evacuations.

Santee neighborhoods were on the flank of the Cedar fire, not at the head. Existing neighborhoods have more favorable orientation lower in the San Diego River Valley. The project would significantly break the more intelligent design of existing development and thrust bubbles of development into the head of the Cedar fire corridor. Potential for evacuations will be negatively impacted. RTC also fails to consider the next Santa Ana wind driven firestorm may have a fire head more directly oriented to the project site and existing development.

## **02-43**

Contrary to RTC, the comparison of Chapter 7A compliant burned structures is appropriate. When a structure is battered by a sustained ember storm or convective activity it is not significant whether the fuel source of embers is brush or brush and/or pine forest. There are fuels under 3 inches in diameter that carry the fire and generate embers in both vegetation classes. My comments have consistently stated that embers are a significant threat to structures and I've pointed out many different ways they can penetrate fire resistant structures.

The separation comparison between surviving structures is also appropriate. Burning homes become fuel to ignite adjacent structures.

#### **02-44**

Contrary to the RTC, Marshall Fire comparisons are relevant. Fanita Ranch is on more fire vulnerable topography with more limited access than homes which ignited during the Marshall Fire. Marshall Fire fuels were sparse grasslands. Burning structures were surrounded by large expanses of irrigated green spaces. Homes had modern construction and more separation than those proposed on Fanita Ranch. The most important factor to be attentive to is the power of a wind driven fire to accelerate rapidly through sparse fuels over pavement and irrigated spaces and burn not only homes, but commercial buildings surrounded by asphalt. The Marshall Fire is a testament to the power of wind driven fire in the era of climate breakdown extremes. Furthermore, I have provided research in prior letters documenting inability of ember resistant features to prevent ignitions behind them.

#### **02-45**

The Orange County Fire Chief's statements about climate change are supported by the Cal Fire data presented in this letter for major fires since year 2000. RTC does not present data detailing the level of ember resistance on homes destroyed in the events discussed. Regardless, vulnerabilities in ember-resistant vents are not the only way fire can penetrate Fanita Ranch structures (ie. open windows, open doors, open garages, broken glass due to convective activity).

#### **02-46**

Contrary to RTC, not only have I submitted more than a thousand pages of wildfire specific studies and data into the record, I have personally conducted thousands of Defensible Space Inspections, researched countless wildfires and performed many years of service as a wildland firefighter. I am qualified to make the the suggestions registered and those measures can further mitigate the significant public safety risk of the project.

#### **02-47 - 0-48**

I have not requested an endless array of wildfire scenarios. I requested a few scenarios that would be representative of high risk situations the project is likely to encounter. Consultants refused to conduct the analysis.

## **02-49**

The response is not responsive to request for specification on capacity. Conclusory statements, such as suggesting “Capacity of the areas would be appropriate for the targeted population” are inadequate.

## **02-50 - 02-51 - 02-53**

RTC places too much faith in the “redundant, layered protections.” Failure is possible and the consequences of failure should be considered not denied.

## **02-54 - 02-55 - 02-56 - 02-57 - 02-58**

RTC states it is possible to establish evacuation trigger thresholds, but RTC does not do so. Just because a project is new, does not exempt it from history demonstrating new structures burn under the right adverse conditions. RTC places too much faith in the “redundant, layered protections.”

## **02-59**

The successful evacuations in Santee reflect development locations on the flank (not the head) of the Cedar Fire with development primarily located lower in the San Diego River Valley.

## **02-60**

Contrary to RTC, the San Diego County Evacuation Planning Map Books remain in use on Cal Fire engines in the San Diego Unit.

## **02-61 - 02-62**

RTC fails to acknowledge situations where the entire project may need immediate evacuation to avoid impact of the flame front.

## **02-63**

RTC fails to disclose the non-existent Mast Boulevard connection to Lakeside SR-67 and the use of the same road network as Lakeside residents in the “new” plan. Eucalyptus Hills and Santee residents will compete for the same El Nopal / Riverford

Road circulation to SR-67. The court specifically called out the missing Mast Boulevard connection.

**02-64**

Any improvements would be overwhelmed by project induced traffic and off-site growth.

**02-65**

My comment provides context for the original statements in the FREIR.

**02-66**

The RTC reluctance to provide specifics on potential TRAs is another reason why the project should not rely upon their use.

**02-67**

A sustained wind event is likely to have different impacts than aa fire with a “lucky break in the wind such as the Lilac Fire RTC wishes to use as a model.

**02-68 - 02-69**

RTC is not responsive.

**02-70**

RTC inadvertently acknowledges the 2007 FPP calculations are correct for 6 feet stands of Chaparral. North and northeastern aspects of Fanita Ranch have recovered from the Cedar Fire to establish the 6 feet stands of chaparral currently onsite. As greater time passes without return of fire, heavy stands of FM4 chaparral will extend. Use of alternative fuel models to diminish estimates of flame length / fire intensity is inadequate.

RTC confuses the use of 4x flame length rule of thumb buffers. My comments do not suggest structures need 400 feet FMZs. The 4x rule suggests individual firefighters or civilians caught outside during the arrival of a flame front fueled by 6 feet stands of chaparral need 400’ feet radius from those fuels to prevent burn injuries. The rule does not consider additional avoidance needed in the case of convective activity. Again,

contradictory information provided to residents with regard to TRAs and locking doors is problematic.

Considering that I have led firefighters down escape routes into safety zones, I am keenly aware of what they are and the 4x rule of thumb flame length calculation. The comment is not erroneous, the RTC misinterprets it.

#### **02-71 - 02-72 - 02-73**

RTC, by not recognizing the importance of building adequate safety zones into the project admits they do not exist.

#### **02-74**

RTC misinterprets the comment which is focused upon the capabilities of untrained residents.

#### **02-75**

RTC fails to recognize the challenges of special needs residents and the consequences of being adjacent to or occupying a structure that ignites.

#### **02-76**

RTC is off topic. It is the WFEC that is providing guarantees using the word “will” when those statements cannot be assured. The limitations listed are real and consequential even if RTC wishes to diminish their significance.

#### **02-77 - 02-78**

The RTC does not refute my statements.

#### **02-79**

RTC ignores the significant impact of the project upon the existing WUI neighborhoods to evacuate.



**02-80**

RTC does not consider the difficulty of maintaining another 5 miles of wildland interface over the long-term.

**02-81**

RTC misinterprets the 4X flame length comment as applicable to structures. It is applicable to individual firefighters or civilians outside or forced outside of structures, not the structures themselves. The comment is applicable to 6 feet high stands of chaparral accumulating on the north and northeast aspect of the project and the points where evacuation routes are exposed to this fire chimneys on the "Vineyard Village." Again there can be no assurance evacuation routes can be shut down at these points during a firestorm.

**02-82**

The deviation from code to allow the project does compromise safety during a wide fire front event that impacts both project exits with only 1.25 miles of separation.

**02-83**

RTC offers a conclusory statement without identification of safety zones or TRAs.

**02-84**

RTC does not recognize the high risk topography of Fanita Mountain drainages and inappropriately assumes a philosophy that project measures allow building anywhere despite additional land form risks.

**02-85**

I have not requested an endless array of wildfire scenarios. I requested a few scenarios that would be representative of high risk situations the project is likely to encounter. Consultants refused to conduct the analysis.

Fuel Model 4 chaparral is common north east of the project site. The 2007 FPP correctly identified its potential rate-of-spread Santa Ana wind conditions.

## **02-86**

Variations in fire weather fuels and terrain can impact the rate-of-spread from a 17-mile ignition point example. The example is still instructive.

RTC suggests Dudek's bias / history should be ignored. Dudek relies upon funds from its developer clientele. Dudek was one of the firms fined for laundering funds to Santee City council members through employees while working on Fanita Ranch documents. RTC has not provided evidence to discount the potential flame lengths for mature chaparral on the north and northeast aspects of Fanita Mountain where "Vineyard Village" is proposed.

## **02-87 - 02-88**

RTC discounts the value of preplanning knowledge gained that could be used to adjust project design and structure locations on the site.

## **02-89 - 02-90**

RTC fails to consider the implications of the 34 exhibits provided which support the statements in my letter.

In conclusion, I maintains my position the project has significant adverse impacts to public safety and should be denied. However, unlike the developer and the city council, I am prepared to accept Santee voters decision on this project.

Sincerely,

/s/  
Van Collinsworth  
Geographer/ Fire expert/ Director

Attachments:

<https://headwaterseconomics.org/natural-hazards/structures-destroyed-by-wildfire/>




<https://www.eastcountymagazine.org/print/37950>







## SANTEE COUNCIL REMOVES FANITA RANCH FROM NOVEMBER BALLOT; COLLINSWORTH CRIES FOUL

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By Mike Allen

June 13, 2022 (Santee) -- After the Santee City Council voted last week to remove the Fanita Ranch project initiative from the November ballot, environmental activist Van Collinsworth called the move not only a slap in the face of local voters, but a clear message that the 3,000-unit development will never go to a vote.

The Council voted unanimously June 8 to take an earlier approved referendum on the project off the ballot because all of the project's legal approvals were already rescinded last month. The Council removed those approvals made in 2020 to comply with a judge's recent ruling, which found the project's environmental impact report deficient.

That report did not include impacts of a last-minute change by the Council to eliminate a key exit route in case of a wildfire evacuation, a lapse which the court found violated the California Environmental Quality Act requirements.

Given the absence of the plan's amendments, a referendum on those ordinances "has no legal meaning," and rejecting the General Plan Amendments would be meaningless because that amendment has already been repealed, according to City Attorney Shawn Hagerty.

This interpretation didn't sit with either Collinsworth, the director of Preserve Wild Santee, or an allied environmental activist group, the Center for Biological Diversity, which both asserted that the referendum should take place as scheduled.

"I want the city to acknowledge that the people of Santee have earned the right to vote on this project," Collinsworth said. "They (the City Council) are doing everything they possibly can from allowing the people of Santee to decide on this project."

Attorney Peter Broderick of the Oakland-based Center for Biological Diversity wrote in a [letter](#) that the Council's legal rationale to remove the referendum was flawed. "Finally, allowing the voting public to weigh in on the Fanita Ranch Project through an up and down vote is a key aspect of participatory decision making and serves the underlying democratic purpose of California's constitutionally authorized voter referendum voting process," Broderick wrote.

The Council also noted that in addition to not having an actual plan for voters to decide upon, the cost for the issue on the ballot was about \$180,000, and deemed excessive.

Collinsworth, who led an effort to challenge Fanita Ranch soon after the Council voted 4-1 to approve it in September 2020, said the council adopted another measure, Ordinance 592, in December that provides a special status for Fanita Ranch that precludes a public vote from ever occurring.

"It's a sham process," Collinsworth said. "We know what the City Council will do. They are bought and paid for."

Mayor John Minto said the ordinance Collinsworth refers to was intended to shorten the length of time for the development approval process for smaller housing projects. He said all development projects must comply with state regulations governing land use and cannot be excluded from the process.

As to charges that the council is in the pockets of Fanita Ranch developer HomeFed Corp., Minto said it is Collinsworth who is bought and paid for by large environmental organizations "to do everything he can to stop growth."

Collinsworth said the best outcome for the Fanita Ranch property is to keep the 2,600 acres north of Santee Lakes vacant as a natural preserve, and a buffer to the Marine Corps Miramar base. Yes, this region desperately needs affordable housing, but Fanita Ranch is luxury housing, he said.

Asked what he would do should Fanita Ranch plan come back to the council, Minto was reluctant to say how he'd vote. He noted that because the project would need an amendment to the city's General Plan, it would require a public vote. That was mandated in 2020 when Santee voters passed Measure N, which would put any project that needs an amendment to the existing General Plan on the public ballot for approval.



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September 13, 2022

*Sent via Fedex*

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**Re: Recirculated Sections of the Final Revised Environmental Impact Report for Fanita Ranch, SCH# 2005061118**

Dear Mr. Jacobs:

Please find attached on behalf of the Center for Biological Diversity materials relating to the Fanita Ranch Project and Recirculated EIR. Please provide these materials to staff and decision-makers and include them in the City's files for the Project.

Sincerely,

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1212 Broadway, Suite #800  
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July 25, 2022

*Sent via email*

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**Re: Recirculated Sections of the Final Revised Environmental Impact Report for Fanita Ranch, SCH# 2005061118**

Dear Mr. Jacobs:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the recirculated sections of the Final Revised Environmental Impact Report (State Clearinghouse No. 2005061118) for the Fanita Ranch Project (Project). These comments follow the Center’s prior administrative advocacy and successful litigation over the inadequacies in the Project’s Final Environmental Impact Report. The Center has reviewed the Revised Environmental Impact Report (REIR) closely and is disheartened to see that the REIR, despite San Diego Superior Court’s clear instructions, has arrived at a preordained conclusion: that the Project would *improve* fire safety and have no impacts on evacuation and emergency access. The Center urges the City to fully and accurately inform decisionmakers and the public—as the Court ordered—of the environmental consequences of the Project and to recirculate a revised draft REIR.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Santee and San Diego County.

Where, as here, the EIR fails to fully and accurately inform decisionmakers and the public of the environmental consequences or proposed actions, it does not satisfy the basic goals of CEQA. (See Pub. Res. Code, § 21061.) As detailed below, the REIR does not remedy any of

the legal inadequacies that the Court ordered the City to address. The Project would bring over nine thousand residents to a site classified by the California State Fire Marshall as a very high fire hazard severity zone – without any adequate means of evacuation. Yet the REIR concludes—incredibly and contrary to all available science—that the introduction of over nine thousand residents into a very high wildfire hazard severity zone would actually improve fire safety. From there, the REIR finds that this approximate 16 percent increase in the City’s population and the seven thousand additional vehicles would have no significant impacts on evacuation, even as those vehicles flood onto the City’s existing network of two-lane roads. The REIR also fails to actually analyze whether the Project’s impacts to evacuation times would expose people to a significant risk of injury or death from wildfire, as the Court ordered. The REIR and the Fire Protection Plan (FPP) and Wildland Fire Evacuation Plan (WFEP) underpinning the REIR’s conclusions are filled with wishful thinking and unsupported conclusions.

## **I. THE REIR LACKS AN ADEQUATE ANALYSIS OF THE PROJECT’S IMPACTS RELATING TO WILDFIRE HAZARDS AND EMERGENCY EVACUATION.**

Few areas in the state come with as high a fire risk as the Project site. Based on the unique characteristics of the Project site—such as the topography, vegetation, weather, and steep terrain—the California Department of Forestry and Fire Protection (CAL FIRE) has designated the entire Project area as a “Very High Fire Hazard Severity Zone,” CAL FIRE’s highest designation. (FEIR at 4.18-2; FPP at 45.) Consequently, the fire hazards caused by developing a new community here are severe.

The Project site has burned regularly: at least 65 fires have occurred in the area since 1910. (REIR at 4.18-5; FPP at 22.) The most notable fire, the 2003 Cedar Fire, burned approximately 280,276 acres, including a large portion of the Project area. (*Id.*) That fire was started by a human recreating in the wildland-urban interface. (Hunt 2018.) Given the dry vegetation and Santa Ana winds, the fire spread southwest at speeds of up to 6,000 acres per hour. (*Ibid.*) The fire ultimately killed 15 people, injured countless others, and destroyed thousands of homes. (*Ibid.*)

The REIR reveals the Project site’s extreme susceptibility to wildfire. Its topography is “in alignment” with the Santa Ana winds, “which can influence fire spread by creating wind-driven fires.” (FPP at 16.) The rural landscapes surrounding the Project area are not managed for vegetation fuel, which also increases the site’s wildfire risk. (FPP at 3, 5, 19.) Fire intervals on the site range between “one and twenty-five years,” which indicates “significant wildfire potential in the region.” (FPP at 25.) The FPP acknowledges—as it must—that “wildfire has occurred and would likely occur in the Project vicinity again.” (FPP at x.)

Considering these facts, one would expect the REIR to have objectively evaluated whether the Project would expose people and structures to a significant risk of loss, injury, or death, as the Court ordered. (See Exhibit 1, Notice of Entry of Judgment in *Preserve Wild Santee, et al. v. City of Santee*, CEQA Guidelines App. G VII (h).) And yet, the REIR strives to reach a preordained, and improbable conclusion: that this Project would *reduce* fire risks, for

both Project residents and adjacent, downwind communities. (FPP at 25.) Science and common sense contradict the REIR's claims that this Project, unlike all other similar projects, would improve fire safety. It defies the evidence to suggest that introducing thousands of people, homes and other flammable materials, and a range of non-native vegetation to fire-prone open space in the Wildland Urban Interface will somehow be more fire safe than leaving the area undisturbed and unoccupied. As explained below, the REIR's analysis of the Project's potential to result in increased wildfires and the associated impacts to emergency evacuation is riddled with error and mislead the public and decisionmakers.

***A. The DEIR's Conclusion that the Project Will Not Increase Fire Hazards is Unsupported.***

Wildfire experts consistently and unambiguously point out the dangers of placing communities in high fire-prone areas, yet the REIR fails to adequately assess wildfire impacts and continues to dismiss the best available science. The DEIR is deficient because it fails to acknowledge or adequately analyze the increased risk of wildfire that results from development and the increased intensity of use in very high wildfire zones. Indeed, the DEIR seeks to downplay this effect, claiming, implausibly, that the Project would *reduce* wildfire risk by adding a fire response center, irrigated landscaping, and additional human presence. (REIR at 4.18-49, FPP at 25.) This conclusion is patently defective in the following ways.

As an initial matter, the REIR ignores the abundant and mounting evidence that locating homes in high or very high wildfire areas demonstrably increases the risk of wildfire ignition. The Project would add approximately 9,498 new persons to the wildland-urban interface. (FPP at 49.) Unsurprisingly, study after study has demonstrated that adding humans and new development to undeveloped wildfire-prone areas increases the risk of ignitions and exacerbates the resulting hazards. According to a report from Governor Gavin Newsom's Office, construction of more homes in the wildland-urban interface is one of the main factors that "magnify the wildfire threat and place substantially more people and property at risk than ever before." (Governor Newsom's Strike Force 2019). In a scientific study, Syphard et al. (2019) found that housing and human infrastructure in fire-prone wildlands are the main drivers of fire ignitions and structure loss. This information is not new; scientists for many years have reported development's tendency to exacerbate wildfire risk in high wildfire risk areas. This has led California's Natural Resources Agency (which promulgates the CEQA Guidelines) to state unambiguously that "the evidence is clear that bringing more people to areas of higher wildfire risk exacerbates those risks." (Exhibit 2 - Final Statement of Reasons for Regulatory Action, p. 212.)

As another recent peer-reviewed study from Stanford University researchers explained, "Changing demographic factors have undoubtedly played a substantial role in community exposure and vulnerability—including the expansion of urban and suburban developments into the 'wildland-urban interface.'" (Goss et al. 2020.) In fact, development in the wildland-urban interface, like the proposed project, is responsible for the most buildings burned in California, despite less fuel. (Kramer et al. 2019.) Researchers have determined that growth in the wildland-urban interface "often results in more wildfire ignitions, putting more lives and houses at risk." (Radeloff et al. 2018.)



Sprawl developments with low/intermediate densities extending into habitats that are prone to fire have led to more frequent wildfires caused by human ignitions, and these types of developments have the highest chances of burning. (Keeley et al. 1999; Keeley and Fotheringham 2003; Syphard et al. 2007; Syphard et al. 2013; Balch et al. 2017; Radeloff et al. 2018; Syphard et al. 2019). This can disrupt the natural fire regime and lead to a dangerous feedback loop of deadly fires and habitat destruction. Thus, developing housing in locations in California that currently have low or no density—such as the current Project site—dramatically *increases* the number of fires and the amount of area burned. (See Keeley 2005; *see also* Syphard et al. 2013; Syphard et al. 2007 [stating that ninety-five percent of California’s fires are caused by human activity].) Common anthropogenic causes of fire include arson, equipment use, debris burning, smoking, vehicles, fireworks, electricity, and outdoor cooking. Additionally, structure fires can spread and initiate wildland fires.

Alexandre et al. (2016b) recommend “steering development away from such [high fire-prone] areas entirely, as is commonly done by U.S. communities to reduce vulnerability to other natural hazards such as flooding and landslides.” And Radeloff et al. (2018) warn, “Housing development in the [wildland-urban interface] greatly exacerbates wildfire problems and other environmental issues... As long as [wildland-urban interface] growth is unchecked, wildfire problems will likely worsen.” Keeley and Syphard (2020) also bring attention to zoning restrictions for high fire hazard areas and replacing community planning with a more regional approach to keep communities safer from fire hazards. Again, the REIR fails to consider the best available science and adequately assess and mitigate the proposed Project’s impacts to wildfire and wildfire risk. In a review by Syphard and Keeley (2020) titled “Why are so many structures burning in California?” the authors summarize decades of research, noting that “as population increases and development further encroaches into wildland vegetation, there is an increased risk that a human-caused ignition will coincide in a place and time with hot, dry weather; flammable vegetation; and severe wind conditions,” and “the rapid increase in the spread of exurban development like that occurring now in California (Radeloff et al. 2018), has the potential to both increase the number of ignitions and decrease the overall distance between wildlands and housing.” (Syphard and Keeley 2020). The area burned in California in the last 20 years has doubled compared to the area burned in the previous two decades, and the wildfires most destructive to humans have been wind-driven fires (Keeley and Syphard 2020). According to Keeley and Syphard (2020), “What determines an extreme fire year is the untimely human ignition during an extreme wind event,” and “these wind-dominated fires are ~100% human-ignited fires.” Alarming, while before 1960 there was no observed association between prior year precipitation and area burned in southern California, patterns have shifted in the last 50 years, and the region is now exhibiting patterns similar to what has been documented in grasslands and savannas throughout the southwest, as high rainfall years lead to elevated grass fuel loads; the authors suggest that the increase in type conversion from shrublands to grasslands in the region are likely driving this trend and making these areas even more flammable. (Syphard et al. 2018; Keeley and Syphard 2020).

Clustered developments surrounded by highly flammable wildlands and in line with the Santa Ana Winds, like the proposed Project, lead to an increased probability of more human ignitions and greater fire risk to human life and structures. (Alexandre et al. 2016a; Alexandre et al. 2016b). These studies found that while larger cluster areas with more buildings were more

likely to be affected by wildfire, smaller clusters with fewer buildings were more likely to lose a higher proportion of structures, and when building density is higher, there is a higher chance of fire spreading between buildings. Kramer et al. (2019) analyzed California wildfire building destruction between 1985 and 2013 and found that developed areas with little wildland vegetation near large blocks of wildland vegetation had the greatest total amount of building destruction, and they suggest that other fuel sources, like landscaping, agricultural vegetation, vehicles, and the structures themselves, play a role in more buildings burning. This is further supported by Radeloff et al. (2018), who found that building homes close to wildlands will result in 1) more wildfires due to more human ignitions and 2) greater risk to people and structures.

The Project is a master-planned community consisting of up to 2,949 homes, up to 80,000 square feet of commercial uses, a school site, parks, open space, and agricultural uses, with an estimated population of up to 9,498 people. (FPP at 7.) Development will be occur in three “villages”: Fanita Commons, Orchard Village and Vineyard Village. (*Ibid.*)

The City rightly notes the link between housing density in the wildland-urban interface and the resulting increase in wildland fire risk: “housing density directly influences susceptibility to fire.” (FPP at 25.) This is because “in higher density developments, there is one interface (the community perimeter) with the wildlands,” whereas “lower density development creates more structural exposure to wildlands...(an intermix rather than interface).” (FPP at 25.) But noticeably absent in the REIR is any effort to discuss the Project’s density in the context of that scholarship. (See FEIR at 4.18-24, 4.18-25, FPP, Figure 3A.)

The REIR attempts to dismiss any such discussion by describing the Project in passing as “dense.” But the actual analysis of the Project’s density—and its influence on fire risk—is in the FPP, which notes the development is “clustered” into 3 villages, two of which are “low density residential” housing separated by open space corridors. (FPP, p. 7-8.) A Project where approximately half of the units are considered “low-density” by definition cannot be “dense.” (Compare FPP at 25 to FEIR at 4.16-33.) The FPP’s examples of projects of various densities confirm this Project is more properly considered a low- to intermediate-density development. (FPP at 26-28.)

Regardless, the REIR obscures the nuanced relationship between housing patterns and fire risk. While low- and intermediate-density housing is most at risk, density is not the only relevant factor; location within the larger landscape and configuration within the development also drive fire risk. (See *ibid.*; Syphard and Keeley 2020; Syphard et al. 2013.) Drs. Syphard and Keeley, fire scientists upon whom the City relies in the REIR, stated in a recent letter to the Office of the Attorney General that—contrary to the City’s claim—their “research does not support the notion that high density housing is not at high risk.” (Exhibit 3 - Syphard and Keeley, April 20, 2020 email.) By “focusing on the area just within the development instead of the development within the larger landscape context,” the City ignores other drivers of fire risk. (*Ibid.*, emphasis in original.) “If high-density development is located within a matrix of wildland vegetation, that is actually the most dangerous housing pattern you could have!” (*Ibid.*) This combination is “particularly dangerous ... because there is exposure to fire hazard AND the possibility for structure-to-structure spread.” (*Ibid.*) In other words, their research supports the opposite of what the City claims it does; even if the Project were actually high-density, given its

clustered configuration within flammable wildland vegetation, the housing pattern will still pose a high danger.

This abundant and mounting scientific evidence also contradicts the City's unsupported conclusion that there is "no data available" linking increases in wildfires with the development of communities built to California Building Codes. (REIR at 4.8-17, FPP at 25.) The REIR irresponsibly overstates that the Project's adoption of such standards (which are required by law) along with a few other miscellaneous measures would create such an ignition-resistant landscape that fire "would be expected to burn around and/or over the developed landscape via spotting." (REIR at 4.18-41.) These statements are dangerously misleading, and, in some cases, flatly untrue. Although defensible space immediately adjacent to structures, ember-resistant vents and roofing, and internal sprinklers may help make homes more fire-resistant, even the best mitigation cannot make a development fire-proof. In fact, Syphard and Keeley (2019) point out that "Despite the widespread advocacy of these practices, there has been little empirical study of their effectiveness under actual wildfires, and there is still debate on how much defensible space is critical to home survival despite the regulated distance of 30 m (100 ft)" (Syphard and Keeley 2019.) The authors further caution that "Those measures in a new development do not mean those homes are safe from fire." (Syphard and Keeley, April 20, 2020 email.) In an analysis that included over 40,000 structures exposed to wildfire between 2013-2018 in California, many "fire-safe" structures with fire-resistant building materials and/or over 100 feet of immediately adjacent defensible space were destroyed (Syphard and Keeley 2019), and according to an analysis conducted in the aftermath of the Camp Fire, while 51% of homes built to code survived the blaze, the remaining 49% did not. (Kasler and Reese 2019.) In addition, homes can add fuel to fires, which can lead to fires spreading through communities (Alexandre et al. 2016a; Alexandre et al. 2016b.) For example, during the 2017 Tubbs Fire embers were blown about 1.6 miles across open areas (including the 101 Freeway) into the Coffey Park neighborhood, and the fire spread throughout the entire neighborhood. (Smith 2017; Watkins 2017.) Newer construction is "not a panacea." (Syphard and Keeley, April 20, 2020 email.) And fuel breaks have "limited effectiveness at preventing fire spread during severe wind conditions when 99% of the structure loss occurs." (*Ibid.*) Paradise for decades maintained firebreaks and defensible space around homes, but these efforts proved ineffective against the wind-driven Camp Fire. (Schlickman 2022.)

Finally, while insisting that the Project will not increase the risk of wildfire ignition, the County concludes that any increased ignition risk could be mitigated based on the "fast" "detection and response" because of the additional people in the area. (FPP at 29.) The City acknowledges that humans can create wildfires (REIR at 4.18.14, FPP at 48) and then invents a fiction, for this Project, that the presence of humans will actually reduce wildfires. This ignores the documented evidence that more humans lead to more ignitions, not fewer.

The science is clear—humans increase ignitions and therefore exacerbate wildfire risk in the wildland-urban interface. A project built in a location known to have very high wildfire risk cannot compensate for this hazard simply through a fire-resistant design. Wildfires and their devastating impacts will only worsen if the City continues to turn a blind eye to the risk and allow development to proceed that disregards such risk. Because the REIR fails to acknowledge the significant wildfire impacts from increased risk of human ignition as a result of the Project,

the REIR also fatally fails to mitigate them or consider alternatives to the Project that would reduce these impacts.

***B. The DEIR Underestimates the Risk of Wildfire Because it Relies on Faulty Modeling Assumptions and Methodology.***

The FPP underpinning the REIR’s conclusions relies on fire behavior modeling to predict the intensity of fire that would be expected in the Project area. (FPP, Appendix B-1.) Unfortunately, the FPP repeatedly underestimates the potential intensity of fires and rates of spreads, infecting the REIR’s ultimate conclusions.

For one, the REIR concludes that converting flammable fuels into ignition-resistant development will decrease fire risk and result in a fire that burns around the Project site, not through it. (REIR at 4.18-18.) But the FPP’s modelling—upon which these conclusions are based—*assumes* that built structures will not burn. It tags urban development as “non-burnable” and assigns it a fuel model load of zero. (FPP, Appendix B at B-4, B-5a.) Endemic vegetation, on the other hand, is assigned high fuel model values. (*Id.* at B-4, B-5.) Naturally, with those assumptions, the REIR and FPP’s conclusion that converting “ignitable fuels” into “lower flammability landscape” reduces fire spread is all but guaranteed. (FPP at 48.)

Second, despite the FPP’s promise to model “extreme” and “worst-case” conditions based on “fall” weather, the FPP appears to only model May through July weather. (FPP at 16.) As the REIR admits, fire behavior is worst during “extreme fall weather conditions (off-shore, Santa Ana conditions).” (B-3; FPP at 55.) One would therefore expect the modelling’s peak weather conditions to reflect the “low humidity and high wind speeds” of the standard fall fire season. But noticeably absent in the fire modelling is any peak weather scenario. Rather, the modelling relies exclusively on weather conditions for the May-July season, which is when “[p]recipitation typically occurs” and before Santa Ana winds pick up. (FPP at 16, Appendix B at B-7.)

Finally, the FPP’s modelling also fails to account for the increased ignitions that would accompany the Project. (FPP at 16.) As discussed above, developing housing in the WUI increases the probability of ignition with the Project’s footprint. Neither the REIR nor the FPP acknowledges that the Project would increase ignition sources. (REIR at 4.18-17, 4.18-18.) As discussed above, the REIR errs when it asserts that the increase in ignition sources would be mitigated with irrigated areas and fuel modification zones.

***C. The REIR’s Reliance on the Wildfire Prevention Plan to “Reduce [Wildfire] Risks” to Less Than Significant Is Misplaced.***

The Court ordered the City to study whether the Project would expose people or structures to a significant risk of loss, injury, or death. The EIR concluded wildfire impacts will be less than significant, based *not* on an analysis and a significance finding for the Project’s wildfire impacts but based on application of the measures contained in the Fire Protection Plan and compliance with applicable fire codes. Consequently, the EIR’s analysis provides no insight into the Project’s actual impact on wildfire risk, the magnitude of mitigation required, or whether

there are alternate measures or alternatives that would better address the impact, in violation of *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 655–656. It is impossible for the City to evaluate the efficacy of the mitigation measures because it is impossible to evaluate whether other more effective measures than those proposed should be considered. (*Ibid.*) This improperly compresses the analysis of impacts and mitigation measures into a single issue, in violation of a principle set forth in *Lotus*. (*Ibid.* at 655–656.) The San Diego Superior Court recently invalidated a similar project’s environmental impact report for this error. (Exhibit 4 - Notice of Entry of Judgment in *Sierra Club, et al. v. County of San Diego*.)

Further, the FPP, by its own admission, did not study how to protect existing communities from the Project’s potential to exacerbate wildfire risk, instead limiting its analysis to Project residents and structures. While the FPP claims to address fire safety for neighboring communities, by the FPP’s own admission, it focuses exclusively on measures for the “suitable protection of the planned structures and the people living and using them.” (FPP at ix, 105 [“Each of the fire protection features provided as part of Code requirements or customized for the proposed project are based on the FPP’s evaluation work to protect the site, its structures, and its occupants from wildfires.”].) Had the EIR complied with law and studied the increased environmental hazards posed by the Project, then it would have provided an honest assessment of the risks that must be mitigated. By focusing on on-site risks, the REIR ignores the risks the Project may impose to downwind communities that do not have the same ignition resistant design, as well as to the surrounding wildlands. Even assuming the Project itself “will not be vulnerable to embers” and will have structures that are built to “resist ember penetration and ignitions,” (FPP at 39) the FPP’s own modelling acknowledges that “[v]iable airborne embers could be carried downwind for 2.8 miles and ignite receptive fuels.”(FPP at 55; REIR at 4.18-42 [“Also known as firebrands, these specks of burning debris can glide for up to 40 kilometers (approximately 24 miles) before landing and can cause up to 90 percent of home and business fires during wildfires”].) Such receptive fuels include the surrounding communities, which are “dominated by older, more fire-vulnerable structures.” (REIR at 4.18-24.) Windblown embers ignited and destroyed the Coffey Park neighborhood in Santa Rosa, which, compared to these surrounding neighborhoods, was even further from the adjacent wildlands. (Smith 2017.) Nowhere are the risks and harms from Project-generated ignitions to adjacent communities studied.

The FPP contains no data or analysis to support the REIR’s conclusions that its implementation will reduce wildfire risk in any meaningful way. Instead, it contains only vague discussions of measures (many of which are aspirational and unenforceable) that it claims can ameliorate wildfire risk, without making any attempt to quantify these assertions or support them with evidence. Bare conclusions, even if true, are insufficient to fulfill the informational purpose of an EIR. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736.) The failure to provide information required by CEQA in an EIR is a failure to proceed in a manner required by law. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118.)

## **II. THE REIR LACKS AN ADEQUATE ANALYSIS OF THE PROJECT’S IMPACTS RELATING TO EMERGENCY EVACUATION.**

The Project will add an additional 9,498 people and 7,042 vehicles to the City, increasing Santee's population by approximately 16 percent. (FPP at 49; WFEP, App. D at 13; U.S. Census 2021.) Yet, even as the Project adds over 7,000 vehicles to existing two-lane roads, the WFEP astoundingly concludes that this large increase in capacity would increase evacuation times in the neighborhood by only 7 to 39 minutes. (WFEP, App. D at 18.) For such results to stand, an additional 782 vehicles would need to evacuate in 1 minute. The WFEP's conclusions are based on overly optimistic, unrealistic assumptions and are thus not supported by substantial evidence.

***A. The Evacuation Analysis Lacks a Threshold of Significance, Rendering the Analysis Inadequate as a Matter of Law.***

The lead agency is responsible for determining whether an adverse environmental effect identified in an EIR should be classified as "significant" or "less than significant." (CEQA Guidelines, § 15064(b)(1); *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 884.) A lead agency's choice of appropriate thresholds of significance must be "based to the extent possible on scientific and factual data" and always supported by substantial evidence. (CEQA Guidelines, § 15064(b)(1); *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Governments* (2017) 3 Cal.5th 497, 515.) The discussion of an environmental impact must come to a clear conclusion about the significance of the impact, and that conclusion must be grounded in a fact-based analysis. (*Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 86, 101.)

The WFEP estimates that it would take up to 1.9 hours to evacuate the occupants of the Project. (WFEP at 15.) The WFEP then asserts that this evacuation time is a "reasonable time frame" for this community and any impacts are thus less than significant. (REIR at 4.18-13.) But the document skips a logical step: it provides no evidentiary basis for the assumption that the modelled evacuation times would not expose people to a significant risk of injury or death involving a wildfire, the threshold of significance identified by the City and the very inquiry the Court ordered the City to study.

In fact, no significance threshold or performance standard was applied in coming to the conclusion that evacuation impacts would be "less than significant." The WFEP claims to rely on "acceptable guidelines evacuation times," but the source documents the WFEP cite to contain no such statement regarding what constitutes a "reasonable time frame." The WFEP attempts to circumvent the threshold requirement by claiming there is "no evacuation timeframe threshold that Projects must meet in order to avoid a CEQA impact." (WFEP at 34.) The City, as the lead agency, has the obligation to select an appropriate threshold to guide its analysis. The City cannot rely on the absence of a threshold to avoid identifying one.

This leaves the City with no basis by which to conclude that its modelled evacuation times would not expose people to a significant risk of injury or death involving a wildland fire. Naturally, whether the evacuation time will prevent exposure to harm depends on how quickly a fire in this area—depending on topography and weather conditions—could overwhelm the Project site and evacuation routes. Neither the FPP nor the WFEP make any attempt to model how evacuation times relate to the rate of fire spread for that geographic area, or how quickly a wildfire could overtake the site. Nowhere does the WFEP even *consider* how long it would take

for a wildfire to reach the Project site, which should be the accurate metric for determining how quickly the Project site must be evacuated to avoid a significant risk of injury, loss, or death. The City must model how long it would take a Santa Ana wind-driven fire to reach the Project site under fall weather conditions, when wildfires are most common, to determine whether the Project's evacuation time will expose people to significant risk of injury or death.

***B. The REIR Fails to Provide the Required Assurance that the WFEP Would Protect People from a Significant Risk of Injury or Death Involving Wildfires.***

The misguided assumptions and flawed methodology of the wildfire analysis in the FPP also infect the WFEP's evacuation conclusions. The Project provides two points of ingress/egress, both along the southern edge of the Project—one along Fanita Parkway, and the other along Cuyamaca Street. (REIR at 4.18-33.) The REIR then presents an analysis of evacuation times, evaluating nine scenarios ranging from a claimed "Most Probable Evacuation" involving 1,885 vehicles to a total/mass evacuation scenario labeled "Existing Land Uses Plus Project with Magnolia Avenue Extension," involving 24,956 vehicles. (WFEP, Appendix D at 13.) Between those two extremes are "targeted" scenarios involving "surgical" evacuations, resulting in evacuation times from 19 minutes to 1 hour, 57 minutes. (*Ibid.*)

Evacuations rarely go as planned. As the WFEP itself acknowledges:

Every evacuation scenario will inevitably include some level of unique challenges, constraints, and fluid conditions that require interpretation, quick decision-making, flexibility, and optionality. For example, a roadway incident may block evacuating vehicles, requiring temporary or permanent rerouting of traffic. Wind direction may shift in a manner that was not predicted. Evacuations seldom go exactly by the book.

(WFEP, p. 14.) While the WFEP repeatedly acknowledges the challenges to an orderly evacuation, its modelling affords no allowances for such challenges. It assumes an evacuation on-site—unlike all other ground evacuations—would proceed flawlessly.

In practice, evacuations are much more challenging than the WFEP assumes in its idealized scenarios. California's recent fires bear witness to this fact. Prior to the Camp Fire, the City of Paradise had some of the most comprehensive evacuation planning in the state. (Arthur 2019.) Similar to the WFEP, Paradise's evacuation plan separated the town into different zones, so that residents living in each could evacuate surgically depending on where the fire started. (*Ibid.*) But during the Camp Fire, the whole town needed to flee, and a drive that was estimated to take 30 minutes slowed to four hours. (*Ibid.*) As a result, people died in their cars, attempting to evacuate on roads that did not have the capacity to get them all out at once. (Nicas 2018.) During the Tubbs fire, officials delayed warnings out of fear that a mass evacuation would cause panic and clog narrow roads that firefighters needed to access. (Chabria 2020.) Evacuation orders only went to a fraction of residents, as recommended in the WFEP. (*Ibid.*) But there, it left entire communities in the dark about their danger, and ultimately, 22 people died. (*Ibid.*) The Tubbs Fire also jumped the 101 freeway (Johnson 2017), whereas the WFEP relies on 165-foot FMZs to stop fire in its tracks. (FPP, Appendix B at B-9.) In the Glass Fire, the mandatory

evacuation zone continued to expand to include entire cities such as Calistoga and Santa Rosa, resulting in “cars jammed on narrow roads.” (Money 2020.) In last year’s Caldor fire, vehicles were gridlocked in traffic for hours. (Angst 2021; PA News Agency 2021.) The Woolsey Fire quickly overwhelmed the region’s emergency response institutions, resulting in a similar standstill of traffic. (Stiles 2019; Pulse 2018; Los Angeles County 2019.) In a report on the lessons learned from Woolsey fire, the County of Los Angeles acknowledged that “[e]ven some of the largest, most experienced agencies in the United States were, at times, overwhelmed in the first hours by this incident’s speed and weight of impact.” (Los Angeles County 2019.) One of the key recommendations going forward was to “[c]reate more specific evacuation plans that can adapt to major road closures and a fast-paced disaster.” (Los Angeles County 2019, p. 8.) The WFEP nowhere contemplated the height and speed for a fire during evacuation, nor did it consider the effects of a major road closure. The failures of past evacuations should inform the WFEP. But instead, the WFEP ignores them.

The WFEP provides nine evacuation scenarios. (WFEP at 16, Appendix D at 4.) At the outset, the WFEP identifies the important assumptions that impact evacuation, such as roadway capacities, number of vehicles exiting the community, number of intersections and how they operate, mobilization time, fire spread rates, and locations of ignitions/new fire starts. (WFEP, Appendix D at 1.) The sheer number of scenarios is misleading because, for these factors that the WFEP identifies as most important, all nine scenarios rely on the same basic and flawed assumptions.

First, the WFEP fails to disclose the assumed roadway capacity. Determining how quickly traffic will flow is roadway capacity and is a key parameter in the WFEP’s modelling. (WFEP, Appendix D at 16; Annex Q at 16.) The analysis methodology relied on the following equation:

$$\text{Evacuation Time} = (\text{Evacuation Population} / \text{Average Vehicle Occupancy}) / \text{Roadway Capacity}$$

The WFEP provides no information regarding the roadway capacities used in the evacuation time analysis. (See WFEP, Appendix D at 1, 2, 17.0) Without this information, the WFEP’s analysis is a black box, and the public and decisionmakers have no way to independently verify its conclusions.

Second, all nine scenarios assume any fire will originate far away from the Project site, giving many hours of lead time for warning and evacuation. The WFEP omits any study of fires that originate from the most hazardous and likely ignition points, namely, ignitions caused by residents of the Project site. The WFEP admits that if a fire started closer to the Project site during Santa Ana winds, evacuation would not be possible. (WFEP at 25.) Instead of providing assurances regarding its modeling, the County vaguely alludes to the need to explore “a different evacuation approach” or a “contingency” option for situations in which a fire starts within the Project site or nearby, or where a fire starts during low humidity and high winds (the fall months). (WFEP at 22, 25.) These “contingency” scenarios—in which evacuation breaks down and residents cannot escape—are not only possible, but quite likely.

Third, all nine scenarios do not account for the time needed to detect a fire, report a fire, for fire response, for evacuation notifications, for mobilization of the public (as people prepare to



evacuate), and for notifying special needs citizens. One need only consider the recent fires in southern and northern California—and the efforts to evacuate—to understand that fire suppression and evacuation logistics do not necessarily mobilize in time to be effective. In the October 2017 Tubbs Fire, for instance, efforts to warn residents were successfully only 50 percent of the time because the system suffered from many levels of malfunction. (Sinning 2019; St. John 2017.) During the CZU Complex Fire, many emergency phone alerts were rejected as robocalls. (Har 2020.) Other Fire Protection Plans regularly provide an estimate of the time needed for these pre-evacuation activities, estimating them to be between 2 to 3 hours. (See, e.g., Exhibit 5 - Fire Protection Plan prepared by Dudek for the Harvest Hills project in Escondido (December 2020).)

Fourth, all nine scenarios assume an orderly evacuation with consistent traffic speeds. As the WFEP notes, “[a]mong the most important tools first responders use for successful evacuations in urban settings like Santee is control of intersections downstream of the evacuation area.” (WFEP at 27.) No information is provided for the public to assess the assumptions regarding intersection traffic control, such as whether intersections would be free flowing, controlled by law enforcement, or signal-controlled. Though the Project recognizes that human behavior can be unpredictable during an evacuation, the WFEP failed to account for the possibility that roads would be obscured by smoke or that visible nearby flames or blowing embers might impact driver behavior.

Fifth, all nine scenarios assume any evacuation will happen at night, during non-commute hours. (WFEP, Appendix D at 2.) In doing so, all nine evacuation scenarios fail to account for any ambient/background traffic that is already on the road system when the evacuation occurs. The analysis includes traffic generated within the evacuation area (associated with existing land uses and the proposed project), but no other traffic generated from outside that area that might be passing through or in the area for business or social reasons. This is especially concerning given that the Final EIR recognized demands on the roadway system during regular commutes would result in a level-of-service of E or F—commonly known as “bottleneck” conditions—along Fanita Parkway and Cuyamaca Street during regular commutes, when no emergency is occurring. (FEIR, Table 4.16-11, 4.16-37-42.)

Sixth, the WFEP assumes that people will stay at home if not instructed to evacuate, despite the clear instructions provided by the homeowners’ association to leave early and under all circumstances. Under the evacuation scenario the WFEP identifies as “highest probability,” the WFEP assumes that a surgical evacuation of “perimeter” residents of Fanita Ranch and the existing community would occur, and all within 19 minutes. (WFEP at 15.) For this conclusion to hold, the WFEP assumes that all residents not instructed to evacuate will stay home and off the roads, in direct defiance of the REIR’s own observations about evacuation behavior. The REIR estimates that “approximately 25 percent of evacuees” are those who decide to leave the area “despite not being asked to evacuate off site,” known as “shadow evacuees.” (4.18-44.) The WFEP’s dependence on “surgical” evacuations assume that no such shadow evacuees exist, directly contradicting the WFEP’s own science and common sense. The Ready! Set! Go! plan, distributed to all homeowners through the HOA, urges residents “to evacuate as soon as they are notified to do so, or earlier if they feel uncomfortable and it is safe to do so. (WFEP, Appendix A; WFEP at 32 [“first and most logical choice” is for all residents to evacuate].) The basics of human behavior and the instructions contained in the Ready! Set! Go! Program dictate that more

residents will try to leave the site than the WFEP hopes. With these additional residents evacuating, the WFEP's assumptions simply do not hold.

Traffic engineer and evacuation expert Neal Liddicoat has reviewed the REIR's evacuation analysis and identified numerous additional deficiencies. (See Exhibit 6.) His comments are incorporated herein by reference.

What is clear from the past several years of megafires in California is that these fires are extremely difficult, if not impossible to stop; the only choice is to get people out of harm's way. Evacuations hardly go according to plan, and wildfires can reach sizes that quickly overwhelm preexisting plans. Too few escape lanes for too many people in too many vehicles is a fundamental problem. (Diskin 2019.) It is foolish for the WFEP to consistently rely on overly optimistic assumptions, ignoring the realities of large-scale evacuation efforts. If the fire starts within the Project footprint or nearby surrounding locations during Santa Ana winds, or if the roads become congested, evacuation will be untenable. The WFEP has no basis to conclude that evacuation procedures would be sufficient to protect the public's safety.

### ***C. Shelter-in-Place Is Not a Substitute for an Adequate Evacuation Plan.***

Nowhere is the WFEP's failure more glaring than in its heavy reliance on the unstudied "shelter-in-place" plan, which suggests that residents can safely stay at home during a wildfire. As discussed above, five of the County's nine modelled evacuation scenarios depend on certain portions of the Project site remaining at home.

While the WFEP touts the importance of resident outreach for successful evacuation, the REIR noticeably does not require education or outreach to residents about shelter-in-place. The "Ready, Set, Go!" Program instructs residents to "evacuate as soon as you are set" and to "leave early enough to avoid being caught in fire," even before directed to do so by emergency personnel. (WFEP Appendix A.) In fact, the only mention of remaining at home is as a last resort worst-case scenario, outlining a list of "survival tips" for "if you are trapped." (*Ibid.*)

San Diego County's official position on shelter-in-place underlines WFEP's overreliance on it. The WFEP touts shelter-in-place as an "available option" to be used whenever "physical evacuation is impractical." (WFEP at 22.) Yet the County has identified "shelter-in-place" as a last resort to be used only "if an evacuation will cause a higher potential for loss of life," (Annex Q at 11, 29) to be used primarily for "chemical, radiological, or biological incident[s]." (Annex Q at 20.) Since the City did not honestly study the evacuation risks, nor design the Project to avoid such risks, there will be many situations where physical evacuation is impractical. Shelter-in-place cannot provide the City with a cure-all to hide such deficiencies.

Furthermore, the safety of a shelter-in-place plan relies upon fire-proof buildings that residents can safely shelter within—a level of fire safety that the Project does not guarantee. (WFEP at 22.) Again, this misleadingly overstates the efficacy of building codes and the role they play to reduce fire risk. The core measures in the FPP that the County relies upon are already required by the 2007 Building code (Chapter 7A). (FPP at 117.) The code's purpose is to "establish minimum standards for the protection of life and property by increasing the ability of a building...to resist the intrusion of flames or burning embers..." (California Building Code

2021, § 701A.2.) As mentioned previously, measures required in California’s Fire Code may help make homes more *fire-resistant* than previous homes, but they do not make them *fire-proof*. Syphard and Keeley clearly communicate this in their April 20, 2020 email, and it is evident in numerous studies that repeatedly find structures built to code were destroyed by wildfire (Alexandre et al. 2016a; Alexandre et al. 2016b; Syphard et al. 2017; Syphard and Keeley 2019; Kasler and Reese 2019.) The City’s cherrypicking of fires in which no homes were lost does not absolve the City of this risk. (WFEP at 22, FPP at 34, 46 [dismissing up-to-code homes lost in fires as “due to human error”].) In many cases, only luck determines whether a temporary refuge ends up being razed by a fast-moving fire. For that reason, no fire department has ever instructed people to stay in their homes. (Chandler 2019.) Complying with the California Building Code does not make a building fireproof, and the WFEP offers no evidence to support such a claim.

Even worse, the Project appears to lack the space necessary per person for shelter-in-place to be effective. The scant details that are provided—for instance, that 5.0 acres of bare ground is needed to protect each 3-person crew, even though around 9,000 people may require shelter—provide no basis for concluding that such plans can be effective. (WFEP at 39.)

The public—including future residents of the Project, and existing residents nearby who will be relying on Fanita Parkway and Cuyamaca Street for evacuation—have a right to know the full extent of the Project’s impacts on wildfire evacuation. “Omission of material necessary to informed decision-making and informed public participation is prejudicial.” (*Sierra Club v. County of Fresno*, (2018) 6 Cal.5th 502, 515.) The City must conduct an honest assessment of the risks posed by the Project design and develop an evacuation plan that presents a less than significant risk.

***D. The DEIR Wholly Fails to Analyze Whether the Project Will Result in Inadequate Emergency Access into the Project Site.***

The REIR purports to analyze whether the Project will result in delays to emergency access. (REIR at 4.18-51.) However, its brief one-paragraph discussion of this issue does not address the adequacy of roadway capacity—either along Fanita Parkway, Cuyamaca Street, or within the Project site—to accommodate emergency access, particularly while site occupants are simultaneously attempting to evacuate during a wildfire. The REIR merely concludes that these roads would be used for emergency access and “sized to provide adequate access.” (REIR at 4.18-52.) The REIR omits any analysis of the effect resident evacuation would have on the ability and timing for first responders who are responding to wildfire in the vicinity of the Project. The REIR’s bare conclusion is insufficient under CEQA.

***E. The DEIR Fails to Demonstrate Consistency with the Dead-End Road Requirements.***

An EIR must clearly set forth all significant effects of the Project on the environment, including impacts on land use. (Pub. Resources Code, § 21100, subd. (b)(1); CEQA Guidelines, § 15126.2, subd. (a).) The REIR must identify and discuss any conflicts between the Project and land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. (CEQA Guidelines, § 15125, subd. (d), Appendix G (XI).)

Related to the issue of evacuation and emergency access, the City must ensure that the Project complies with applicable limits on the length of dead-end roads. The Project is located in a Very High Fire Hazard Severity Zone. (FEIR at 4.18-2; FPP at 45.) Within a Very High Fire Hazard Severity Zone, certain road standards apply, including limits on the length of dead-end roads. (Cal. Code. Regs., tit. 14, §§ 1270.02, 1273.08.) The City omits any mention of the dead-end road requirements, and the REIR lacks any commitment that the Project will comply with them. (FEIR at 4.18-51.) If any parcels served by the dead-end roads are between 1 to 4.99 acres in size, which it appears some could be, dead end roads over .25 miles are prohibited. (Cal. Code. Regs., tit. 14, § 1273.09 [limiting dead end roads for parcels of this size to a maximum length of 1,320 feet].)

Not only does this Project appear to present a direct violation of the State Fire Safe Regulation, it violates CEQA's mandate that EIRs evaluate conflicts with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigation an environmental effect. The REIR must be revised to demonstrate compliance with these state law requirements.

### **III. THE REIR FAILS TO ADEQUATELY EVALUATE THE PROJECT'S CUMULATIVE WILDFIRE IMPACTS.**

The REIR's analysis of the Projects cumulative wildfire impacts is cursory and wholly inadequate. CEQA requires an EIR to analyze a project's significant "cumulative impacts," defined in the CEQA Guidelines as two or more individual effects, which, when considered together, are considerable or that compound or increase other environmental impacts. (CEQA Guidelines, §§ 15355, 15130(a).) The CEQA Guidelines further state that individual effects may include changes resulting from a single project or a number of separate projects, or the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable future projects. (CEQA Guidelines, § 15355.)

The purpose of analyzing cumulative environmental impacts is to assess adverse environmental change "as a whole greater than the sum of its parts." (*Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 625.) Absent meaningful cumulative analysis there would be no comprehensive assessment of environmental impacts within a region and "piecemeal development would inevitably cause havoc in virtually every aspect of the [] environment." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721.) By their nature, the impacts of one individual project may not appear significant, but the combined impacts of many sources can drastically affect the region's environment. The CEQA Guidelines specifically identify wildfire risk as a likely cumulative impact, stating that EIRs "should evaluate any potentially significant direct, indirect, or cumulative environmental impacts of locating development in areas susceptible to hazardous conditions (e.g., . . . wildfire risk areas)." (CEQA Guidelines, § 15126.2(a).)

Despite this requirement, the REIR provides only a single, conclusory paragraph dismissing cumulative wildfire impacts with virtually no analysis. The REIR makes no mention of how increased development adds more opportunities for igniting fires, more fuel, and make emergency response operations more complex. It attempts to dispel any cumulative impacts since future development projects would also undergo CEQA review of potential impacts. (REIR at 4.18-53.) Then, it concludes, without further analysis and in reliance on its own Wildfire

Protection Plan and compliance with applicable fire code standards that cumulative wildfire impacts from the Project will be less than significant. (REIR at 4.18-57.)

A lead agency must “identify facts and analysis supporting its conclusion” that a project’s contribution to an environmental impact will be rendered less than cumulatively considerable. CEQA Guidelines, § 15130(a)(3). The mere fact that the project proponent has prepared a Wildfire Prevention Plan for the Project itself does nothing to address the Project’s cumulative wildfire impacts when considered along with the other projects proposed in the region; the document is silent about any other projects. (REIR at 4.18.) The REIR simply gives no indication that the wildfire impacts from the cumulative projects have ever been considered collectively. Thus, it lacks sufficient information and analyses for the public and decisionmakers to be able to evaluate the Project’s potential cumulative impacts to wildfire risk and hazard and the effectiveness of the proposed mitigation measures for the Project.<sup>1</sup>

To comply with CEQA, the City must disclose the potential for increased wildfires due to the potential for increased ignitions from the cumulative projects and evaluate the increased risk to lives and property from these fires. Only when this analysis is undertaken will the public and decisionmakers be apprised of the real-world implications of developing new residential communities in the urban wildland interface.

#### **IV. THE REIR LACKS AN ADEQUATE ANALYSIS OF LAND USE IMPACTS**

CEQA requires that agencies analyze a project’s consistency with applicable land use plans. (*Napa Citizens for Honest Gov. v. Napa County Bd. Of Supervisors* (2001) 91 Cal.App.4th 342, 386-87; CEQA Guidelines Appendix G, § X.) Inconsistencies with plans that were enacted to protect the environment are significant impacts in themselves and can be evidence of other significant impacts.

The Project is inconsistent with the General Plan adopted by the City of Santee. The Project proposes residential development on land clearly designated as Specific Plan or PD—Planned Development or HL—Hillside Limited Residential and R1—Low Density Residential. (Santee General Plan, p. 1-3; Santee 2022.) The Specific Plan land use designation requires preparation of a specific plan for future development of those areas. (Santee 2022.) Because the Project was inconsistent with the Santee General Plan, the City originally sought a general plan amendment for the Project.

The project evaluated in the REIR does not include a specific plan and proposes a higher density development than what the General Plan allows. The REIR does not acknowledge these designations and the resulting irreconcilable conflict between the Project and the General Plan. It

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<sup>1</sup> For example, the County should, at a minimum, analyze and disclose the amount of time it would take to evacuate the entire Project under various scenarios, assuming simultaneous evacuation of existing homes in the vicinity of the Project *and anticipated future development in the vicinity*.

therefore fails to consider the environmental impacts that would follow from developing this area contrary to the General Plan.

Rather than recognize and evaluate impacts associated with this land use conflict, the REIR misleadingly claims that the City's designation of the Project as an "Essential Housing Project" obviates the need to analyze consistency and comply with the General Plan. (REIR at 3-1.) This is incorrect and undermines, the REIR as an informational document and violates CEQA (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322) and the state planning and zoning law.

## **V. THE REIR MUST BE RECIRCULATED.**

Under California law, this REIR cannot properly form the basis of a final EIR. CEQA and the CEQA Guidelines describe the circumstances that require recirculation of a draft EIR. Such circumstances include: (1) the addition of significant new information to the EIR after public notice is given of the availability of the DEIR but before certification, or (2) the draft EIR is so "fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (CEQA Guidelines, § 15088.5.)

Here, both circumstances apply. Decisionmakers and the public cannot possibly assess the Project's impacts through the present REIR, which is riddled with error. Among other fundamental deficiencies, the REIR repeatedly underestimates the Project's significant impacts and assumes that project design features at the margins will effectively reduce those impacts. In order to resolve these issues, the City must prepare a revised EIR that would necessarily include substantial new information.

## **VI. CONCLUSION**

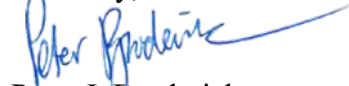
Thank you for the opportunity to submit comments on the Revised Environmental Impact Report for the Fanita Ranch Project. The City should remedy the deficiencies identified in this letter in a revised document re-circulated for further public review and comment.

Given the possibility that the Center will be required to pursue legal remedies to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the County of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the

administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,



Peter J. Broderick

Attorney

Center for Biological Diversity

1212 Broadway, Suite #800

Oakland, CA 94612

(503) 283-5474 x421

[pbroderick@biologicaldiversity.org](mailto:pbroderick@biologicaldiversity.org)

CC: Hallie Kutak, attorney, [hkutak@biologicaldiversity.org](mailto:hkutak@biologicaldiversity.org)

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## EXHIBITS

- Exhibit 1:** Notice of Entry of Judgment in *Preserve Wild Santee, et al. v. City of Santee*, Case No. 37-2020-00038168-CU-WM-CTL
- Exhibit 2:** Final Statement of Reasons for Regulatory Action, Amendments to the State CEQA Guidelines, California Natural Resources Agency
- Exhibit 3:** Syphard and Keeley, April 20, 2020 email
- Exhibit 4:** Notice of Entry of Judgment in *Sierra Club, et al. v. County of San Diego*, Case No. 37-2019-00038820.
- Exhibit 5:** Fire Protection Plan prepared by Dudek for the Harvest Hills project in Escondido (December 2020)
- Exhibit 6:** Neal Liddicoat, Fanita Ranch Project – Santee, California Recirculated Sections of Final Revised Environmental Impact Report, July 22, 2022

# **Exhibit 1**

1 ALLEN MATKINS LECK GAMBLE  
2 MALLORY & NATSIS LLP  
3 JEFFREY A. CHINE (BAR NO. 131742)  
4 HEATHER S. RILEY (BAR NO. 214482)  
5 REBECCA H. WILLIAMS (BAR NO. 328320)  
6 One America Plaza  
7 600 West Broadway, 27th Floor  
8 San Diego, California 92101-0903  
9 Phone: (619) 233-1155  
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13 bwilliams@allenmatkins.com

14 Attorneys for Real Party in Interest  
15 HOMEFED FANITA RANCHO, LLC

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**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SAN DIEGO**

16 PRESERVE WILD SANTEE, CENTER FOR  
17 BIOLOGICAL DIVERSITY,  
18 ENDANGERED HABITATS LEAGUE, and  
19 CALIFORNIA CHAPARRAL  
20 INSTITUTE,

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Petitioners,

v.

16 CITY OF SANTEE, CITY OF SANTEE CITY  
17 COUNCIL; and DOES 1 through 18 20,  
18 inclusive,

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Respondents.

16 HOMEFED FANITA RANCHO, LLC; and  
17 DOES 21 through 40, inclusive,

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Real Parties in Interest.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**04/06/2022** at 03:44:00 PM

Clerk of the Superior Court  
By E- Filing, Deputy Clerk

Case No. 37-2020-00038168-CU-WM-CTL

Judge: Hon. Katherine Bacal  
Department: C-69

**NOTICE OF ENTRY OF JUDGMENT**

Complaint Filed: 10/21/2020

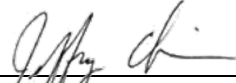
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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that the Court has entered Judgment in this matter as of March 25, 2022. A true and accurate copy of the Judgment entered by the Court is attached hereto as Exhibit "A."

Dated: April 6, 2022

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By:   
\_\_\_\_\_  
JEFFREY A. CHINE  
HEATHER S. RILEY  
REBECCA H. WILLIAMS  
Attorneys for Real Party in Interest  
HOMEFED FANITA RANCHO, LLC

# **EXHIBIT A**



**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**03/25/2022** at 01:28:00 PM  
Clerk of the Superior Court  
By Richard Day, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO**

PRESERVE WILD SANTEE, CENTER FOR  
BIOLOGICAL DIVERSITY,  
ENDANGERED HABITATS LEAGUE, and  
CALIFORNIA CHAPARRAL INSTITUTE

Petitioners,

v.

CITY OF SANTEE, CITY OF SANTEE  
CITY COUNCIL; and DOES 1 through 20,  
inclusive,

Respondents,

HOMEFED FANITA RANCHO, LLC; and  
DOES 21 through 40, inclusive,

Real Parties in Interest.

Case No. 37-2020-00038168-CU-WM-CTL

~~PROPOSED~~ JUDGMENT

**Action Filed:** October 21, 2020

**Hearing Date:** February 4, 2022, 1:30 pm

**Department:** Dept C-69

**Judge:** Hon. Katherine Bacal

1 Petitioners Preserve Wild Santee, Center for Biological Diversity, Endangered Habitats League,  
2 and California Chaparral Institute (“Petitioners”) by the above-captioned action challenged the  
3 September 24, 2020 decision of the City of Santee and the City of Santee City Council (“Respondents”)  
4 to approve the Fanita Ranch Project (“Project”), adopt findings, and certify an Environmental Impact  
5 Report (“EIR”) for the Project. The matter came on for hearing on February 4, 2022, in Department C-  
6 69 of the above-captioned court, the Honorable Katherine Bacal, presiding. Appearances were as noted  
7 in the record. The Court having reviewed the record of proceedings in this matter and having heard oral  
8 argument and fully considered the arguments of all parties, both written and oral, and after taking the  
9 matter under submission, issued a ruling by Minute Order on March 3, 2022 (“Order”), a copy of which  
10 is attached hereto as Exhibit A, and incorporated herein by reference.

11 IT IS NOW ORDERED, ADJUDGED, AND DECREED that:

12 1. Judgment is hereby entered in favor of Petitioners, Preserve Wild Santee, Center For  
13 Biological Diversity, Endangered Habitats League, and California Chaparral Institute, and against  
14 Respondents City Of Santee and City Of Santee City Council and Real Party in Interest HomeFed Fanita  
15 Rancho, LLC.

16 2. The San Diego Superior Court issues the Peremptory Writ of Mandate attached hereto as  
17 Exhibit B, which, *inter alia*, orders Respondents to:

- 18 a. Set aside and vacate in its entirety Resolution No. 093-2020 of the City Council  
19 for the City of Santee Certifying the Revised Environmental Impact Report (SCH  
20 # 2005061118) for the Fanita Ranch Project; Adopting Findings of Fact and a  
21 Statement of Overriding Considerations Under the California Environmental  
22 Quality Act; Adopting a Mitigation Monitoring and Reporting Program; and  
23 Approving the Project;
- 24 b. Set aside and vacate in its entirety Resolution No. 094-2020 of the City Council  
25 of the City of Santee, California Adopting A General Plan Amendment, Case File  
26 GPA2017-2, Relating to the Fanita Ranch Specific Plan;
- 27 c. Set aside and vacate in its entirety Resolution No. 095-2020 of the City Council  
28 of the City of Santee, California Approving the Application of HomeFed Fanita

1 Rancho LLC for Fanita Ranch Vesting Tentative Map TM2017-3 for the  
2 Subdivision of Approximately 2,638 Acres into 1,467 Lots to Develop the Fanita  
3 Ranch Master Planned Community Located North of the Terminus of Fanita  
4 Parkway in the Fanita Ranch Specific Plan Development Area;

5 d. Set aside and vacate in its entirety Resolution No. 096-2020 of the City Council  
6 of the City of Santee, California Approving the Application of HomeFed Fanita  
7 Rancho LLC for Fanita Ranch Development Review Permit DR2017-4 for the  
8 Subdivision of Approximately 2,638 Acres into 1,467 Lots to Develop the Fanita  
9 Ranch Master Planned Community Located North of the Terminus of Fanita  
10 Parkway in the Fanita Ranch Specific Plan Development Area;;

11 e. Set aside and vacate in its entirety Resolution No. 097-2020 of the City Council  
12 of the City of Santee, California Approving the Application of HomeFed Fanita  
13 Rancho LLC for a Conditional Use Permit (P2017-5) for a New 31.2-Acre Public  
14 Community Park Located in the Fanita Commons Village Shown on Lot CP-1 of  
15 Fanita Ranch Vesting Tentative Map TM2017-3;

16 f. Set aside and vacate in its entirety Resolution No. 098-2020 of the City Council  
17 of the City of Santee, California Approving the Application of HomeFed Fanita  
18 Rancho LLC for a Conational Use Permit (P2020-2) for a New 4.2-Acre Public  
19 Neighborhood Park Located in the Fanita Commons Village Shown on Lot NP-8  
20 of Fanita Ranch Vesting Tentative Map TM2017-3;

21 g. Set aside and vacate in its entirety Ordinance No. 580 – An Ordinance of the City  
22 Council of the City of Santee, California Adding Chapter 13.20 “Specific Plan  
23 District” to Title 13 and Amending Chapter 13.04 “Administration” of the Santee  
24 Municipal Code, and Approving the Fanita Ranch Specific Plan (Case Files  
25 R2017-1 and SP2017-1); and

26 h. Set aside and vacate in its entirety Ordinance No. 581 - An Ordinance of the City  
27 Council of the City of Santee, California, Approving and Authorizing Execution  
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of a Development Agreement by and Among the City of Santee and HomeFed  
Fanita Rancho, LLC.

3. Petitioners are entitled to recover costs in an amount to be determined. This Court reserves jurisdiction to hear post-trial issues matters, including the award costs and attorney's fees.

4. The Court shall retain jurisdiction over these proceedings by way of a return to the Peremptory Writ of Mandate until such time as this Court determines that the City has complied with the terms of the writ.

DATED: 03/25/2022



\_\_\_\_\_  
Hon. Katherine Bacal  
Judge of the Superior Court

# **EXHIBIT A**

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

MINUTE ORDER

DATE: 03/03/2022

TIME: 01:57:00 PM

DEPT: C-69

JUDICIAL OFFICER PRESIDING: Katherine Bacal

CLERK: Cecilia Boyle

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2020-00038168-CU-WM-CTL** CASE INIT.DATE: 10/21/2020

CASE TITLE: **Preserve Wild Santee vs City of Santee [E-FILE]**

CASE CATEGORY: Civil - Unlimited      CASE TYPE: Writ of Mandate

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**APPEARANCES**

The Court, having taken the above-entitled matter under submission on 02/04/2022 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

Petitioners' petition for writ of mandate is **GRANTED**.

**Preliminary Matters**

The request for judicial notice by Preserve Wild Santee, Center for Biological Diversity, California Chaparral Institute, and Endangered Habitats League's ("petitioners") of exhibit 1, the maps of Mast Boulevard in Santee, and of exhibit B are granted. The relevancy objection by City of Santee and City of Santee City Council's ("respondents") to petitioners' request for judicial notice of exhibit A, the judgment in *Elfin Forest Harmony Grove Town Council v. County of San Diego*, 37-2018-42927-CU-TT-CTL ("*Harmony Grove*"), is sustained as irrelevant extra-record evidence.

Respondents' request for judicial notice of exhibits A through E is granted. Respondents' request for judicial notice of exhibit 1, the appellate court's decision in *Harmony Grove*, is denied as irrelevant.

**Background**

Petitioners' petition for writ of mandate and complaint alleges three causes of action: (1) violation of the California Environmental Quality Act ("CEQA") – inadequate environmental impact report ("EIR"); (2) violation of CEQA – failure to recirculate the EIR; and (3) violation of CEQA – inadequate findings and statement of overriding considerations. ROA # 1. Respondents and Real Party in Interest Homefed Fanita Rancho, LLC answered and request the petition and complaint be dismissed and denied. ROA ## 10-11.

**Discussion**

In reviewing an agency's compliance with CEQA, the Court's inquiry extends "only to whether there was

a prejudicial abuse of discretion." *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 512. An agency may abuse its discretion under the CEQA by either: "failing to proceed in the manner CEQA provides" or "by reaching factual conclusions unsupported by substantial evidence." *Id.* Whether the agency employed correct procedures is reviewed de novo, whereas the agency's substantive factual conclusions are accorded "greater deference." *Id.*

### **- Adequacy of EIR (1st COA)**

Petitioners challenge the adequacy of the EIR's wildfire safety and evacuation impacts, arguing that the EIR (1) failed to analyze or disclose project-specific evacuation impacts (e.g., the number of vehicles that would need to be evacuated from the project site, the number of hours it might take to empty the project site, and the extent to which the additional traffic from the site might affect existing residents' evacuation times) (Opening Brief ("OB") at 9-11); (2) failed to analyze a key threshold of significance, in the Appendix G CEQA Guidelines, and thus did not consider mitigation or a determination on the significance for that threshold (OB at 13-15); (3) provided inadequate responses to public comments (OB at 15-16); and (4) failed to disclose significant impacts to the wildfire-related evacuation and safety that resulted from the last-minute change of removing from the project the plan to extend Magnolia Avenue roadway for evacuation (OB at 17-19).

### **Analysis and Disclosure of Evacuation Impact**

A claim that challenges the adequacy of discussion regarding environmental impacts is generally subject to independent review; but where factual questions predominate, a more deferential review under the substantial evidence standard may apply. *Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 519-521 ("adequacy of discussion claims are not typically amenable to substantial evidence review").

Here, respondents' Wildland Fire Evacuation Plan environmental impact analysis is nearly forty pages long. AR 12903-40. The Wildland Fire Evacuation Plan ("Plan") identifies three primary roadways for its evacuation routes. AR 12909, 12924. The record shows one of the identified routes -- of using Mast Boulevard to evacuate to Highway 67 -- is not possible because Mast Boulevard does not connect to Highway 67 and instead dead-ends in a park, rendering the Plan's evacuation routes unclear. Pet. RJN, Ex. 1; AR 2177. At the hearing, counsel for respondents/real party in interest argued that while Mast Boulevard does not directly connect to Highway 67, it can be seen as an indirect connection because although drivers would need to take other streets, sheriff deputies would be there to direct traffic accordingly. On the other hand, the record is clear that there are currently "no plans to connect Mast Boulevard" between the City, where it terminates, with the side where it "picks up" in the County. AR 2176.

The CEQA Guidelines provide that impacts in wildfire risk areas and a project's potential to cause substantial adverse effects on humans must be evaluated. Cal. Code Regs., tit. 14 ("Guidelines") §§ 15126.2(a); 15065. Although the Final REIR and Plan contain thematic responses regarding evacuation (AR 13190-13194), the methodology the City chose to assess the evacuation impacts does not contain a sufficient analysis of the Project-related impacts. For example, any assessment of evacuation timing under traffic scenarios is missing.

Respondents argue a myriad of potential modeling scenarios exist; modeling them all would provide little to no value due to variable factors that would make such modeling results unreliable. Response Brief ("R.B.") at 13, citing final REIR (16:13457-13458, 13194-13195). The Court is directed to reject challenges to the methodology used "unless the agency's reason for proceeding as it did are clearly

inadequate or unsupported." *Chico Advocates for a Responsible Economy v. City of Chico* (2019) 40 Cal.App.5th 839, 847, citation omitted; *South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321, 337 (agency has discretion to select methodology in evaluating environmental impact, subject to review for substantial evidence).

Here, even according deference to the factual determinations on whether certain analyses and modeling was required, the EIR does not contain "sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully" the evacuation impact. *Sierra Club v. Cty. of Fresno, supra*, 6 Cal.5th at 516. Because there was no analysis of estimated evacuation times, it is not at all clear, for example, whether a "staggered" evacuation would be adequate to safely evacuate project residents and the surrounding community even when compared to the scenario of a simultaneous mass evacuation. Cf. e.g., AR 15(gg):12669-12670 (addresses evacuation, but not adequacy as to timing under traffic conditions.) Similarly, it is unclear as to how the ability of project residents and others in the surrounding community to evacuate in the event of a wildfire would be affected. Indeed, it is the lack of adequate information and support as to the agency's methodology that is problematic.

As respondents/real-party-in-interest's counsel noted at the hearing, the record shows the EIR considered and explained why it did not model evacuation scenarios and estimate evacuation times. AR 13194-13195. But the EIR's thematic response methodology does not adequately fill the gaps. Again, it is not clear based on the information presented whether residents and those in the surrounding community would be able to timely evacuate. Counsel noted that an option under plan would be for residents to remain on site while the fires burned around them. What the methodology was employed for residents' safety under this option is not clear. See also AR 13192, 13194 (option of contingency on-site temporary refuge). In sum, the lack of relevant information in the EIR concerning project-specific evacuation impacts constitutes a prejudicial abuse of discretion.

### Key Threshold of Significance

"The lead agency has substantial discretion in determining the appropriate threshold of significance to evaluate the severity of a particular impact." *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 884 (also citing *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1068 for the proposition that under CEQA agencies have discretion to "develop their own thresholds of significance".) Both parties recognize that a lead agency has discretion to choose significant thresholds. OB at 20; Resp.Br. at 18.

Here, the lead agency used four of the five Appendix G wildfire-related questions. AR 2327. The EIR did not include an evaluation of the fifth question: whether the project would "[e]xpose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires." Appendix G, sec. IX(g).

The City asserts the project's risks involving wildland fires is addressed elsewhere in Sections 4.18, 4.18.2.1, and 2.18.2.2, based on the newer Section XX questions. Resp. Br. at 18-19, and citing AR 16:13452-13453 [explaining it provided wildfire risk assessment in Section 4.18]; AR 14:2331; AR 13:1031, AR 15(gg):12671, 16:13463. Yet, again, these sections do not evaluate the exposure to risk of injury or death involving wildfires as to evacuation timing with traffic condition scenarios. This is an identifiable quantitative and/or performance level of a particular environmental effect (Guidelines § 15064.7(a)), capable of assessment. See e.g. AR 95808 (vehicle numbers estimation and time estimations performed and disclosed as part of environmental review development projects), AR 116191.



The lack of measureable assessment as to this threshold of significance means the public was not informed as to the extent to which the project would expose them to significant risk of loss, injury or death regarding evacuation timing. Nor does the plan inform as to the risk of injury or death if residents are instructed to remain on site while the fires burn around them. AR 13192, 13194. The lack of this information shows the EIR does not provide sufficient information to foster informed public participation and to enable reasonable decision-making.

### **Response to Public Comments**

Petitioners challenge whether the EIR's responses constituted a good faith reasoned analysis of the public's comments regarding project occupants' ability to evacuate in the event of a wildfire and traffic flow impact. "[T]he major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." Guidelines § 15088.

Here, even if emergency responders do not rely on such modeling, the City's response presumes, without support, that evacuation times will be adequate; the City did not undertake measurable assessments to ascertain a range of evacuation time estimates. AR:13194-13195. The fact that emergency personnel can reach any home within the project in a four-minute travel time (AR 16:13457-13459), does not answer the question of whether those seeking to evacuate are anticipated to be able to do so and does not show whether the agency fully considered the implications of project occupants' ability to safely evacuate. The City's responses to these comments were inadequate.

### **Removal of the Magnolia Ave. Extension for Evacuation**

Where an agency "omits an adequate discussion of a project's potential impacts in its EIR, it cannot afterward 'make up for the lack of analysis in the EIR' through post-EIR analysis." *Sierra Watch v. County of Placer* (2021) 69 Cal.App.5th 86, 103 (citing *Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 130 (project information revealed in an errata shortly before project approval "does not make up for the lack of analysis in the EIR").) To allow otherwise would "deny the public 'an opportunity to test, assess, and evaluate the [newly revealed information] and make an informed judgment as to the validity of the conclusions to be drawn'" from it. *Sierra Watch, supra*, 69 Cal.App.5th at 103, internal citation omitted.

Here, the proposed removal of the Magnolia Avenue extension from the project was not analyzed or disclosed in the draft EIR. AR 116184-92. Instead, the project information about removing the Magnolia Avenue extension was revealed in a "Second Errata" to the final EIR six days before the vote to certify the final EIR. AR 766:68419; AR 15206-500.

The attachment to the Second Errata explains that without the Magnolia Avenue extension there are three other nearby connector roads 1,300 feet south of the previously planned extension that can be used to connect to Magnolia Ave. AR 17:15258-15259, 15266-15267. The City Fire Chief and Principal Fire Planner also stated at the City Council hearing that eliminating the extension would still allow an appropriate evacuation. AR 17670-17681. However, given the previously stated importance of Magnolia Avenue as being a "primary" route for evacuation (AR 12924), this belated analysis in the errata was not adequate to provide the public an opportunity to test and evaluate this new information. It

is not clear, for example, the extent to which residents living on those other three nearby connector roads may be impacted by traffic from the project occupants in the event of a wildfire evacuation. See AR 116801-03, 15258-59. This denied the public an opportunity to test and evaluate the information.

***Decision Not to Recirculate the EIR (2nd COA)***

Petitioners also argue the respondents' failure to recirculate an amended EIR for review and comment deprived the public and public agencies of any meaningful opportunity to review and comment on the project, its adverse environmental consequences, and how the new information may impact other environmental effects of the project. OB at 19-20.

A lead agency must recirculate an EIR when it adds "significant new information" after the draft EIR has been circulated for public review. Pub. Resources Code § 21092.1. New information is not "significant" unless the change to the EIR "deprives the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid" the effect that "the project's proponents have declined to implement." Guidelines § 15088.5(a). "Examples of significant new information include disclosures of 'a new significant environmental impact would result from the project' or 'a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted.' ... In addition, recirculation is required when the new information shows '[t]he draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.'" *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 850, citing Guidelines § 15088.5(a)(1), (2) & (4).

The test to determine whether removing the Magnolia Ave. extension constitutes significant new information is whether the public was deprived of a meaningful opportunity to comment on the project's wildfire evacuation impacts without the extension. See Guidelines § 15088.5(a). This is reviewed under the substantial evidence test. *Id.* § 15088.5(e).

Respondents point to evidence in the record showing they considered and analyzed the road removal and concluded it would not create significant environmental effects or substantially increase the severity of an impact. Opp. at 24, citing AR5:25-26; 15590-15592; 17:15210-15262; 17:15266-15555. However, the record indicates the public did not have a meaningful opportunity to comment on the removal of the Magnolia Ave. extension's potential impact on the wildland fire evacuation plan. AR 116772, 17583, 17584, 17622 (petitioners and others objecting about not enough time given to review the second errata, which was posted only three business days ahead of the public hearing). While the increase in daily traffic volume without the Magnolia extension was considered (AR 17:15210-15262), there is a lack of substantial evidence regarding the impact on cut-through traffic during a fire evacuation and the impact on those existing residential streets and residents' ability to evacuate on those streets during an evacuation. AR 116801-03. Thus, there is not substantial evidence to support concluding the Magnolia Ave. road removal was insignificant. Respondents do not show substantial evidence to support a finding that the public had an opportunity for meaningful public review and comment upon this change. Indeed, at least some of the citations show that people objected to the short time period they had to review and expressed their need for more time to evaluate and comment. See e.g., ROB at 25, citing, e.g. AR Tabs 1577, 1717. For these reasons, the City's decision not to recirculate the EIR violated CEQA.

***Inadequate Findings and Statement of Overriding Considerations (3rd COA)***

Petitioners assert the respondents' findings and statement failed to identify the changes or alterations needed to avoid or substantially lessen the project's significant environmental effects and the findings

regarding the impacts, mitigation measures, and alternatives are not supported by substantial evidence. See Pet. ¶¶ 94-97. Petitioners argue that the EIR fails to adequately mitigate gnatcatcher (songbird) impacts and to analyze or mitigate spadefoot toad impacts. OB at 20-23, 23-25.

### **Gnatcatcher**

At the hearing, respondents/real party in interest requested the Court reexamine the record on the exhaustion issue. To advance the exhaustion doctrine's purpose, the "exact issue" must have been presented to the administrative agency. *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 536. The alleged grounds for noncompliance must be presented during the public comment period or before the close of the public hearing on the project. Pub. Res. Code § 21177. "Isolated and unelaborated" comments do not suffice; the objections must be sufficiently specific to put the agency on notice to evaluate and respond. *Sierra Club, supra*, 163 Cal.App.4th at 536.

The record reflects petitioners and others gave notice regarding the gnatcatcher mitigation measures issue at the administrative level. AR 13408 (Sierra Club addressed the inadequacy of preservation as mitigation for coastal sage scrub and chaparral and its effects on the biologically important plants and animals for that habitat), AR 95794 (the San Diego River Conservancy referenced the gnatcatcher as one of the included bird species for which more adequate study and investigation needed to be included), AR13507 (the petitioner's DEIR comments discussed its concerns the BIO-1 and BIO-2 measures would be inadequate to mitigate the impacts to gnatcatchers and gnatcatcher habitat, and that the DEIR does not adequately mitigate impacts to the coastal gnatcatchers and their critical habitat). Thus, petitioners exhausted their administrative remedies and the merits of the matter are addressed.

"An EIR is required to describe feasible mitigation measures that will minimize significant environmental effects identified in an EIR." *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 495, internal citations omitted. Mitigation under the CEQA includes "reducing ... the impact over time by preservation and maintenance operations during the life of the action." Guidelines § 15370(d). It also includes "[c]ompensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements." *Id.* § 15370(e). As both parties recognize, the adequacy of mitigation measures is subject to the substantial evidence standard of review. *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 900-905.

Petitioners assert the EIR's gnatcatcher mitigation plan is inadequate because it will not address the direct net loss of gnatcatchers and instead takes a "preserve what remains" approach after the project destroys more than 400 acres of gnatcatcher habitat and 14 gnatcatcher pairs. OB at 21-23.

At the hearing, the parties brought into focus the crux of the issue: whether substantial evidence exists to show the proposed mitigation measures adequately address the direct permanent loss of gnatcatcher habitat to mitigate the impact on gnatcatchers to less than significant.

Here, the EIR states the project would affect nearly 428 acres of onsite gnatcatcher habitat. AR 1653. To address this, mitigation measure BIO-1 would conserve more than 1,000 acres of suitable habitat. *Id.* The mitigation measure also requires that restoration and enhancement activities be undertaken to *increase* the habitat for the gnatcatcher within the preserved land. Opp. at 28, citing AR 15(e):5041-5044 (restoration and enhancement activities include restoring appropriate native vegetation, mapping disturbed habitat and applying enhancement treatments to increase native habitat resources in the preserve, as identified by the preserve manager), AR 15(e):5055 (recurring field surveys of the

gnatcatcher habitat, and recurring habitat evaluation and threats assessment). Consequently, substantial evidence shows the proposed mitigation measures adequately address the direct loss of gnatcatcher habitat to less than significant.

Petitioners argue that such measures are inadequate because they are voluntary and not required under the plan and only address subsequent events. OB at 22-23, citing AR 5067-68. It is true that the measure states adaptive management strategies will be initiated upon a "significant disturbance" of more than 20% or "if field observations and expert judgment" indicate a change is needed. AR 5067. However, neither of these are "voluntary." Rather, one contains a triggering percentage event and the other defers to the expertise of those on site. Nor do these strategies necessarily indicate they would respond only to subsequent events.

Petitioners also argue the measure's management activities regarding expansion and enhancement are inadequate because they are voluntary. A plain reading of the pertinent portion of the measure shows certain potential additional management actions are "not required" by the plan, and it is "not a requirement" for the Preserve Manager to expand and improve the habitat beyond its original state. AR 5067. However, when read in the greater context, this aspect of the measure indicates that seeking out opportunities to expand the habitat goes beyond those required activities that are already aimed at increasing the habitat of the gnatcatcher through the required restoration and enhancement activities. See AR 5041 (restoration and enhancement treatments "are directed to increase biological resources for ... the coastal California gnatcatcher"), 5042-5043 ("enhancement treatments directed at coastal sage scrub ... will directly benefit" the gnatcatcher), 5044, 5055, 5066-5068. While it apparently would have been ideal if respondent/real party in interest had included in the measure a requirement to expand to create new habitat, petitioners have not shown this to be expressly required by CEQA, nor is it the only way for respondents/real party in interest to meet their mitigation obligations.

In sum, substantial evidence shows the measures are in accordance with Guidelines section 15370, i.e., they will reduce impacts over time by preserving and maintaining operations, and will replace or provide substitute resources or environments through permanent protection of such resources in the form of conservation easements. Thus, substantial evidence supports the gnatcatcher mitigation measures.

### **Spadefoot Toad**

The project would impact more than 230 acres of spadefoot toad habitat. AR 1645. Petitioners assert the mitigation conservation and restoration measures (BIO measures 1, 12 and 13) are inadequate, as it will restore only 0.50 acres of vernal pool sources.

Respondents explains that it is "[p]reserving, re-establishing and creating 2.92 acres of suitable vernal pool habitat within the Habitat Preserve, of which 2.52 acres is re-established or created habitat, which far exceeds the 0.50 acres of vernal pool rehabilitation/enhancement required per the above-referenced ratios." ROB at 32, citing AR 16: 13182-13484. Thus, the ratio rates are of 2:1 to 4:1, and not 1.25:1, as petitioners assert. AR 15(e):4196 (BTR Table 6-4). Respondents have shown substantial evidence to support the City's determination that its mitigation strategy would effectively reduce impacts to less than significant levels. ROB at 33, citing *inter alia* AR 16:13482-13485. The EIR thus contains substantial evidence regarding the efficacy of its mitigation ratio for the spadefoot toad habitat.

### **Conclusion**

For the reasons stated the petition for writ of mandate is **GRANTED**. Parties to meet and confer

regarding the contents of the proposed writ.

The Court declines to take any action in this case on the writs that were issued in the *Fanita I and II* cases. Respondents did not provide any authority that would show such action may be taken in this case.

The status conference scheduled for 3/25/2022 at 1:30 p.m. remains as set.

The minute order is the order of the Court. The Clerk is to give notice.



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Judge Katherine Bacal

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

Central  
330 West Broadway  
San Diego, CA 92101

**SHORT TITLE:** Preserve Wild Santee vs City of Santee [E-FILE]

**CLERK'S CERTIFICATE OF SERVICE BY MAIL**

**CASE NUMBER:**  
**37-2020-00038168-CU-WM-CTL**

I certify that I am not a party to this cause. I certify that a true copy of the attached minute order was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at San Diego, California, on 03/04/2022.

Clerk of the Court, by: *C. Boyle*  
C. Boyle, Deputy

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LL  
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SAN DIEGO, CA 92101-0903

RECEIVED MAR 09 2022

Additional names and address attached.

# **EXHIBIT B**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

PRESERVE WILD SANTEE, CENTER FOR  
BIOLOGICAL DIVERSITY,  
ENDANGERED HABITATS LEAGUE, and  
CALIFORNIA CHAPARRAL INSTITUTE

Petitioners,

v.

CITY OF SANTEE, CITY OF SANTEE  
CITY COUNCIL; and DOES 1 through 20,  
inclusive,

Respondents,

HOMEFED FANITA RANCHO, LLC; and  
DOES 21 through 40, inclusive,

Real Parties in Interest.

Case No. 37-2020-00038168-CU-WM-CTL

**[PROPOSED] PEREMPTORY WRIT OF  
MANDATE**

**Action Filed:** October 21, 2020  
**Hearing Date:** February 4, 2022, 1:30 pm  
**Department:** Dept C-69  
**Judge:** Hon. Katherine Bacal



1 TO RESPONDENTS CITY OF SANTEE, CITY OF SANTEE CITY COUNCIL:

2 Petitioners Preserve Wild Santee, Center for Biological Diversity, Endangered Habitats League,  
3 and California Chaparral Institute (“Petitioners”) by the above-captioned action challenged the  
4 September 24, 2020 decision of the City of Santee and the City of Santee City Council (“Respondents”)  
5 to approve the Fanita Ranch Project (“Project”), adopt findings, and certify an Environmental Impact  
6 Report (“EIR”) for the Project. The matter came on for hearing on February 4, 2022, in Department C-  
7 69 of the above-captioned court, the Honorable Katherine Bacal, presiding. Judgment having been  
8 entered in this proceeding commanding that a peremptory writ of mandate issue under seal of this Court  
9 and based on that Judgment:

10  
11 IT IS NOW ORDERED that, promptly after service of this Peremptory Writ of Mandate upon  
12 Respondents,

13 1. Respondents shall:

- 14 a. Set aside and vacate in its entirety Resolution No. 093-2020 of the City Council  
15 for the City of Santee Certifying the Revised Environmental Impact Report (SCH  
16 # 2005061118) for the Fanita Ranch Project; Adopting Findings of Fact and a  
17 Statement of Overriding Considerations Under the California Environmental  
18 Quality Act; Adopting a Mitigation Monitoring and Reporting Program; and  
19 Approving the Project;
- 20 b. Set aside and vacate in its entirety Resolution No. 094-2020 of the City Council  
21 of the City of Santee, California Adopting A General Plan Amendment, Case File  
22 GPA2017-2, Relating to the Fanita Ranch Specific Plan;
- 23 c. Set aside and vacate in its entirety Resolution No. 095-2020 of the City Council  
24 of the City of Santee, California Approving the Application of HomeFed Fanita  
25 Rancho LLC for Fanita Ranch Vesting Tentative Map TM2017-3 for the  
26 Subdivision of Approximately 2,638 Acres into 1,467 Lots to Develop the Fanita  
27 Ranch Master Planned Community Located North of the Terminus of Fanita  
28 Parkway in the Fanita Ranch Specific Plan Development Area;

- 1 d. Set aside and vacate in its entirety Resolution No. 096-2020 of the City Council  
2 of the City of Santee, California Approving the Application of HomeFed Fanita  
3 Rancho LLC for Fanita Ranch Development Review Permit DR2017-4 for the  
4 Subdivision of Approximately 2,638 Acres into 1,467 Lots to Develop the Fanita  
5 Ranch Master Planned Community Located North of the Terminus of Fanita  
6 Parkway in the Fanita Ranch Specific Plan Development Area;;
- 7 e. Set aside and vacate in its entirety Resolution No. 097-2020 of the City Council  
8 of the City of Santee, California Approving the Application of HomeFed Fanita  
9 Rancho LLC for a Conditional Use Permit (P2017-5) for a New 31.2-Acre Public  
10 Community Park Located in the Fanita Commons Village Shown on Lot CP-1 of  
11 Fanita Ranch Vesting Tentative Map TM2017-3;
- 12 f. Set aside and vacate in its entirety Resolution No. 098-2020 of the City Council  
13 of the City of Santee, California Approving the Application of HomeFed Fanita  
14 Rancho LLC for a Conational Use Permit (P2020-2) for a New 4.2-Acre Public  
15 Neighborhood Park Located in the Fanita Commons Village Shown on Lot NP-8  
16 of Fanita Ranch Vesting Tentative Map TM2017-3;
- 17 g. Set aside and vacate in its entirety Ordinance No. 580 – An Ordinance of the City  
18 Council of the City of Santee, California Adding Chapter 13.20 “Specific Plan  
19 District” to Title 13 and Amending Chapter 13.04 “Administration” of the Santee  
20 Municipal Code, and Approving the Fanita Ranch Specific Plan (Case Files  
21 R2017-1 and SP2017-1); and
- 22 h. Set aside and vacate in its entirety Ordinance No. 581 - An Ordinance of the City  
23 Council of the City of Santee, California, Approving and Authorizing Execution  
24 of a Development Agreement by and Among the City of Santee and HomeFed  
25 Fanita Rancho, LLC.

26 2. Respondents are further ordered to file and serve a return to the writ no later than 60 days  
27 after service of this writ. The return shall specify the actions taken to comply with the terms of this  
28 Peremptory Writ of Mandate.

1           3.       Respondents are further ordered to suspend all project activity that could result in any  
2 change or alteration to the physical environment unless and until Respondents have corrected the  
3 deficiencies identified the Court’s judgment and attached March 3, 2022, Minute Order; reconsidered an  
4 EIR certification determination and findings relative to the project; and brought their determination and  
5 findings into compliance with the requirements of CEQA.

6           4.       The Court shall retain jurisdiction over these proceedings by way of a return to this  
7 Peremptory Writ of Mandate pursuant to Public Resources Code section 21168.9(b) until such time as  
8 this Court determines that the City has complied with the terms of this writ.

9           5.       This order is made pursuant to Public Resources Code section 21168.9(b), which  
10 provides that any order finding that a decision of a public agency has been made without compliance  
11 with CEQA shall include only those mandates which are necessary to achieve compliance with CEQA,  
12 and only those specific project activities in noncompliance with CEQA.

13          6.       Pursuant to Public Resources Code section 21168.9(c), this order does not direct  
14 Respondents to exercise their discretion in any particular way.

15                THE FOREGOING PEREMPTORY WRIT OF MANDATE ISSUES IMMEDIATELY.

16  
17 DATED: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Superior Court

18  
19  
20 **IT IS SO ORDERED.**

21  
22 DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Katherine Bacal  
Judge of the Superior Court

1 **PROOF OF SERVICE**

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3 eighteen (18) and am not a party to this action. My business address is One America Plaza, 600  
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5 On April 6, 2022, I served the within document(s) described as:

6 • **NOTICE OF ENTRY OF JUDGMENT**

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firm’s Microsoft Outlook electronic mail system and did not receive any electronic  
message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

Executed on April 6, 2022, at San Diego, California.

\_\_\_\_\_  
Pamela Tei Lewis  
(Type or print name)

  
\_\_\_\_\_  
(Signature of Declarant)

# **Exhibit 2**

# **CALIFORNIA NATURAL RESOURCES AGENCY**



## **FINAL STATEMENT OF REASONS FOR REGULATORY ACTION**

**Amendments to the State CEQA Guidelines  
Addressing Analysis and Mitigation of Greenhouse Gas  
Emissions Pursuant to SB97**

**December 2009**

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**CALIFORNIA NATURAL RESOURCES AGENCY  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION**

**December 2009**

**INTRODUCTION**

The California Natural Resources Agency (“the Resources Agency”) has adopted certain amendments and additions to certain guidelines implementing the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*) (“CEQA”). Specifically, these amendments implement the Legislature’s directive in Public Resources Code section 21083.05 (enacted as part of SB97 (Chapter 185, Statutes 2007)). That section directs the Resources Agency to “certify and adopt guidelines prepared and developed by the Office of Planning and Research” “for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions[.]” (Pub. Resources Code, § 21083.05(a)-(b).)

CEQA generally requires public agencies to review the environmental impacts of proposed projects, and, if those impacts may be significant, to consider feasible alternatives and mitigation measures that would substantially reduce significant adverse environmental effects. Section 21083 of the Public Resources Code requires the adoption of guidelines to provide public agencies and members of the public with guidance about the procedures and criteria for implementing CEQA. The guidelines required by section 21083 of the Public Resources Code are promulgated in the California Code of Regulations, title 14, sections 15000-15387 (the “Guidelines” or “State CEQA Guidelines”). Public agencies, project proponents, and third parties who wish to enforce the requirements of CEQA, rely on the Guidelines to provide a comprehensive guide on compliance with CEQA. Subdivision (f) of section 21083 requires the Resources Agency, in consultation with the Office of Planning and Research (“OPR”), to certify, adopt and amend the Guidelines at least once every two years.

Section 21083.05, as noted above, requires the promulgation of Guidelines specifically addressing analysis and mitigation of the effects of greenhouse gas emissions. The Resources Agency has adopted the following changes to the Guidelines (“Amendments”) to implement that directive:

Add sections:           15064.4, 15183.5 and 15364.5.

Amend sections:       15064, 15064.7, 15065, 15086, 15093, 15125, 15126.2,  
                                  15126.4, 15130, 15150, 15183, Appendix F and Appendix G.

In addition to guidelines implementing SB97, some of the amendments listed above are non-substantive corrections.

The Resources Agency considered reasonable alternatives to the Amendments. The Resources Agency has determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 and to update the Guidelines to reflect recent case law. Thus, the Amendments add no additional substantive requirements; rather, the Guidelines merely assist lead agencies in complying with CEQA's existing requirements. The Resources Agency rejected the no action alternative because it would not respond to the Legislature's directive in SB97. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts are due to existing requirements of CEQA and not the Amendments.

The Resources Agency also initially determined that the Amendments would not have a significant adverse economic impact on business. The Resources Agency has determined that this action would have no impacts on project proponents. However, the Resources Agency is aware that certain of the statutory changes enacted by the Legislature and judicial decisions, described in greater detail below, that are reflected in the Amendments could have an economic impact on project proponents, including businesses. Among other things, project proponents could incur additional costs in assisting lead agencies to comply with CEQA's requirement for analysis of greenhouse gas emissions. However, the Amendments to the Guidelines merely reflect these legislative and judicial requirements, and the Resources Agency knows of no less costly alternative. The Amendments clarify and update the Guidelines to be consistent with legislative enactments that have modified CEQA, and recent case law interpreting it, but does not impose any new requirements. Therefore, the Amendments would not have a significant, adverse economic impact on business.

Some comments were submitted during the public comment period and during the public hearings on the Proposed Amendments suggesting that the adverse economic impacts could result. For example, some suggested that the addition of forestry resources to the Appendix G checklist may increase the regulatory burden on the agricultural industry. Others suggested that application of the Guidelines to renewable energy projects or those implementing AB32 may be counterproductive. Despite those suggestions, no evidence was presented to the Resources Agency supporting those claims. Moreover, those comments did not provide any rationale challenging the Resources Agency's position that the Proposed Amendments implement existing requirements. Therefore, having considered all of the comments submitted on the Proposed Amendments, the Resources Agency concludes that its initial determination that the proposed action will not have a significant adverse economic impact remains correct.

The Amendments do not duplicate or conflict with any federal statutes or regulations. CEQA is similar in some respects to the National Environmental Policy Act ("NEPA"), 42 U.S.C. sections 4321-4343. Federal agencies are subject to NEPA, which

requires environmental review of federal actions. State and local agencies are subject to CEQA, which requires environmental review before state and local agencies may approve or decide to undertake discretionary actions and projects in California. Although both NEPA and CEQA require an analysis of environmental impacts, the substantive and procedural requirements of the two statutes differ. Most significantly, CEQA requirements for feasible mitigation of environmental impacts exceed NEPA's mitigation provisions. A state or local agency must complete a CEQA review even for those projects for which NEPA review is also applicable, although Guidelines sections 15220-15229 allow state, local and federal agencies to coordinate review when projects are subject to both CEQA and NEPA. Because state and local agencies are subject to CEQA unless exemptions apply, and because CEQA and NEPA are not identical, guidelines for CEQA are necessary to interpret and make specific provisions of SB97 and do not duplicate the Code of Federal Regulations.

## **FINAL STATEMENT OF REASONS**

The Administrative Procedure Act requires that an agency prepare a final statement of reasons supporting its proposed regulation. The final statement of reasons updates the information contained in the initial statement of reasons, contains final determinations as to the economic impact of the regulations, and provides summaries and responses to all comments regarding the proposed action. The initial statement of reasons, as updated and revised, are contained in full in this final statement of reasons. The summaries and responses to comments are included in the Natural Resources Agency's file of this rulemaking proceeding.

Below is a brief background on the science relating to the effects of greenhouse gas emissions, as well as the various initiatives that California is implementing to reduce those emissions. Following that background, OPR's public engagement process and the Natural Resources Agency's rulemaking process is briefly described. Next, this Final Statement of Reasons explains the purpose and necessity of each proposed change to the Guidelines. Finally, Thematic Responses, addressing the major themes that were raised in public comments, are provided.

## **BACKGROUND ON THE EFFECTS OF GREENHOUSE GAS EMISSIONS AND CALIFORNIA'S EFFORTS TO REDUCE THOSE EMISSIONS**

This section provides a brief background on the potential effects of greenhouse gas emissions and California's efforts to reduce those emissions.

### What Are Greenhouse Gases?

Certain gases in Earth's atmosphere naturally trap solar energy to maintain global average temperatures within a range suitable for terrestrial life. Those gases – which primarily include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,

perfluorocarbons and sulfur hexafluoride – act as a greenhouse on a global scale. (Health and Safety Code, § 38505(g).) Thus, those heat-trapping gases are known as greenhouse gases (“GHG”).

The Legislature defined “greenhouse gases” to include the six gases mentioned above in California’s Global Warming Solutions Act. (Health & Saf. Code, § 38500 et seq.) Similarly, the U.S. EPA has found that those same six gases could be regulated under the authority of the Clean Air Act. According to the U.S. EPA:

(1) These six greenhouse gas share common properties regarding their climate effects; (2) these six greenhouse gases have been estimated to be the primary cause of human-induced climate change, are the best understood drivers of climate change, and are expected to remain the key driver of future climate change; (3) these six greenhouse gases are the common focus of climate change science research and policy analyses and discussions; [and] (4) using the combined mix of these gases as the definition (versus an individual gas-by-gas approach) is consistent with the science, because risks and impacts associated with greenhouse gas-induced climate change are not assessed on an individual gas approach....

(EPA, Endangerment Finding, 74 Fed. Reg. 66496, 66517 (December 15, 2009).) The United Nations Framework Convention on Climate Change also addresses these six gases. (*Id.* at p. 66519.)

### What Causes Greenhouse Gas Emissions?

The incremental contributions of GHGs from innumerable direct and indirect sources result in elevated atmospheric GHG levels. (EPA, Draft Endangerment Finding, 74 Fed. Reg. 18886, 18904 (April 24, 2009) (“cumulative emissions are responsible for the cumulative change in the stock of concentrations in the atmosphere”); see also 74 Fed. Reg. 66496, 66538 (same in Final Endangerment Finding).) Some GHG emissions occur through natural processes such as plant decomposition and wildfires. One large source of GHG emissions, for example, is wildfire on forestlands and rangelands, which release carbon as a result of material being burned. (California Board of Forestry and Fire Protection, *2008 Strategic Plan and Report to the CARB on Meeting AB32 Forestry Sector Targets* (October, 2008), at p. 2.)

Human activities, such as motor vehicle use, energy production and land development, also result in both direct and indirect emissions that contribute to highly elevated concentrations of GHGs in the atmosphere. (California Energy Commission, *Inventory of California Emissions and Sinks: 1990 to 2004* (2006).)<sup>1</sup> Transportation

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<sup>1</sup> Multiple statewide emission inventories covering the same period of time may vary. This is largely due to inventories characterizing an emission source by sectors (e.g. agriculture, cement, transportation, etc.) which may not be treated the same depending on the methodology used and access to information. Thus,

alone is estimated to account for nearly 40 percent of California's GHG emissions. (California Air Resources Board, *Climate Change Proposed Scoping Plan* (2008), at p. 11 ("Scoping Plan"); California Energy Commission 2007, *2007 Integrated Energy Policy Report*, CEC-100-2007-008-CMF ("2007 IEPR") at p. 18, Figure 1-2.) Emissions attributable to transportation result largely from development that increases, rather than decreases, vehicle miles traveled: low density, unbalanced land uses separating jobs and housing, and a focus on single-occupancy vehicle travel. (California Energy Commission, *The Role of Land Use In Meeting California's Energy and Climate Change Goals*. (2007) at p. 9.) In approaching regulation of GHG emissions in California, for example, the California Air Resources Board ("ARB") proposes to regulate various economic sectors that are known to emit GHGs, including electric power, transportation, industrial sources, landfills, commercial and residential sectors, agriculture and forestry. (Scoping Plan, Appendix F.) With a growing population and economy, California's total GHG emissions continue to increase. As explained below, this rapid rate of increase in GHG emissions is causing a change in the composition of atmospheric gases that may cause life threatening adverse environmental consequences.

### What Effects May Result from Increased Greenhouse Gas Emissions?

Several measurable effects, including, among others, an increase in global average temperatures have been attributed to increases in GHG emissions resulting from human activity. (Intergovernmental Panel on Climate Change, *Working Group 1 Report: The Physical Science Basis* (2001), at p. 101.) Evidence further indicates that a warmer planet may in turn lead to changes in rainfall patterns, a retreat of polar icecaps, a rise in sea level, and changes in ecosystems supporting human, animal and plant life. (U.S. Environmental Protection Agency, *Technical Support Document for Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act*, April 17, 2009 ("Technical Support Document"), at pp. ES-1 to ES-3.) Climate change is not the only effect of increased GHG emissions. Impacts to human health and ocean acidification are also attributed to increasing concentrations of GHGs in the Earth's atmosphere. (*Id.* at p. 57.)

Globally elevated concentrations of GHGs have been observed to induce a range of associated effects. For example, the effects of atmospheric warming include, but are not limited to, increased likelihood of more frequent and intense natural disasters, increased drought, and harm to agriculture, wildlife, and ecological systems. (Technical Support Document at pp. ES-1, ES-6.) According to a report prepared for the California Climate Change Center:

Climate change is likely to affect the abundance, production, distribution, and quality of ecosystem services throughout the State of California

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two statewide emissions inventories may be different depending on the agency that created them or its intended application. The CARB is in the process of updating its statewide data and methodologies to be consistent with international and national guidelines. The typical emissions inventory covers 1990 to 2004.

including the delivery of abundant and clean water supplies to support human consumption and wildlife, climate stabilization through carbon sequestration, the supply of fish for commercial and recreational sport fishing. For example, as described in this report, areas of the state suitable for forage production to support cattle grazing in natural areas could shift as some parts of the state become too dry to support forage and others become wetter. The ability of the State's forests to sequester carbon and support climate stabilization could be hindered as productivity decreases and fires increase. And increased water temperatures in streams due to a decrease in provision of fresh water could seriously reduce salmon reproduction and subsequently reduce the number of salmon available for commercial and recreational harvest. Also, areas of the state suitable for forage production to support cattle grazing in natural areas could shift as some parts of the state become too dry to support forage and others become wetter. All of these ecosystem services have economic value and that value and its distribution is likely to change under a changing climate.

(Rebecca Shaw, et al., for the California Climate Change Center, *The Impact of Climate Change on California's Ecosystem Services*, March 2009, CEC-500-2009-025-D, at p. 1.)

The effects of increased GHG concentrations are already being felt in California. For example, global atmospheric changes are causing sea levels to rise. An increase of approximately 8 inches has been recorded at the Golden Gate Bridge over the past 100 years. Such sea level rise threatens low coastal areas with inundation and increased erosion. (Scoping Plan, at p. 10.)

While sea levels continue to rise, the Sierra snowpack has been shrinking. Average annual runoff from spring snowmelt has decreased 10% in the last 100 years. Because snow in the Sierra acts as a reservoir, holding winter water for use later in the year, reduced snowpack creates greater potential for summer droughts and reduced hydroelectricity generation. (Office of Environmental Health and Hazard Assessment, April, 2009, *Indicators of Climate Change in California*, at p. 76.) Climate change is also thought to account for changes in the timing of California's major precipitation events. As explained in a report prepared for the California Climate Change Center:

reservoirs were designed to store only a fraction of the state's entire yearly precipitation, under the assumption that the annual mountain snowpack would melt at roughly the same time every year. During anomalously high rain or snowmelt events, reservoirs must not only store water, but also discharge excess water to avoid flooding. Water must sometimes be discharged in anticipation of large events to reduce flood risk. The dual functions of storage and flood management require reservoir managers to carefully balance factors such as precipitation, snowmelt timing, reservoir storage capacity, and demand. Even if future precipitation remains

unchanged, shifts in snowmelt timing can affect California's water supply during the warm season due to reservoir storage capacity constraints.

(Sarah Kapnick and Alex Hall, for the California Climate Change Center, *Observed Changes in the Sierra Nevada Snowpack: Potential Causes and Concerns*, March 2009, CEC-500-2009-016-D, at p. 1.)

Climate change is also expected to increase the number and intensity of forest fires. (Technical Support Document, at p. 91; see also *Indicators of Climate Change* (2009) at p. 131.) A generally warmer climate is associated with a longer summer season, which in turn dries vegetation and fuels making ignition easier and hastens wildfire spread. (*Ibid*; see also A. L. Westerling, for the California Climate Change Center, *Climate Change, Growth and California Wildfire*, March 2009, CEC-500-2009-046-D, at pp. 1-2.) Not only do wildfires release additional carbon and increase air pollutants, but they also cause indirect effects. For example, wildfires reduce vegetative cover leading to increased water runoff, which has affected watersheds and dampens the effectiveness of California's water works infrastructure. This will degrade California's water quality and challenge water treatment operations to provide safe drinking water. Adverse health impacts from heat-related illnesses are expected with hotter temperatures, and, due to poorer air quality, lung disease, asthma, and other respiratory and circulatory problems will be exacerbated. (California Climate Action Team, Executive Summary Report to Governor Schwarzenegger and the California Legislature (2006) at pp. xii to xiii, 27.); see also Technical Support Document, at pp. ES-4, 69-71.)

### Why is California Involved in Greenhouse Gas Regulation?

California is vulnerable to the effects of global warming, and, despite its global nature, action to curb GHG emissions is needed on a statewide level. The legislative findings in Assembly Bill 32 (Chapter 448, Statutes 2006) ("AB32"), for example, state:

... Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

... 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.



(Health & Safety Code, § 38501(a), (b).) The Legislature further declared: “action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.” (*Id.* at subd. (d).) As the world’s fifteenth largest emitter of GHGs from human activity and natural sources, California is uniquely positioned to act to reduce GHGs. (Scoping Plan, at pp. 11.)

Reducing greenhouse gas emissions is a necessary response to the threats posed by climate change. Efforts to reduce emissions may result in other significant benefits as well. Governor Schwarzenegger laid out the case for action to reduce greenhouse gas emissions in Executive Order S-3-05:

... California-based companies and companies with significant activities in California have taken leadership roles by reducing greenhouse gas (GHG) emissions, including carbon dioxide, methane, nitrous oxide and hydrofluorocarbons, related to their operations and developing products that will reduce GHG emissions; ...

... [C]ompanies that have reduced GHG emissions by 25 percent to 70 percent have lowered operating costs and increased profits by billions of dollars; ...

... [T]echnologies that reduce greenhouse gas emissions are increasingly in demand in the worldwide marketplace, and California companies investing in these technologies are well-positioned to profit from this demand, thereby boosting California's economy, creating more jobs and providing increased tax revenue; ...

... [M]any of the technologies that reduce greenhouse gas emissions also generate operating cost savings to consumers who spend a portion of the savings across a variety of sectors of the economy; this increased spending creates jobs and an overall benefit to the statewide economy.

Thus, the Governor, Legislature and private sector have concluded that action to reduce greenhouse gas emissions is necessary and beneficial for the State.

### What is California Doing to Reduce its Greenhouse Gas Emissions?

Action to curb greenhouse gas emissions is taking place on many fronts. As described above, the private sector has already taken important steps to increase efficiency and lower costs associated with such emissions. Many local governments have also adopted, or are currently developing, various plans and programs designed to reduce community-wide GHG emissions. (Office of Planning and Research, *The California Planner’s Book of Lists* (January 2009) (“Book of Lists”), at pp. 92-100; see also Scoping Plan, at p. 26.) Due to its potential vulnerability to the effects of GHG

emissions, and the wide variety of GHG emissions sources within its borders, California has enacted several laws and programs designed to reduce the State's GHG emissions. Several major legislative initiatives are described below.

### *AB32 – The Global Warming Solutions Act*

Assembly Bill 32 (Chapter 448, Statutes 2006) is a key piece of California's effort to reduce its GHG emissions. AB32 requires the California Air Resources Board ("ARB") to establish regulations designed to reduce California's GHG emissions to 1990 levels by 2020. (Health & Safety Code, § 38550.) On December 11, 2008, ARB adopted its Scoping Plan, setting forth a framework for future regulatory action on how California will achieve that goal through sector-by-sector regulation. (ARB, Resolution No. 08-47; see also Health & Safety Code, § 38561.) ARB must adopt, no later than January 1, 2012, rules and regulations to implement the GHG emissions reductions envisioned in the Scoping Plan. (Health & Safety Code, § 38562.)

The AB32 Scoping Plan outlines a set of actions designed to reduce overall GHG emissions in California to 1990 levels by 2020. The Scoping Plan presents GHG emission reduction strategies that combine regulatory approaches, voluntary measures, fees, policies, and programs. Reduction strategies are expected to evolve as technologies develop and progress toward the State's goal is monitored. Thus, the Scoping Plan sets forth the outline of California's strategy to reduce GHG emissions on a statewide basis.

### *SB375*

As noted above, nearly 40 percent of California's GHG emissions come from the State's transportation sector. (Chapter 728, Statutes 2007, § 1(a).) Technology innovation and lower-carbon fuels alone will not reduce transportation-related emissions sufficiently for California to reach the reduction goals set out in AB32. (*Id.* at § 1(c).) Therefore, in SB375, California enacted several measures to reduce vehicular emissions through land-use planning.

Specifically, SB375 requires ARB to develop "greenhouse gas emission reduction targets for the automobile and light truck sector" for each metropolitan planning organization (MPO). (Gov. Code, § 65080(b)(2)(A).) Once that target is set, each MPO must develop a sustainable communities strategy (SCS), as part of its regional transportation plan, that will set forth a development pattern that will achieve the reduction target approved by the ARB. (*Id.* at subd. (b)(2)(B).) The MPO's transportation planning activities must be consistent with the adopted SCS. (*Id.* at subd. (b).) While an SCS does not supersede a local government's land use authority, SB375 created an exemption from CEQA for local transit-oriented residential projects that are consistent with the applicable SCS as an incentive. (*Id.* at subd. (b)(2)(J); Pub. Resources Code, § 21155.1.)

### *CEQA and SB97*

While AB32 and SB375 target specific types of emissions from specific sectors, the California Environmental Quality Act (“CEQA”) regulates nearly all governmental activities and approvals. CEQA generally requires that a lead agency analyze the potential adverse environmental impacts of their decisions, and, if those impacts are determined to be significant, to avoid those impacts through mitigation or project alternatives. As awareness of the causes and effects of GHG emissions has increased, those effects began to be addressed in environmental analyses on a project-level basis. Federal courts, moreover, have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Uncertainty developed, however, among public agencies regarding how GHG emissions should be analyzed in environmental documents prepared pursuant to CEQA.

To provide greater certainty to lead agencies, Governor Schwarzenegger signed Senate Bill 97 (Chapter 148, Statutes 2007). (Governor Schwarzenegger’s Signing Message, SB 97.) That statute, among other things, constitutes the Legislature’s recognition that GHG emissions and the effects of GHG emissions are appropriate subjects for CEQA analysis. Pursuant to SB97, OPR developed, and the Resources Agency will adopt, amendments to the State CEQA Guidelines to address analysis and mitigation of the potential effects of GHG emissions in CEQA documents and processes. As new information or criteria established by ARB in the AB 32 process becomes available, OPR and the Resources Agency will periodically update the CEQA Guidelines to account for that new information. This rulemaking package responds to the Legislature’s directive in SB97.

Questions concerning the relationship between AB32, SB375 and CEQA were raised in public comments on the Proposed Amendments. The Resources Agency developed responses to those questions in the Responses to Comments, which are appended to this Final Statement of Reasons. Further discussion of the relationship between AB32, SB375 and CEQA is provided in the Thematic Responses at the end of this Final Statement of Reasons.

## **BACKGROUND ON THE DEVELOPMENT OF THE PROPOSED AMENDMENTS**

OPR developed the Proposed Amendments pursuant to Public Resources Code section 21083.05, which states in part:

On or before July 1, 2009, the Office of Planning and Research shall prepare, develop, and transmit to the Resources Agency guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions as required by this division, including, but not limited to, effects associated with transportation or energy consumption.

In developing the Proposed Amendments, OPR actively sought the input, advice, and assistance of numerous interested parties and stakeholder groups. (Letter from OPR Director, Cynthia Bryant, to Secretary for the Natural Resources Agency, Mike Chrisman, April 13, 2009.) Specifically, OPR met with representatives of numerous agencies and organizations to discuss the perspectives of the business community, the environmental community, local governments, non-governmental organizations, state agencies, public health officials, CEQA practitioners and legal experts. In addition, OPR took advantage of numerous regional and statewide conferences to raise awareness about CEQA and GHG emissions among diverse audiences and to seek their input. These activities satisfy the provisions of Government Code section 11346.45 which require early public involvement in complex proposals.

After publishing a preliminary draft, on January 8, 2009, OPR continued to conduct extensive public outreach, including two public workshops, to receive input on the Preliminary Amendments. Both public workshops were well attended, drawing over two hundred participants representing various California business interests, environmental organizations, local governments, attorneys and consultants. In addition to oral comments at its workshops, OPR received over eighty written comment letters.

Some comments suggested additional amendments to the CEQA Guidelines. Other comments sought clarification of the language in the preliminary amendments. OPR incorporated those suggestions and clarifications to the extent possible and appropriate into its April 13, 2009, submittal to the Resources Agency. Some suggestions were not appropriate for inclusion, however, due to conflict with existing statutory authority and/or case law. For example, some comments submitted to OPR during its public workshops indicated that the Guidelines should be addressed to “Climate Change” rather than just the effects of GHG emissions. The focus in the Guidelines on GHG emissions is appropriate for at least three reasons.

First, the Legislative authorization for the Proposed Amendments refers specifically to guidelines on the “mitigation of greenhouse gas emissions and the effects of greenhouse gas emissions.” (Pub. Resources Code, § 21083.05.) Had the Legislature intended the Guidelines to address climate change or global warming specifically, it presumably would have so indicated. Second, the precise “effect” of GHG emissions from a project is a factual matter for the lead agency to determine. Such effects may include “climate change,” “global warming” and other changes in the physical environment (increased ocean acidity or sea-level rise, for example). (EPA, Draft Endangerment Finding, 74 Fed. Reg. 18886 (April 24, 2009), Technical Support Document, at pp. ES-2 to ES-3; see further discussion at pages 4-5, above.) Thus, rather than limit analysis to a particular effect, the proposed Guidelines on GHG emissions are consistent with the treatment of air pollutants in the existing Appendix G, which focus largely on the concentration of pollutants. (See, e.g., existing State CEQA Guidelines, Appendix G, III.d.) Third, the focus in a cumulative impacts analysis is “whether any additional effect caused by the proposed project should be considered significant given the existing cumulative effect.” (*CBE, supra*, 103 Cal. App. 4th at 118.)

Thus, the Proposed Amendments appropriately focus on a project's potential incremental contribution of GHGs rather than on the potential effect itself (i.e., climate change). Notably, however, the Proposed Amendments expressly incorporate the fair argument standard. (See, e.g., proposed Section 15064.4(b)(3).) Thus, if there is any substantial evidence supporting a fair argument that a project's GHG emissions may result in any adverse impacts, including climate change, the lead agency must resolve that concern in an EIR.

## **THE NATURAL RESOURCES AGENCY'S RULEMAKING PROCESS**

The Natural Resources Agency commenced the rulemaking process on the Amendments on July 3, 2009, by publishing its Notice of Proposed Action in the California Regulatory Notice Register. (2009 No. 27-Z.) In addition, the Notice of Proposed Action was mailed to over 640 interested parties, and notices were e-mailed to those parties that requested electronic notification. The Natural Resources Agency also posted the Notice, Proposed Text and Initial Statement of Reasons on its website, and invited public comments on the proposed amendments between July 3, 2009, and August 20, 2009. Public hearings were held on August 18, 2009, and August 20, 2009, in Los Angeles and Sacramento, respectively, at which verbal and written comments and presentations were accepted. To ensure that all interested parties were able to provide written comments if they so chose, the Natural Resources Agency extended the public comment period to August 27, 2009. The Natural Resources Agency received over 80 comment letters on the proposed amendments.

Following review of all public comments received during the public review period and at the public hearings, the Natural Resources Agency determined that further revisions to the proposed text were appropriate. It, therefore, mailed a Notice of Proposed Changes to all hearing attendees and all persons that requested notice. Electronic notices were e-mailed to those requesting such notification. The Notice of Proposed Changes, Revised Text of the proposed amendments, comment letters, and all prior rulemaking documents were posted on the Natural Resources Agency's website. Since all revisions to the proposed amendments were sufficiently related to the originally noticed text, public comment was invited between October 23, 2009, and November 10, 2009. The Natural Resources Agency received over 20 comment letters on the revisions to the proposed amendments.

Following the close of the second public comment period, the Natural Resources Agency reviewed and considered all written comments. The Secretary for Natural Resources determined that, other than two non-substantive, clarifying changes in sections 15126.2(a) and 15126.4(c), described below, no further revisions to the proposed amendments was necessary. Secretary Mike Chrisman adopted the amendments described in this Final Statement of Reasons in December 2009.

Throughout the rulemaking process, staff of the Natural Resources Agency met with all interested parties requesting in person meetings. It also attended and presented at various conferences hosted by, among others, the California Chapter of

the American Planning Association, the California State Bar's Environmental Law Conference, County Counsels Association of California, several county bar association meetings and local government forums to provide updates on the proposed amendments and to ensure widespread participation in the Natural Resources Agency's rulemaking process.

Copies of all relevant rulemaking documents, including hearing transcripts, notices, and agendas, are included in the record of proceedings.

### **ADOPTED AMENDMENTS**

Analysis of GHG emissions in a CEQA document presents unique challenges to lead agencies. Such analysis must be consistent with existing CEQA principles, however. Therefore, the Amendments comprise relatively modest changes to various portions of the existing CEQA Guidelines. Modifications address those issues where analysis of GHG emissions may differ in some respects from more traditional CEQA analysis. Other modifications clarify existing law that may apply both to analysis of GHG emissions as well as more traditional CEQA analyses. The incremental approach in the Amendments is consistent with Public Resources Code section 21083(f), which directs OPR and the Resources Agency to regularly review the Guidelines and propose amendments as necessary.

The Legislature expressly left development of the Guidelines to the discretion of OPR and the Resources Agency. That discretion is governed by the Government Code, which requires that any administrative regulations be consistent, and not conflict, with existing statutory authority. (Gov. Code, § 11342.2.) Thus, the Resources Agency intends, as did OPR, the Amendments to incorporate existing law, and where necessary "to implement, interpret, make specific or otherwise carry out the provisions of the statute." (*Ibid.*) In addition, the Guidelines must be "reasonably necessary" to carry out a legislative directive. (*Ibid.*) Because the determination of "reasonable necessity" implicates an agency's expertise, courts will defer to an agency's findings of necessity unless the action is arbitrary, capricious or without reasonable basis. (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 109 ("CBE").)

The Amendments include changes to or additions of fourteen sections of the existing Guidelines, as well as changes to Appendices F (Energy Conservation) and G (Environmental Checklist Form). The Amendments are discussed below.

## **SECTION 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT.**

### **Specific Purposes of the Amendment**

Amendments are proposed to two subdivisions of the existing section 15064. The first, to subdivision (f)(5), is a grammatical correction that qualifies as a “change without regulatory effect” pursuant to section 100(a)(4) of the Office of Administrative Law’s regulations governing the rulemaking process. (Cal. Code Regs., tit. 1, § 100(a)(4).) The second set of amendments is to subdivision (h)(3). The latter amendments are described in detail below.

### Cumulative Impacts

Existing subdivision (h)(3) allows an agency to find that a project’s potential cumulative impacts are less than significant due to compliance with requirements in a plan or mitigation program. (*CBE, supra*, 103 Cal.App.4th at 111 (“a lead agency’s use of existing environmental standards in determining the significance of a project’s environmental impacts is an effective means of promoting consistency in significance determinations and integrating CEQA environmental review activities with other environmental program planning and regulation”).) In effect, that section creates a rebuttable presumption that compliance with certain plans and regulations reduces a project’s potential incremental contribution to a cumulative effect to a level that is not cumulatively considerable.

The existing Guidelines text includes several criteria that define which plans or programs may create such a presumption. To satisfy those criteria, a plan or program must: (1) have been previously approved, (2) contain specific requirements that avoid or substantially lessen the cumulative problem within a defined geographic area, and (3) be either specified in law or approved by a public agency with jurisdiction over affected resources. These criteria ensure that the presumption applies only where plans or programs have undergone public scrutiny and include binding requirements to address a cumulative problem. The existing text lists three types of plans as examples that may be relied upon for a cumulative analysis. The word “e.g.” in the existing text indicates, however, that the list is not exclusive. The Third District Court of Appeal upheld what is now section 15064(h)(3) in the *CBE* decision. (*CBE, supra*, 103 Cal.App.4th at 115-116.)

### Use of Plans and Regulations in a Cumulative Impacts Analysis

The Proposed Amendments include two changes to subdivision (h)(3). First, the Amendments would add several plans and regulations to the list of examples. The Proposed Amendments would add “habitat conservation plan, natural community conservation plan, [and] plans or regulations for the reduction of greenhouse gas emissions” to the list of plans and programs that may be considered in a cumulative

impacts analysis. As explained below, the Resources Agency finds that the added plans and regulations satisfy the criteria in the existing text.

“Habitat conservation plans” are defined in the federal Endangered Species Act, and typically include specific requirements to protect listed species within a defined geographic area. (16 U.S.C. § 1539.) Though a habitat conservation plan (“HCP”) may be prepared to address the impacts of one particular project, HCPs may also be, and often have been, prepared to address the impacts of cumulative development within a defined area. (Fish and Wildlife Service and National Marine Fisheries Service, *Habitat Conservation Planning and Incidental Take Permit Processing Handbook* (November 4, 1996), at pp. 1-6 to 1-7, 1-14 to 1-15.) Most HCPs, other than “low effect HCPs,” will also likely need to undergo environmental review under the National Environmental Policy Act. (*Id.* at Ch. 5.) In such cases, an applicable HCP may appropriately be used in a cumulative impacts analysis as described in subdivision (h)(3).

“Natural community conservation plans” (“NCCPs”) are defined in the California Natural Community Conservation Planning Act. (Fish & G. Code, §§ 2800 et seq.) The purpose of an NCCP is to conserve natural communities at the ecosystem scale while accommodating compatible land uses. An NCCP includes, among others, measures to avoid or minimize impacts to natural communities, conservation obligations, and compliance monitoring. An NCCP is adopted by the Department of Fish and Game as well as local agencies with land use authority in a defined area. As discretionary acts of public agencies, NCCPs must undergo environmental review pursuant to CEQA. Thus, NCCPs satisfy the criteria in existing subdivision (h)(3).

The Legislature recognized local GHG planning efforts in Health & Safety Code section 38561(c) by directing the California Air Resources Board (ARB) to consider such programs in developing its Scoping Plan. Greenhouse gas emission reduction plans are not currently specified in law. However, the ARB’s Climate Change Scoping Plan includes a recommended reduction target for local governments and community-level emissions of 15 percent by 2020. (California Air Resources Board, *Climate Change Proposed Scoping Plan* (2008), at p. 27 (“Scoping Plan”).) The Scoping Plan also recognized the important role local greenhouse gas reduction plans would play in achieving statewide reductions. The Scoping Plan itself suggests elements that such plans should include. (Scoping Plan, Appendix C, at p. C-49.)

Independent of the Scoping Plan, many local governments have adopted, or are currently developing, various plans and programs designed to curb GHG emissions. (Office of Planning and Research, *The California Planner’s Book of Lists* (January 2009) (“Book of Lists”), at pp. 92-100; see also Scoping Plan, at p. 26.) Other public agencies, such as school districts and public universities, may also adopt greenhouse gas reduction plans to govern their own activities. Provided that such plans contain specific requirements with respect to resources that are within the agency’s jurisdiction to avoid or substantially lessen the agency’s contributions to GHG emissions, both from its own projects and from private projects it has approved or will approve, such plans may be appropriately relied on in a cumulative impacts analysis. Additional guidance regarding



the characteristics of greenhouse gas reduction plans that may be used in this context is provided in the proposed Section 15183.5, and is explained in greater detail below. Thus, greenhouse gas reduction plans satisfying such criteria would satisfy the criteria in existing subdivision (h)(3).

Finally, requirements addressing a cumulative problem may also take the form of regulations. AB 32, for example, requires ARB to adopt regulations that achieve the maximum technologically feasible and cost effective GHG reductions to reach the adopted state-wide emissions limit. (Health & Safety Code, § 38560.) Pursuant to Health and Safety Code section 38560(b), ARB will adopt a first set of regulations by January 1, 2010. Thus, a lead agency may consider whether ARB's GHG reduction regulations satisfy the criteria in existing subdivision (h)(3).

While section 15064(h)(3) creates a presumption that, where a plan, program or regulation governs a project's GHG emissions, and the project complies with those requirements, those emissions are not cumulatively considerable. That presumption is rebuttable, however. The Proposed Amendments do not alter the standard, reflected in the existing Guidelines, that if substantial evidence supports a fair argument that, despite compliance with the requirements in a plan or program, a project may have a significant effect on the environment, then an EIR must be prepared.

#### Demonstrating How the Plan, Program or Regulation Addresses Cumulative Impacts

In addition to augmenting the list of plans, programs and regulations that give rise to the presumption that a project's contribution is not cumulatively considerable, the Amendments also contain explanatory language designed to ensure that the plan or regulation relied on in a cumulative impacts analysis actually addresses the cumulative effect of concern for the particular project under consideration. This language is necessary to avoid misapplication of subdivision (h)(3). For example, shortly after ARB identified early action items, some lead agencies determined that a project's contribution of GHG emissions was not cumulatively considerable because the project was not inconsistent with the early action items. (See, e.g., Tentative Ruling, San Bernardino County Superior Court Case Nos. 810232, 800607 (ruling that consistency with CAT Strategies alone does not provide sufficient information about the potential impacts of a project); see also California Environmental Protection Agency, *Climate Action Team Report to Governor Schwarzenegger and the Legislature*, March 2006, at pp. 39-63.) Such an analysis, however, would fail to account for emissions that are not addressed by the early action items. Because those early action items largely addressed industrial-type emissions, consistency with the early action items would have little relevance for a residential subdivision project. Likewise, consistency with plans that are purely aspirational (i.e., those that include only unenforceable goals without mandatory reduction measures), and provide no assurance that emissions within the area governed by the plan will actually address the cumulative problem, may not achieve the level of protection necessary to give rise to this subdivision's presumption. Thus, by requiring that lead agencies draw a link between the project and the specific provisions of a binding plan or regulation, section 15064(h)(3) would ensure that

cumulative effects of the project are actually addressed by the plan or regulation in question.

Demonstrating that compliance with a plan addresses a cumulative problem is already impliedly required by CEQA. For example, an initial study must include sufficient information to support its conclusions. (State CEQA Guidelines, § 15063(d)(3).) Similarly, section 15128 requires a lead agency to explain briefly the reasons that an impact is determined to be less than significant and therefore was not analyzed in an EIR. The added sentence, therefore, reflects existing law and is necessary to ensure that plans are not misapplied in a CEQA analysis.

### Policy Goals

Inclusion of additional plans and programs to the list of examples supports two policy goals. First, an expanded list promotes integration of various regulatory mechanisms to reduce duplication. (See, e.g., Pub. Resources Code, § 21003(a) (state policy is that “[l]ocal agencies integrate the requirements of [CEQA] with planning and environmental review procedures otherwise required by law or by local practice ...”), (f) (“[a]ll persons and public agencies involved in the environmental review process be responsible for carrying out the process in the most efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources with the objective that those resources may be better applied toward the mitigation of actual significant effects on the environment”).) Second, the addition of GHG emissions reduction plans and regulations for the reduction of GHG emissions reflects the view of both the OPR and the Resources Agency that the effects of GHG emissions resulting from individual projects are best addressed and mitigated at a programmatic level.

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) The Guidelines must address the determination of whether the “possible effects of a project are individually limited but cumulatively considerable.” (*Id.* at § 21083(b)(2).) Due to the global nature of GHG emissions and their potential effects, GHG emissions will typically be addressed in a cumulative impacts analysis. (See, e.g., EPA, Draft Endangerment Finding, 74 Fed. Reg. 18886, 18904 (April 24, 2009) (“cumulative emissions are responsible for the cumulative change in the stock of concentrations in the atmosphere”); California Air Pollution Control Officers Association, *CEQA and Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act* (January 2008) (“CAPCOA White Paper”), at p. 35 (“GHG impacts are exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective”).) Existing section 15064(h) governs the analysis of cumulative effects in an initial study. The proposed amendments to section 15064(h)(3), on determining the significance of cumulative impacts in an initial study, are therefore necessary to carry out this legislative directive.

## **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and that the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

## **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and case law interpreting CEQA for determining the significance of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, *Environmental Assessment Documents Containing a Discussion of Climate Change* (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).)<sup>2</sup> Thus, the Amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

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<sup>2</sup> Federal court decisions interpreting NEPA is persuasive authority in CEQA cases. (*Western Placer Citizens for an Ag. & Rur. Env. v. County of Placer* (2006) 144 Cal.App. 4th 890, 902.)

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the amendments to this section are intended to reduce the costs of environmental review on lead agencies and project applicants by encouraging the use of existing environmental analysis where available. (Pub. Resources Code, § 21003(d) (use information in existing EIRs in order to reduce duplication), (f) (environmental review should proceed in the most efficient manner possible).)

## **SECTION 15064.4. DETERMINING THE SIGNIFICANCE OF IMPACTS FROM GREENHOUSE GAS EMISSIONS**

### **Specific Purposes of the Amendment**

A key component of environmental analysis under CEQA is the determination of significance. (Pub. Resources Code § 21002; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1106-07.) Guidelines on the analysis of GHG emissions must, therefore, include provisions on the determination of significance of those emissions.

New section 15064.4, on the determination of significance of GHG emissions, reflects the existing CEQA principle that there is no iron-clad definition of “significance.” (State CEQA Guidelines, § 15064(b); *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1380-81 (“*Berkeley Jets*”).) Accordingly, lead agencies must use their best efforts to investigate and disclose all that they reasonably can regarding a project’s potential adverse impacts. (*Ibid*; see also State CEQA Guidelines, § 15144.) Section 15064.4 is designed to assist lead agencies in performing that required investigation. In particular, it provides that lead agencies should quantify GHG emissions where quantification is possible and will assist in the determination of significance, or perform a qualitative analysis, or both as appropriate in the context of the particular project, in order to determine the amount, types and sources of GHG emissions resulting from the project. Regardless of the type of analysis performed, the analysis must be based “to the extent possible on scientific and factual data.” In addition, lead agencies should also consider several factors. The specific provisions of section 15064.4 are discussed below.

### Quantitative Analysis

Subdivision (a) of section 15064.4 states that lead agencies should calculate or estimate the GHG emissions resulting from the proposed project. This directive reflects the holding in the *Berkeley Jets* case, which required a Port Commission to quantify emissions of toxic air contaminants even in the absence of a universally accepted methodology for doing so. (*Berkeley Jets, supra*, 91 Cal.App.4th at p. 1370 (“The fact that a single methodology does not currently exist that would provide the Port with a precise, or ‘universally accepted,’ quantification of the human health risk from TAC exposure does not excuse the preparation of any health risk assessment--it requires the Port to do the necessary work to educate itself about the different methodologies that are available”) (emphasis in original).) That case also required quantitative analysis of single-event noise, even though the applicable thresholds were expressed as cumulative noise levels. (*Id.* at 1382.) Quantification was required in that context in order to identify existing noise levels, the number of additional flights, the frequency of those flights, the degree to which the increased flights would cause increased noise levels at a given location, and ultimately, the community’s reaction to that noise. (*Ibid.*) In other words, quantification would assist the lead agency in determining whether the increased noise would be potentially significant. (*Ibid.* (“CEQA requires that the Port

and the inquiring public obtain the technical information needed to assess whether the ADP will merely inconvenience the Airport's nearby residents or damn them to a somnambulate-like existence"); see also *Protect the Historic Amador Waterways*, *supra*, 116 Cal.App.4th at 1109 ("in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect").)

With the foregoing principles in mind, the quantification called for in proposed section 15064.4(a)(1) is reasonably necessary to ensure an adequate analysis of GHG emissions using available data and tools, in accordance with Public Resources Code Section 21083.05. Even where a lead agency finds that no numeric threshold of significance applies to a proposed project, the holdings in the *Berkeley Jets* and *Protect the Historic Amador Waterways* cases, described above, require quantification of emissions if such quantification will assist in determining the significance of those emissions. OPR and the Resources Agency find that quantification will, in many cases, assist in the determination of significance, as explained below. (State CEQA Guidelines, § 15142 ("An EIR shall be prepared using an interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the consideration of qualitative as well as quantitative factors").)

First, quantification of GHG emissions is possible for a wide range of projects using currently available tools. Modeling capabilities have improved to allow quantification of emissions from various sources and at various geographic scales. (Office of Planning and Research, *CEQA and Climate Change: Addressing Climate Change Through the California Environmental Quality Act Review*, Attachment 2: Technical Resources/Modeling Tools to Estimate GHG Emissions (June 2008); CAPCOA White Paper, at pp. 59-78.) Moreover, one of the models that can be used in a GHG analysis, URBEMIS, is already widely used in CEQA air quality analyses. (CAPCOA White Paper, at p. 59.) Second, quantification informs the qualitative factors listed in proposed section 15064.4(b). Third, quantification indicates to the lead agency, and the public, whether emissions reductions are possible, and if so, from which sources. Thus, if quantification reveals that a substantial portion of a project's emissions result from energy use, a lead agency may consider whether design changes could reduce the project's energy demand.

Proposed section 15064.4(a)(1) also reflects existing case law that reserves for lead agencies the precise methodology to be used in a CEQA analysis. (See, e.g., *Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 Cal.App.4th 357, 371-373.) As indicated above, a wide variety of models exist that could be used in a GHG analysis. (CAPCOA White Paper, at pp. 59-78.) Further, not every model will be appropriate for every project. For example, URBEMIS may be an appropriate tool to analyze a typical residential subdivision or commercial use project, but some public utilities projects, such as waste-water treatment plants, may require more specialized models to accurately estimate emissions. (*Id.* at pp. 60-65.) The requirement to

disclose any limitations in the model or methodology chosen also reflects the standard for adequacy of EIRs in existing State CEQA Guidelines section 15151.

### Qualitative and Performance Standard Based Analysis

As explained in greater detail below in the Thematic Responses, CEQA does not require quantification of emissions in every instance. If the lead agency determines that quantification is not possible, would not yield information that would assist in analyzing the project's impacts and determining the significance of the GHG emissions, or is not appropriate in the context of the particular project, section 15064.4(a) would allow the lead agency to consider qualitative factors or performance standards. Consideration of qualitative factors is appropriate for several reasons. First, CEQA directs lead agencies to consider qualitative factors. (Pub. Resources Code, § 21001(g) (CEQA's purpose includes to: "require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment").) Second, existing section 15064.7 of the State CEQA Guidelines indicate that thresholds of significance may be qualitative, which implies that a determination of significance without a threshold could also evaluate qualitative factors. Third, the existing CEQA Guidelines state that the determination of significance requires a lead agency to use its judgment based on *all* relevant information. (State CEQA Guidelines, § 15064(b); see also *id.* at §§ 15064.7 (thresholds may be qualitative), 15142 (analysis should be interdisciplinary and both qualitative and quantitative).)

Subdivision (a) would also allow a lead agency to rely on performance-based standards to assist in the determination of significance. Just as with quantification, the purpose of engaging in a qualitative or performance standard based analysis is to develop information relevant to a significance determination. Several examples exist of the types of performance standards that might appropriately be used in determining the significance of greenhouse gas emissions. Proposed section 15183.5(b)(1)(D), for example, contemplates that a plan for the reduction of greenhouse gas emissions may contain performance based standards. Where such standards are developed as part of such a plan, a lead agency would have evidence indicating that compliance with such standards would indicate that the impact of greenhouse gas emissions would be less than significant. Further, in adopting SB375, the Legislature acknowledged that regional transportation plans, and the environmental impact reports prepared to analyze those plans, may contain performance standards that would apply to transit priority projects. (See, e.g., Public Resources Code, § 21155.2.) Other potential examples include the Bay Area Air Quality Management District's proposed Best Management Practices for Construction Greenhouse Gas Emissions (calling for use of alternative fuels, local building materials and recycling), and the California Public Utilities Commission's Performance Standard for Power Plans (requiring emissions no greater than a combined cycle gas turbine plant). Compliance with such standards may be relevant to the significance determination, when considered in conjunction with the

project's total projected emissions. Section 15064.4(a) was revised in response to comments to clarify that lead agencies may rely on quantitative or qualitative analyses, or both, in part to emphasize that qualitative analyses and performance standards may be useful supplements to a quantitative analysis.

Similar to use of a significance threshold, a lead agency must exercise care to ensure that performance standards do not replace a full analysis of all potential emissions. (*Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at 1109 (“in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect”).) For example, while a Platinum LEED® rating could assist a lead agency in determining whether emissions related to a building’s energy use may be significant, that performance standard may not reveal sufficient information to evaluate transportation-related emissions associated with that proposed project.

As indicated above, even a qualitative analysis must be based to the extent possible on scientific and factual data. Further, the type of analysis that is required will depend on the context of a particular project. Given the multitude of different project types and sizes, and different agencies subject to CEQA, the CEQA Guidelines, which are general by necessity, cannot specify precisely when a quantitative analysis may be required or a qualitative analysis may be appropriate. The following hypothetical examples may illustrate, however, how section 15064.4(a) could operate:

**Project 1:** a small habitat restoration project is proposed in a remote part of California. Workers would drive to the site where they would camp for the duration of the project. Some gas-powered tools and machinery may be required. Cleared brush would either be burned or would decay naturally.

**Project 2:** a large commercial development is proposed in an suburban context. Heavy-duty machinery would be required in various construction phases spanning many months. Following construction, the development would rely on electricity, water and wastewater services from the local utilities. Natural gas burners would be used on site. The development would employ several hundred workers and attract thousands of customers daily. A traffic study has been prepared for the project. The local air quality management district’s guidance document recommends that projects of similar size and character should use of URBEMIS, or another similar model, to estimate the air quality impacts of the development.

In the context of Project 2 a quantitative analysis would likely be appropriate. The URBEMIS model, which would likely be used to analyze other emissions, could also be used to estimate emissions from both project-related transportation and on-site indirect emissions (landscaping, hot-water heaters, etc.) Modeling is typically done for projects of like size and character. Other models are readily available to estimate emissions associated with utility use. In the context of Project 2, a lead agency may



find it difficult to demonstrate a good faith effort through a purely qualitative analysis. (See, e.g., *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1370.)

In the context of Project 1, however, a qualitative analysis would likely be appropriate. Project 1's emissions are not easily modeled, and the Project is small in scale. While it may be technically possible, quantification of the emissions may not reveal any additional information that indicates the significance of those emissions or how they may be reduced that could not be provided in a qualitative assessment of emissions sources. (See, e.g., Public Resources Code, § 21003(f) ("public agencies involved in the environmental review process be responsible for carrying out the process in the most efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources with the objective that those resources may be better applied toward the mitigation of actual significant effects on the environment").)

#### Factors Potentially Indicating Significance

The qualitative factors listed in the proposed section 15064.4(b) are intended to assist lead agencies in collecting and considering information relevant to a project's incremental contribution of GHG emissions and the overall context of such emissions. Notably, while subdivision (b) provides a list of factors that should be considered by public agencies in determining the significance of a project's GHG emissions, other factors can and should be considered as appropriate.

#### Determine Whether Emissions Will Increase or Decrease

The first factor in subdivision (b), for example, asks lead agencies to consider whether the project will result in an increase or decrease in different types of GHG emissions relative to the existing environmental setting. All project components, including construction and operation, equipment and energy use, and development phases must be considered in this analysis. (State CEQA Guidelines, § 15378 (project includes "the whole of the action").) For example, a mass transit project may involve GHG emissions during its construction phase, but substantial evidence may also indicate that it will cause existing commuters to switch from single-occupant vehicles to mass transit use. Operation of such a project may ultimately result in a decrease in GHG emissions. Such analysis, provided that it is supported with substantial evidence and fully accounts for all project emissions, may support a lead agency's determination that GHG emissions associated with a project are not cumulatively considerable.

This section's reference to the "existing environmental setting" reflects existing law requiring that impacts be compared to the environment as it currently exists. (State CEQA Guidelines, § 15125.) This clarification is necessary to avoid a comparison of the project against a "business as usual" scenario as defined by ARB in the Scoping Plan. Such an approach would confuse "business as usual" projections used in ARB's Scoping Plan with CEQA's separate requirement of analyzing project effects in

comparison to the environmental baseline. (*Compare* Scoping Plan, at p. 9 (“The foundation of the Proposed Scoping Plan’s strategy is a set of measures that will cut greenhouse gas emissions by nearly 30 percent by the year 2020 as compared to business as usual”) *with Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1278 (existing environmental conditions normally constitute the baseline for environmental analysis); see also *Center for Bio. Diversity v. City of Desert Hot Springs*, Riverside Sup. Ct. Case No. RIC464585 (August 6, 2008) (rejecting argument that a large subdivision project would have a “beneficial impact on CO2 emissions” because the homes would be more energy efficient and located near relatively uncongested freeways).) Business as usual may be relevant, however, in the discussion of the “no project alternative” in an EIR. (State CEQA Guidelines, § 15126.6(e)(2) (no project alternative should describe what would reasonably be expected to occur in the future in the absence of the project).)

Notably, section 15064.4(b)(1) is not intended to imply a zero net emissions threshold of significance. As case law makes clear, there is no “one molecule rule” in CEQA. (CBE, *supra*, 103 Cal.App.4th at 120.)

### Thresholds of Significance

The second factor in subdivision (b) asks whether a project exceeds a threshold of significance for GHG emissions. Section 21000(d) of the Public Resources Code expressly directs public agencies to identify whether there are any critical thresholds for health and safety to identify those areas where the capacity of the environment is limited. A threshold is an “identifiable quantitative, qualitative or performance level” at which impacts are normally less than significant. (State CEQA Guidelines, § 15064.7(a); see also *Protect the Historic Amador Waterways*, *supra*, 116 Cal.App.4th at 1107.) Lead agencies may rely on thresholds developed by other agencies that have particular expertise in the subject matter under consideration. (See, e.g., State CEQA Guidelines, Appendix G, Sample Question III (“[w]here available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make” a significance determination).) For example, a lead agency may look to standards included in a Basin Plan to assist in the determination of whether water quality impacts are significant. (*Protect the Historic Amador Waterways*, *supra*, 116 Cal.App.4th at 1107 (“[s]uch thresholds can be drawn from existing environmental standards, such as other statutes or regulations”).)

Several agencies have developed, or are in the process of developing, thresholds of significance for GHG emissions.<sup>3</sup> For example, thresholds are currently being developed, or have already been adopted by the Bay Area Air Quality Management District for operations and construction,<sup>4</sup> the City of Davis for residential

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<sup>3</sup> Reference to these thresholds and proposed thresholds does not reflect an endorsement of those thresholds; rather, they are cited solely for the purpose of demonstrating that agencies are developing such thresholds.

<sup>4</sup> BAAQMD CEQA Guidelines Update: work in progress - <http://www.baaqmd.gov/pln/ceqa/index.htm>.

developments,<sup>5</sup> and the South Coast Air Quality Management District for industrial projects.<sup>6</sup> Regardless of the threshold chosen, however, this section does not alter the pre-existing rule under CEQA that if substantial evidence supports a fair argument that a project may result in significant impacts, despite compliance with a threshold, an EIR must be prepared. (*Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342.) Further, “in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect.” (*Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at 1109.)

Consistent with the above, if relying on a threshold developed by another agency, lead agencies must exercise caution in selecting a threshold to ensure that the threshold is appropriately applied. For CEQA purposes, a threshold identifies a level below which an environmental impact will normally be less than significant. (State CEQA Guidelines, § 15064.7(a).) Some agencies have adopted “thresholds” pursuant to other laws that may not be applicable in the CEQA context. ARB has adopted several thresholds pursuant to AB32, for example, to address specific purposes that are unrelated to CEQA. For example, the *de minimis* threshold governs the level at which emissions will be regulated by ARB’s AB32 regulations. (Health & Safety Code, § 38561(e); Scoping Plan, at pp. 96-97.) CEQA does not permit use of a *de minimis* threshold, however. (*CBE, supra*, 103 Cal.App.4th at p. 121.) Additionally, the Reporting Threshold is the level at which emissions from large industrial sources are required to be reported. (Scoping Plan, at pp. 108-109; see also CARB Board Resolution 07-54 (2007).) Again, this reporting threshold reflects a policy decision regarding regulation by the ARB, but does not address the level at which environmental harm may occur, and does not satisfy a lead agency’s duties under CEQA related to review of projects which may result in significant adverse environmental impacts.

### Consistency with a Plan or Regulation

Finally, the third factor in subdivision (b) directs consideration of the extent to which a project complies with a plan or regulation to reduce GHG emissions. That section further states, however, that to be used for the purpose of determining significance, a plan must contain specific requirements that result in reductions of GHG emissions to a less than significant level. This clarification is necessary because of the wide variety of climate action plans and GHG reduction plans that are currently being adopted by public agencies. ARB, for example, recently adopted its statewide Scoping Plan. That plan may not be appropriate for use in determining the significance of individual projects, however, because it is conceptual at this stage and relies on the future development of regulations to implement the strategies identified in the Scoping

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<sup>5</sup> City of Davis (2009) Greenhouse Gas Emission Threshold and Standards for New Residential Development; Accessed 5/27/09, [http://cityofdavis.org/pgs/sustainability/pdfs/15\\_4.21.09\\_GHG%20Standards.pdf](http://cityofdavis.org/pgs/sustainability/pdfs/15_4.21.09_GHG%20Standards.pdf)

<sup>6</sup> SCAQMD (2008) Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans, Accessed 5/27/09 <http://www.aqmd.gov/hb/2008/December/081231a.htm>.

Plan. (Scoping Plan, at p. 9.) Regulations that will require actual reductions of GHG emissions may not be adopted until 2012. (*Ibid.*) Once those regulations are adopted and being implemented, they may, if appropriate, be used to assist in the determination of significance, similar to the current use of air quality, water quality and other similar environmental regulations. (*CBE, supra*, 103 Cal. App. 4th at 111 (“a lead agency’s use of existing environmental standards in determining the significance of a project’s environmental impacts is an effective means of promoting consistency in significance determinations and integrating CEQA environmental review activities with other environmental program planning and regulation”).)

In addition to the regulations that will be developed to implement the Scoping Plan, this factor would also allow lead agencies to consider plans that are developed to reduce GHG emissions on a regional or local level. (Scoping Plan, at p. 26.) The proposed section 15064.4(b)(3) is intended to be read in conjunction with the section 15064(h)(3), as proposed to be amended, and proposed section 15183.5. Those sections each indicate that local and regional plans may be developed to reduce GHG emissions. If such plans reduce community-wide emissions to a level that is less than significant, a later project that complies with the requirements in such a plan may be found to have a less than significant impact.

Notably, CEQA does not provide a specific definition of “comply” in the context of determining a project’s consistency with a particular plan. Some guidance may be gleaned, however, from case law interpreting the requirement that a local government’s activities be consistent with its General Plan. In that context, a “zoning ordinance [for example] is consistent with the city’s general plan where, considering all of its aspects, the ordinance furthers the objectives and policies of the general plan and does not obstruct their attainment.” (*City of Irvine v. Irvine Citizens Against Overdevelopment* (1994) 25 Cal. App. 4th 868, 879.) Reading section 15064.4 together with 15064(h)(3), however, to demonstrate consistency with an existing GHG reduction plan, a lead agency would have to show that the plan actually addresses the emissions that would result from the project. Thus, for example, a subdivision project could not demonstrate “consistency” with the ARB’s Early Action Measures because those measures do not address emissions resulting from a typical housing subdivision. (ARB, Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California Recommended for Board Consideration, October 2007; see also State CEQA Guidelines, §§ 15063(d)(3) (initial study must be supported with information to support conclusions), 15128 (determination in an EIR that an impact is less than significant must be briefly explained).)

## **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) A key component of environmental analysis under CEQA is the determination of significance. (*Id.* at § 21002; *Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at

1106-07.) The new section 15064.4, on determining the significance of impacts of GHG emissions, is therefore necessary to carry out this legislative directive.

**Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the Amendments were proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

## **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for determining the significance of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to “meaningfully attempt to quantify the Project’s potential impacts on GHG emissions and determine their significance” or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).)<sup>7</sup> Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, by providing greater certainty to lead agencies regarding the determination of significance of GHG emissions, the cost of environmental analysis, and potential litigation, may be reduced.

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<sup>7</sup> Federal court decisions interpreting NEPA is persuasive authority in CEQA cases. (*Western Placer Citizens for an Ag. & Rur. Env. v. County of Placer* (2006) 144 Cal.App. 4th 890, 902.)

## **SECTION 15064.7. THRESHOLDS OF SIGNIFICANCE**

### **Specific Purposes of the Amendment**

Proposed subdivision (c) of section 15064.7 would allow a lead agency to adopt a threshold developed by another agency, or recommended by experts, provided that such threshold is supported with substantial evidence. This proposed regulation is reasonably necessary because many lead agencies perform general governmental functions, and may lack the specific expertise necessary to develop their own thresholds of significance for GHG emissions. Such agencies may rely on thresholds developed by other agencies with specialized expertise (such as an air quality management district) in conducting their CEQA analyses. (OPR, Thresholds of Significance: Criteria for Defining Environmental Significance, September 1994, at p. 7.) In fact, Appendix G of the State CEQA Guidelines expressly encourages lead agencies to rely on thresholds established by local air quality management districts. (State CEQA Guidelines, Appendix G, Question III.)

Several local and regional air districts are in the process of developing thresholds for GHG emissions. As noted above, for example, thresholds are currently being developed, or have already been adopted by the Bay Area Air Quality Management District for operations and construction, the City of Davis for residential developments, and the South Coast Air Quality Management District for industrial projects. Lead agencies within the jurisdiction of an air district, or other agency, that adopts a GHG emissions threshold may adopt such a threshold as its own. In adopting any threshold of significance, including one developed by an expert or agency with specialized expertise, the lead agency must support the threshold with substantial evidence in the administrative record. (State CEQA Guidelines, § 15064.7(b).)

Independent experts may also develop such thresholds for use by public agencies. For example, the California Air Pollution Control Officers Association has published a White Paper on developing thresholds of significance for GHG emissions. (CAPCOA White Paper, at pp. 31-58.) A lead agency could potentially use CAPCOA's suggestions in developing its own thresholds. Because any threshold must be supported with substantial evidence, and must be adopted through a public process, any threshold recommended by an expert that is ultimately adopted will undergo sufficient scrutiny to ensure its legitimacy. (State CEQA Guidelines, § 15064.7(b).)

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) Defining "significance" is a critical step in the lead agency's impact analysis and therefore needs to be addressed as part of the Proposed Action. Section 21000(d) of the Public Resources Code encourages the development of thresholds. These sections together

require OPR and the Resources Agency to develop and adopt regulations governing the adoption of thresholds of significance for GHG emissions.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for determining the significance of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.



Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, by providing greater certainty to lead agencies regarding the determination of significance of GHG emissions, the cost of environmental analysis, and potential litigation, may be reduced.

## **SECTION 15065. MANDATORY FINDINGS OF SIGNIFICANCE**

### **Specific Purposes of the Amendment**

The amendment to section 15065(b)(1) would change the word “preliminary” to “public.” The purpose of this amendment is to make section 15065 consistent with section 21064.5 of the Public Resources Code. The latter provision defines a mitigated negative declaration to be a negative declaration where mitigation measures are added to a project “before the proposed negative declaration and initial study are released for *public* review[.]” (State CEQA Guidelines, § 15070(b)(1).) In contrast, existing CEQA Guidelines section 15065(b)(1), dealing with mandatory findings of significance, would require a commitment to mitigation prior to “preliminary” review. “Preliminary Review,” as that term is used in section 15060, refers to a period following receipt of an application during which a lead agency determines whether an exemption applies to the project or whether an EIR would clearly be prepared. Read literally, existing section 15065 would require a commitment to mitigation before an initial study is even conducted. Because the statutory definition of mitigated negative declaration contemplates that mitigation measures may be developed during the preparation of the initial study prior to public review, the change in 15065 from “preliminary” to “public” is appropriate.

### **Necessity**

Section 21083 of the Public Resources Code directs OPR to develop, and the Resources Agency to adopt, guidelines on the implementation of CEQA. The Amendment is necessary to ensure that those guidelines are consistent with relevant statutory definitions.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency’s Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency’s determination that the Amendments would make the existing Guidelines easier to follow as a result of greater internal consistency. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

## **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific existing statutory CEQA provisions and/or case law interpreting CEQA. Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, by providing greater consistency within the Guidelines, the cost of environmental analysis, and potential litigation, may be reduced.

## **SECTION 15086. CONSULTATION CONCERNING DRAFT EIR**

The revision to this section is a non-substantive correction to this section's reference to the California Air Resources Board. This revision, therefore, qualifies as a "change without regulatory effect" pursuant to section 100(a)(4) of the Office of Administrative Law's regulations governing the rulemaking process. (Cal. Code Regs., tit. 1, § 100(a)(4).)

## **SECTION 15093. STATEMENT OF OVERRIDING CONSIDERATIONS**

### **Specific Purposes of the Amendment**

Section 21081(b) of the Public Resources Code provides that a lead agency may approve or carry out a project with significant and unavoidable impacts only after the lead agency makes a finding that “specific overriding economic, legal, social, technical or other benefits of the project outweigh the significant effects on the environment.” The State CEQA Guidelines describes the factors that a lead agency must weigh in determining whether to approve a project with adverse environmental effects:

CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

(State CEQA Guidelines, § 15021(d).) The California Supreme Court has further observed that “an agency’s decision that the specific benefits a project offers outweigh any environmental effects that cannot feasibly be mitigated ... lies at the core of the lead agency’s discretionary responsibility under CEQA...” (*City of Marina v. Board of Trustees of Cal. State Univ* (2006) 39 Cal.4th 341, 368.)

In the context of GHG emissions, some projects may cause adverse environmental impacts but still provide an overall benefit of reducing GHG emissions on a statewide or regional level. For example, a city may make a policy choice to allow increased housing density within a jobs-rich region in order to reduce region-wide GHG emissions from vehicles and transportation. (See, e.g., 2007 IEPR, at p. 210.) Though the introduction of new housing within the jurisdiction may result in near-term or local adverse impacts related to GHG emissions, doing so may assist the region as a whole in meeting region-wide reduction targets. Thus, subdivision (a) of section 15093 was revised to expressly allow a lead agency to consider this type of environmental benefit of a project in making a statement of overriding considerations.

The revision to section 15093(a) accomplishes two objectives. First, it reminds lead agencies and the public that even a project that appears environmentally beneficial may itself cause adverse environmental impacts, and such impacts must undergo full CEQA review, and, if applicable, a statement of overriding considerations. Second, it discourages purely local interests from dominating consideration of a project by expressly allowing a lead agency to consider region- and statewide benefits of a project. Further, “economic, legal, social, technical and other benefits” could be interpreted to refer to local benefits. This addition would ensure that lead agencies may consider

regional and statewide benefits in considering a project's adverse impacts. Finally, the proposed addition makes clear, consistent with section 15021(d) of the existing State CEQA Guidelines, that the lead agency may consider environmental benefits to balance a project's significant adverse environmental effects that remain even after the adoption of all available feasible mitigation measures.

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) If a lead agency determines that a project's GHG emissions will result in significant and unavoidable impacts, a lead agency may only approve the project if it makes specified findings. (*Id.* at § 21081(b).) This amendment is necessary to ensure that a lead agency considers state-wide and regional benefits of a project in addition to purely local benefits. Because consideration of state-wide and region-wide benefits may also apply to impacts unrelated to GHG emissions, the amendment was worded broadly to address any significant environmental impact.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the proposed revisions. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and/or make specific statutory CEQA provisions and case law interpreting CEQA for making statements of overriding considerations. Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California.

## **SECTION 15125. ENVIRONMENTAL SETTING**

### **Specific Purposes of the Amendment**

Section 15125 reflects existing law requiring examination of project impacts in relation to the existing environment. Subsection (d) states that lead agencies should consider whether the proposed project is inconsistent with applicable local and regional plans. That subsection provides a non-exclusive list of plans for potential consideration. The Amendments would add specific plans, regional blueprint plans and greenhouse gas reduction plans to subdivision (d). The added plans are necessary to ensure that GHG emissions analyses in such plans are addressed.

### Specific Plans

Specific Plans address a defined geographic area within the area covered by a General Plan. (Gov. Code, § 65450 (“After the legislative body has adopted a general plan, the planning agency may, or if so directed by the legislative body, shall, prepare specific plans for the systematic implementation of the general plan for all or part of the area covered by the general plan”).) Specific Plans must contain “[s]tandards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.” (*Id.* at § 65451(a)(3).) Thus, given that so many local governments are addressing GHG emissions in their policy documents, and that Specific Plans must contain standards and criteria, it is likely that Specific Plans may address GHG emissions, and consistency with adopted Specific Plans should be considered in EIRs.

### Regional Blueprint Plans

Regional Blueprint Plans are being developed in many of California’s Metropolitan Planning Organizations through grants provided by the California Department of Transportation. While originally designed to address transportation efficiencies, Regional Blueprint Plans typically involve smart growth planning with an aim to reducing vehicle miles traveled at a regional level. As a result, Regional Blueprint Plans can provide information regarding the region’s existing transportation setting and identify methods to reduce region-wide transportation-related impacts. (Scoping Plan, Appendix C, at pp. C-74-C-84.) Land use decisions impact many sectors responsible for GHG emissions, including transportation, electricity, water, waste, and others. However, the primary impact of land use development on GHG emissions relates to vehicle use. (Land Use Subcommittee of the Climate Action Team, *LUSCAT Submission to CARB Scoping Plan on Local Government, Land Use, and Transportation* (2008), at p. 13.) Blueprint Plans highlight this relationship between land use and transportation and how this relationship may impact a local community’s and region’s GHG emissions. Analysis of GHG reduction is not required by Blueprint grants but it is recommended. Therefore, Blueprint Plans provide an indication of the GHG emissions potentially created or reduced by the plan. (LUSCAT (2009), at p. 30.) Given the large percentage of GHG emissions that result from transportation in

California, a project's consistency with a Regional Blueprint Plan can provide information indicating whether the project could have significant environmental impacts related to GHG emissions. (*Ibid.*) Regional Blueprint Plans may, therefore, provide evidence to assist the lead agency in determining whether a project may tend to increase or decrease GHG emissions relative to the existing baseline. Thus, where such a plan has been developed and adopted by an MPO, lead agencies may find it useful to evaluate the project's consistency with that Blueprint Plan.

### Plans for the Reduction of Greenhouse Gas Emissions

The Amendments would add plans for the reduction of greenhouse gas emissions to the list of plans in section 15125(d). Many local and regional plans now include policies relating to, and analyses of, GHG emissions. (OPR, Book of Lists, at pp. 92-100; Scoping Plan, at p. 26.) Many such plans include detailed information on the jurisdiction's inventory of GHG emissions and measures to reduce such emissions. (*Ibid.*) Such plans may also include prescriptions for specific mitigation measures to address GHG emissions. (Scoping Plan, Appendix C, at p. C-49.) Where such a plan has been developed and adopted within the relevant jurisdiction, a project's inconsistency with that plan could be an indication of potential adverse environmental impacts.

Notably, while section 15125(d) requires an EIR to discuss any inconsistencies of a project with the listed plans, it does not mandate a finding of significance resulting from any identified inconsistencies. The plans simply provide information regarding the project's existing setting and inconsistency may be an indication of potentially significant impacts. The determination of significance is to be made by the lead agency.

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines addressing the mitigation of GHG emissions and the effects of the GHG emissions. (Pub. Resources Code, § 21083.05.) As indicated above, one potential indicator of a project's potential GHG emissions impacts is whether the project is consistent with applicable plans that have addressed that impact. Thus, the addition of plans that may address GHG emissions to the list of plans in the existing section 15125 is reasonably necessary to ensure that such analysis occurs.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to



implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analyzing the effects of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to “meaningfully attempt to quantify the Project’s potential impacts on GHG emissions and determine their significance” or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the amendments to this section are intended to reduce the costs of environmental review on lead agencies and project applicants by encouraging the use of existing environmental information where available. (Pub. Resources Code, § 21003(d) (use information in existing EIRs in order to reduce duplication), (f) (environmental review should proceed in the most efficient manner possible).)

## **SECTION 15126.2. CONSIDERATION AND DISCUSSION OF SIGNIFICANT ENVIRONMENTAL EFFECTS.**

Amendments are proposed to two subdivisions of the existing section 15126.2. The first, to subdivision (c), adds a cross-reference to the Public Resources Code and another section of the State CEQA Guidelines. This revision, therefore, qualifies as a “change without regulatory effect” pursuant to section 100(a)(4) of the Office of Administrative Law’s regulations governing the rulemaking process. (Cal. Code Regs., tit. 1, § 100(a)(4).) The second change, made in response to public comments, adds a sentence to the end of existing subdivision (a). That change is described in greater detail below.

### **Specific Purposes of the Amendment**

Several comments submitted as part of the Natural Resources Agency’s SB97 rulemaking process urged it to develop guidance addressing the analysis of the impacts of climate change on a project. These comments similarly suggested that such guidance was appropriate in light of the release of the draft California Climate Adaptation Strategy (Adaptation Strategy), developed pursuant to Executive Order S-13-2008. In considering such comments, it is important to understand several key differences between the Adaptation Strategy and the California Environmental Quality Act. First, the Adaptation Strategy is a policy statement that contains recommendations; it is not a binding regulatory document. Second, the Adaptation Strategy focuses on how the State can plan for the effects of climate change. CEQA’s focus, on the other hand, is the analysis of a particular project’s greenhouse gas emissions on the environment, and mitigation of those emissions if impacts from those emissions are significant. Given these differences, CEQA should not be viewed as the tool to implement the Adaptation Strategy; rather, as indicated in the Strategy’s key recommendations, advanced programmatic planning is the primary method to implement the Adaptation Strategies.

There is some overlap between CEQA and the Adaptation Strategy, however. As explained in both the Initial Statement of Reasons and in the Adaptation Strategy, section 15126.2 may require the analysis of the effects of a changing climate under certain circumstances. (Initial Statement of Reasons, at pp. 68-69.) In particular, Section 15126.2 already requires an analysis of placing a project in a potentially hazardous location. Further, several questions in the Appendix G checklist already ask about wildfire and flooding risks. Many comments on the proposed amendments asked for additional guidance, however.

Having reviewed all of the comments addressing the effects of climate change, the Natural Resources Agency revised the proposed amendments to include a new sentence in Section 15126.2 clarifying the type of analysis that would be required. Existing section 15126.2(a) provides an example of a potential hazard requiring analysis: placing a subdivision on a fault line. The new sentence adds further examples, as follows:

Similarly, the EIR should evaluate any potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.

According to the Office of Planning and Research, at least sixty lead agencies already require this type of analysis. (California Governor's Office of Planning and Research, State Clearinghouse, The California Planners' Book of Lists (January, 2009), at p. 109.) This addition is reasonably necessary to guide lead agencies as to the scope of analysis of a changing climate that is appropriate under CEQA.

As revised, section 15126.2 would provide that a lead agency should analyze the effects of bringing development to an area that is susceptible to hazards such as flooding and wildfire, both as such hazards currently exist or may occur in the future. Several limitations apply to the analysis of future hazards, however. For example, such an analysis may not be relevant if the potential hazard would likely occur sometime after the projected life of the project (i.e., if sea-level projections only project changes 50 years in the future, a five-year project may not be affected by such changes). Additionally, the degree of analysis should correspond to the probability of the potential hazard. (State CEQA Guidelines, § 15143 ("significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence".)) Thus, for example, where there is a great degree of certainty that sea-levels may rise between 3 and 6 feet at a specific location within 30 years, and the project would involve placing a wastewater treatment plant with a 50 year life at 2 feet above current sea level, the potential effects that may result from inundation of that plant should be addressed. On the other extreme, while there may be consensus that temperatures may rise, but the magnitude of the increase is not known with any degree of certainty, effects associated with temperature rise would not need to be examined. (State CEQA Guidelines, § 15145 ("If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate the discussion of the impact".)) Lead agencies are not required to generate their own original research on potential future changes; however, where specific information is currently available, the analysis should address that information. (State CEQA Guidelines, § 15144 (environmental analysis "necessarily involves some degree of forecasting. While seeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can".))

The decision in *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464, does not preclude this analysis. In that case, the First District Court of Appeal held that a county was not required to prepare an EIR due solely to pre-existing soil contamination that the project would not change in any way. (Id. at 1468.) No evidence supported the petitioner's claim that the project would "expose or exacerbate" the pre-existing contamination, which was located several hundred to several thousand feet from the project site. (Id. at n. 1.) Moreover, the project would have no other significant effects on the environment, and other statutes exist to protect residents from contaminated soils. Thus, the question confronting that court was whether pre-existing contamination near the project was, by itself, enough to require preparation of an EIR. It held that, in those circumstances, an EIR was not required. That court also acknowledged, however, that where there is a potential for ultimately changing the environment, an EIR could be required. (Id. at p. 1469.) Thus, unlike the circumstances in the *Baird* case, the analysis required in section 15126.2(a) would occur if an EIR was otherwise required. Similarly, the addition to that section contemplates hazards which the presence of a project could exacerbate (i.e., potential upset of hazardous materials in a flood, increased need for firefighting services, etc.).

This revision was described in the Natural Resources Agency's Notice of Proposed Changes and the public was invited to present comments on that change. The Natural Resources Agency determined that the change was sufficiently related to the original proposal described in the Notice of Proposed Action, so a fifteen day comment period was appropriate. It is sufficiently related because the Notice of Proposed Action explained that the rulemaking activity was intended to address the directive in SB97 to provide guidelines on the analysis of the "effects of greenhouse gas emissions." As explained in the Initial Statement of Reasons, the Natural Resources Agency initially chose not to provide specific guidance on the analysis of the effects of placing development in an area subject to the effects of climate change because the Agency interpreted existing section 15126.2(a) to already require that analysis under certain circumstances. As indicated above, however, many comments on the proposed amendments suggested revisions to section 15126.2(a) to provide additional guidance. The areas susceptible to hazards include those that may result from a changing climate. Thus, the change is sufficiently related that a reasonable person would be put on notice that such a change could occur as a result of the rulemaking activity described in the Notice of Proposed Action.

Finally, following review of comments on this revision, the Natural Resources Agency clarified that this analysis applies only to "potentially significant" effects of locating developing in areas susceptible to hazards. Because this revision clarifies the last sentence in section 15126.2(a), consistent with the Public Resources Code, and does not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the originally proposed text, this revision is nonsubstantial and need not be circulated for additional public review. (Government Code, § 11346.8(c); Cal. Code Regs., tit. 1, § 40.)

## **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines addressing the analysis of the effects of GHG emissions. (Pub. Resources Code, § 21083.05.) As explained above, the effects of GHG emissions include flooding, sea-level rise and wildfires. Thus, the addition of a clarifying sentence to existing section 15126.2(a), requiring analysis of the effects of placing developing in hazardous locations, is reasonably necessary to ensure that such analysis occurs with respect to areas subject to potential hazards resulting from climate change.

## **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

## **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analyzing the effects of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to

investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, by providing greater certainty to lead agencies regarding the analysis that may be required of the potential effects of climate change on a project, the cost of environmental analysis, and potential litigation, may be reduced.

## **SECTION 15126.4. CONSIDERATION AND DISCUSSION OF MITIGATION MEASURES PROPOSED TO MINIMIZE SIGNIFICANT EFFECTS.**

### **Specific Purposes of the Amendment**

Section 21083.05 of the Public Resources Code expressly requires OPR and the Resources Agency to develop regulations on the “mitigation of greenhouse gas emissions.” The goals of this legislative mandate are to (1) reduce GHG emissions and (2) to provide consistency in the development of GHG emissions reduction measures. There is no indication, however, that the Legislature intended to alter any existing laws governing mitigation under CEQA. The Amendments, therefore, interpret and make specific existing CEQA law and regulations for mitigation of significant impacts resulting from GHG emissions.

Existing section 15126.4 provides guidance on CEQA’s general mitigation requirements. To emphasize that mitigation of GHG emissions is subject to those existing CEQA requirements, OPR and the Natural Resources Agency added a new subdivision (c) to the existing section 15126.4. The Amendments identify five general methods of mitigation that may be tailored to the specific circumstances surrounding a specific project. In response to public comments, the Natural Resources Agency provided additional guidance, described below, in the lead-in sentences introducing those five broad categories of mitigation.

### Mitigation of Greenhouse Gas Emissions

Comments submitted on the Amendments indicated general concerns that mitigation for GHG emissions may not be effective or reliable. To further clarify the existing mitigation requirements that would apply to measures to reduce greenhouse gas emissions, the Natural Resources Agency revised the lead-in sentences in subdivision (c). Specifically, the Natural Resources Agency added that all mitigation must be supported with substantial evidence and be capable of monitoring or reporting. This addition reflects the requirement in Public Resources Code that a lead agency’s findings on mitigation be supported with substantial evidence and that it must adopt a mitigation monitoring and reporting program along with the project if mitigation measures are required. (Public Resources Code, §§ 21081(a)(1), 21081.6.)

In response to comments, the Natural Resources Agency had originally also proposed to add a sentence indicating that only emissions reductions that were not required by some other law or contract could qualify as mitigation. In response to comments on that proposed revision, that sentence is no longer proposed to be added to the lead-in section; rather, subdivision (c)(3) will be clarified, as described below.

### Mitigation Identified in an Existing Plan

The first type of mitigation of GHG emissions that may be considered includes measures identified in an existing plan. As indicated above, many agencies are

beginning to address GHG emissions at a planning level. (OPR, Book of Lists, at pp. 92-100.) Some of those GHG reduction plans include specific measures that may be applied on a project-by-project basis. (*Ibid*; see also Scoping Plan, Appendix C, at p. C-49.) Proposed subdivision (c)(1), therefore, would encourage lead agencies to look to adopted plans for sources of mitigation measures that could be applied to specific projects.

### Project Design Features

The second type of measure that a lead agency should consider is project design features that will reduce project emissions. Various project design features could be used to reduce GHG emissions from a wide variety of projects. The CAPCOA White Paper provides examples of various project design features that may reduce emissions from commercial and residential buildings. (CAPCOA White Paper, at pp. B-13 to B-18.) For example, according to the California Energy Commission, “[r]esearch shows that increasing a community’s density and its accessibility to jobs centers are the two most significant factors for reducing vehicle miles traveled,” which is an important component of reducing statewide emissions. (California Energy Commission 2007, *2007 Integrated Energy Policy Report*, CEC-100-2007-008-CMF (“2007 IEPR”), at p. 12; see also CEC, *The Role of Land Use in Meeting California’s Energy and Climate Goals* (2007) at p. 20.) This subdivision also refers specifically to measures identified in Appendix F, which include a variety of measures designed to reduce energy use. By encouraging lead agencies to consider changes to the project itself, this subdivision further encourages the realization of co-benefits such as reduced energy costs for project occupants, increased amenities for non-vehicular transportation, and others. Thus, project design can reduce GHG emissions directly through efficiency and indirectly through resource conservation and recycling. (Green Building Sector Subgroup of the Climate Action Team, *Scoping Plan Measure Development and Cost Analysis* (2008) at p. 6 to 9.)

### Off-Site Measures

The third type of measures addressing GHG emissions is off-site measures including offsets. Proposed subdivision (c)(3) recognizes the availability of various off-site mitigation measures. Such measures could include, among others, the purchase of carbon offsets, community energy conservation projects, and off-site forestry projects. (See, e.g., South Coast Air Quality Management District, *SoCal Climate Solutions Exchange* (June 2008), at pp.1; Rodeo Refinery Settlement Agreement, BAAQMD Carbon Offset Fund; Recommendations of the ETAAC, *Final Report* (February 2008) at pp. 9-5; ARB, *Staff Report: Proposed Adoption of California Climate Action Registry Forestry Greenhouse Gas Protocols for Voluntary Purposes* (October 17, 2007), at p. 15 (“[t]he three protocols together – the sector, project, and certification protocols – are a cohesive and comprehensive set of methodologies for forest carbon accounting, and furthermore contain all the elements necessary to generate high quality carbon credits”); see also Scoping Plan, Appendix C, at pp. C-21 to C-23.) Off-site mitigation may be appropriate under various circumstances. For example, such mitigation may be



appropriate where a project is incapable of design modifications that would sufficiently reduce GHG emissions within the project boundaries. In that case, a lead agency could consider whether emissions reductions may be achieved through such measures as energy-efficiency upgrades within the community or reforestation programs.

The reference to “offsets” in subdivision(c)(3) generated several comments during the public review period. The offsets concept is familiar in other aspects of air quality regulation. The Federal Clean Air Act, for example, provides that increases in emissions from new or modified sources in a nonattainment area must be offset by reductions in existing emissions within the nonattainment area. (See, e.g., 42 U.S.C. § 7503(a)(1)(A).) California laws also apply to offsets and emissions credits. (See, e.g., Health & Saf. Code, § 39607.5.) Those other laws generally require that emissions offsets must be “surplus” or “additional”. Comments on the proposed amendments suggested that to be used for CEQA mitigation purposes, offsets should also be “additional.” Thus, the Natural Resources Agency further refined the revisions it publicized on October 23, 2009, by deleting the lead-in sentence stating that “Reductions in emissions that are not otherwise required may constitute mitigation pursuant to this subdivision,” and amending subdivision (c)(3) to state that mitigation may include “Off-site measures, including offsets that are not otherwise required, to mitigate a project’s emissions[.]”

Moving this concept from the general provisions on mitigation of greenhouse gas emissions to the provision on offsets does not materially alter the rights or conditions in the originally proposed text because the “not otherwise required” concept would only make sense in the context of offsets. Because this revision clarifies section 15126.4(c)(3), consistent with the Public Resources Code and cases interpreting it, and does not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the originally proposed text, this revision is nonsubstantial and need not be circulated for additional public review. (Government Code, § 11346.8(c); Cal. Code Regs., tit. 1, § 40.)

### Sequestration

The fourth type of GHG emissions mitigation measure is sequestration. Indeed, one way to reduce a project’s GHG emissions is to sequester project-related GHG emissions and thereby prevent them from being released into the atmosphere. At present, the most readily available, and accountable, way to sequester GHGs is forest management. California forests have a “unique capacity to remove [carbon dioxide, a GHG,] from the air and store it long-term as carbon.” (Scoping Plan, Appendix C, at p. C-165.) Forest sequestration functions are, therefore, a key part of the ARB’s Scoping Plan and reduction effort. (Scoping Plan, at pp. 64-65.)

The California Climate Action Team has also identified several forest-related sequestration strategies, including, reforestation, conservation forest management, conservation (i.e., avoided development), urban forestry, and fuels management and biomass. (ARB, Staff Report: Proposed Adoption of California Climate Action Registry

Forestry Greenhouse Gas Protocols for Voluntary Purposes (October 17, 2007), at pp. 6-7.) ARB has adopted Forest Protocols for large forestry projects. (ARB, Resolution 07-44 (adopting California Climate Action Registry Forestry Sector Protocol (September 2007), Forest Project Protocol (September 2007) and Forest Verification Protocol (May 2007).) ARB has also adopted Urban Forest Protocols for urban forestry projects. (California Climate Action Registry, Urban Forest Project Reporting Protocol and Verification Protocol (August 2008) (ARB adopted on September 25, 2008).) Such projects could be located on the project site or off-site. (Urban Forest Project Reporting Protocol, at pp. 4-5.) The protocols include methods of measuring the ability of various forestry projects to store capture and store carbon.

Consistent with section 15126.4(a), a lead agency must support its choice of, and its determination of the effectiveness of, any reduction measures with substantial evidence. Substantial evidence in the record must demonstrate that any mitigation program or measure is will result in actual emissions reductions. As a practical matter, where a mitigation program or measure is consistent with protocols adopted or approved by an agency with regulatory authority to develop such a program, a lead agency will more easily be able to demonstrate that off-site mitigation will actually result in emissions reductions. Examples of such protocols include the forestry protocols described above. Where a mitigation proposal cannot be verified with an existing protocol, a greater evidentiary showing may be required.

#### Measures to be Implemented on a Project-by-Project Basis

Finally, the fifth type of measure that could reduce GHG emissions at a planning level is the development of binding measures to be implemented on a project-specific basis. As explained in greater detail in the discussion of proposed section 15183.5, below, ARB's Scoping Plan strongly encourages local agencies to develop plans to reduce GHG emissions throughout the community. In addition, the CEC's Power Plant Siting Committee is assessing the impacts of GHG emission from proposed new power plants and how they can be mitigated. Comments received during the CEC's informational proceedings warranted a lengthy discussion on the practical application of a programmatic approach to mitigating GHG emissions from new power plants. (CEC, *Committee Guidance on Fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts in Power Plant Siting Applications* (2009) at p. 26 to 28.) Existing State CEQA Guidelines sections 15168(b)(4) and 15168(c)(3) recognize that programmatic documents provide an opportunity to develop mitigation plans that will apply on a project-specific basis. Proposed subdivision (c)(5) recognizes that, for a planning level decision, appropriate mitigation of GHG emissions may include the development of a program to be implemented on a project-by-project basis. (State CEQA Guidelines, § 15126.4(a)(2) (“[i]n the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation or project design”).)

This type of mitigation is subject to the limits of existing law, however. Thus, proposed subdivision (c)(5) should not be interpreted to allow deferral of mitigation.

Rather, it is subject to the rule in existing section 15126.4(a)(1)(B) that such measures “may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” (See also *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal. App. 4th 645, 670-71.)

### Suggestions Rejected

During its public involvement process, OPR received comments on its preliminary draft of the proposed amendments related to mitigation. Some comments suggested provisions that were not included in these Proposed Amendments. Several comments, for example, suggested that the Guidelines provide a specific “hierarchy” of mitigation requiring lead agencies to mitigate GHG emissions on-site where possible, and to allow consideration and use of off-site mitigation only if on-site mitigation is impossible or insufficient. OPR and the Resources Agency recognize that there may be circumstances in which requiring on-site mitigation may result in various co-benefits for the project and local community, and that monitoring the implementation of such measures may be easier. However, CEQA leaves the determination of the precise method of mitigation to the discretion of lead agencies. (State CEQA Guidelines, § 15126.4(a)(1)(B); see also *San Franciscans Upholding the Downtown Plan v. City & Co. of San Francisco* (2002) 102 Cal. App. 4th 656, 697.)

Several comments also suggested that mitigation for GHG emissions must be “real, permanent, quantifiable, verifiable, and enforceable.” The Proposed Amendments do not include such standards, however, for several reasons. The proposed standard appears to have been derived from section 38562(d) of the Health and Safety Code, which prescribes requirements for regulations to be promulgated to implement AB32. AB32 is a separate statutory scheme, and, as noted above, there is no indication that the legislature intended to alter standards for mitigation under CEQA. Similarly, standards for mitigation under CEQA already exist and are set out in section 15126.4(a). Specifically, mitigation must be fully enforceable, which implies that the measure is also real and verifiable. Additionally, substantial evidence in the record must support an agency’s conclusion that mitigation will be effective, and in the context of an EIR, courts will defer to an agency’s determination of a measure’s effectiveness. (*Environmental Council of Sacramento v. City of Sacramento* (2006) 147 Cal.App.4th 1018, 1041 (mitigation ratio is supportable even at less than 1:1 given the project’s circumstances); *Ass’n of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1398 (lead agency has discretion to resolve dispute regarding the effectiveness of an EIR’s mitigation measures).) No existing law requires CEQA mitigation to be quantifiable. Rather, mitigation need only be “roughly proportional” to the impact being mitigated. (State CEQA Guidelines, § 15126.4(a)(4)(B); see also *id.* at § 15142.)

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the mitigation of GHG emissions. (Pub. Resources Code, § 21083.05.) The proposed subdivision (c) sets out types of mitigation of GHG emissions that a lead agency may consider. Thus, that subdivision is reasonably necessary to implement the Legislature's directive.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the proposed action and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the proposed action. This conclusion is based on the Resources Agency's determination that the proposed action is necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the proposed action adds no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the proposed revisions. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The proposed action interprets and makes specific statutory CEQA provisions and/or case law interpreting CEQA for mitigating the impacts of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th

Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the proposed action does not add any substantive requirements, it will not result in an adverse impact on businesses in California. On the contrary, by providing greater certainty to lead agencies regarding the determination of significance of GHG emissions, the cost of environmental analysis, and potential litigation, may be reduced.

## **SECTION 15130. DISCUSSION OF CUMULATIVE IMPACTS**

### **Specific Purposes of the Amendment**

The Proposed Amendments include two revisions to the existing section 15130 of the State CEQA Guidelines. The two proposed amendments are described below.

#### Section 15130(b)(1)(B)

Section 21083(b) of the Public Resources Code requires that an EIR be prepared if the “possible effects of a project are individually limited but cumulatively considerable.” That section further defines “cumulatively considerable” to mean 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.”

In determining whether a project may have significant cumulative impacts, a lead agency must engage in a two-step process. First, it must determine the extent of the cumulative problem. To do so, a lead agency must examine the “effects of past projects, the effects of other current projects, and the effects of probable future projects.” Once it does so, the lead agency then determines whether the project’s incremental contribution to that problem is cumulatively considerable. Section 21100(e) further provides that “[p]reviously approved land use documents, including but not limited to, general plans, specific plans, and local coastal plans, may be used in a cumulative impact analysis.”

The existing Guideline section 15130(b) addresses the first step of the process. It offers two options for estimating the effects resulting from past, present and reasonably foreseeable projects. A lead agency may either rely on a list of such projects, or a summary of projections to estimate cumulative impacts. Existing section 15130(b)(1)(B) allows a lead agency to rely on projections in a land use document or certified environmental document that addresses the cumulative impact under consideration.

The proposed amendments would clarify that plans providing such projections need not be limited to land use plans, so long as the plan evaluates the relevant cumulative effect. The proposed amendments would also allow a lead agency to rely on information provided in regional modeling programs. The best projections of the cumulative effect of GHG emissions may be available in up-to-date models such as the International Council for Local Environmental Initiative’s Local Government GHG Protocol<sup>8</sup> and the California Climate Action Reserve’s Registry general,<sup>9</sup> industry<sup>10</sup> and

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<sup>8</sup> ICLEI (2008) Local Government Operations Protocol; Accessed 6/08/09, <http://www.icleiusa.org/action-center/tools/lgo-protocol-1>

<sup>9</sup> California Climate Action Registry (2009) General Reporting Protocol: Accessed 6/08/09, [http://www.climateregistry.org/resources/docs/protocols/grp/GRP\\_3.1\\_January2009.pdf](http://www.climateregistry.org/resources/docs/protocols/grp/GRP_3.1_January2009.pdf)

project type protocols.<sup>11</sup> Such projections may also be supplied in plans that are not strictly “land use” plans. For example, regional transportation plans in certain areas will ultimately include sustainable community strategies which will include projections a region’s GHG emissions and related cumulative effects. (Gov Code, § 65080(b)(2).) Finally, some agencies are beginning to develop GHG reduction plans or climate action plans that may also include such projections. (ARB, Scoping Plan, Appendix C, at p. C-49; OPR, Book of Lists, at pp. 92-100.)

The proposed amendments are consistent with section 21083 of the Public Resources Code and CEQA case law. Section 21083 requires consideration of “the effects of past projects, the effects of other current projects, and the effects of probable future projects.” Projections in the listed types of plans and models may include inventories of existing emissions and projected future emissions. Section 21100 of the Public Resources Code provides that land use plans “may” be used in a cumulative impacts analysis, but that section does not purport to limit the types of plans that can be used in a cumulative impacts analysis to land use plans. Finally, case law has supported reliance on projections provided by industry, for example, to satisfy the requirement for a discussion of impacts caused by closely related projects. (*Ass’n of Irrigated Residents, supra*, 107 Cal. App. 4th at 1404.)

While models may provide the most up to date information, lead agencies should still look first to information provided in adopted or certified environmental documents. First, such information has already gone through a public and agency review process. Second, to the extent the model provides information that is not provided in the prior environmental document, the relationship of the model and applicable plans must be explained, along with any changes in circumstances.

#### Section 15130(d)

The Office of Planning and Research had originally proposed the addition of certain plans to section 15130(d). That section states that previously approved land use plans may be used in a cumulative impacts analysis. Those additions were inadvertently excluded from the proposed amendments that were made available for public review on July 3, 2009. Therefore, the revisions were added to revisions that were made publicly available on October 23, 2009.

The added plans include regional transportation plans and plans for the reduction of greenhouse gas emissions. This change is sufficiently related to the proposal that was originally published. Those plans were proposed for addition to other sections of the proposed amendments, for example, and comments were submitted regarding the use of such plans in cumulative impacts analysis. Plans for the reduction of greenhouse gas emissions were described under section 15064(h)(3), above. Regional

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<sup>10</sup> California Climate Action Registry (2005) Industry Specific Protocols: Accessed 06/08/09, <http://www.climateregistry.org/tools/protocols/industry-specific-protocols.html>

<sup>11</sup> California Climate Action Registry (2007) Project Protocols: Accessed 06/08/09, <http://www.climateregistry.org/tools/protocols/project-protocols.html>

transportation plans may contain information regarding transportation-related greenhouse gas emissions that may be useful in a cumulative impacts analysis. As explained above, regional transportation plans in certain areas will ultimately include sustainable community strategies which will include projections a region's GHG emissions and related cumulative effects. (Gov Code, § 65080(b)(2).) Thus, these additions are reasonably necessary to ensure that public agencies perform a cumulative impacts analysis of greenhouse gas emissions as required by Public Resources Code section 21083.05. The additions are also consistent with Public Resources Code section 21100(e) which provides that previously adopted land use plans may be used in a cumulative impacts analysis.

### Section 15130(f)

The Natural Resources Agency originally proposed to add subdivision (f) to section 15130 to clarify that sections 21083 and 21083.05 of the Public Resources Code do not require a detailed analysis of GHG emissions solely due to the emissions of other projects. (State CEQA Guidelines, § 15130(a)(1); *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 799.) Rather, proposed subdivision (f) would have provided that a detailed analysis is required when evidence shows that the incremental contribution of the project's GHG emissions is cumulatively considerable when added to other cumulative projects. (*CBE, supra*, 103 Cal.App.4th at 119-120.) In essence, the proposed addition would be a restatement of law as applied to GHG emissions. Analysis of GHG emissions as a cumulative impact is consistent with case law arising under the National Environmental Policy Act. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Other portions of these proposed Guidelines address how lead agencies may determine whether a project's emissions are cumulatively considerable. (See, e.g., Proposed Sections 1506(h)(3) and 15064.4.)

Public comments noted, however, that the new subdivision merely restated the law, and was capable of misinterpretation. The Natural Resources Agency, therefore, determined that because other provisions of the Amendments address the analysis of greenhouse gas emissions as a cumulative impact, and because the reasoning of those is fully explained in the Initial Statement of Reasons, subdivision (f) should not be added to the CEQA Guidelines. The deletion was reflected in the revisions that were made available for further public review and comment on October 23, 2009.

### **Necessity**

Sections 21083 and 21083.05 of the Public Resources Code respectively require that an EIR analyze cumulative impacts and that the effects of GHG emissions be analyzed in CEQA documents. The Amendments include guidance to assist lead agencies to evaluate the cumulative impacts of GHG emissions where an EIR is required. Thus, the Amendments are reasonably necessary to implement the Legislature's directive.



## **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

## **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analysis and mitigation of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the

amendments to this section are intended to reduce the costs of environmental review on lead agencies and project applicants by encouraging the use of existing environmental analysis where available. (Pub. Resources Code, § 21003(d) (use information in existing EIRs in order to reduce duplication), (f) (environmental review should proceed in the most efficient manner possible).)

## **SECTION 15150. INCORPORATION BY REFERENCE**

### **Specific Purposes of the Amendment**

The existing CEQA Guidelines allow lead agencies to incorporate information from other documents by reference. (State CEQA Guidelines, § 15150.) Doing so permits a lead agency to avoid repetitious analysis of general matters and to reduce paperwork. (Pub. Resources Code § 21003 (it is state policy that “persons and public agencies involved in the environmental review process be responsible for carrying out the process in the most efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources with the objective that those resources may be better applied toward the mitigation of actual significant effects on the environment”).) Existing Guidelines section 15150(f) provides that “[i]ncorporation by reference is most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of the problem at hand.”

The key requirements for documents that may be incorporation by reference are set forth in the statutory definition of “EIR.” (Pub. Resources Code, § 21061.) Those requirements include:

- The incorporated information is a matter of public record or is generally available to the public; and
- The incorporated information is reasonably available for inspection at a public place or public building.

Descriptions of global, statewide and regional GHG emissions are particularly well-suited to incorporation by reference. Such descriptions can be technical and lengthy. (Public Policy Institute of California, *Climate Policy at the Local Level: A Survey of California’s Cities and Counties* (November 2008), at pp. 24-32 (describing barriers and constraints to adoption of climate action plans and policies).) General descriptions may also remain current enough to be used in several successive environmental documents. In fact, OPR has found that many agencies are addressing GHG emissions in programmatic documents that could be incorporated by reference into later documents. (OPR, *Book of Lists*, at pp. 92-100.) Thus, the Resources Agency and OPR find that addition of subdivision (e)(4) is reasonably necessary to effectuate the legislative directive that public agencies conduct environmental review in the most efficient manner possible.

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) The Legislature has further directed that resources be conserved wherever possible in the analysis of environment impacts. (*Id.* at § 21003.) Thus, the amendment to add GHG

analyses to the list of documents that may be incorporated by reference is reasonably necessary to implement the Legislature's directive.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the proposed action adds no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the proposed revisions. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analysis and mitigation of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the amendments to this section are intended to reduce the costs of environmental review on lead agencies and project applicants by encouraging the use of existing environmental analysis where available. (Pub. Resources Code, § 21003(d) (use information in existing EIRs in order to reduce duplication), (f) (environmental review should proceed in the most efficient manner possible).)

## **SECTION 15183. PROJECTS CONSISTENT WITH A COMMUNITY PLAN OR ZONING**

### **Specific Purposes of the Amendment**

Section 21083.3 of the Public Resources Code provides that projects that are consistent with a General Plan, Community Plan or Zoning may not need to analyze cumulative effects that have already been analyzed in an EIR on the prior planning or zoning action. The exemption may apply, for example, where “uniformly applied development policies or standards” will substantially mitigate a cumulative effect. (Pub. Resources Code, § 21083.3(d).) The statute does not define what types of development policies or standards may be used in this context. It does provide, however, that such standards or policies must have been adopted by the lead agency with a finding, supported with substantial evidence, that the policy or standard will substantially mitigate the environmental effect under consideration. (*Ibid.*) Existing Guidelines section 15183 provides several non-exclusive examples of policies and standards that might apply in the context of section 21083.3, including grading ordinances and floodplain protection ordinances.

The inclusion of “[r]equirements for reducing greenhouse gas emissions, as set forth in adopted land use plans, policies or regulations” among the list of examples of “uniformly applied development policies or standards” is consistent with the direction in section 21083.3. First, the text provides that such requirements would be “adopted” by the lead agency. Second, they would be “development policies or standards” because the requirements would be contained in an adopted “land use plan, policy or regulation.” Finally, such requirements could substantially mitigate the effects of GHG emissions by “reducing greenhouse gas emissions” in the adopting jurisdiction. (Proposed Section 15183.5(b) would provide elements that may be included in a GHG emissions reduction plan that might be used in the context of section 15183.)

One comment submitted during OPR’s public involvement process questioned whether such requirements relating to reductions in GHG emissions would be kept current. (See, e.g., Letter from Joyce Dillard to OPR, January 26, 2009.) Section 21083.3 specifically provides, however, that such requirements would not apply in this context if “substantial new information shows that the policies or standards will not substantially mitigate the environmental effect.” (Pub. Resources Code, § 21083.3(d).) Therefore, lead agencies have an incentive to ensure that their policies remain current.

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) The addition to section 15183 is reasonably necessary to carry out the legislature’s intent that projects that are consistent with General Plans, Community Plans and Zoning benefit from streamlined CEQA review. Several jurisdictions are beginning to include requirements for reducing GHG emissions in their general plans. (OPR, Book of Lists,

at pp. 92-100; Scoping Plan, Appendix C, at p. C-49.) The addition is also reasonably necessary to effectuate the legislature's intent that OPR and the Resources Agency provide guidance on how to analyze GHG emissions.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Resources Agency rejected the no action alternative because it would not achieve the objectives of the proposed revisions. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analysis and mitigation of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to

SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the amendments to this section are intended to reduce the costs of environmental review on lead agencies and project applicants by encouraging the use of existing environmental analysis where available. (Pub. Resources Code, § 21003(d) (use information in existing EIRs in order to reduce duplication), (f) (environmental review should proceed in the most efficient manner possible).)



## **SECTION 15183.5. TIERING AND STREAMLINING THE ANALYSIS OF GREENHOUSE GAS EMISSIONS**

### **Specific Purposes of the Amendment**

In adopting SB375, the Legislature found that “[n]ew provisions of CEQA should be enacted so that the statute encourages ... local governments to make land use decisions that will help the state achieve its climate goals under AB 32[.]” (Statutes 2008, Ch. 728, § 1(f).) ARB’s Scoping Plan similarly recognizes the important role that local governments play in reducing the State’s GHG emissions. (ARB, Scoping Plan, at p. 26.) In particular, local government “[d]ecisions on how land is used will have large impacts on the GHG emissions that will result from the transportation, housing, industry, forestry, water, agriculture, electricity, and natural gas sectors.” (*Ibid.*) Decision-making on urban growth and land use planning begins with local general plans. (Gov. Code, § 65030.1 (“The Legislature ... finds that decisions involving the future growth of the state, most of which are made and will continue to be made at the local level, should be guided by an effective planning process, including the local general plan, and should proceed within the framework of officially approved statewide goals and policies directed to land use, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, and other related physical, social and economic development factors”).)

GHG emissions may be best analyzed and mitigated at a programmatic level. “For local government lead agencies, adoption of general plan policies and certification of general plan EIRs that analyze broad jurisdiction-wide impacts of GHG emissions can be part of an effective strategy for addressing cumulative impacts and for streamlining later project-specific CEQA reviews.” (OPR, Technical Advisory: CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review, June 19, 2008, at p. 8.) Other lead agencies may also address GHG emissions programmatically in long range development plans, facilities master plans, and other long-range planning documents.

This emphasis on long-range planning is consistent with state policy expressed in CEQA. The Legislature has clearly stated its preference that lead agencies tier environmental documents wherever feasible. (Pub. Resources Code, § 21093(b).) Specifically:

The Legislature finds and declares that tiering of environmental impact reports will promote construction of needed housing and other development projects by (1) streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects which are consistent with a previously approved policy, plan, program, or ordinance concentrate upon environmental effects which may be mitigated or avoided in connection with the decision on each later project. The Legislature further finds and

declares that tiering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.

(Pub. Resources Code, § 21093(a).) The Amendments, therefore, include the addition of a new section 15183.5 to address both tiering and streamlining of GHG analyses, as well as the proper use of GHG reduction plans in CEQA analyses. Explanation of the rationale of each new subdivision is provided below.

### Existing Methods of Streamlining and Tiering

Because GHG emissions raise a cumulative concern, analysis of such emissions in a long-range planning document lends itself to tiering and use in later project-specific environmental review. (Pub. Resources Code, § 21093.) The Legislature has created several tiering and streamlining methods, reflected in various provisions of the existing State CEQA Guidelines, that can reduce duplication in the analysis of GHG emissions. Subdivision (a) clarifies that existing provisions in the State CEQA Guidelines regarding tiering and streamlining may be applied to the analysis of GHG emissions.

### Greenhouse Gas Emissions Reduction Plans

Many jurisdictions are beginning to address GHG emissions reductions in “climate action plans” and “gas emissions reduction plans.” (OPR, Book of Lists, at pp. 92-100; see also, Scoping Plan, Appendix C, at p. C-49.) ARB’s Scoping Plan specifically encourages local governments to develop such plans, and has created a local government operations protocol to assist in that effort. (Scoping Plan, at p. 26.) A community-wide emissions protocol is also under development.

Some comments raised during OPR’s public involvement process expressed concern that due to a lack of legislative criteria for such plans, existing provisions in the CEQA Guidelines regarding cumulative impacts may be misused. (See, e.g., Letter from Center for Biological Diversity, et al., to OPR, February 2, 2009, at p. 2.) For example, without specific guidance, a lead agency could erroneously rely on a plan with purely aspirational intent to determine that a later project’s cumulative impact is less than significant pursuant to section 15064(h)(3). The proposed subdivision (b) provides criteria to assist lead agencies in determining whether an existing greenhouse gas reduction plan is an appropriate document to use in a cumulative impacts analysis under CEQA.

The existing CEQA Guidelines allow lead agencies to rely on plans for cumulative analysis where the plan has been adopted in a public review process and contains specific requirements to avoid or substantially lessen a cumulative problem. (State CEQA Guidelines, § 15064(h)(3).) The criteria set out in proposed subdivision (b)(1) are designed to ensure that a greenhouse gas reduction plan would satisfy the

requirements described in sections 15064(h)(3) and 15130(d), for the reasons described below.

Criteria (A) and (C) are necessary to define the scope of GHG emissions within the defined geographic area and the incremental contribution of activities that will occur within that area to those emissions. (State CEQA Guidelines, § 15064(h)(3) (plan addresses cumulative impacts “within the geographic area in which the project is located”).) Criterion (B) establishes a benchmark to assist the lead agency in determining whether the plan provisions will avoid or substantially lessen cumulative effects of the area’s GHG emissions. (*Ibid.* (plan “provides specific requirements that will avoid or substantially lessen the cumulative problem”).) Criteria (D) and (E) are necessary to demonstrate that the plan will actually avoid or substantially lessen the cumulative effects of those emissions. (*Ibid.*) Finally, criterion (F) reflects the requirement in sections 15064(h)(3) and 15130(d) that the plan be adopted through a public review process, as well as case law requiring that mitigation plans themselves undergo environmental review. (*California Native Plant Society v. County of El Dorado* (2009) 170 Cal. App. 4th 1026, 1053 (mitigation “programs may offer the best solution to environmental planning challenges, by providing some certainty to developers while adequately protecting the environment” but “in order to provide a lawful substitute for the ‘traditional’ method of mitigating CEQA impacts, that is, a project-by-project analysis, the fee program must be evaluated under CEQA”).) Notably, the criteria provided in subdivision (b) are largely consistent with the elements that ARB recommends be included in a greenhouse gas reduction plan. (ARB, Scoping Plan, Appendix C, at p. C-49.)

Subdivision (b)(2) describes the uses and limitations of plans for the reduction of greenhouse gas emissions in a cumulative impacts analysis for later projects. Specifically, it provides a safeguard to ensure that the later activity was actually addressed in the plan for the reduction of greenhouse gas emissions, and that any applicable requirements of the plan are incorporated into the later project. This requirement is similar the requirement in case law that a lead agency determine that a particular threshold appropriately addresses the impact of concern. (*Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at 1109 (“in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect”).) Finally, subdivision (b)(2) makes specific the requirement that, while the existence of an applicable plan for the reduction of greenhouse gas emissions may create a presumption that compliance with that plan will reduce the incremental contribution of later activities to a less than cumulatively considerable level, the existence of substantial evidence supporting a fair argument to the contrary may still require preparation of an EIR.

### Special Situations

Subdivision (c) provides necessary clarification of the partial exemption provided in sections 21155.2 and 21159.28 of the Public Resources Code, enacted as part of SB375 (see description above). The limitation on analysis of global warming applies only to the effects caused by GHG emissions from cars and light duty trucks. That limitation should be read in conjunction with section 21083.05 of the Public Resources Code and State CEQA Guideline sections 15064.4 and 15126.4 which require analysis of all sources of GHG emissions and mitigation if those emissions are significant. Thus, projects that qualify for the limitation in sections 21155.2 and 21159.28 must still analyze emissions resulting from, as applicable, energy use, land conversion, and other direct and indirect sources of emissions. This clarification is reasonably necessary to effectuate the legislative directive in section 21083.3 that OPR and Resources develop guidelines on the analysis of GHG emissions and to avoid confusion regarding the streamlining provisions provided by SB375.

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) The Legislature has also directed that EIRs be tiered wherever possible, and that duplication be minimized. (*Id.* at §§ 21003, 21093, 21094.) Section 15183.5, which provides guidance on tiering and streamlining of GHG emissions analyses, is therefore reasonably necessary to carry out these directives.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Natural Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the Amendments are proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Natural Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Natural Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analysis and mitigation of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent

of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to “meaningfully attempt to quantify the Project’s potential impacts on GHG emissions and determine their significance” or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the Amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the amendments to this section are intended to reduce the costs of environmental review on lead agencies and project applicants by encouraging the use of existing environmental analysis where available. (Pub. Resources Code, § 21003(d) (use information in existing EIRs in order to reduce duplication), (f) (environmental review should proceed in the most efficient manner possible).)

## **SECTION 15364.5. GREENHOUSE GAS**

### **Specific Purposes of the Amendment**

The Legislature has not included a definition of “greenhouse gases” in CEQA, though it did include a definition in AB32. (Health & Saf. Code, § 38505(g).) Thus, new section 15364.5 adds a definition of greenhouse gases. The specified gases are consistent with existing law as they are defined to include those identified by the Legislature in section 38505(g) of the Health and Safety Code.

Notably, the definition in AB32 states that GHG “includes all of the following...” In so stating, the Legislature implies that other gases may also be considered GHGs. The ARB’s Scoping Plan also acknowledges that other gases contribute to climate change. (Scoping Plan, at p. 11.) In fact, the EPA’s Endangerment Finding explained that several other gases share attributes with GHGs but would not be appropriate for regulation under the Clean Air Act at this time. (EPA Endangerment Finding, at pp. 18896-98.) Therefore, similar to the statutory definition of GHGs in AB32, the definition in the Amendments is not exclusive to the six primary GHGs. The purpose of a more expansive definition is to ensure that lead agencies do not exclude from consideration GHGs that are not listed, so long as substantial evidence indicates that such non-listed gases may result in significant adverse effects. This approach is consistent with the Supreme Court’s directive that CEQA be interpreted to provide the fullest possible protection to the environment. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 390.)

### **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) Section 15364.5 is necessary to make specific the instruction to analyze GHG emissions because it states which gases are considered to be “greenhouse gases” and should be included in the analysis.

### **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency’s Reasons for Rejecting Those Alternatives**

The Natural Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Natural Resources Agency’s determination that the Amendments are necessary to implement the Legislature’s directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Natural Resources Agency rejected the no action

alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

### **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analysis and mitigation of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to “meaningfully attempt to quantify the Project’s potential impacts on GHG emissions and determine their significance” or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the Amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the addition of this section is intended to reduce the costs of environmental review on lead agencies and project applicants by assisting lead agencies in determining which gases should be included in an analysis.

## **APPENDIX F. ENERGY CONSERVATION**

### **Specific Purposes of the Amendment**

CEQA's requirement to analyze and mitigate energy impacts of a project is substantive, and is not merely procedural. (*People v. County of Kern* (1976) 62 Cal.App.3d 761, 774.) Despite the requirement, lead agencies have not consistently included such analysis in their EIRs. (Remy et al., Guide to CEQA, 11th Ed. 2007, at pp. 1007-1008, n. 34.) The following revisions to Appendix F are, therefore, reasonably necessary to ensure that lead agencies comply with the substantive directive in section 21100(b)(3).

#### Introduction

The revisions to the introduction section include a cross-reference to section 21100(b)(3) of the Public Resources Code to direct lead agencies to the statutory directive underlying Appendix F. This section also includes an addition to make clear that energy impacts that have already been analyzed may not need to be repeated in later EIRs. This sentence is consistent with the Legislative intent in CEQA that information in existing environmental review be used to "reduce delay and duplication in preparation of subsequent environmental impact reports." (Pub. Resources Code, § 21003(d).)

#### EIR Contents

The amendments to Appendix F revise the section on EIR Contents to clarify that lead agencies "shall" analyze energy conservation in their EIRs. The word "shall" indicates that the duty is mandatory, and makes Appendix F consistent with Public Resources Code section 21100(b)(3). While Appendix F is revised to make clear that an energy analysis is mandatory, the amendments to this section would also make clear that the energy analysis is limited to effects that are applicable to the project.

#### "Lifecycle"

The amendments to Appendix F remove the term "lifecycle." No existing regulatory definition of "lifecycle" exists. In fact, comments received during OPR's public workshop process indicate a wide variety of interpretations of that term. (Letter from Terry Rivasplata et al. to OPR, February 2, 2009, at pp. 5, 12 and Attachment; Letter from Center for Biological Diversity et al. to OPR, February 2, 2009, at pp. 17.) Thus, retention of the term "lifecycle" in Appendix F could create confusion among lead agencies regarding what Appendix F requires.

Moreover, even if a standard definition of the term "lifecycle" existed, requiring such an analysis may not be consistent with CEQA. As a general matter, the term could refer to emissions beyond those that could be considered "indirect effects" of a project as that term is defined in section 15358 of the State CEQA Guidelines.



Depending on the circumstances of a particular project, an example of such emissions could be those resulting from the manufacture of building materials. (CAPCOA White Paper, at pp. 50-51.) CEQA only requires analysis of impacts that are directly or indirectly attributable to the project under consideration. (State CEQA Guidelines, § 15064(d).) In some instances, materials may be manufactured for many different projects as a result of general market demand, regardless of whether one particular project proceeds. Thus, such emissions may not be “caused by” the project under consideration. Similarly, in this scenario, a lead agency may not be able to require mitigation for emissions that result from the manufacturing process. Mitigation can only be required for emissions that are actually caused by the project. (State CEQA Guidelines, § 15126.4(a)(4).) Conversely, other projects may spur the manufacture of certain materials, and in such cases, consideration of the indirect effects of a project resulting from the manufacture of its components may be appropriate. A lead agency must determine whether certain effects are indirect effects of a project, and where substantial evidence supports a fair argument that such effects are attributable to a project, that evidence must be considered. However, to avoid potential confusion regarding the scope of indirect effects that must be analyzed, the term “lifecycle” has been removed from Appendix F.

### Types of Energy Use

The amendments to Appendix F clarify that project design may achieve energy savings through measures related to water use and solid waste disposal. (California Energy Commission, Water Supply-Related Electricity Demand in California, CEC 500-2007-114 (November 2007), at p. 3 (reporting that water related energy use, including water movement, treatment and heating, annually accounts for approximately 20 percent of California’s electricity consumption); Scoping Plan, Appendix C, at pp. C-158 to C-160.) The addition of these potential sources of energy reductions is consistent with the direction in section 21100(b)(3) to identify mitigation measures to reduce inefficient consumption of energy.

### Grammar and Syntax

Finally, several minor revisions to Appendix F were made to improve grammar and syntax. Such revisions qualify as a “change without regulatory effect” pursuant to section 100(a)(4) of the Office of Administrative Law’s regulations governing the rulemaking process. (Cal. Code Regs., tit. 1, § 100(a)(4).)

### **Necessity**

The Legislature directed OPR and the Natural Resources Agency to develop guidelines on the analysis and mitigation of GHG emissions. (Pub. Resources Code, § 21083.05.) Since a significant source of GHG emissions results from energy use (consumption), these Amendments appropriately addressed energy use and conservation as a subject for CEQA analysis. Additionally, the legislature requires that lead agencies analyze energy use in their EIRs. (*Id.* at § 21100(b)(3).) The

amendments to Appendix F are, therefore, necessary to ensure that lead agencies implement these directives.

**Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Natural Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Natural Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Natural Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

**Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA's requirements for analysis and mitigation of energy use. Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California.

## APPENDIX G. INITIAL STUDY CHECKLIST

### Specific Purposes of the Amendment

The Amendments include revisions to several portions of Appendix G, which contains a sample environmental checklist that lead agencies may use to satisfy the requirement to prepare an initial study. The amendments and their necessity are described below.

#### Note Regarding Use of the Checklist

The amendments would add a note to the beginning of Appendix G to clarify the checklist contained therein is only a sample that may be modified as necessary to suit the lead agency and to address the particular circumstances of the project under consideration. The addition is necessary for two reasons. First, several lead agencies have expressed concern that the checklist does not reflect the circumstances existing in that particular agency. (See, e.g., Letter from Napa County – Department of Conservation, Development, and Planning to OPR, January 26, 2009; Letter from County of San Bernardino - Land Use Services Department to OPR, February 2, 2009.) Second, the Third District Court of Appeal recently issued an opinion that clarified that all substantial evidence regarding potential impacts of a project must be considered, even if the particular potential impact is not listed in Appendix G. (*Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at 1109.) Thus, the note emphasizes that Appendix G does not mandate a particular form that must be used for an Initial Study; rather, it provides merely an example.

#### Forest Resources

The amendments would add several questions addressing forest resources in the section on Agricultural Resources. Forestry questions are appropriately addressed in the Appendix G checklist for several reasons. First, forests and forest resources are directly linked to both GHG emissions and efforts to reduce those emissions. For example, conversion of forests to non-forest uses may result in direct emissions of GHG emissions. (See, e.g., California Energy Commission Baseline GHG Emissions for Forest, Range, and Agricultural Lands in California (March, 2004) at p. 19.) Such conversion would also remove existing carbon stock (i.e., carbon stored in vegetation), as well as a significant carbon sink (i.e., rather than emitting GHGs, forests remove GHGs from the atmosphere). (Scoping Plan, Appendix C, at p. C-168.) Thus, such conversions are an indication of potential GHG emissions. Changes in forest land or timberland zoning may also ultimately lead to conversions, which could result in GHG emissions, aesthetic impacts, impacts to biological resources and water quality impacts, among others. Thus, these additions are reasonably necessary to ensure that lead agencies consider the full range of potential impacts in their initial studies. In the same way that an EIR must address conversion of prime agricultural land or wetlands as part of a project (addressing the whole of the action requires analyzing land clearance in advance of project development), so should it analyze forest removal.

During OPR's public involvement process, some commenters suggested that conversion of forest or timber lands to agricultural uses should not be addressed in the Initial Study checklist. (Letter from California Farm Bureau Federation to OPR, February 2, 2009; Letter from County of Napa, Conservation, Development and Planning Department, to OPR, January 26, 2009.) As explained above, the purpose of the Amendments is to implement the Legislative directive to develop Guidelines on the analysis and mitigation of GHG emissions. Although some agricultural uses also provide carbon sequestration values, most agricultural uses do not provide as much sequestration as forest resources. (Climate Action Team, *Carbon Sequestration* (2009), Chapter 3.3.8 at p. 3.21; California Energy Commission, *Baseline GHG Emissions for Forest, Range, and Agricultural Lands in California* (2004), at p. 2.) Therefore, such a project could result in a net increase in GHG emissions, among other potential impacts. Thus, such potential impacts are appropriately addressed in the Initial Study checklist. See the Thematic Responses, below, for additional discussion of this issue.

### Greenhouse Gas Emissions

The additions also include two questions related to GHG emissions. These questions are necessary to satisfy the Legislative directive in section 21083.05 that the effects of GHG emissions be analyzed under CEQA. The questions are intended to provoke a full analysis of such emissions where appropriate. More detailed guidance on the context of such an analysis is provided in other sections throughout the Guidelines. Despite the detailed provisions in the Guidelines themselves, questions related to GHG emissions should also appear in the checklist because some lead agencies will not seriously consider an environmental issue unless it is specifically mentioned in the checklist. (*Protect the Historic Amador Waterways*, *supra*, 116 Cal. App. 4th at 1110.)

### Transportation

The Amendments make four primary changes to the questions involving transportation and traffic.

First, question (a) changes the focus from an increase in traffic at a given location to the effect of a project on the overall circulation system in the project area. This change is appropriate because an increase in traffic, by itself, is not necessarily an indicator of a potentially significant *environmental* impact. (Ronald Miliam, AICP, *Transportation Impact Analysis Gets a Failing Grade When it Comes to Climate Change and Smart Growth*; see also Land Use Subcommittee of the Climate Action Team LUSCAT Submission to CARB Scoping Plan on Local Government, Land Use, and Transportation Report (May, 2008) at pp. 31, 36.) Similarly, even if some projects may result in a deterioration of vehicular level of service – that is, delay experienced by drivers – the overall effectiveness of the circulation system as a whole may be improved. (*Ibid.*) Such projects could include restriping to provide bicycle lanes or creating dedicated bus lanes. Even in such cases, however, any potential adverse air

quality or other impacts would still have to be addressed as provided in other sections of the checklist. Finally, the change to question (a) also recognizes that the lead agency has discretion to choose its own metric of analysis of impacts to intersections, streets, highways and freeways. (Pub. Resources Code, § 21081.2(e); *Eureka Citizens for Responsible Gov't v. City of Eureka, supra*, 147 Cal.App.4th at 371-373 (lead agency has discretion to choose its methodology).) Thus, “level of service” may or may not be the applicable measure of effectiveness of the circulation system.

Second, the revision to question (b) clarifies the role of a congestion management program in a CEQA analysis. Specifically, it clarifies that a congestion management program contains many elements in addition to a level of service designation. (Gov. Code § 65088 et seq.) The clarification is also necessary to address any projects within an “in-fill opportunity zone” that may be exempted from level of service requirements. (*Id.* at § 65088.4.)

Third, the amendments eliminate the existing question (f) regarding parking capacity. Case law recognizes that parking impacts are not necessarily environmental impacts. (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco, supra*, 102 Cal.App.4th at 697.) The focus of the Initial Study checklist should be on direct impacts of a project. Therefore, the question related to parking is not relevant in the initial study checklist. As noted above, however, if there is substantial evidence indicating adverse indirect environmental impacts from a project related to parking capacity, the lead agency must address such potential impacts regardless of whether the checklist contains parking questions. (*Ibid.*) Additional discussion of this issue is included in the Thematic Responses, below.

Finally, the amendments revise existing question (g), now question (f), to address the performance and safety of certain modes of alternative transportation. These revisions were made in response to comments received on the Amendments. While the primary objective of the Amendments is to provide guidance on the analysis and mitigation of greenhouse gas emissions, this revision was determined to be necessary to support the use of alternative transportation.

## **Necessity**

The Legislature directed OPR and the Resources Agency to develop guidelines on the analysis of GHG emissions. (Pub. Resources Code, § 21083.05.) An initial study may be used to assist in the determination of whether a project may have a significant effect on the environment. (*Protect the Historic Amador Waterways, supra*, 116 Cal. App. 4th at 1110.) Appendix G of the State CEQA Guidelines is intended to provide a sample of an initial study that lead agencies may use. (*Ibid.*) Amendment of Appendix G to include questions that will assist a lead agency in determining whether a project may result in significant impacts related to GHG emissions is, therefore, necessary to carry out the Legislature’s directive in section 21083.05 of the Public Resources Code.

## **Reasonable Alternatives to the Regulation, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives**

The Natural Resources Agency considered reasonable alternatives to the Amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the Amendments. This conclusion is based on the Natural Resources Agency's determination that the Amendments are necessary to implement the Legislature's directive in SB97 in a manner consistent with existing statutes and case law, and the Amendments add no new substantive requirements. The Natural Resources Agency rejected the no action alternative because it would not achieve the objectives of the Amendments. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from the implementation of existing law.

## **Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business**

The Amendments interpret and make specific statutory CEQA provisions and/or case law interpreting CEQA for analysis and mitigation of GHG emissions that may result from proposed projects. Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating GHG emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, Riverside Co. Sup. Ct. Case No. RIC463320 (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, Sacramento Sup. Ct. Case No. 07CS00967 (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-1371 and State CEQA Guidelines section 15144 as requiring a lead agency to "meaningfully attempt to quantify the Project's potential impacts on GHG emissions and determine their significance" or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative).) Finally, federal courts have interpreted the National Environmental Policy Act ("NEPA") to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Because the Amendments do not add any substantive requirements, they will not result in an adverse impact on businesses in California. On the contrary, the

amendments to Appendix G are intended to reduce the costs of environmental review on lead agencies and project applicants by assisting lead agencies in determining which topics should be addressed in an Initial Study.

## **NON-SUBSTANTIAL CHANGES**

On October 23, 2009, the Natural Resources Agency made available for public review certain changes to its originally proposed amendments. Those changes were described in the Notice of Proposed Changes. In response to comments on those changes, the Natural Resources Agency has made two non-substantial changes. Because those changes clarify the text that was made available for public review, and do not alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the originally proposed text, the revisions are nonsubstantial and need not be circulated for additional public review. (Government Code, § 11346.8(c); Cal. Code Regs., tit. 1, § 40.) Those revisions are described below.

### **Section 15126.2(a)**

As explained in the Notice of Proposed Changes, the revisions to the proposed text included a clarifying sentence in section 15126.2 indicating that an environmental impact report should analyze the effect of placing a project in areas susceptible to hazardous conditions. That revision specifically lists types of areas (including floodplains, coastlines and wildfire risk areas) that may be most impacted by the effects of a changing climate. The revision would also clarify that analysis of such hazards is appropriate where such areas are specified in authoritative hazard maps, risk assessments or land use plans.

The Natural Resources Agency further revised section 15126.2(a) in response to comments. That section was revised as follows:

Similarly, the EIR should evaluate **the any potentially significant** impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.

This change does not alter the rights, responsibilities, conditions, or prescriptions contained in the originally proposed text because the Public Resources Code already provides that an EIR is only required for those impacts that are potentially significant. (Public Resources Code, § 21002.1(a).) Because this revision clarifies the last sentence in section 15126.2(a), consistent with the Public Resources Code, this revision is nonsubstantial and need not be circulated for additional public review. (Government Code, § 11346.8(c); Cal. Code Regs., tit. 1, § 40.)

## Section 15126.4(c)

The Natural Resources Agency also further revised text related to mitigation that was made publicly available as described in the October 23, 2009, Notice of Proposed Changes in response to comments on that text. The revision clarifies that the qualification that measures to mitigate greenhouse gas emissions must not otherwise be required applies in the context of offsets and is not intended to contradict case law recognizing that changes in a project that are required to comply with existing environmental standards may qualify as mitigation. Thus, section 15126.4(c) was revised as follows:

### (c) Mitigation Measures Related to Greenhouse Gas Emissions.

Consistent with section 15126.4(a), lead agencies shall consider feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating the significant effects of greenhouse gas emissions. ~~Reductions in emissions that are not otherwise required may constitute mitigation pursuant to this subdivision.~~ Measures to mitigate the significant effects of greenhouse gas emissions may include, among others:

(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;

(2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F;

(3) Off-site measures, including offsets **that are not otherwise required**, to mitigate a project's emissions;

(4) Measures that sequester greenhouse gases;

(5) In the case of the adoption of a plan, such as a general plan, long range development plan, or plans for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

This change does not alter the rights, responsibilities, conditions, or prescriptions contained in the originally proposed text because the Public Resources Code already provides that to be considered mitigation, a measure must be tied to impacts resulting from the project. Section 21002 of the Public Resources Code, the source of the



requirement to mitigate, states that “public agencies should not approve projects as proposed if there are ... feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Similarly, section 21081(a)(1) specifies a finding by the lead agency in adopting a project that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.” Both statutory provisions expressly link the changes to be made (i.e., the “mitigation measures”) to the significant effects of the project. Because this revision clarifies section 15126.4(c), consistent with the Public Resources Code, this revision is nonsubstantial and need not be circulated for additional public review. (Government Code, § 11346.8(c); Cal. Code Regs., tit. 1, § 40.)

## THEMATIC RESPONSES

Several themes emerged in the comments submitted on the Natural Resources Agency’s proposed amendments to the CEQA Guidelines addressing greenhouse gas emissions. While the Natural Resources Agency has responded individually to each comment it received, the following provides general responses to several issues that were raised repeatedly in the comments.

### Quantitative versus Qualitative Analysis

Many comments focused on section 15064.4’s recognition of lead agency discretion in determining whether to analyze a project’s greenhouse gas emissions using either qualitative or quantitative methods, or both. Some comments suggested that a qualitative analysis would not satisfy CEQA’s informational mandates. Other comments indicated that qualitative analysis is consistent with CEQA, and may be particularly appropriate in the context of a negative declaration. Other comments asked for examples of how performance standards could be used in such an analysis. As explained in the Initial Statement of Reasons, the Natural Resources Agency finds that CEQA leaves to lead agencies the choice of the most appropriate methodology to analyze a project’s impacts, and that rule should continue to apply in the context of greenhouse gas emissions. The reasoning supporting this determination is set forth below.

First, nothing in CEQA prohibits use of a qualitative analysis or requires the use of a quantitative analysis. As explained in the Initial Statement of Reasons, CEQA directs lead agencies to consider qualitative factors. (Initial Statement of Reasons, at p. 19; Public Resources Code, § 21001(f).) Further, the existing CEQA Guidelines recognize that thresholds of significance, which are used in the determination of significance, may be expressed as quantitative, qualitative or performance-based standards. (State CEQA Guidelines, § 15064.7.) Moreover, even where quantification is technically or theoretically possible, “CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors.” (State CEQA Guidelines, § 15204(a); see also *Ass’n of*

*Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396-1398; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 27 Cal.App.4th 713, 728.)<sup>12</sup>

Second, the comments do not appropriately distinguish between the determination of significance and the informational standards governing the preparation of environmental documents. The purpose of section 15064.4 is to assist the lead agency in determining whether a project's greenhouse gas emissions may be significant, which would require preparation of an EIR, and if an EIR is prepared, to determine whether such emissions are significant, which would require the imposition of feasible mitigation or alternatives. The existing CEQA Guidelines contain several provisions governing the informational standards that apply to various environmental documents. Conclusions in an initial study, for example, must be "briefly explained to indicate that there is some evidence to support" the conclusion. (State CEQA Guidelines, § 15063(d) (emphasis added).) Similarly, if an EIR is prepared, a determination that an impact is not significant must be explained in a "statement briefly indicating the reasons that various possible significant effects of a project" are in fact not significant. (State CEQA Guidelines, § 15128 (emphasis added).) If the impact is determined to be significant, the impact "should be discussed with emphasis in proportion to their severity and probability of occurrence." (State CEQA Guidelines, § 15143.) The explanation of significance in an EIR must be "prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences" and must demonstrate "adequacy, completeness, and a good faith effort at full disclosure." (State CEQA Guidelines, § 15151.) In sum, while proposed section 15064.4(a) reflects the requirement that a lead agency base its significance determination on substantial evidence, whether quantitative, qualitative or both, it does not, as some comments appear to fear, alter the rules governing the sufficiency of information in an environmental document.

Third, the discretion recognized in section 15064.4 is not unfettered. A lead agency's analysis, whether quantitative or qualitative, would be governed by the standards in the first portion of section 15064.4. The first sentence applies to the context of greenhouse gas emissions the general CEQA rule that the determination of significance calls for a careful judgment by the lead agency. (Proposed § 15064.4(a) ("[t]he determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in section 15064").) The second sentence sets forth the requirement that the lead agency make a good-faith effort to describe, calculate or estimate the amount of greenhouse gas emissions

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<sup>12</sup> Notably, as administrative regulations, the development of the proposed regulations is governed by the Administrative Procedures Act. Government Code section 11340.1(a) states the Legislature's intent that administrative regulations substitute "performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process." Thus, absent authority in CEQA that would prohibit a qualitative analysis, section 15064.4 appropriately recognizes a lead agency's discretion to determine what type of analysis is most appropriate to determine the significance of a project's greenhouse gas emissions.

resulting from a project. That sentence has been further revised, as explained in greater detail below, to provide that the description, calculation or estimation is to be based “to the extent possible on scientific and factual data.” The third sentence advises that the exercise of discretion must be made “in the context of a particular project.” Thus, as provided in existing section 15146, the degree of specificity required in the analysis will correspond to the degree of specificity involved in the underlying project. In other words, even a qualitative analysis must demonstrate a good-faith effort to disclose the amount and significance of greenhouse gas emissions resulting from a project.

Fourth, the discretion recognized in proposed section 15064.4 would not enable a lead agency to ignore evidence submitted to it as part of the environmental review process. For example, if a lead agency proposes to adopt a negative declaration based on a qualitative analysis of the project’s greenhouse gas emissions, and a quantitative analysis is submitted to that lead agency supporting a fair argument that the project’s emissions may be significant, an EIR would have to be prepared. The same holds true if a lead agency proposes to adopt a negative declaration based on a quantitative analysis, and qualitative evidence supports a fair argument that the project’s emissions may be significant. (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1382; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872, 881-882 (citizens' personal observations about the significance of noise impacts on their community constituted substantial evidence that the impact may be significant and should be assessed in an EIR, even though the noise levels did not exceed general planning standards).) Similarly, even if an EIR is prepared, a lead agency would have to consider and resolve conflicts in the evidence in the record. (State CEQA Guidelines, § 15151 (“EIR should summarize the main points of disagreement among the experts”); *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.)

Finally, regarding performance standards, several examples exist of the types of performance standards that might appropriately be used in determining the significance of greenhouse gas emissions. Proposed section 15183.5(b)(1)(D), for example, contemplates that a plan for the reduction of greenhouse gas emissions may contain performance based standards. Where such standards are developed as part of such a plan, a lead agency would have evidence indicating that compliance with such standards would indicate that the impact of greenhouse gas emissions would be less than significant. Further, in adopting SB375, the Legislature acknowledged that regional transportation plans, and the environmental impact reports prepared to analyze those plans, may contain performance standards that would apply to transit priority projects. (See, e.g., Public Resources Code, § 21155.2.) Other potential examples<sup>13</sup> include the Bay Area Air Quality Management District’s proposed Best Management Practices for Construction Greenhouse Gas Emissions (calling for use of alternative fuels, local building materials and recycling), and the California Public Utilities Commission’s Performance Standard for Power Plans (requiring emissions no greater

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<sup>13</sup> The Natural Resources Agency does not necessarily endorse the use of these performance standards. Lead agencies must determine whether a particular standard is appropriate based on the substantial evidence supporting it and the context of the particular project.

than a combined cycle gas turbine plant). As with either a qualitative or quantitative analysis, reliance on performance standards must be supported with “scientific or factual data” indicating that compliance with the standard will ensure that impacts of greenhouse gas emissions are less than significant.

In sum, the proposed section 15064.4(a) appropriately reflects the standards in CEQA governing the determination of significance and the discretion CEQA leaves to lead agencies to determine how to analyze impacts. Mandating that lead agencies must quantify emissions whenever quantification is possible would be a departure from the CEQA statute.

## **Existing Environmental Setting**

Several comments focused on the phrase “existing environmental setting” in section 15064.4(b)(1). Some comments urged, for example, that only “net” emissions should be considered. Comments from energy producers suggested that the phrase “existing environmental system” should encompass the entire energy system, which extends beyond California’s borders. Some comments suggested that section 15064.4 should include a lifecycle analysis.

Section 15064.4(b)(1) advises lead agencies to consider the extent to which a project would increase or decrease greenhouse gas emissions compared to the existing environmental setting. In performing this analysis, a lead agency must account for all project phases, including construction and operation, as well as indirect and cumulative impacts. (State CEQA Guidelines, §§ 15063(a) (“[a]ll phases of project planning, implementation, and operation must be considered in the initial study...”), 15064(h) (addressing cumulative impacts), 15126 (“[a]ll phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation”), 15358(a)(2) (defining “effects” to include indirect effects), 15378.) The “setting” to be described varies depending on the project and the potential environmental resources that it may affect. In *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, for example, the lead agency failed to adequately describe the environmental setting by limiting its discussion primarily to the southern portions of its water system. Framing the setting narrowly resulted in impacts to the northern portion of the water system being ignored. Finding that section 15125 is to be construed broadly to ensure the fullest protection to the environment, the court in that case held that the lead agency was required to disclose that increased use of the southern portion of the water system would require greater diversions from the northern portion, and to analyze the impacts on species in the northern portion of the system. (*Id.* at pp. 873-875.) In the context of power generation, to the extent that a project may cause changes in greenhouse gas emissions in an existing power system, and substantial evidence substantiates such changes, those changes may be considered pursuant to section 15064.4(b)(1).

Similarly, if an agency has performed an analysis that demonstrates that a particular process for waste treatment does not result in an increase in greenhouse gas emissions compared to biogenic emissions that already occurs in the atmosphere, that evidence may support a conclusion that the project would not cause an increase in greenhouse gas emissions. Thus, to the extent a lead agency does not consider biogenic emissions to be new emissions, and its analysis is supported with substantial evidence, the text in section 15064.4(b)(1) would be broad enough to encompass those emissions, subject to the limitation that such analysis could not be used in a way that would mask the effects of emissions associated with the project. For example, if the emissions occurring in the short-term will have impacts that differ from emissions occurring in the future, those differences may need to be analyzed.

Finally, some comments suggested that the Guidelines should authorize a “net” or “lifecycle” analysis for projects that operate within a closed system. Nothing in section 15064.4 precludes such analysis where such analysis complies with the provision of section 15064, and where substantial evidence supports the ultimate conclusions and findings. However, since a “net” analysis may only be appropriate or possible in limited cases, the Natural Resources Agency deliberately chose to draft section 15064.4 broadly. Additionally, in some situations, a true “net” analysis may not be technically feasible or scientifically possible, and determination of an appropriate baseline for determining a “net” effect may be difficult.

As explained below, the Natural Resources Agency has deliberately avoided the term “lifecycle,” however, to the extent an agency equates “lifecycle” with what occurs in the existing environmental setting, section 15064.4 authorizes lead agencies to consider such evidence.

## **Thresholds of Significance**

Some comments expressed concern that the proposed amendments did not establish a statewide threshold of significance. Others suggested that most lead agencies are not qualified to establish their own thresholds, and if they do adopt thresholds, they should be required to adopt the most stringent threshold possible.

The CEQA Guidelines do not establish thresholds of significance for other potential environmental impacts, and SB97 did not authorize the development of a statewide threshold as part of this CEQA Guidelines update. Rather, the proposed amendments recognize a lead agency’s existing authority to develop, adopt and apply their own thresholds of significance or those developed by other agencies or experts. As set forth in the existing section 15064.7, a threshold is “an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.” Because a threshold would be used in the determination of significance,

the threshold would need to be supported with substantial evidence. (State CEQA Guidelines, § 15064.7(b).)

As explained in a recent decision of the Third District Court of Appeal, “[p]ublic agencies are ... encouraged to develop thresholds of significance for use in determining whether a project may have significant environmental effects.” (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108.) Nothing in CEQA requires that thresholds be developed by experts or expert agencies; however, “thresholds can be drawn from existing environmental standards, such as other statutes or regulations.” (*Id.* at p. 1107.) Regardless of who develops the threshold, if an agency adopts a threshold, it must be supported with substantial evidence. (State CEQA Guidelines, § 15064.7(b).) Additionally, “thresholds cannot be used to determine automatically whether a given effect will or will not be significant[;]” “[i]nstead, thresholds of significance can be used only as a measure of whether a certain environmental effect “will normally be determined to be significant” or “normally will be determined to be less than significant” by the agency. (Guidelines, § 15064.7, subd. (a), italics added.)” (*Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th at pp. 1108-1109.) Proposed subdivision (c) of section 15064.7 recognizes the principles described above by expressly recognizing that experts and expert agencies may be developing thresholds that other public agencies may find useful in their own CEQA analyses, but requiring, as a safeguard, that any such threshold be supported with substantial evidence.

Notably, nothing in either AB32 or SB97 requires a finding of significance for any particular level of increase in greenhouse gas emissions. AB32, and regulations implementing that statute, will require reductions in emissions from certain sectors in the economy, but do not preclude new emissions. Moreover, as explained in the Initial Statement of Reasons, the proposed amendments do not establish a zero emissions threshold of significance because “there is no ‘one molecule rule’ in CEQA. (*CBE, supra*, 103 Cal.App.4th at 120.)” (Initial Statement of Reasons, at p. 20.)

Some comments suggested that any numeric thresholds that are developed should not be set at such a low level that adverse economic impacts would result. While economic issues are appropriate in the determination of feasibility of mitigation and alternatives, it is not appropriate in the determination of significance (see, e.g., Public Resources Code, § 21002), so a threshold should not be designed with economic impacts in mind. Moreover, even a “high” threshold would not relieve agencies of the requirement to consider any evidence indicating that a project may have a significant effect despite falling below a threshold. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109; *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342.)

## **Mitigation Hierarchy**

CEQA's substantive mandate requires that "public agencies should not approve projects as proposed if there are ... feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" (Public Resources Code, § 21002.) The statute defines feasible to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Public Resources Code, § 21061.1.) The Legislature further provided that a lead agency may use its lawful discretion to mitigate significant impacts to the extent provided by other laws:

In mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than this division. However, a public agency may use discretionary powers provided by such other law for the purpose of mitigating or avoiding a significant effect on the environment subject to the express or implied constraints or limitations that may be provided by law.

(Public Resources Code, § 21004.) Cities and counties may rely on their constitutional police powers, for example, while the ability of other agencies to require mitigation may be limited by the scope of their statutory authority. Mitigation is also subject to constitutional limitations; i.e., there must be a nexus between the mitigation measure and the impact it addresses, and the mitigation must be roughly proportional to the impact of the project. (*Nollan v. California Coastal Comm'n* (1987) 483 U.S. 825; *Dolan v. City of Tigard* (1994) 512 U.S. 374; State CEQA Guidelines, § 15126.4(a)(4).)

CEQA itself imposes very few limitations on a lead agency's discretion to impose mitigation. For example, agencies may not mitigate the effects of a housing project by reducing the proposed number of units if other feasible mitigation measures are available. (Public Resources Code, § 21159.26.) Similarly, the Legislature has prescribed specific types of mitigation in only very limited circumstances; i.e., impacts to archeological resources and oak woodlands. (Public Resources Code, §§ 21083.2, 21083.4.)

SB 97 specifically called for guidelines addressing the mitigation of greenhouse gas emissions. In doing so, however, the Legislature did not alter a lead agency's discretion, authority or limitations on the imposition of mitigation where the impacts of a project's greenhouse gas emissions are significant. Thus, as explained in the Initial Statement of Reasons, the existing CEQA rules apply to the mitigation of greenhouse gas emissions.

Within the scope of a lead agency's existing authority, the CEQA Guidelines already contain provisions that recognize a lead agency's obligation to balance various factors in determining how or whether to carry out a project. (State CEQA Guidelines, § 15021(d).) Further, the Guidelines already require that "[w]here several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified." (State CEQA Guidelines, § 15126.4(a)(1)(B).)

Additionally, public agencies are directed to adopt their own implementing procedures, consistent with CEQA and the State CEQA Guidelines, which could set forth the types of mitigation that a particular agency finds to be most appropriate for projects subject to its approval. (State CEQA Guidelines, § 15022.) The Natural Resources Agency cannot, however, state in the State CEQA Guidelines that all lead agencies have the authority to prioritize types of mitigation measures, or to establish any particular priority order for them. Each lead agency must determine the scope of its own authority based on its own statutory or constitutional authorization.

## **Reliability and Effectiveness of Mitigation**

Some comments expressed concern about the reliability and efficacy of some mitigation strategies. In response to such comments, the Natural Resources Agency further revised section 15126.4(c) to expressly require that any measures, in addition to being feasible, must be supported with substantial evidence and be capable of monitoring or reporting. (See Revised Section 15126.4(c) (October 23, 2009).) This addition reflects the requirements in Public Resources Code section 21081.5 that findings regarding mitigation be supported with substantial evidence and the monitoring or reporting requirement in section 21081.6.

The text of proposed section 15126.4(c), addressing mitigation of greenhouse gas emissions, also requires that mitigation measures be effective. The first sentence of that section requires that mitigation be “feasible.” Further, the statute defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (Public Resources Code, § 21061.1 (emphasis added); see also State CEQA Guidelines § 15364 (adding “legal” factors to the definition of feasibility.) A recent decision of the Third District Court of Appeal confronting questions regarding the effectiveness of a mitigation measure explained: “concerns about whether a specific mitigation measure ‘will actually work as advertised,’ whether it ‘can ... be carried out,’ and whether its ‘success ... is uncertain’ go to the feasibility of the mitigation measure[.]” (*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal. App. 4th 603, 622-623.) Thus, by requiring that lead agencies consider feasible mitigation of greenhouse gas emissions, section 15126.4(c) already requires that such measures be effective.

## **Off-site Mitigation and Offsets**

Relatively little authority addresses the question of how close of a causal connection must exist between off-site emissions reductions and project implementation in order to be adequate mitigation under CEQA. CEQA requires lead agencies to mitigate or avoid the significant effects of proposed projects where it is feasible to do so. While the CEQA statute does not define mitigation, the State CEQA Guidelines define mitigation to include:



(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

(State CEQA Guidelines, § 15370.) As subdivision (e) implies, off-site measures may constitute mitigation under CEQA, and such measures have been upheld as adequate mitigation in CEQA case law. (See, e.g., *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal. App. 4th 603, 619-626.)

Whether on-site or off-site, to be considered mitigation, the measure must be tied to impacts resulting from the project. Section 21002 of the Public Resources Code, the source of the requirement to mitigate, states that “public agencies should not approve projects as proposed if there are ... feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Similarly, section 21081(a)(1) specifies a finding by the lead agency in adopting a project that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.” Both statutory provisions expressly link the changes to be made (i.e., the “mitigation measures”) to the significant effects of the project. Courts have similarly required a link between the mitigation measure and the adverse impacts of the project. (*Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors* (2001) 87 Cal. App. 4th 99, 128-131 (EIR must discuss “the history of water pumping on [the off-site mitigation] property and its feasibility for providing an actual offset for increased pumping on the [project] property”).) The text of sections 21002 and 21081, and case law requiring a “nexus” between a measure and a project impact, together indicate that “but for” causation is a necessary element of mitigation. In other words, mitigation should normally be an activity that occurs in order to minimize a particular significant effect. Or, stated another way and in the context of greenhouse gas emissions, emissions reductions that would occur without a project would not normally qualify as mitigation.

Notably, this interpretation of the CEQA statute and case law is consistent with the Legislature’s directive in AB32 that reductions relied on as part of a market-based compliance mechanism must be “in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission

reduction that otherwise would occur.” (Health and Safety Code, § 38562(d)(2).) While AB32 and CEQA are separate statutes, the additionality concept may be applied analytically in the latter as follows: greenhouse gas emission reductions that are otherwise required by law or regulation would appropriately be considered part of the existing baseline. Pursuant to section 15064.4(b)(1), a new project’s emissions should be compared against that existing baseline.

Thus, in light of the above, and in response to concerns raised in the comments, the Natural Resources Agency has revised section 15126.4(c)(3) to state that mitigation includes: “Off-site measures, including offsets that are not otherwise required, to mitigate a project’s emissions[.]” This provision is intended to be read in conjunction with the statutory mandate in Public Resources Code sections 21002 and 21081 that mitigation be tied to the effects of a project.

This provision would not limit the ability of a lead agency to create, or rely on the creation of, a mechanism, such as an offset bank, created prospectively in anticipation of future projects that will later rely on offsets created by those emissions reductions. The Initial Statement of Reasons referred, for example, to community energy conservation projects. (Initial Statement of Reasons, at p. 38.) Such a program could, for example, identify voluntary energy efficiency retrofits that would not occur absent implementation of the program, and then fund the retrofits through the sale of offsets that would occur as a result of the retrofit. Emissions reductions that occur as a result of a regulation requiring such reduction, on the other hand, would not constitute mitigation.

Some comments opined that offsets are highly uncertain and of questionable legitimacy. The Initial Statement of Reasons, however, cites several sources discussing examples of offsets being used in a CEQA context. Further, the ARB Scoping Plan describes offsets as way to “provide regulated entities a source of low-cost emission reductions, and ... encourage the spread of clean, efficient technology within and outside California.” (Scoping Plan, Appendix C, at p. C-21.) The Natural Resources Agency finds that the offset concept is consistent with the existing CEQA Guidelines’ definition of “mitigation,” which includes “[r]ectifying the impact by repairing, rehabilitating, or restoring the impacted environment” and “[c]ompensating for the impact by replacing or providing substitute resources or environments.” (State CEQA Guidelines, §§ 15370(c), (e).)

While the proposed amendments recognize offsets as a potential mitigation strategy, they do not imply that offsets are appropriate in every instance. The efficacy of any proposed mitigation measure is a matter for the lead agency to determine based on the substantial evidence before it. Use of the word “feasible” in proposed Section 15126.4(c) requires the lead agency to find that any measure, including offsets, would be “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (State CEQA Guidelines, § 15364.)

Thus, the Natural Resources Agency finds that by expressly requiring that any mitigation measure be feasible, supported with substantial evidence, and capable of monitoring or reporting, section 15126.4(c) adequately addresses the concern stated in the comment that offsets may be of questionable legitimacy.

### **Use of Plans for the Reduction of Greenhouse Gas Emissions in a Cumulative Impacts Analysis**

Section 15183.5 was developed to address tiering and streamlining the analysis of greenhouse gas emissions. Subdivision (a) highlights existing tiering and streamlining mechanisms in CEQA that may be used to address the analysis and mitigation of greenhouse gas emissions. Those mechanisms are often used for general plans and other long range planning documents. Subdivision (a) therefore recognizes that lead agencies may choose to include a programmatic analysis of greenhouse gas emissions in those long range plans. That subdivision did not create any new tiering or streamlining provisions; rather, it cross-references existing mechanisms. Each mechanism has its own benefits and drawbacks, and the use of any analysis of greenhouse gas emissions contained in such a document would be governed by the specific provisions cited in subdivision (a).

Subdivision (b), on the other hand, acknowledges that, in addition to the long range documents mentioned in subdivision (a), some agencies are voluntarily developing stand-alone plans focused specifically on the reduction of greenhouse gas emissions. Subdivision (b) is not a tiering mechanism. Tiering is governed by section 15152 of the existing CEQA Guidelines. The purpose of section 15183.5(b) is much narrower. Because climate action plans and greenhouse gas reduction plans are voluntary, and not subject to any legislative criteria or requirements, subdivision (b) was developed “to assist lead agencies in determining whether an existing greenhouse gas reduction plan is an appropriate document to use in a cumulative impacts analysis under CEQA.” (Initial Statement of Reasons, at p. 54.) Specifically, a project that is consistent with a plan that satisfies the criteria in subdivision (b) may benefit from the presumption created in sections 15064(h)(3) and 15130(d) that the project’s cumulative impacts are less than significant due to compliance with the plan. Subdivision (b) does not create or authorize any plans; rather, it provides a tool to determine whether a plan for the reduction of greenhouse gas emissions may be used in a cumulative impacts analysis as provided in section 15064(h)(3) or 15130(d). Section 15183.5(b) does not require that public agencies develop plans for the reduction of greenhouse gas emissions, nor does it prohibit public agencies from developing individual ordinances and regulations to address individual sources of greenhouse gas emissions.

As an example, if a general plan EIR analyzed and mitigated greenhouse gas emissions, a lead agency would likely use the specific streamlining provision applicable to general plan EIRs in section 15183, and not the more general provision in 15183.5(b). A stand alone “climate action plan” that was not analyzed in a program EIR, master EIR, or other mechanism identified in 15183.5(a) may still be used in a

cumulative impacts analysis pursuant to sections 15064(h)(3) or 15130(d), but only if that climate action plan contains the elements listed in section 15183.5(b)(1).

Some comments suggested that section 15183.5(b) should identify specific types of plans to which it would apply. That section was developed precisely because plans for the reduction of greenhouse gas emissions are not specified in law and are so varied. They have been variously titled “climate action plans”, “sustainability plans”, “greenhouse gas reduction plans”, etc. Contents of such plans also vary widely. Thus, the Natural Resources Agency cannot specifically identify which plans satisfy the criteria in subdivision (b). That determination must be made by the individual lead agency based on whether the specific plan under consideration satisfies each of the criteria in subdivision (b)(1).

Notably, public agencies are required to develop their own procedures to implement CEQA. (State CEQA Guidelines, § 15022.) If a lead agency determines that it does not have a plan for the reduction of greenhouse gas emissions that contains the criteria set forth in section 15183.5(b), but its collective policies, ordinances and other requirements nevertheless ensure that the incremental contribution of individual projects is not cumulatively considerable, and substantial evidence supports that determination, it could include such an explanation and support in its own implementing procedures.

Some comments questioned how a Sustainable Communities Strategy or Alternative Planning Strategy should be treated in light of section 15183.5. SB375 encourages programmatic analysis and planning for greenhouse gas emissions from cars and light-duty trucks, and provides specific CEQA streamlining benefits for certain types of projects that are consistent with a Sustainable Communities Strategy (SCS) or an Alternative Planning Strategy (APS). Given the specificity of those statutory provisions, sections 21155 through 21155.3 and 21159.28 of the Public Resources Code in particular, the Office of Planning and Research and the Natural Resources Agency did not find that additional guidance on those provisions was necessary at this time. Proposed section 15183.5(c), however, clarifies that while certain projects consistent with an SCS or APS may not need to analyze greenhouse gas emissions from cars and light-duty trucks, emissions from other sources still may require analysis and mitigation. As SB97 requires the CEQA Guidelines to be updated every two years to incorporate new information, additional guidance regarding the relationship between CEQA and SB375 may be developed as necessary. (See also the discussion of AB32, SB375 and CEQA, above.)

## **Definition of Greenhouse Gas Emissions**

Several comments objected to the definition of greenhouse gas emissions in the Guidelines. Some suggested that it should be strictly limited to the gases identified in AB32. Other thought it should include all potential greenhouse gas emissions. Still others wanted to exclude biogenic emissions from the definition.

As explained in the Initial Statement of Reasons, the definition of greenhouse gases in AB32 states that GHG “includes all of the following...” (Health and Safety Code, § 38505(g).) The Legislature thus implied that other gases may also be considered GHGs. Further, the ARB Scoping Plan also acknowledged that other gases contribute to climate change. (Scoping Plan, at p. 11.) Consistent with the definition in the Health and Safety Code, the proposed definition in the Proposed Amendments is not exclusive to the six primary GHGs. The purpose of a more expansive definition is to ensure that lead agencies do not exclude from consideration GHGs that are not listed, so long as substantial evidence indicates that such non-listed gases may result in significant adverse effects. This approach is consistent with the Supreme Court’s directive that CEQA be interpreted to provide the fullest possible protection to the environment. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 390.)

While the definition could not be strictly limited to the six gases identified in AB32, the Natural Resources Agency concluded that specific mention of other potential greenhouse gases was also not appropriate. Notably, the federal Environmental Protection Agency limited its proposed endangerment finding to those same six listed gases. It did so because the six gases are well studied, and have been the focus of climate change research. (Federal Register, v. 74, 18886, 18895 (April 24, 2009).) It is not necessary to list each of the known potential greenhouse gases because the proposed definition in section 15364.5 is written broadly, stating that the greenhouse gas emissions “are not limited to” the listed examples. As further explained in the Initial Statement of Reasons, the “purpose of a more expansive definition is to ensure that lead agencies do not exclude from consideration GHGs that are not listed, so long as substantial evidence indicates that such non-listed gases may result in significant adverse effects.” (Initial Statement of Reasons, at p. 58.) Because the CEQA Guidelines must be updated periodically to reflect developments relating to greenhouse gas emissions, the Natural Resources Agency may expand the definition of greenhouse gas emissions if necessary to reflect the most current science and practice.

The Natural Resources Agency also concluded that the definition of greenhouse gas emissions should not differentiate between biogenic and anthropogenic emissions. SB97 does not distinguish between the sources of greenhouse gas emissions. Notably, neither AB32 nor the Air Resources Board’s Scoping Plan distinguishes between biogenic and anthropogenic sources of greenhouse gas emissions. On the contrary, the Scoping Plan identifies methane from, among other sources, organic wastes decomposing in landfills as a source of emissions that should be controlled. (Scoping Plan, at pp. 62-63.)

## **Forestry**

Some comments objected to the inclusion of questions related to forest resources in the Appendix G questions in the section on agricultural resources.

SB97 called for guidance on the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions. (Public Resources Code, § 21083.05.) As explained in the Initial Statement of Reasons, forest conversions may result in direct greenhouse gas emissions. Further, such conversions remove existing forest stock and the potential for further carbon sequestration. (Initial Statement of Reasons, at p. 63.) Sequestration is recognized as a key mitigation strategy in the Air Resources Board's Scoping Plan. (Scoping Plan, Appendix C, at p. C-168.)

The addition of questions related to forestry does not target the establishment of agricultural operations. The questions ask about *any* conversion of forests, not just conversions to other agricultural operations. Moreover, analysis of impacts to forestry resources is already required. The Legislature has declared that "forest resources and timberlands of the state are among the most valuable of the natural resources of the state" and that such resources "furnish high-quality timber, recreational opportunities, and aesthetic enjoyment while providing watershed protection and maintaining fisheries and wildlife." (Public Resources Code, § 4512(a)-(b).) Because CEQA defines "environment" to include "land, air, water, minerals, flora, fauna, noise, [and] objects of historic or aesthetic significance" (Public Resources Code, section 21060.5), and because forest resources have been declared to be "the most valuable of the natural resources of the state," projects affecting such resources must be analyzed, whether or not specific questions relating to forestry resources appear in Appendix G. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.) In effect, suggestions that the Appendix G questions be limited to conversions to "non-agricultural uses" ask the Natural Resources Agency to adopt changes that are inconsistent with CEQA, which it cannot do.

Questions related to greenhouse gas emissions in Appendix G are not sufficient to address impacts related to forestry resources. As explained in the Initial Statement of Reasons, not only do forest conversions result in greenhouse gas emissions, but may also "remove existing carbon stock (i.e., carbon stored in vegetation), as well as a significant carbon sink (i.e., rather than emitting GHGs, forests remove GHGs from the atmosphere)." (Initial Statement of Reasons, at p. 63.) Further, conversions may lead to "aesthetic impacts, impacts to biological resources and water quality impacts, among others." The questions related to greenhouse gas emissions would not address such impacts. Thus, the addition of forestry questions to Appendix G is appropriate both pursuant to SB97 and the Natural Resources Agency's general authority to update the CEQA Guidelines pursuant to Public Resources Code section 21083(f).

### **"Level of Service" and Transportation Impact Analysis**

The Natural Resources Agency acknowledges the concern expressed by some comments that the use of level of service metrics in CEQA analysis has led to an auto-centric focus. The Office of Planning and Research and the Natural Resources Agency have participated in extensive outreach with stakeholder groups to revise question (a) in the transportation section of Appendix G to accomplish the following goals:

- Assess traffic impacts on intersections, streets, highways and freeways as well as impacts to pedestrian, non-vehicular and mass-transit circulation
- Recognize a lead agency's discretion to choose methodology, including LOS, to assess traffic impacts
- Harmonize existing requirements in congestion management programs, general plans, ordinances, and elsewhere

In response to public comments submitted on proposed amendments, the Natural Resources Agency further refined question (a) to shift the focus from the capacity of the circulation system to consistency with applicable plans, policies that establish objective measures of effectiveness.

Some comments advocated leaving the existing text in question (a) of the transportation section of Appendix G intact. As explained in the Initial Statement of Reasons,

[Q]uestion (a) changes the focus from an increase in traffic at a given location to the effect of a project on the overall circulation system in the project area. This change is appropriate because an increase in traffic, by itself, is not necessarily an indicator of a potentially significant environmental impact. (Ronald Miliam, AICP, *Transportation Impact Analysis Gets a Failing Grade When it Comes to Climate Change and Smart Growth*; see also Land Use Subcommittee of the Climate Action Team LUSCAT Submission to CARB Scoping Plan on Local Government, Land Use, and Transportation Report (May, 2008) at pp. 31, 36.) Similarly, even if some projects may result in a deterioration of vehicular level of service – that is, delay experienced by drivers – the overall effectiveness of the circulation system as a whole may be improved. (*Ibid.*) Such projects could include restriping to provide bicycle lanes or creating dedicated bus lanes. Even in such cases, however, any potential adverse air quality or other impacts would still have to be addressed as provided in other sections of the checklist. Finally, the change to question (a) also recognizes that the lead agency has discretion to choose its own metric of analysis of impacts to intersections, streets, highways and freeways. (Pub. Resources Code, § 21081.2(e); *Eureka Citizens for Responsible Gov't v. City of Eureka, supra*, 147 Cal.App.4th at 371-373 (lead agency has discretion to choose its methodology).) Thus, “level of service” may or may not be the applicable measure of effectiveness of the circulation system.

(Initial Statement of Reasons, at pp. 64-65.) Further, evidence presented to the Natural Resources Agency indicates that “mitigation” of traffic congestion may lead to even greater environmental impacts than might result from congestion itself. (See, e.g.,

Cervero, Robert. (July, 2001). *Road Expansion, Urban Growth, and Induced Travel: A Path Analysis*. Journal of the American Planning Association, Vol. 69 No. 2. American Planning Association (confirming “induced demand” phenomenon associated with capacity improvements.)

While the terms “volume to capacity ratio” and “congestion at intersections” no longer appear in question (a), nothing precludes a lead agency from including such measures of effectiveness in its own general plan or policies addressing its circulation system. Though the Office of Planning and Research originally recommended specifying “vehicle miles traveled” as a question in Appendix G, it later revised its recommendation to allow lead agencies to choose their own measures of effectiveness. (Letter from OPR Director, Cynthia Bryant, to Secretary for the Natural Resources Agency, Mike Chrisman, April 13, 2009.) Thus, as revised, question (a) accommodates lead agency selection of methodology, including, as appropriate, vehicle miles traveled, levels of service, or other measures of effectiveness.

Other comments objected to any mention of the phrase “level of service” in question (b) of the transportation section of the Appendix G checklist. That question, as revised, would ask whether a project would conflict with the provisions of a congestion management program. The Government Code, beginning at section 65088, requires Congestion Management Agencies, in urbanized areas, to adopt Congestion Management Programs covering that agency’s cities and county, and in consultation with local governments, transportation planning agencies, and air quality management districts. A CMP must, pursuant to statute, contain level of service standards for certain designated roadways. A CMP must also include a land use analysis program to assess the impact of land use decisions on the regional transportation system. A CMA may require that land use analysis to occur through the CEQA process. Thus, level of service standards cannot be deleted from the Appendix G checklist altogether. The proposed amendments did, however, amend question (b) to put level of service standards in the broader context of the entire CMP, which should also contain travel demand measures and other standards affecting the circulation system as a whole. Beyond this amendment, however, the Natural Resources Agency cannot remove level of service standards entirely from the Appendix G checklist.

Notably, the primary purpose of the proposed amendments is to update the CEQA Guidelines on the analysis and mitigation of greenhouse gas emissions. While certain changes to Appendix G were proposed pursuant to the Natural Resources Agency’s general authority to update the CEQA Guidelines, those changes were modest and were intended to address certain misapplications of CEQA in a way that hinders the type of development necessary to reduction of greenhouse gas emissions. Transportation planning and impact analysis continues to evolve, as new multimodal methods of analysis and guidelines on the integration of all modes of transportation and users into the circulation system are being developed. Additional updates to Appendix G may be appropriate in the future to address those developments.



## Parking

As explained in the Initial Statement of Reasons, the Natural Resources Agency concluded that the question related to parking adequacy should be deleted from the Appendix G checklist in part as a result of the decision in *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656. The court in that case distinguished the social impact of inadequate parking from actual adverse environmental impacts. In particular, that court explained:

[T]here is no statutory or case authority requiring an EIR to identify specific measures to provide additional parking spaces in order to meet an anticipated shortfall in parking availability. The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality *is*. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the *secondary physical* impacts that could be triggered by a social impact.

(*Id.* at p. 698 (emphasis in original).) The Natural Resources Agency is aware of no authority requiring an analysis of parking adequacy as part of a project's environmental review. Rather, the Agency concurs with the court in the *San Franciscans* case that inadequate parking is a social impact that may, depending on the project and its setting, result in secondary effects. Consistent with existing CEQA Guidelines section 15131(a), deletion of the parking adequacy question from Appendix G checklist will ensure that the "focus of the analysis shall be on the physical changes." Specifically, the Appendix G checklist contains questions asking about possible project impacts to air quality and traffic.

Some comments pointed to examples of potential adverse impacts that could result from parking shortages, such as double-parking and slower circulation speeds, and referred specifically to a study of "cruising" behavior by Donald Shoup that noted that cruising could result in emissions of carbon dioxide. The relationship between parking adequacy and air quality is not as clear or direct as some comments imply. Mr. Shoup, for example, submitted comments to the Natural Resources Agency supporting the deletion of the parking question. (See, Letter from Donald Shoup, Professor of Urban Planning, University of California, Los Angeles, October 26, 2009.) In those comments, Mr. Shoup opines that cruising results not from the number of parking spaces associated with a project, but rather from the price associated with those parking spaces. (*Ibid.*) The Natural Resources Agency also has evidence before it demonstrating that providing parking actually causes greater emissions due to induced demand. The California Air Pollution Control Officers Association CEQA White Paper, for example, suggests reducing available parking as a way to reduce greenhouse gas emissions. (Greg Tholen, et al. (January, 2008). CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. California Air Pollution Control Officers Association, at Appendix B, pp. 8-9.)

Moreover, parking analyses do not typically address either air quality or traffic impacts; rather, such analyses often focus on the number of parking spaces necessary to satisfy peak demand, which is often established by a local agency as a parking ratio (i.e., one space per 250 square feet of office space). (See, e.g., Shoup, Donald. (1999). In Lieu of Required Parking. Journal of Planning Education and Research, Vol. 18 No. 4. Association of Collegiate Schools of Planning, at p. 309.) Thus, the question in Appendix G related to parking adequacy does not necessarily lead to the development of information addressing actual environmental impacts.

In sum, nothing in the CEQA statute, or cases interpreting that statute, require an analysis of parking demand. Further, parking supply is not a reasonable proxy for direct physical impacts associated with a project because parking supply may in some circumstances adversely affect air quality and traffic while in other circumstances, it may create air quality and traffic benefits. Thus, maintaining the parking question in the general Appendix G checklist is not necessary to effectuate the purposes of the CEQA statute.

The Natural Resources Agency acknowledges, however, that parking supply may lead to social impacts that agencies may wish to regulate. Cities and counties can, and do, include parking related policies in their municipal ordinances and general plans. (See, e.g., Office of Planning and Research, General Plan Guidelines, at pp. 59-60.) To the extent an agency has developed parking related policies in a general plan, zoning ordinance, or other regulation, consistency with those policies could be analyzed as a potential land use impact. Public agencies must, moreover, develop their own procedures to implement CEQA, and so may include parking-related questions in their own checklist if appropriate in their own circumstances. (State CEQA Guidelines, §§ 15022, 15063(f).)

## **AB32, SB375 and CEQA**

Many comments suggested various links between CEQA, AB32 and SB375. While there is some overlap between the statutes, each contains its own requirements and serves its own purposes. While recognizing the role of regulatory programs in addressing cumulative impacts analysis in CEQA, the Proposed Amendments deliberately avoided linking the determination of significance under CEQA to compliance with AB32. The following addresses the CEQA effect of compliance with AB32 and SB375.

### The Effect of Consistency with the Scoping Plan and the Regulations Implementing AB32

The Initial Statement of Reasons explained that the Scoping Plan “may not be appropriate for use in determining the significance of individual projects ... because it is conceptual at this stage and relies on the future development of regulations to

implement the strategies identified in the Scoping Plan.” (Initial Statement of Reasons, at p. 14.) Compliance with the regulations implementing the Scoping Plan, on the other hand, might be relevant in determining the significance of a project’s emissions, if the particular regulation or regulations specifically addresses the emissions from the project. (*Ibid.*) Compliance with regulations is specifically addressed in section 15064(h)(3) and 15064.4(b)(3).

Specifically, both sections provide that a lead agency may consider compliance with such regulations, and if relying on regulations to determine that an impact is less than significant, the lead agency must explain how that particular regulation addresses the impact of the project. Both sections also recognize that a lead agency must still consider whether any evidence supports a fair argument that a project may still have a significant impact despite compliance with the regulation.

#### The Effect of Consistency with Plans for the Reduction of Greenhouse Gas Emissions, Sustainable Communities Strategies and Alternative Planning Strategies.

Several comments questioned whether the references in the Proposed Amendments to “greenhouse gas reduction plans” were intended to include a Sustainable Communities Strategy (SCS) or Alternative Planning Strategy (APS).

SB375 created both the SCS and APS as strategies to be adopted by metropolitan planning organizations for the purpose of achieving greenhouse gas emissions reductions targets established by the California Air Resources Board. SB375 inserted specific provisions into CEQA governing the review of projects that are consistent with an APS or SCS. (See, e.g., Public Resources Code, §§ 21155-21155.3, 21159.28.) Because of the specificity of those provisions, the Office of Planning and Research and the Natural Resources Agency determined that no further guidance was needed in the Proposed Amendments to address the use of an SCS or APS.

As explained in the Initial Statement of Reasons, however, OPR and the Natural Resources Agency observed that many jurisdictions were adopting plans specifically for the purpose of addressing and reducing greenhouse gas emissions. (Initial Statement of Reasons, at pp. 12-13.) Those plans may be titled Climate Action Plans, Greenhouse Gas Reduction Plans, Sustainability Plans, etc. While recognizing the great variety of such plans, as well as the lack of legislative or other direction regarding the content of such plans, OPR and the Natural Resources Agency proposed the addition of a new Guidelines section 15183.5(b) to establish criteria for those plans if they are to be used in a CEQA cumulative impacts analysis as provided in sections 15064(h)(3) and 15130(d). The proposed amendments to section 15064(h)(3) and addition of section 15183.5(b) were not intended to limit or affect the use of an APS or SCS as provided in the Public Resources Code.

SB375 included provisions that would exempt certain types of projects from CEQA, and would apply the substantial evidence standard of review to other types of projects reviewed under a Sustainable Communities Environmental Assessment. Some

comments raised concerns that the proposed amendments, and section 15064(h)(3) in particular, may conflict with those provisions of SB375. The last sentence of Section 15064(h)(3), which acknowledges the application of the fair argument standard in the determination of whether to prepare an EIR, complies with existing law. (*CBE, supra*, 103 Cal.App.4th at 115-116.) SB375's specific statutory provisions, and not section 15064(h)(3), would control for a project that satisfies the conditions in those provisions. Thus, there is no conflict between the existing language in Section 15064(h)(3) and SB375.

Comments were also raised about the application of section 15125(d), which requires a discussion of a project's consistency with applicable regional plans, to an APS or SCS. One comment suggested that, for CEQA purposes, an SCS and APS are interchangeable. The Natural Resources Agency disagrees. An Alternative Planning Strategy is not a land use plan with which land use consistency should be analyzed under CEQA. (Government Code, § 65080(b)(2)(H)(v).) For that reason, the Natural Resources Agency deliberately did not propose to add "Alternative Planning Strategy" to the list of plans to be considered in an environmental setting pursuant to section 15125. There is no similar statement precluding analysis of consistency with a Sustainable Communities Strategy, however. Thus, the reference to a "regional transportation plan" in the existing section 15125(d) remains appropriate. As explained above, and the Initial Statement of Reasons, the reference to "plans for the reduction of greenhouse gas emissions" is intended to cover a broad range of plans that may be adopted by state and local agencies. The specific statutory provisions governing an Alternative Planning Strategy or Sustainable Communities Strategy would, however, control.

Similarly, some comments expressed concern regarding the application of the new Appendix G question asking about a project's consistency with applicable plans for the reduction of greenhouse gas emissions. That Appendix G question, as revised, asks whether a project would: "Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?" (Emphasis added.) In response to comments, the Natural Resources Agency replaced the word "any" with the word "an" to clarify that only a plan determined to be applicable by the lead agency, and not any plan developed by any person or entity, should be considered in determining whether a project would result in a significant impact relating to greenhouse gas emissions. Government Code section 65080(b)(2)(H)(v) states: an "alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect" for CEQA purposes. By operation of that Government Code Section 65080(b)(2)(H)(v), an alternative planning strategy would not constitute "an applicable plan" for purposes of the Appendix G question. Notably, as explained in the Initial Statement of Reasons, the Appendix G checklist is meant to provide a sample checklist of questions designed to provoke thoughtful consideration of general environmental concerns. (Initial Statement of Reasons, at p. 63.) Because it is provided as a sample only, the Office of Planning and Research and the Natural Resources Agency found that it would not be possible to

identify with specificity each plan that or may not apply to a particular jurisdiction or project.

Lead agencies, however, have discretion to revise the checklist in a way that is most appropriate for their own jurisdiction. If an individual agency in a region where an APS was prepared finds it necessary or desirable to restate Government Code Section 65080(b)(2)(H)(v) in its own checklist, it may do so. Further, while inconsistency with an APS is not, by itself, an indication of a potentially significant impact, other project characteristics would need to be considered as indicated in Section 15064.4 and other provisions of the CEQA Guidelines. Because Government Code Section 65080(b)(2)(H)(v) already provides that an APS is not a land use plan for CEQA purposes, and the Appendix G question asks only about “an applicable plan,” the question need not specify an exception for an APS.

### The Effect of Compliance with Regulations Implementing AB32 or Other Laws Intended to Reduce Greenhouse Gas Emissions

Some comments urged that lead agencies should be able to rely on sector-wide reductions in emissions that may result from implementation of AB32 and other regulations in mitigating an individual project’s impacts. Those comments appeared to conflate the requirement that a lead agency consider cumulative impacts (i.e., the impacts resulting from a project’s emissions when added to other past, present and reasonably foreseeable future emissions) with the requirement that a lead agency mitigate the significant effects of a project. The proposed amendments contain several provisions addressing the analysis of greenhouse gas emissions as a cumulative effect. For example, Section 15064(h)(3) and 15130(d) would encourage lead agencies to use existing plans for the reduction of greenhouse gas emissions in cumulative impacts analysis. Additionally, Section 15130(b)(1)(B) is proposed for amendment to allow lead agencies to use projections of emissions contained in certain plans and models. Thus, the proposed amendments would allow a lead agency to consider a project in the context of other emissions resulting from the same or other sectors.

To the extent comments suggested that reductions in emissions resulting from implementation of AB32 elsewhere can mitigate the significant effects of a separate project under CEQA, the Natural Resources Agency disagrees. (See discussion below on off-site mitigation.)

A project’s compliance with regulations or requirements implementing AB32 or other laws and policies is not irrelevant. Section 15064.4(b)(3) would allow a lead agency to consider compliance with requirements and regulations in the determination of significance of a project’s greenhouse gas emissions. Lead agencies should note, however, that compliance with one requirement, affecting only one source of a project’s emissions, may not necessarily support a conclusion that all of the project’s emissions are less than significant.

## Projects That Implement AB32 or Otherwise Assist in Achieving the State's Emissions Reductions Goals

Finally, some comments noted that projects implementing AB32, or that would somehow assist the State in achieving a low-carbon future, should not be considered significant under CEQA, and that requiring such projects to mitigate their emissions would frustrate implementation of AB32. CEQA requires analysis and mitigation of a project's significant adverse environmental impacts, even if that project may be considered environmentally beneficial overall. As the Third District Court of Appeal recently explained:

“[I]t cannot be assumed that activities intended to protect or preserve the environment are immune from environmental review. [Citations.]” ....  
There may be environmental costs to an environmentally beneficial project, which must be considered and assessed.

(*Cal. Farm Bureau Fed. v. Cal. Wildlife Cons. Bd.* (2006) 143 Cal. App. 4th 173, 196.) Nothing in SB97 altered this rule. Thus, lead agencies must consider whether the greenhouse gas emissions resulting from beneficial projects may be significant, and if so, whether any feasible measures exist to mitigate those emissions. If such emissions are found to be significant and unavoidable, proposed amendments to section 15093 would expressly allow lead agencies to consider the region-wide and statewide environmental benefits of a project in determining whether project benefits outweigh its adverse environmental impacts.

### **“Adaptation” and Analysis of the Effects of Climate Change on a Project**

Several comments submitted as part of the Natural Resources Agency's SB97 rulemaking process urged it to incorporate the California Climate Adaptation Strategy (Adaptation Strategy) into the CEQA Guidelines. In considering such comments, it is important to understand several key differences between the Adaptation Strategy and the California Environmental Quality Act. First, the Adaptation Strategy is a policy statement that contains recommendations; it is not a binding regulatory document. Second, the Adaptation Strategy focuses on how the State can plan for the effects of climate change. CEQA's focus, on the other hand, is the analysis of a particular project's greenhouse gas emissions on the environment, and mitigation of those emissions if impacts from those emissions are significant. Given these differences, CEQA should not be viewed as the tool to implement the Adaptation Strategy; rather, as indicated in the Strategy's key recommendations, advanced programmatic planning is the primary method to implement the Adaptation Strategies.

There is some overlap between CEQA and the Adaptation Strategy, however. As explained in both the Initial Statement of Reasons and in the Adaptation Strategy, section 15126.2 may require the analysis of the effects of a changing climate under certain circumstances. (Initial Statement of Reasons, at pp. 68-69.) In particular,

Section 15126.2 already requires an analysis of placing a project in a potentially hazardous location. Further, several questions in the Appendix G checklist already ask about wildfire and flooding risks. Many comments on the proposed amendments asked for additional guidance, however.

Having reviewed all of the comments addressing the effects of climate change, the Natural Resources Agency revised the proposed amendments to include a new sentence in Section 15126.2 clarifying the type of analysis that would be required. Existing section 15126.2(a) provides an example of a potential hazard requiring analysis: placing a subdivision on a fault line. The new sentence adds further examples, as follows:

Similarly, the EIR should evaluate any potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.

According to the Office of Planning and Research, at least sixty lead agencies already require this type of analysis. (California Governor's Office of Planning and Research, State Clearinghouse, The California Planners' Book of Lists (January, 2009), at p. 109.) This addition is reasonably necessary to guide lead agencies as to the scope of analysis of a changing climate that is appropriate under CEQA.

As revised, section 15126.2 would provide that a lead agency should analyze the effects of bringing development to an area that is susceptible to hazards such as flooding and wildfire, both as such hazards currently exist or may occur in the future. Several limitations apply to the analysis of future hazards, however. For example, such an analysis may not be relevant if the potential hazard would likely occur sometime after the projected life of the project (i.e., if sea-level projections only project changes 50 years in the future, a five-year project may not be affected by such changes). Additionally, the degree of analysis should correspond to the probability of the potential hazard. (State CEQA Guidelines, § 15143 ("significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence").) Thus, for example, where there is a great degree of certainty that sea-levels may rise between 3 and 6 feet at a specific location within 30 years, and the project would involve placing a wastewater treatment plant with a 50 year life at 2 feet above current sea level, the potential effects that may result from inundation of that plant should be addressed. On the other extreme, while there may be consensus that temperatures may rise, but the magnitude of the increase is not known with any degree of certainty, effects associated with temperature rise would not need to be examined. (State CEQA Guidelines, § 15145 ("If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate the discussion of the impact").) Lead agencies are not required to generate their own original research on potential future changes; however, where specific information is currently available, the analysis should address that information. (State CEQA

Guidelines, § 15144 (environmental analysis “necessarily involves some degree of forecasting. While seeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can”).)

The decision in *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464, does not preclude this analysis. In that case, the First District Court of Appeal held that a county was not required to prepare an EIR due solely to pre-existing soil contamination that the project would not change in any way. (*Id.* at 1468.) No evidence supported the petitioner’s claim that the project would “expose or exacerbate” the pre-existing contamination, which was located several hundred to several thousand feet from the project site. (*Id.* at n. 1.) Moreover, the project would have no other significant effects on the environment, and other statutes exist to protect residents from contaminated soils. Thus, the question confronting that court was whether pre-existing contamination near the project was, by itself, enough to require preparation of an EIR. It held that, in those circumstances, an EIR was not required. That court also acknowledged, however, that where there is a potential for ultimately changing the environment, an EIR could be required. (*Id.* at p. 1469.) Thus, unlike the circumstances in the *Baird* case, the analysis required in section 15126.2(a) would occur if an EIR was otherwise required. Similarly, the addition to that section contemplates hazards which the presence of a project could exacerbate (i.e., potential upset of hazardous materials in a flood, increased need for firefighting services, etc.).

Finally, while the revision in section 15126.2 is consistent with the general objective of the Adaptation Strategy and is consistent with the limits of CEQA, not all issues addressed in the Adaptation Strategy are necessarily appropriate in a CEQA analysis. Thus, the revision in section 15126.2 should not be read as implementation of the entire Adaptation Strategy. Unlike hazards that can be mapped, other issues in the Adaptation Strategy, such as the health risks associated with higher temperatures, are not capable of an analysis that links a project to an ultimate impact. Habitat modification and changes in agriculture and forestry resulting from climate change similarly do not appear to be issues that can be addressed on a project-by-project basis in CEQA documents. Water supply variability is an issue that has already been addressed in depth in recent CEQA cases. (See, e.g., *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 434-435 (“If the uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives—including alternative water sources and the option of curtailing the development if sufficient water is not available for later phases—and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact.”).) Further, legislation has been developed to ensure that lead agencies identify adequate water supplies to serve projects many years in the future under variable water conditions. (See, e.g., Water Code, § 10910 *et seq.*; Government Code, § 66473.7.) Thus, the analysis called for in section 15126.2(a) should be directed primarily at hazards, and not all aspects of the Adaptation Strategy.



## **Additional Changes**

Several comments suggested revisions or requested clarification of issues that were not addressed in this rulemaking package. The Initial Statement of Reasons explained:

[T]he Proposed Amendments suggest relatively modest changes to various portions of the existing CEQA Guidelines. Modifications address those issues where analysis of GHG emissions may differ in some respects from more traditional CEQA analysis. Other modifications are suggested to clarify existing law that may apply both to analysis of GHG emissions as well as more traditional CEQA analyses. The incremental approach in the Proposed Amendments is consistent with Public Resources Code section 21083(f), which directs OPR and the Resources Agency to regularly review the Guidelines and propose amendments as necessary.

(Initial Statement of Reasons, at p. 9.) Additionally, Public Resources Code section 21083.05(c) requires that the CEQA Guidelines be updated periodically “to incorporate new information or criteria established by the State Air Resources Board pursuant to” AB32. Therefore, the CEQA Guidelines will continually be updated to reflect evolving information and practice and to address developments regarding analysis of greenhouse gas emissions in the courts.

## **Determination Regarding Impacts on Local Government and School Districts**

The Natural Resources Agency has determined that the Amendments to the State CEQA Guidelines do not impose additional requirements or costs on local government or school districts. Among other things, Public Resources Code section 21083.05 (reflected in amendments to State CEQA Guidelines sections 15064.4, 15064.7(c), 15126.4(c), 15130, 15183.5, 15364.5, and Appendix G) clarifies that CEQA requires analysis of a project’s greenhouse gas emissions. Public Resources Code sections 21002 and 21004 (reflected in State CEQA Guidelines section 15126.4) require a lead agency to impose feasible mitigation where a project will cause significant adverse environmental impacts. Public Resources Code sections 21003 and 21093 (reflected in the amendments to State CEQA Guidelines sections 15064, 15125, 15130, 15150 and 15183, and new State CEQA Guidelines sections 15064.4 and 15183.5) encourage lead agencies to tier environmental impact reports wherever possible and to use existing analyses to reduce duplication and expense. The decision in *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1370, 1382 (reflected in proposed State CEQA Guidelines section 15064.4), requires that potential adverse impacts be quantified where it is possible to do so and quantification will assist in the determination of significance of the impact.

The Amendments to the State CEQA Guidelines described above merely reflect existing legislative requirements and judicial decision interpreting those requirements. Therefore, this rulemaking activity does not itself impose any costs on local government or school districts.

### **Determination Regarding Potential Economic Impacts Directly Affecting Business**

The Natural Resources Agency has determined that the Amendments will not have a significant, statewide adverse economic impact directly affecting business. The guidelines required by sections 21083 and 21083.05 of the Public Resources Code are promulgated in the California Code of Regulations, title 14, sections 15000-15387 (the “State CEQA Guidelines”). The Natural Resources Agency has determined that most of the amendments will have no impacts on business.

CEQA applies to activities of public agencies, including projects that are funded, proposed, or approved by public agencies. Thus, the amendments to the State CEQA Guidelines would apply to public agencies, and not directly to businesses. The Natural Resources Agency is aware, however, that certain requirements reflected in the amendments that have been enacted by the Legislature and developed in case law interpreting CEQA could have an indirect economic impact on business. Among other things, project proponents could incur additional costs in assisting lead agencies to comply with the requirement to quantify greenhouse gas emissions, if possible, as part of an analysis of the effects of such emissions. Project proponents may also incur costs in implementing mitigation measures to reduce such emissions. However, the amendments to the Guidelines merely reflect existing requirements. (See, e.g., Pub. Resources Code, §§ 21004 (“a public agency may use discretionary powers ... for the purpose of mitigating or avoiding a significant effect on the environment”), 21083.05 (requiring the development of guidelines on the analysis and mitigation of greenhouse gas emissions “as required by this division”); *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1370, 1382 (potential hazardous emissions and noise impacts must be quantified where it is possible to do so and quantification will assist in the determination of significance of the impact).)

Many lead agencies, and some trial courts, have already determined that CEQA requires analysis and mitigation of GHG emissions independent of the SB97 CEQA Guidelines amendments. The Office of Planning and Research, for example, has cataloged over 1,000 examples of CEQA documents, prepared between July 2006 and June 2009, analyzing and mitigating greenhouse gas emissions. (Office of Planning and Research, Environmental Assessment Documents Containing a Discussion of Climate Change (Revised June 1, 2009).) Further, several trial courts have found that existing CEQA law requires analysis and mitigation of GHG emissions. (See, e.g., *Muriettans for Smart Growth v. City of Murrieta et al.*, *Riverside Co. Sup. Ct. Case No. RIC463320* (November 21, 2007); *Env. Council of Sac. et al v. Cal. Dept. of Trans.*, *Sacramento Sup. Ct. Case No. 07CS00967* (July 15, 2008) (citing *Berkeley Keep Jets Over the Bay Committee v. Board of Commissions* (2001) 91 Cal.App. 4th 1344, 1370-

1371 and State CEQA Guidelines section 15144 as requiring a lead agency to “meaningfully attempt to quantify the Project’s potential impacts on GHG emissions and determine their significance” or at least to explain what steps were undertaken to investigate the issue before concluding that the impact would be speculative.) Finally, federal courts have interpreted the National Environmental Policy Act (“NEPA”) to require an analysis of potential impacts of GHG emissions. (See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Ad.*, 538 F.3d 1172, 1215-1217 (9th Cir. 2008).) Thus, the amendments to the CEQA Guidelines developed pursuant to SB97 do not create new requirements; rather, they interpret and clarify existing CEQA law.

Additionally, some of amendments included in this rulemaking activity may tend to reduce costs associated with environmental analysis of greenhouse gas emissions. For example, the amendments to the Guidelines encourage tiering and streamlining of existing environmental analyses to the extent possible in order to reduce duplication. Such tiering and streamlining mechanisms are also consistent with existing law. (See, e.g., Pub. Resources Code, § 21093 (lead agencies shall tier environmental impact reports wherever possible).)

The amendments update the State CEQA Guidelines to be consistent with legislative enactments and judicial decisions that have modified CEQA, but do not themselves impose any new requirements. Therefore, the amendments do not have a significant, adverse economic impact directly affecting business.

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# **Exhibit 3**

**From:** [Alexandra Syphard](#)  
**To:** [Nicole Rinke](#); [Keeley Jon](#)  
**Cc:** [Kimberly Gosling](#)  
**Subject:** Re: Wildfire expertise/question re. ignition risks  
**Date:** Friday, May 29, 2020 1:55 51 PM

---

Dear Nichole and Kim,

This claim made by SD County mischaracterizes our work. We had previously written a letter to Dan Silver saying as much, and the text we wrote to him is copied below. Please let me know if this helps.

Best,  
Alexandra

Dear Dan:

Jon Keeley and I have reviewed the materials you sent and we would like to clarify that our research does not support the notion that high density housing is not at high risk, particularly if the high density housing is in close proximity to any significant area of undeveloped wildland vegetation. It is true that our papers have consistently shown that low-density housing is most at risk when you look at a full gradient of housing density across a region. However, in all of our papers - and those of others as well - we find that the relationship with housing patterns and fire risk are nuanced and include more variables than just density. In particular, we find that the riskiest patterns are small to medium-sized clusters of development within a larger landscape of wildland vegetation, in addition to low-to-intermediate housing density and proximity to the edge of development.

In other words, I would say the materials are only getting part of the picture. That is because they are focusing on the area **just within the development instead of the development within the larger landscape context**. If a high-density development is located within a matrix of wildland vegetation, that is actually the most dangerous housing pattern you could have! That's because at very high densities, the relationship can switch to where houses closer than 50m to each other are more likely to have structure to structure spread (of course, depending on the building materials). In other words, there is significance to the location and size of high density development. This has been explained clearly in additional papers by Alexandre et al. 2015a and b. For example, in the Cedar Fire, we found that high-density structures in smaller clusters of development in Julian were the larger risk factor, and I think that is the same thing going on here in the newly proposed developments. Large wildland surrounding high-density areas is a particularly dangerous combination because there is exposure to fire hazard AND the possibility for structure-to-structure spread.

I also think the discussion about our paper on ignition patterns is a bit misconstrued. The main point found by our research is that humans cause 95% of fires, and as humans move farther east and into wildlands the likelihood of ignitions moving into those areas also increases. That is how humans alter the spatial pattern of fires, regardless of ignition source. Some sources are more numerous than others (like equipment), but those aren't necessarily the ones that result in the largest fires. It is more about the timing and pattern of the ignition relative to wind corridors and during severe fire weather.

In the article I wrote for an upcoming Fremontia issue (attached, Jon has one too), I have synthesized all of our work on structure loss, so some of the references in there may be helpful. Also see the attached paper by Anu Kramer finding interface communities in CA being dangerous, which runs contrary to some of the language in the materials you shared. True, intermix WUI is also very dangerous, but so is the interface.

I might add that in the paper Jon and I published in Fire, [Factors Associated with Structure Loss in the 2013–2018 California Wildfires](#), MANY of the houses destroyed were newly built. Newer construction definitely may help but is not a panacea by any means. That also goes for defensible space. Also recall the work that we have done on fuel breaks and their limited effectiveness at preventing fire spread during severe wind conditions when 99% of the structure loss occurs. Those measures in a new development do not mean those homes are safe from fire. The Australians are a great example of never saying anything is fire-proof. It isn't.

I hope that is helpful. Please let me know if we can clarify anything further.

Alexandra Syphard and Jon Keeley

On 5/28/2020 6:31:03 PM, Nicole Rinke <[nicole.rinke@doj.ca.gov](mailto:nicole.rinke@doj.ca.gov)> wrote:

Hello Jon and Alexandra,

My colleague, Kim (cc'd here) and I are with the California Attorney General's office. Our office is reviewing and commenting, as appropriate, on proposed projects in wildland areas throughout the state to make sure that wildfire risks/issues are being adequately disclosed and considered during CEQA review for various land use approval processes at the local level. So far, we have commented on the Paraiso Springs Project in Monterey County and the Otay Village 13 Project in San Diego County.

You are both prolific in your research and writing on topics that relate directly to the work we are doing and we are interested in talking with you. On the Otay Village 13 Project, in particular, San Diego County has cited your work as support for its position that the project does not present a significant fire risk, based in large part on its characterization of the project as "higher density" housing. (See page 4-5 of the pdf response to our comments, [https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/OtayRanchVillage13Resort/PrePC/2019Comments/Responses/RA-5\\_AttorneyGeneral\\_Response\\_2.27.2020%20\(rrs\).pdf](https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/OtayRanchVillage13Resort/PrePC/2019Comments/Responses/RA-5_AttorneyGeneral_Response_2.27.2020%20(rrs).pdf); our comment letter can be found here: [https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/OtayRanchVillage13Resort/PrePC/2019Comments/Comments/RA-5\\_AttorneyGeneral.pdf](https://www.sandiegocounty.gov/content/dam/sdc/pds/ceqa/OtayRanchVillage13Resort/PrePC/2019Comments/Comments/RA-5_AttorneyGeneral.pdf)).

We are curious to hear your perspective on the County's response to our comments - would you be open to talking with us? We might

also be interested in working with you more broadly and would like to discuss that with you too.

Thank you for your important work in this area and for your time. We look forward to hearing from you.

Best, Nicole

Nicole Rinke / Deputy Attorney General / (916) 210-7797 / [Nicole.Rinke@doj.ca.gov](mailto:Nicole.Rinke@doj.ca.gov)  
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# **Exhibit 4**

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**ELECTRONICALLY FILED**  
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County of San Diego  
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Clerk of the Superior Court  
By Richard Day, Deputy Clerk

8 Attorneys for Petitioners ENDANGERED  
HABITATS LEAGUE and CALIFORNIA  
9 NATIVE PLANT SOCIETY

10 *(Additional attorneys on next page)*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 SIERRA CLUB,  
14 Petitioner,  
15 v.  
16 COUNTY OF SAN DIEGO and DOES 1-  
20,  
17 Respondents.  
18  
19 JACKSON PENDO DEVELOPMENT;  
JACKSON PENDO DEVELOPMENT  
20 COMPANY; GDCI PROCTOR VALLEY,  
L.P.; GDC HOLDINGS, LLC; PROCTOR  
21 VALLEY INVESTORS I.L.C; GDC  
INVESTMENTS 11, LP, and DOES 21-  
40,  
22 Real Parties in Interest.

Case No. 37-2019-00038820-CU-TT-CTL  
(Lead Case)  
Consolidated with  
Case No. 37-2019-00038672-CU-TT-CTL  
and  
Case No. 37-2019-00038747-CU-WM-  
CTL

**[Proposed] Amended Judgment in Case  
No. 37-2019-00038747 (Center for  
Biological Diversity et al. v. County of  
San Diego)**

(CALIFORNIA ENVIRONMENTAL  
QUALITY ACT)  
Pub. Res. Code §§ 21000 et seq.  
CCP §§ 1085, 1094.5

Assigned for All Purposes to:  
Honorable Richard S. Whitney  
Dept.: C-68

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8 WILD SANTEE, and CALIFORNIA  
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25 OF THE STATE OF CALIFORNIA, EX  
REL. ROB BONTA, ATTORNEY GENERAL  
26  
27  
28



1           Petitioners Center for Biological Diversity, Preserve Wild Santee, and California  
2 Chaparral Institute challenged the June 26, 2019 decision of Respondents County of San  
3 Diego, et al. (“Respondents” or “the County”) to approve the Otay Ranch Village 14 and  
4 Planning Areas 16/19 project (“Project”) proposed by real parties in interest Jackson Pendo  
5 Development Company, et al. (“Real Parties in Interest”), and to certify an Environmental  
6 Impact Report (“EIR”) for the Project. The case was consolidated with similar petitions  
7 filed by Endangered Habitats League, California Native Plant Society, and Sierra Club  
8 (collectively with Center for Biological Diversity, Preserve Wild Santee, and California  
9 Chaparral Institute, “Petitioners”) for all purposes except entry of judgment. The People of  
10 the State of California, ex rel. Attorney General Rob Bonta (“Intervenor”) were granted  
11 leave to intervene in the consolidated cases before briefing and trial.

12           The hearing on the merits was held on September 21, 2021 before the Honorable  
13 Richard S. Whitney in Department C-68 of the San Diego County Superior Court. William  
14 J. White and Katrina A. Tomas of Shute, Mihaly & Weinberger LLP, Peter J. Broderick of  
15 Center for Biological Diversity, and Josh Chatten-Brown of Chatten-Brown, Carstens &  
16 Minter LLP appeared on behalf of Petitioners; Hallie E. Kutak and Catherine M. Wieman  
17 of the California Department of Justice, Office of the Attorney General appeared on behalf  
18 of Intervenor; Mark J. Dillon and David P. Hubbard of Gatzke Dillon & Ballance LLP  
19 appeared on behalf of Real Parties in Interest; and Joshua M. Heinlein of the Office of  
20 County Counsel, County of San Diego appeared on behalf of Respondents.

21           The Court, having reviewed the record of proceedings in this matter, the briefs and  
22 papers submitted by counsel, and the arguments of counsel; and the matter having been  
23 submitted for decision,

24           IT IS ORDERED AND ADJUDGED that:

25           1.       For the reasons set forth in this Court’s October 7, 2021 Minute Order,  
26 attached hereto as Exhibit A, judgment granting the petition for writ of mandate shall be  
27 entered in favor of Petitioners and Intervenor, and against the County and Real Parties in  
28 Interest.

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2. The San Diego County Superior Court shall issue a peremptory writ of mandate directed to the County, ordering Respondents to:

- a. set aside the certification of the EIR for the Project; and
- b. set aside and vacate all County approvals adopted in connection with the County's certification of the EIR, namely General Plan Amendment PDS2016-GPA-16-008, Specific Plan Amendment PDS2016-SP-16-002, Zone Reclassification PDS2016-REZ-16-006, Tentative Map No. PDS2016-TM-5616, and any findings of fact, statement of overriding considerations, and Mitigation Monitoring and Reporting Program for said County approvals.

3. Statutory costs of suit are awarded to Petitioners and Intervenor as the prevailing parties against Respondents and Real Parties in Interest, upon timely filing and service of a Memorandum of Costs. The Court reserves jurisdiction over any claim for an award of attorneys' fees and non-statutory costs.

4. The Court retains jurisdiction as consistent with law, including Public Resources Code § 21168.9(b), to ensure compliance with the writ issued pursuant to this judgment.

DATED: 12/9, 2021

SAN DIEGO COUNTY SUPERIOR COURT



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Judge Richard S. Whitney

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# **EXHIBIT A**

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

MINUTE ORDER

DATE: 10/07/2021

TIME: 02:29:00 PM

DEPT: C-68

JUDICIAL OFFICER PRESIDING: Richard S. Whitney

CLERK: Richard Cersosimo

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: 37-2019-00038820-CU-TT-CTL CASE INIT.DATE: 07/25/2019

CASE TITLE: **Petition of Sierra Club [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Toxic Tort/Environmental

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**APPEARANCES**

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**STATEMENT OF DECISION:**

The Court, having taken the above-entitled matter under submission on 9/21/2021, and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

"A superior court sitting as a court of review in a CEQA proceeding is not required to issue a "statement of decision" as that term is used in Code of Civil Procedure sections 632 and 634. (See 2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2d ed. 2011) § 23.116, p. 1262.) Conversely, a superior court that chooses to issue a written document explaining its decision to grant or deny a writ of mandate in a CEQA proceeding is not prohibited from labeling the document "statement of decision." Regardless of the label used, the rights, obligations and procedures set forth in Code of Civil Procedure sections 632 and 634 and California Rules of Court, rule 3.1590 do not apply to any such document issued by the court in a CEQA writ proceeding." (Consolidated Irrigation Dist. v. City of Selma (2012) 204 Cal.App.4th 187, 196 fn. 5, as modified on denial of reh'g (Mar. 9, 2012).)

**(1) PETITIONERS' PETITION FOR WRIT OF MANDATE and PEOPLE'S PETITION FOR WRIT OF MANDATE IN INTERVENTION is GRANTED.**

Petitioners ENDANGERED HABITATS LEAGUE, CALIFORNIA NATIVE PLANT SOCIETY, CENTER FOR BIOLOGICAL DIVERSITY, PRESERVE WILD SANTEE, CALIFORNIA CHAPARRAL INSTITUTE, and SIERRA CLUB's (collectively "Petitioners") Requests for Judicial Notice are granted (Exhibits A, B and C). Intervenor People of the State of California ex rel. Rob Bonta, Attorney General's ("AG") Requests for Judicial Notice are granted. Real Parties in Interest, Jackson Pendo Development Company, et al.'s ("GDCI") Requests for Judicial Notice are granted. The "JOINT OBJECTION BY THE PEOPLE AND PETITIONERS TO REAL PARTIES IN INTEREST'S NOTICE OF "OTHER RELEVANT EVIDENCE" PURSUANT TO GOVERNMENT CODE SECTION 12612 AND SUPPORTING

DECLARATION OF ELIZABETH JACKSON" is granted. The AG did not intervene via Government Code section 12612, but 12606. Further, the evidence is extra-record evidence that post-dates Respondents and Defendants COUNTY OF SAN DIEGO and BOARD OF SUPERVISORS OF COUNTY OF SAN DIEGO's ("County") decision to approve the Project, defined below, which renders it irrelevant for purposes of this California Environmental Quality Act ("CEQA") action. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.)

### **Background**

GDCI's Project is located within the Proctor Valley, approximately one-quarter mile east of Chula Vista and immediately south of the unincorporated community of Jamul. (Administrative Record ["AR"] 1.) "The project is a planned community consisting of 1,119 dwelling units; 10,000 square feet of neighborhood commercial; 2.3 acre joint use Fire Station/Sheriff storefront; 9.7 acre elementary school site; 24 acres of public/private parks; 776 acres of open space and a preserve on 1,284 acres" (the "Project"). (AR 1.) The County's approval of the Project includes a General Plan Amendment ("GPA") of the County's General Plan. (AR 1.) The County approved the Final Environmental Impact Report ("EIR") as to the Project. (AR 1.) Petitioners and the AG challenge the EIR under CEQA as being unsupported by substantial evidence and the approvals as being an abuse of discretion based on a failure to proceed in the manner required by law. Petitioners and the AG also allege the Project is inconsistent with the General Plan.

### **Standard of Review Under CEQA and Relevant Law**

The issue before this Court is whether the County abused its discretion. "Abuse of discretion is shown if (1) the agency has not proceeded in a manner required by law, or (2) the determination is not supported by substantial evidence." (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 945 [Citation omitted].)

Under CEQA, courts review quasi-legislative agency decisions for an abuse of discretion. (§ 21168.5.) At both the trial and appellate level, the court examines the administrative record anew. (*Vineyard, supra*, 40 Cal.4th at p. 427, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

An "agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence." (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709, citing § 21168.5.) "Judicial review of these two types of error differs significantly" however. (*Vineyard, supra*, at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) For that reason, "a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts." (*Ibid.*)

#### **1. Procedural Claims**

Courts must "scrupulously enforce all legislatively mandated CEQA requirements." (*Goleta II, supra*, 52 Cal.3d at p. 564, 276 Cal.Rptr. 410, 801 P.2d 1161.) To do so, "we determine de novo whether the agency has employed the correct procedures" in taking the challenged action. (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

## 2. Substantive Claims

Compared with review for procedural error, "we accord greater deference to the agency's substantive factual conclusions." (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) We apply "the highly deferential substantial evidence standard of review in Public Resources Code section 21168.5" to such determinations. (*Western States, supra*, 9 Cal.4th at p. 572, 38 Cal.Rptr.2d 139, 888 P.2d 1268.) "The agency is the finder of fact and we must indulge all reasonable inferences from the evidence that would support the agency's determinations and resolve all conflicts in the evidence in favor of the agency's decision." (*Save Our Peninsula, supra*, 87 Cal.App.4th at p. 117, 104 Cal.Rptr.2d 326.) That deferential review standard flows from the fact that "the agency has the discretion to resolve factual issues and to make policy decisions." (*Id.* at p. 120, 104 Cal.Rptr.2d 326.)

The CEQA Guidelines define substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).)

(*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984-85.)

"[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence." (*Sierra Club v. County of Fresno ("Friant Ranch")* (2018) 6 Cal.5th 502, 514.) "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" (*Id.* at 516 [Citation omitted].)

"[T]he petitioner bears the burden of demonstrating that the record does not contain sufficient evidence justifying a contested project approval." (*Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 206.) "To do so, an appellant must set forth in its brief all the material evidence on the point, not merely its own evidence. [Citation.] A failure to do so is deemed a concession that the evidence supports the findings." (*Id.* [Citation omitted].)

GDCI asserts Petitioners failed to raise a number of issues, such that the exhaustion of administrative remedies doctrine precludes the claims.

"Exhaustion of administrative remedies is a jurisdictional prerequisite to maintenance of a CEQA action. ... The petitioner is required to have 'objected to the approval of the project orally or in writing during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.' ([Pub. Resources Code,] § 21177, subd. (b).) The petitioner may allege as a ground of noncompliance any objection that was presented by any person or entity during the administrative proceedings." (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1199, 22 Cal.Rptr.3d 203.)

" 'The petitioner bears the burden of demonstrating that the issues raised in the judicial proceeding were

first raised at the administrative level.

...  
"It is, however, "not necessary to identify the precise statute at issue, so long as the agency is apprised of the relevant facts and issues." (*McPherson v. City of Manhattan Beach* (2000) 78 Cal.App.4th 1252, 1264, 93 Cal.Rptr.2d 725.)

(*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 889–890.)

### Mitigation Measures as to Green House Gases ("GHG")

The EIR recognizes the Project will emit at least 484,770 metric tons of climate pollution over 30 years. (AR 31823.) The EIR acknowledges this is a significant impact that should be mitigated. The EIR contends the impacts will be mitigated to less than significant by implementing, *inter alia*, M-GHG-1 through M-GHG-4. (AR 31819.) Both the AG and Petitioners challenge M-GHG-1 and M-GHG-2 as being inadequate. Both M-GHG-1 and M-GHG-2 attempt to address GHGs that will be created from construction and operation of the Project over 30-years. (AR 318-324.)

First, the EIR relies on an estimated 30-year life for the Project to estimate the amount of GHG that must be mitigated. (AR 42057.) The 30-year life span is taken from the South Coast Air Quality Management District's set of GHG thresholds of significance for industrial projects. (AR 121687-88.) However, the District stated that as to "Residential/Commercial Sector Projects" "Not Recommended at this Time" to use the 30-year life span for offsets, as is used by the EIR in this case. (AR 121688.) GDCI asserts the District was not asked to make a recommendation as to Residential/Commercial Sector Projects. This does not support that the evidence the EIR relies upon to use a 30-year life span is substantial. GDCI does not point to any evidence in the record that the EIR relied on specific standards for Residential/Commercial Sector Projects, which is at issue in this action. A 30-year life span for a residential project goes against common sense. As GDCI asserts, the homes will be more advanced, such that they could last longer than other homes which last longer than 30 years. However, comments in the EIR state "30-year project life also is widely used in CEQA documents by expert consultants and lead agencies," "Executive Order (EO) S-3-05 established 2050 as the target year for an 80 percent reduction in statewide GHG emissions below 1990 levels," and that the incremental implementation of the development will result in a later start time for the Project and the "modeling analysis likely overestimates the Proposed Project's GHG emissions because the modeling does not take into account reasonably foreseeable regulatory, programs and other governmental strategies and technological factors that likely would result in further reductions in GHG emissions levels throughout California that are needed to achieve the 2030 and 2050 targets." (AR 33525-26.)

Even if the 30-year life span were accepted as being supported by substantial evidence, the mitigation measures M-GHG-1 and M-GHG-2 are insufficient under *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467. "An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy." (California Code of Regulations ("CEQA Guidelines") section § 15126.4(a)(1).) "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design." (CEQA Guidelines

section § 15126.4(a)(2).) "Under section 38562, subdivision (d)(1) and (2), cap-and-trade offset credits may be issued only if the emission reduction achieved is "real, permanent, quantifiable, verifiable, enforceable, and additional to any GHG emission reduction otherwise required by law or regulation, and any other GHG emission reduction that otherwise would occur." (*Golden Door, supra*, 50 Cal.App.5th at 506.)

" 'Real' means ... that GHG reductions ... result from a demonstrable action or set of actions, and are quantified using appropriate, accurate, and conservative methodologies that account for all GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary and account for uncertainty and the potential for activity-shifting leakage and market-shifting leakage." (Cal. Code Regs., tit. 17, § 95802.) " 'Permanent' means ... that GHG reductions ... are not reversible, or when GHG reductions ... may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions ... to ensure that all credited reductions endure for at least 100 years." (*Ibid.*) " 'Quantifiable' means ... the ability to accurately measure and calculate GHG reductions ... relative to a project baseline in a reliable and replicable manner for all GHG emission sources ...." (*Ibid.*) " 'Verifiable' means that an Offset Project Data Report assertion is well documented and transparent such that it lends itself to an objective review by an accredited verification body." (*Ibid.*) " 'Additional' means ... greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario." (Cal. Code Regs., tit. 17, § 95802.)

(*Id.* at 506-507.)

Similar to the County's Climate Action Plan (CAP) found to be inadequate under CEQA in *Golden Door*, M-GHG-1 and M-GHG-2 are for the purchase and retirement of carbon offsets that may be issued by "(i) the Climate Action Reserve, the American Carbon Registry, and Verra (previously, Verified Carbon Standard); or (ii) any registry approved by the California Air Resources Board (CARB) to act as a registry under the state's cap-and-trade program." In *Golden Door* the similarly labelled M-GHG-1 provided "the Director may approve offsets issued by any 'reputable registry or entity that issues carbon offsets consistent with ... section 38562[, subdivision] (d)(1).'" (*Golden Door, supra*, 50 Cal.App.5th at 514.) In both *Golden Door* and here, "M-GHG-1 says nothing about the protocols that the identified registries must implement." (*Id.* at 511.) "Unlike M-GHG-1, under cap-and-trade, it is not enough that the registry be CARB-approved. Equally important, the protocol itself must be CARB-approved." (*Id.*) "The CARB Protocols are the heart of cap-and-trade offsets-but the word "protocol" is not even mentioned in M-GHG-1.... M-GHG-1 is not equivalent to cap-and-trade offset programs because M-GHG-1 does not require the protocol itself to be consistent with CARB requirements under title 17, section 95972, subdivision (a)(1)-(9) of the California Code of Regulations." (*Id.* at 512.) The same is true in this case – the word "protocol" is not even mentioned in M-GHG-1 nor does the EIR require the protocol of the registry be consistent with CARB requirements. (AR 318-320.) The EIR parrots the words of California Health & Safety Code section 38562, subdivision (d)(l), stating "the purchased carbon offsets used to reduce GHG emissions from construction and vegetation removal shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions." (AR 319.) More than mere lip service is required – there must be "objective criteria for making such findings." (*Id.* at 521–522.)

GDCI points to the fact the EIR cites to the program manuals for registries in the appendices. However, one of the registries, American Carbon Registry, provides "projects must commit to maintain, monitor,



and verify Project Activity for a Minimum Project Term of 40 years...because no length of time, short of perpetual, is truly permanent..." but Permanent, as to GHG reductions, is defined as reductions that "endure for at least 100 years." (AR 75786; Cal. Code Regs., tit. 17, § 95802; see also *Golden Door*, *supra*, 50 Cal.App.5th at 522 [for example, CARB's forestry protocol requires sequestering carbon "for at least 100 years"].) As discussed above, GDCI's citation to extra-record evidence of actual purchases of offsets is not relevant. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.) Even if it were considered, the evidence indicates GDCI purchased offsets from American Carbon Registry, which would not meet the permanence requirement under *Golden Door*.

Further, in both the EIR and the County CAP considered in *Golden Door*, M-GHG-1 is silent as to the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2), which provides "the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur." (Health & Saf. Code, § 38562(d)(2); *Golden Door*, *supra*, 50 Cal.App.5th at 514.) M-GHG-1 and M-GHG-2 ignore the requirement that the reductions would not have otherwise occurred – that it would not result from a business-as-usual scenario. (*Golden Door*, *supra*, 50 Cal.App.5th at 521.) The EIR's requirement that the offsets achieve reductions that are "not otherwise required," consistent with Guidelines section 15126.4(c)(3) does not equate to requiring compliance with the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2). Also, responses to comments in the EIR as to the acknowledgement of the additionality definition does not equate to a requirement within M-GHG-1 and M-GHG-2 that the offsets purchased meet the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2). Finally, reliance on registry protocols is of no avail. As an example, one of the registries relies on the "project proponent" to sign an "Attestation of Legal Additionality form that confirms the mitigation project activity was not required by any law, statute, rule, regulation or other legally binding mandate by any national, regional, state, local or other governmental or regulatory agency having jurisdiction over the project." (AR 75925.) This is essentially the fox guarding the hen house, plus it does not address whether or not the reduction resulted from a business-as-usual scenario.

Petitioners also criticize the EIR's reliance upon forecasted reductions in relation to the purchase of carbon offsets. GDCI cites to the Newhall Ranch project, discussed with approval in *Golden Door*, which utilized estimated reductions and carbon offsets for past reductions. GDCI does not explain how this Project has safeguards to ensure the reduction would occur equivalent to those in the Newhall Ranch EIR. GDCI also relies upon the Climate Forward program, but the Climate Forward Program Manual recognizes it "does not guarantee the use of FMUs [Forecasted Mitigation Units] or CRTs will be accepted as a means to meet CEQA GHG mitigation obligations where required by an approving agency(ies)." (AR 75898.) The Court agrees the Climate Forward Program's reliance on a one-time verification of the mitigation project is troublesome. (AR 75916.) The lack of ongoing verification illustrates the protocols do not ensure that the forecasted reductions are real, additional, permanent, confirmable, and enforceable. "[O]nce the project reaches the point where activity will have a significant adverse effect on the environment, the mitigation measures must be in place." (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 860 [Citation omitted].) While GDCI must provide proof of purchase of carbon offsets prior to permit issuance, a proper mitigation measure must be in place at that time. (AR 31819, 31822.) Without rigorous protocols to ensure the forecasted reductions are real, additional, permanent, confirmable, and enforceable, it cannot be concluded the mitigation measures were permissibly implemented at proper times.

Finally, the EIR suffers from enforcement issues as to M-GHG-1 and M-GHG-2. In *Golden Door*, the court stated:

The only M-GHG-1 limit on mitigating with international offsets is the Director's unilateral decision that offsets are not feasibly available within (1) the unincorporated county; (2) the County; (3) California; and (4) the United States. The fundamental problem, unaddressed by M-GHG-1, is that the County has no enforcement authority in another state, much less in a foreign country. M-GHG-1 does not require a finding that an out-of-state offset site has laws at least as strict as California's with respect to ensuring the validity of offsets.

At oral argument, the County asserted that the "registries" would be the County's enforcement mechanism to ensure the validity of offsets originating in foreign countries. This argument fails, however, because it is premised on the assumption that the registry's protocol is Assem. Bill No. 32 compliant-and as explained *ante*, M-GHG-1 does not require use of an Assem. Bill No. 32 compliant protocol.

(*Golden Door, supra*, 50 Cal.App.5th at 512–513.) Similarly, here, the EIR relies upon the registries for enforcement, which is problematic because of their protocols. M-GHG-1 provides "the Director of the PDS shall require the Project applicant or its designee to provide an attestation or similar documentation from the selected registry(ies) that a sufficient quantity of carbon offsets meeting the standards set forth in this measure have been purchased and retired, thereby demonstrating that the necessary emission reductions are realized." (AR 319.) This enforcement mechanism pales in comparison to CARB, which discourages noncompliance "by deterring and punishing fraudulent activities." (AR 75598.) CARB has the enforcement authority to hold a party liable and to take appropriate action, including imposing penalties, if any of the regulations for CARB offset credits are violated. (17 C.C.R. §§ 95802(a), 96013, 96014.) GDCI does not cite to any evidence in the record that the registries have the same enforcement authority under their protocols.

One of the registries states it "will rely first and foremost on legal requirements within the jurisdiction(s) where the project is implemented." (AR 75909.) As *Golden Door* recognized, such reliance can be a problem in another state or foreign country where the County does not have any enforcement authority. There is nothing in M-GHG-1 or M-GHG-2 that requires the Director of the PDS to follow specific protocols when "offsets are unavailable and/or fail to meet the feasibility factors defined in CEQA Guidelines Section 15364 in a higher priority geographic category before allowing the Project applicant or its designee to use offsets from the next lower priority category" to ensure the offsets are ultimately enforced properly. Rather, the Director of the PDS merely needs to issue a written determination that considers information such as "availability of in-State emission reduction opportunities," "geographic attributes of carbon offsets," "temporal attributes of carbon offsets," "pricing attributes of carbon offsets," and "[a]ny other information deemed relevant to the evaluation...." (AR 320, 323-24.) This could allow for the Director to permit purchase of offsets almost entirely from international offsets. As a registry recognizes, "[d]epending on the location of the mitigation project, there may be insufficient compliance and/or enforcement of national, regional, state, local, or other regulations." (AR 75906.) As in *Golden Door*, "M-GHG-1 does not require a finding that an out-of-state offset site has laws at least as strict as California's with respect to ensuring the validity of offsets." (*Golden Door, supra*, 50 Cal.App.5th at 513.)

The EIR is inadequate as to M-GHG-1 and M-GHG-2.

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**Wildfire Ignition Risk**

The AG and Petitioners assert the EIR fails to properly acknowledge the increased risk of wildfire ignition from the additional people who will be in the area as a result of the Project. The EIR states "the Project Area, in its current condition, is considered to be vulnerable to wildfire ignition and spread during extreme fire weather." (AR 32172.) The EIR goes on to states that the "introduction of up to 1,119 new homes would not increase the potential likelihood of arson, off-road vehicle-related fires, or shooting-related fires." (AR 32173.) The body of the EIR does not acknowledge an increase in risk of wildfire ignition as a result of more humans being in the area from the Project. However, a County expert acknowledges "southern California's increasing population will make it more likely that ignitions will occur, which could potentially cause large areas of chaparral to type-convert into grasslands." (AR 104506.) Further, it is known humans are the primary cause of wildfires, especially in Southern California. (AR 89718-23.) The EIR does not address this issue, but notes "[p]ost-construction ignition sources would include vehicles, although roadside FMZs would be provided, reducing the potential for a vehicle-related fire escaping into the Otay Ranch RMP/MSCP Preserve fuels." (AR 32173.) This does not acknowledge or analyze the impact of adding more than 1,100 new homes to the area as to humans being an ignition cause of wildfires. This is combined with the fact the EIR does not clearly, in the body of the EIR, acknowledge the area's designation as a Very High Fire Hazard Severity Zone. (AR 32172-77.) The EIR does not includes enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issue of wildfire ignition raised by the Project.

The above issue is accompanied by an improper compressing of the analysis. Instead of independently acknowledging all the significant impacts of the Project as to wildfire risks and subsequently discussing mitigating measures to address such impacts, the mitigation measures are characterized in the EIR as being part of the project. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 656.) "By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA." (*Id.*) Here, the EIR considers the impacts of wildfire to be less than significant because the Project's "landscaped and irrigated areas and FMZs, as well as the paved roadways and ignition-resistant structures, would result in reduced fire intensity and spread rates around the Project Area, creating defensible space for firefighters." (AR 32173.) "Additionally, provisions for a fire station in the area would reduce the response time to wildfire ignitions and increase the likelihood of successful initial attacks that limit the spread of wildfires." (AR 32173.) The EIR also states "[u]nauthorized activities such as off-road vehicles and shooting may still occur, but there will be more 'monitors' (i.e., future residents) in the area to discourage and report such activities, resulting in an anticipated decreased occurrence." (AR 32173.) "CEQA EIR requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount." (*Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 264 [Citation omitted].) The adoption of the Fire Protection Plan (FFP) and compliance with applicable fire codes do not obviate the need for the EIR to analyze significant impacts that would exist prior to the implementation of any mitigation measures. The EIR fails to comply with *Lotus*.

**Multiple Species Conservation Program**

The Multiple Species Conservation Program ("MSCP") "is a multi-jurisdictional habitat conservation

planning program that involves USFWS, CDFW, the County of San Diego, the City of San Diego, the City of Chula Vista, and other local jurisdictions and special districts...." (AR 31246.) "A total of 85 plant and animal species are 'covered' by the MSCP Plan." (AR 31246.) "Quino checkerspot butterfly (*Euphydryas editha qumo*) is not a covered species under the MSCP." (AR 31191.) "A species that is not an MSCP covered species is not allowed take through the MSCP." (AR 31191.) Normally, "take authorization" can be allowed when incidental to land development and other lawful land uses which are authorized by the County. (AR 31191.) GDCI points to evidence in the record that a previous owner of property that is part of the Project area proposed preserving PV1-3 and other areas of Otay Ranch in exchange for allowing development of other open spaces within Otay Ranch; however, the parties disagree as to whether an agreement was reached. The MSCP and County Subarea Plan designates PV1-3 as "No Take Authorized" areas (AR 115049), or "Otay Ranch Areas Where No 'Take Permits' Will Be Issued," while allowing take in other areas that were previously designated as open space. (AR 82930, 94838-43, 115049, 115051.) The County General Plan calls for implementation of the "MSCP Plans for North and East County in order to further preserve wildlife habitat and corridors, wetlands, watersheds, groundwater recharge areas and other open space that provide carbon sequestration benefits and to restrict the use of water for cleaning outdoor surfaces and vehicles." (AR 129683.) The County's EIR cannot ignore mitigation measures in a General Plan, as such failure violates CEQA. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1167.)

"The EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. Such regional plans include, but are not limited to, ...habitat conservation plans...." (CEQA Guidelines § 15125(d).) Petitioners raised the issue as to the Project's consistency with the MSCP, citing *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918. (AR 94708.) GDCI points to the Implementing Agreement between the Wildlife Agencies ("IA") where it states "as outlined in the letter attached to the South County Segment from the Baldwin Company Dated November 10, 1995, will be included if the agreements are reached." (AR 115255.) GDCI does not deny that the IA still includes a map showing PV1-3 as "Otay Ranch Areas Where No 'Take Permits' Will Be Issued." (AR 115285.) This appears to be why the California Department of Fish and Wildlife (CDFW) concluded "[t]he Implementing Agreement and Subarea Plan are consistent on this point. The Implementing Agreement includes a map as Exhibit F defining the area encompassed by the Subarea Plan." (AR 33276.)

Petitioners do not assert PV1-3 is undevelopable, but that the Project is inconsistent with the MSCP and the EIR does not address this issue. The Court agrees. The Project conflicts with the face of the MSCP. While GDCI or the County is free to seek an amendment of the MSCP, the face of the MSCP reflects PV1-3 is subject to no take. The United States Fish and Wildlife Service (USFWS) did not disagree, but explicitly stated "because no take has been authorized in PV 1, 2, 3 we are evaluating approaches for authorizing take in those parcels including the options considered in the County's draft Condition of Approval for the Village 14 project." (AR 33270.)

CEQA does not "permit lead agencies to perform truncated and siloed environmental review, leaving it to other responsible agencies to address related concerns seriatim." (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 941.) Petitioners assert the EIR fails to meaningfully address the issue. GDCI relies on the purported consistency with the MSCP and on the Biological Mitigation Ordinance (BMO) to support that the County did not violate CEQA. As discussed above, the Project is inconsistent with the MSCP as it currently designates PV1-3 as no take. Even though the Project may be



consistent with the BMO, the EIR does not recognize nor analyze the consistency between the MSCP and the Project. Rather, the County concluded "the Proposed Project, including development of PV1-3, is consistent with the MSCP, Subarea Plan and Implementing [sic] Agreement" after reviewing findings as to the BMO. (AR 75554.) GDCI does not contest that the EIR failed to consider any Project alternative that would comply with the MSCP and preserve PV1-3.

In *Banning Ranch*, an EIR for a project in the coastal zone subject to the California Coastal Act was found inadequate. (*Banning Ranch, supra*, 2 Cal.5th at 941.) The EIR considered comments that the project would disturb environmentally sensitive habitat areas (ESHAs), that could not be developed under the Coastal Act, but it did not study the impact, instead deferring that task to the Coastal Commission. (*Id.* at 930-932.) Here, PV1-3 are currently in an analogous state – they cannot be developed given their designation as no take. As in *Banning Ranch*, the EIR improperly avoids the issue because the analysis assumes the Project is not inconsistent with the MSCP. (AR 40428-541, 32897-900.) Consequently, the EIR fails as an informational document. (*Id.* at 942.)

### The Quino Checkerspot Butterfly ("Quino")

The EIR must provide an accurate and complete description of the "baseline" existing environmental conditions against which a project's impacts are evaluated. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447-48; CEQA Guidelines § 15125.) The USFWS lists the Quino as endangered. (62 FR 2313-01.) Petitioners assert that the EIR's conclusion that Quino do not occupy area within the Project is erroneous. The Project is partially located on "Quino Occurrence Complexes" designated as "Unit 8" by the USFWS. (AR 97955, 98619, 98483-85; 74 FR 28776-01.) "The physical and biological features found in Unit 8 may require special management considerations or protection to minimize impacts from loss and fragmentation of habitat and landscape connectivity due to development...." (74 FR 28776-01.) USFWS defines Quino occupancy based on "population-scale occupancy" as "all areas used by adults during the persistence time of a population (years to decades)." (AR 97955.) Thus, "focused distribution studies over multiple years are required [in order] to quantify Quino checkerspot butterfly population distributions." (AR 97955.)

The EIR states Quino were not "detected during protocol surveys and, therefore, the Project Area is not currently considered occupied" by Quino. (AR 31258.) This conclusion was based on survey results in 2015 and 2016, when it was found the "species has been observed within and adjacent to the Project Area." (AR 82940.) "[T]he 2017 spring season, presumably fueled by above-normal rainfall following multiple years of drought, created the most favorable conditions for Quino since 2012. As a result, very high numbers of Quino were observed, particularly in nearby areas. Unfortunately, in 2017, protocol surveys were not performed on Village 14, qualified USFWS biologists were not allowed to survey the property during the peak of the flight season, and an excellent opportunity to obtain better information on the status of Quino on the property was lost." (AR 82940.) Notwithstanding, "in 2017 Service staff documented multiple Quino individuals adjacent to and interspersed within the Project Area," but the EIR "dismisses these sightings as incidental." (AR 82942.) Additionally, "qualified personnel from CDFW observed [Quino] on and around the site in 2018." (AR 76070-71.) Further, the County acknowledged observation during "low rainfall years...may not be considered adequate evidence to conclude a particular site is unoccupied, even if guidelines are followed." (AR 85305.) Nevertheless, the County encouraged "surveys be conducted regardless of rainfall levels because negative adult data can be

useful long-term to support conclusions of population absence." (AR 85305.) Finally, in spring of 2019, a non-drought year, qualified personnel documented Quino "widely throughout the Proctor Valley area, including locations immediately adjacent to the project site." (AR 76072.)

GDCI acknowledges 2016 was a below-average year for rainfall, but defends the EIR's conclusion because the "CDFW's 'limited' survey effort did not conform to any established protocols for surveys of this species." (AR 32944.) "Occurrence complexes are mapped in the Recovery Plan using a 0.6 mile (1 kilometer) movement radius from each butterfly observation, and may be based on the observation of a single individual (Figures 1 and 2)." (AR 98326.) The above 1 kilometer radius measurement is part of the "only accepted procedure for delineating [Quino] 'occupied habitat.'" (76074.) The observations were mapped based on GPS coordinates with accuracy within about 3 meters. (AR 94849-50.) Given there are more years of observation of Quino in the area than years of no observation and one of the years of no observation, 2016, was a below-average year for rainfall, the data supporting that Quino occupy at least some areas within the Project is more supported than the conclusion the Project area is not occupied by Quino. Moreover, multiple Quino experts and the CDFW determined that the area is occupied. (AR 82942, 83480-84, 97952-54.) In the context of the available data, the EIR's conclusion is erroneous. Without an accurate conclusion as to occupancy by Quino, the EIR fails "to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts." (CEQA Guidelines section § 15125(a).) This failure also affected the EIR's consideration of mitigation measures. (See GDCI's reliance on AR 29165.)

### Cumulative Impacts

It is undisputed the EIR must disclose cumulative impacts. "'Cumulative impacts' refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines section § 15355.) "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. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines section § 15355(b).) "[I]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them. (CEQA, § 21061.)" (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79.) "The CEQA Guidelines specify that location may be important when the location of other projects determines whether they contribute to an impact. For example, projects located outside a watershed would ordinarily not contribute to cumulative water quality impacts within the watershed." (Kostka, *supra*, § 13:42, p. 651; Guidelines, § 15130, subd. (b)(2).) (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 907.) However, "the geographic context or scope to be analyzed 'cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting.'" (*Id.* at 907.) Petitioners assert the EIR fails to consider the following pending projects in its analysis: Lilac Hills Ranch, Newland Sierra, Harmony Grove, Warner Ranch, Otay 250, and Valiano.

GDCI defends the EIR's exclusion of the six above projects based on geographic location, the assertion some of the projects have not sufficiently crystallized, and the projects were not closely related to this

Project. Analysis of an entire air basin may be necessary and "[t]he primary determination is whether it was reasonable and practical to include the projects and whether, without their inclusion, the severity and significance of the cumulative impacts were reflected adequately." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 722-23.) The six potential projects include the need for General Plan amendments to account for changes in densities. (AR 85509-11.) GDCI does not specifically explain how the potential projects would not impact air quality and GHG considerations, even considering their geographical distance from the Project. Given the enormous potential increase in homes, nearly 10,000, from the potential projects, the Court cannot conclude all of the six projects were properly excluded from the cumulative impact analysis, especially as to wildfire risk, air quality and GHG, unless the projects were not sufficiently crystallized such that it would have been unreasonable and impractical to evaluate their cumulative impacts. (*City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 397.)

GDCI cites to evidence some of the projects face challenges, such as referendums and rescinding of some approvals. (See GDCI's RJN Exhibits 3-10.) However, GDCI does not point to evidence that the challenges prevented the projects from ultimately going forward at in time in the future and such was known at the time the EIR was being prepared. Further, not all of the projects have faced issues. GDCI merely points to the fact public review did not commence until March, April, and June of 2017 as to some of them. GDCI does not cite evidence that indicates the projects were "merely contemplated or a gleam in a planner's eye." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 398.) Given the deferential treatment EIRs often receive, the Court cannot conclude projects that have commenced public review of draft EIRs are too speculative. The Court cannot conclude all of the six projects are not closely related to the Project – they are residential developments which could have similar impacts on wildfire risk, air quality and GHG. (See AR 85509-11.) The failure to consider the cumulative impacts from at least some of the potential projects was potentially significant. (AR 85522-38, 84687-92, 98681, 90648, 84615-17.) This failure violated CEQA.

#### **Standard of Review as to Inconsistencies with the General Plan**

"A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.) "[J]udicial review of consistency findings is highly deferential to the local agency." (*Naraghi Lakes Neighborhood Preservation Assn. v. City of Modesto* (2016) 1 Cal.App.5th 9, 18.) "Reviewing courts must defer to a procedurally proper consistency finding unless no reasonable person could have reached the same conclusion." (*Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 732 [Citation omitted]; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 637.) "[T]he essential question is 'whether the project is compatible with, and does not frustrate, the general plan's goals and policies.'" (*Naraghi Lakes, supra*, 1 Cal.App.5th at 18 [Citation omitted].)

#### **Affordable Housing Component Requirement Within the General Plan**

The General Plan states at H-1.9: "Affordable Housing through General Plan Amendments. Require developers to provide an affordable housing component when requesting a General Plan amendment

for a large-scale residential project when this is legally permissible." (AR 130098.) GDCI does not seriously dispute that the Project does not include an affordable housing component, but asserts it includes "attainable housing components." However, there is a statutory definition for affordable housing cost, which GDCI does not and cannot contend the Project meets. (Health & Saf. Code, § 50052.5.) Rather, GDCI points to the fact the County has not yet adopted an affordable housing ordinance, focusing on the "when this is legally permissible" portion of H-1.9.

GDCI's argument that the law disfavors ad hoc imposition of affordable housing conditions, citing *San Remo Hotel L.P. v. City And County of San Francisco* (2002) 27 Cal.4th 643, is of no avail because inclusionary housing ordinances do not violate the constitution where "the ordinance does not require a developer to give up a property interest for which the government would have been required to pay just compensation under the takings clause outside of the permit process." (*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 461.) GDCI cannot point to any requirement GDCI was required to give up a property interest without just taking under an ordinance, as no ordinance exists. GDCI's reliance on the lack of an adopted affordable housing ordinance is also unavailing. The County may not rely upon its failure to follow through in implementing an ordinance to ensure projects conform with the General Plan to justify its failure to conform with the General Plan. As GDCI points out, the County has delayed adopting an ordinance since at least 2012. (GDCI's RJN Exhibits 14-15; AR 135444.).

GDCI does not point to any authority stating an ordinance must be adopted before an agency is required to conform to the General Plan. "[A]n agency's interpretation of a regulation or statute does not control if an alternative reading is compelled by the plain language of the provision." (*Southern California Edison Co. v. Public Utilities Com'n* (2000) 85 Cal.App.4th 1086, 1088.) H-1.9 unambiguously requires an affordable housing component. Contrary to GDCI's suggestion, the General Plan does not bend to the requirements of ordinances, it is the other way around – ordinances must not be inconsistent with the General Plan. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) While the Court is sympathetic that the process to develop affordable housing criteria may not be easy, the evidence and law does not indicate the County is precluded from imposing affordable housing criteria nor that the County is permitted to ignore clear policies and goals in the General Plan based on the difficulty in implementing them. Finally, GDCI's suggestion that H-1.9 only applies to amendments that increase density is without support – nothing in H-1.9 nor other policies or goals within the General Plan support that H-1.9 only applies to amendments that increase density. The limitation on applicability of H-1.9 is its application to "large-scale residential project[s]," not density changes. The Project is inconsistent with H-1.9 of the General Plan.

The petition is granted as to the above discussed issues. As to the other issues raised by the AG and Petitioners, the Court finds GDCI's arguments sufficiently persuasive. The County is ordered to vacate its approvals of the Project.

**(2) PETITIONERS' UNOPPOSED MOTION TO STRIKE DOCUMENTS IN ADMINISTRATIVE RECORD is GRANTED**

Failure to file an opposition to the motion indicates the other parties' acquiescence that the motion is



meritorious. (California Rules of Court, Rule 8.54(c).) Public Resources Code section 21167.6(e) sets forth the types of records to be included in a record of proceedings. (Pub. Resources Code, § 21167.6(e).) "[T]he Legislature intended courts to generally consider only the administrative record in determining whether a quasi-legislative administrative decision was supported by substantial evidence." (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 571.) "[E]xtra-record evidence is generally not admissible in traditional mandamus actions challenging quasi-legislative administrative decisions on the ground that the agency 'has not proceeded in a manner required by law' within the meaning of Pub. Resources Code, § 21168.5." (*Id.* at 561.) The potential exceptions acknowledged in *Western States* do not apply here. (*Id.* at 575, n. 5.) Petitioners explain how the documents included after the fact were considered by GDCI's consultant, but were not presented to the agency decision-makers and did not become part of the record. GDCI does not dispute this. The documents do not fall into a category under Public Resources Code section 21167.6(e). The motion is granted.



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Judge Richard S. Whitney

1 **PROOF OF SERVICE**

2 *Petition of Sierra Club*  
3 **San Diego County Superior Court, Central Division**  
4 **Case No. 37-2019-00038820-CU-TT-CTL**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am  
6 employed in the County of San Francisco, State of California. My business address is 396  
7 Hayes Street, San Francisco, CA 94102.

8 On December 6, 2021, I served true copies of the following document(s) described as:

9 **[PROPOSED] AMENDED JUDGMENT IN CASE NO. 37-2019-00038747 (CENTER**  
10 **FOR BIOLOGICAL DIVERSITY ET AL. V. COUNTY OF SAN DIEGO)**

11 on the parties in this action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the  
14 document(s) to be sent from e-mail address Larkin@smwlaw.com to the persons at the e-mail  
15 addresses listed in the Service List. I did not receive, within a reasonable time after the  
16 transmission, any electronic message or other indication that the transmission was unsuccessful.

17 I declare under penalty of perjury under the laws of the State of California that the  
18 foregoing is true and correct.

19 Executed on December 6, 2021, at San Francisco, California.

20 *Patricia Larkin*

21 \_\_\_\_\_  
22 Patricia Larkin  
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**SERVICE LIST**

**Petition of Sierra Club  
San Diego County Superior Court, Central Division  
Case No. 37-2019-00038820-CU-TT-CTL**

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 SIERRA CLUB,

14 Petitioner,

15 v.

16 COUNTY OF SAN DIEGO and DOES 1-  
20,

17 Respondents.

18 JACKSON PENDO DEVELOPMENT;  
19 JACKSON PENDO DEVELOPMENT  
COMPANY; GDCI PROCTOR VALLEY,  
20 L.P.; GDC HOLDINGS, LLC; PROCTOR  
VALLEY INVESTORS LLC; GDC  
21 INVESTMENTS 11, LP, and DOES 21-  
40,

22 Real Parties in Interest.  
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**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

12/17/2021 at 02:28:00 PM

Clerk of the Superior Court  
By Richard Day, Deputy Clerk

Case No. 37-2019-00038820-CU-TT-CTL  
(Lead Case)  
Consolidated with  
Case No. 37-2019-00038672-CU-TT-CTL  
and  
Case No. 37-2019-00038747-CU-WM-  
CTL

**[Proposed] Amended Judgment in Case  
No. 37-2019-00038672 (Endangered  
Habitats League, et al. v. County of San  
Diego, et al.)**

(CALIFORNIA ENVIRONMENTAL  
QUALITY ACT)

Pub. Res. Code §§ 21000 et seq.

CCP §§ 1085, 1094.5

Assigned for All Purposes to:  
Honorable Richard S. Whitney  
Dept.: C-68

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25 OF THE STATE OF CALIFORNIA, EX  
REL. ROB BONTA, ATTORNEY GENERAL

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27

28

1           Petitioners Endangered Habitats League and California Native Plant Society  
2 challenged the June 26, 2019 decision of Respondents County of San Diego, et al.  
3 (“Respondents” or “the County”) to approve the Otay Ranch Village 14 and Planning  
4 Areas 16/19 project (“Project”) proposed by real parties in interest Jackson Pendo  
5 Development Company, et al. (“Real Parties in Interest”), and to certify an Environmental  
6 Impact Report (“EIR”) for the Project. The case was consolidated with similar petitions  
7 filed by Center for Biological Diversity, Preserve Wild Santee, California Chaparral  
8 Institute, and Sierra Club (collectively with Endangered Habitats League and California  
9 Native Plant Society, “Petitioners”) for all purposes except entry of judgment. The People  
10 of the State of California, ex rel. Attorney General Rob Bonta (“Intervenor”) were granted  
11 leave to intervene in the consolidated cases before briefing and trial.

12           The hearing on the merits was held on September 21, 2021 before the Honorable  
13 Richard S. Whitney in Department C-68 of the San Diego County Superior Court. William  
14 J. White and Katrina A. Tomas of Shute, Mihaly & Weinberger LLP, Peter J. Broderick of  
15 Center for Biological Diversity, and Josh Chatten-Brown of Chatten-Brown, Carstens &  
16 Minter LLP appeared on behalf of Petitioners; Hallie E. Kutak and Catherine M. Wieman  
17 of the California Department of Justice, Office of the Attorney General appeared on behalf  
18 of Intervenor; Mark J. Dillon and David P. Hubbard of Gatzke Dillon & Ballance LLP  
19 appeared on behalf of Real Parties in Interest; and Joshua M. Heinlein of the Office of  
20 County Counsel, County of San Diego appeared on behalf of Respondents.

21           The Court, having reviewed the record of proceedings in this matter, the briefs and  
22 papers submitted by counsel, and the arguments of counsel; and the matter having been  
23 submitted for decision,

24           IT IS ORDERED AND ADJUDGED that:

25           1.       For the reasons set forth in this Court’s October 7, 2021 Minute Order,  
26 attached hereto as Exhibit A, judgment granting the petition for writ of mandate shall be  
27 entered in favor of Petitioners and Intervenor, and against the County and Real Parties in  
28 Interest.

1           2.       The San Diego County Superior Court shall issue a peremptory writ of  
2 mandate directed to the County, ordering Respondents to:  
3           a.       set aside the certification of the EIR for the Project; and  
4           b.       set aside and vacate all County approvals adopted in connection with  
5 the County's certification of the EIR, namely General Plan Amendment PDS2016-GPA-  
6 16-008, Specific Plan Amendment PDS2016-SP-16-002, Zone Reclassification PDS2016-  
7 REZ-16-006, Tentative Map No. PDS2016-TM-5616, and any findings of fact, statement  
8 of overriding considerations, and Mitigation Monitoring and Reporting Program for said  
9 County approvals.

10           3.       Statutory costs of suit are awarded to Petitioners and Intervenor as the  
11 prevailing parties against Respondents and Real Parties in Interest, upon timely filing and  
12 service of a Memorandum of Costs. The Court reserves jurisdiction over any claim for an  
13 award of attorneys' fees and non-statutory costs.

14           4.       The Court retains jurisdiction as consistent with law, including Public  
15 Resources Code § 21168.9(b), to ensure compliance with the writ issued pursuant to this  
16 judgment.

17 DATED: 12/17, 2021

SAN DIEGO COUNTY SUPERIOR COURT



Judge Richard S. Whitney

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**EXHIBIT A**

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 10/07/2021

TIME: 02:29:00 PM

DEPT: C-68

JUDICIAL OFFICER PRESIDING: Richard S. Whitney

CLERK: Richard Cersosimo

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2019-00038820-CU-TT-CTL** CASE INIT.DATE: 07/25/2019

CASE TITLE: **Petition of Sierra Club [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Toxic Tort/Environmental

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**APPEARANCES**

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**STATEMENT OF DECISION:**

The Court, having taken the above-entitled matter under submission on 9/21/2021, and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

"A superior court sitting as a court of review in a CEQA proceeding is not required to issue a "statement of decision" as that term is used in Code of Civil Procedure sections 632 and 634. (See 2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2d ed. 2011) § 23.116, p. 1262.) Conversely, a superior court that chooses to issue a written document explaining its decision to grant or deny a writ of mandate in a CEQA proceeding is not prohibited from labeling the document "statement of decision." Regardless of the label used, the rights, obligations and procedures set forth in Code of Civil Procedure sections 632 and 634 and California Rules of Court, rule 3.1590 do not apply to any such document issued by the court in a CEQA writ proceeding." (Consolidated Irrigation Dist. v. City of Selma (2012) 204 Cal.App.4th 187, 196 fn. 5, as modified on denial of reh'g (Mar. 9, 2012).)

**(1) PETITIONERS' PETITION FOR WRIT OF MANDATE and PEOPLE'S PETITION FOR WRIT OF MANDATE IN INTERVENTION is GRANTED.**

Petitioners ENDANGERED HABITATS LEAGUE, CALIFORNIA NATIVE PLANT SOCIETY, CENTER FOR BIOLOGICAL DIVERSITY, PRESERVE WILD SANTEE, CALIFORNIA CHAPARRAL INSTITUTE, and SIERRA CLUB's (collectively "Petitioners") Requests for Judicial Notice are granted (Exhibits A, B and C). Intervenor People of the State of California ex rel. Rob Bonta, Attorney General's ("AG") Requests for Judicial Notice are granted. Real Parties in Interest, Jackson Pendo Development Company, et al.'s ("GDCl") Requests for Judicial Notice are granted. The "JOINT OBJECTION BY THE PEOPLE AND PETITIONERS TO REAL PARTIES IN INTEREST'S NOTICE OF "OTHER RELEVANT EVIDENCE" PURSUANT TO GOVERNMENT CODE SECTION 12612 AND SUPPORTING

DECLARATION OF ELIZABETH JACKSON" is granted. The AG did not intervene via Government Code section 12612, but 12606. Further, the evidence is extra-record evidence that post-dates Respondents and Defendants COUNTY OF SAN DIEGO and BOARD OF SUPERVISORS OF COUNTY OF SAN DIEGO's ("County") decision to approve the Project, defined below, which renders it irrelevant for purposes of this California Environmental Quality Act ("CEQA") action. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.)

### Background

GDCI's Project is located within the Proctor Valley, approximately one-quarter mile east of Chula Vista and immediately south of the unincorporated community of Jamul. (Administrative Record ["AR"] 1.) "The project is a planned community consisting of 1,119 dwelling units; 10,000 square feet of neighborhood commercial; 2.3 acre joint use Fire Station/Sheriff storefront; 9.7 acre elementary school site; 24 acres of public/private parks; 776 acres of open space and a preserve on 1,284 acres" (the "Project"). (AR 1.) The County's approval of the Project includes a General Plan Amendment ("GPA") of the County's General Plan. (AR 1.) The County approved the Final Environmental Impact Report ("EIR") as to the Project. (AR 1.) Petitioners and the AG challenge the EIR under CEQA as being unsupported by substantial evidence and the approvals as being an abuse of discretion based on a failure to proceed in the manner required by law. Petitioners and the AG also allege the Project is inconsistent with the General Plan.

### Standard of Review Under CEQA and Relevant Law

The issue before this Court is whether the County abused its discretion. "Abuse of discretion is shown if (1) the agency has not proceeded in a manner required by law, or (2) the determination is not supported by substantial evidence." (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 945 [Citation omitted].)

Under CEQA, courts review quasi-legislative agency decisions for an abuse of discretion. (§ 21168.5.) At both the trial and appellate level, the court examines the administrative record anew. (*Vineyard, supra*, 40 Cal.4th at p. 427, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

An "agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence." (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709, citing § 21168.5.) "Judicial review of these two types of error differs significantly" however. (*Vineyard, supra*, at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) For that reason, "a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts." (*Ibid.*)

#### **1. Procedural Claims**

Courts must "scrupulously enforce all legislatively mandated CEQA requirements." (*Goleta II, supra*, 52 Cal.3d at p. 564, 276 Cal.Rptr. 410, 801 P.2d 1161.) To do so, "we determine de novo whether the agency has employed the correct procedures" in taking the challenged action. (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

## 2. Substantive Claims

Compared with review for procedural error, "we accord greater deference to the agency's substantive factual conclusions." (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) We apply "the highly deferential substantial evidence standard of review in Public Resources Code section 21168.5" to such determinations. (*Western States, supra*, 9 Cal.4th at p. 572, 38 Cal.Rptr.2d 139, 888 P.2d 1268.) "The agency is the finder of fact and we must indulge all reasonable inferences from the evidence that would support the agency's determinations and resolve all conflicts in the evidence in favor of the agency's decision." (*Save Our Peninsula, supra*, 87 Cal.App.4th at p. 117, 104 Cal.Rptr.2d 326.) That deferential review standard flows from the fact that "the agency has the discretion to resolve factual issues and to make policy decisions." (*Id.* at p. 120, 104 Cal.Rptr.2d 326.)

The CEQA Guidelines define substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).)

(*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984-85.)

"[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence." (*Sierra Club v. County of Fresno ("Friant Ranch")* (2018) 6 Cal.5th 502, 514.) "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" (*Id.* at 516 [Citation omitted].)

"[T]he petitioner bears the burden of demonstrating that the record does not contain sufficient evidence justifying a contested project approval." (*Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 206.) "To do so, an appellant must set forth in its brief all the material evidence on the point, not merely its own evidence. [Citation.] A failure to do so is deemed a concession that the evidence supports the findings." (*Id.* [Citation omitted].)

GDCI asserts Petitioners failed to raise a number of issues, such that the exhaustion of administrative remedies doctrine precludes the claims.

"Exhaustion of administrative remedies is a jurisdictional prerequisite to maintenance of a CEQA action. ... The petitioner is required to have 'objected to the approval of the project orally or in writing during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.' ([Pub. Resources Code,] § 21177, subd. (b).) The petitioner may allege as a ground of noncompliance any objection that was presented by any person or entity during the administrative proceedings." (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1199, 22 Cal.Rptr.3d 203.)

" 'The petitioner bears the burden of demonstrating that the issues raised in the judicial proceeding were

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first raised at the administrative level.

...  
"It is, however, "not necessary to identify the precise statute at issue, so long as the agency is apprised of the relevant facts and issues." (*McPherson v. City of Manhattan Beach* (2000) 78 Cal.App.4th 1252, 1264, 93 Cal.Rptr.2d 725.)

(*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 889–890.)

### Mitigation Measures as to Green House Gases ("GHG")

The EIR recognizes the Project will emit at least 484,770 metric tons of climate pollution over 30 years. (AR 31823.) The EIR acknowledges this is a significant impact that should be mitigated. The EIR contends the impacts will be mitigated to less than significant by implementing, *inter alia*, M-GHG-1 through M-GHG-4. (AR 31819.) Both the AG and Petitioners challenge M-GHG-1 and M-GHG-2 as being inadequate. Both M-GHG-1 and M-GHG-2 attempt to address GHGs that will be created from construction and operation of the Project over 30-years. (AR 318-324.)

First, the EIR relies on an estimated 30-year life for the Project to estimate the amount of GHG that must be mitigated. (AR 42057.) The 30-year life span is taken from the South Coast Air Quality Management District's set of GHG thresholds of significance for industrial projects. (AR 121687-88.) However, the District stated that as to "Residential/Commercial Sector Projects" "Not Recommended at this Time" to use the 30-year life span for offsets, as is used by the EIR in this case. (AR 121688.) GDCI asserts the District was not asked to make a recommendation as to Residential/Commercial Sector Projects. This does not support that the evidence the EIR relies upon to use a 30-year life span is substantial. GDCI does not point to any evidence in the record that the EIR relied on specific standards for Residential/Commercial Sector Projects, which is at issue in this action. A 30-year life span for a residential project goes against common sense. As GDCI asserts, the homes will be more advanced, such that they could last longer than other homes which last longer than 30 years. However, comments in the EIR state "30-year project life also is widely used in CEQA documents by expert consultants and lead agencies," "Executive Order (EO) S-3-05 established 2050 as the target year for an 80 percent reduction in statewide GHG emissions below 1990 levels," and that the incremental implementation of the development will result in a later start time for the Project and the "modeling analysis likely overestimates the Proposed Project's GHG emissions because the modeling does not take into account reasonably foreseeable regulatory, programs and other governmental strategies and technological factors that likely would result in further reductions in GHG emissions levels throughout California that are needed to achieve the 2030 and 2050 targets." (AR 33525-26.)

Even if the 30-year life span were accepted as being supported by substantial evidence, the mitigation measures M-GHG-1 and M-GHG-2 are insufficient under *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467. "An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy." (California Code of Regulations ("CEQA Guidelines") section § 15126.4(a)(1).) "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design." (CEQA Guidelines

section § 15126.4(a)(2).) "Under section 38562, subdivision (d)(1) and (2), cap-and-trade offset credits may be issued only if the emission reduction achieved is "real, permanent, quantifiable, verifiable, enforceable, and additional to any GHG emission reduction otherwise required by law or regulation, and any other GHG emission reduction that otherwise would occur." (*Golden Door, supra*, 50 Cal.App.5th at 506.)

" 'Real' means ... that GHG reductions ... result from a demonstrable action or set of actions, and are quantified using appropriate, accurate, and conservative methodologies that account for all GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary and account for uncertainty and the potential for activity-shifting leakage and market-shifting leakage." (Cal. Code Regs., tit. 17, § 95802.) " 'Permanent' means ... that GHG reductions ... are not reversible, or when GHG reductions ... may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions ... to ensure that all credited reductions endure for at least 100 years." (*Ibid.*) " 'Quantifiable' means ... the ability to accurately measure and calculate GHG reductions ... relative to a project baseline in a reliable and replicable manner for all GHG emission sources ...." (*Ibid.*) " 'Verifiable' means that an Offset Project Data Report assertion is well documented and transparent such that it lends itself to an objective review by an accredited verification body." (*Ibid.*) " 'Additional' means ... greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario." (Cal. Code Regs., tit. 17, § 95802.)

(*Id.* at 506-507.)

Similar to the County's Climate Action Plan (CAP) found to be inadequate under CEQA in *Golden Door*, M-GHG-1 and M-GHG-2 are for the purchase and retirement of carbon offsets that may be issued by "(i) the Climate Action Reserve, the American Carbon Registry, and Verra (previously, Verified Carbon Standard); or (ii) any registry approved by the California Air Resources Board (CARB) to act as a registry under the state's cap-and-trade program." In *Golden Door* the similarly labelled M-GHG-1 provided "the Director may approve offsets issued by any 'reputable registry or entity that issues carbon offsets consistent with ... section 38562[, subdivision] (d)(1).'" (*Golden Door, supra*, 50 Cal.App.5th at 514.) In both *Golden Door* and here, "M-GHG-1 says nothing about the protocols that the identified registries must implement." (*Id.* at 511.) "Unlike M-GHG-1, under cap-and-trade, it is not enough that the registry be CARB-approved. Equally important, the protocol itself must be CARB-approved." (*Id.*) "The CARB Protocols are the heart of cap-and-trade offsets-but the word "protocol" is not even mentioned in M-GHG-1.... M-GHG-1 is not equivalent to cap-and-trade offset programs because M-GHG-1 does not require the protocol itself to be consistent with CARB requirements under title 17, section 95972, subdivision (a)(1)-(9) of the California Code of Regulations." (*Id.* at 512.) The same is true in this case – the word "protocol" is not even mentioned in M-GHG-1 nor does the EIR require the protocol of the registry be consistent with CARB requirements. (AR 318-320.) The EIR parrots the words of California Health & Safety Code section 38562, subdivision (d)(l), stating "the purchased carbon offsets used to reduce GHG emissions from construction and vegetation removal shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions." (AR 319.) More than mere lip service is required – there must be "objective criteria for making such findings." (*Id.* at 521–522.)

GDCI points to the fact the EIR cites to the program manuals for registries in the appendices. However, one of the registries, American Carbon Registry, provides "projects must commit to maintain, monitor,



and verify Project Activity for a Minimum Project Term of 40 years...because no length of time, short of perpetual, is truly permanent..." but Permanent, as to GHG reductions, is defined as reductions that "endure for at least 100 years." (AR 75786; Cal. Code Regs., tit. 17, § 95802; see also *Golden Door*, *supra*, 50 Cal.App.5th at 522 [for example, CARB's forestry protocol requires sequestering carbon "for at least 100 years"].) As discussed above, GDCI's citation to extra-record evidence of actual purchases of offsets is not relevant. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.) Even if it were considered, the evidence indicates GDCI purchased offsets from American Carbon Registry, which would not meet the permanence requirement under *Golden Door*.

Further, in both the EIR and the County CAP considered in *Golden Door*, M-GHG-1 is silent as to the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2), which provides "the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur." (Health & Saf. Code, § 38562(d)(2); *Golden Door*, *supra*, 50 Cal.App.5th at 514.) M-GHG-1 and M-GHG-2 ignore the requirement that the reductions would not have otherwise occurred – that it would not result from a business-as-usual scenario. (*Golden Door*, *supra*, 50 Cal.App.5th at 521.) The EIR's requirement that the offsets achieve reductions that are "not otherwise required," consistent with Guidelines section 15126.4(c)(3) does not equate to requiring compliance with the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2). Also, responses to comments in the EIR as to the acknowledgement of the additionality definition does not equate to a requirement within M-GHG-1 and M-GHG-2 that the offsets purchased meet the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2). Finally, reliance on registry protocols is of no avail. As an example, one of the registries relies on the "project proponent" to sign an "Attestation of Legal Additionality form that confirms the mitigation project activity was not required by any law, statute, rule, regulation or other legally binding mandate by any national, regional, state, local or other governmental or regulatory agency having jurisdiction over the project." (AR 75925.) This is essentially the fox guarding the hen house, plus it does not address whether or not the reduction resulted from a business-as-usual scenario.

Petitioners also criticize the EIR's reliance upon forecasted reductions in relation to the purchase of carbon offsets. GDCI cites to the Newhall Ranch project, discussed with approval in *Golden Door*, which utilized estimated reductions and carbon offsets for past reductions. GDCI does not explain how this Project has safeguards to ensure the reduction would occur equivalent to those in the Newhall Ranch EIR. GDCI also relies upon the Climate Forward program, but the Climate Forward Program Manual recognizes it "does not guarantee the use of FMUs [Forecasted Mitigation Units] or CRTs will be accepted as a means to meet CEQA GHG mitigation obligations where required by an approving agency(ies)." (AR 75898.) The Court agrees the Climate Forward Program's reliance on a one-time verification of the mitigation project is troublesome. (AR 75916.) The lack of ongoing verification illustrates the protocols do not ensure that the forecasted reductions are real, additional, permanent, confirmable, and enforceable. "[O]nce the project reaches the point where activity will have a significant adverse effect on the environment, the mitigation measures must be in place." (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 860 [Citation omitted].) While GDCI must provide proof of purchase of carbon offsets prior to permit issuance, a proper mitigation measure must be in place at that time. (AR 31819, 31822.) Without rigorous protocols to ensure the forecasted reductions are real, additional, permanent, confirmable, and enforceable, it cannot be concluded the mitigation measures were permissibly implemented at proper times.

Finally, the EIR suffers from enforcement issues as to M-GHG-1 and M-GHG-2. In *Golden Door*, the court stated:

The only M-GHG-1 limit on mitigating with international offsets is the Director's unilateral decision that offsets are not feasibly available within (1) the unincorporated county; (2) the County; (3) California; and (4) the United States. The fundamental problem, unaddressed by M-GHG-1, is that the County has no enforcement authority in another state, much less in a foreign country. M-GHG-1 does not require a finding that an out-of-state offset site has laws at least as strict as California's with respect to ensuring the validity of offsets.

At oral argument, the County asserted that the "registries" would be the County's enforcement mechanism to ensure the validity of offsets originating in foreign countries. This argument fails, however, because it is premised on the assumption that the registry's protocol is Assem. Bill No. 32 compliant-and as explained *ante*, M-GHG-1 does not require use of an Assem. Bill No. 32 compliant protocol.

(*Golden Door, supra*, 50 Cal.App.5th at 512–513.) Similarly, here, the EIR relies upon the registries for enforcement, which is problematic because of their protocols. M-GHG-1 provides "the Director of the PDS shall require the Project applicant or its designee to provide an attestation or similar documentation from the selected registry(ies) that a sufficient quantity of carbon offsets meeting the standards set forth in this measure have been purchased and retired, thereby demonstrating that the necessary emission reductions are realized." (AR 319.) This enforcement mechanism pales in comparison to CARB, which discourages noncompliance "by deterring and punishing fraudulent activities." (AR 75598.) CARB has the enforcement authority to hold a party liable and to take appropriate action, including imposing penalties, if any of the regulations for CARB offset credits are violated. (17 C.C.R. §§ 95802(a), 96013, 96014.) GDCl does not cite to any evidence in the record that the registries have the same enforcement authority under their protocols.

One of the registries states it "will rely first and foremost on legal requirements within the jurisdiction(s) where the project is implemented." (AR 75909.) As *Golden Door* recognized, such reliance can be a problem in another state or foreign country where the County does not have any enforcement authority. There is nothing in M-GHG-1 or M-GHG-2 that requires the Director of the PDS to follow specific protocols when "offsets are unavailable and/or fail to meet the feasibility factors defined in CEQA Guidelines Section 15364 in a higher priority geographic category before allowing the Project applicant or its designee to use offsets from the next lower priority category" to ensure the offsets are ultimately enforced properly. Rather, the Director of the PDS merely needs to issue a written determination that considers information such as "availability of in-State emission reduction opportunities," "geographic attributes of carbon offsets," "temporal attributes of carbon offsets," "pricing attributes of carbon offsets," and "[a]ny other information deemed relevant to the evaluation...." (AR 320, 323-24.) This could allow for the Director to permit purchase of offsets almost entirely from international offsets. As a registry recognizes, "[d]epending on the location of the mitigation project, there may be insufficient compliance and/or enforcement of national, regional, state, local, or other regulations." (AR 75906.) As in *Golden Door*, "M-GHG-1 does not require a finding that an out-of-state offset site has laws at least as strict as California's with respect to ensuring the validity of offsets." (*Golden Door, supra*, 50 Cal.App.5th at 513.)

The EIR is inadequate as to M-GHG-1 and M-GHG-2.



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**Wildfire Ignition Risk**

The AG and Petitioners assert the EIR fails to properly acknowledge the increased risk of wildfire ignition from the additional people who will be in the area as a result of the Project. The EIR states "the Project Area, in its current condition, is considered to be vulnerable to wildfire ignition and spread during extreme fire weather." (AR 32172.) The EIR goes on to states that the "introduction of up to 1,119 new homes would not increase the potential likelihood of arson, off-road vehicle-related fires, or shooting-related fires." (AR 32173.) The body of the EIR does not acknowledge an increase in risk of wildfire ignition as a result of more humans being in the area from the Project. However, a County expert acknowledges "southern California's increasing population will make it more likely that ignitions will occur, which could potentially cause large areas of chaparral to type-convert into grasslands." (AR 104506.) Further, it is known humans are the primary cause of wildfires, especially in Southern California. (AR 89718-23.) The EIR does not address this issue, but notes "[p]ost-construction ignition sources would include vehicles, although roadside FMZs would be provided, reducing the potential for a vehicle-related fire escaping into the Otay Ranch RMP/MSCP Preserve fuels." (AR 32173.) This does not acknowledge or analyze the impact of adding more than 1,100 new homes to the area as to humans being an ignition cause of wildfires. This is combined with the fact the EIR does not clearly, in the body of the EIR, acknowledge the area's designation as a Very High Fire Hazard Severity Zone. (AR 32172-77.) The EIR does not include enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issue of wildfire ignition raised by the Project.

The above issue is accompanied by an improper compressing of the analysis. Instead of independently acknowledging all the significant impacts of the Project as to wildfire risks and subsequently discussing mitigating measures to address such impacts, the mitigation measures are characterized in the EIR as being part of the project. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 656.) "By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA." (*Id.*) Here, the EIR considers the impacts of wildfire to be less than significant because the Project's "landscaped and irrigated areas and FMZs, as well as the paved roadways and ignition-resistant structures, would result in reduced fire intensity and spread rates around the Project Area, creating defensible space for firefighters." (AR 32173.) "Additionally, provisions for a fire station in the area would reduce the response time to wildfire ignitions and increase the likelihood of successful initial attacks that limit the spread of wildfires." (AR 32173.) The EIR also states "[u]nauthorized activities such as off-road vehicles and shooting may still occur, but there will be more 'monitors' (i.e., future residents) in the area to discourage and report such activities, resulting in an anticipated decreased occurrence." (AR 32173.) "CEQA EIR requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount." (*Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 264 [Citation omitted].) The adoption of the Fire Protection Plan (FFP) and compliance with applicable fire codes do not obviate the need for the EIR to analyze significant impacts that would exist prior to the implementation of any mitigation measures. The EIR fails to comply with *Lotus*.

**Multiple Species Conservation Program**

The Multiple Species Conservation Program ("MSCP") "is a multi-jurisdictional habitat conservation

planning program that involves USFWS, CDFW, the County of San Diego, the City of San Diego, the City of Chula Vista, and other local jurisdictions and special districts..." (AR 31246.) "A total of 85 plant and animal species are 'covered' by the MSCP Plan." (AR 31246.) "Quino checkerspot butterfly (*Euphydryas editha qumo*) is not a covered species under the MSCP." (AR 31191.) "A species that is not an MSCP covered species is not allowed take through the MSCP." (AR 31191.) Normally, "take authorization" can be allowed when incidental to land development and other lawful land uses which are authorized by the County. (AR 31191.) GDCI points to evidence in the record that a previous owner of property that is part of the Project area proposed preserving PV1-3 and other areas of Otay Ranch in exchange for allowing development of other open spaces within Otay Ranch; however, the parties disagree as to whether an agreement was reached. The MSCP and County Subarea Plan designates PV1-3 as "No Take Authorized" areas (AR 115049), or "Otay Ranch Areas Where No 'Take Permits' Will Be Issued," while allowing take in other areas that were previously designated as open space. (AR 82930, 94838-43, 115049, 115051.) The County General Plan calls for implementation of the "MSCP Plans for North and East County in order to further preserve wildlife habitat and corridors, wetlands, watersheds, groundwater recharge areas and other open space that provide carbon sequestration benefits and to restrict the use of water for cleaning outdoor surfaces and vehicles." (AR 129683.) The County's EIR cannot ignore mitigation measures in a General Plan, as such failure violates CEQA. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1167.)

"The EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. Such regional plans proposed include, but are not limited to, ...habitat conservation plans..." (CEQA Guidelines § 15125(d).) Petitioners raised the issue as to the Project's consistency with the MSCP, citing *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918. (AR 94708.) GDCI points to the Implementing Agreement between the Wildlife Agencies ("IA") where it states "as outlined in the letter attached to the South County Segment from the Baldwin Company Dated November 10, 1995, will be included if the agreements are reached." (AR 115255.) GDCI does not deny that the IA still includes a map showing PV1-3 as "Otay Ranch Areas Where No 'Take Permits' Will Be Issued." (AR 115285.) This appears to be why the California Department of Fish and Wildlife (CDFW) concluded "[t]he Implementing Agreement and Subarea Plan are consistent on this point. The Implementing Agreement includes a map as Exhibit F defining the area encompassed by the Subarea Plan." (AR 33276.)

Petitioners do not assert PV1-3 is undevelopable, but that the Project is inconsistent with the MSCP and the EIR does not address this issue. The Court agrees. The Project conflicts with the face of the MSCP. While GDCI or the County is free to seek an amendment of the MSCP, the face of the MSCP reflects PV1-3 is subject to no take. The United States Fish and Wildlife Service (USFWS) did not disagree, but explicitly stated "because no take has been authorized in PV 1, 2, 3 we are evaluating approaches for authorizing take in those parcels including the options considered in the County's draft Condition of Approval for the Village 14 project." (AR 33270.)

CEQA does not "permit lead agencies to perform truncated and siloed environmental review, leaving it to other responsible agencies to address related concerns seriatim." (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 941.) Petitioners assert the EIR fails to meaningfully address the issue. GDCI relies on the purported consistency with the MSCP and on the Biological Mitigation Ordinance (BMO) to support that the County did not violate CEQA. As discussed above, the Project is inconsistent with the MSCP as it currently designates PV1-3 as no take. Even though the Project may be

consistent with the BMO, the EIR does not recognize nor analyze the consistency between the MSCP and the Project. Rather, the County concluded "the Proposed Project, including development of PV1-3, is consistent with the MSCP, Subarea Plan and Implementing [sic] Agreement" after reviewing findings as to the BMO. (AR 75554.) GDCI does not contest that the EIR failed to consider any Project alternative that would comply with the MSCP and preserve PV1-3.

In *Banning Ranch*, an EIR for a project in the coastal zone subject to the California Coastal Act was found inadequate. (*Banning Ranch, supra*, 2 Cal.5th at 941.) The EIR considered comments that the project would disturb environmentally sensitive habitat areas (ESHAs), that could not be developed under the Coastal Act, but it did not study the impact, instead deferring that task to the Coastal Commission. (*Id.* at 930-932.) Here, PV1-3 are currently in an analogous state – they cannot be developed given their designation as no take. As in *Banning Ranch*, the EIR improperly avoids the issue because the analysis assumes the Project is not inconsistent with the MSCP. (AR 40428-541, 32897-900.) Consequently, the EIR fails as an informational document. (*Id.* at 942.)

### The Quino Checkerspot Butterfly ("Quino")

The EIR must provide an accurate and complete description of the "baseline" existing environmental conditions against which a project's impacts are evaluated. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447-48; CEQA Guidelines § 15125.) The USFWS lists the Quino as endangered. (62 FR 2313-01.) Petitioners assert that the EIR's conclusion that Quino do not occupy area within the Project is erroneous. The Project is partially located on "Quino Occurrence Complexes" designated as "Unit 8" by the USFWS. (AR 97955, 98619, 98483-85; 74 FR 28776-01.) "The physical and biological features found in Unit 8 may require special management considerations or protection to minimize impacts from loss and fragmentation of habitat and landscape connectivity due to development..." (74 FR 28776-01.) USFWS defines Quino occupancy based on "population-scale occupancy" as "all areas used by adults during the persistence time of a population (years to decades)." (AR 97955.) Thus, "focused distribution studies over multiple years are required [in order] to quantify Quino checkerspot butterfly population distributions." (AR 97955.)

The EIR states Quino were not "detected during protocol surveys and, therefore, the Project Area is not currently considered occupied" by Quino. (AR 31258.) This conclusion was based on survey results in 2015 and 2016, when it was found the "species has been observed within and adjacent to the Project Area." (AR 82940.) "[T]he 2017 spring season, presumably fueled by above-normal rainfall following multiple years of drought, created the most favorable conditions for Quino since 2012. As a result, very high numbers of Quino were observed, particularly in nearby areas. Unfortunately, in 2017, protocol surveys were not performed on Village 14, qualified USFWS biologists were not allowed to survey the property during the peak of the flight season, and an excellent opportunity to obtain better information on the status of Quino on the property was lost." (AR 82940.) Notwithstanding, "in 2017 Service staff documented multiple Quino individuals adjacent to and interspersed within the Project Area," but the EIR "dismisses these sightings as incidental." (AR 82942.) Additionally, "qualified personnel from CDFW observed [Quino] on and around the site in 2018." (AR 76070-71.) Further, the County acknowledged observation during "low rainfall years...may not be considered adequate evidence to conclude a particular site is unoccupied, even if guidelines are followed." (AR 85305.) Nevertheless, the County encouraged "surveys be conducted regardless of rainfall levels because negative adult data can be

useful long-term to support conclusions of population absence." (AR 85305.) Finally, in spring of 2019, a non-drought year, qualified personnel documented Quino "widely throughout the Proctor Valley area, including locations immediately adjacent to the project site." (AR 76072.)

GDCI acknowledges 2016 was a below-average year for rainfall, but defends the EIR's conclusion because the "CDFW's 'limited' survey effort did not conform to any established protocols for surveys of this species." (AR 32944.) "Occurrence complexes are mapped in the Recovery Plan using a 0.6 mile (1 kilometer) movement radius from each butterfly observation, and may be based on the observation of a single individual (Figures 1 and 2)." (AR 98326.) The above 1 kilometer radius measurement is part of the "only accepted procedure for delineating [Quino] 'occupied habitat.'" (76074.) The observations were mapped based on GPS coordinates with accuracy within about 3 meters. (AR 94849-50.) Given there are more years of observation of Quino in the area than years of no observation and one of the years of no observation, 2016, was a below-average year for rainfall, the data supporting that Quino occupy at least some areas within the Project is more supported than the conclusion the Project area is not occupied by Quino. Moreover, multiple Quino experts and the CDFW determined that the area is occupied. (AR 82942, 83480-84, 97952-54.) In the context of the available data, the EIR's conclusion is erroneous. Without an accurate conclusion as to occupancy by Quino, the EIR fails "to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts." (CEQA Guidelines section § 15125(a).) This failure also affected the EIR's consideration of mitigation measures. (See GDCI's reliance on AR 29165.)

### Cumulative Impacts

It is undisputed the EIR must disclose cumulative impacts. "'Cumulative impacts' refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines section § 15355.) "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. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines section § 15355(b).) "[I]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them. (CEQA, § 21061.)" (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79.) "The CEQA Guidelines specify that location may be important when the location of other projects determines whether they contribute to an impact. For example, projects located outside a watershed would ordinarily not contribute to cumulative water quality impacts within the watershed." (Kostka, *supra*, § 13:42, p. 651; Guidelines, § 15130, subd. (b)(2).) (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 907.) However, "the geographic context or scope to be analyzed 'cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting.'" (*Id.* at 907.) Petitioners assert the EIR fails to consider the following pending projects in its analysis: Lilac Hills Ranch, Newland Sierra, Harmony Grove, Warner Ranch, Otay 250, and Valiano.

GDCI defends the EIR's exclusion of the six above projects based on geographic location, the assertion some of the projects have not sufficiently crystallized, and the projects were not closely related to this



Project. Analysis of an entire air basin may be necessary and "[t]he primary determination is whether it was reasonable and practical to include the projects and whether, without their inclusion, the severity and significance of the cumulative impacts were reflected adequately." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 722-23.) The six potential projects include the need for General Plan amendments to account for changes in densities. (AR 85509-11.) GDCI does not specifically explain how the potential projects would not impact air quality and GHG considerations, even considering their geographical distance from the Project. Given the enormous potential increase in homes, nearly 10,000, from the potential projects, the Court cannot conclude all of the six projects were properly excluded from the cumulative impact analysis, especially as to wildfire risk, air quality and GHG, unless the projects were not sufficiently crystallized such that it would have been unreasonable and impractical to evaluate their cumulative impacts. (*City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 397.)

GDCI cites to evidence some of the projects face challenges, such as referendums and rescinding of some approvals. (See GDCI's RJN Exhibits 3-10.) However, GDCI does not point to evidence that the challenges prevented the projects from ultimately going forward at in time in the future and such was known at the time the EIR was being prepared. Further, not all of the projects have faced issues. GDCI merely points to the fact public review did not commence until March, April, and June of 2017 as to some of them. GDCI does not cite evidence that indicates the projects were "merely contemplated or a gleam in a planner's eye." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 398.) Given the deferential treatment EIRs often receive, the Court cannot conclude projects that have commenced public review of draft EIRs are too speculative. The Court cannot conclude all of the six projects are not closely related to the Project – they are residential developments which could have similar impacts on wildfire risk, air quality and GHG. (See AR 85509-11.) The failure to consider the cumulative impacts from at least some of the potential projects was potentially significant. (AR 85522-38, 84687-92, 98681, 90648, 84615-17.) This failure violated CEQA.

#### **Standard of Review as to Inconsistencies with the General Plan**

"A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.) "[J]udicial review of consistency findings is highly deferential to the local agency." (*Naraghi Lakes Neighborhood Preservation Assn. v. City of Modesto* (2016) 1 Cal.App.5th 9, 18.) "Reviewing courts must defer to a procedurally proper consistency finding unless no reasonable person could have reached the same conclusion." (*Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 732 [Citation omitted]; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 637.) "[T]he essential question is 'whether the project is compatible with, and does not frustrate, the general plan's goals and policies.'" (*Naraghi Lakes, supra*, 1 Cal.App.5th at 18 [Citation omitted].)

#### **Affordable Housing Component Requirement Within the General Plan**

The General Plan states at H-1.9: "Affordable Housing through General Plan Amendments. Require developers to provide an affordable housing component when requesting a General Plan amendment

for a large-scale residential project when this is legally permissible." (AR 130098.) GDCI does not seriously dispute that the Project does not include an affordable housing component, but asserts it includes "attainable housing components." However, there is a statutory definition for affordable housing cost, which GDCI does not and cannot contend the Project meets. (Health & Saf. Code, § 50052.5.) Rather, GDCI points to the fact the County has not yet adopted an affordable housing ordinance, focusing on the "when this is legally permissible" portion of H-1.9.

GDCI's argument that the law disfavors ad hoc imposition of affordable housing conditions, citing *San Remo Hotel L.P. v. City And County of San Francisco* (2002) 27 Cal.4th 643, is of no avail because inclusionary housing ordinances do not violate the constitution where "the ordinance does not require a developer to give up a property interest for which the government would have been required to pay just compensation under the takings clause outside of the permit process." (*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 461.) GDCI cannot point to any requirement GDCI was required to give up a property interest without just taking under an ordinance, as no ordinance exists. GDCI's reliance on the lack of an adopted affordable housing ordinance is also unavailing. The County may not rely upon its failure to follow through in implementing an ordinance to ensure projects conform with the General Plan to justify its failure to conform with the General Plan. As GDCI points out, the County has delayed adopting an ordinance since at least 2012. (GDCI's RJN Exhibits 14-15; AR 135444.).

GDCI does not point to any authority stating an ordinance must be adopted before an agency is required to conform to the General Plan. "[A]n agency's interpretation of a regulation or statute does not control if an alternative reading is compelled by the plain language of the provision." (*Southern California Edison Co. v. Public Utilities Com'n* (2000) 85 Cal.App.4th 1086, 1088.) H-1.9 unambiguously requires an affordable housing component. Contrary to GDCI's suggestion, the General Plan does not bend to the requirements of ordinances, it is the other way around – ordinances must not be inconsistent with the General Plan. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) While the Court is sympathetic that the process to develop affordable housing criteria may not be easy, the evidence and law does not indicate the County is precluded from imposing affordable housing criteria nor that the County is permitted to ignore clear policies and goals in the General Plan based on the difficulty in implementing them. Finally, GDCI's suggestion that H-1.9 only applies to amendments that increase density is without support – nothing in H-1.9 nor other policies or goals within the General Plan support that H-1.9 only applies to amendments that increase density. The limitation on applicability of H-1.9 is its application to "large-scale residential project[s]," not density changes. The Project is inconsistent with H-1.9 of the General Plan.

The petition is granted as to the above discussed issues. As to the other issues raised by the AG and Petitioners, the Court finds GDCI's arguments sufficiently persuasive. The County is ordered to vacate its approvals of the Project.

**(2) PETITIONERS' UNOPPOSED MOTION TO STRIKE DOCUMENTS IN ADMINISTRATIVE RECORD is GRANTED**

Failure to file an opposition to the motion indicates the other parties' acquiescence that the motion is

meritorious. (California Rules of Court, Rule 8.54(c).) Public Resources Code section 21167.6(e) sets forth the types of records to be included in a record of proceedings. (Pub. Resources Code, § 21167.6(e).) "[T]he Legislature intended courts to generally consider only the administrative record in determining whether a quasi-legislative administrative decision was supported by substantial evidence." (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 571.) "[E]xtra-record evidence is generally not admissible in traditional mandamus actions challenging quasi-legislative administrative decisions on the ground that the agency 'has not proceeded in a manner required by law' within the meaning of Pub. Resources Code, § 21168.5." (*Id.* at 561.) The potential exceptions acknowledged in *Western States* do not apply here. (*Id.* at 575, n. 5.) Petitioners explain how the documents included after the fact were considered by GDCI's consultant, but were not presented to the agency decision-makers and did not become part of the record. GDCI does not dispute this. The documents do not fall into a category under Public Resources Code section 21167.6(e). The motion is granted.



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Judge Richard S. Whitney

1 **PROOF OF SERVICE**

2 *Petition of Sierra Club*  
3 **San Diego County Superior Court, Central Division**  
4 **Case No. 37-2019-00038820-CU-TT-CTL**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am  
6 employed in the County of San Francisco, State of California. My business address is 396  
7 Hayes Street, San Francisco, CA 94102.

8 On December 6, 2021, I served true copies of the following document(s) described as:

9 **[PROPOSED] AMENDED JUDGMENT IN CASE NO. 37-2019-00038672**  
10 **(ENDANGERED HABITATS LEAGUE, ET AL. V. COUNTY OF SAN DIEGO, ET AL.)**

11 on the parties in this action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the  
14 document(s) to be sent from e-mail address Larkin@smwlaw.com to the persons at the e-mail  
15 addresses listed in the Service List. I did not receive, within a reasonable time after the  
16 transmission, any electronic message or other indication that the transmission was unsuccessful.

17 I declare under penalty of perjury under the laws of the State of California that the  
18 foregoing is true and correct.

19 Executed on December 6, 2021, at San Francisco, California.

20 *Patricia Larkin*

21 \_\_\_\_\_  
22 Patricia Larkin  
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**SERVICE LIST**

**Petition of Sierra Club  
San Diego County Superior Court, Central Division  
Case No. 37-2019-00038820-CU-TT-CTL**

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10 *(Additional attorneys on next page)*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 SIERRA CLUB,

14 Petitioner,

15 v.

16 COUNTY OF SAN DIEGO and DOES 1-  
20,

17 Respondents.

18 JACKSON PENDO DEVELOPMENT;  
19 JACKSON PENDO DEVELOPMENT  
COMPANY; GDCI PROCTOR VALLEY,  
20 L.P.; GDC HOLDINGS, LLC; PROCTOR  
VALLEY INVESTORS LLC; GDC  
21 INVESTMENTS 11, LP, and DOES 21-  
22 40,

23 Real Parties in Interest.

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

**12/17/2021** at 02:26:00 PM

Clerk of the Superior Court  
By Richard Day, Deputy Clerk

Case No. 37-2019-00038820-CU-TT-CTL  
(Lead Case)  
Consolidated with  
Case No. 37-2019-00038672-CU-TT-CTL  
and  
Case No. 37-2019-00038747-CU-WM-  
CTL

**[Proposed] Amended Judgment in Case  
No. 37-2019-00038820 (Petition of Sierra  
Club)**

(CALIFORNIA ENVIRONMENTAL  
QUALITY ACT)

Pub. Res. Code §§ 21000 et seq.  
CCP §§ 1085, 1094.5

Assigned for All Purposes to:  
Honorable Richard S. Whitney  
Dept.: C-68

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25 OF THE STATE OF CALIFORNIA, EX  
REL. ROB BONTA, ATTORNEY GENERAL  
26  
27  
28

1           Petitioner Sierra Club challenged the June 26, 2019 decision of Respondents  
2 County of San Diego, et al. (“Respondents” or “the County”) to approve the Otay Ranch  
3 Village 14 and Planning Areas 16/19 project (“Project”) proposed by real parties in interest  
4 Jackson Pendo Development Company, et al. (“Real Parties in Interest”), and to certify an  
5 Environmental Impact Report (“EIR”) for the Project. The case was consolidated with  
6 similar petitions filed by Endangered Habitats League, California Native Plant Society,  
7 Center for Biological Diversity, Preserve Wild Santee, California Chaparral Institute  
8 (collectively with Sierra Club, “Petitioners”) for all purposes except entry of judgment.  
9 The People of the State of California, ex rel. Attorney General Rob Bonta (“Intervenor”)  
10 were granted leave to intervene in the consolidated cases before briefing and trial.

11           The hearing on the merits was held on September 21, 2021 before the Honorable  
12 Richard S. Whitney in Department C-68 of the San Diego County Superior Court. William  
13 J. White and Katrina A. Tomas of Shute, Mihaly & Weinberger LLP, Peter J. Broderick of  
14 Center for Biological Diversity, and Josh Chatten-Brown of Chatten-Brown, Carstens &  
15 Minter LLP appeared on behalf of Petitioners; Hallie E. Kutak and Catherine M. Wieman  
16 of the California Department of Justice, Office of the Attorney General appeared on behalf  
17 of Intervenor; Mark J. Dillon and David P. Hubbard of Gatzke Dillon & Ballance LLP  
18 appeared on behalf of Real Parties in Interest; and Joshua M. Heinlein of the Office of  
19 County Counsel, County of San Diego appeared on behalf of Respondents.

20           The Court, having reviewed the record of proceedings in this matter, the briefs and  
21 papers submitted by counsel, and the arguments of counsel; and the matter having been  
22 submitted for decision,

23           IT IS ORDERED AND ADJUDGED that:

24           1.       For the reasons set forth in this Court’s October 7, 2021 Minute Order,  
25 attached hereto as Exhibit A, judgment granting the petition for writ of mandate shall be  
26 entered in favor of Petitioners and Intervenor, and against the County and Real Parties in  
27 Interest.

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2. The San Diego County Superior Court shall issue a peremptory writ of mandate directed to the County, ordering Respondents to:

- a. set aside the certification of the EIR for the Project; and
- b. set aside and vacate all County approvals adopted in connection with the County's certification of the EIR, namely General Plan Amendment PDS2016-GPA-16-008, Specific Plan Amendment PDS2016-SP-16-002, Zone Reclassification PDS2016-REZ-16-006, Tentative Map No. PDS2016-TM-5616, and any findings of fact, statement of overriding considerations, and Mitigation Monitoring and Reporting Program for said County approvals.

3. Statutory costs of suit are awarded to Petitioners and Intervenor as the prevailing parties against Respondents and Real Parties in Interest, upon timely filing and service of a Memorandum of Costs. The Court reserves jurisdiction over any claim for an award of attorneys' fees and non-statutory costs.

4. The Court retains jurisdiction as consistent with law, including Public Resources Code § 21168.9(b), to ensure compliance with the writ issued pursuant to this judgment.

DATED: 12/17, 2021

SAN DIEGO COUNTY SUPERIOR COURT



Judge Richard S. Whitney

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**EXHIBIT A**

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO

CENTRAL

MINUTE ORDER

DATE: 10/07/2021

TIME: 02:29:00 PM

DEPT: C-68

JUDICIAL OFFICER PRESIDING: Richard S. Whitney

CLERK: Richard Cersosimo

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2019-00038820-CU-TT-CTL** CASE INIT.DATE: 07/25/2019

CASE TITLE: **Petition of Sierra Club [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Toxic Tort/Environmental

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**APPEARANCES**

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**STATEMENT OF DECISION:**

The Court, having taken the above-entitled matter under submission on 9/21/2021, and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

"A superior court sitting as a court of review in a CEQA proceeding is not required to issue a "statement of decision" as that term is used in Code of Civil Procedure sections 632 and 634. (See 2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2d ed. 2011) § 23.116, p. 1262.) Conversely, a superior court that chooses to issue a written document explaining its decision to grant or deny a writ of mandate in a CEQA proceeding is not prohibited from labeling the document "statement of decision." Regardless of the label used, the rights, obligations and procedures set forth in Code of Civil Procedure sections 632 and 634 and California Rules of Court, rule 3.1590 do not apply to any such document issued by the court in a CEQA writ proceeding." (Consolidated Irrigation Dist. v. City of Selma (2012) 204 Cal.App.4th 187, 196 fn. 5, as modified on denial of reh'g (Mar. 9, 2012).)

**(1) PETITIONERS' PETITION FOR WRIT OF MANDATE and PEOPLE'S PETITION FOR WRIT OF MANDATE IN INTERVENTION is GRANTED.**

Petitioners ENDANGERED HABITATS LEAGUE, CALIFORNIA NATIVE PLANT SOCIETY, CENTER FOR BIOLOGICAL DIVERSITY, PRESERVE WILD SANTEE, CALIFORNIA CHAPARRAL INSTITUTE, and SIERRA CLUB's (collectively "Petitioners") Requests for Judicial Notice are granted (Exhibits A, B and C). Intervenor People of the State of California ex rel. Rob Bonta, Attorney General's ("AG") Requests for Judicial Notice are granted. Real Parties in Interest, Jackson Pendo Development Company, et al.'s ("GDCI") Requests for Judicial Notice are granted. The "JOINT OBJECTION BY THE PEOPLE AND PETITIONERS TO REAL PARTIES IN INTEREST'S NOTICE OF "OTHER RELEVANT EVIDENCE" PURSUANT TO GOVERNMENT CODE SECTION 12612 AND SUPPORTING



DECLARATION OF ELIZABETH JACKSON" is granted. The AG did not intervene via Government Code section 12612, but 12606. Further, the evidence is extra-record evidence that post-dates Respondents and Defendants COUNTY OF SAN DIEGO and BOARD OF SUPERVISORS OF COUNTY OF SAN DIEGO's ("County") decision to approve the Project, defined below, which renders it irrelevant for purposes of this California Environmental Quality Act ("CEQA") action. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.)

## **Background**

GDCI's Project is located within the Proctor Valley, approximately one-quarter mile east of Chula Vista and immediately south of the unincorporated community of Jamul. (Administrative Record ["AR"] 1.) "The project is a planned community consisting of 1,119 dwelling units; 10,000 square feet of neighborhood commercial; 2.3 acre joint use Fire Station/Sheriff storefront; 9.7 acre elementary school site; 24 acres of public/private parks; 776 acres of open space and a preserve on 1,284 acres" (the "Project"). (AR 1.) The County's approval of the Project includes a General Plan Amendment ("GPA") of the County's General Plan. (AR 1.) The County approved the Final Environmental Impact Report ("EIR") as to the Project. (AR 1.) Petitioners and the AG challenge the EIR under CEQA as being unsupported by substantial evidence and the approvals as being an abuse of discretion based on a failure to proceed in the manner required by law. Petitioners and the AG also allege the Project is inconsistent with the General Plan.

## **Standard of Review Under CEQA and Relevant Law**

The issue before this Court is whether the County abused its discretion. "Abuse of discretion is shown if (1) the agency has not proceeded in a manner required by law, or (2) the determination is not supported by substantial evidence." (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 945 [Citation omitted].)

Under CEQA, courts review quasi-legislative agency decisions for an abuse of discretion. (§ 21168.5.) At both the trial and appellate level, the court examines the administrative record anew. (*Vineyard, supra*, 40 Cal.4th at p. 427, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

An "agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence." (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709, citing § 21168.5.) "Judicial review of these two types of error differs significantly" however. (*Vineyard, supra*, at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) For that reason, "a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts." (*Ibid.*)

### **1. Procedural Claims**

Courts must "scrupulously enforce all legislatively mandated CEQA requirements." (*Goleta II, supra*, 52 Cal.3d at p. 564, 276 Cal.Rptr. 410, 801 P.2d 1161.) To do so, "we determine de novo whether the agency has employed the correct procedures" in taking the challenged action. (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

## 2. Substantive Claims

Compared with review for procedural error, "we accord greater deference to the agency's substantive factual conclusions." (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) We apply "the highly deferential substantial evidence standard of review in Public Resources Code section 21168.5" to such determinations. (*Western States, supra*, 9 Cal.4th at p. 572, 38 Cal.Rptr.2d 139, 888 P.2d 1268.) "The agency is the finder of fact and we must indulge all reasonable inferences from the evidence that would support the agency's determinations and resolve all conflicts in the evidence in favor of the agency's decision." (*Save Our Peninsula, supra*, 87 Cal.App.4th at p. 117, 104 Cal.Rptr.2d 326.) That deferential review standard flows from the fact that "the agency has the discretion to resolve factual issues and to make policy decisions." (*Id.* at p. 120, 104 Cal.Rptr.2d 326.)

The CEQA Guidelines define substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).)

(*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984-85.)

"[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence." (*Sierra Club v. County of Fresno ("Friant Ranch")* (2018) 6 Cal.5th 502, 514.) "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" (*Id.* at 516 [Citation omitted].)

"[T]he petitioner bears the burden of demonstrating that the record does not contain sufficient evidence justifying a contested project approval." (*Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 206.) "To do so, an appellant must set forth in its brief all the material evidence on the point, not merely its own evidence. [Citation.] A failure to do so is deemed a concession that the evidence supports the findings." (*Id.* [Citation omitted].)

GDCI asserts Petitioners failed to raise a number of issues, such that the exhaustion of administrative remedies doctrine precludes the claims.

"Exhaustion of administrative remedies is a jurisdictional prerequisite to maintenance of a CEQA action. ... The petitioner is required to have 'objected to the approval of the project orally or in writing during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.' ([Pub. Resources Code,] § 21177, subd. (b).) The petitioner may allege as a ground of noncompliance any objection that was presented by any person or entity during the administrative proceedings." (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1199, 22 Cal.Rptr.3d 203.)

"The petitioner bears the burden of demonstrating that the issues raised in the judicial proceeding were

first raised at the administrative level.

...  
"It is, however, "not necessary to identify the precise statute at issue, so long as the agency is apprised of the relevant facts and issues." (*McPherson v. City of Manhattan Beach* (2000) 78 Cal.App.4th 1252, 1264, 93 Cal.Rptr.2d 725.)

(*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 889–890.)

### **Mitigation Measures as to Green House Gases ("GHG")**

The EIR recognizes the Project will emit at least 484,770 metric tons of climate pollution over 30 years. (AR 31823.) The EIR acknowledges this is a significant impact that should be mitigated. The EIR contends the impacts will be mitigated to less than significant by implementing, *inter alia*, M-GHG-1 through M-GHG-4. (AR 31819.) Both the AG and Petitioners challenge M-GHG-1 and M-GHG-2 as being inadequate. Both M-GHG-1 and M-GHG-2 attempt to address GHGs that will be created from construction and operation of the Project over 30-years. (AR 318-324.)

First, the EIR relies on an estimated 30-year life for the Project to estimate the amount of GHG that must be mitigated. (AR 42057.) The 30-year life span is taken from the South Coast Air Quality Management District's set of GHG thresholds of significance for industrial projects. (AR 121687-88.) However, the District stated that as to "Residential/Commercial Sector Projects" "Not Recommended at this Time" to use the 30-year life span for offsets, as is used by the EIR in this case. (AR 121688.) GDCI asserts the District was not asked to make a recommendation as to Residential/Commercial Sector Projects. This does not support that the evidence the EIR relies upon to use a 30-year life span is substantial. GDCI does not point to any evidence in the record that the EIR relied on specific standards for Residential/Commercial Sector Projects, which is at issue in this action. A 30-year life span for a residential project goes against common sense. As GDCI asserts, the homes will be more advanced, such that they could last longer than other homes which last longer than 30 years. However, comments in the EIR state "30-year project life also is widely used in CEQA documents by expert consultants and lead agencies," "Executive Order (EO) S-3-05 established 2050 as the target year for an 80 percent reduction in statewide GHG emissions below 1990 levels," and that the incremental implementation of the development will result in a later start time for the Project and the "modeling analysis likely overestimates the Proposed Project's GHG emissions because the modeling does not take into account reasonably foreseeable regulatory, programs and other governmental strategies and technological factors that likely would result in further reductions in GHG emissions levels throughout California that are needed to achieve the 2030 and 2050 targets." (AR 33525-26.)

Even if the 30-year life span were accepted as being supported by substantial evidence, the mitigation measures M-GHG-1 and M-GHG-2 are insufficient under *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467. "An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy." (California Code of Regulations ("CEQA Guidelines") section § 15126.4(a)(1).) "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design." (CEQA Guidelines

section § 15126.4(a)(2).) "Under section 38562, subdivision (d)(1) and (2), cap-and-trade offset credits may be issued only if the emission reduction achieved is "real, permanent, quantifiable, verifiable, enforceable, and additional to any GHG emission reduction otherwise required by law or regulation, and any other GHG emission reduction that otherwise would occur." (*Golden Door, supra*, 50 Cal.App.5th at 506.)

" 'Real' means ... that GHG reductions ... result from a demonstrable action or set of actions, and are quantified using appropriate, accurate, and conservative methodologies that account for all GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary and account for uncertainty and the potential for activity-shifting leakage and market-shifting leakage." (Cal. Code Regs., tit. 17, § 95802.) " 'Permanent' means ... that GHG reductions ... are not reversible, or when GHG reductions ... may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions ... to ensure that all credited reductions endure for at least 100 years." (*Ibid.*) " 'Quantifiable' means ... the ability to accurately measure and calculate GHG reductions ... relative to a project baseline in a reliable and replicable manner for all GHG emission sources ...." (*Ibid.*) " 'Verifiable' means that an Offset Project Data Report assertion is well documented and transparent such that it lends itself to an objective review by an accredited verification body." (*Ibid.*) " 'Additional' means ... greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario." (Cal. Code Regs., tit. 17, § 95802.)

(*Id.* at 506-507.)

Similar to the County's Climate Action Plan (CAP) found to be inadequate under CEQA in *Golden Door*, M-GHG-1 and M-GHG-2 are for the purchase and retirement of carbon offsets that may be issued by "(i) the Climate Action Reserve, the American Carbon Registry, and Verra (previously, Verified Carbon Standard); or (ii) any registry approved by the California Air Resources Board (CARB) to act as a registry under the state's cap-and-trade program." In *Golden Door* the similarly labelled M-GHG-1 provided "the Director may approve offsets issued by any 'reputable registry or entity that issues carbon offsets consistent with ... section 38562[, subdivision] (d)(1).'" (*Golden Door, supra*, 50 Cal.App.5th at 514.) In both *Golden Door* and here, "M-GHG-1 says nothing about the protocols that the identified registries must implement." (*Id.* at 511.) "Unlike M-GHG-1, under cap-and-trade, it is not enough that the registry be CARB-approved. Equally important, the protocol itself must be CARB-approved." (*Id.*) "The CARB Protocols are the heart of cap-and-trade offsets-but the word "protocol" is not even mentioned in M-GHG-1.... M-GHG-1 is not equivalent to cap-and-trade offset programs because M-GHG-1 does not require the protocol itself to be consistent with CARB requirements under title 17, section 95972, subdivision (a)(1)-(9) of the California Code of Regulations." (*Id.* at 512.) The same is true in this case – the word "protocol" is not even mentioned in M-GHG-1 nor does the EIR require the protocol of the registry be consistent with CARB requirements. (AR 318-320.) The EIR parrots the words of California Health & Safety Code section 38562, subdivision (d)(I), stating "the purchased carbon offsets used to reduce GHG emissions from construction and vegetation removal shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions." (AR 319.) More than mere lip service is required – there must be "objective criteria for making such findings." (*Id.* at 521–522.)

GDCI points to the fact the EIR cites to the program manuals for registries in the appendices. However, one of the registries, American Carbon Registry, provides "projects must commit to maintain, monitor,



and verify Project Activity for a Minimum Project Term of 40 years...because no length of time, short of perpetual, is truly permanent..." but Permanent, as to GHG reductions, is defined as reductions that "endure for at least 100 years." (AR 75786; Cal. Code Regs., tit. 17, § 95802; see also *Golden Door*, supra, 50 Cal.App.5th at 522 [for example, CARB's forestry protocol requires sequestering carbon "for at least 100 years"].) As discussed above, GDCI's citation to extra-record evidence of actual purchases of offsets is not relevant. (See *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559.) Even if it were considered, the evidence indicates GDCI purchased offsets from American Carbon Registry, which would not meet the permanence requirement under *Golden Door*.

Further, in both the EIR and the County CAP considered in *Golden Door*, M-GHG-1 is silent as to the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2), which provides "the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur." (Health & Saf. Code, § 38562(d)(2); *Golden Door*, supra, 50 Cal.App.5th at 514.) M-GHG-1 and M-GHG-2 ignore the requirement that the reductions would not have otherwise occurred – that it would not result from a business-as-usual scenario. (*Golden Door*, supra, 50 Cal.App.5th at 521.) The EIR's requirement that the offsets achieve reductions that are "not otherwise required," consistent with Guidelines section 15126.4(c)(3) does not equate to requiring compliance with the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2). Also, responses to comments in the EIR as to the acknowledgement of the additionality definition does not equate to a requirement within M-GHG-1 and M-GHG-2 that the offsets purchased meet the additionality requirement in Health & Safety Code section 38562, subdivision (d)(2). Finally, reliance on registry protocols is of no avail. As an example, one of the registries relies on the "project proponent" to sign an "Attestation of Legal Additionality form that confirms the mitigation project activity was not required by any law, statute, rule, regulation or other legally binding mandate by any national, regional, state, local or other governmental or regulatory agency having jurisdiction over the project." (AR 75925.) This is essentially the fox guarding the hen house, plus it does not address whether or not the reduction resulted from a business-as-usual scenario.

Petitioners also criticize the EIR's reliance upon forecasted reductions in relation to the purchase of carbon offsets. GDCI cites to the Newhall Ranch project, discussed with approval in *Golden Door*, which utilized estimated reductions and carbon offsets for past reductions. GDCI does not explain how this Project has safeguards to ensure the reduction would occur equivalent to those in the Newhall Ranch EIR. GDCI also relies upon the Climate Forward program, but the Climate Forward Program Manual recognizes it "does not guarantee the use of FMUs [Forecasted Mitigation Units] or CRTs will be accepted as a means to meet CEQA GHG mitigation obligations where required by an approving agency(ies)." (AR 75898.) The Court agrees the Climate Forward Program's reliance on a one-time verification of the mitigation project is troublesome. (AR 75916.) The lack of ongoing verification illustrates the protocols do not ensure that the forecasted reductions are real, additional, permanent, confirmable, and enforceable. "[O]nce the project reaches the point where activity will have a significant adverse effect on the environment, the mitigation measures must be in place." (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 860 [Citation omitted].) While GDCI must provide proof of purchase of carbon offsets prior to permit issuance, a proper mitigation measure must be in place at that time. (AR 31819, 31822.) Without rigorous protocols to ensure the forecasted reductions are real, additional, permanent, confirmable, and enforceable, it cannot be concluded the mitigation measures were permissibly implemented at proper times.

Finally, the EIR suffers from enforcement issues as to M-GHG-1 and M-GHG-2. In *Golden Door*, the court stated:

The only M-GHG-1 limit on mitigating with international offsets is the Director's unilateral decision that offsets are not feasibly available within (1) the unincorporated county; (2) the County; (3) California; and (4) the United States. The fundamental problem, unaddressed by M-GHG-1, is that the County has no enforcement authority in another state, much less in a foreign country. M-GHG-1 does not require a finding that an out-of-state offset site has laws at least as strict as California's with respect to ensuring the validity of offsets.

At oral argument, the County asserted that the "registries" would be the County's enforcement mechanism to ensure the validity of offsets originating in foreign countries. This argument fails, however, because it is premised on the assumption that the registry's protocol is Assem. Bill No. 32 compliant-and as explained *ante*, M-GHG-1 does not require use of an Assem. Bill No. 32 compliant protocol.

(*Golden Door, supra*, 50 Cal.App.5th at 512–513.) Similarly, here, the EIR relies upon the registries for enforcement, which is problematic because of their protocols. M-GHG-1 provides "the Director of the PDS shall require the Project applicant or its designee to provide an attestation or similar documentation from the selected registry(ies) that a sufficient quantity of carbon offsets meeting the standards set forth in this measure have been purchased and retired, thereby demonstrating that the necessary emission reductions are realized." (AR 319.) This enforcement mechanism pales in comparison to CARB, which discourages noncompliance "by deterring and punishing fraudulent activities." (AR 75598.) CARB has the enforcement authority to hold a party liable and to take appropriate action, including imposing penalties, if any of the regulations for CARB offset credits are violated. (17 C.C.R. §§ 95802(a), 96013, 96014.) GDCL does not cite to any evidence in the record that the registries have the same enforcement authority under their protocols.

One of the registries states it "will rely first and foremost on legal requirements within the jurisdiction(s) where the project is implemented." (AR 75909.) As *Golden Door* recognized, such reliance can be a problem in another state or foreign country where the County does not have any enforcement authority. There is nothing in M-GHG-1 or M-GHG-2 that requires the Director of the PDS to follow specific protocols when "offsets are unavailable and/or fail to meet the feasibility factors defined in CEQA Guidelines Section 15364 in a higher priority geographic category before allowing the Project applicant or its designee to use offsets from the next lower priority category" to ensure the offsets are ultimately enforced properly. Rather, the Director of the PDS merely needs to issue a written determination that considers information such as "availability of in-State emission reduction opportunities," "geographic attributes of carbon offsets," "temporal attributes of carbon offsets," "pricing attributes of carbon offsets," and "[a]ny other information deemed relevant to the evaluation...." (AR 320, 323-24.) This could allow for the Director to permit purchase of offsets almost entirely from international offsets. As a registry recognizes, "[d]epending on the location of the mitigation project, there may be insufficient compliance and/or enforcement of national, regional, state, local, or other regulations." (AR 75906.) As in *Golden Door*, "M-GHG-1 does not require a finding that an out-of-state offset site has laws at least as strict as California's with respect to ensuring the validity of offsets." (*Golden Door, supra*, 50 Cal.App.5th at 513.)

The EIR is inadequate as to M-GHG-1 and M-GHG-2.

**Wildfire Ignition Risk**

The AG and Petitioners assert the EIR fails to properly acknowledge the increased risk of wildfire ignition from the additional people who will be in the area as a result of the Project. The EIR states "the Project Area, in its current condition, is considered to be vulnerable to wildfire ignition and spread during extreme fire weather." (AR 32172.) The EIR goes on to state that the "introduction of up to 1,119 new homes would not increase the potential likelihood of arson, off-road vehicle-related fires, or shooting-related fires." (AR 32173.) The body of the EIR does not acknowledge an increase in risk of wildfire ignition as a result of more humans being in the area from the Project. However, a County expert acknowledges "southern California's increasing population will make it more likely that ignitions will occur, which could potentially cause large areas of chaparral to type-convert into grasslands." (AR 104506.) Further, it is known humans are the primary cause of wildfires, especially in Southern California. (AR 89718-23.) The EIR does not address this issue, but notes "[p]ost-construction ignition sources would include vehicles, although roadside FMZs would be provided, reducing the potential for a vehicle-related fire escaping into the Otay Ranch RMP/MSCP Preserve fuels." (AR 32173.) This does not acknowledge or analyze the impact of adding more than 1,100 new homes to the area as to humans being an ignition cause of wildfires. This is combined with the fact the EIR does not clearly, in the body of the EIR, acknowledge the area's designation as a Very High Fire Hazard Severity Zone. (AR 32172-77.) The EIR does not include enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issue of wildfire ignition raised by the Project.

The above issue is accompanied by an improper compressing of the analysis. Instead of independently acknowledging all the significant impacts of the Project as to wildfire risks and subsequently discussing mitigating measures to address such impacts, the mitigation measures are characterized in the EIR as being part of the project. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 656.) "By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA." (*Id.*) Here, the EIR considers the impacts of wildfire to be less than significant because the Project's "landscaped and irrigated areas and FMZs, as well as the paved roadways and ignition-resistant structures, would result in reduced fire intensity and spread rates around the Project Area, creating defensible space for firefighters." (AR 32173.) "Additionally, provisions for a fire station in the area would reduce the response time to wildfire ignitions and increase the likelihood of successful initial attacks that limit the spread of wildfires." (AR 32173.) The EIR also states "[u]nauthorized activities such as off-road vehicles and shooting may still occur, but there will be more 'monitors' (i.e., future residents) in the area to discourage and report such activities, resulting in an anticipated decreased occurrence." (AR 32173.) "CEQA EIR requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount." (*Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 264 [Citation omitted].) The adoption of the Fire Protection Plan (FFP) and compliance with applicable fire codes do not obviate the need for the EIR to analyze significant impacts that would exist prior to the implementation of any mitigation measures. The EIR fails to comply with *Lotus*.

**Multiple Species Conservation Program**

The Multiple Species Conservation Program ("MSCP") "is a multi-jurisdictional habitat conservation

planning program that involves USFWS, CDFW, the County of San Diego, the City of San Diego, the City of Chula Vista, and other local jurisdictions and special districts...." (AR 31246.) "A total of 85 plant and animal species are 'covered' by the MSCP Plan." (AR 31246.) "Quino checkerspot butterfly (*Euphydryas editha quino*) is not a covered species under the MSCP." (AR 31191.) "A species that is not an MSCP covered species is not allowed take through the MSCP." (AR 31191.) Normally, "take authorization" can be allowed when incidental to land development and other lawful land uses which are authorized by the County. (AR 31191.) GDCI points to evidence in the record that a previous owner of property that is part of the Project area proposed preserving PV1-3 and other areas of Otay Ranch in exchange for allowing development of other open spaces within Otay Ranch; however, the parties disagree as to whether an agreement was reached. The MSCP and County Subarea Plan designates PV1-3 as "No Take Authorized" areas (AR 115049), or "Otay Ranch Areas Where No 'Take Permits' Will Be Issued," while allowing take in other areas that were previously designated as open space. (AR 82930, 94838-43, 115049, 115051.) The County General Plan calls for implementation of the "MSCP Plans for North and East County in order to further preserve wildlife habitat and corridors, wetlands, watersheds, groundwater recharge areas and other open space that provide carbon sequestration benefits and to restrict the use of water for cleaning outdoor surfaces and vehicles." (AR 129683.) The County's EIR cannot ignore mitigation measures in a General Plan, as such failure violates CEQA. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1167.)

"The EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans. Such regional plans include, but are not limited to, ...habitat conservation plans...." (CEQA Guidelines § 15125(d).) Petitioners raised the issue as to the Project's consistency with the MSCP, citing *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918. (AR 94708.) GDCI points to the Implementing Agreement between the Wildlife Agencies ("IA") where it states "as outlined in the letter attached to the South County Segment from the Baldwin Company Dated November 10, 1995, will be included if the agreements are reached." (AR 115255.) GDCI does not deny that the IA still includes a map showing PV1-3 as "Otay Ranch Areas Where No 'Take Permits' Will Be Issued." (AR 115285.) This appears to be why the California Department of Fish and Wildlife (CDFW) concluded "[t]he Implementing Agreement and Subarea Plan are consistent on this point. The Implementing Agreement includes a map as Exhibit F defining the area encompassed by the Subarea Plan." (AR 33276.)

Petitioners do not assert PV1-3 is undevelopable, but that the Project is inconsistent with the MSCP and the EIR does not address this issue. The Court agrees. The Project conflicts with the face of the MSCP. While GDCI or the County is free to seek an amendment of the MSCP, the face of the MSCP reflects PV1-3 is subject to no take. The United States Fish and Wildlife Service (USFWS) did not disagree, but explicitly stated "because no take has been authorized in PV 1, 2, 3 we are evaluating approaches for authorizing take in those parcels including the options considered in the County's draft Condition of Approval for the Village 14 project." (AR 33270.)

CEQA does not "permit lead agencies to perform truncated and siloed environmental review, leaving it to other responsible agencies to address related concerns seriatim." (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 941.) Petitioners assert the EIR fails to meaningfully address the issue. GDCI relies on the purported consistency with the MSCP and on the Biological Mitigation Ordinance (BMO) to support that the County did not violate CEQA. As discussed above, the Project is inconsistent with the MSCP as it currently designates PV1-3 as no take. Even though the Project may be



consistent with the BMO, the EIR does not recognize nor analyze the consistency between the MSCP and the Project. Rather, the County concluded "the Proposed Project, including development of PV1-3, is consistent with the MSCP, Subarea Plan and Implementing [sic] Agreement" after reviewing findings as to the BMO. (AR 75554.) GDCI does not contest that the EIR failed to consider any Project alternative that would comply with the MSCP and preserve PV1-3.

In *Banning Ranch*, an EIR for a project in the coastal zone subject to the California Coastal Act was found inadequate. (*Banning Ranch, supra*, 2 Cal.5th at 941.) The EIR considered comments that the project would disturb environmentally sensitive habitat areas (ESHAs), that could not be developed under the Coastal Act, but it did not study the impact, instead deferring that task to the Coastal Commission. (*Id.* at 930-932.) Here, PV1-3 are currently in an analogous state – they cannot be developed given their designation as no take. As in *Banning Ranch*, the EIR improperly avoids the issue because the analysis assumes the Project is not inconsistent with the MSCP. (AR 40428-541, 32897-900.) Consequently, the EIR fails as an informational document. (*Id.* at 942.)

### The Quino Checkerspot Butterfly ("Quino")

The EIR must provide an accurate and complete description of the "baseline" existing environmental conditions against which a project's impacts are evaluated. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447-48; CEQA Guidelines § 15125.) The USFWS lists the Quino as endangered. (62 FR 2313-01.) Petitioners assert that the EIR's conclusion that Quino do not occupy area within the Project is erroneous. The Project is partially located on "Quino Occurrence Complexes" designated as "Unit 8" by the USFWS. (AR 97955, 98619, 98483-85; 74 FR 28776-01.) "The physical and biological features found in Unit 8 may require special management considerations or protection to minimize impacts from loss and fragmentation of habitat and landscape connectivity due to development..." (74 FR 28776-01.) USFWS defines Quino occupancy based on "population-scale occupancy" as "all areas used by adults during the persistence time of a population (years to decades)." (AR 97955.) Thus, "focused distribution studies over multiple years are required [in order] to quantify Quino checkerspot butterfly population distributions." (AR 97955.)

The EIR states Quino were not "detected during protocol surveys and, therefore, the Project Area is not currently considered occupied" by Quino. (AR 31258.) This conclusion was based on survey results in 2015 and 2016, when it was found the "species has been observed within and adjacent to the Project Area." (AR 82940.) "[T]he 2017 spring season, presumably fueled by above-normal rainfall following multiple years of drought, created the most favorable conditions for Quino since 2012. As a result, very high numbers of Quino were observed, particularly in nearby areas. Unfortunately, in 2017, protocol surveys were not performed on Village 14, qualified USFWS biologists were not allowed to survey the property during the peak of the flight season, and an excellent opportunity to obtain better information on the status of Quino on the property was lost." (AR 82940.) Notwithstanding, "in 2017 Service staff documented multiple Quino individuals adjacent to and interspersed within the Project Area," but the EIR "dismisses these sightings as incidental." (AR 82942.) Additionally, "qualified personnel from CDFW observed [Quino] on and around the site in 2018." (AR 76070-71.) Further, the County acknowledged observation during "low rainfall years...may not be considered adequate evidence to conclude a particular site is unoccupied, even if guidelines are followed." (AR 85305.) Nevertheless, the County encouraged "surveys be conducted regardless of rainfall levels because negative adult data can be

useful long-term to support conclusions of population absence." (AR 85305.) Finally, in spring of 2019, a non-drought year, qualified personnel documented Quino "widely throughout the Proctor Valley area, including locations immediately adjacent to the project site." (AR 76072.)

GDCI acknowledges 2016 was a below-average year for rainfall, but defends the EIR's conclusion because the "CDFW's 'limited' survey effort did not conform to any established protocols for surveys of this species." (AR 32944.) "Occurrence complexes are mapped in the Recovery Plan using a 0.6 mile (1 kilometer) movement radius from each butterfly observation, and may be based on the observation of a single individual (Figures 1 and 2)." (AR 98326.) The above 1 kilometer radius measurement is part of the "only accepted procedure for delineating [Quino] 'occupied habitat.'" (76074.) The observations were mapped based on GPS coordinates with accuracy within about 3 meters. (AR 94849-50.) Given there are more years of observation of Quino in the area than years of no observation and one of the years of no observation, 2016, was a below-average year for rainfall, the data supporting that Quino occupy at least some areas within the Project is more supported than the conclusion the Project area is not occupied by Quino. Moreover, multiple Quino experts and the CDFW determined that the area is occupied. (AR 82942, 83480-84, 97952-54.) In the context of the available data, the EIR's conclusion is erroneous. Without an accurate conclusion as to occupancy by Quino, the EIR fails "to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts." (CEQA Guidelines section § 15125(a).) This failure also affected the EIR's consideration of mitigation measures. (See GDCI's reliance on AR 29165.)

### Cumulative Impacts

It is undisputed the EIR must disclose cumulative impacts. "'Cumulative impacts' refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines section § 15355.) "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. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines section § 15355(b).) "[I]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them. (CEQA, § 21061.)" (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79.) "The CEQA Guidelines specify that location may be important when the location of other projects determines whether they contribute to an impact. For example, projects located outside a watershed would ordinarily not contribute to cumulative water quality impacts within the watershed." (Kostka, *supra*, § 13:42, p. 651; Guidelines, § 15130, subd. (b)(2).) (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 907.) However, "the geographic context or scope to be analyzed 'cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting.'" (*Id.* at 907.) Petitioners assert the EIR fails to consider the following pending projects in its analysis: Lilac Hills Ranch, Newland Sierra, Harmony Grove, Warner Ranch, Otay 250, and Valiano.

GDCI defends the EIR's exclusion of the six above projects based on geographic location, the assertion some of the projects have not sufficiently crystallized, and the projects were not closely related to this

Project. Analysis of an entire air basin may be necessary and "[t]he primary determination is whether it was reasonable and practical to include the projects and whether, without their inclusion, the severity and significance of the cumulative impacts were reflected adequately." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 722-23.) The six potential projects include the need for General Plan amendments to account for changes in densities. (AR 85509-11.) GDCI does not specifically explain how the potential projects would not impact air quality and GHG considerations, even considering their geographical distance from the Project. Given the enormous potential increase in homes, nearly 10,000, from the potential projects, the Court cannot conclude all of the six projects were properly excluded from the cumulative impact analysis, especially as to wildfire risk, air quality and GHG, unless the projects were not sufficiently crystallized such that it would have been unreasonable and impractical to evaluate their cumulative impacts. (*City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 397.)

GDCI cites to evidence some of the projects face challenges, such as referendums and rescinding of some approvals. (See GDCI's RJN Exhibits 3-10.) However, GDCI does not point to evidence that the challenges prevented the projects from ultimately going forward at in time in the future and such was known at the time the EIR was being prepared. Further, not all of the projects have faced issues. GDCI merely points to the fact public review did not commence until March, April, and June of 2017 as to some of them. GDCI does not cite evidence that indicates the projects were "merely contemplated or a gleam in a planner's eye." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 398.) Given the deferential treatment EIRs often receive, the Court cannot conclude projects that have commenced public review of draft EIRs are too speculative. The Court cannot conclude all of the six projects are not closely related to the Project – they are residential developments which could have similar impacts on wildfire risk, air quality and GHG. (See AR 85509-11.) The failure to consider the cumulative impacts from at least some of the potential projects was potentially significant. (AR 85522-38, 84687-92, 98681, 90648, 84615-17.) This failure violated CEQA.

### **Standard of Review as to Inconsistencies with the General Plan**

"A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.) "[J]udicial review of consistency findings is highly deferential to the local agency." (*Naraghi Lakes Neighborhood Preservation Assn. v. City of Modesto* (2016) 1 Cal.App.5th 9, 18.) "Reviewing courts must defer to a procedurally proper consistency finding unless no reasonable person could have reached the same conclusion." (*Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 732 [Citation omitted]; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 637.) "[T]he essential question is 'whether the project is compatible with, and does not frustrate, the general plan's goals and policies.'" (*Naraghi Lakes, supra*, 1 Cal.App.5th at 18 [Citation omitted].)

### **Affordable Housing Component Requirement Within the General Plan**

The General Plan states at H-1.9: "Affordable Housing through General Plan Amendments. Require developers to provide an affordable housing component when requesting a General Plan amendment

for a large-scale residential project when this is legally permissible." (AR 130098.) GDCI does not seriously dispute that the Project does not include an affordable housing component, but asserts it includes "attainable housing components." However, there is a statutory definition for affordable housing cost, which GDCI does not and cannot contend the Project meets. (Health & Saf. Code, § 50052.5.) Rather, GDCI points to the fact the County has not yet adopted an affordable housing ordinance, focusing on the "when this is legally permissible" portion of H-1.9.

GDCI's argument that the law disfavors ad hoc imposition of affordable housing conditions, citing *San Remo Hotel L.P. v. City And County of San Francisco* (2002) 27 Cal.4th 643, is of no avail because inclusionary housing ordinances do not violate the constitution where "the ordinance does not require a developer to give up a property interest for which the government would have been required to pay just compensation under the takings clause outside of the permit process." (*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 461.) GDCI cannot point to any requirement GDCI was required to give up a property interest without just taking under an ordinance, as no ordinance exists. GDCI's reliance on the lack of an adopted affordable housing ordinance is also unavailing. The County may not rely upon its failure to follow through in implementing an ordinance to ensure projects conform with the General Plan to justify its failure to conform with the General Plan. As GDCI points out, the County has delayed adopting an ordinance since at least 2012. (GDCI's RJN Exhibits 14-15; AR 135444.).

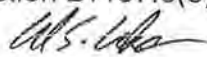
GDCI does not point to any authority stating an ordinance must be adopted before an agency is required to conform to the General Plan. "[A]n agency's interpretation of a regulation or statute does not control if an alternative reading is compelled by the plain language of the provision." (*Southern California Edison Co. v. Public Utilities Com'n* (2000) 85 Cal.App.4th 1086, 1088.) H-1.9 unambiguously requires an affordable housing component. Contrary to GDCI's suggestion, the General Plan does not bend to the requirements of ordinances, it is the other way around – ordinances must not be inconsistent with the General Plan. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) While the Court is sympathetic that the process to develop affordable housing criteria may not be easy, the evidence and law does not indicate the County is precluded from imposing affordable housing criteria nor that the County is permitted to ignore clear policies and goals in the General Plan based on the difficulty in implementing them. Finally, GDCI's suggestion that H-1.9 only applies to amendments that increase density is without support – nothing in H-1.9 nor other policies or goals within the General Plan support that H-1.9 only applies to amendments that increase density. The limitation on applicability of H-1.9 is its application to "large-scale residential project[s]," not density changes. The Project is inconsistent with H-1.9 of the General Plan.

The petition is granted as to the above discussed issues. As to the other issues raised by the AG and Petitioners, the Court finds GDCI's arguments sufficiently persuasive. The County is ordered to vacate its approvals of the Project.

**(2) PETITIONERS' UNOPPOSED MOTION TO STRIKE DOCUMENTS IN ADMINISTRATIVE RECORD is GRANTED**

Failure to file an opposition to the motion indicates the other parties' acquiescence that the motion is

meritorious. (California Rules of Court, Rule 8.54(c).) Public Resources Code section 21167.6(e) sets forth the types of records to be included in a record of proceedings. (Pub. Resources Code, § 21167.6(e).) "[T]he Legislature intended courts to generally consider only the administrative record in determining whether a quasi-legislative administrative decision was supported by substantial evidence." (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 571.) "[E]xtra-record evidence is generally not admissible in traditional mandamus actions challenging quasi-legislative administrative decisions on the ground that the agency 'has not proceeded in a manner required by law' within the meaning of Pub. Resources Code, § 21168.5." (*Id.* at 561.) The potential exceptions acknowledged in *Western States* do not apply here. (*Id.* at 575, n. 5.) Petitioners explain how the documents included after the fact were considered by GDCI's consultant, but were not presented to the agency decision-makers and did not become part of the record. GDCI does not dispute this. The documents do not fall into a category under Public Resources Code section 21167.6(e). The motion is granted.



---

Judge Richard S. Whitney



1 **PROOF OF SERVICE**

2 *Petition of Sierra Club*  
3 **San Diego County Superior Court, Central Division**  
4 **Case No. 37-2019-00038820-CU-TT-CTL**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am  
6 employed in the County of San Francisco, State of California. My business address is 396  
7 Hayes Street, San Francisco, CA 94102.

8 On December 6, 2021, I served true copies of the following document(s) described as:

9 **[PROPOSED] AMENDED JUDGMENT IN CASE NO. 37-2019-00038820 (PETITION**  
10 **OF SIERRA CLUB)**

11 on the parties in this action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the  
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15 addresses listed in the Service List. I did not receive, within a reasonable time after the  
16 transmission, any electronic message or other indication that the transmission was unsuccessful.

17 I declare under penalty of perjury under the laws of the State of California that the  
18 foregoing is true and correct.

19 Executed on December 6, 2021, at San Francisco, California.

20 *Patricia Larkin*

21 \_\_\_\_\_  
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D079929**

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**BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling), I provided the document(s) listed above electronically on the TRUE FILING Website to the parties on the Service List maintained on the TRUE FILING Website for this case, or on the attached Service List. TRUE FILING is the on-line e-service provider designated in this case. Participants in the case who are not registered TRUE FILING users will be served by mail or by other means permitted by the court rules.

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred.



# **Exhibit 5**

**FIRE PROTECTION PLAN  
SAFARI HIGHLANDS RANCH**

*Prepared for:*

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Fire Department**  
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*On behalf of Applicant:*

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*Contact: Jeb Hall, Senior Vice President*

*Prepared by:*

**DUDEK**  
605 Third Street  
Encinitas, California 92024  
*Contact: Michael Huff*

**JULY 2017**



# Fire Protection Plan Safari Highlands Ranch

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# Fire Protection Plan Safari Highlands Ranch

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## 1 EXECUTIVE SUMMARY

This Fire Protection Plan (FPP) has been prepared for the Safari Highlands Ranch Project (Proposed Project) in northern San Diego County. This FPP evaluates and identifies the potential fire risk associated with the proposed project's land uses and identifies requirements for water supply, fuel modification and defensible space, access, building ignition and fire resistance, fire protection systems, and wildfire emergency pre-planning, among other pertinent fire protection criteria. The project proponent proposes an annexation of the entire project site into the City of Escondido. The purpose of this plan is to generate and memorialize the fire safety requirements of the Escondido Fire Department (EFD) along with project-specific measures based on the site, its intended use, and its fire environment.

This document provides analysis of the site's fire environment and its potential impact on the proposed Project as well as the Project's potential impact on the existing fire protection services provided by EFD. This document will be incorporated as a technical appendix of the Safari Highlands Ranch development Environmental Impact Report. Requirements and recommendations herein are based on site-specific fire environment and proposed project characteristics, and incorporate input from EFD's Prevention Bureau, area fire planning documents, site risk analysis, and standard principles of fire protection planning.

As described in this FPP, the project will meet or exceed all applicable Code requirements. There are up to 14 lots (worst case) where a single story structure would be required or, with application of alternative forms of protection, may build two story structures and meet the intent of the EFD's top of slope structure setback requirements. The recommendations and conditions provided herein are also consistent with the lessons learned from After Fire Action Reports from numerous fires occurring over the last 20 years, including the 2003, 2007 and 2010 San Diego County Fires.

As determined during the analysis of this site and its fire environment, the Proposed Project site, in its current condition, is considered to include characteristics that, under favorable conditions, have the potential to facilitate fire spread. Under extreme conditions, wildfires from the northeast and east could burn towards the site and result in significant ember production. Once the project is built, the on-site fire potential will be lower than its current condition due to conversion of wildland fuels to managed landscapes, improved accessibility to fire personnel, and structures built to the latest ignition resistant codes, though it will result in persons living in a wildland urban interface setting.

The developed portion of this property is proposed for improvements that include construction of 550 single-family residential units, a new fire station, and associated infrastructure and utilities. The entire site has been designed with fire protection as a key objective. The site improvements

## **Fire Protection Plan Safari Highlands Ranch**

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are designed to facilitate emergency apparatus and personnel access throughout the site. Driveway and road improvements with fire engine turnarounds provide access to within 150 feet of all sides of every building. Water availability and flow will be consistent with EFD requirements including fire flow and hydrant distribution. Fuel modification zones ranging between 150 and 200 feet wide will be provided, exceeding the required 100 feet and providing additional defensible space for all buildings. These features, along with the ignition resistance of all buildings, interior sprinklers, and pre-planning, training and awareness will assist responding firefighters through prevention, protection and suppression capabilities. As described in this FPP, the project will meet or exceed all applicable Code requirements with the exception of structure setbacks at top of slope for 14 lots. These setbacks have been provided mitigations consistent with the intent of the code or will be available for single story residences.

Early evacuation for any type of wildfire emergency at the Proposed Project is the preferred method of providing for resident safety, consistent with the EFD's current approach for other communities and neighborhoods. As such, Safari Highland Ranch's Homeowner's Association (HOA) will formally adopt, practice, and implement a "Ready, Set, Go!" (International Fire Chiefs Association 2013) approach to site evacuation. The "Ready, Set, Go!" concept is widely known and encouraged by the state of California and most fire agencies. Pre-planning for emergencies, including wildfire emergencies, focuses on being prepared, having a well-defined plan, minimizing potential for errors, maintaining the site's fire protection systems, and implementing a conservative (evacuate as early as possible) approach to evacuation and restricting site activities during periods of fire weather extremes. This FPP includes an emergency evacuation analysis indicating evacuation triggers and contingency plans.

Based on the results of this FPP's analysis and findings, the following FPP implementation measures will be provided by the Safari Highlands Ranch project as part of the proposed development plan. These measures are discussed in more detail throughout this FPP.

1. Preparation of a Construction Fire Prevention Plan detailing the important construction phase restrictions and fire safety requirements that will be implemented to reduce risk of ignitions and pre-plans for responding to an unlikely ignition.
2. Project buildings will be constructed of ignition resistant construction materials based on the latest Building and Fire Codes.
3. Fuel Modification will be provided throughout the perimeter of the site and will be 150 feet wide in areas where that was analyzed appropriate and 200 feet wide everywhere else. Maintenance will occur as needed and the HOA will annually hire a 3rd party, qualified Fuel Modification Zone inspector to provide annual certification that it meets the requirements of this FPP.

## **Fire Protection Plan Safari Highlands Ranch**

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4. Access to the site's open space area is provided via access points that are spaced on average every 650 lineal feet with a maximum of 1,300 feet.
5. Fire apparatus access roads will be provided throughout the community and will vary in width and configuration, but will all provide at least the minimum required unobstructed travel lanes, lengths, turnarounds, parking spaces, and clearances. Primary and secondary access will comply with the requirements of the EFD.
6. Firefighting staging areas/temporary refuge areas are available throughout the facility as well as along roadways and site green spaces.
7. Water capacity and delivery provide for a reliable water source for operations and during emergencies requiring extended fire flow.
8. A site-specific evacuation plan has been prepared for the project with input and coordination with EFD.
9. The Community HOA will include an outreach and educational role to coordinate with EFD, oversee landscape committee enforcement of fire safe landscaping, ensure fire safety measures detailed in this FPP have been implemented, educate residents from the Safari Highlands development and prepare community-wide and individual "Ready, Set, Go!" plans. A qualified company will be retained to help the HOA in this capacity, as necessary.

**Fire Protection Plan  
Safari Highlands Ranch**

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# Fire Protection Plan Safari Highlands Ranch

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## 2 INTRODUCTION

This FPP has been prepared for the Proposed Project. The purpose of the FPP is to evaluate the potential impacts resulting from wildland fire hazards and identify the measures necessary to adequately mitigate those risks to a level consistent with City of Escondido (City) and County of San Diego thresholds. Additionally, this plan generates and memorializes the fire safety requirements of the Fire Authority Having Jurisdiction (FAHJ), which is the Escondido Fire Department (EFD) with support by the San Diego County Fire Authority (SDCFA). Requirements and recommendations are based on site-specific project characteristics and incorporate input from the project applicant and the FAHJ.

As part of the assessment, this plan has considered the property location, topography, combustible vegetation (fuel types), climatic conditions, and fire history. The plan addresses water supply, access, structural ignitability and fire resistive building features, fire protection systems and equipment, impacts to existing emergency services, defensible space, and vegetation management. We have identified fuel reduction treatments and recommend the types and methods of treatment that will protect the Safari Highlands Ranch residents, and infrastructure. The plan recommends measures that the newly formed homeowner's association (Safari Highlands Ranch HOA) will take to reduce the probability of structure ignition throughout the area addressed by the plan.

The following tasks were performed toward completion of this plan:

- Gather site specific climate, terrain, and fuel data;
- Process and analyze the data using the latest Geographical Information System technology;
- Predict fire behavior using scientifically based fire behavior models, comparisons with actual wildfires in similar terrain and fuels, and experienced judgment;
- Analyze and guide design of proposed infrastructure;
- Analyze the existing emergency response capabilities;
- Assess the risk associated with the Proposed Project and site;
- Collect site photographs and map fuel conditions using 200-scale aerial images. Field observations were utilized to augment existing digital site data in generating the fire behavior models and formulating the recommendations presented in this FPP. Appendix A provides representative photographs of existing site conditions.
- Prepare this FPP detailing how fire risk will be mitigated through a system of fuel modification, structural ignition resistance enhancements, fire protection systems, and a conservative evacuation approach.

# Fire Protection Plan Safari Highlands Ranch

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## **2.1 Proposed Project Summary**

### **2.1.1 Location**

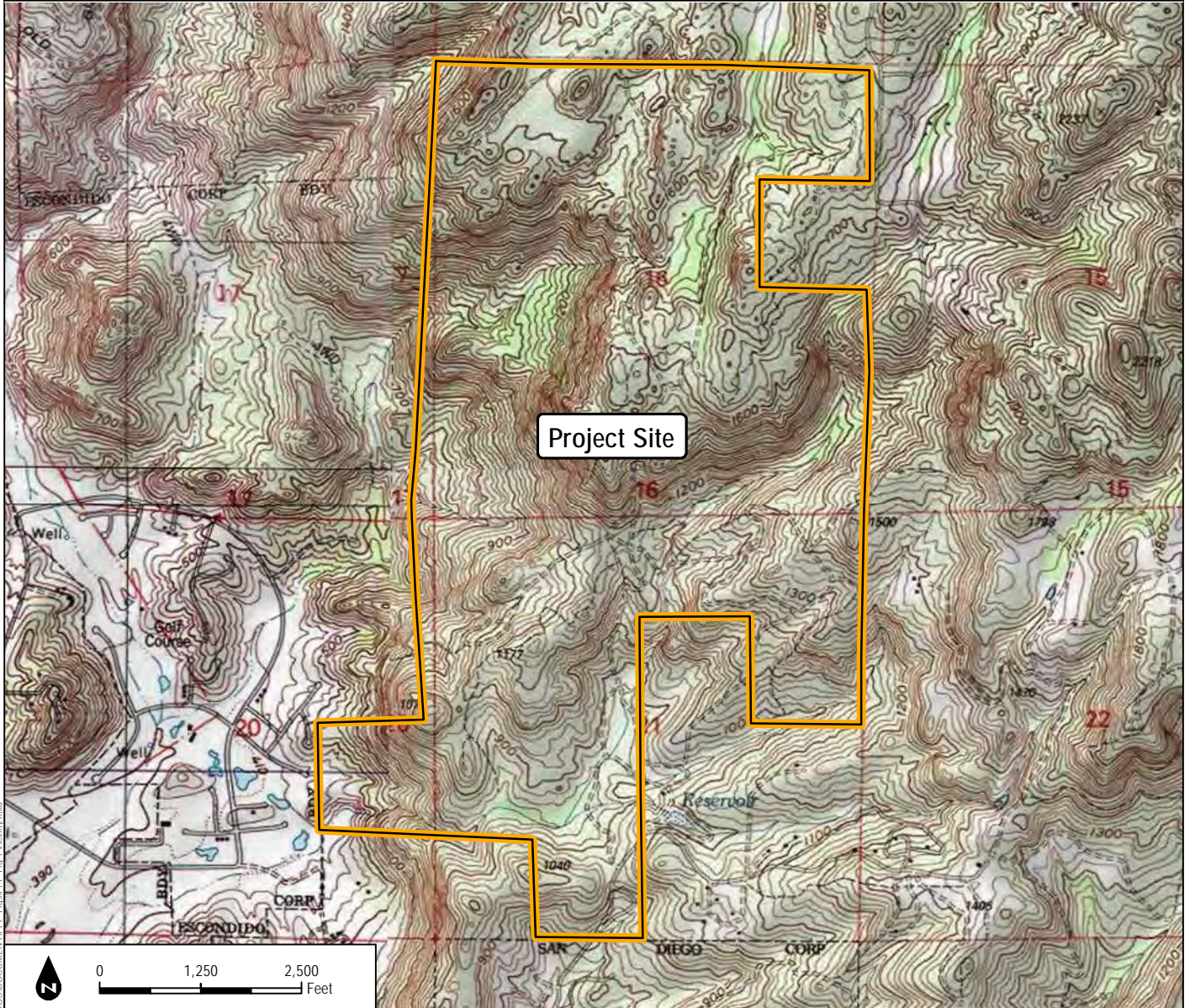
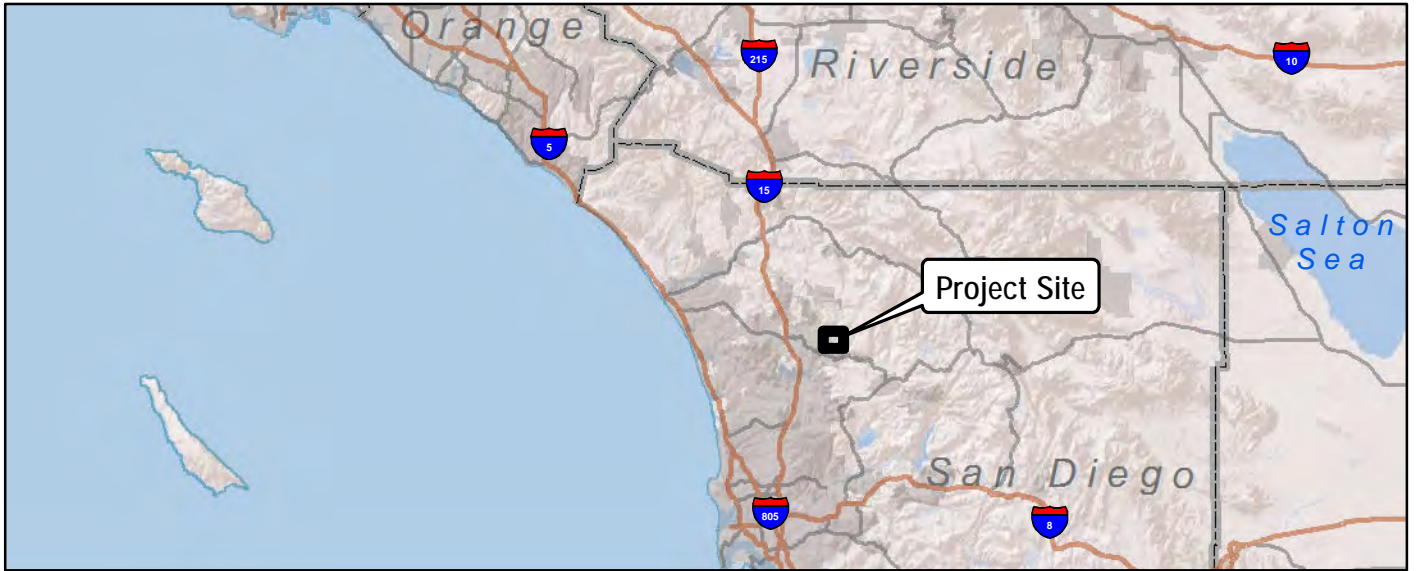
The Proposed Project is located along the southeastern boundary of the City of Escondido within an unincorporated portion of the County of San Diego, California and will be annexed by the City. The Project lies within Township 12 South, Range 1 West in Section 16, eastern portion of Section 20, and northern portion of Section 28 and entirety of Section 21 of the Rodriquez Mountain, Escondido, and San Pasqual, California U.S. Geographical Survey 7.5-minute quadrangle maps, respectively. Specifically, the project site encompasses approximately 1,100 acres of vacant land with its most southerly property boundary approximately 1.5 miles north of State Route 78 (San Pasqual Valley Road) and its westerly property boundary 1.0 mile east of Cloverdale Road (Figure 1). To the west and southwest are the nearest urban developed areas of Rancho San Pasqual, Rancho Vistamonte community, and Eagle Crest Golf Course within the boundary of the City of Escondido. To the south is the San Diego Zoo Safari Park within the boundary of the City of San Diego. To the north and east are the communities of Lake Wohlford and Valley Center as well as large landholdings, including Rancho Guejito and the Cleveland National Forest in the unincorporated areas of the County. Additionally, the project site is within the Escondido General Plan Specific Plan Area (SPA) #4, though it is located outside of the City's Sphere of Influence. The Project proponent proposes an annexation of the entire project into the City of Escondido.

The Proposed Project is located on the following Assessor Parcel Numbers: 240-270-33, 241-060-03, 242-010-02, 242-010-36, 242-010-37, 242-010-38, and portions of 240-120-12, 240-250-03, 240-251-05, 240-251-06, 240-251-07, 241-211-02, and 241-293-01.

### **2.1.2 Project Description**

The Safari Highlands Ranch Project proposes development of a master-planned community composed of 550 single-family residences on 1,098-acre portion of SPA #4. The single-family residential dwelling units occur on lots ranging from approximately 8,000 square feet to over 200,000 square feet clustered into seven neighborhoods. Accompanying infrastructure will consist of an internal road circulation system, water, sewer, and storm water drainage systems, and utilities. Seven phases of development are proposed, corresponding to the seven neighborhoods being built. Public facilities and services and phase development would be coordinated so that services are available and ready to serve the residences as the need arises. Figure 2 depicts the locations of these generalized land uses within the project boundary.





Path: Z:\projects\0830401\WAP\DOC\DOCUMENT\PEPP\_Figs\FPP\_Fig 1 Vicinity.mxd

SOURCE: USGS 7.5 Minute Series Topographic Maps

**DUDEK**

**FIGURE 1**  
**Vicinity Map**

Safari Highlands Ranch Fire Protection Plan

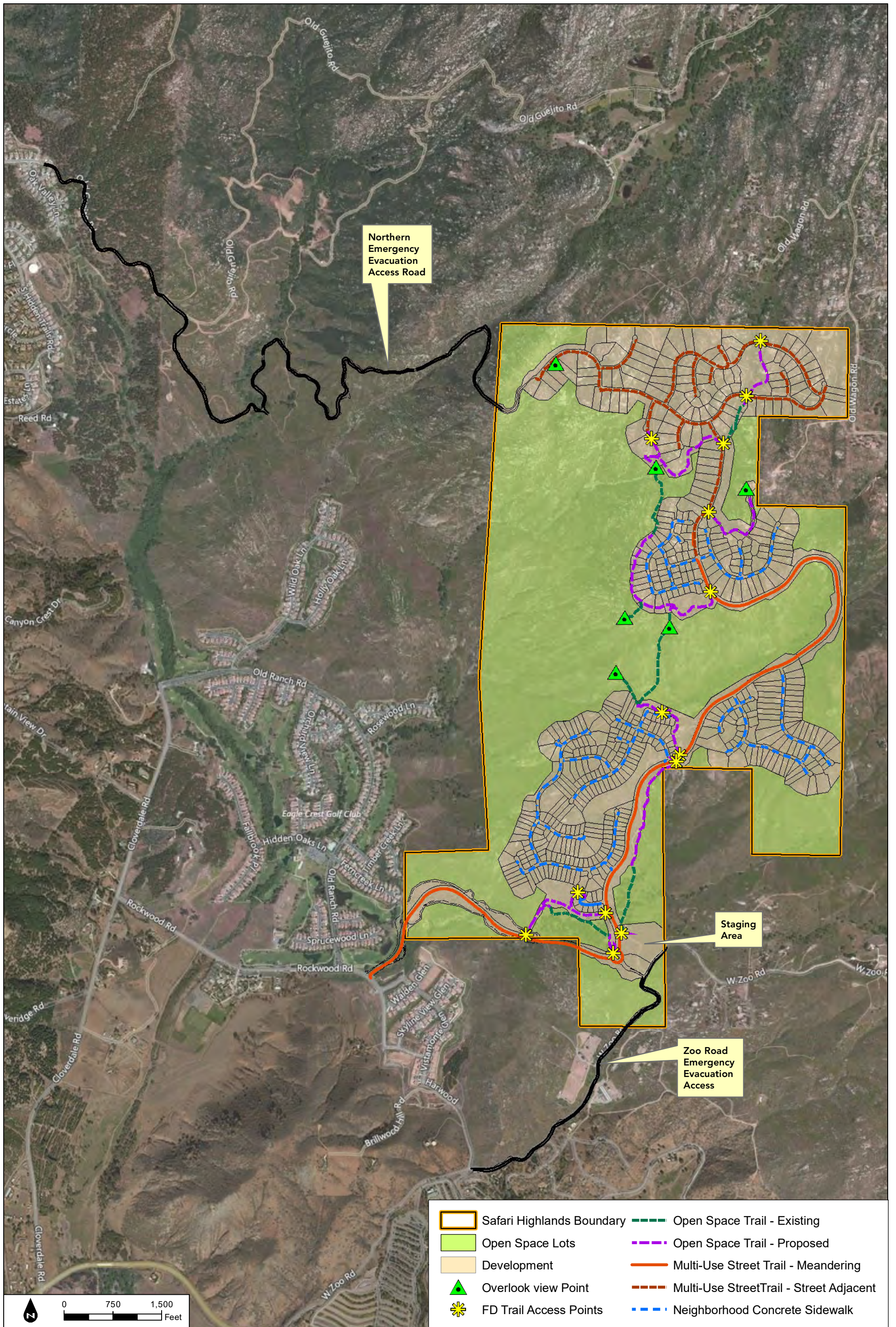


**Fire Protection Plan  
Safari Highlands Ranch**

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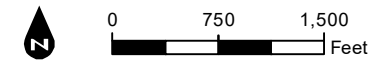


Northern  
Emergency  
Evacuation  
Access Road

Staging  
Area

Zoo Road  
Emergency  
Evacuation  
Access

- |                           |  |
|---------------------------|--|
| Safari Highlands Boundary | Open Space Trail - Existing              |
| Open Space Lots           | Open Space Trail - Proposed              |
| Development               | Multi-Use Street Trail - Meandering      |
| Overlook view Point       | Multi-Use Street Trail - Street Adjacent |
| FD Trail Access Points    | Neighborhood Concrete Sidewalk           |



SOURCE: HUNSAKER 2016



**FIGURE 2**  
**Safari Highlands Ranch Site Plan**



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# Fire Protection Plan

## Safari Highlands Ranch

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### **2.1.2.1 Village Core**

The Village Core would be located off of Safari Highlands Ranch Road in the southernmost portion of the project site. The Village Core would include a new 2.6-acre, three bay fire station site, public trails traversing the site, a 2-acre private recreation facility with swimming pool and clubhouse, and tennis courts.

### **2.1.2.2 Development Infrastructure**

The circulation system will consist of both public and private roads. Safari Highlands Ranch Road, a new primary access road intersecting at Rockwood Road between Old Ranch Road and Vistamonte Avenue, will be the main arterial road throughout the project. It will be public from its starting point at Rockwood Road up to the gated community entry, and private once it extends past the entry gate. Safari Highland Ranch Road will have two 21-foot traffic lanes including bike lanes, a pedestrian path, and shading trees and landscaping. Interior streets will be two lanes, some of which will allow on-street parking. Two emergency access roads will be provided, one to the northwest and another to the south. The northwestern road will be approximately 2.4 miles long and will connect to Stonebridge Road in the Hidden Hills Trails development and will include two minimum 12 foot wide travel lanes along with turnouts and water sources (please refer to the Project's Engineering Grading Plans prepared by Hunsaker 2016). The southern road will be approximately one mile long and will connect to the gated, emergency access Zoo Road, which will be upgraded to meet EFD requirements.

Water utilities will include a connection to the City of Escondido water system, pumps to boost water to an on-site water tank, and an internal water distribution system that will use pumps, reducing stations, and gravity feed. A backup power system to the approval of the EFD to help ensure performance if the local grid is de-energized will be provided. Sewer would be conveyed via new and existing pipelines for processing at the City's primary treatment facility (Hale Avenue Resource Recovery Facility-HARRF). The proposed development also includes on-site sewer lift stations(s) and water storage. The Project will be connecting with the City's reclaimed water system for irrigation use. Stormwater runoff will be controlled on-site through hydro-modification management practices, including the use of biofilters and the use of both retention and detention basins. The Project may also provide a "wet weather" storage site in the northeast.

Other utilities that are currently available to the site and that will be installed are gas, electrical, cable and phone service.

# Fire Protection Plan

## Safari Highlands Ranch

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### **2.1.2.3 Additional On-Site Amenities**

In addition to the residential and Village Core sites, there will be recreational pocket parks, trails, a trail head and vista viewpoints present throughout each of the different neighborhoods to compliment the large open space preserve areas.

The project will include an extensive trail system within the 784 acre reserve as well as “linear parks”, along roads and multiuse trails through the community. Multiuse trails would include existing dirt trails; paved utility access ways; and new soft-surface trails. The project will include access points to trail systems to facilitate emergency response. Trails will be managed and maintained by the HOA.

The project will preserve approximately 784 acres of land or 69.6% of the site as resource open space preserve. This largely contiguous block of land is located on west-facing slopes of the site, the major drainages, and most of the site’s sensitive habitats (Althouse and Meade 2016). The preserve would be managed and maintained in accordance with a Resource Management Plan to be prepared for the Project.

Common open space includes approximately 223 acres of irrigated and non-irrigated fuel modification areas. This includes manufactured slopes and non-graded areas such as fuel reduction zones and natural parks.

### **2.1.2.4 Off-Site Improvements**

The proposed project will also undertake off-site improvements that consist of the following:

1. Reconstruction and improvements to Rockwood Road’s intersection with the proposed Safari Highlands Ranch Road;
2. Improvements along Rockwood Road between Cloverdale Road and San Pasqual Union School to enhance the school’s student pick-up and drop off locations;
3. Intersection of Rockwood Road/Cloverdale Road. Install traffic signal and restripe westbound approach to provide one left-turn and one shared left-turn lane. Restripe southbound Cloverdale Road to provide an additional receiving lane from Rockwood Road left turning movements;
4. Restripe Rockwood Road between Cloverdale and San Pasqual Union School to provide additional westbound lane;
5. Intersection of San Pasqual Valley Road (SR 78)/Citrus Avenue. Install new signal and restripe southbound approach to provide one left hand and one right hand turn lane;

## **Fire Protection Plan Safari Highlands Ranch**

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6. Intersection of San Pasqual Valley Road (SR 78)/Cloverdale Road San Pasqual Road. Widen eastbound approach of San Pasqual Valley road to provide dual left-turn lanes. Widen northbound section of Cloverdale Road north of the intersection to provide approximate 650 foot long plus a 150-foot transition lane;
7. Segment of Felicita Road/17th Avenue from Escondido Boulevard to San Pasqual Valley Road (SR 78). Stripe a new eastbound turn pocket at Lendee Drive and extend the two-way left turn lane eastward to the City of Escondido/San Diego County boundary;
8. Two gated emergency access roads: a 2.4 mile road to the northwest connecting to Stonebridge Road in the Hidden Hills Trails development and a one mile road to the south connecting to Zoo Road;
9. Gas, electric, cable, and phone system connections at Rockwood Road to existing infrastructure operated by San Diego Gas and Electric, Times Warner Cable, and AT&T;
10. Improvements to the Eagle Crest Golf Course including replacing the existing temporary clubhouse with a new 4,000 square foot permanent clubhouse with restaurant, reconstruction of hole #14, extension of Safari Highlands Ranch Road and miscellaneous other golf course improvements (all by separate permit).

### **2.2 Applicable Codes/Existing Regulations**

This FPP demonstrates that the Proposed Project will be in compliance with the City of Escondido (City) 2016 Fire Code, City Ordinance 2016.116.1-4, 2016 Consolidated Fire Code, and California Code of Regulations, Title 14 Natural Resources (2016 Cal Fire- SRA Fire Safe Regulations). The project will also be consistent with the 2016 California Building Code (CBC), Chapter 7A, 2016 California Fire Code (CFC), Chapter 49, as adopted by the City. Chapter 7A of the California Building Code focuses primarily on preventing ember penetration into structures, a leading cause of structure loss from wildfires. Thus, it is an important component of the requirements of this FPP given the Project's wildland urban interface (WUI) location, which is within an area statutorily designated by CAL FIRE (2015) as a Very High Fire Hazard Severity Zone (VHFHSZ). Fire hazard designations are based on topography, vegetation, and weather, amongst other factors with more hazardous sites including steep terrain, unmaintained fuels/vegetation, and WUI locations.

**Fire Protection Plan  
Safari Highlands Ranch**

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# Fire Protection Plan Safari Highlands Ranch

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## **3 PROPOSED PROJECT SITE RISK ANALYSIS**

### **3.1 Field Assessment**

Following extensive review of available digital site information, including topography, vegetation types, fire history, and the Proposed Project's site plan, Dudek fire protection planners conducted field assessments of the Proposed Project during April 2014 and again in March 2016, in order to confirm digital data and fill any identified data gaps. Among the field tasks that were completed are:

- Vegetation estimates and mapping refinements
- Fuel load analysis
- Topographic features documentation
- Photograph documentation
- Confirmation/verification of hazard assumptions
- Ingress/egress documentation.

Site photographs (See Appendix A, Representative Photographs) were collected and fuel conditions were mapped using 200-scale aerial images. Field observations were utilized to augment existing site data in generating the fire behavior models and formulating the requirements provided in this FPP.

### **3.2 Site Characteristics and Fire Environment**

The following sections discuss the characteristics within and surrounding the Proposed Project site. The intent of evaluating site conditions is to provide a better understanding of the fire environment, which is not constrained by property boundary delineations.

#### **3.2.1 Topography**

The Safari Highlands Ranch project area is part of the inland foothills and valleys of northern San Diego County. Topography is varied and generally includes a series of east-west trending ridgelines with intervening drainages. A portion of the project includes rolling hills, while the majority includes rock outcrops, and steep, rugged terrain that is dissected by drainage courses that drain primarily to the west/southwest (See Figure 1). Elevations at the northern reaches of the property approach 1,820 feet above mean sea level (ASML) while at the southwestern end, adjacent to existing Rancho San Pasqual community, elevations are approximately 420 feet amsl.



# Fire Protection Plan Safari Highlands Ranch

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## 3.2.2 Existing Land Use

The project area is largely undisturbed and the dominant vegetation types are Southern Mixed Chaparral and Diegan coastal sage scrub. A number of dirt roads and trails crisscross the project site. Over the years, portions of the property have been used for various unauthorized land uses, including horseback riding, hiking, mountain biking, off-roading, motorcycling, and occasional dumping. Accessible areas on the property have now been fenced to inhibit unauthorized use.

## 3.2.3 Vegetation

The Safari Highlands Ranch property supports a variety of vegetation types that are common in north-inland San Diego County. Fire history data indicates that the site’s vegetation last burned in 2007. Therefore, the vegetation throughout the property is still in early stages of recovery toward a climax species composition. This has resulted in a change in the density and structure of plant species as well as the local fire behavior. A total of 13 vegetation and land cover types were delineated on the project site and proposed off-site improvement areas (Althouse and Meade 2016). The vegetation and land cover mapping included three non-native communities (Agriculture intensive, disturbed areas, and non-native grasslands) and one non-fuel type (developed areas). These vegetation and land cover types were verified by Dudek fire protection planners and assigned a fuel model (which was based on climax condition, not current) for use during site fire behavior modeling. The vegetation and land cover types and their coverage totals as well as corresponding fuel models are summarized in Table 1.

**Table 1  
Vegetation and Land Cover Types  
on Safari Highlands Ranch Project Site and Off-Site Facilities**

Vegetation/Land Cover Type1	Project Site Acreage	100-ft Buffer Acreage	Off-site Facilities Acreage	Total Acreage	Percent Coverage
<i>Non-Native Communities and Land Covers</i>					
Agriculture Intensive	0.0	0.0	2.32	2.32	0.2%
Developed	0.99	2.82	5.67	9.48	0.8%
Disturbed Habitat	11.26	0.13	7.97	19.37	1.6%
Non-native Grassland	6.36	0.0	0.0	6.36	0.5%
<i>Upland Scrub and Chaparral</i>					
Cactus Scrub	0.63	0.0	0.0	0.63	0.0 (<1.0%)
Deer Weed Scrub	73.66	0.0	0.0	73.66	6.0%
Diegan Coastal Sage Scrub	479.65	47.93	12.11	539.69	44.2%
Southern Mixed Chaparral	476.37	36.07	3.47	515.90	42.3%

# Fire Protection Plan Safari Highlands Ranch

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**Table 1**  
**Vegetation and Land Cover Types**  
**on Safari Highlands Ranch Project Site and Off-Site Facilities**

Vegetation/Land Cover Type <sup>1</sup>	Project Site Acreage	100-ft Buffer Acreage	Off-site Facilities Acreage	Total Acreage	Percent Coverage
<i>Woodland</i>					
Oak Woodland	5.01	0.27	0.0	5.28	0.4%
<i>Riparian</i>					
Mulefat Scrub	1.89	0.67	0.22	2.78	0.2%
Oak Riparian Woodland	19.85	1.09	0.25	21.20	1.7%
<i>Other Notable Habitats</i>					
Western Ragweed Meadow	2.79	0.18	0.0	2.97	0.3%
Rock Outcropping/Bushy Spikemoss Mats	20.44	0.75	0.05	21.24	1.7%
<b>Total</b>	<b>1,098.91</b>	<b>89.91</b>	<b>32.05</b>	<b>1,220.88</b>	<b>100.0%</b>

<sup>1</sup> Biological Surveys for the Safari Highlands Ranch Project completed by Althouse and Meade 2016

As presented, the majority of the vegetation on the Project site is associated with the Diegan coastal sage scrub (44.2%) and Southern mixed chaparral (42.3%), while the remainder of the vegetation cover types individually amount to 1% or less of the total project site, except deer weed scrub (6.0%), disturbed habitat (1.6%), oak riparian woodland (1.7%), and rock outcropping/bushy spikemoss mats (1.7%). The project's vegetation and land coverage is illustrated in Figures 3a and 3b and briefly described below.

Changes to site vegetation types will be associated with grading for development pads and roads and installation of fuel modification areas in strategic locations at the perimeter of the developed project area. Site-adjacent vegetation (off-site and adjacent the fuel modification zones) is important relative to wildfire as some vegetation, such as brush and grassland habitats are highly flammable while other vegetation, such as riparian communities or forest understory, are less flammable due to their higher plant moisture content, compact structure, and available shading from overstory tree canopies. The effect vegetation has on fire behavior is substantial and understanding vegetation dynamics is important for developing an effective fuel modification plan.

### **3.2.3.1 Site Vegetation and Land Cover Type Descriptions**

The following descriptions are adapted from the site's Biological Technical Report (Althouse and Meade 2016).

# Fire Protection Plan

## Safari Highlands Ranch

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### Non-Native Communities and Land Covers

**Agriculture Intensive.** Agriculture lands supporting active or historical agricultural operation occur at the southwest corner of the property.

**Developed.** Developed areas support no native vegetation and may be additionally characterized by the presence of man-made structures, such as buildings or roads. The level of soil disturbance is such that only the most ruderal plant species occur. Ornamental vegetation would be associated with developed areas. Developed areas were mapped along the southwest border of the property.

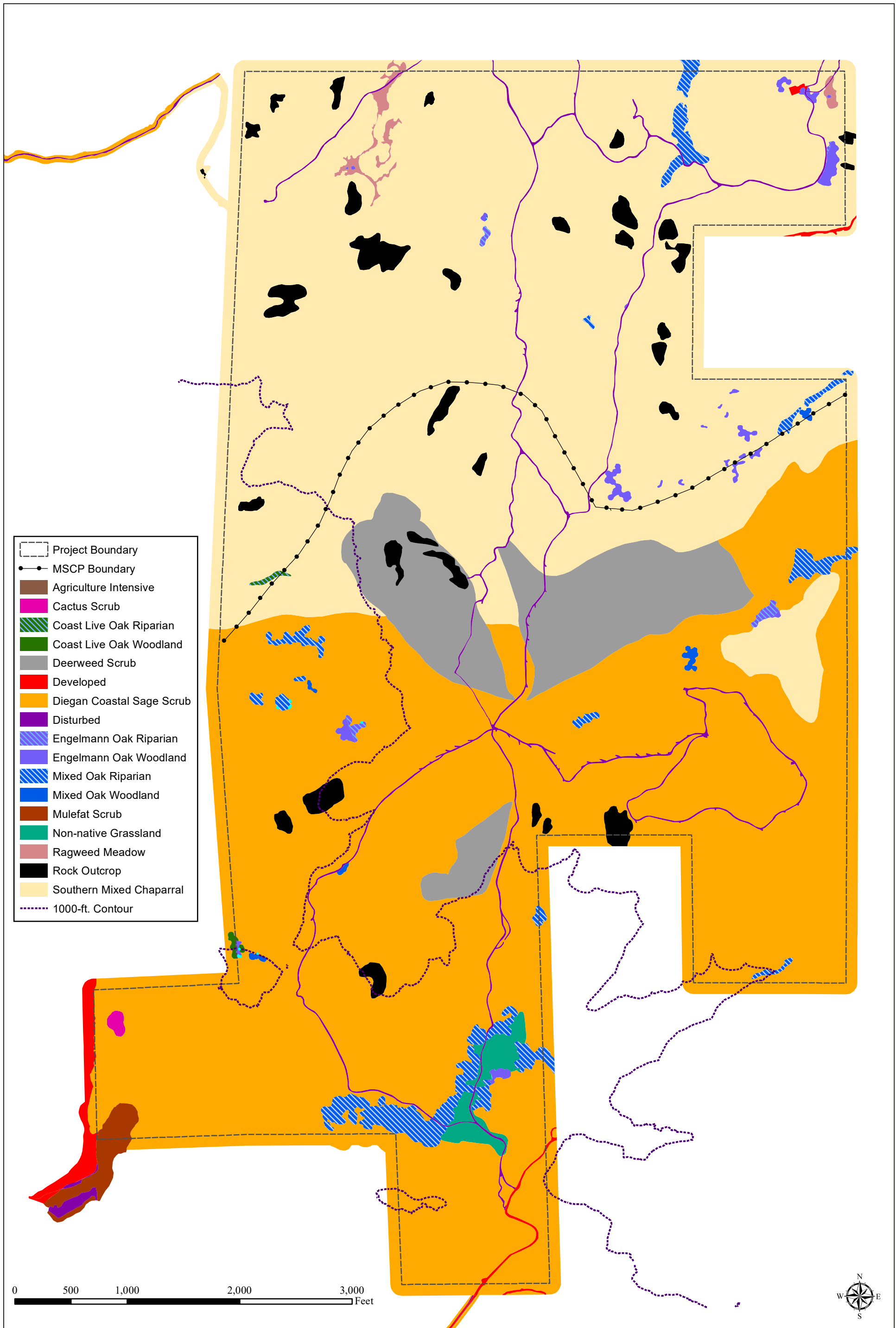
**Disturbed Habitat.** This type of disturbed area is dominated by non-native broad-leaf herbaceous species such as mustards, fennel (*Foeniculum vulgare*), horseweed (*Conyza canadensis*), thistles, and a sub-dominant percent cover of non-native grasses are often present. This category consists of permanently disturbed land cover consisting of small areas, including dirt roads and trails throughout the property.

**Non-Native Grassland.** This habitat is a disturbance-related community found in old fields or openings in the south portion of the property. This association has replaced native grassland and coastal sage scrub at many localities throughout Southern California due to past human activities. Typical non-native grasses on-site include slender wild oat (*Avena fatua*), soft chess (*Bromus hordeaceus*), foxtail brome (*Bromus madritensis*), and rip-gut grass (*Bromus diandrus*). Characteristic forbs include red-stem filaree (*Erodium* spp.), mustard (*Brassica* spp.), and tocalote (*Centaurea melitensis*) and Russian thistle (*Salsola tragus*).

### Upland Scrub and Chaparral

**Cactus Scrub.** There is one patch of coast prickly pear cactus (*Opuntia littoralis*) located in southwest portion of the project site.

**Deerweed Scrub.** Deerweed scrub (*Lotus scoparius*) is a post fire successional vegetation community that is eventually displaced by sage scrub or chaparral. The project site supports this vegetation type, a remnant from the 2007 fire. The deer weed appeared to be dead and did not show any new foliage during the spring season. Bush mallow (*Malacothamnus fasciculatus*) is a common subdominant species present.



SOURCE: ALTHOUSE AND MEADE, INC. 2016





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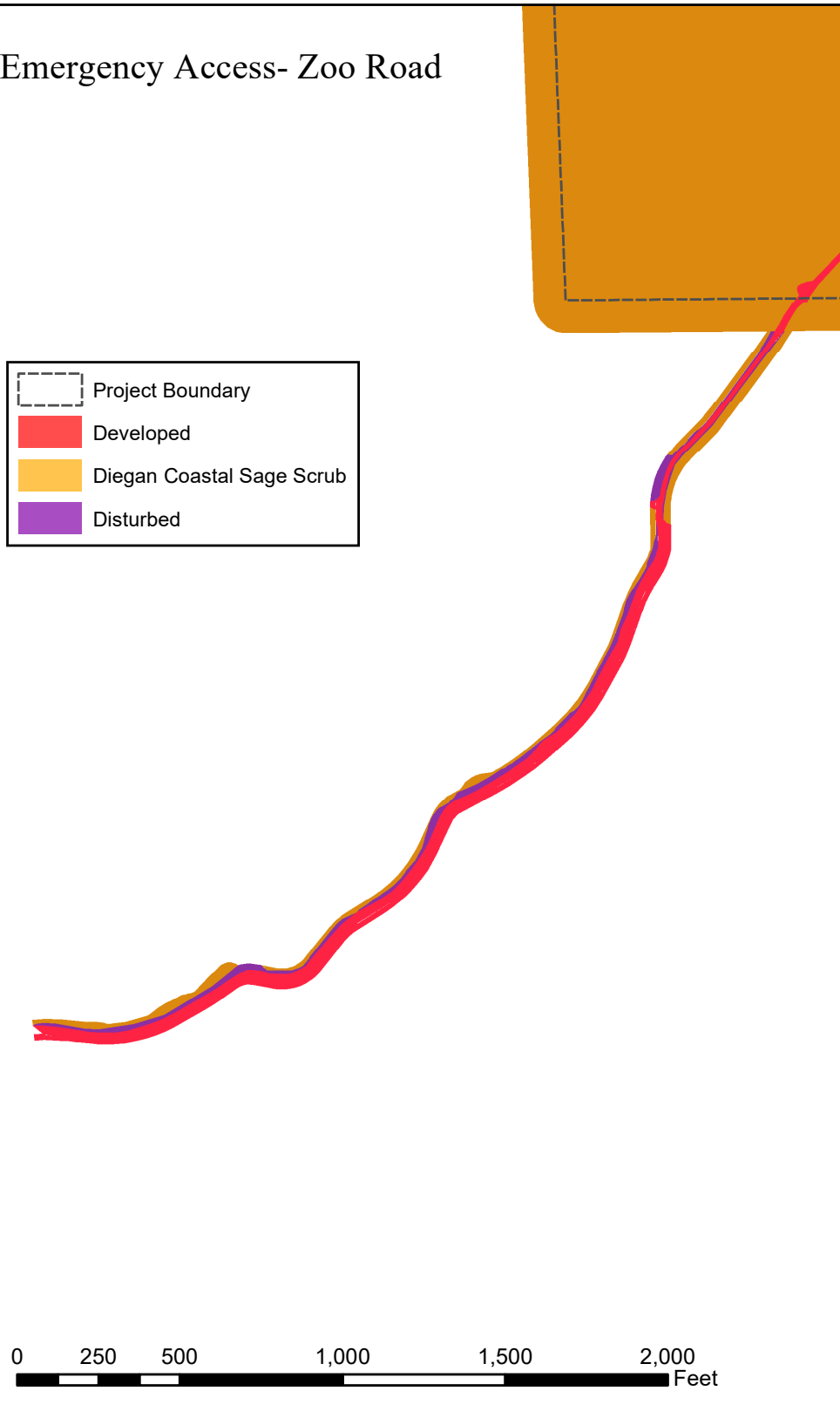
Safari Highlands Ranch Fire Protection Plan

**FIGURE 3A**  
**On-Site Vegetation Map**









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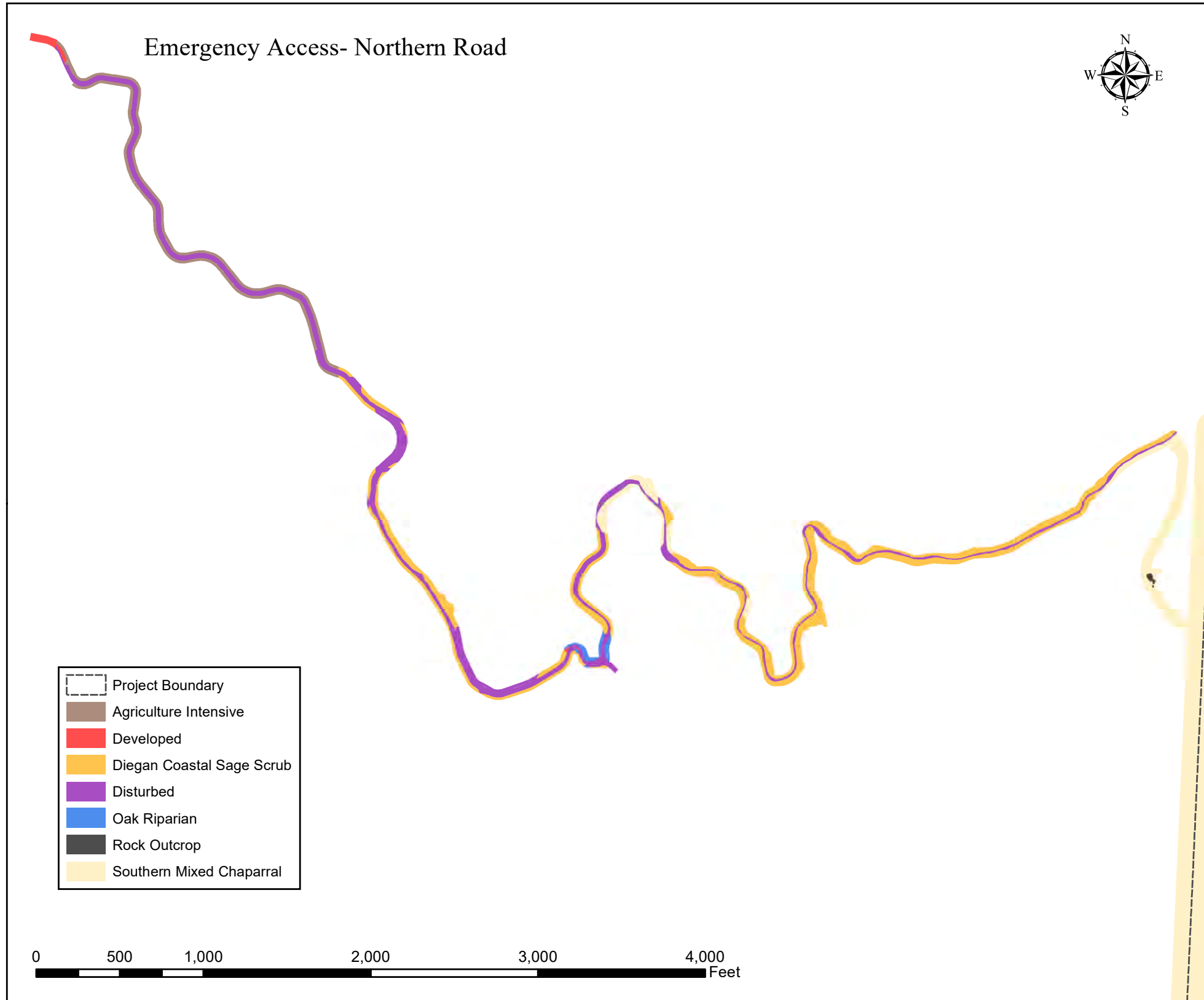
Emergency Access- Zoo Road

-  Project Boundary
-  Developed
-  Diegan Coastal Sage Scrub
-  Disturbed



Emergency Access- Northern Road

-  Project Boundary
-  Agriculture Intensive
-  Developed
-  Diegan Coastal Sage Scrub
-  Disturbed
-  Oak Riparian
-  Rock Outcrop
-  Southern Mixed Chaparral



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## Fire Protection Plan Safari Highlands Ranch

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**Diegan Coastal Sage Scrub.** Coastal sage scrub is comprised of low, soft-woody subshrubs to about 3 feet high, many of which are facultative drought-deciduous. This association is typically found on dry sites, such as steep, south-facing slopes or clay-rich soils that are slow to release stored water. Dominant shrubs on-site include California sagebrush (*Artemisia californica*), flat-top buckwheat (*Eriogonum fasciculatum*), laurel sumac (*Malosma laurina*), white sage (*Salvia apiana*), and our Lord's candle (*Yucca whipplei*). Other, less frequent, constituents of this community include spiny redberry (*Rhamnus crocea*), deerweed, broom baccharis (*Baccharis sarothroides*), monkey flower (*Mimulus aurantiacus*), and yellow bush-penstemon (*Keckiella antirrhinoides*). Sage scrub is the dominant vegetation in the southern half of the project site.

**Southern Mixed Chaparral.** Southern mixed chaparral tends to occur on steeper, more mesic north-facing slopes than chamise chaparral. This vegetation community type is characterized by relatively high species diversity. Typical species on-site include chamise (*Adenostoma fasciculatum*), mountain mahogany (*Cerocarpas minutiflora*), hoary-leaf ceanothus (*Ceanothus crassifolius*), chaparral whitehorn (*Ceanothus leucodermis*), scrub oak (*Quercus berberidifolia*), Ramona lilac (*Ceanothus tomentosus*). The understory component is generally better-developed in this association than in chamise chaparral. This is the dominant vegetation in the northern half of the project site.

### Woodland

**Oak Woodland.** Oak woodlands located away from the drainage channels on-site are classified as an upland habitat. The majority of the oaks in this category are coast live oaks (*Quercus agrifolia*), but Englemann oaks (*Quercus englemannii*) also are present on-site, but often in sparser densities to be mapped as oak woodland. They were mapped as individual trees located within the sage scrub and chaparral matrix.

### Riparian

**Mulefat Scrub.** Mulefat scrub is a riparian scrub dominated by mulefat (*Baccharis salicifolia*). Mulefat-dominated scrub occurs along intermittent streams with a fairly coarse substrate and moderately deep water table. Understory vegetation is usually composed of nonnative, weedy species or is lacking altogether, as is the case in the stand of mulefat in the southwest corner of the site.

**Oak Riparian Woodland.** On the Safari Highlands Ranch site oak riparian woodland is limited to mostly coast live oak trees clustered along the ephemeral drainages. The larger oak grove in the southern portion of the site supports sub-dominant cover of California sycamore (*Platanus californicus*), black willow (*Salix gooddingi*), arroyo willow (*S. lasiolepis*), toyon (*Heteromeles arbutifolia*), and a sparse understory of poison oak (*Toxicodendron diversilobum*), Douglas mugwort (*Artemisia douglasiana*), and western ragweed.



# Fire Protection Plan

## Safari Highlands Ranch

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### Other Notable Habitats

**Western Ragweed Meadow.** Western ragweed (*Ambrosia psilostachya*) is the co-dominant herbaceous species in the meadow habitat occurring in shallow drainage swales on the project site. Blue-eyed-grass (*Sisyrinchium bellum*), redstem filaree (*Erodium cicutarium*), Mexican rush (*Juncus mexicanus*), and deer grass (*Muhlenbergia rigens*), are either co-dominant or subdominant species with ragweed in these meadows.

**Rock Outcropping/Bushy Spikemoss Mats.** Throughout the site there are rock outcroppings some of which support extensive mats of brushy spikemoss (*Selaginella biglovii*).

### 3.2.4 Vegetation Dynamics

The vegetation characteristics described above and presented in Table 1 are used to model fire behavior, discussed in Section 5.2 of this FPP. Variations in vegetative cover type and species composition have a direct effect on fire behavior. Some plant communities and their associated plant species have increased flammability based on plant physiology (resin content), biological function (flowering, retention of dead plant material), physical structure (bark thickness, leaf size, branching patterns), and overall fuel loading. For example, the native shrub species that compose the chaparral communities on site are considered to be less likely to ignite, but would exhibit higher potential hazard (higher intensity heat and flame length) than grass dominated plant communities (fast moving, but lower intensity) if ignition occurred. The corresponding fuel models for each of these vegetation types are designed to capture these differences. Additionally, vegetative cover influences fire suppression efforts through its effect on fire behavior. For example, while fires burning in grasslands may exhibit lower flame lengths and heat outputs than those burning in native shrub habitats, fire spread rates in grasslands are often more rapid.

As described, vegetation plays a significant role in fire behavior, and is an important component to the fire behavior models discussed in this report. A critical factor to consider is the dynamic nature of vegetation communities. Fire presence and absence at varying cycles or regimes disrupts plant succession, setting plant communities to an earlier state where less fuel is present for a period of time as the plant community begins its succession again. In summary, high frequency fires tend to convert shrublands to grasslands or maintain grasslands, while fire exclusion tends to convert grasslands to shrublands, over time. In general, biomass and associated fuel loading will increase over time, assuming that disturbance (fire, grazing) or fuel reduction efforts are not diligently implemented. It is possible to alter successional pathways for varying plant communities through manual alteration. This concept is a key component in the overall establishment and maintenance of the proposed fuel modification zones on site. The fuel modification zones on this site will consist of irrigated and maintained landscapes as well as thinned native fuel zones that will be subject to regular “disturbance” in the form of

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maintenance and will not be allowed to accumulate excessive biomass over time, which results in reduced fire ignition, spread rates, and intensity.

Conditions adjacent the project's footprint (outside the fuel modification zones), where the wildfire threat will exist post-development, are classified as medium to heavy fuel loads due to the dominance of chaparral fuels on the hillsides surrounding the site.

### **3.2.5 Climate**

North San Diego County and the project area are influenced by the Pacific Ocean and are frequently under the influence of a seasonal, migratory subtropical high pressure cell known as the "Pacific High" (WRCC 2014a). Wet winters and dry summers with mild seasonal changes characterize the Southern California climate. This climate pattern is occasionally interrupted by extreme periods of hot weather, winter storms, or dry, easterly Santa Ana winds (WRCC 2014a). The average high temperature for the project area is approximately 70°F, with average highs in the summer and early fall months (July–October) reaching 95°F. Precipitation typically occurs between December through April with annual rainfall ranging from 3.5 to 13.3 inches (CY 2012 to 2014) with lower annual accumulation (3.5 to 5.2 inches) in 2015 due to the current drought (WRCC 2014b, DWR 2016). The prevailing wind pattern is from the west (on-shore), but the presence of the Pacific Ocean causes a diurnal wind pattern known as the land/sea breeze system. During the day, winds are from the west–southwest (sea) and at night winds are from the northeast (land), averaging 2 miles per hour (mph). During the summer season, the diurnal winds may average slightly higher (approximately 16 mph) than the winds during the winter season due to greater pressure gradient forces. Surface winds can also be influenced locally by topography and slope variations. The highest wind velocities are associated with downslope, canyon, and Santa Ana winds.

The project area's climate has a large influence on the fire risk as drying vegetation during the summer months becomes fuel available to advancing flames should an ignition be realized. Typically the highest fire danger is produced by the high-pressure systems that occur in the Great Basin, which result in the Santa Ana winds of Southern California. Sustained wind speeds recorded during recent major fires in San Diego County exceeded 30 mph and may exceed 50 mph during extreme conditions. The Santa Ana wind conditions are a reversal of the prevailing southwesterly winds that usually occur on a region-wide basis during late summer and early fall. Santa Ana winds are warm and dry winds that flow from the higher desert elevations in the north through the mountain passes and canyons. As they converge through the canyons, their velocities increase. Consequently, peak velocities are highest at the mouths of canyons and dissipate as they spread across valley floors. Santa Ana winds generally coincide with the regional drought period and the period of highest fire danger. The Proposed Project site is affected by Santa Ana winds from the north and east of the site. The slopes are generally in alignment with the extreme Santa Ana wind events, which can influence fire spread by creating upslope wind-driven fires.

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### 4 DETERMINATION OF PROJECT EFFECTS

FPPs provide an evaluation of the adverse environmental effects a proposed project may have from wildland fire. The FPP must provide mitigation for identified impacts to ensure that development projects do not unnecessarily expose people or structures to a significant loss, injury or death involving wildland fires. Significance is determined by answering the following guidelines:

*Would the project expose people or structures 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 wildlands?*

The wildland fire risk in the vicinity of the Project site has been analyzed and it has been determined that wildfires may occur in wildland areas adjacent the Project site as well as potentially in any preserved on-site fuels, but would not be significantly increased in frequency, duration, or size with the construction of the Project. In fact, the existing site, pre-development, includes numerous potential fire issues including unmaintained vegetation. The Project would include conversion of fuels to maintained urban development with designated landscaping and fuel modification areas. As such, a condensed portion of the site will be largely converted from readily ignited fuels to ignition resistant structures and landscape, including up to 200 feet wide fuel modification zones on the perimeter of the Project.

The types of potential ignition sources that currently exist in the area include vehicle and roadway, electrical transmission line, and machinery associated with agricultural operations and off-site residential neighborhoods. The project would introduce potential ignition sources, but would also include conversion of ignitable fuels to lower flammability landscape and include better access throughout the site, managed and maintained landscapes, higher local presence for fire detection and reporting, and generally a reduction in the receptiveness of the area's landscape to ignition. Fires from off site would not have continuous fuels across this site and would, therefore, be expected to burn around and/or over the site via spotting, with an overall effect of slowing fire spread across the property. Burning vegetation embers may land on Project structures, but are not likely to result in ignition based on ember decay rates and the types of non-combustible and ignition resistant materials that will be used on site.

The Project would comply with applicable fire and building codes and would include a layered fire protection system designed to current codes and inclusive of site-specific measures that will result in a Project that is less susceptible to wildfire than surrounding landscapes and that would facilitate fire fighter and medical aid response.

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### *Would the project result in inadequate emergency access?*

The Project includes fire access throughout each neighborhood and is consistent with the EFD and San Diego County General Plan in terms of meeting a 5 minute response travel time from the on-site fire station. Fire apparatus access throughout the development will include roads that meet the code requirements for width, grade, clearance, turnouts, dead-end length and turnarounds. Fire access on the Project site will be improved from its current condition, which provides only limited access on rugged dirt/gravel roads. Therefore, the Project's access is considered consistent with code requirements.

### *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance service ratios, response times or other performance objectives for fire protection?*

The Project is projected to add a conservatively estimated 172 calls per year to the EFD's existing call load. The actual number of calls will likely be lower based on several factors, but is assessed using the EFD's per capita volume. Due to the project's location, a new fire station will be needed at the site in order to meet response time goals. The primary response (first in) would be provided by the on-site Fire Station. The fire station will improve emergency response for fire and medical emergencies in the area, benefitting existing residents. The applicant is currently discussing options for funding the fire station, including the possibility of a partnership with the City of San Diego, CalFire, and other creative ways in order to avoid burdening the City of Escondido.

Additional resources would be available from EFD Stations 2 and 4, which are not considered busy fire stations, having 1,034 and 2,676 engine company calls during 2015, or roughly 2.8 and 7.3 calls per day, respectively. The addition of 172 calls/year (0.5 calls/day) to both stations is considered substantial, but the capacity for stations 2 or 4 to respond to the additional calls is available, as analyzed in Section 6.3 of this FPP. The anticipated 3.3 or 7.8 calls per day will be below what would be considered a busy station. For perspective, urban fire stations that respond to five calls per day are considered average and 10 calls per day would be considered a busy station while a suburban/rural station that responds to roughly 6 calls per day can be considered busy (Hunt 2013). For comparison, Vista Fire Protection District and San Marcos Fire Department both respond to an average of 5 calls per day per station<sup>1</sup>.

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<sup>1</sup> Dudek 2014. Analysis of Deer Springs Fire Protection District neighboring fire agency call volumes. Average call volumes are calculated by dividing the total number of annual calls by the number of fire stations serving those calls

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The project will provide a two acre fire station site and build a fire station meeting the EFD's and cooperating fire agency specifications. A conceptual fire station plan is provided in Figure 5. Ongoing operations and maintenance costs will be based on a fair-share formula into which the Safari Highlands Ranch project will pay via property tax allotments. A portion of the project's parcel tax revenue and ongoing annual assessments will be allocated to fire protection, which can be used to improve upon current levels of fire and medical response in the area, which will have positive impacts for the area's existing residents. The final funding amount will be determined by the applicant and EFD and included in a Fire Service Agreement to be completed prior to map recordation.

***Would the project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?***

The project will include a connection to the City of Escondido's water system and sufficient water supplies will be available to serve the project from existing entitlements and resources, including a new water storage tank to be built on the site. The Water Division requires new development within VHFHSZ area to meet 2,500 gpm fire flow. The pressures in the development will remain above 20 psi for a minimum 2 hour duration when meeting the fire requirements for the water service area.

The measures described in the responses to these significance questions are provided more detail in the following sections.

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### 5 ANTICIPATED FIRE BEHAVIOR

#### 5.1 Fire History

Fire history is an important component of an FPP. Fire history information can provide an understanding of fire frequency, fire type, most vulnerable project areas, and significant ignition sources, amongst others. Appendix B – the Safari Highlands Ranch Vicinity Fire History exhibit, presents a graphical view of the project area’s recorded fire history. As presented in the exhibit, there have been several fires recorded since 1910 by CAL FIRE in their FRAP database (FRAP 2015)<sup>2</sup> in the direct vicinity of the project site. These fires, occurring in 1910, 1911, 1912, 1913, 1914, 1919, 1927, 1938, 1943, 1945, 1946, 1949, 1950, 1951, 1952, 1955, 1956, 1962, 1965, 1967, 1970, 1972, 1974, 1975, 1978, 1979, 1980, 1981, 1984, 1985, 1987, 1988, 1989, 1991, 1993, 1995, 1997, 2003, 2004, 2007, and 2013 burned within 5 miles of the project site. The site was burned completely in the 1910s, 1950s, 1993 (Guejito Fire), and 2007 (Witch Fire) and was partially burned in the 1930s. This information excludes fires less than 10 acres. There have been multiple fires throughout North San Diego County inland less than 10 acres. Rapid and overwhelming response to these fires has resulted in their containment before they could grow to the size that would include them in CAL FIRE’s database.

As indicated, the Safari Highlands Ranch project’s on-site landscape and some natural areas to the east and west of the Proposed Project site last burned approximately nine years ago. These natural landscapes, as with much of the open space in the region, in their present state, represent a potential threat to the many existing homes scattered along Cloverdale Road, the San Diego Zoo Safari Park to the south, and the small avocado ranches and semi-rural homes along the northern and northwestern side of the Proposed Project and beyond, which are all at risk from a Santa Ana wind driven wildfire. Note that once the proposed Safari Highlands Ranch development is built out, the fire spread patterns will be modified in this region, as the development will represent a large fuel break of maintained and irrigated landscapes, which fire may encroach upon and burn around, but will not burn through the Project area with current spread patterns, rates, or intensities. The Proposed Project will convert a relatively undisturbed native landscape to a managed and maintained, ignition resistant, site-wide landscape.

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<sup>2</sup> Based on polygon GIS data from CAL FIRE’s Fire and Resource Assessment Program (FRAP), which includes data from CAL FIRE, USDA Forest Service Region 5, BLM, NPS, Contract Counties and other agencies. The data set is a comprehensive fire perimeter GIS layer for public and private lands throughout the state and covers fires 10 acres and greater between 1878–2014.



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### 5.2 Fire Behavior Modeling

Three fire behavior modeling efforts were conducted in support of this FPP, as described below:

- **BehavePlus:** Following site evaluation and vegetative fuels data collection efforts, fire behavior modeling was conducted using BehavePlus software to document the type and intensity of fire that would be expected given characteristic site features including topography, vegetation, and weather. BehavePlus provides a tabular output and was utilized to evaluate anticipated fire behavior at seven locations (scenarios) located on or adjacent to the project site.
- **FlamMap:** FlamMap utilizes the same fire spread equations built into the BehavePlus software package, but allows for a geographical presentation of fire behavior outputs as it applies the calculations to each pixel in the associated GIS landscape (Finney 1998). FlamMap was utilized to evaluate potential fire behavior on and within ½ mile of the project site and to evaluate potential fire spread in the project region in order to inform the relocation/evacuation recommendations included in this FPP.
- **FARSITE:** The FARSITE software package is a more robust analysis tool than FlamMap, allowing for an analysis of fire spread over time, rather than a static representation of wildfire characteristics. The software simulates the growth of a fire front by using wave propagation principles over a heterogeneous surface and was utilized to account for dead fuel moisture conditioning, a feature not available in the FlamMap analysis conducted for the project. As with FlamMap, FARSITE was utilized to evaluate potential fire spread in the project region in order to inform the relocation/evacuation recommendations included in this FPP.

#### 5.2.1 Modeling Background

Fire behavior modeling has been used by researchers for approximately 50 years to predict how a fire will move through a given landscape (Linn 2003). The models have had varied complexities and applications throughout the years. One model has become the most widely used for predicting fire behavior on a given landscape. That model, known as “BEHAVE”, was developed by the U. S. Government (USDA Forest Service, Rocky Mountain Research Station) and has been in use since 1984. Since that time, it has undergone continued research, improvements, and refinement. The current version, BehavePlus, 5.0.5, includes the latest updates incorporating years of research and testing. Numerous studies have been completed testing the validity of the fire behavior models’ ability to predict fire behavior given site specific inputs. One of the most successful ways the model has been improved has been through post-wildfire modeling (Brown 1972, Lawson 1972, Sneeuwjagt and Frandsen 1977, Andrews 1980, Brown 1982, Rothermel

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and Rinehart 1983, Bushey 1985, McAlpine and Xanthopoulos 1989, Grabner, et. al. 1994, Marsden-Smedley and Catchpole 1995, Grabner 1996, Alexander 1998, Grabner et al. 2001, Arca et al. 2005). In this type of study, Behave is used to model fire behavior based on pre-fire conditions in an area that recently burned. Real-world fire behavior, documented during the wildfire, can then be compared to the prediction results of BehavePlus and refinements to the fuel models incorporated, retested, and so on.

Fire behavior modeling includes a high level of analysis and information detail to arrive at reasonably accurate representations of how wildfire would move through available fuels on a given site. Fire behavior calculations are based on site specific fuel characteristics supported by fire science research that analyzes heat transfer related to specific fire behavior. Predicting wildland fire behavior is not an exact science. As such, the minute-by-minute movement of a fire will probably never be predictable, especially when considering the variable state of weather and the fact that weather conditions are typically estimated from forecasts made many hours before a fire. Nevertheless, field-tested and experienced judgment in assessing the fire environment, coupled with a systematic method of calculating fire behavior yields surprisingly accurate results. To be used effectively, the basic assumptions and limitations of fire behavior modeling applications must be understood.

1. First, it must be realized that the fire model describes fire behavior only in the flaming front. The primary driving force in the predictive calculations is the dead fuels less than 0.25 inches in diameter. These are the fine fuels that carry fire. Fuels greater than 1 inch have little effect, while fuels greater than 3 inches have no effect on fire behavior.
2. Second, the model bases calculations and descriptions on a wildfire spreading through surface fuels that are within 6 feet of the ground and contiguous to the ground. Surface fuels are often classified as grass, brush, litter, or slash.
3. Third, the software assumes that weather and topography are uniform. However, because wildfires almost always burn under non-uniform conditions, creating their own weather, length of projection period and choice of fuel model must be carefully considered to obtain useful predictions.
4. Fourth, fire behavior computer modeling systems are not intended for determining sufficient fuel modification zone/defensible space widths. However, it does provide the average length of the flames, which is a key element for determining defensible space distances for minimizing structure ignition.

Although BehavePlus has limitations, it can still provide valuable fire behavior predictions, which can be used as a tool in the decision-making process. In order to make reliable estimates of

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fire behavior, one must understand the relationship of fuels to the fire environment and be able to recognize the variations in these fuels. Natural fuels are made up of the various components of vegetation, both live and dead, that occur in a particular landscape. The type and quantity will depend upon soil, climate, geographic features, and fire history. The major fuel groups of grass, shrub, trees, and slash are defined by their constituent types and quantities of litter and duff layers, dead woody material, grasses and forbs, shrubs, regeneration, and trees. Fire behavior can be predicted largely by analyzing the characteristics of these fuels. Fire behavior is affected by seven principal fuel characteristics: fuel loading, size and shape, compactness, horizontal continuity, vertical arrangement, moisture content, and chemical properties.

### 5.2.2 Modeling Inputs

#### 5.2.2.1 Fuels

The seven fuel characteristics help define the 13 standard fire behavior fuel models (Anderson 1982) and the more recent custom fuel models developed for Southern California (Weise and Regelbrugge 1997). According to the model classifications, fuel models used for fire behavior modeling (BehavePlus, FlamMap, FARSITE) have been classified into four groups, based upon fuel loading (tons/acre), fuel height, and surface-to-volume ratio. Observation of the fuels in the field (on site) determines which fuel models should be applied in modeling efforts. The following describes the distribution of fuel models among general vegetation types for the standard 13 fuel models and the custom Southern California fuel models:

- Grasses                      Fuel Models 1 through 3
- Brush                        Fuel Models 4 through 7, SCAL 14 through 18
- Timber                       Fuel Models 8 through 10
- Logging slash              Fuel Models 11 through 13.

In addition, the aforementioned fuel characteristics were utilized in the recent development of 40 new fire behavior fuel models (Scott and Burgan 2005) developed for use in the BehavePlus, FlamMap, and FARSITE modeling systems. These new models attempt to improve the accuracy of the 13 standard fuel models outside of severe fire season conditions, and to allow for the simulation of fuel treatment prescriptions. The following describes the distribution of fuel models among general vegetation types for the 40 new fuel models:

- Non-burnable              Models NB1, NB2, NB3, NB8, NB9
- Grass                        Models GR1 through GR9

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- Grass shrub                      Models GS1 through GS4
- Shrub                                Models SH1 through SH9
- Timber understory            Models TU1 through TU5
- Timber litter                      Models TL1 through TL9
- Slash blowdown                Models SB1 through SB4.

For the BehavePlus analysis, fuel model assignments were based on observed field conditions. For the FlamMap and FARSITE analyses, fuel model assignments were derived from the acquired LANDFIRE data set, as described in Section 5.2.4.1.

### 5.2.2.2 *Weather*

Weather and wind inputs for fire behavior modeling conducted in support of this FPP utilized the guidelines and standards presented by the County of San Diego, Department of Planning and Land Use (County of San Diego 2010). These guidelines identify acceptable fire weather inputs for fire conditions during summer months and Santa Ana fire weather patterns. The County analyzed and processed 44 years of fire weather data from fire stations and Remote Automated Weather Stations (RAWS) between April 15 to December 31 in order to represent the general limits of the fire season. Data provided by the County’s analysis included temperature, relative humidity, and sustained wind speed and is categorized by weather zone, including Maritime, Coastal, Transitional, Interior, and Desert.

As identified in the County’s guidelines, Dudek utilized the Fine Dead Fuel Moisture (FDFM) tool within BehavePlus (v. 5.0.5) fire behavior modeling software package to determine fuel moisture values to be input into the FlamMap and FARSITE runs discussed in this FPP. The temperature, relative humidity, and wind speed data for the Transitional (SANGIS 2014) weather zone were utilized for this FPP based on the project’s location. Reference fuel moistures were calculated in the FDFM tool and were based on site-specific topographic data inputs. Table 2 summarizes the FDFM inputs and the resulting fine dead fuel moisture values. Table 3 presents the fuel moisture and wind speed inputs for the fire behavior modeling efforts conducted for this FPP.

**Table 2  
BehavePlus Fine Dead Fuel Moisture Calculation**

Variable	Summer Weather	Peak Weather
Dry Bulb Temperature	90 -109 deg. F	90 -109 deg. F
Relative Humidity	10 - 14 %	5 - 9 %
Reference Fuel Moisture	2 %	1 %

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**Table 2**  
**BehavePlus Fine Dead Fuel Moisture Calculation**

Variable	Summer Weather	Peak Weather
Month	Feb Mar Apr Aug Sept Oct	Feb Mar Apr Aug Sept Oct
Time of Day	12:00 - 13:59	12:00 - 13:59
Elevation Difference	Level (within 1,000 ft.)	Level (within 1,000 ft.)
Slope	30-50%	25-50%
Aspect	South/West	North/East/Northeast
Fuel Shading	Exposed (< 50% shading)	Exposed (< 50% shading)
Fuel Moisture Correction	1 %	1 %
Fine Dead Fuel Moisture	3 %	2 %

**Table 3**  
**Fuel Moisture and Wind Speed Inputs**

Variable	Summer Weather	Peak Weather
1h Moisture	3%	2%
10h Moisture	5%	3%
100h Moisture	7%	5%
Live Herbaceous Moisture	60%	30%
Live Woody Moisture	90%	50%
Sustained 20-foot Wind Speed	19 mph	41 mph

### **5.2.2.3 Slope**

Slope is a measure of angle in degrees from horizontal and can be presented in units of degrees or percent. Slope is important in fire behavior analysis as it affects the exposure of fuel beds. Additionally, fire burning uphill spreads faster than those burning on flat terrain or downhill as uphill vegetation is pre-heated and dried in advance of the flaming front, resulting in faster ignition rates. For the BehavePlus analysis, slope values were measured from site topographic maps at the locations of each modeling scenario, and ranged in value between 16 and 50%. For the FlamMap and FARSITE analyses, slope values were derived from the acquired LANDFIRE data set, as described in Section 5.2.4.1.

### **5.2.3 BehavePlus Analysis**

Following site evaluation and vegetative fuels data collection efforts, fire behavior modeling was conducted to document the type and intensity of fire that would be expected on this site given

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characteristic site features such as topography, vegetation, and weather. To objectively predict flame lengths, intensities, and spread rates, the BehavePlus 5.0.5 fire behavior modeling system (Andrews, Bevins, and Seli 2004) was used in seven modeling scenarios and incorporated observed fuel types, measured slope gradients, and wind and fuel moisture values derived from County guidelines. Modeling scenario locations were selected to better understand different fire behavior that may be experienced on the site.

The majority of the property is vegetated with southern mixed chaparral interspersed with large rock outcropping and boulder areas. The chaparral on and adjacent to the Project Site is in varying stages of fire recovery following the 2007 Witch Fire. As such, fuel loads are expected to increase over time, with mature chaparral potentially reaching continuous cover of 10-15 foot tall shrubs on dry, rocky, slopes. Based on the location of modeling scenarios, a fuel model SH5 (dry climate shrub with high fuel load representing chaparral fuels) was used for all BehavePlus fire behavior modeling runs.

Utilizing the dominant on-site vegetation, slope values for the site (16% to 50% slope), and the Peak and Summer wind and fuel moisture values derived from County guidelines and the FDFM analysis, fire behavior calculations were conducted. A summary of the scenario inputs and the results of BehavePlus modeling efforts are summarized in Table 4. BehavePlus modeling results and the location of the BehavePlus modeling scenarios are presented in Figure 4.

**Table 4  
BehavePlus Fire Behavior Modeling Results**

Fire Scenario	Summer Weather (On-shore, 19 mph Sustained Winds)				Peak Weather (Off-shore, 41 mph Sustained Winds)			
	Flame Length (ft.)	Fireline Intensity (Btu/ft/s)	Rate of Spread (mph)	Spotting Distance (miles)	Flame Length (ft.)	Fireline Intensity (Btu/ft/s)	Rate of Spread (mph)	Spotting Distance (miles)
1	-	-	-	-	49.7	27,655	9.1	2.3
2	-	-	-	-	49.6	27,533	9.1	2.3
3	-	-	-	-	49.6	27,533	9.1	2.3
4	-	-	-	-	49.5	27,455	9.1	2.3
5	24.0	5,699	2.2	0.9	49.7	27,655	9.1	2.3
6	24.2	5,774	2.2	0.8	-	-	-	-
7	-	-	-	-	50.5	28,674	9.5	2.3

**Note:** Fire Behavior Analysts recorded peak wind gusts up to 50 mph during the Witch Fire. Using Table 3 Peak Weather fine dead fuel moisture values and observed wildfire peak gusts for the Project Vicinity, the BehavePlus modeling efforts would result in flame lengths of 56 feet, spread rates of 11.8 mph, and fireline intensities reaching up to 35,899 Btu/ft/s. Viable airborne embers could be carried downwind for 2.9 miles and ignite receptive fuels.

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As presented in Table 4, wildfire behavior in non-treated chaparral, presented as a Fuel Model SH5, represents the most extreme conditions, varying with different wind speeds. In this case, flame lengths can be expected to reach up to approximately 24 feet with 19 mph sustained wind speeds and 50.5 feet with 41 mph sustained wind speeds. Spread rates range from 2.2 mph to 9.5 mph under summer and peak weather conditions, respectively. Spotting distances, where airborne embers can ignite new fires downwind of the initial fire, range from less than 1.0 mile (Summer weather condition) to 2.3 miles (Peak weather condition).

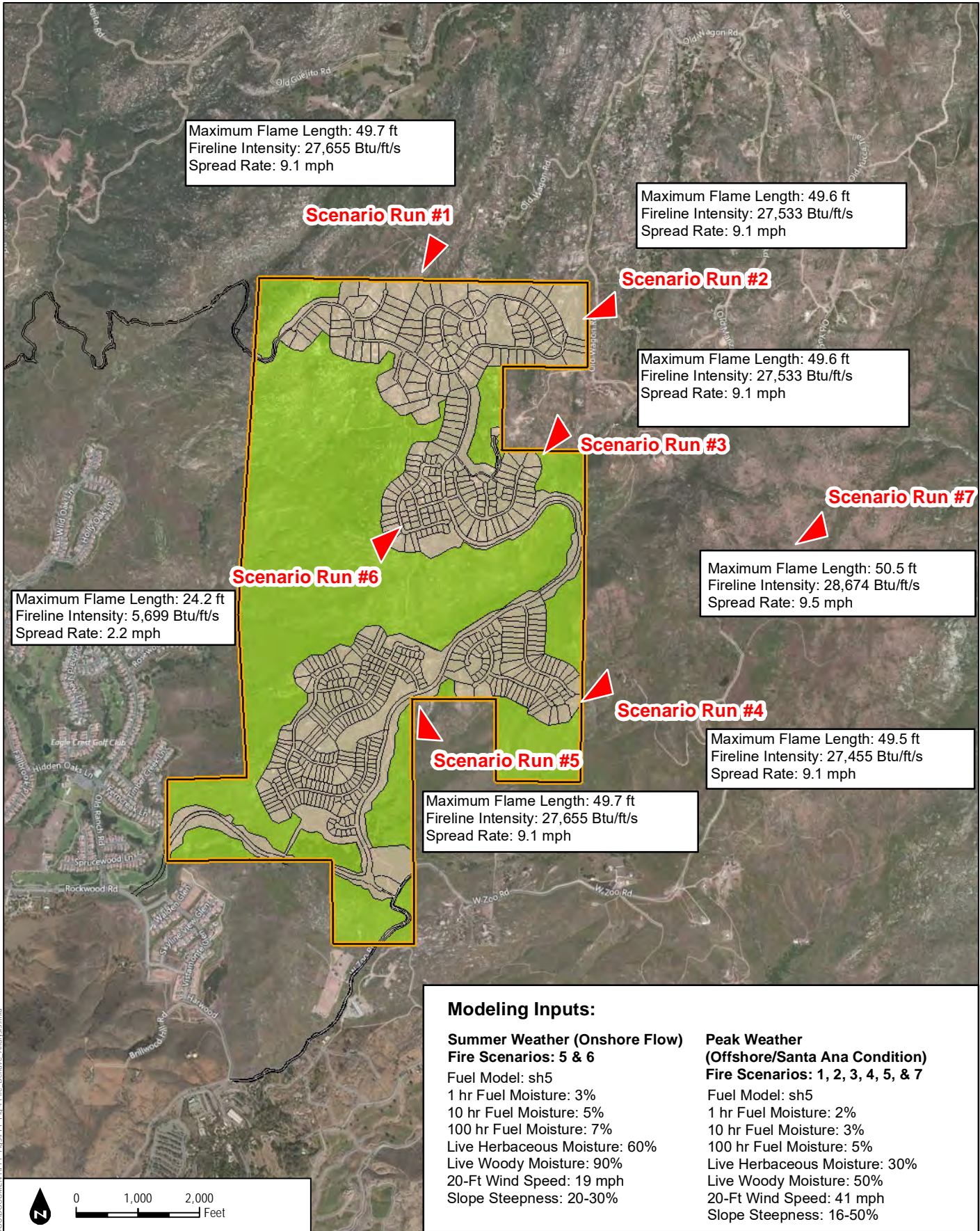
It should be noted that the results presented in Table 4 depict values based on inputs to the BehavePlus software. The fuels models used in this analysis are dynamic models that were designed by the U.S. Forest Service to more accurately represent southern California chaparral fuel beds. Changes in slope, weather, or pockets of different fuel types are not accounted for in this analysis. Model results should be used as a basis for planning only, as actual fire behavior for a given location will be affected by many factors, including unique weather patterns, small-scale topographic variations, or changing vegetation patterns.

### **5.2.4 FlamMap and FARSITE Analyses**

The FlamMap and FARSITE software packages were used to evaluate regional fire behavior in order to inform the relocation/evacuation recommendations included in this FPP. As noted, FlamMap utilizes the same fire spread equations built into the BehavePlus software package, but allows for a geographical presentation of fire behavior outputs as it applies the calculations to each pixel in the associated GIS landscape (Finney 1998). The FARSITE software package is a more robust analysis tool than FlamMap, allowing for an analysis of fire spread over time, rather than a static representation of wildfire characteristics. The software simulates the growth of a fire front by using wave propagation principles over a heterogeneous surface and was utilized to account for dead fuel moisture conditioning, a feature not available in the FlamMap analysis conducted for the project. FlamMap software was used to model potential fire behavior across the project site, plus the areas within ½ mile of the project site.

The analysis conducted for this FPP utilized FlamMap's Minimum Travel Time tool and FARSITE fire growth modeling in order to evaluate the amount of time necessary for a fire to reach the project site. The following sections discuss the methods, inputs, and results of the FlamMap and FARSITE analyses.





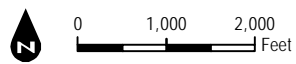
**Modeling Inputs:**

**Summer Weather (Onshore Flow)  
 Fire Scenarios: 5 & 6**

Fuel Model: sh5  
 1 hr Fuel Moisture: 3%  
 10 hr Fuel Moisture: 5%  
 100 hr Fuel Moisture: 7%  
 Live Herbaceous Moisture: 60%  
 Live Woody Moisture: 90%  
 20-Ft Wind Speed: 19 mph  
 Slope Steepness: 20-30%

**Peak Weather  
 (Offshore/Santa Ana Condition)  
 Fire Scenarios: 1, 2, 3, 4, 5, & 7**

Fuel Model: sh5  
 1 hr Fuel Moisture: 2%  
 10 hr Fuel Moisture: 3%  
 100 hr Fuel Moisture: 5%  
 Live Herbaceous Moisture: 30%  
 Live Woody Moisture: 50%  
 20-Ft Wind Speed: 41 mph  
 Slope Steepness: 16-50%



SOURCE: BING 2014

Safari Highlands Ranch Fire Protection Plan

**FIGURE 4  
 Behave Plus Fire Behavior Modeling**



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### **5.2.4.1 Modeling Inputs**

FlamMap and FARSITE software requires a minimum of five (5) separate input files that represent field conditions in the analysis area, including elevation, slope, aspect, fuel model, and canopy cover. Each of these data files was obtained from the LANDFIRE (Landscape Fire and Resource Management Planning Tools) data distribution site. LANDFIRE is shared program between the wildland fire management programs of the U.S. Department of Agriculture Forest Service and U.S. Department of the Interior and provides landscape-scale, GIS data layers, including those representing elevation, slope, aspect, fuel model, and canopy cover.

The FlamMap and FARSITE analysis area was the same, and encompassed approximately 484,291 acres (757 square miles), ranging from approximately Palomar Mountain in the north, Ramona in the south, San Marcos in the west, and Warner Springs in the east. LANDFIRE data layers were projected to the NAD 83, California State Plane, Zone 6 coordinate system using ArcGIS 10.3.1 and then exported to ASCII format. These files were then utilized in creating a FARSITE Landscape file that served as the base for the FlamMap and FARSITE runs. All LANDFIRE data files had a ground resolution of 30 meters. In addition to the Landscape file, wind and weather data were incorporated into the model inputs.

FlamMap software was utilized to graphically depict potential fire behavior for the project site plus the area within ½ mile of the project site. Peak fall weather conditions (off-shore, Santa Ana conditions) were modeled for the existing conditions in the analysis area. The Minimum Travel Time (MTT) tool in the FlamMap software package is a two-dimensional fire growth model which calculates fire growth based on calculated fire spread rates from an ignition source (point, line, or polygon). The MTT tool uses fire spread rates to find minimum travel paths between data cells in the GIS landscape, with an output data file representing the number of minutes for a wildfire to reach a particular location from the ignition source. As FlamMap provides a static representation of fire behavior, modeling using the MTT tool holds wind and weather inputs constant over the modeling period.

FARSITE is a fire growth simulation modeling system that computes wildfire growth and behavior for long time periods under heterogeneous conditions of terrain, fuels, and weather. FARSITE was used to model the progression of a potential wildfire originating at a particular ignition source. As FlamMap provides a static representation of fire behavior, modeling using the MTT tool holds wind and weather inputs constant over the modeling period. FARSITE calculates fuel moisture during the simulation in response to changing weather conditions.

# Fire Protection Plan

## Safari Highlands Ranch

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Four FlamMap runs were completed as described below:

1. One to model potential fire behavior during a Santa Ana wind event (Peak weather condition),
2. One using the MTT tool to represent a fire approaching the project site from the east-northeast during a Santa Ana wind event (Peak weather condition), and
3. One using the MTT tool to represent a fire approaching the site from the west-southwest during typical on-shore weather patterns (Summer weather condition).

Two FARSITE runs were completed as described below:

1. One to represent a fire approaching the project site from the east-northeast during a Santa Ana wind event (Peak weather condition), and
2. One to represent fires approaching the site from the west-southwest during typical on-shore weather patterns (Summer weather condition).

The following paragraphs provide descriptions of the inputs used in processing the FlamMap and FARSITE models. In addition, data sources are cited and any assumptions made during the modeling process are described.

### **Elevation**

The elevation data file represents units of meters above mean sea level (AMSL). Elevations in the FlamMap and FARSITE analysis area range from 62 to 1,870 meters (203 to 6,135 feet) AMSL. Elevation data is a required input file for FlamMap and FARSITE runs and are necessary for adiabatic adjustment of temperature and humidity and for conversion of fire spread between horizontal and slope distances.

### **Slope**

The slope data file represents values in degrees of inclination from horizontal. Slope values in the FlamMap and FARSITE analyses area range from 0–55 degrees. The slope input file is necessary for computing slope effects on fire spread and solar radiance.

### **Aspect**

The aspect data file represents values in azimuth degrees. Aspect values are important in determining the solar exposure of grid cells.

## Fire Protection Plan Safari Highlands Ranch

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### Fuel Model

The fuel model data file was based on the 40 Scott and Burgan (2005) models and represents distinct distributions of fuel loading found among surface fuel components (live and dead), size classes, and fuel types. The fuel models included in the FlamMap and FARSITE analyses area are presented in Table 5.

**Table 5  
Fuel Models in FlamMap and FARSITE Analyses Area**

Fuel Model	Description	Area (acreage)	Coverage Percentage
NB1	Urban/Developed	40.294	8.3%
NB3	Agricultural	238	0.0%
NB8	Open Water	2.090	0.4%
NB9	Bare Ground	939	0.2%
GR1	Short, Sparse Dry Climate Grass	21.687	4.5%
GR2	Low Load, Dry Climate Grass	174.427	36.0%
GS1	Low Load, Dry Climate Grass-Shrub	39.679	8.2%
GS2	Moderate Load, Dry Climate Grass-Shrub	128.413	26.5%
SH1	Low Load Dry Climate Shrub	3	0.0%
SH2	Moderate Load Dry Climate Shrub	8.323	1.7%
SH3	Moderate Load, Humid Climate Shrub	18	0.0%
SH5	High Load, Dry Climate Shrub	15	0.0%
SH6	Low Load, Humid Climate Shrub	5	0.0%
SH7	Very High Load, Dry Climate Shrub	32.819	6.8%
TU1	Low Load Dry Climate Timber-Grass-Shrub	5	0.0%
TU2	Moderate Load Humid Climate Timber-Shrub	4	0.0%
TU5	Very High Load, Dry Climate Timber-Shrub	16.267	3.4%
TL1	Low Load Compact Conifer Litter	0	0.0%
TL2	Low Load Broadleaf Litter	2.685	0.6%
TL3	Moderate Load Conifer Litter	8.740	1.8%
TL4	Small Down Logs	335	0.1%
TL5	High Load Conifer Litter	314	0.1%
TL6	Moderate Load Broadleaf Litter	2.379	0.5%
TL7	Large Downed Logs	2.238	0.5%
TL8	Long-Needle Litter	1.292	0.3%
TL9	Very High Load Broadleaf Litter	1.080	0.2%
<b>Total:</b>		<b>484,291</b>	<b>100.0%</b>

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## Canopy Cover

Canopy cover is necessary for computing shading and wind reduction factors for all fuel models. Canopy cover is measured as the horizontal fraction of the ground that is covered directly overhead by tree canopy. Crown closure refers to the ecological condition of relative tree crown density. Stands can be said to be “closed” to recruitment of canopy trees but still only have 40% or 50% canopy cover. Coverage units for this analysis are in percent cover.

## Wind and Fuel Moisture

Wind speed and fuel moisture values for the FlamMap and FARSITE analyses utilized the same values as those used in the BehavePlus runs for Summer and Peak scenarios, as presented in Table 3 and consistent with the standards outlined by the County (County of San Diego 2010). Wind alignment for the Peak (Santa Ana) analyses was set at 70 degrees. This alignment is consistent with Santa Ana wind alignments in the region, as documented in the spread patterns of the 2003 Cedar Fire and 2007 Witch Fire. Wind alignment for the summer (On-Shore) analyses was set at 250 degrees, opposite of the Santa Ana condition.

Fuel moisture information was incorporated into the Fuel Moisture file used as an input in FARSITE. In addition, temperature and relative humidity information was incorporated into a Weather data file to be used during FARSITE runs. As FARSITE incorporates a temporal component to the fire spread model, a detailed wind input file was necessary to incorporate wind direction, as well as sustained wind speeds over the entire analysis period. For the purposes of the FARSITE analyses, wind directions were aligned as noted above and held constant for the entire analysis period.

## Ignition Locations

Ignition locations were selected by scenario, as described below:

1. For the FlamMap model analyzing a potential Santa Ana wind-driven fire approaching the project site from the east-northeast (Peak weather condition), an ignition line was used that ran along Highways 76 and 79 from approximately Sengme Oaks Road along Highway 76 in the northwest to the intersection of Highways 78 and 79 in the southeast. Ignitions along these road segments were selected to model vehicle-originated fires and a linear ignition source was selected to better determine the time for a fire to reach the project site should an ignition occur within this section of roadway. Utilizing discrete point ignition sources for this scenario in FlamMap is possible; however, it is possible that the modeled fire would miss the project site, as its perimeter would be very linear in nature due to the significant influence of Santa Ana winds.

## **Fire Protection Plan Safari Highlands Ranch**

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2. For the FARSITE model analyzing a potential Santa Ana wind-driven fire approaching the project site from the east-northeast (Peak weather condition), an ignition point was used, located near the intersection of Highways 76 and 79. As with the FlamMap model, this ignition point was selected to model vehicle-originated fires. For FARSITE, a point ignition source was used, given that FARSITE includes a temporal component. Specifically, in FARSITE, line ignitions are often really area ignitions as represented at a given instant in time. The ignition point was selected due to its upwind location relative to the project site and modeled Santa Ana winds (70 degrees).
3. For the FlamMap and FARSITE models analyzing a potential fire approaching the site from the west-southwest during typical on-shore weather patterns (Summer weather condition), three ignition points were used, including one at the intersection of Highway 78 and San Pasqual Road, one at the intersection of Cloverdale Road and Cloveridge Road, and one at the end of Wild Oak Lane. These points were selected to model fires originating from adjacent urban environments, which may include vehicles, arson, accident or equipment use, amongst others.

### **Other Model Inputs**

In addition to the aforementioned inputs, the following inputs were included in the FlamMap runs:

- **Simulation Time:** The model simulation time was set at 5 hours (300 minutes). This duration was sufficient to allow modeled fires to reach the project site.
- **Resolution:** The calculation resolution was set at 30 meters, the same resolution as the base data files (e.g., elevation, fuels).
- **Wind Vectors:** Wind vectors were modeled within the FlamMap runs using WindNinja tool embedded in the FlamMap software. WindNinja models the effect of topography on wind speed and direction generates wind vector files for use in the modeling runs. The grid resolution for the WindNinja analysis was set at 90 meters.

The FARSITE software package also requires additional settings to initiate model runs. The following outlines the settings used for the three FARSITE runs completed in support of this project:

- The 'Time Step' used for all runs was 60 minutes (1 hour).
- The 'Perimeter Resolution' for all runs was 60 meters.
- The duration for all runs was maximized at 8 hours.

## **Fire Protection Plan Safari Highlands Ranch**

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The 'Enable Spot Fire Growth' ignition frequency input variable was set at 5% and the ignition delay was set at 2 minutes for all model runs.

### **5.2.4.2 Modeling Results**

The output files generated for each of the FlamMap runs are the result of the analyses for potential fire behavior in the project area and those using the Minimum Travel Time tool. Fire behavior model results represent flame length and spread rate and MTT results represent fire Arrival Time. For the MTT analysis, one grid and one contour file were generated for each run (Summer and Peak) representing the time necessary for a fire to reach a particular location (Arrival Time), considering modeling inputs and ignition location(s). Maps depicting the Arrival Time grid and potential fire behavior and for the Peak and Summer weather scenarios are included in Appendices C-1 through C-4. The FlamMap Arrival Time results vary depending on the scenario analyzed.

Two different output files were generated from the FARSITE models, representing one run for each Scenario (Peak and Summer). The output files are a GIS shapefile representing fire perimeter boundaries at 1 hour intervals for the duration of the FARSITE run (8 hours). Maps depicting the FARSITE fire perimeters for the Peak and Summer weather scenarios are included in Appendices C-5 and C-6, respectively. The FARSITE fire progression results vary depending on the scenario analyzed (Peak or Summer).

For the models analyzing a fire during Peak (Santa Ana) wind and weather conditions, arrival time to the project boundary is approximately 4 hours from the ignition locations based on the FlamMap MTT analysis. Arrival time to the project boundary is also approximately 4 hours from the ignition location based on the FARSITE analysis. For the model analyzing a fire during Summer (On-Shore) wind and weather conditions, arrival time to the project boundary is approximately 40 minutes from the nearest ignition location (end of Wild Oak Lane) based on the FlamMap MTT analysis. Arrival time to the project boundary is also less than 1 hour from this same location based on the FARSITE analysis. For the Summer model, fires originating along San Pasqual Road and Cloverdale Road may take in excess of 3 hours (FlamMap MTT analysis) and up to 5 hours (FARSITE analysis) to reach the project site as they are slowed by developments along Rockwood and Harwood Roads.

The FlamMap and FARSITE modeling results are based on the data inputs presented herein. FlamMap calculates fire growth across the landscape assuming independence of fire behavior between neighboring cells in the landscape and holds the wind and fuel moisture inputs constant for the duration of the modeling run. Therefore, the FlamMap results presented in this FPP provide a conservative estimate of the amount of time necessary for a fire to reach the project site

## **Fire Protection Plan Safari Highlands Ranch**

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as the model does not consider changes to wind speed, wind direction, or fuel moisture influenced by terrain, time of day, or changes in regional weather patterns. While the FARSITE model allows for a temporal analysis of fire spread, the inclusion of constant wind speed and direction data in the model were used to represent specific weather scenarios, and do not account for real-world changes in wind speed or direction that may be realized during an actual fire event. Further, current research indicates that FARSITE analyses tend to over-predict fire spread rates (Finney 1998). The FARSITE modeling effort did calculate spotting from surface fires, thus spread rates resulting from FARSITE models are based on the progression of the flaming front of the fire plus spotting ahead of the fire front. Changes in wind, weather, or pockets of different fuel types are not accounted for in this analysis. Model results should be used as a basis for planning only, as actual fire behavior for a given location will be affected by many factors, including variable weather patterns over time, small-scale topographic variations, or changing vegetation patterns.

Based on the FlamMap analysis of during Peak fire conditions, and consistent with the FARSITE analysis, the rate of spread was approximately 3.4 miles per hour (covering a distance of 13.5 miles in 4 hours). This modeling result is supported by an analysis of previous fires burning in San Diego County during Santa Ana wind events. Specifically, the 2007 Witch Fire, which burned the project site, exhibited extreme fire behavior with spread rates reaching 2.5 miles per hour (Grijalva et al., 2008) and the 2003 Cedar Fire burned at a rate of approximately 3 miles per hour (USFS and CAL FIRE 2003).



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Safari Highlands Ranch**

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## 6 EMERGENCY RESPONSE AND SERVICE

### 6.1 Fire Facilities

The Project is currently located within the CAL FIRE Valley Center Fire Protection District and the County of San Diego. The project proponent proposes an annexation of the entire project site into the City of Escondido. Once finalized, the Escondido Fire Department (EFD) will provide initial response to the Proposed Project site from the on-site station. The EFD operates seven Fire Stations that could respond to a fire or medical emergency at the site. Table 6 provides a summary of the EFD’s fire and emergency medical delivery system.

**Table 6  
Escondido Fire Department Responding Stations Summary**

Fire Station	Address	Apparatus	Staffing (Total/Station)	Maximum Travel Distance	Travel Time**
On-Site	Safari Highlands Ranch	Paramedic Engine	TBD	3.05 miles***	1 to 5.8 min
1	310 North Quince Escondido, California 92029	Paramedic Engine Truck Company Brush Engine 2 Ambulances	27	7.3 miles*	16 min
2	421 North Midway Escondido, California 92029	Paramedic Engine Brush Engine Ambulance	9	6.2 miles*	13 min
3	1808 Nutmeg Street Escondido, California 92029	Paramedic Engine Brush Engine	9	9.3 miles*	17 min
4	3301 Bear Valley Parkway Escondido, California 92029	Paramedic Engine Brush Engine	9	6.1 miles*	10 min
5	2319 Felicita Road Escondido, California 92029	Paramedic Engine Brush Engine Ambulance	15	6.9 miles*	15 min
6	1735 Del Dios Road Escondido, California 92029	Paramedic Engine	9	7.8 miles*	14 min
7	1220 North Ash Escondido, California 92029	Paramedic Engine Ambulance	9	7 miles.	15 minutes

\* Distance measured to Project entry gate located on Safari Highlands Ranch Road at the southern edge of property except for the On-Site station which measures distance to the most distant lot.

\*\* Assumes travel to the primary project’s north end, and speeds calculated with the ISO travel time formula  $Time = 0.65 + 1.7(Distance)$

## **Fire Protection Plan Safari Highlands Ranch**

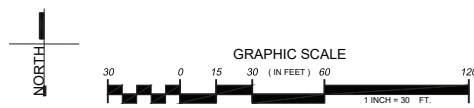
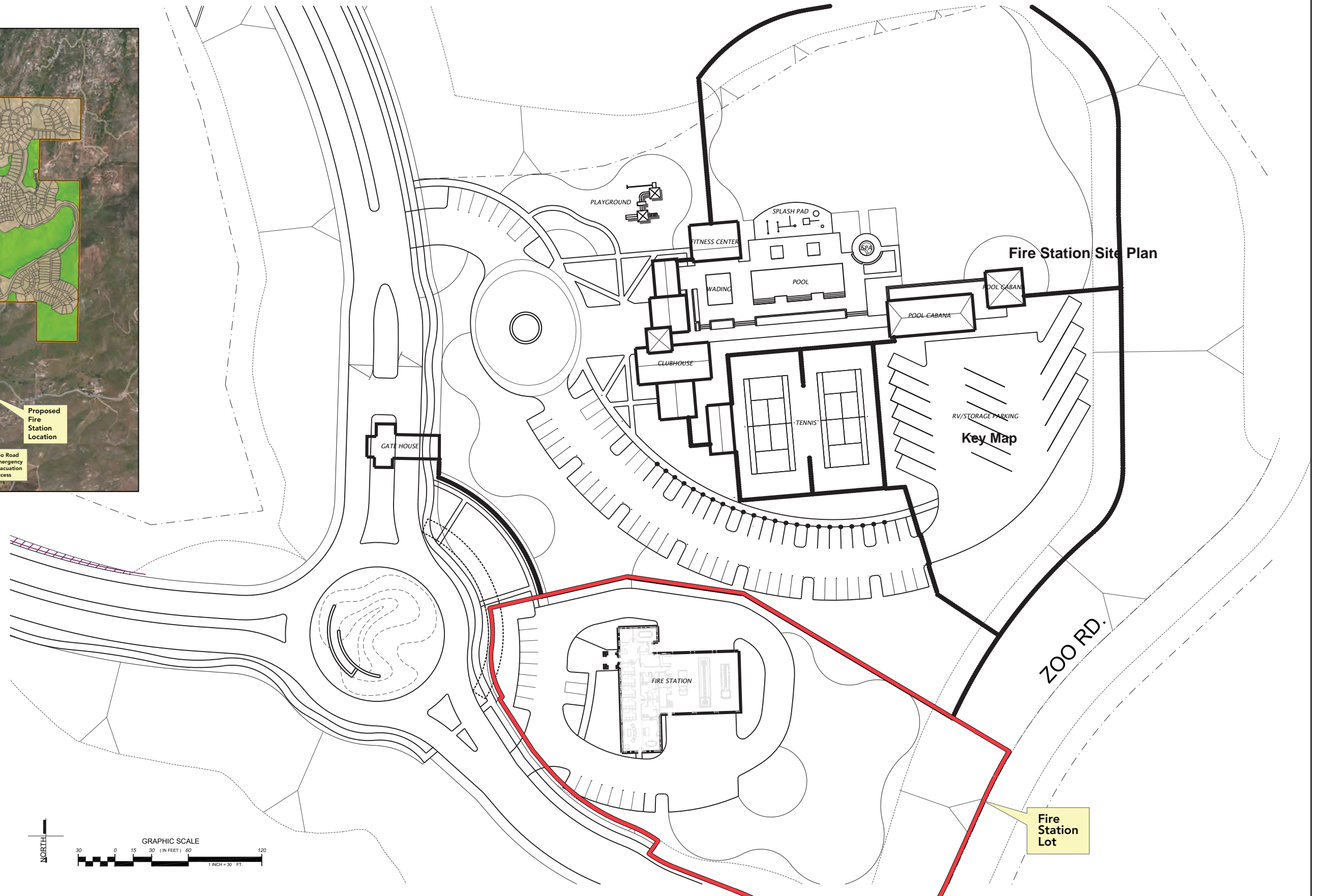
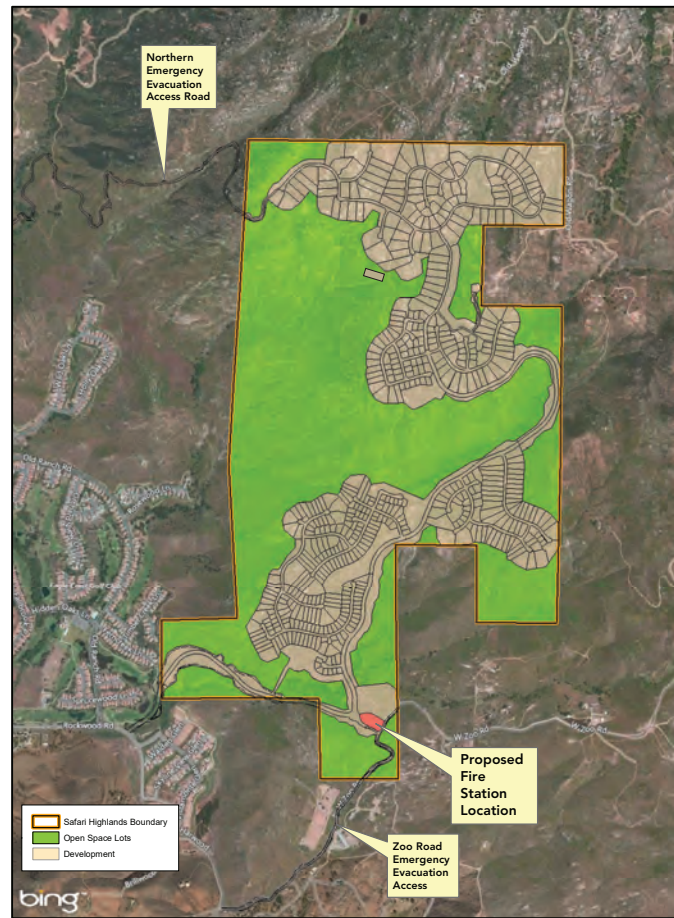
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The closest existing EFD Fire Station is FS 4, located at 3301 Bear Valley Parkway, which staffs a minimum of three firefighters 24 hours per day/seven days per week and houses one Paramedic Engine (Type I) and a Type III brush engine. Secondary response would be provided from this and other EFD Fire Stations as needed. Station 2 is the next closest EFD station and is located at 421 North Midway. The station staffs three on-duty, 24-hours per day and houses a Paramedic Engine and a Type III brush engine.

### **6.2 Emergency Response Travel Time Coverage**

The City of Escondido's Quality of Life Standard is to respond to all priority Level One or Emergency type calls within 7 minutes and 30 seconds, a total of 90% of the time. In 2012, EFD's response time for all stations was 6 minutes and 32 seconds for all urgent calls. Response to the project site from the closest existing EFD fire stations would not achieve the response time standard for first arriving. Response from Station 4 is calculated at roughly 10 minutes to main entrance of the site. The full effective firefighting force is estimated to arrive within 16 minutes. Therefore, the project does not comply with the City's response time standards and will require provisions for an on-site fire station.

To mitigate the unachievable City of Escondido's Quality of Life Standard threshold, a new fire station will be built in conjunction with the project. The station will be located at the southern tip of the project boundary, located near the main entrance of the project off of Safari Highlands Ranch Road. The new station will be a 6,000 to 10,000 square feet building with three bays for apparatus and five dorm rooms for staff (See Figure 5). The station will be staffed 24/7 with five to six career firefighters, who would provide initial response. The station will likely have one Paramedic Engine, one Brush Engine and one Ambulance. Travel time from the new station to the most remote (distant) lot within the Project is 5.8 minutes. This would enable just under 2 minutes for dispatch and turnout and is considered to meet the 7.5 minute Escondido Fire Department response goal.



SOURCE: MCCULLOUGH LANDSCAPE ARCHITECTURE, INC. 2016

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Safari Highlands Ranch Fire Protection Plan

**FIGURE 5**  
**Proposed On-Site Fire Station Exhibit**

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### **6.3 Estimated Calls and Demand for Service from the Project**

The EFD documented 14,536 total emergency calls for 2015 (Escondido Fire Department 2016) for a City population of approximately 147,095<sup>3</sup> (City of Escondido 2016). The call volume of 99 per 1,000 persons per year is higher than the national average of approximately 82 calls. For this analysis, we'll use the higher (most conservative) per capita call volume of roughly 0.1 for City of Escondido. Based on the proposed development plans, the project's estimated 1,716 residents (assumes an average of 3.12 occupants per residence for this type of community (SANDAG 2014)) would generate roughly 172 calls per year (0.5 calls per day), most of which are expected to be medical-related calls (approximately 80.4% of total emergency incidents).

Service level requirements are not expected to be significantly impacted with the increase of 172 calls per year (0.5 call per day) for a station (EFD Station 4) that currently responds to roughly 3 calls per day (1,034 calls per year, 86 calls per month, 21 calls per week) . The next closest fire station is station 2. This EFD station responds to 2,676 calls per year or approximately 7.3 calls per day. For reference, a station that responds to 5 calls per day in an urban setting is considered average and 10 calls per day is considered busy. Therefore, the project is not expected to cause a decline in Station 4 level of service. The requirements described in this FPP are intended to aid firefighting personnel and minimize the demand placed on the existing emergency service system. Regardless of the potential impact on Station 4, the planned new fire station on site will be able to respond to the project's generated calls, and have significant capacity to respond to other calls from outside the project in a timeframe that is a substantial improvement from existing service.

### **6.4 Response Capability Impact Assessment and Mitigation**

Cumulative impacts from multiple projects can cause fire response service decline and must be analyzed for each project. The Safari Highlands Ranch project and its proposed usage by up to 1,716 residents represents an increase in potential service demand of approximately 172 calls per year, well within the capacity of the existing EFD Fire Stations. However, this total adds to an existing busy service obligation for Station 4 and the station's response time to the entrance of the project site exceeds the City's response time standard. This cumulative impact is considered potentially significant, but mitigated through the construction of a new, on-site fire station that is staffed year round. A modern fire station will be built with fair-share contributions by the Project and through assessments, property taxes, and/or a separate agreement. The final funding amount will be determined by the applicant and City of Escondido and included in a Fire Service Agreement to be completed at later stages of planning prior to map recordation.

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<sup>3</sup> City population total number is from San Diego Association of Governments 2014 estimates which reflect 2010 U.S. Census data.

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## **7 FIRE SAFETY REQUIREMENTS- INFRASTRUCTURE, BUILDING IGNITION RESISTANCE, AND DEFENSIBLE SPACE**

### **7.1 Roads**

#### **7.1.1 Access and Egress**

Site access will comply with the requirements of the 2014 San Diego County Consolidated Fire Code, California Code of Regulations; Title 14, and Escondido 2016 Fire Code (Sections 503.1 and 503.2). The project's circulation system will consist of both public and private roads with each being built to the respective standards and maintained by funded entities (HOAs and/or Facilities Maintenance Fee, or San Diego County).

The project site would have one main access road, Safari Highlands Ranch Road, which intersects with Rockwood Road between Old Ranch Road and Vistamonte Avenue. Safari Highlands Ranch Road will be a public roadway from its starting point at Rockwood Road up to the gated community entry and a private road beyond the entry gate. This road will provide:

- At the entrance gate, a 64-foot-wide curb to curb with two 24-foot-wide travel lanes and a 16-foot-wide median
- Inside the entrance gate, a 48-foot-wide curb to curb with two 20-foot-wide travel lanes and an 8 foot wide median
- At first intersection, road width becomes 42 feet wide curb to curb with two 21-foot-wide travel lanes and demarcated bike lane
- A relatively short section just north of the first intersection includes two 16-foot-wide travel lanes and an 8-foot-wide median
- North of the 40-foot-wide section, the road becomes 36 feet wide curb to curb. This would allow two 12-foot-wide travel lanes and parking on both sides.

The Project includes gated secondary and tertiary emergency access roads at the northwest and southern portions of the development, providing the ability to move vehicles from the project in physically remote locations from the other Project roads. The northwestern road will be approximately 2.4 miles long and will connect to Stonebridge Road in the Hidden Hills Trails development. The southern road will be approximately one mile long and will connect to emergency access Zoo Road, which will be upgraded to accommodate emergency vehicles. Both emergency access roads will be minimum 24 feet wide with two travel lanes.



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All internal residential streets will be 36 feet wide curb to curb. Residential driveways serving no more than two single-family dwellings will have a minimum of 16 feet of unobstructed improved width. Parking will not be allowed on streets including widths lower than 32 feet. Access roads to construction areas shall be completed and paved prior to issuance of building permits and prior to combustible construction occurring.

### **7.1.2 Road Widths**

- All on-site roads will be constructed to current County of San Diego Consolidated Fire Code and EFD Road standards, including minimum 12-foot travel lane widths unobstructed by parking (503.2.1), and shall be improved with asphalt paving materials.
- All streets within the project, public and private, include on-street parking when there is at least 36 feet of paved road width. Parking will be restricted along red curb painted fire lanes and by posting of signs stating “No Parking; Fire Lane” correctly marked per the California Vehicle code to preserve the unobstructed width for emergency response. The signs shall include language identifying the towing company and their phone number enabling legal enforcement of the no parking areas.
- Turnouts along the secondary access road (northwestern road) will be provided to EFD’s requirements regarding spacing, taper and length.

### **7.1.3 Road Surface**

All fire access and vehicle roadways will be of asphaltic concrete, except as noted for grades exceeding 15%, and designed and maintained to support the imposed loads of fire apparatus (not less than 75,000 pounds) that may respond, including Type I engines, Type III engines, and ladder trucks. Access roads shall be completed and paved prior to issuance of building permits and prior to combustible construction occurring. The project HOA will be a funded entity provided the responsibility to maintain roads so that they meet City of Escondido and EFD requirements.

### **7.1.4 Interior Circulation Roads**

- Interior circulation roads include all roadways that are considered common or primary roadways for traffic flow through the site and for fire department access and serving in excess of two structures. Any dead-end roads serving new buildings that are longer than 150 feet shall have approved provisions for fire apparatus turnaround in accordance with EFD standards at the time of approval. EFD’s Fire Marshal shall establish a policy identifying acceptable turnarounds for various Project product types.

## **Fire Protection Plan Safari Highlands Ranch**

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- Fire apparatus turnarounds to include turning radius of a minimum 28 feet, measured to inside edge of improved width, per Consolidated Fire Code.
- Minimum paved radius width for a project cul-de-sac is 38 feet. Cul-de-sac bulbs will have signs posted “No Parking; Fire Lane.” Cul-de-sacs shall have a red painted curb with white letters “No Parking Fire Lane”.
- Cul-de-sac bulbs are required on dead-end roads in residential areas where roadways serve more than two residences.
- Roadways and/or driveways shall provide fire department access to within 150 feet of all portions of the exterior walls of the first floor of the structures (all structures are fire sprinklered).
- Traffic calming devices (including, but not limited to, speed bumps, speed humps, speed control dips, etc.) shall be prohibited unless approved by the fire code official (Sec. 503.4.1 Traffic calming devices).
- Vertical clearance along roadways is required to be 13.5 feet. Proper maintenance is required to ensure that vegetation and trees on roadsides do not grow over or into the roadway and impede emergency apparatus access. No mature tree trunks or branches shall intrude into the road. The type of vegetation shall be fire resistant and comply with this plan. The gate house height will be posted on the roadway indicating a minimum 13.5 foot clearance.
- Interior circulation roads shall maintain a 20 to 50 feet buffer along either side where fuel modification/reduction is completed twice per year as is according to specifications provided in this FPP.
- Angle of approach/departure shall not exceed 7 degrees (12%) (County Consolidated Fire Code, Section 503.2.7), unless mitigated to approval by the Fire Chief. The gradient for a fire apparatus access roadway shall not exceed 15.0%. The fire code official may allow roadway grades up to 20.0% provided that the roadway surface conforms to section 503.2.3. The fire code official may require additional mitigation measures where it is deemed appropriate.

### **7.1.5 Gates**

- All automatic gates shall be equipped with a Knox, emergency key-operated switch overriding all command functions and opening the gate(s). Automatic gates accessing through the main access and /emergency access roadways shall be equipped with approved emergency traffic control-activating strobe light sensor(s) which will activate the gate from both directions of travel on the approach of emergency apparatus. The automatic gate will have a battery back-up or manual mechanical disconnect in case of a

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power failure. The gate(s) will include a magnetic or pressure activated switch for automatically opening the gate from the interior of the project for resident egress.

- Pole gates or other structures or devices which could obstruct fire access roadways or otherwise hinder emergency operations shall be equipped with an approved, Knox padlock.

### **7.1.6 Driveways**

Any new structure that is 150 feet or more from a fire apparatus access road shall have a paved driveway meeting the following specifications:

- Grades shall be less than 15%. If over 15%, they require Portland cement base with heavy broom finish and in no case can they exceed 20%.
- Approved fire apparatus turnouts will be provided every 400 feet if driveway is over 800 feet long.
- A residential driveway constructed of 3½" Portland cement concrete may be installed on any slope up to 20% provided that slopes over 15% have a deep broom finish perpendicular to the direction of travel or other approved surface to enhance traction. Driveway gates shall comply with Section 7.1.3.
- Driveway aprons will meet the code standard with a 28 degree inside turning radius.

### **7.1.7 Premises Identification**

Identification of roads and structures will comply with the Consolidated Fire Code, Sections 503.3 and 505, as follows:

- Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations, plainly visible and legible from the street or roadway fronting the property when approaching from either direction. Address numbers on new construction shall be automatically illuminated by low voltage lighting. The numbers shall contrast with their background and shall meet the following minimum size standards: 4" high with a ½" stroke for residential buildings, 6" high with a ½" stroke for commercial and multi-residential buildings and 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the fire code official, such as rear access doors, building corners and entrances to commercial centers. The fire code official may establish different minimum sizes for numbers for various categories of projects (Sec. 505.1 Address numbers).

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- Multiple structures located off common driveways will include posting structure identification on structures, on the entrance to individual driveways, and at the entrance to the common driveway.
- If the structure is 100 feet from the roadway, structure identification should also be located at the entrance to the driveway.

### **7.1.8 Response Map Updates**

Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, are required to provide map updates to the City of Escondido. The applicant will provide a copy of building plans in Geo-Referenced format to be used by fire department for pre-fire planning purposes and for update of applicable incident response maps. Information shall specifically include a site plan and building plan showing locations of utility shut-offs, fire sprinkler risers and shut-off valves, the fire department connection for fire protection sprinkler system, fire alarm panels, fire hydrants, fire department connection standpipe, and Knox box . The map update information shall be provided in City-approved coordinate system.

## **7.2 Structures**

### **7.2.1 Ignition-Resistant Structural Requirements**

This section outlines ignition-resistant construction (for all structures) that will meet the requirements of the EFD Fire Code. The following construction practices respond to the requirements of the 2016 California Fire Code, the 2016 California Building Code (CBC), the California Code of regulations, Title 14, and the 2014 San Diego County Consolidated Fire Code (SDCCFC) as amended. These requirements include the ignition -resistant requirements found in Chapter 7A of the CBC and County Building Code. While these standards will provide a high level of protection to structures in this development, there is no guarantee of assurance that compliance with these standards will prevent damage or destruction of structures by fire in all cases.

### **7.2.2 Structure Setbacks**

Structure setbacks are required in some jurisdictions, including Rincon Del Diablo (SDCCFC Section 4907.1.3 Structure Setback from Slope). Single-story structures shall be setback a minimum of 15 feet horizontally from top of slope to the farthest projection from a roof. A single-story structure shall be less than 12 feet above grade. A two-story structure shall be setback a minimum of 30 feet horizontally from top of slope to the farthest projection for a roof. Structures greater than two stories may require a greater setback when the slope is greater than 2 to 1. A total

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of up to 14 lots (worst case) may not be able to provide a full 30 feet of structure setback. For these lots, a single story structure can be provided if 15 feet of setback is available. For a two story structure to be constructed on these lots, mitigation through alternative materials and methods, as described further in Section 6.0 will be required. The intent of the code is to set back structures from vegetative fuel covered slopes. Some of the identified lots where the setbacks cannot be fully provided are adjacent internal slopes that will be landscaped and managed. These lots are not proposed to receive heat deflecting walls. The heat deflecting view wall potential locations (subject to further study and EFD approval) are depicted in (Appendix D).

### 7.2.3 Additional Requirements and Recommendations Based on Occupancy Type

All retail, commercial, and office buildings will comply with appropriate building codes.

## 7.3 Fire Protection Systems

### 7.3.1 Water

Water service for the Safari Highlands Ranch project will be provided by the City of Escondido Water Division (EWD) and will be consistent with EFD requirements (Section 507.2/507.3) for a residential development within a VHFHSZ area. Water utilities will include a connection to the City of Escondido water system, pumps to boost water, water storage tank, backup power, and an internal water distribution system that will use both pumps, reducing stations, and gravity feed. The City's water service area requires new development to meet a 2,500 gpm fire flow which can be supplied from two or more fire hydrants. The pressures in the Proposed Project site will remain above 20 psi for a minimum duration of two hours when meeting the fire requirements for the City's water service area and EFD fire flows. Fire hydrants will be operable prior to combustible lumber being dropped on site.

### 7.3.2 Hydrants

Hydrants shall be located along fire access roadways as determined by the EFD Fire Marshal to meet operational needs, at intersections, at the beginning radius of cul-de-sacs, and at a code exceeding 500 feet (on-center) spacing of fire access roadways, pursuant to the City of Escondido Fire Code (Ordinance No. 2016-116, 1-4; Section 507.5.1.1). Hydrants will be consistent with EFD Design Standards as follows:

- **Required installations.** The location, type and number of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public or private street, or on the site of the premises to be protected or both. Fire hydrants shall

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be accessible to the fire department apparatus by roads meeting the requirements of section 503 of the CFC. Fire service laterals, valves, backflow preventers, and meters will be installed on site as required by the EWD. All fire department connections shall be installed in accordance with mounting requirements as specified by the EFD Fire Marshal. The northwestern emergency secondary access road will be provided two water tanks (10,000 gallons each) at locations approved by the EFD and fitted with connections compatible with EFD requirements. The water tanks will be independent, truck filled, secured to prevent water theft, and monitored at least annually. The tanks will be maintained by an independent contractor through the HOA.

- ***Location of fire hydrants.*** Hydrants will be in place and serviceable prior to delivery of combustible materials to the site. Fire hydrants shall be located according to engineering standards and as required by the fire code official using the following criteria and taking into consideration departmental operational needs. Fire hydrants will be every 1,000 feet apart along Safari Highlands Ranch Road. Hydrants within Project neighborhoods shall be 500 feet apart. Prior to the issuance of building permits, the applicant shall submit to EFD plans demonstrating a water system capable of handling the fire flow requirements.
- ***Fire hydrant construction and configuration.*** All fire hydrants shall be of bronze construction, including all internal parts except seats. Alternative materials may be used if approved by EFD's Fire Marshal and EWD. The stems shall be designed and installed in a manner that will ensure that they will not be projected outward from the main body by internal water pressure due to disassembly. The number and size of fire hydrant outlets shall be at a minimum one 4-inch port and two, 2 1/2-inch ports.
- ***Signing of water sources and fire department connections.*** Fire hydrants shall be identified by a reflectorized blue marker and fire department connections shall be identified by a reflectorized green marker, with a minimum dimension of 3 inches, in the center of the travel lane adjacent the water source (SDCCFC Sec. 507.5.7.1). Crash posts will be provided where needed in on-site areas where vehicles could strike fire hydrants and will be consistent with Section 312 of the CFC.
- ***Vegetation Clearance.*** A three-foot clear space (free of ornamental landscaping and retaining walls) shall be maintained around the circumference of all fire hydrants.

### 7.3.3 Fire Sprinklers

All structures will be provided interior fire sprinklers. Automatic internal fire sprinklers shall be in accordance with National Fire Protection Association (NFPA) 13 or 13-D and City of Escondido installation requirements as appropriate. Actual system design is subject to final building design and the occupancy types in the structure.

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### 7.3.4 Smoke Alarm Systems

All residential units shall have electric-powered, hard-wired smoke detectors in compliance with County of San Diego Consolidated Fire Code. Hard-wired smoke alarms are to be equipped with battery backup.

### 7.4 Defensible Space/Fuel Modification Zones

An important component of a fire protection system is the fuel modification area. Fuel modification zones (FMZ) are designed to gradually reduce fire intensity and flame lengths from advancing fire by placing thinning zones, restricted vegetation zones, and irrigated zones adjacent to each other on the perimeter of all structures and adjacent open space areas. Therefore, the fuel modification area is an important part of the fire protection system designed for this site.

Predicted flame lengths vary on the site-adjacent slopes which will be directly adjacent the provided fuel modification zones. The zones are customized for the site based on slope and vegetation characteristics as well as resulting fire behavior modeling exercises. These variations were analyzed as were the site's specific features and conditions which complement and augment the proposed fuel modification areas. Fire behavior modeling, as previously described, was used to predict flame lengths and was not intended to determine sufficient fuel modification zone widths. However, the results of the modeling do provide important information which is a key element for determining distances for minimizing structure ignition and providing "defensible space" for firefighters.

The significance of the Project's FMZ's cannot be understated. Based on scientifically modeled fire behavior calculations customized for the site, flame lengths under the most extreme fire weather conditions within the WUI areas could approach 65 feet in height. Under summer weather conditions, flame lengths could approach 33 feet in height along the southern and western edges of the Proposed Project site. Therefore, an appropriate FMZ would likely be roughly 100 feet under summer conditions and 150 feet wide under extreme weather conditions. Thus, providing enough set-back from flammable fuels and providing "defensible" space for firefighters in which they can work. For this project, as indicated in Appendix D, the FMZs are at least three times wide as the modeled flame lengths in each of the fuel types represented on site, resulting in fuel modification areas that exceed the standard 100 foot wide requirement. For the entire eastern and northern portions of the project, they are 200 feet, a 100% increase over the standard.

#### 7.4.1 Project Fuel Modification Zone Standards

Fuel modification zones will be implemented according to the following requirements. These zones are presented graphically in Appendices D-1 through D-4. In addition, a Prohibited Plant

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List is provided in Appendix E. Each zone would include permanent field markers to delineate the zones, aiding ongoing maintenance activities that will occur on site. The project would also hire a qualified EFD-approved 3<sup>rd</sup> party fuel modification zone inspector to provide inspections twice annually, as detailed in the following sections.

### **7.4.1.1 Zone 1 – Irrigated Structure Setback Zone (75 to 100 feet wide)**

Zone 1 is applicable site wide for every structure. All fuel modification will be provided within the project boundaries so there will be no off-site FMZ areas. The fuel modification zones start at the structures (rear wall) and extend outward. All developed landscape areas internal to the project will be to Zone 1 conditions. The standard Zone 1 will be a minimum 75 feet wide starting at the structure and moving outward (100 feet for the north and east sides of the project). All flammable native vegetation shall be removed. Single trees, ornamental shrubbery or cultivated ground covers may be permitted provided they are maintained in a manner that they do not readily transmit fire to the structure and meet the requirements herein. This zone will be planted with drought-tolerant, less flammable plants from the proposed Project Plant Palette (Appendix F) and an automatic irrigation system will be installed in this area to maintain hydrated plants without over-watering, allowing for run-off, or attracting nuisance pests. There will be no inclusion of non-fire resistive trees in the project's interior landscapes or perimeter fuel modification zones.

Zone 1 includes the following key components:

1. Minimum of 75 feet wide;
2. Automatic irrigation system to maintain hydrated plants without over-watering or attracting nuisance pests;
3. High-leaf-moisture plants as ground cover, less than 4 inches high;
4. Shrubs are prohibited beneath tree crowns.
5. No trees within 10 feet of structures (drip line of mature trees shall be maintained 10 feet from structures);
6. Tree spacing of a minimum 10 feet between canopies or as specified in Table 7;
7. No tree limb encroachment within 10 feet of a structure or chimney, including outside barbecues or fireplaces;
8. Tree maintenance includes limbing-up (canopy raising) 6 feet or one-third the height of mature tree;



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9. Maintenance including ongoing removal and/or thinning of undesirable combustible vegetation, replacement of dead/dying plantings, maintenance of the programming and functionality of the irrigation system, regular trimming to prevent ladder fuels;
10. A minimum of 60 inches of horizontal clearance and unlimited vertical clearance around the exterior of the structure (360°) provided for firefighter access. Within this clearance area, landscape such as low ground covers and shrubs are permitted so long as their placement and mature height do not impede firefighter access, consistent with purpose of this guideline;
11. No combustible construction (structures) allowed in Zone 1 – HOA responsible for confirming that these conditions are met;
12. No permanent or portable fire pits, fire places, or flame generating devices that burn wood allowed within Zone 1 or within 10 feet of vegetation – HOA responsible for confirming that these conditions are met;
13. Trees and tree form shrub species that naturally grow to heights that exceed 2 feet shall be vertically pruned to prevent ladder fuels;
14. Grasses shall be cut to 4 inches in height. Native grasses can be cut after going to seed;
15. Ground covers within first 5 feet from structure restricted to non-flammable materials such as stone, rock, concrete, bare soil, or other; and
16. Vegetation/Landscape Plan prepared and submitted to EFD in compliance with this plan.

### **7.4.1.2 Zone 2 – Thinning Zone (75 to 100 feet wide)**

A thinning zone reduces the fuel load of a wildland area adjacent to Zone 1, and thereby, reduces heat and ember production from wildland fires, slows fire spread, and reduces fire intensity. Zone 2 adjoins Zone 1 and measures 75 or 100 feet in most areas with some slight variation in width, depending on available distance to property line. Along the northern and eastern sides of the project, where effects of a Santa Ana wind driven wildfire would be greatest, a full 100 feet of Zone 2 will be provided.

Zone 2 includes the following key components:

1. Zone 2 requires a minimum of 50% thinning or removal of plants (50% no fuel);
2. Grasses shall be cut to 4 inches in height. Native grasses can be cut after going to seed;
3. Ground cover less than 6 inches high;
4. No trees, except coast live oak (*Quercus agrifolia*), or Engelmann oak (*Quercus engelmannii*);

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5. Trees and tree-form shrub species that naturally grow to heights that exceed 4 feet shall be vertically pruned to prevent ladder fuels;
6. No shrubs, except single-specimen native shrubs, exclusive of sage scrub, 20 feet on center;
7. Maintenance including ongoing removal and thinning of dead/dying planting, and regular trimming to prevent ladder fuels;
8. Plant species introduced into Zone 2 shall not include prohibited or highly flammable species;
9. No vegetation found on the Prohibited Plant List (Appendix E) shall be planted or remain in any Fuel Modification Zone.

### **7.4.2 Other Vegetation Management**

#### **7.4.2.1 Roadside Fuel Modification Zones**

As required under SDCCFC, an area of 20 feet from each side of fire apparatus access roads within most neighborhoods shall be improved to Zone 1 standards described above and maintained clear of all but fire-resistive vegetation. Safari Highlands Ranch Road, the primary access backbone road will have an area of 50 feet of fuel modification on each side. The roadside fuel modification zones will consist of 20 feet of Zone 1 and 30 feet of Zone 2 or a 50-foot wide Zone 1. Both emergency access roadways will have 10 feet of thinned vegetation (Zone 2) adjacent to both sides of the road. These areas shall be maintained by the HOA. Vertical clearance of 13 feet 6 inches shall also be maintained along fire apparatus access roads.

#### **7.4.2.2 Tree Planting and Maintenance Standards**

Trees may be planted within the Proposed Project site as long as they conform to the SDCCFC, Section 4907.3.1. Trees (EFD has adopted the County standard). On the Project site, tree planting in the park and maintenance areas as well as along roadways is acceptable, as long as they meet the following restrictions as described below:

- For streetscape plantings, fire resistive trees can be planted 10 feet from edge of curb to center of tree trunk. Care should be given to the type of tree selected, that it will not encroach into the roadway, or produce a closed canopy effect.
- Crowns of trees located within a FMZ shall maintain a minimum horizontal clearance of 10 feet for fire resistant trees. Mature trees shall be pruned to remove limbs one-third the height or 6 feet, whichever is less, above the ground surface adjacent to the trees.
- Dead wood and litter shall be regularly removed from trees.
- Ornamental trees shall be limited to groupings of 2–3 trees with canopies for each grouping separated horizontally as described in Table 7.

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**Table 7**  
**Distance Between Tree Canopies by Percent Slope**

Percent of Slope	Required Distances Between Edge of Mature Tree Canopies (1)
0–20	10 feet
21–40	20 feet
41+	30 feet

<sup>1</sup> Determined from canopy dimensions as described in Sunset Western Garden Book (Current Edition)

<sup>2</sup> 2014 CFC Section 4907.3.1. Trees, County of San Diego.

### **7.4.2.3 Trail Vegetation Management**

Trails include the community pathways that are all accessible from public roads and the network of open space trails, interconnecting the community. Trail maintenance shall occur on the trails to remove flashy fuels and maintain the trail in a useable, low fuel condition. The community pathways will be accessible by emergency all-terrain vehicles, such as “UTVs” accessed at numerous locations within the community. The open space trail network will be accessible from the Proposed Project via trail access points and trails that will be wide enough for emergency UTV/ATV access.

### **7.4.2.4 Environmentally Sensitive/Riparian Areas**

Once the FMZs are in place, there will not be a need to expand them as they have been planned to meet the fire code. However, if unforeseen circumstances were to arise that required hazard reduction within an area considered environmentally sensitive or part of the Multispecies Conservation Plan, it may require approval from the City or County and the appropriate resource agencies (California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers) prior to any vegetation management activities occurring within those areas.

### **7.4.2.5 Pre-Construction Structure Locations**

1. Vegetation management on structure location will not be required until construction begins, unless it is located within the fuel modification zone of a structure under construction or completed.
2. Prior to issuance of a permit for any construction, grading, trenching, or installation of fences, the outermost 50 feet of each structure location (building pad) is to be maintained as a Vegetation Management Zone. This entails removal of vegetation as needed.
3. The remainder of the Vegetation Management Zones required for the particular lot shall be installed and maintained prior to combustible materials being brought onto any lot under construction.

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4. Existing flammable vegetation shall be reduced by 100% on vacant lots upon commencement of construction.
5. Dead fuel, ladder fuel (fuel which can spread fire from ground to trees), and downed fuel shall be removed and trees/shrubs shall be properly limbed, pruned, and spaced per this plan.

### **7.4.3 Undesirable Plants**

Certain plants are considered to be undesirable in the landscape due to characteristics that make them highly flammable. These characteristics can be physical or chemical. The plants included in the Prohibited Plant List (Appendix E) are unacceptable from a fire safety standpoint, and will not be planted on the site or allowed to establish opportunistically within the fuel modification zones or landscaped park and maintenance areas.

### **7.4.4 Fuel Modification Area Vegetation Maintenance**

All fuel modification area vegetation management shall occur as-needed for fire safety, compliance with the FMZ requirements detailed in this FPP, and as determined by the EFD. The Project HOA or other established funding and management entity for each development area or neighborhood if separate, shall be responsible for all vegetation management throughout the respective project sites, in compliance with the requirements detailed herein and FAHJ requirements. The HOA(s) shall be responsible for ensuring long-term funding and ongoing compliance with all provisions of this FPP, including vegetation planting, fuel modification, vegetation management, and maintenance requirements throughout the Safari Highlands Ranch project.

### **7.4.5 Annual FMZ Compliance Inspection**

The Project HOA shall obtain an FMZ inspection and report from a qualified EFD-approved 3rd party inspector in May and September of each year certifying that vegetation management activities throughout the project site have been performed pursuant to this FPP. This inspection report and certification of compliance with the FPP shall be provided to EFD annually by June 1st and October 1st.

### **7.4.6 Construction Phase Vegetation Management**

Vegetation management requirements shall be implemented at commencement and throughout the construction phase. Vegetation management shall be performed pursuant to this FPP and EFD requirements on all building locations prior to the start of work and prior to any import of

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combustible construction materials. Adequate fuel breaks shall be created around all grading, site work, and other construction activities in areas where there is flammable vegetation.

In addition to the requirements outlined above, the project will comply with the following important risk-reducing vegetation management guidelines:

- All new power lines shall be underground for fire safety during high wind conditions or during fires on a right-of-way that can expose aboveground power lines. Temporary construction power lines may be allowed in areas that have been cleared of combustible vegetation.
- A construction fire prevention plan shall be prepared to minimize the likelihood of ignitions and pre-plan the site's fire prevention, protection and response plan.
- Caution must be used not to cause erosion or ground (including slope) instability or water runoff due to vegetation removal, vegetation management, maintenance, landscaping, or irrigation.

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### **8 ALTERNATIVE MATERIALS AND METHODS FOR NON-CONFORMING TOP OF SLOPE SETBACKS**

There are up to 14 lots that cannot provide a full 30 feet of setback from top of slope for two story homes (Appendix D). Single story homes may be constructed on these lots provided that 15 feet of setback is available with no additional measures provided. Some of these lots are adjacent to internal slopes and as those slopes may be landscaped and maintained absent of native fuels, they will not be provided heat deflecting walls. Further analysis of which homes will be adjacent slopes with native, more flammable fuels will be provided to determine which will be subject to the heat deflecting walls. As such, this FPP incorporates additional analysis and measures that will be implemented to compensate for potential fire related threats to these lots. These measures are customized for this site based on the analysis results and focus on providing functional equivalency as a full fuel modification zone.

The maximum number of 14 lots that cannot provide a full 30 feet setback from the top of slope are being protected through a combination of extended fuel modification zone (up to 200 feet) and will also be provided heat deflecting walls/view walls if two story structures are planned. No additional mitigation measures are required if single story residences are built.

Research has indicated that the closer a fire is to a structure, the higher the level of heat exposure (Cohen 2000). However, studies indicate that given certain assumptions (e.g., 10 meters of low fuel landscape, no open windows), wildfire does not spread to homes unless the fuel and heat requirements (of the home) are sufficient for ignition and continued combustion (Cohen 1995, Alexander et al. 1998). Construction materials and methods can prevent or minimize ignitions. Similar case studies indicate that with nonflammable roofs and vegetation modification from 10–18 meters (roughly 32–60 feet) in southern California fires, 85–95% of the homes survived (Howard et al. 1973, Foote and Gilless 1996). Similarly, San Diego County after fire assessments indicate strongly that the building codes are working in preventing home loss: of 15,000 structures within the 2003 fire perimeter, 17% (1,050) were damaged or destroyed. However, of the 400 structures built to the 2001 codes (the most recent at the time), only 4% (16) were damaged or destroyed. Further, of the 8,300 homes that were within the 2007 fire perimeter, 17% were damaged or destroyed. A much smaller percentage (3%) of the 789 homes that were built to 2001 codes were impacted and an even smaller percentage (2%) of the 1,218 structures built to the 2004 Codes were impacted (IBHS 2008). Damage to the structures built to the latest codes is likely from flammable landscape plantings or objects next to structures or open windows or doors (Hunter 2008).

These results support Cohen's (2000) findings that if a community's homes have a sufficiently low home ignitability (i.e., 2014 San Diego County Consolidated Code and 2016 California Building Code), the community can survive exposure to wildfire without major fire destruction.

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This provides the option of mitigating the wildland fire threat to homes/structures at the residential location without extensive wildland fuel reduction. Cohen's (1995) studies suggest, as a rule-of-thumb, larger flame lengths and widths require wider fuel modification zones to reduce structure ignition. For example, valid SIAM results indicate that a 20-foot high flame has minimal radiant heat to ignite a structure (bare wood) beyond 33 feet (horizontal distance). Whereas, a 70-foot high flame may require about 130 feet of clearance to prevent structure ignitions from radiant heat (Cohen and Butler 1996). This study utilized bare wood, which is more combustible than the ignition resistant exterior walls for structures built today.

Obstacles, including steep terrain and non-combustible walls can block or deflect all or part of the radiation and heat, thus making narrower fuel modification distances possible. Fire behavior modeling conducted for this project indicates that fires in the off-site areas would result in roughly 33-foot flame lengths under summer conditions. Extreme conditions may result in longer flame lengths, approaching 65 feet.

As indicated in this report, the FMZs and additional fire protection measures proposed for this project provide equivalent wildfire buffer. They are based on a variety of analysis criteria including predicted flame length, fire intensity (Btu), site topography and vegetation, extreme and typical weather, position of structures on pads, position of roadways, adjacent fuels, fire history, current vs. proposed land use, neighboring communities relative to the proposed project, and type of construction. The fire intensity research conducted by Cohen (1995), Cohen and Butler (1996), and Cohen and Saveland (1997) and Tran et al. (1992) supports the structure setback alternatives proposed for this project.

### **8.1 Heat Deflecting Walls**

The project's slopes in the areas of concern along with the elevated lots/pads adjacent, provide an opportunity to place a non-combustible, six foot tall, heat-deflecting wall (lower 1 to 2 feet block wall and upper 4 to 5 feet dual pane, one pane tempered glazing) to provide additional deflection for these lots to compensate for top of slope setbacks.

When buildings are set back from slopes, and a wall is placed at the top of slope, flames spreading up those slopes are deflected vertically and over the structure where cooling occurs, reducing the effects of convective heat on the structure. If a structure cannot be setback adequately, or where the slope is less than 30%, a noncombustible wall can help deflect the flames from the structure (NFPA 2005). The duration of radiant heat impact on the downhill facing side of the house is also reduced. An imaginary line extended along the slope depicts the path of the heat (hot air rises) and flame. The structure set back is important to avoid heat and/or flame intersection with the structure.

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Heat-deflecting landscape view walls of masonry construction with fire-rated glazing that are six feet in height (roughly lower two feet masonry construction and upper four feet dual pane, one pane tempered glazing or equivalent and meeting Chapter 7A and/or EFD approval) will be incorporated at top of slope/edge of lot for lots where a full 30 feet of structure setback for the second story is not possible (Typical example illustrated in Figure 6). The landscape walls provide a vertical, non-combustible surface in the line of heat, fumes, and flame travel up the slope. Once these fire byproducts intersect the wall, they are deflected upward or, in the case where lighter fuels are encountered, they are quickly consumed, heat and flame are absorbed or deflected by the wall, and the fuels burn peaks out within a short (30 second–2 minute) time frame (Quarles and Beall 2002). Walls like these have proven to deflect heat and airborne embers on numerous wildfires in San Diego, Orange, Los Angeles, Ventura, and Santa Barbara County. Rancho Santa Fe Fire Protection District, Laguna Beach Fire Protection District, Orange County Fire Authority, and others utilize these walls as Alternative methods based on observed performance during wildfires. This has led to these agencies approving use of non-combustible landscape walls as mitigations for reduced setbacks at top of slope. These walls are consistent with NFPA 1144 Standard for Reducing Structure Ignition Hazards from Wildland Fire – 2008 Edition, Section 5.1.3.3 and A.5.1.3.3 and International Urban Wildland Interface Code (ICC 2012). NFPA 1144, A.5.1.3.3 states: “Noncombustible walls and barriers are effective for deflecting radiant heat and windblown embers from structures.”



**Figure 6. Example of Heat Deflecting Wall**

## 8.2 Additional Structure Protection Measures

The following additional measures will be implemented to “mitigate” potential structure fire exposure related to the provided FMZs and top of slope structure setbacks on this project. These measures are customized for this site, its unique topographical and vegetative conditions, and focus on providing functional equivalency for structure setbacks. In order to provide compensating structural protection in the absence of a full FMZ, and in addition to all residences being built to the latest ignition resistant codes, the structures exposed to the preserved biological riparian woodlands will receive varying degrees of additional measures.

### 8.2.1 Additional Project Fire Protection Measures

- Any additional structure or landscape item (in addition to the residence) in the designated Fuel Modification Zone areas must be constructed from non-combustible materials such as stone, steel, or heavy timber/pre-treated, fire retardant wood. HOA must enforce as part of the CC&Rs, a landscape plan review process for a formal landscape improvement



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plan submittal and approval by a licensed landscape architect to ensure that plant palette and non-combustible materials are employed within the designated Fuel Modification Zones and private lot landscaping.

- Fuel modification for common area lots will be pre-designed and installed by the project developer. For private lots, landscape plans for front, side, and rear yards for the entire project will need to be approved by the HOA landscape committee and EFD through a formal process prior to any landscape improvement work by a homeowner.
- Designated Fuel Modification Zones that include rear and side-yard areas (outside house setback envelopes) will be inspected annually by the landscape committee and/or Escondido Fire Department or a third party inspector for conformance with the requirements provided in the project's Fire Protection Plan. Inspections will include common lots and the contractor will work with the HOA to provide compliance and a report to the EFD. CC&R's shall include this language so that homeowners acknowledge this provision.
- The 3rd party fuel modification zone inspector will be tasked with at least annually providing evaluation of the northern emergency access road water tank levels.
- All structures will be built to the Chapter 7A ignition resistant standards and will be provided interior sprinklers, to code.
- Structure eaves will be closed when facing wildland fuels, per code.
- External dryer vents will be baffled or fitted with ember resistant mesh.
- Exposed wood, including fascia and architectural trim boards, will not be allowed on the side of structures facing the wildland fuels unless considered "heavy timber" or beams with a minimum nominal dimension of 4 inches.
- No combustible fences or gates will be allowed attached to dwellings, the first five feet from the structure will be non-combustible. Fences using fire retardant treated wood products or other materials to meet this requirement will be subject to approval of the EFD.
- The project proponent will provide an emergency equipped UTV vehicle equipped with a patient gurney and other EFD requested equipment (specifications to be determined in a fire service agreement) for use on the trails and community pathways.

It is understood that the EFD may require additional measures based on a structure's proximity to fuels and the fuel loads represented by those areas. This FPP is provided to assist the EFD with determinations of any additional measures. The information provided herein supports the ability of the proposed structures and FMZs to withstand the predicted short duration, low to moderate intensity wildfire and ember shower that would be expected from wildfire burning in the vicinity of the site or within the site's landscape.

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### 9 EMERGENCY PRE-PLANNING - EVACUATION

#### 9.1 Quick Reference - Wildland Fire Evacuation Plan

Evacuation is a process by which people are moved from a place where there is immediate or anticipated danger, to a safer place, and offered temporary shelter facilities. When the threat passes, evacuees are able to return to their normal activities, or to make suitable alternative arrangements.

Figure 7 indicates the Emergency Evacuation Routes available to the Safari Highlands Ranch Community. The exhibit highlights the community's backbone interior roads along with primary access points and off-site roads and major traffic corridors leading to designated evacuation areas.

The available evacuation routes for the residents and guests of Safari Highlands Ranch are (Figure 7):

1. **Egress to the west and south via Rockwood Road** – This is the primary Safari Highlands Ranch access road and interconnects with Cloverdale Road to the West. Cloverdale Road north is a dead end. Cloverdale Road south offers travel options to SR-78 east or west, or continuing south to San Pasqual Road which intersects Bear Valley Parkway to the south and west and into Escondido.
2. **Egress to the south and west on Zoo Road** - this gated secondary access road provides a route to Old Battlefield Road (gated road into existing Eagle Crest Golf Course community), which connects into Rockwood Road and then to the south and west as described above. Zoo Road continues south past Old Battlefield Road to SR-78, from which point, travel to the east or west is possible.
3. **Egress to the west via north emergency secondary egress route** – this gated emergency only secondary access road interconnects with Meadow Creek Lane to the west which then intersects Hidden Trails Road, which offers travel to the S6 (Valley Parkway/Valley Center Road) or continued travel to the west into urban areas of Escondido. *Travel to the west along this emergency secondary egress may be directed by law enforcement. However, residents are not advised to utilize this route without law enforcement direction because it is a gated road and should not be assumed passable.*

This evacuation plan has been prepared specifically for the Safari Highlands Ranch and focuses on wildland fire evacuations, although many of the concepts and protocols will be applicable to other emergency situations. Ultimately, this plan will be used by the Safari

Highlands Ranch Homeowner's Association to educate community residents as to their evacuation approach during wildfires and other similar emergencies.

## **Fire Protection Plan Safari Highlands Ranch**

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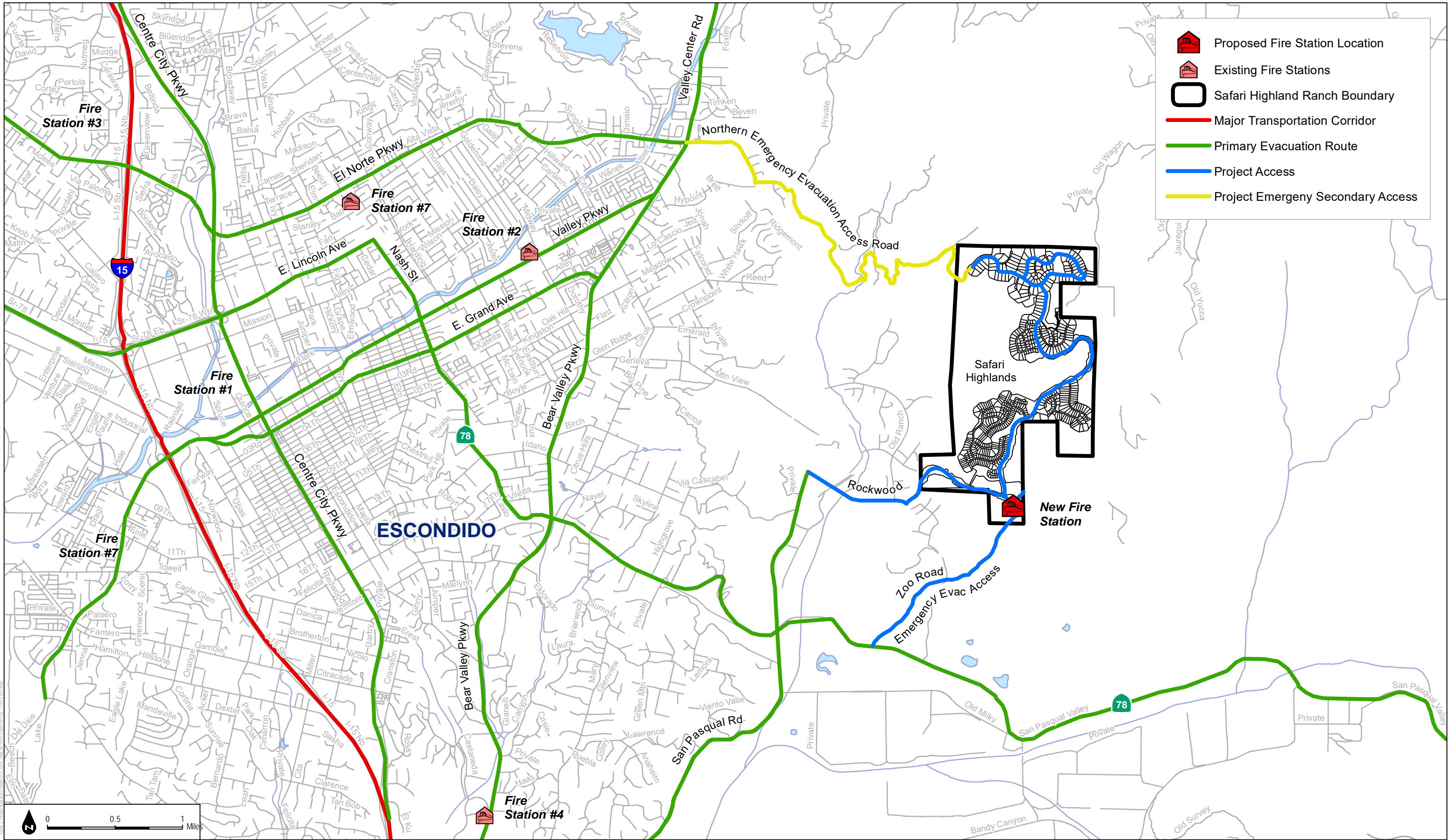
It is recognized that wildfire and other emergencies are often fluid events and that the need for evacuations are typically determined by 1) on-scene first responders, 2) a collaboration between first responders, law enforcement, and designated emergency response teams, including Office of Emergency Services and the Incident Command established for larger emergency events. As such, and consistent with all emergency evacuation plans, this Emergency Evacuation plan is to be considered a tool that supports existing pre-plans, as available for the area, and provides for citizens who are familiar with the evacuation protocol, but is subservient to emergency event-specific directives provided by agencies managing the event.








This Emergency Evacuation Plan will be reviewed by Escondido Fire Department, San Diego County Fire Authority, and San Diego County Sheriff's Department. Provided input and edits will be integrated resulting in a coordinated effort and collaborative plan.

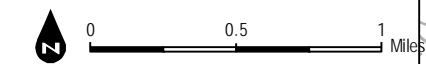
### **9.2 Background**

This Safari Highlands Ranch Evacuation Plan has been prepared based on the Unified San Diego County Emergency Services Organization and County of San Diego Operational Area Emergency Operations Plan (EOP) – Evacuation Annex. In order to establish a framework for implementing well-coordinated evacuations, the County of San Diego Office of Emergency Services (OES) developed an Evacuation Annex as part of the Area EOP (San Diego County 2014). Large-scale evacuations are complex, multi-jurisdictional efforts that require coordination between many agencies and organizations. Emergency services and other public safety organizations play key roles in ensuring that an evacuation is effective, efficient, and safe.

Evacuation during a wildfire is not necessarily directed by the fire agency, except in specific areas where fire personnel may enact evacuations on-scene. The San Diego County Sheriff's Department, California Highway Patrol, and other cooperating law enforcement agencies have primary responsibility for evacuations. These agencies work closely within the Unified Incident Command System, with the County Office of Emergency Services, and responding fire department personnel who assess fire behavior and spread, which should ultimately guide evacuation decisions. To that end, EFD, County Fire, law enforcement, Public Works, Planning, Emergency Services Departments, and CalTrans, amongst others, have worked with a County Pre-Fire Mitigation Task Force to address wildland fire evacuation planning for San Diego County.



-  Proposed Fire Station Location
-  Existing Fire Stations
-  Safari Highland Ranch Boundary
-  Major Transportation Corridor
-  Primary Evacuation Route
-  Project Access
-  Project Emergency Secondary Access



SOURCE: SANDAG, 2016

**DUDEK**

Safari Highlands Ranch Fire Protection Plan

**FIGURE 7**  
Fire Evacuation Plan

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## **Fire Protection Plan Safari Highlands Ranch**

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It is important to note that every evacuation scenario will include some level of unique challenges, constraints, and fluid conditions that require interpretation, fast decision making, and alternatives. For example, one roadway incident that results in blockage of evacuating vehicles may require short-term or long-term changes to the evacuation process. Risk is considered high when evacuees are evacuating late, and fire encroachment is imminent. This hypothetical scenario highlights the importance of continuing to train responding agencies, model various scenarios, educate the public, and take a very conservative approach to evacuation decision timelines (early evacuation) as well as providing contingency plans.

Equally as important, the evacuation procedures should be regularly updated with lessons learned from actual evacuation events, as they were following the 2003, 2007 and 2014 San Diego County fires. The authors of this Evacuation Plan recommend that occasional updates are provided, especially following lessons learned from actual incidents, as new technologies become available that would aid in the evacuation process, and as changing landscapes and development patterns occur within and adjacent the Safari Highlands Ranch project that may impact how evacuation is accomplished. At the time of this plan's preparation, there was no encompassing emergency evacuation plan available for the greater region. This Safari Highlands Ranch Wildland Fire Evacuation Plan is consistent with County evacuation planning and can be integrated into a regional evacuation plan when and if the area officials and stakeholders (EFD, CAL FIRE, San Diego Fire, San Diego County Fire Authority, Office of Emergency Services, San Diego Sheriff's Department, and others) complete one.

As demonstrated during large and localized evacuations occurring throughout San Diego County over the last 15 years, an important component to successful evacuation is early assessment of the situation and early notification via managed evacuation declarations. San Diego County utilizes early warning and informational programs to help meet these important factors. Among the methods available to citizens for emergency information are radio, television, social media/internet, neighborhood patrol car PA notifications, and Reverse 911.

The Safari Highlands Ranch community residents will be strongly encouraged to register with Reverse 911, Alert San Diego, and the local Escondido Community Notification System. In addition, the community HOA will organize annual evacuation public outreach as well as maintain a fire safe page on the community Web page, including key sections of this Emergency Evacuation Plan and the FPP and links to important citizen preparedness information.

### **9.3 San Diego County Evacuation Planning Summary**

This Wildland Fire Evacuation Plan incorporates concepts and protocols practiced throughout San Diego County. The San Diego County Evacuation Annex (2014) follows basic protocols set

## **Fire Protection Plan Safari Highlands Ranch**

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forth in the County's Operation Area Emergency Operations Plan and the California Master Mutual Aid Agreement, which dictate who is responsible for an evacuation effort and how regional resources will be requested and coordinated.

First responders are responsible for determining initial protective actions before EOCs and emergency management personnel have an opportunity to convene and gain situational awareness. Initial protective actions are communicated to local EOCs and necessary support agencies as soon as possible to ensure an effective, coordinated evacuation.

During an evacuation effort, the designated County Evacuation Coordinator is the Sheriff, who is also the Law Enforcement Coordinator. The Evacuation Coordinator will be assisted by other law enforcement and support agencies. Law enforcement agencies, highway/road/street departments, and public and private transportation providers will conduct evacuation operations. Procurement, regulation, and allocation of resources will be accomplished by those designated. Evacuation operations will be conducted by the following agencies:

- County of San Diego Sheriff's Department
- Fire and Rescue
- County Health and Human Services Agency
- Department of Animal Services,
- Department of Planning and Land Use
- Department of Environmental Health
- Department of General Services
- Department of Public Works
- Department of Agriculture, Weights, and Measures
- Department of Parks and Recreation

The information provided in Appendix G summarizes the larger scale evacuation pre-planning undertaken by County and local agencies as well as standard evacuation pre-planning procedures and techniques including: Evacuation Objectives, Coordination Process, Response Operations, Evacuation Points and Shelters, Sheltering in Place, Evacuation Strategies, Social Aspects of Evacuation, Special Population Evacuation, Animal Evacuations, and Re-Entry Procedures.

## Fire Protection Plan Safari Highlands Ranch

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### 9.4 Safari Highlands Ranch Evacuation Road Network

Wildfire emergencies that would be most likely to include an evacuation of Safari Highlands Ranch would be large wildfires approaching from the north, northeast, or east. These fires are often wind driven and occur during declared Red Flag Warning days where low humidity and high winds facilitate fire ignition and spread. If a fire starts in the open lands to the east of the Project and is fanned by these fire weather conditions, an early evacuation of the area may occur as many as 24 or more hours prior to actual threatening conditions, depending on the location of the ignition. Fires occurring on typical weather days, even fires igniting off the local highways, have been very successfully controlled at small sizes within minutes of ignition and would not typically trigger a need to evacuate the project. Partial evacuation or temporary relocation of some neighborhoods could be an option in these cases.

If a wildfire ignited closer to the Safari Highlands Ranch community during weather that facilitates fire spread, where multiple hours are not available for evacuation, a different evacuation approach would need to be explored. It is preferred to evacuate long before a wildfire is near, and in fact, history indicates that most human fatalities from wildfires are due to late evacuations when they are overtaken on roads. Therefore, it is prudent to consider a contingency option. For example, if a wildfire is anticipated to encroach upon the community in a timeframe that is shorter than would be required to evacuate all residents, then options available to responding fire and law enforcement personnel should include 1) partial relocation where residents in perimeter homes on the north/northeast/east edge are temporarily relocated to internal areas or to the Village Core, 2) Individual neighborhood relocations where residents are temporarily relocated to the Village Core or south or east to Escondido, 3) temporary refuge where residents are instructed to remain in their homes while firefighters perform their structure protection function. This approach is consistent with San Diego County's (2014) Evacuation approach which states "*Due to the nature of the threats requiring an evacuation, there may be insufficient time to perform an early evacuation of the area and shelter-in-place instructions may need to be provided*". Although not a shelter in place community, the structures in Safari Highlands Ranch are ignition resistant, defensible and designed to require minimal resources for protection, which enables these contingency options that may not be available to other nearby communities.

The roads that will be used for ingress and egress from the Safari Highlands Ranch community are described as:

- **Rockwood Road** – providing primary access to Safari Highlands Ranch, Rockwood Road provides a 40 foot wide paved roadway with a two designated travel lanes each a minimum of 12 feet wide, a center striped median, and turn lanes. Rockwood Road intersects Cloverdale Road, a 42 foot wide paved surface with shoulders, two designated



## Fire Protection Plan Safari Highlands Ranch

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12 foot wide travel lanes and a 10 foot wide striped median that extends nearly the entire road length and will be widened for the pinch down section. At the intersection with SR-78, there are four lanes provided, a straight, right and left turn lane for southbound traffic and an ingress lane for northbound traffic. This intersection will be provided dual left turn lanes for a total of five lanes.

- **Zoo Road** – the post-project Zoo Road will be gated and will provide two 12' foot wide unobstructed travel lanes for the approximately 1.7 miles distance from the southern project entrance to SR-78. Zoo Road intersects with the gated Old Battlefield Road which provides gated access into the Eagle Crest Golf Course community. Old Battlefield Road would only be available during an evacuation if law enforcement directed that the gate be opened and traffic be directed through to Rockwood Road and out. Zoo Road continues south past Old Battlefield Road to the west of the San Diego Safari Park parking lots, where it intersects with SR-78. The gated project access will open automatically for passage to the south.
- **Northern Emergency Secondary Access** – the gated northern emergency access route will provide a minimum of two 12 foot wide paved travel routes with turnouts. The road extends 2.4 miles through wildland fuels and is considered an as-needed evacuation road that would be used for non-fire emergencies where evacuation using southern access points is not possible or for wildfire emergencies when evacuation is occurring at least two to three hours prior to wildfire threatening the site. The gated access will need to be opened for passage.

As evidenced by mass evacuations in San Diego County and elsewhere, even with roadways that are designed to the code requirements, it may not be possible, or necessary to move large numbers of persons at the same time. Road infrastructure throughout the United States, and including San Diego County is not designed to accommodate a short-notice, mass evacuation. The need for evacuation plans, pre-planning, and tiered or targeted and staggered evacuations becomes very important for improving evacuation effectiveness. Among the most important factors for successful evacuations in urban settings is control of intersections downstream of the evacuation area. If intersections are controlled by law enforcement, barricades, signal control, or other means, potential backups and slowed evacuations can be minimized. Another important aspect of successful evacuation is a managed and phased evacuation declaration. Evacuating in phases, based on vulnerability, location, or other factors, enables the subsequent traffic surges on major roadway to be smoothed over a longer time frame and can be planned to result in traffic levels that flow better than when mass evacuations include large evacuation areas at the same time. This plan defers to Law Enforcement and Office of Emergency Services to appropriately phase evacuations and to consider the vulnerability of communities when making decisions. For

## **Fire Protection Plan Safari Highlands Ranch**

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example, the Safari Highlands Ranch Community will offer its residents a high level of fire safety on site (as detailed in this Fire Protection Plan) along with options for properly equipped and trained firefighter safety zones and temporary resident on-site refuge (within their well-protected homes) as a contingency, as discussed further in this plan.

The Safari Highlands Ranch planned community interior road network and the existing regional road system that it interconnects provide multi-directional primary and secondary emergency evacuation routes consistent with, or exceeding, most communities in this area. Consistent with County of San Diego evacuation planning annex (2014), major ground transportation corridors in the area will be used as primary evacuation routes during an evacuation effort. The road systems were evaluated to determine the best routes for fire response equipment and “probable” evacuation routes for relocating people to designated safety areas. The primary roadways that would be used for evacuation from Safari Highlands Ranch are Rockwood Road, Cloverdale Road, emergency access Zoo Road, northern emergency secondary access road, Meadowcreek Lane, S. Hidden Trails Road, Valley and Parkway. These roads provide access to major traffic corridors including State Route 76 to the south, State Route 78 also to the south, and Interstate 15 to the west.

During an emergency evacuation from the Safari Highlands Ranch community, the primary and secondary roadways may be providing citizen egress while responding emergency vehicles are inbound. Because the roadways are all designed to meet or exceed Fire Code requirements, including 12- foot wide, unobstructed travel lanes, adequate parking, 28-foot inside radius, grade maximums, and signals at intersections, potential conflicts that reduce the roadway efficiency required for smooth evacuations are minimized.

The community’s primary evacuation routes are accessed through a series of internal neighborhood roadways, which intersect with the primary ingress/egress roads that intersect off-site primary and major evacuation routes. Based on the existing road network, the community can evacuate to the north (once off-site), south, east and west depending on the nature of the emergency.

Depending on the nature of the emergency requiring evacuation, it is anticipated that the majority of the community traffic would exit the project via Rockwood Road or Zoo Road. These are the most direct routes from the Village Core. The northern emergency access route may be used by the northerly neighborhoods, including E-1, E-2, R-4 and R-5, depending on the time available for evacuation and the need for additional movement via the northerly route. In a typical evacuation that allows several hours or more time (as experienced in 2003, 2007, and 2010 wildfires), all traffic may be directed to the south and out Rockwood Road and/or Zoo Road. If less time is available, fire and law enforcement officials may direct some neighborhoods, primarily E-1 and E-2, to utilize the northerly gated route

# Fire Protection Plan Safari Highlands Ranch

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## 9.4.1 Evacuation Route Determination

Fire and law enforcement official will identify evacuation points before evacuation routes are announced to the public. Evacuation routes are determined based on the location and extent of the incident and include as many pre-designated transportation routes as possible. Absent direction from fire and/or law enforcement officials, residents would be advised to use the primary access road – Rockwood Road for evacuations.

## 9.4.2 Roadway Capacities and Maximum Evacuation Time Estimate

Roadway capacity represents the maximum number of vehicles that can reasonably be accommodated on a road. Roadway capacity is typically measured in vehicles per hour and can fluctuate based on the number of available lanes, number of traffic signals, construction activity, accidents, and obstructions as well as positive effects from traffic control measures.

Each roadway classification has a different capacity based on level of service, with freeways and highways having the highest capacities. Based on traffic engineer estimates (Linscott, Law & Greenspan 2016), and using peak numbers and a conservative estimate, roads that would be the most likely available to Safari Highlands Ranch residents and their hourly capacities are:

1. **Rockwood Road** –2,600 vehicles/hour
2. **Zoo Road** - 1,900 vehicles/hour
3. **Cloverdale Road** – minimum 2,600 vehicles/hour
4. **Northerly emergency evacuation route** - 1,000 vehicles/hour

Using these averages, the length of time it will take for an area to evacuate can be determined by dividing the number of vehicles that need to evacuate by the total roadway capacity. Based on Safari Highland Ranch’s estimated 550 single family homes, and assuming 2.2 cars per household (Cal Poly San Luis Obispo 2016), during an evacuation, it is calculated that up to 1,210 vehicles could be evacuating in a major incident that required full evacuation of the community, although this is a conservative estimate as that number would likely be far lower as many families would likely drive in one vehicle versus in multiple vehicles and depending on the time of day, many of these vehicles may already be off-site, such as if a fire occurred during typical work hours.

Neighboring communities within the sphere of influence of the Safari Highlands Ranch evacuation that may be evacuating in a similar time frame, depending on the type of wildfire emergency, are the 580 unit Rancho San Pasqual community (accessed via Rockwood Road and Cloverdale Road) and

## **Fire Protection Plan Safari Highlands Ranch**

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the 80 unit Vista Monte community (accessed via Rockwood Road). Additionally, the San Pasqual Union School located off Rockwood Road would affect typical evacuations.

Based on the number of units or daily use averages (school and animal park), the estimated time requirement for evacuation was calculated.

### **Evacuating Vehicles per Household or Average Daily Usage**

Rancho San Pasqual – 580 units x 2.2 vehicles = 1,276 vehicles

Vista Monte – 80 units x 2.2. vehicles = 176 vehicles

San Pasqual Union School – 560 students and staff, 180 from outside the area = estimated 200 vehicles (others are already accounted for in community estimates)

Based on the combined vehicle estimates for existing communities and land uses neighboring the Safari Highlands Ranch Project during an evacuation, it is calculated that up to 1,652 vehicles in addition to the 1,210 vehicles from Safari Highlands Ranch (total of 2,862 vehicles) could be evacuating in a similar time frame during a major incident that required full evacuation of the area, although this is a conservative estimate as that number would likely be far lower as many families would likely drive in one vehicle versus in multiple vehicles and depending on the time of day, many of these vehicles may already be off-site, such as if a fire occurred during typical work hours.

Based on the internal roadway capacities, three potential egress routes, and off-site roadway capacities, and using the lowest capacity roadway (bottleneck) as the determining factor, and discounting the capacity for the possibility that traffic would move slower during some evacuations, it is estimated that between 2 to 3 hours may be necessary for a complete evacuation of Safari Highlands Ranch, the neighboring communities and the school simultaneously.

While the capacity of these roadways is adequate to facilitate the evacuation of the total number of vehicles generated by these communities/uses in an estimated one hour or less, this timeframe also assumes “wheels rolling”, actual travel time and additional time that must be considered in the evacuation process (Figure 8), including:

1. Fire detection and reporting (up to 10 minutes)
2. Dispatch and fire response (up to 10 minutes)
3. Evacuation decision (10 minutes or more)
4. Message to dispatch (5 minutes)

## **Fire Protection Plan Safari Highlands Ranch**

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5. Evacuation message dissemination (up to 45 minutes)
6. Residents to gather personal items, pets, livestock (if able) and begin evacuation travel (45 minutes)
7. Contingency time to allow for shadow evacuees, special needs population, unforeseen congestion or blockages (30 minutes)

Total minimum time that may be needed for a large-scale evacuation from the detection of a fire until the last person is out of harm's way is 90 to 180 minutes, with variation on the size of the evacuation and the minutes required for each step.

The maximum timeframe is a very conservative estimate that may be reduced with law enforcement managing traffic flow and maximize efficiency by routing neighborhoods out the three available egress routes and then south, north, or west, as appropriate. Up to three hours for complete evacuation is not considered unusual and would be accommodated during large, wind driven wildfires from the east. Wildfires originating closer to the community would allow significantly less time for evacuation, and Safari Highlands Ranch offers decision makers with contingency options, including evacuating or relocating a portion of the community (much lower number of vehicles and faster evacuation time, proportional to the vehicle total being moved).

### **9.5 Safari Highlands Ranch Resident Fire/Evacuation Awareness**

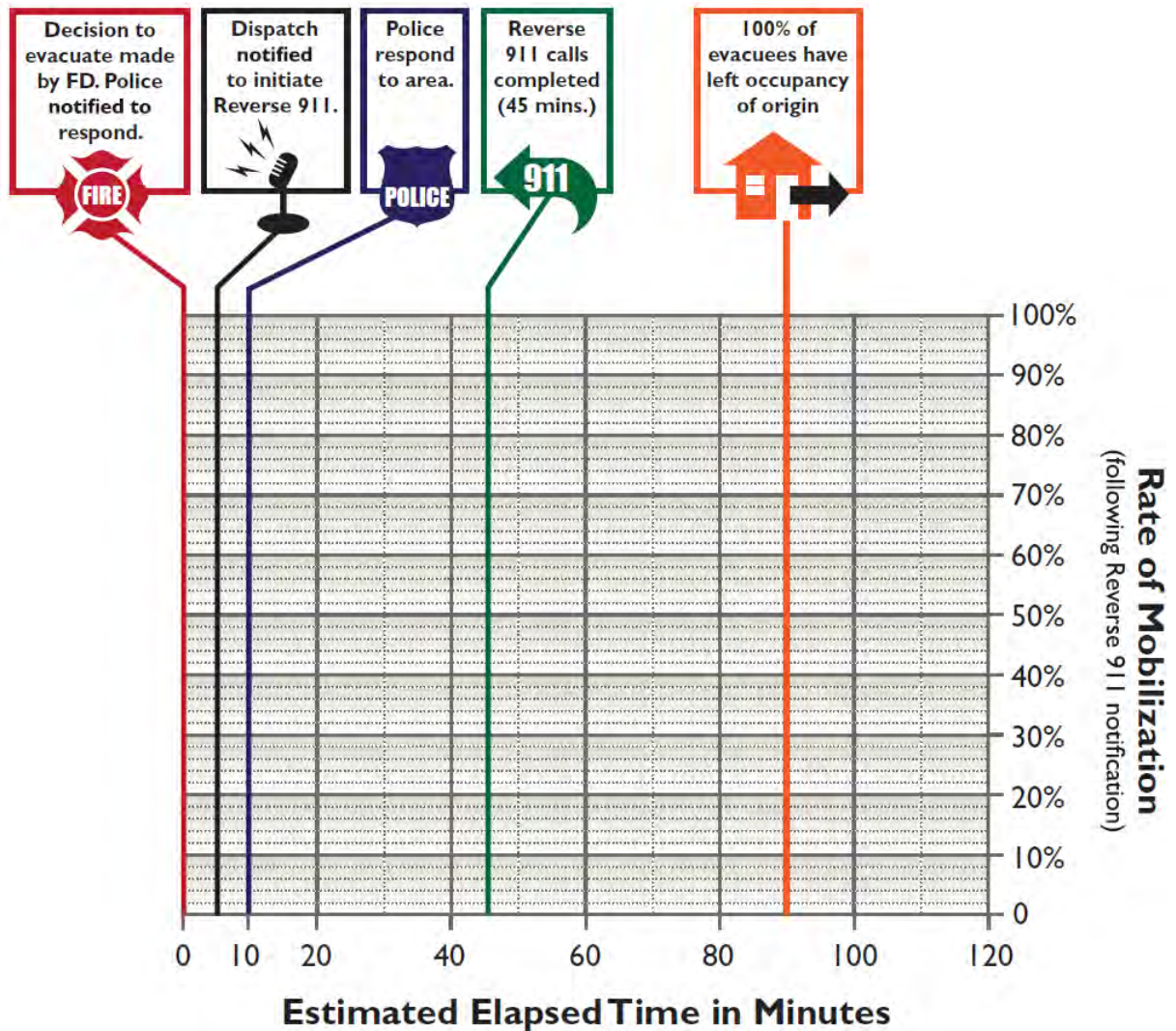
The Safari Highlands Ranch Community HOA will be active in its outreach to residents regarding fire safety and general evacuation procedures. There are aspects of fire safety and evacuation that require a significant level of awareness by the residents and emergency services in order to reduce and/or avoid problems with an effective evacuation. Mitigating potential impediments to successful evacuations requires focused and repeated information through a strong educational outreach program. The Safari Highlands Ranch HOA will engage residents and coordinate with local fire agencies for fire safety awareness through a variety of methods.

This FPP and evacuation plan will be provided to each homeowner/HOA member as well as being accessible on the HOA Website. Annual reminder notices will be provided to each homeowner encouraging them to review the plan and be familiar with community evacuation protocols. The HOA will work with local fire agencies to hold an annual fire safety and evacuation preparedness informational meeting. The meeting will be attended by representatives of the fire agencies and important fire and evacuation information reviewed. One focus of these meetings and of the HOA's annual message will be on the importance of each resident to prepare and be familiar with their own "Ready, Set, Go!" evacuation plan. The "Ready, Set, Go!" program is defined at: <http://wildlandfirersg.org/> and information about preparing an individual Action Plan is provided in Appendix H.

# Fire Protection Plan Safari Highlands Ranch

Figure 8 Evacuation Component Time Frame Estimates

## EVACUATION COMPONENT TIME FRAME ESTIMATES



Estimated elapsed time from decision to evacuate by Fire Department to completion = 90 minutes (approx. 1 1/2 hours). Takes estimated time of up to 45 minutes after notification until all have left occupancy of origin.

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Safari Highlands Ranch**

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The focus of the “Ready, Set, Go!” program is on public awareness and preparedness, especially for those living in the wildland-urban interface (WUI) areas. The program is designed to incorporate the local fire protection agency as part of the training and education process in order to insure that evacuation preparedness information is disseminated to those subject to the potential impact from a wildfire. There are three components to the program:

**“READY” – Preparing for the Fire Threat:** Take personal responsibility and prepare long before the threat of a wildfire so you and your home are ready when a wildfire occurs. Create defensible space by clearing brush away from your home as detailed in this FPP (Dudek 2015). Use only fire-resistant landscaping and maintain the ignition resistance of your home. Assemble emergency supplies and belongings in a safe spot. Confirm you are registered for Reverse 911, AlertSanDiego, and Community Alert System. Make sure all residents residing within the home understand the plan, procedures and escape routes.

**“SET” – Situational Awareness When a Fire Starts:** If a wildfire occurs and there is potential for it to threaten Safari Highlands Ranch, pack your vehicle with your emergency items. Stay aware of the latest news from local media and your local fire department for updated information on the fire. If you are uncomfortable, leave the area.

**“GO!” – Leave Early!** Following your Action Plan provides you with knowledge of the situation and how you will approach evacuation. Leaving early, well before a wildfire is threatening your community, provides you with the least delay and results in a situation where, if a majority of neighbors also leave early, firefighters are now able to better maneuver, protect and defend structures, evacuate other residents who couldn’t leave early, and focus on citizen safety.

“READY! SET! GO!” is predicated on the fact that being unprepared and attempting to flee an impending fire late (such as when the fire is physically close to the community) is dangerous and exacerbates an already confusing situation. This Safari Highlands Ranch Wildland Fire Evacuation Plan provides key information that can be integrated into the individual Action Plans, including the best available routes for them to use in the event of an emergency evacuation.

Situation awareness requires a reliable information source. One of the most effective public notification methods is Reverse 911. The San Diego County Office of Emergency Services operates the reverse 911 notification system that provides a recorded message over land line telephone systems relating to evacuation notices. In addition, the Office of Emergency Services operates a program known as “Alert San Diego” that has the capability to send emergency notifications over both land lines as well as to cell phones and via text messages. It is up to individual residents to register their cell phones for “Alert San Diego”. The registration of cell phones can be done on line at [www.ReadySanDiego.com](http://www.ReadySanDiego.com).



## **Fire Protection Plan Safari Highlands Ranch**

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In addition, Escondido provides a separate Community Notification System which allows people to register to receive email or text message notifications about urgent or other information, including events that may result in traffic delays or road closures. Anyone can subscribe at [www.nixle.com](http://www.nixle.com) and selecting “Residents” and “Sign up” This system is not affiliated with the San Diego County Reverse 9-1-1 system and is informational only. It will not be used to issue an evacuation order.

As part of the Safari Highlands Ranch resident fire awareness and evacuation readiness program, information will be delivered in a variety of methods. The HOA will be responsible to provide and distribute to each homeowner a complete copy of the project’s Fire Protection Plan and this Wildland Fire Evacuation Plan, including materials from the READY! SET! GO! Program. The HOA is also responsible for insuring the distribution of copies of the aforementioned materials to those individuals that purchase properties for re-sales and to the management of multi-family residential and other non-residential properties. The management of multi-family residential units that do not have individual unit ownership will be responsible for conducting informational sessions regarding the Fire Safety measures and Evacuation Plan details and will be responsible for making copies of the Evacuation Plans available for each unit. As with the multi-family residential properties, management of the commercial properties will be responsible for the dissemination of the Evacuation Plan information to their employees.

As part of the approval of this project, it shall be binding on the HOA to actively participate as a partner with the EFD, the SDFD, SDCFA, and the local FireSafe Council (Valley Center and/or Ramona West End Firesafe Councils) and to assist with the coordination and distribution of fire safety information they develop.

### **9.6 Safari Highlands Ranch Evacuation Procedures**

It is estimated that the minimum amount of time needed to move the Safari Highlands Ranch population to urbanized and/or designated evacuation areas may require in excess of one hour to evacuate and up to two or more hours under varying constraints that may occur during an evacuation. This includes additional allowances for the time needed to detect and report a fire, for fire response and on-site intelligence, for Reverse 911 and in the field patrol cars announcing evacuations, and for notifying special needs citizens. Wolshon and Marchive (2007) simulated traffic flow conditions in the wildland urban interface (WUI) under a range of evacuation notice lead times and housing densities. To safely evacuate more people, they recommended that emergency managers (1) provide more lead time to evacuees and (2) control traffic levels during evacuations so that fewer vehicles are trying to exit at the same time.

Wildfire emergency response procedures will vary depending on the type of wildfire and the available time in which decision makers (Incident Command, EFD, SDFD, CAL FIRE, SDCFA,

## **Fire Protection Plan Safari Highlands Ranch**

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SDSD, and/or County Office of Emergency Management) can assess the situation and determine the best course of action. Based on the community, its road network, and the related fire environment, the primary type of evacuation envisioned is an orderly, pre-planned evacuation process where people are evacuated from the Safari Highlands Ranch community to more urban areas further from an encroaching wildfire (likely to urban areas south and west) well before fire threatens. This type of evacuation must include a conservative approach to evacuating, i.e., when ignitions occur and weather is such that fires may spread rapidly, evacuations should be triggered on a conservative threshold that includes time allowances for unforeseen, but possible, events that would slow the evacuation process.

Evacuation is considered by many to offer the highest level of life protection to the public, but it can result in evacuees being placed in harm's way if the time available for evacuation is insufficient (Cova et al. 2011). An example of this type of evacuation which is highly undesirable from a public safety perspective, is an evacuation that occurs when fire ignites close to vulnerable communities. Safari Highlands Ranch is not considered a vulnerable community, however there are vulnerable communities within the region. This type of situation is inherently dangerous because there is generally a higher threat to persons who are in a vehicle on a road when fire is burning in the immediate area than in a well-defended, ignition resistant home. Conditions may become so poor, that the vehicle drives off the road or crashes into another vehicle, and flames and heat overcome the occupants. This scenario occurred in San Diego County during the 2003 Cedar Fire. Even though hundreds of thousands of people were successfully evacuated, a night time evacuation on Wildcat Canyon Road resulted in fatalities. A vehicle offers little shelter from a wildfire if the vehicle is situated near burning vegetation or catches fire itself. This type of evacuation must be considered a very undesirable situation by law and fire officials in all but the rarest situations where late evacuation may be safer than seeking temporary refuge in a structure (such as when there are no nearby structures, the structure(s) is/are already on fire, or when there is no other form of refuge).

The third potential type of evacuation is a hybrid of the first two. In cases where evacuation is in process and changing conditions result in a situation that is considered unsafe to continue evacuation, it may be advisable to direct evacuees to pre-planned temporary refuge locations, including their own home if it is ignition resistant and defensible, such as those at Safari Highlands Ranch. As with the second type of evacuation discussed above, this situation is considered highly undesirable, but the evacuation pre-planning must consider these potential scenarios and prepare decision makers at the IC level and at the field level for enacting a contingency to evacuation when conditions dictate.

Indications from past fires and related evacuations, in San Diego County and throughout Southern California, which have experienced increasingly more frequent and larger fires, are that

## **Fire Protection Plan Safari Highlands Ranch**

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evacuations are largely successful, even with a generally unprepared populace. It then stands to reason that an informed and prepared populace would minimize the potential evacuation issues and related risk to levels considered acceptable from a community perspective.

Evacuation orders or notifications are often triggered established and pre-determined model buffers which are based on topography, fuel, moisture content of the fuels and wind direction. Evacuations are initiated when a wildfire reaches or crosses one of these pre-determined buffers. Evacuations can also be very fluid. The incident command, law enforcement and County OES would jointly enact evacuations based on fire behavior.

### **9.6.1 Safari Highlands Ranch Evacuation – Santa Ana Wind Conditions**

When compared to fire spread modeling and the time various fire ignitions would require to reach the project, a threshold of evacuation vs contingency options is delineated. As depicted in Appendices C-1 and C-5, which illustrate fire spread rates and progression during extreme fire weather (high wind, low humidity) and an ignition off the SR-76, approximately 15 miles north and east of the Safari Highlands Ranch, fire could reach the northeastern extents of the project (est. 5% of project) within 4 hours. Within 5 hours, wildfire may reach approximately 90 to 95% of the project site. These estimates are based on current conditions and would be different post project development, which would include landscapes that would not burn consistently with wildland fuels. Fire would be expected to burn around the developed areas and fuel modification zones with a slower spread rate and patchy burn with lower flame lengths and intensity.

Because the arrival time of a fire originating along the SR-76 is just under 4 hours for the northern portion of the project, and considering it may take up to 2 hours or more (depending on conditions) for a complete evacuation of all Safari Highlands Ranch residents, it is recommended that under extreme conditions, if a fire ignites along the SR-76 between Rincon and Santa Ysabel, that evacuation of the northern neighborhoods of Safari Highlands Ranch begin as quickly as possible and utilize the northern emergency egress route and the main entrance on Rockwood Road. This will enable time to move northerly residents out of the area to designated evacuation points (likely within Escondido) since this would require the movement of, at max, approximately 500 vehicles, which can be accommodated in 30 minutes to 1 hour, providing a time buffer in this conservative approach. Evacuation of the community should continue, as conditions allow and are necessitated, with the southerly neighborhoods evacuating to off-site areas in Escondido. However, if at any time fire is anticipated to threaten evacuation routes, incident managers should evaluate evacuation contingencies, including moving people to the Village Core, nearby San Pasqual Union Elementary School, or Eagle Crest Golf Course, San Diego Safari Park or temporarily refuging some or all remaining residents in their homes for the short duration that active wildfire would burn adjacent the site's FMZs. Fire ignitions closer to

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the Safari Highlands Ranch will likely include a shorter available timeframe for evacuations, so contingency options may be implemented on a faster timeline.

### **9.6.2 Safari Highlands Ranch Evacuation – Typical Summer Weather Conditions**

As depicted in Appendices C-2 and C-6, which illustrate fire spread rates and progression during typical Summer weather conditions (on-shore winds and average humidity) and an ignition off Wild Oak Lane approximately 1/2 mile from the northwestern project boundary, fire could reach the western boundary (est. 5% of project) within approximately 40 minutes. Within 2 hours, wildfire may reach approximately 30% of the project, all in the northern half of the property, and within 5 hours, fire may reach up to 70% of the project site. An ignition under the same weather conditions occurring off SR-78 near its intersection with Cloverdale Road would include slower fire spread due to the developed/maintained landscapes that occur in the area. Fire may not reach the project site until approximately 3 hours after ignition. After 5 hours, less than 10% of the project site is reached, all in the extreme southern and southwestern portions of the Project. These estimates are based on current conditions and would be different for the post project development, which would include landscapes that would not burn consistently with wildland fuels. Fire would be expected to burn around the developed areas and fuel modification zones with a slower spread rate and patchy burn with even lower flame lengths and intensity.

Because the arrival time of a fire originating to the south or west of the project during typical, Summer conditions is just under 1 hour for the Wild Oak Lane scenario and approximately 3 hours for the Cloverdale Road scenario, and considering it may take up to 2 hours or more (depending on conditions) for a complete evacuation of all Safari Highlands Ranch residents – and they would be evacuating into the path of the fire, the following recommendations are considered:

1. Because a fire igniting to the north of Eagle Creek Golf Club is likely to burn toward the project and largely affect the northern half of the project, internal project relocation of the northerly neighborhoods to the Village Core or off-site to the south (not using the northern emergency secondary access road), may be considered as options. Depending on fire spread and control, the southern portion of Safari Highlands Ranch may not need to be evacuated. This type of fire is not wind-driven and is burning in fuels with higher moisture levels, and will allow more options than a fire during high winds and low humidity.
2. Fire igniting at the SR-76 and Cloverdale Road would burn toward the project's southern boundaries, and would likely require an immediate temporary refuge of residents on site at both the Eagle Creek Golf Course Community and Safari Highlands Ranch, as the primary evacuation route would be into the fire. Once the fire moved east and north, Eagle Crest Golf Course Community could be evacuated while Safari Highlands Ranch

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would likely continue to refuge on site. Evacuation of Safari Highland Ranch to the South along Zoo Road would be possible for a period of up to 2 hours from ignition, so it may be possible to relocate a large number of persons via this route. It would not be recommended to utilize the northern emergency secondary access route in this scenario since it would require crossing through a fuel bed with the possibility of spot fires ahead of the main fire front.

### **9.6.3 Safari Highlands Ranch Evacuation Baseline**

For purposes of this Evacuation Plan, the first and most logical choice for all of the residents and guests within the boundaries of the Safari Highlands Ranch Community is to adhere to the principals and practices of the “READY! SET! GO!” Program previously mentioned in this document. As part of this program, it is imperative that each resident develop a plan that is clearly understood by all family members and attends the educational and training programs sponsored by the Safari Highlands Ranch HOA and the local fire agencies. In addition, it is imperative that the “READY! SET! GO!” Program information is reviewed on a routine basis along with the accompanying maps illustrating evacuation routes, temporary evacuation points and pre-identified evacuation points. It must be kept in mind that conditions may arise that will dictate a different evacuation route than the normal roads used on a daily basis.

Residents are urged to evacuate as soon as they are notified to do so or earlier if they feel uncomfortable. Directions on evacuation routes will be provided in most cases, but when not provided, Safari Highlands Ranch residents will proceed according to known available routes away from the encroaching fire. Depending on the type of emergency and the resulting evacuation, it could take as long as two hours or more to complete a community-wide evacuation, based on nationally recognized road capacity standards and competing use of the roads by residents from other areas.

Note: this evacuation plan will require adjustment and continued coordination by the Safari Highlands Ranch HOA and/or developer and Fire/Law enforcement agencies during each of the construction phases. With each phase, the evacuation routes may be subject to changes with the addition of both primary and secondary evacuation routes.

### **9.6.4 Civilian and Firefighter Evacuation Contingency**

As of this document’s preparation, no community in California has been directed to shelter in place during a wildland fire. Even the communities in Rancho Santa Fe, California which are designed and touted as shelter in place communities, were evacuated during the 2007 Witch Creek Fire. This is not to say that people have not successfully sheltered in place during wildfire,

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where there are numerous examples of people sheltering in their homes, in hardened structures, in community buildings, in swimming pools, and in cleared or ignition resistant landscape open air areas. The preference will likely always be early evacuation following the “Ready, Set, Go!” model, but there exists the potential for unforeseen civilian evacuation issues, and having a contingency plan will provide direction in these situations that may result in saved lives. Potential problems during wildfire evacuation from Safari Highlands Ranch include:

- Fires that prevent safe passage along planned evacuation routes
- Inadequate time to safely evacuate
- Fire evacuations during rush hour traffic or when large events are occurring
- Blocked traffic due to accidents or fallen tree(s) or power pole(s)
- The need to move individuals who are unable to evacuate

It is recommended that a concerted pre-planning effort focus on evacuation contingency planning for civilian populations when it is considered safer to temporarily seek a safer refuge than evacuation.

### **9.6.4.1 Safety Zones**

The International Fire Service Training Association (IFTSA; Fundamentals of Wildland Fire Fighting, 3rd Edition) defines Safety Zones as areas mostly devoid of fuel, which are large enough to assure that flames and/or dangerous levels of radiant heat will not reach the firefighting personnel occupying them. Areas of bare ground, burned over areas, paved areas, and bodies of water can all be used as safety zones. The size of the area needed for a safety zone is determined by fuel types, its location on slopes and its relation to topographic features (chutes and saddles) as well as observed fire behavior. Safety zones should never be located in topographic saddles, chutes or gullies. High winds, steep slopes or heavy fuel loads may increase the area needed for a Safety Zone.

The National Wildland Fire Coordinating Groups (NWFCG), Glossary of Wildland Fire Terminology provides the following definitions for Safety Zone and Escape routes

Safety Zone. An area cleared of flammable materials used for escape in the event the line is outflanked or in case a spot fire causes fuels outside the control line to render the line unsafe. In firing operations, crews progress so as to maintain a safety zone close at hand allowing the fuels inside the control line to be consumed before going ahead. Safety zones may also be constructed as integral parts of fuelbreaks; they are greatly enlarged areas which can be used with relative safety by firefighters and their equipment in the event of blowup in the vicinity.

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According to NWFCG, Safety Zone(s):

- Must be survivable without a fire shelter
- Can include moving back into a clean burn
- May take advantage of natural features (rock areas, water, meadows)
- Can include Constructed sites (clear-cuts, roads, helispots)
- Are scouted for size and hazards
- Consider the topographic location (larger if upslope)
- Should be larger if downwind
- Should not include heavy fuels
- May need to be adjusted based on site specific fire behavior

The definition for a safety zone includes provisions for separation distance between the properly equipped and trained firefighter and the flames of at least four times the maximum continuous flame height. Distance separation is the radius from the center of the safety zone to the nearest fuels. For example, considering worst case 70 foot tall flame lengths that may be possible adjacent this site, then a 280 foot separation would be required, and more if there were any site-specific features that would result in more aggressive fire behavior. In order to provide 280 feet in all directions, a minimum 7.2 acres is considered necessary for a safety zone to be considered appropriate for one 3 person engine crew during an extreme weather fire.

If one considers the ignition resistant and maintained landscaping within each of the Safari Highlands Ranch neighborhoods, along with the adjacent fuel modification zones that vary between 150 and 200 feet wide, and Chapter 7A of California Building Code compliant structures, each neighborhood's interior roads would provide Safety Zones available to responding firefighters. Additionally, areas such as the San Pasqual Union Elementary School, the Eagle Crest Golf Community, and the Safari Park provide opportunities for safety zones. These areas and the Safari Highlands Ranch neighborhoods as Safety Zones can be part of EFD's and County's pre-planning efforts, although during the fire, the identified safety zones may not be feasible due to distance, location, fire behavior, etc.

Potential safety zones likely require additional focused study by EFD and other fire and law enforcement agencies.

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### **9.6.4.2 Temporary Firefighter Refuge Areas**

Firescope California defines a contingency plan when it is not possible to retreat to a safety zone. This contingency includes establishment of firefighter TRA(s), which are defined as:

A preplanned area where firefighters can immediately take refuge for temporary shelter and short-term relief without using a fire shelter in the event that emergency egress to an established Safety Zone is compromised.

Examples of a TRA may include the lee side of a structure, inside of a structure, large lawn or parking areas, or cab of apparatus, amongst others. Differences between a TRA and a Safety Zone is that TRA's are closer to the immediate firefighting area, are considered a contingency to being able to get to a Safety Zone, do not include a requirement for a large area set back four times the flame lengths of adjacent fuels, and cannot be feasibly pre-planned until firefighters arrive on-scene and size up the situation.

Firescope appropriately notes that although Safety Zones and viable Escape Routes shall always be identified in the WUI environment, they may not be immediately available should the fire behavior increase unexpectedly. Often a TRA is more accessible in the WUI environment. A TRA will provide temporary shelter and short-term relief from an approaching fire without the use of a fire shelter and allow the responders to develop an alternate plan to safely survive the increase in fire behavior.

TRAs are pre-planned areas (planned shortly after firefighters arrive on scene) where firefighters may take refuge and temporary shelter for short-term thermal relief, without using a fire shelter in the event that escape routes to an established safety zone are compromised. The major difference between a TRA and a safety zone is that a TRA requires another planned tactical action, i.e., TRAs cannot be considered the final action, but must include self-defense and a move out of the area when the fire threat subsides. A TRA should be available and identified on site at a defended structure. TRAs are NOT a substitute for a Safety Zone. TRA pre-planning is difficult, at best because they are very site and fire behavior specific. For the Safari Highland Ranch Community, TRAs would likely include navigating into any of the neighborhoods where 150 to 200 feet wide fuel modification zones provide defensible space and maintained landscapes are provided, along with ignition resistant residences and wide roads that offer numerous opportunities for TRA.

The entire developed portions of the Safari Highlands Ranch community, but especially the interior areas of neighborhoods, are considered TRAs. This is an important concept because it offers last-resort, temporary refuge of firefighters, and in a worst-case condition, residents. This approach would be consistent with Firescope California (2013) which indicates that firefighters



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must determine if a safe evacuation is appropriate and if not, to identify safe refuge for those who cannot be evacuated, including civilians.

Each of the site's residences that can be considered for TRA includes the following features:

- Ignition Resistant Construction
- 150 to 200 feet wide Fuel Modification Zones around perimeter of project
- Annual inspections by 3<sup>rd</sup> party fuel modification zone inspectors
- Wide roadways with fire hydrants
- Maintained landscapes and roadside fuel modification
- Ember resistant vents
- Interior fire sprinklers

Because there is the possibility that evacuation of the project may be less safe than temporarily refuging on-site, such as during a fast-moving, wind driven fire that ignites nearby, including temporary refuge within residences, at the Village Core, or elsewhere on site is considered a contingency plan for Safari Highlands Ranch. This concept is considered a component of the "Ready, Set, Go!" model as it provides a broader level of "readiness" should the ability to execute an early evacuation be negated by fire, road congestion, or other unforeseen issues. Note: this approach would be considered a last-resort contingency during wildfire with the primary focus being on early evacuation.

### **9.7 Evacuation Plan Limitations**

This Wildland Fire Evacuation Plan has been developed based on wildfire and evacuation standards and the San Diego County Evacuation Annex (San Diego County 2014) and is specifically intended as a guide for evacuations for the Safari Highlands Ranch Community. This plan provides basic evacuation information that will familiarize residents with standard evacuation preparedness protocols as well as travel route options that may be available to them during an emergency. However, because emergencies requiring evacuation have many variables and must be evaluated on a case by case basis, this plan shall be subservient to real-time law enforcement and fire personnel/ agencies' decision making and direction during an emergency requiring evacuation.

This Evacuation Plan promotes the "Ready, Set, Go!" model, adopted by the State of California and many fire agencies statewide, including EFD. The goal is to raise agency and citizen awareness of potential evacuation issues and get a majority of the public "Ready" by

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taking a proactive stance on preparedness, training drills, and visitor education, and evacuation planning efforts. The Safari Highlands Ranch populace will be “Set” by closely monitoring the situation whenever fire weather occurs and/or when wildland fire occurs, and elevating pre-planned protocol activities and situation awareness. Lastly, officials will implement the plan and mandate that populations “Go” by executing pre-planned evacuation procedures in a conservative manner, i.e., evacuation will occur based on conservative decision points, as proposed in this evacuation plan or when directed by fire and law enforcement personnel, whichever is more conservative. The preferred alternative will always be early evacuation. However, there may be instances when evacuation is not possible, is not considered safe, or is not an option based on changing conditions. For example, should a fire occur and make evacuation from the project ill advised, a contingency plan for residents will be available. This contingency would include moving people to pre-designated temporary refuge areas until it is safe to evacuate or the threat has been mitigated.

Ultimately, it is the intent of this Evacuation Plan to guide the implementation of evacuation procedure recommendations such that the process of evacuating people from the Safari Highlands Ranch project is facilitated in an efficient manner and according to a pre-defined evacuation protocol as well as providing a contingency option of temporarily refuging, if evacuation is considered less safe.

It is recommended that the evacuation process is carried out with a conservative approach to fire safety. This approach must include maintaining the Safari Highlands Ranch fuel modification landscape, infrastructural, and ignition resistant construction components according to the appropriate standards and embracing a “Ready, Set, Go!” stance on evacuation. Accordingly, evacuation of the wildfire areas should occur according to pre-established evacuation decision points, or as soon as they receive notice to evacuate, which may vary depending on many environmental and other factors. Fire is a dynamic and somewhat unpredictable occurrence and it is important for anyone living at the wildland-urban interface to educate themselves on practices that will improve safety.

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### **10 HOMEOWNER'S ASSOCIATION WILDFIRE EDUCATION PROGRAM**

The Safari Highlands Ranch HOA will provide on-going resident education outreach regarding wildfire safety, the “Ready, Set, Go!”<sup>4</sup> pre-planning model, and this FPP's requirements for the entire master-planned development. The community building will include site-specific wildfire information including practices that will not be allowed due to fire risk. Informational handouts, facility Web-site page, mailers, fire safe council participation, inspections, and seasonal reminders are some methods that will be used to disseminate wildfire and relocation awareness information. The HOA will coordinate with EFD and other applicable fire agencies regarding wildfire educational material/programs before printing and distribution.

The Safari Highlands Ranch residents and visitors of commercial and property facilities will be provided homeowners informational brochures at point of sale regarding wildfire and this FPP's requirements. This educational information must include maintaining the landscape and structural components according to the appropriate standards and embracing a “Ready, Set, Go ” stance on evacuation. Of particular importance in this FPP is the guidance in the types of plants that are allowed or prohibited in landscaped areas and appropriate construction within vegetation management zones.

The Safari Highlands Ranch residents will be aware of this evacuation plan as the HOA will post it on its Website and provide reminders to residents on at least an annual basis. This educational outreach will result in a populace that understands the potential for evacuations and the routes and options that may be presented to them.

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<sup>4</sup> International Fire Chiefs Association “Ready, Set, Go” website link: <http://wildlandfirersg.org/>

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### 11 CONCLUSION

This FPP is submitted in support of an application for project entitlement of the Safari Highlands Ranch project. It is submitted in compliance with requirements of the EFD Fire Code. The requirements in this document meet or exceed fire safety, building design elements, fuel management/modification, and landscaping recommendations of the City or provide alternative measures that meet the intent of the code. Fire and Building Codes and other local, county, and state regulations in effect at the time of each building permit application supersede these recommendations unless the FPP recommendation is more restrictive.

Where the project does not strictly comply with the Code, for top of slope setback, alternative materials and methods have been proposed that provide functional equivalency as the code intent. The information provided herein supports the ability of the proposed structures and FMZs to withstand the predicted short duration, low to moderate intensity wildfire and ember shower that would be expected from wildfire burning in the vicinity of the site or within the site's landscape.

The recommendations provided in this FPP have been designed specifically for the proposed construction of structures adjacent the WUI zone at the Project site. The Proposed Project site's fire protection system includes a redundant layering of protection methods that have been shown through post-fire damage assessments to reduce risk of structural ignition.

Modern infrastructure will be provided along with implementation of the latest ignition resistant construction methods and materials. Further, all structures are required to include interior sprinklers consistent with EFD requirements. Fuel modification that is up to twice the standard width requirement will occur throughout the project site. The FMZs will be maintained annually by the HOA and inspected by a 3<sup>rd</sup> party to certify that they meet the EFD standards. Maintenance includes removing all dead and dying materials and maintaining appropriate horizontal and vertical spacing. In addition, plants that establish or are introduced to the fuel modification zone that are not on the approved plant list will be removed.

Ultimately, it is the intent of this FPP to guide, through code and other project specific requirements, the construction of structures that are defensible from wildfire and, in turn, do not represent significant threat of ignition source for the adjacent native habitat. It must be noted that during extreme fire conditions, there are no guarantees that a given structure will not burn. Precautions and mitigating actions identified in this report are designed to reduce the likelihood that fire would impinge upon the proposed structures. There are no guarantees that fire will not occur in the area or that fire will not damage property or cause harm to persons or their property. Implementation of the required enhanced construction features provided by the applicable codes and the mitigating fuel modification requirements provided in this FPP will accomplish the goal

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of this FPP to assist firefighters in their efforts to defend these structures and reduce the risk associated with this project's WUI location.

Although the proposed development and landscape will be significantly improved in terms of ignition resistance, it should not be considered a shelter-in-place community. It is recommended that the homeowners or other occupants who may use the facilities at the Safari Highlands Ranch adopt a conservative approach to fire safety. This approach must include maintaining the landscape and structural components according to the appropriate standards and embracing a "Ready, Set, Go" stance on evacuation. Accordingly, occupants and visitors should evacuate the area as soon as they receive notice to evacuate, or sooner, if they feel threatened by wildfire. Fire is a dynamic and somewhat unpredictable occurrence and it is important for residents to educate themselves on practices that will improve their personal safety.

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**Fire Protection Plan  
Safari Highlands Ranch**

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# Fire Protection Plan Safari Highlands Ranch

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## 13 LIST OF PREPARERS

### **Michael Huff**

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Fire Protection Planner  
Urban Forestry and Fire Protection Planning

**Fire Protection Plan  
Safari Highlands Ranch**

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**APPENDIX A**  
*Representative Photographs*





# Appendix A

## Representative Photographs

Safari Highlands Ranch



Photograph #1.



Photograph #2.



Photograph #3.



Photograph #4.

*Photographs were taken on March 10, 2016*





Photograph #5.



Photograph #6.



Photograph #7.



Photograph #8.

*Photographs were taken on March 10, 2016*





Photograph #9.



Photograph #10.



Photograph #11.



Photograph #12.

*Photographs were taken on March 10, 2016*





Photograph #13.



Photograph #14.



Photograph #15.



Photograph #16.

*Photographs were taken on March 10, 2016*





Photograph #17.



Photograph #18.



Photograph #19.



Photograph #20.

*Photographs were taken on March 10, 2016*





Photograph #21.



Photograph #22.



Photograph #23.



Photograph #24.

*Photographs were taken on March 10, 2016*





Photograph #25.



Photograph #26.



Photograph #27.



Photograph #28.

*Photographs were taken on March 10, 2016*





Photograph #29.



Photograph #30.



Photograph #31.



Photograph #32.

*Photographs were taken on March 07, 2014*



Photograph #33.



Photograph #34.



Photograph #35.



Photograph #36.

*Photographs were taken on March 07, 2014*





Photograph #37.



Photograph #38.



Photograph #39.



Photograph #40.

*Photographs were taken on March 07, 2014*





Photograph #41.



Photograph #42.



Photograph #43.



Photograph #44.

*Photographs were taken on March 07, 2014*





Photograph #45.



Photograph #46.



Photograph #47.



Photograph #48.

*Photographs were taken on March 07, 2014*





Photograph #50.



Photograph #51.



Photograph #52.



Photograph #53.

*Photographs were taken on March 07, 2014*

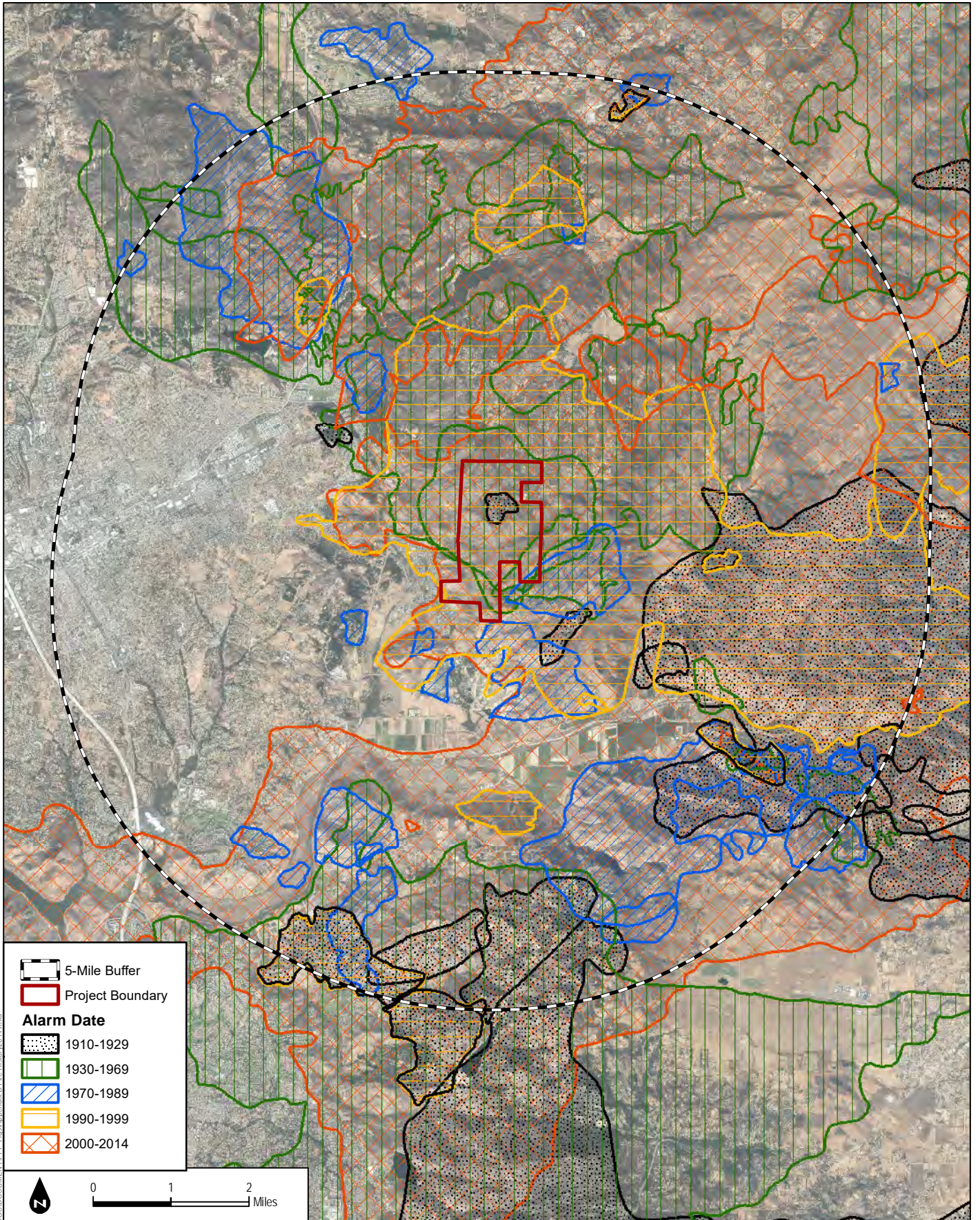
# **APPENDIX B**

## *Fire History*









Path: Z:\Projects\0830401\WAD\DOC\DOCUMENT\FPP\_Figs\Appendix B Fire History\2014.mxd

5-Mile Buffer  
 Project Boundary  
**Alarm Date**  
 1910-1929  
 1930-1969  
 1970-1989  
 1990-1999  
 2000-2014

SOURCE: ESRI; Cal Fire 2014

APPENDIX B

### Safari Highlands Ranch Vicinity Fire History



Safari Highlands Ranch Fire Protection Plan





**APPENDICES C-1  
THROUGH C-6**

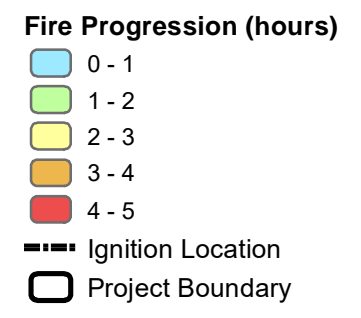
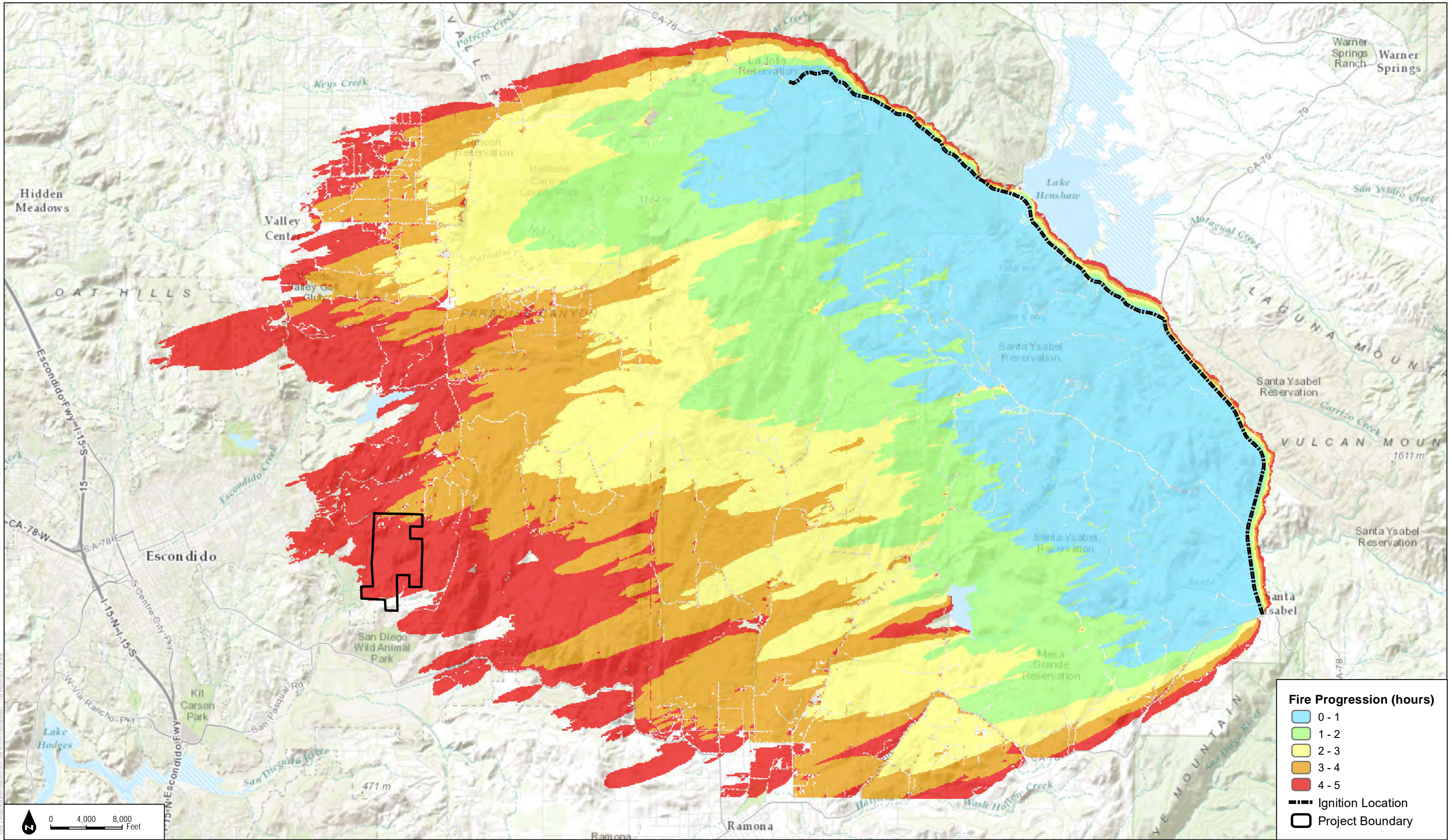
*Fire Progression Modeling  
for Fall and Summer Conditions*



# **APPENDIX C-1**







SOURCE: LANDFIRE 2016; Dudek 2016

**DUDEK**

Safari Highlands Ranch Fire Protection Plan

**APPENDIX C-1**

**FamMap Fire Behavior Modeling - Fall Fire Arrival Time**

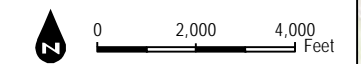
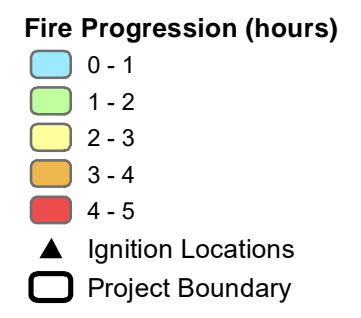
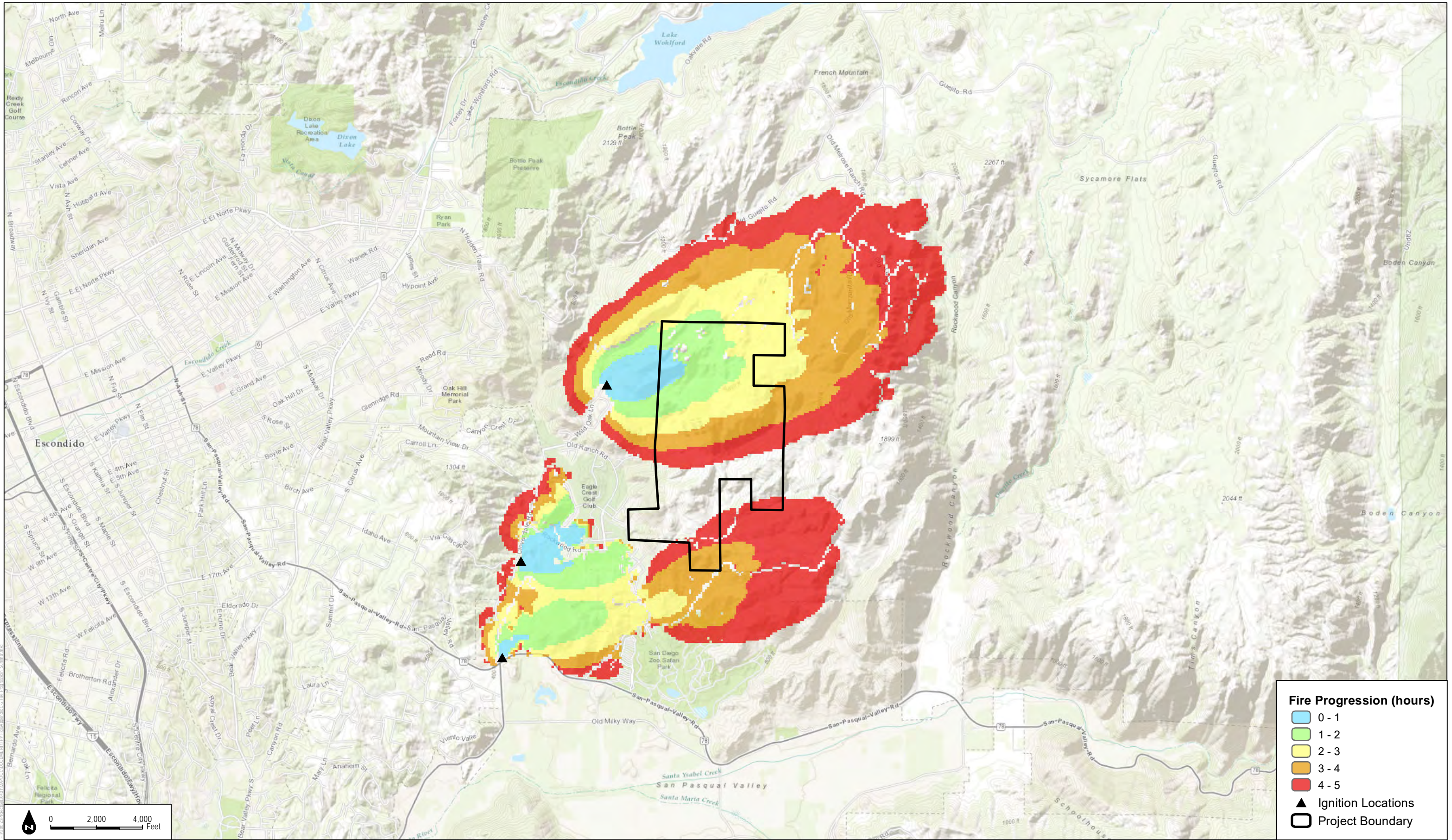




# **APPENDIX C-2**







SOURCE: LANDFIRE 2016; Dudek 2016



Safari Highlands Ranch Fire Protection Plan

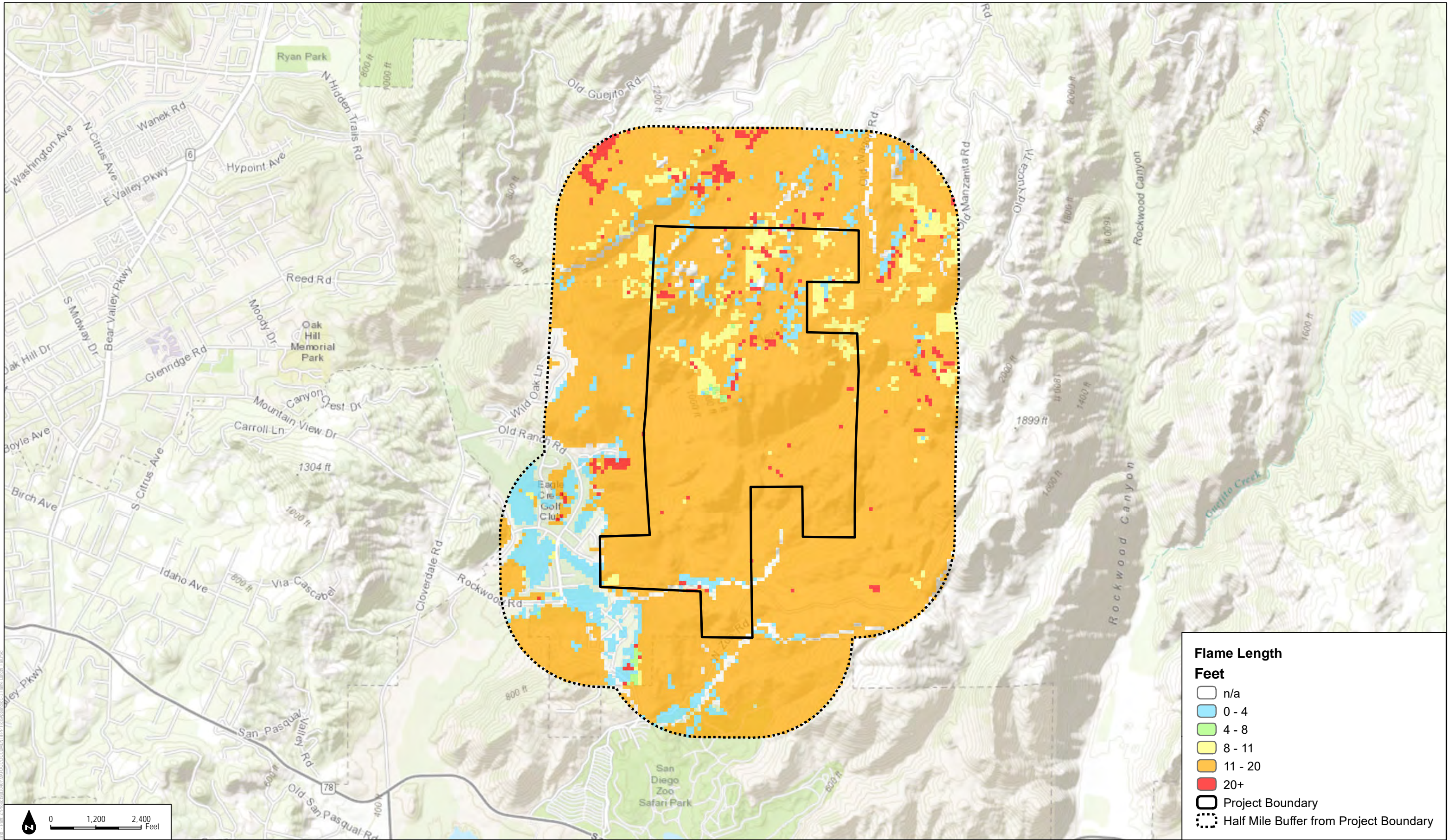




# **APPENDIX C-3**

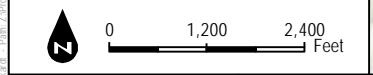






**Flame Length**  
**Feet**

- n/a
- 0 - 4
- 4 - 8
- 8 - 11
- 11 - 20
- 20+
- Project Boundary
- Half Mile Buffer from Project Boundary



SOURCE: LANDFIRE 2016; Dudek 2016



Safari Highlands Ranch Fire Protection Plan

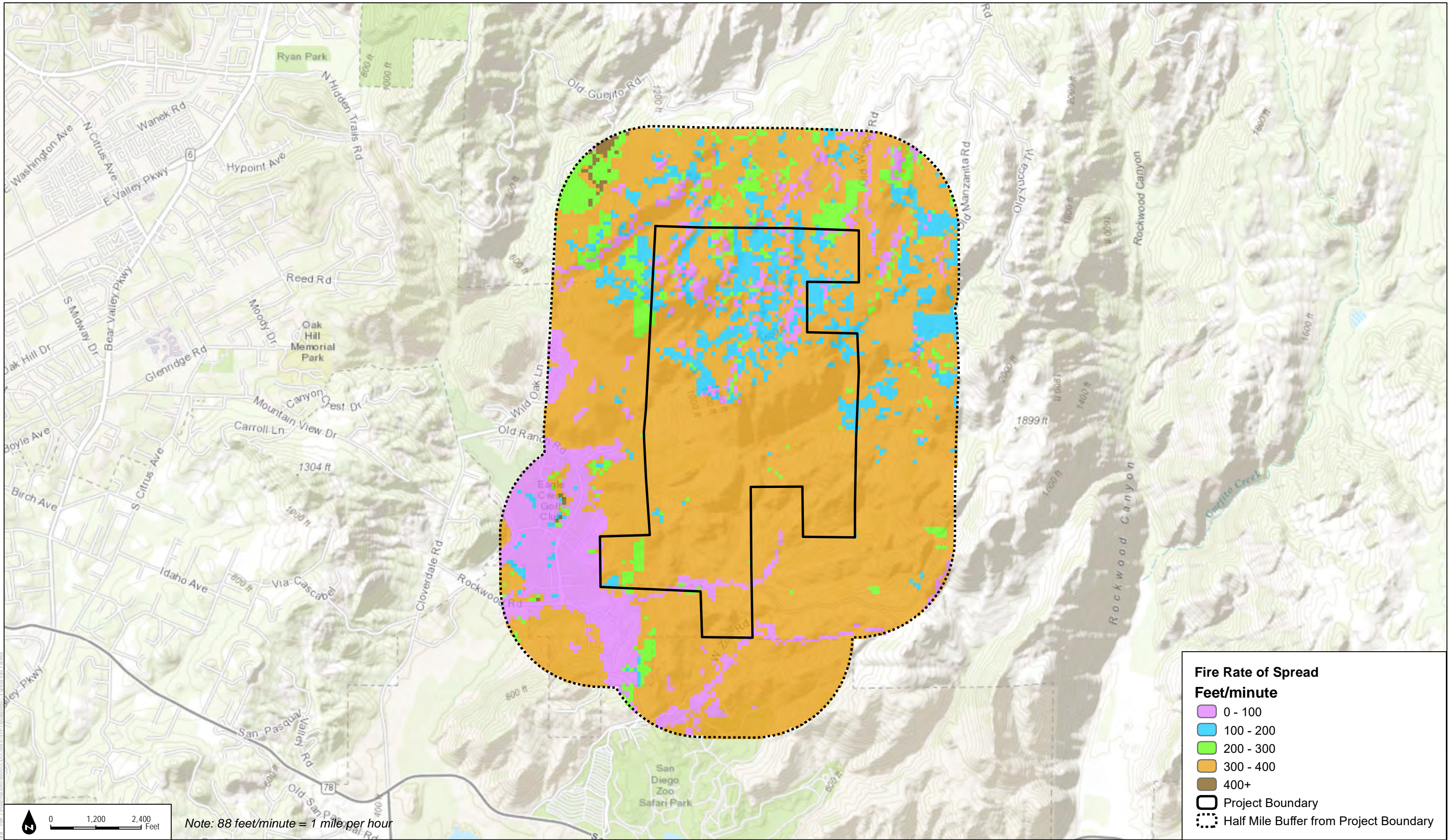




# **APPENDIX C-4**

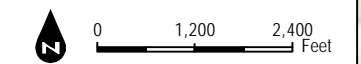






**Fire Rate of Spread**  
**Feet/minute**

- 0 - 100
- 100 - 200
- 200 - 300
- 300 - 400
- 400+
- Project Boundary
- Half Mile Buffer from Project Boundary



Note: 88 feet/minute = 1 mile per hour

SOURCE: LANDFIRE 2016; Dudek 2016



Safari Highlands Ranch Fire Protection Plan

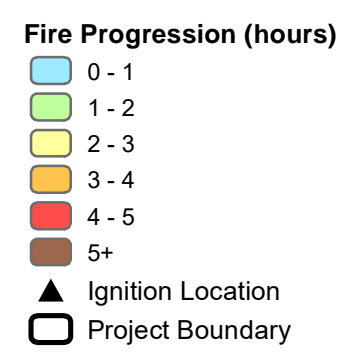
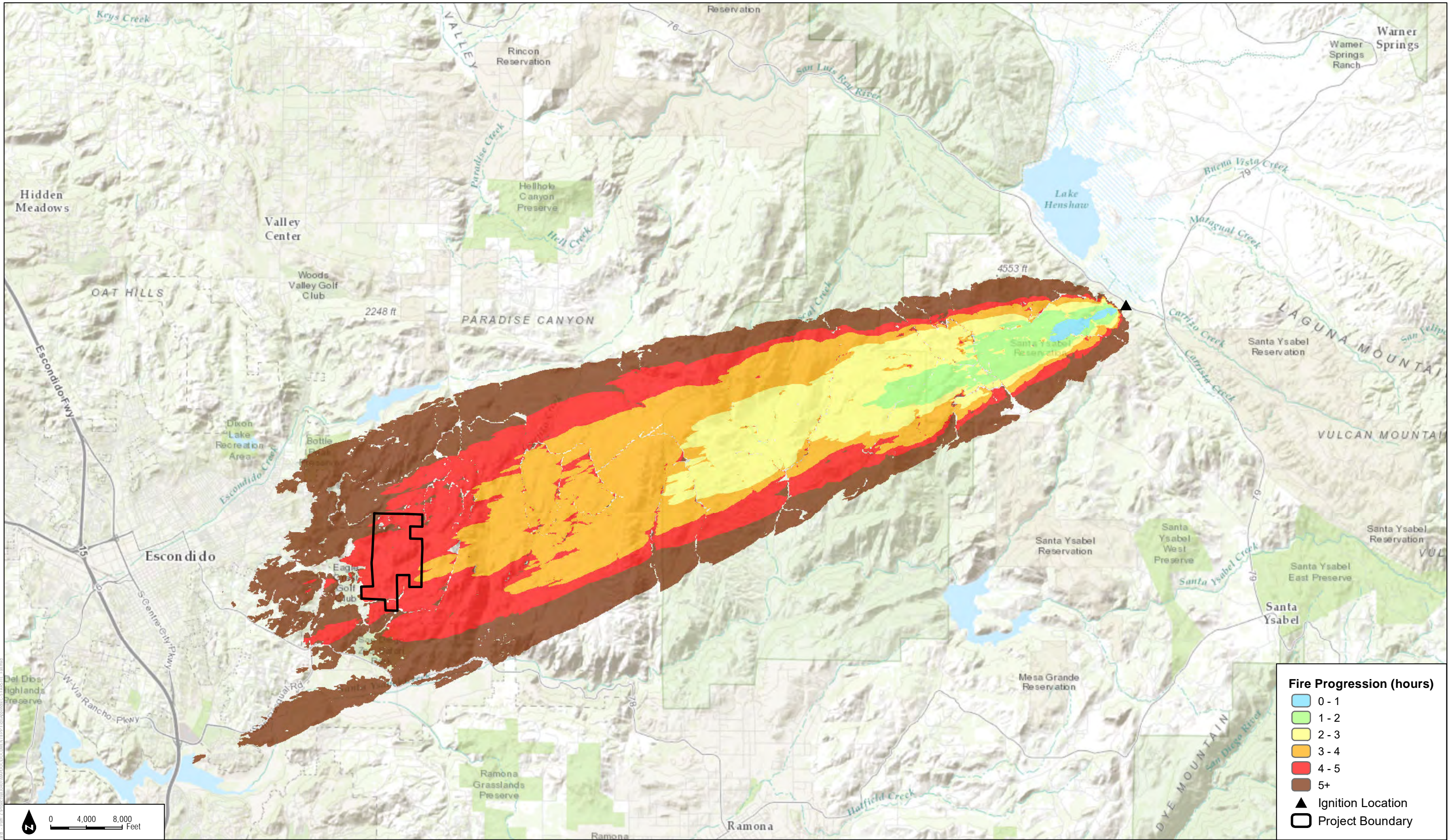




# **APPENDIX C-5**







SOURCE: LANDFIRE 2016; Dudek 2016



Safari Highlands Ranch Fire Protection Plan

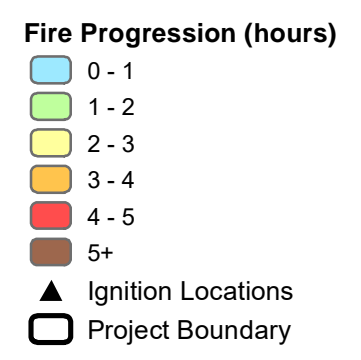
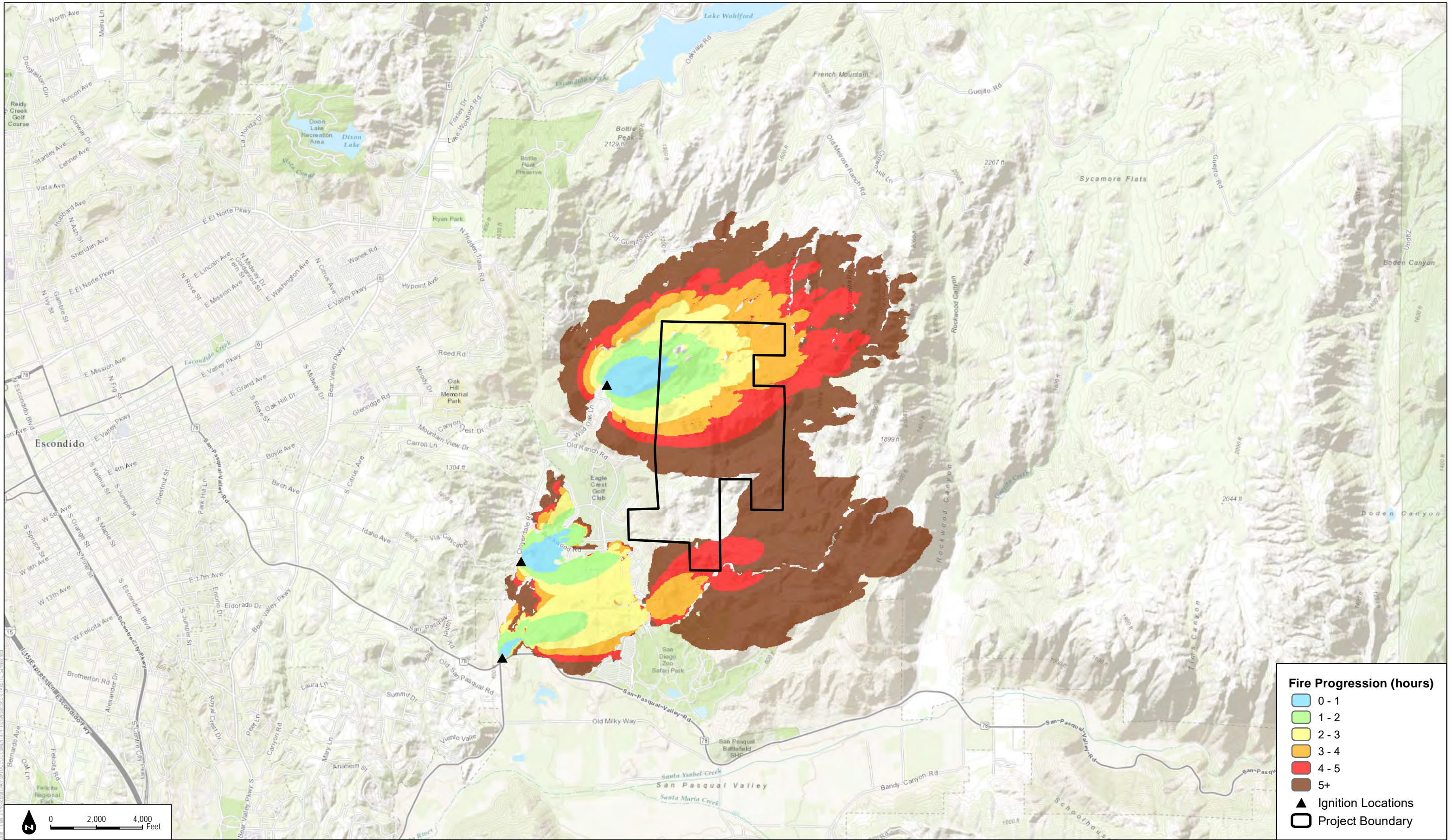




# **APPENDIX C-6**







SOURCE: LANDFIRE 2016; Dudek 2016



Safari Highlands Ranch Fire Protection Plan



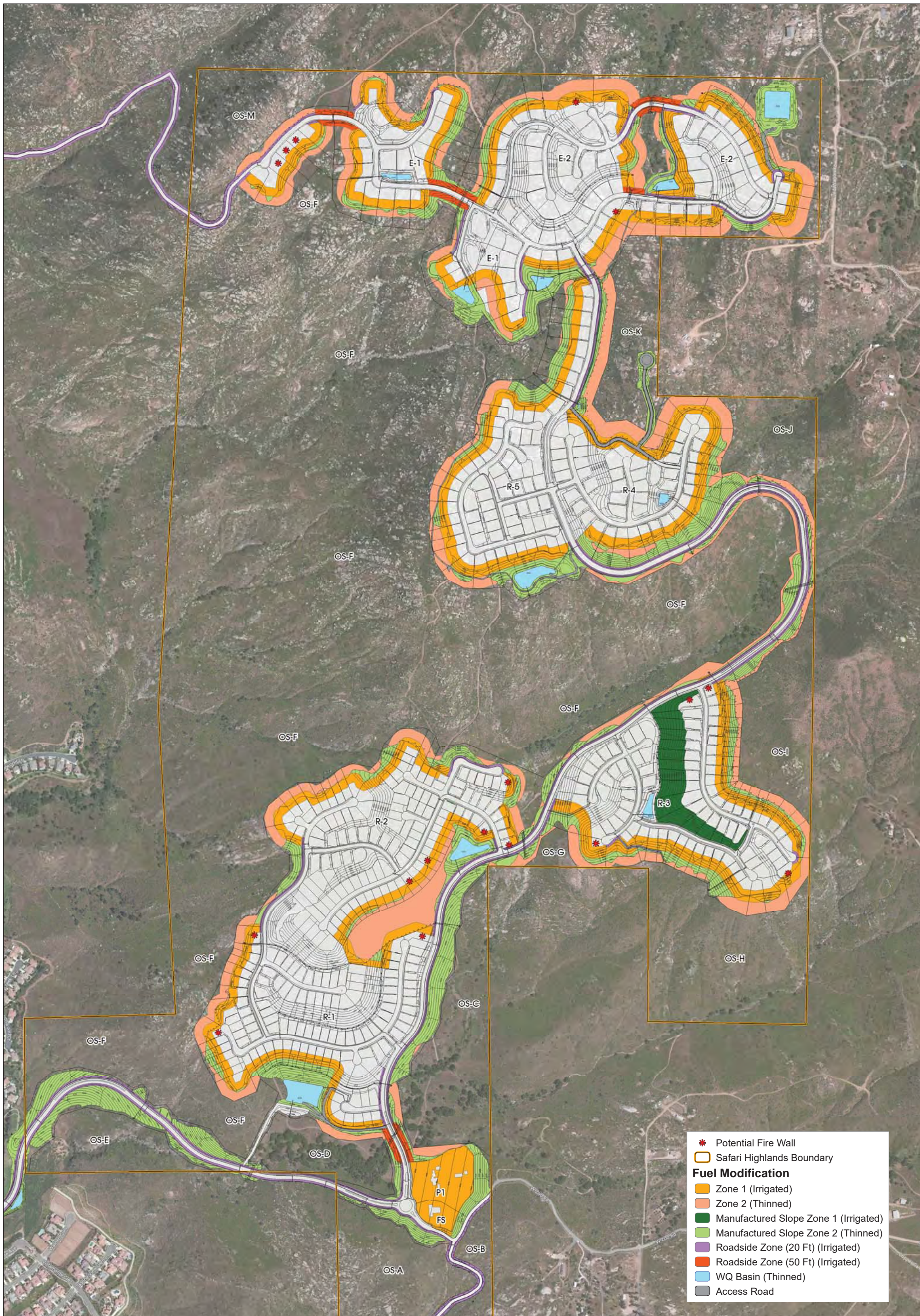


# **APPENDIX D**

## *Fuel Modification Zones and Landscape Walls*











**APPENDIX E**  
*Prohibited Plant List*



## *Appendix E*

### *Examples of Prohibited Plants*

Botanical Name	Common Name	Comment*
<b>Trees</b>		
<i>Abies species</i>	Fir	F
<i>Acacia species (numerous)</i>	Acacia	F, I
<i>Agonis juniperina</i>	Juniper Myrtle	F
<i>Araucaria species (A. heterophylla, A. araucana, A. bidwillii)</i>	Araucaria (Norfolk Island Pine, Monkey Puzzle Tree, Bunya Bunya)	F
<i>Callistemon species (C. citrinus, C. rosea, C. viminalis)</i>	Bottlebrush (Lemon, Rose, Weeping)	F
<i>Calocedrus decurrens</i>	Incense Cedar	F
<i>Casuarina cunninghamiana</i>	River She-Oak	F
<i>Cedrus species (C. atlantica, C. deodara)</i>	Cedar (Atlas, Deodar)	F
<i>Chamaecyparis species (numerous)</i>	False Cypress	F
<i>Cinnamomum camphora</i>	Camphor	F
<i>Cryptomeria japonica</i>	Japanese Cryptomeria	F
<i>Cupressocyparis leylandii</i>	Leyland Cypress	F
<i>Cupressus species (C. fobesii, C. glabra, C. sempervirens.)</i>	Cypress (Tecate, Arizona, Italian, others)	F
<i>Eucalyptus species (numerous)</i>	Eucalyptus	F, I
<i>Juniperus species (numerous)</i>	Juniper	F
<i>Larix species (L. decidua, L. occidentalis, L. kaempferi)</i>	Larch (European, Japanese, Western)	F
<i>Leptospermum species (L. laevigatum, L. petersonii)</i>	Tea Tree (Australian, Tea)	F
<i>Lithocarpus densiflorus</i>	Tan Oak	F
<i>Melaleuca species (M. linariifolia, M. nesophila, M. quinquenervia)</i>	Melaleuca (Flaxleaf, Pink, Cajeput Tree)	F, I
<i>Olea europea</i>	Olive	I
<i>Picea (numerous)</i>	Spruce	F
<i>Palm species (numerous)</i>	Palm	F, I
<i>Pinus species (P. brutia, P. canariensis, P. b. eldarica, P.</i>	Pine (Calabrian, Canary Island, Mondell, Aleppo, Italian Stone,	F

## Appendix E

### Examples of Prohibited Plants

Botanical Name	Common Name	Comment*
<i>halepensis, P. pinea, P. radiata, numerous others)</i>	Monterey)	
<i>Platycladus orientalis</i>	Oriental arborvitae	F
<i>Podocarpus species (P. gracilior, P. macrophyllus, P. latifolius)</i>	Fern Pine (Fern, Yew, Podocarpus)	F
<i>Pseudotsuga menziesii</i>	Douglas Fir	F
<i>Schinus species (S. molle, S. terebenthifolius)</i>	Pepper (California and Brazilian)	F, I
<i>Tamarix species (T. africana, T. aphylla, T. chinensis, T. parviflora)</i>	Tamarix (Tamarisk, Athel Tree, Salt Cedar, Tamarisk)	F, I
<i>Taxodium species (T. ascendens, T. distichum, T. mucronatum)</i>	Cypress (Pond, Bald, Monarch, Montezuma)	F
<i>Taxus species (T. baccata, T. brevifolia, T. cuspidata)</i>	Yew (English, Western, Japanese)	F
<i>Thuja species (T. occidentalis, T. plicata)</i>	Arborvitae/Red Cedar	F
<i>Tsuga species (T. heterophylla, T. mertensiana)</i>	Hemlock (Western, Mountain)	F
<b>Groundcovers, Shrubs &amp; Vines</b>		
<i>Acacia species</i>	Acacia	F, I
<i>Adenostoma fasciculatum</i>	Chamise	F
<i>Adenostoma sparsifolium</i>	Red Shanks	F
<i>Agropyron repens</i>	Quackgrass	F, I
<i>Anthemis cotula</i>	Mayweed	F, I
<i>Arbutus menziesii</i>	Madrone	F
<i>Arctostaphylos species</i>	Manzanita	F
<i>Arundo donax</i>	Giant Reed	F, I
<i>Artemisia species (A. abrotanium, A. absinthium, A. californica, A. caucasica, A. dracuncululus, A. tridentata, A. pynocephala)</i>	Sagebrush (Southernwood, Wormwood, California, Silver, True tarragon, Big, Sandhill)	F
<i>Atriplex species (numerous)</i>	Saltbush	F, I
<i>Avena fatua</i>	Wild Oat	F
<i>Baccharis pilularis</i>	Coyote Bush	F
<i>Bambusa species</i>	Bamboo	F, I
<i>Bougainvillea species</i>	Bougainvillea	F, I

## *Appendix E*

### *Examples of Prohibited Plants*

Botanical Name	Common Name	Comment*
<i>Brassica species (B. campestris, B. nigra, B. rapa)</i>	Mustard (Field, Black, Yellow)	F, I
<i>Bromus rubens</i>	Foxtail, Red brome	F, I
<i>Castanopsis chrysophylla</i>	Giant Chinquapin	F
<i>Cardaria draba</i>	Hoary Cress	I
<i>Carpobrotus species</i>	Ice Plant, Hottentot Fig	I
<i>Cirsium vulgare</i>	Wild Artichoke	F, I
<i>Conyza bonariensis</i>	Horseweed	F
<i>Coprosma pumila</i>	Prostrate Coprosma	F
<i>Cortaderia selloana</i>	Pampas Grass	F, I
<i>Cytisus scoparius</i>	Scotch Broom	F, I
<i>Dodonaea viscosa</i>	Hopseed Bush	F
<i>Eriodictyon californicum</i>	Yerba Santa	F
<i>Eriogonum species (E. fasciculatum)</i>	Buckwheat (California)	F
<i>Fremontodendron species</i>	Flannel Bush	F
<i>Hedera species (H. canariensis, H. helix)</i>	Ivy (Algerian, English)	I
<i>Heterotheca grandiflora</i>	Telegraph Plant	F
<i>Hordeum leporinum</i>	Wild barley	F, I
<i>Juniperus species</i>	Juniper	F
<i>Lactuca serriola</i>	Prickly Lettuce	I
<i>Larix species (numerous)</i>	Larch	F
<i>Larrea tridentata</i>	Creosote bush	F
<i>Lolium multiflorum</i>	Ryegrass	F, I
<i>Lonicera japonica</i>	Japanese Honeysuckle	F
<i>Mahonia species</i>	Mahonia	F
<i>Mimulus aurantiacus</i>	Sticky Monkeyflower	F
<i>Miscanthus species</i>	Eulalie Grass	F
<i>Muhlenbergia species</i>	Deer Grass	F
<i>Nicotiana species (N. bigelovii, N. glauca)</i>	Tobacco (Indian, Tree)	F, I
<i>Pennisetum setaceum</i>	Fountain Grass	F, I
<i>Perovskia atroplicifolia</i>	Russian Sage	F
<i>Phoradendron species</i>	Mistletoe	F
<i>Pickeringia montana</i>	Chaparral Pea	F
<i>Rhus (R. diversiloba, R.</i>	Sumac (Poison oak, Laurel, Pink	F

## *Appendix E*

### *Examples of Prohibited Plants*

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Botanical Name	Common Name	Comment*
<i>laurina, R. lentii</i> )	Flowering)	
<i>Ricinus communis</i>	Castor Bean	F, I
<i>Rhus Lentii</i>	Pink Flowering Sumac	F
<i>Rosmarinus species</i>	Rosemary	F
<i>Salvia species (numerous)</i>	Sage	F, I
<i>Salsola australis</i>	Russian Thistle	F, I
<i>Solanum Xantii</i>	Purple Nightshade (toxic)	I
<i>Silybum marianum</i>	Milk Thistle	F, I
<i>Thuja species</i>	Arborvitae	F
<i>Urtica urens</i>	Burning Nettle	F
<i>Vinca major</i>	Periwinkle	I

\*F = flammable, I = Invasive

**NOTES:**

1. Plants on this list that are considered invasive are a partial list of commonly found plants. There are many other plants considered invasive that should not be planted in a fuel modification zone and they can be found on The California Invasive Plant Council's Website [www.cal-ipc.org/ip/inventory/index.php](http://www.cal-ipc.org/ip/inventory/index.php). Other plants not considered invasive at this time may be determined to be invasive after further study.
2. For the purpose of using this list as a guide in selecting plant material, it is stipulated that all plant material will burn under various conditions.
3. The absence of a particular plant, shrub, groundcover, or tree, from this list does not necessarily mean it is fire resistive.
4. All vegetation used in Vegetation Management Zones and elsewhere in this development shall be subject to approval of the Fire Marshal.
5. Landscape architects may submit proposals for use of certain vegetation on a project specific basis. They shall also submit justifications as to the fire resistivity of the proposed vegetation.

**APPENDIX F**  
*Proposed Project Plant Palette*





# CANDIDATE PLANT MATERIAL- STREETSAPES, PARKS, ENTRIES, COMMON AREAS

## BOTANICAL NAME

### EVERGREEN/DECID. SCREEN TREE

MELALEUCA QUINQUENERVIA  
LYONOTHAMNUS FLORIBUNDUS SSP  
ASPLENIIFOLIUS  
HYMENOSPORUM FLAVUM TRISTANIA  
CONFERTA  
POPULUS NIGRA ITALICA  
PLATANUS RACEMOSA  
PLATANUS ACERFOLIA  
CUPRESSUS SEMPRIVIRENS  
LIGUSTRUM LUCIDUM  
FICUS SPP.  
AFROCARPUS GRACILIAR

### STREET TREES AND STREET ACCENT TREES

TIPUANA TIPU  
METROSIDEROS EXCELSUS  
POPULUS NIGRA ITALICA  
ULMUS PARVIFOLIA  
LIQUIDAMBER STYRACIFLUA 'PALO ALTO'  
OLEA EUROPAEA  
MAGNOLIA GRANDIFLORA  
ARBUTUS 'MARINA'  
ALNUS RHOMBILIFOLIA  
PLATANUS RACEMOSA  
PLATANUS ACERFOLIA  
QUERCUS ILEX  
QUERCUS AGRIFOLIA  
QUERCUS ENGELMANIA  
PYRUS 'BRADFORDI'  
TRISTANIA CONFERTA  
FICUS SPP.  
AFROCARPUS GRACILIAR  
SALIX SPP.  
CERCIDIUM HYBRID 'DESERT MUSEUM'  
POPULUS SPP.  
MANZANITA SPP.  
TABEBUIA IMPETIGINOSA  
GEIJERA PARVIFOLIA  
LYONOTHAMNUS FLORIBUNDUS SSP  
ASPLENIIFOLIUS  
KOELREUTERIA BIPINNATA  
PISTACHIA CHINENSIS  
LAGERSTROEMIA INDICA  
CITRUS SPP.  
FRUIT SPP.  
CERCIS CANADENSIS 'FOREST PANSY'

### EVERGREEN SCREENING SHRUB

MELALEUCA NESOPHILA  
PITTOSPORUM TOBIRA 'VARIEGATA'  
XYLOSMA CONGESTUM 'COMPACTA'  
LIGUSTRUM JAPONICUM 'TEXANUM'  
FIEJOA SELLOWIANA  
EUGENIA UNIFLORA  
RHAMNUS ILICIFOLIA  
CARISSA MACROCARPA  
GREWIA OCCIDENTALIS  
FICUS NITIDA 'GREEN GEM'

### EVERGREEN VERTICAL ACCENT SHRUB

LEPTOSPERMUM LAEVIGATUM  
MONARDELLA SUBGLABRA  
CYATHEA COOPERI  
DRACENA MARGINATA  
ALOE BAINESII  
HETEROMELES ARBUTIFOLIA  
LEUCOPHYLLUM SPP.  
LEUCODENDRON SPP.  
ELAEOCARPUS DECIPIENS  
FREMONTODENDRON SPP  
MAHONIA SPP  
EUPHORBIA INGENS

## EVERGREEN FLOWERING/ACCENT SHRUBS OR SUCCULENTS

AGAVE DESMETTIANA 'VARIEGATA'  
AGAVE ATTENUATA  
AGAVE SPP.  
ALOE ARBORESCENS  
ALOE SPP.  
AGAPANTHUS AFRICANUS  
ARMERIA MARITIMA  
ABELIA GRANDIFLORA  
AEONIUM ARBORIUM  
ANIGOZANTHOS SPP.  
BRUGMANSIA SANGUINEA  
BUXUS MICROPHYLLA JAPONICA  
CALLISTEMON 'LITTLE JOHN'  
CAREX SPP.  
COTANEASTER PARNEYII  
CEANOTHUS 'JOYCE COULTER'  
CHAMELAUCIUM UNCINATUM  
CISTUS PURPUREUS  
COLEONEMA PULCHRUM  
CRASSULA FALCATA  
DIANELLA SPP.  
DIPLACUS SPP.  
DODENEA VISCOSA  
ECHIUM FASTUOSUM  
ESCALLONIA FRADESII  
EUONYMUS SPP.  
EUPHORBIA SPP.  
FOUQUIERIA SPLENDENS  
GAILLARDIA X GRANDIFLORA  
GAURA LINDHEIMERI  
GREVILLEA SPP.  
GREWIA OCCIDENTALIS  
HETEROMELES ARBUTIFOLIA  
HESPERALOE PARVIFLORA  
HEMEROCALLIS HYBRIDS  
KALANCHIE BLOSSFELDIANA

LANTANA SPP.  
LAVANDULA SPP.  
LAVATERA MARITIMA  
LEPTOSPERMUM SPP.  
LEUCOPHYLLUM FRUTESCENS  
MELALEUCA NESOPHYLLA  
MYRTUS COMMUNIS 'COMPACTA'  
NANDINA DOMESTICA  
OPUNTIA ROBUSTA  
POLYGALA X DALMAISIANA  
PHORMIUM SPP.  
PROTEA CYNAROIDES  
PHOTINIA FRASERI  
PRUNUS LYONII  
RHAPHIOLEPIS 'MAJESTIC BEAUTY'  
RHAMNUS CALIFORNICA  
RUSSELLIA EQUISETIFORMIS  
ROMNEYA COULTERI  
RHODODENDRON SPP.  
ROSMARINUS SPP.  
ROSA SPP.  
RHUS INTEGRIFOLIA  
RUSSELLIA EQUISETIFORMIS  
SANTOLINA VIRENS  
SALVIA GREGII  
SALVIA LEUCOPHYLLA  
WESTRINGIA FRUTICOSA  
YUCCA SPP.  
RIBES SPP.  
IVA HAYESIANA  
DIETES VEGETA  
ECHINOCACTUS GRUSONII

## EVERGREEN FLOWERING GROUND COVER

BACCHARIS 'PIGEON POINT'  
FESTUCA OVINA 'GLAUCA'  
X GRAPTOVERIA  
CRASSULA FALCATA  
BOUGAINVILLEA SPP  
SENECIO MANDRALISCAE  
ECHEVERIA HYBRIDS  
ARMERIA MARITIMA  
ARTEMISIA 'POWIS CASTLE'  
BERGENIA CRASSIFOLIA  
SCAEVOLA 'MAUVE CLUSTERS'  
AEONIUM 'PSEUDOTABULAEFORME'  
CEANOTHUS GRISEUS HORIZONTALIS  
GERANIUM SPP.  
LANTANA SPP.  
MYOPORUM PARVIFOLIUM  
MYOPORUM PACIFICUM

THYMUS PRAECOX ARCTICUS  
'REITER'S'  
TRACHELOSPERMUM JASMINOIDES  
PELARGONIUM SPP.  
HEUCHERA SANGUINEA  
OSTEOSPERMUM SPP.  
GAZANIA SPP.  
LIRIOPE MUSCARI 'LILAC BEAUTY'  
CAREX SPP.

## EVERGREEN FLOWERING VINE

GREWIA OCCIDENTALIS  
CAMPSIS RADICANS  
CLYTOSTOMA CALLISTEGIOIDES  
PARTHENOCISSUS TRICUSPIDATA  
MACFADYENA UNGUIS-CATI  
CALLIANDRA INAEQUILATERA  
DISTICTIS SPP.  
PYROSTEGIA VENUSTA  
ROSA SPP.  
TRACHELOSPERMUM JASMINIODES  
WISTERIA SINENSIS

# CANDIDATE PLANT MATERIAL- INTERIOR SLOPES (NOT NATIVE ADJACENT) TRANSITIONAL SLOPES AND/OR FUEL MODIFICATION (IRRIGATED)

## COAST LIVE OAK WOODLAND MIX

### SHRUBS AND GROUNDCOVERS

BERBERIS REPENS  
CEANOTHUS SPP.  
CARPENTARIA CALIFORNICA  
COMAROSTAPHYLLIS DIVERSIFOLIA  
GALVEZIA JUNCEA  
GALVEZIA SPECIOSA  
GARRYA ELLIPTICA  
KECKIELLA CORDIFOLIA  
RIBES SPECIOSUM  
RIBES VIBURNIFOLIUM  
ROSA CALIFORNIACA  
HETEROMELES ARBUTIFOLIA  
IVA HAYESIANA  
PHILADELPHUS LEWISII  
PRUNUS ILICIFOLIA  
RHAMNUS CALIFORNICA  
RHUS OVATA  
SALVIA SPP.  
TRICHOSTEMA LANATUM  
VERBENA LILACINA

### TREES

PLATNUS RACEMOSA  
QUERCUS AGRIFOLIA  
QUERCUS ENGELMANII  
CERCIS OCCIDENTALLIS  
ARBUTUS UNEDO  
MANZINITA SPP  
TRISTANIA CONFERTA

### PERENNIALS

LUPINUS EXCUBITUS  
MIMULUS AURANTIACUS  
PENSTEMON EATONII  
PENSTEMON HETEROPHYLLUS  
ROMNEYA COULTERI  
SALVIA SONOMENSIS  
SALVIA SPATHACEA  
SISYRINCHIUM BELLUM

## GENERAL SLOPE LANDSCAPES

### SHRUBS AND GROUNDCOVERS

ABELIA GRANDIFLORA  
ALOE SPP  
AGAVE SPP  
ACACIA SPP.  
BOUGANVILLEA SPP.  
CEANOTHUS SPP.  
CARPENTARIA CALIFORNICA  
COMAROSTAPHYLLIS DIVERSIFOLIA  
CISTUS PURPUREUS  
CISTUS SPP.  
COPROSMA REPENS  
COTONEASTER MICROPHYLLUS  
COTONEASTER LACTEUS  
DENDROMECON ARFORDII  
ECHIUM FASTUOSUM  
ELAEGNUS PUNGENS  
GREVILLEA NOELLI  
GREWIA OCCIDENTALIS  
GARRYA ELLIPTICA  
HETEROMELES ARBUTIFOLIA  
IVA HAYESIANA  
LANTANA SPP.  
LAVENDULA SPP.  
MELALEUCA NESOPHILA  
NERIUM OLEANDER  
PHOTINIA FRASERI  
PRUNUS CAROLINIANA  
PRUNUS ILICIFOLIA  
RHAMNUS CALIFORNICA  
ROSA SPP  
RHUS OVATA  
ROSA CALIFORNIACA  
SALVIA SPP.  
YUCCA SPP.

### TREES

PLATNUS RACEMOSA  
QUERCUS AGRIFOLIA  
QUERCUS ENGELMANII  
CERCIS OCCIDENTALLIS  
ARBUTUS UNEDO  
MANZINITA SPP  
TRISTANIA CONFERTA  
POPULUS NIGRA ITALICA  
LYONOTHAMNUS FLORIBUNDUS  
SSP ASPLENIIFOLIUS  
CALLISTEMON VIMINALIS

### PERENNIALS/HYROSEED MIX

BROMUS MOLLIS  
ENCELIA CALIFORNICA  
ESCHSCHOLZIA CALIFORNICA  
LOTUS SCOPARIUS  
LUPINUS BICOLOR  
LUPINUS SUCCULENTUS  
MIMULUS PUNICEUS  
MIMULUS AURANTIACUS  
PENSTEMON EATONII  
PENSTEMON HETEROPHYLLUS  
PLANTAGO INSULARIS  
SISYRINCHIUM BELLUM

### EVERGREEN SCREENING SHRUB

PITTIOSPORUM TOBIRA 'VARIEGATA'  
XYLOSMA CONGESTUM 'COMPACTA'  
LIGUSTRUM JAPONICUM 'TEXANUM'  
FIEJOA SELLOWIANA  
EUGENIA UNIFLORA  
RHAMNUS ILICIFOLIA  
CARISSA MACROCARPA  
GREWIA OCCIDENTALIS  
FICUS NITIDA 'GREEN GEM'

### EVERGREEN FLOWERING VINE

GREWIA OCCIDENTALIS  
CAMPSIS RADICANS  
CLYTOSTOMA CALLISTEGIOIDES  
PARTHENOCISSUS TRICUSPIDATA  
MACFADYENA UNGUIS-CATI  
CALLIANDRA INAEQUILATERA  
DISTICTIS SPP.  
PYROSTEGIA VENUSTA  
ROSA SPP.  
TRACHELOSPERMUM JASMINIODES  
WISTERIA SINENSIS

# CANDIDATE PLANT MATERIAL- SPECIFIC HABITAT REVEGETATION AND/OR SELECT FUEL MOD ZONE 2 (NON-IRRIGATED)

## SOUTHERN CACTUS SCRUB COMMUNITY

### CONTAINER PLANTS

OPUNTIA LITTORALIS  
OPUNTIA PROLIFERA  
SAMBUCUS MEXICANA  
CNEORIDIUM DUMOSUM  
ENCELIA CALIFORNICA  
ISOCOMA MENZIESII  
ISOMERIS ARBOREA  
KECKIELLA CORDIFOLIA  
NASSELLA LEPIDA  
SOLANUM XANTII  
YUCCA WHIPPLEI

### HYDROSEED MIX

ERIOPHYLLUM CONFERTIFLORUM  
ESCHSCHOLZIA CALIFORNICA  
GNAPHALIUM CALIFORNICUM  
LUPINUS TRUNCATUS  
PLAGIOBOTHRYUS NOTHOFULVUS  
MIMULUS AURANTIACUS  
NASSELLA LEPIDA  
NASSELLA PULCHRA  
PLANTAGO INSULARIS  
SISYRINCHIUM BELLUM

## WILLOW WOODLAND COMMUNITY

### CONTAINER PLANTS OR SEED MIX

BACCHARIS GLUTINOSA  
ROSA CALIFORNIACA  
RUBUS URSINUS  
SALIX HINDSIANA  
ANEMOPSIS CALIFORNICA  
ARTEMESIA DOUGLASIANA  
ARTEMESIA PALMERII  
ELYMUS CONDENSATUS  
IVA HAYESIANA  
JUNCUS ACUTUS  
ORTHOCARPUS PURPURASCENS  
PHACELIA CAMPANULARIA

### HYDROSEED MIX

SEE ABOVE

### TREES

POPULUS FREMONTII  
SALIX GOODDINGOO  
SALIX LAEVIGATA  
SALIX LASIOLEPIS  
PLATNUS RACEMOSA  
QUERCUS AGRIFOLIA

## COASTAL SAGE SCRUB COMMUNITY

### CONTAINER PLANTS OR SEED MIX

HETEROMELES ARBUTIFOLIA  
BACCHARIS SAROTHOIDES  
ENCILIA CALIFORNICA  
ERIOPHYLLUM CONFERTIFLORUM  
ESCHSCHOLZIA CALIFORNICA  
FESTUCA MEGALURA  
LOTUS SCORRIUS  
LUPINUS BICOLOR  
LUPINUS SUCCULENTS  
MUMULUS PUNICEUS  
ORTHOCARPUS PURPURASCENS  
PHACELIA CAMPANULARIA  
SISYRINCHIUM BELLUM  
STIPA LEPIDA  
STIPA PULCHRA

### HYDROSEED MIX

SEE ABOVE

### TREES

POPULUS FREMONTII  
PLATNUS RACEMOSA  
QUERCUS AGRIFOLIA  
QUERCUS ENGELMANII

# CANDIDATE PLANT MATERIAL- ORCHARD TREES

## TREES

AVOCADO	FIG
LEMON	POMEGRANATE
ORANGE	PLUMS
TANGERINE	PEACH
LIME	NECTARINES
GRAPEFRUIT	APRICOTS
GUAVA	PEAR
PERSIMMON	
KUMQUAT	
LOQUAT	

# CANDIDATE PLANT MATERIAL- DETENTION BASIN

## CONTAINER PLANTS IN BASIN

ACORUS GRAMINEUS 'VARIEGATUS'  
CAREX FLACCA  
CAREX PANSA  
CAREX TUMULICOLA  
CHONDROPETALUM TECTORUM  
DIANELLA REVOLUTA 'LITTLE REV'  
FESTUCA MAIREI  
JUNCUS EFFUSUS 'QUARTZ CREEK'  
JUNCUS INFLEXUS 'BLUE ARROWS'  
JUNCUS PATENS 'ELK BLUE'  
LEYMUS CONDENSATUS 'CANYON PRINCE'  
LOMONDRA LONGIFOLIA 'BREEZE'  
SESLERIA AUTUMNALIS

## TREES

POPULUS FREMONTII  
SALIX GOODDINGOO  
SALIX LAEVIGATA  
SALIX LASIOLEPIS  
PLATNUS RACEMOSA  
QUERCUS AGRIFOLIA  
ALNUS RHOMBIFOLIA

## CONTAINER PLANTS ADJACENT TO BASIN/TOP OF SLOPE

BERBERIS REPENS  
CEANOTHUS SPP.  
CARPENTARIA CALIFORNICA  
COMAROSTAPHYLLIS DIVERSIFOLIA  
GALVEZIA JUNCEA  
GALVEZIA SPECIOSA  
GARRYA ELLIPTICA  
KECKIELLA CORDIFOLIA  
RIBES SPECIOSUM  
RIBES VIBURNIFOLIUM  
ROSA CALIFORNIACA  
HETEROMELES ARBUTIFOLIA  
IVA HAYESIANA  
PHILADELPHUS LEWISII  
PRUNUS ILICIFOLIA  
RHAMNUS CALIFORNICA  
RHUS OVATA  
TRICHOSTEMA LANATUM  
VERBENA LILACINA



# **APPENDIX G**

## *Agency Evacuation Pre-Planning Procedures and Techniques*



## **APPENDIX G**

### **Agency Evacuation Pre-Planning Procedures and Techniques**

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#### **1.1 Evacuation Objectives**

The overall objectives of emergency evacuation operations and notifications are to:

1. Expedite the movement of persons from hazardous areas;
2. Institute access control measures to prevent unauthorized persons from entering vacated, or partially vacated areas;
3. Provide for evacuation to appropriate transportation points, evacuation points, and shelters;
4. Provide adequate means of transportation for persons with disabilities, the elderly, other persons with access and functional needs, and persons without vehicles;
5. Provide for the procurement, allocation, and use of necessary transportation and law enforcement resources by means of mutual aid or other agreements;
6. Control evacuation traffic;
7. Account for the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency;
8. Provide initial notification, ongoing, and re-entry communications to the public through the Joint Information Center (JIC); and
9. Assure the safe re-entry of the evacuated persons.

The San Diego Sheriff's Department (SDSD) is the lead agency for evacuations of the unincorporated areas of San Diego County, including Deer Springs Fire Protection District and the Newland Sierra project. The SDSD, as part of a Unified Command, assesses and evaluates the need for evacuations, and orders evacuations according to established procedures. Additionally, as part of the Unified Command, the SDSD identifies available and appropriate evacuation routes and coordinate evacuation traffic management with the California Department of Transportation (Caltrans), the California Highway Patrol (CHP), other supporting agencies, and jurisdictions.

The decision to evacuate an area is not made lightly and there is a significant impact to public safety and the economy. The following process describes how emergency evacuation decisions are coordinated, allowing emergency managers and other supporting response organizations to make collaborative decisions.



### 1.2 Evacuation Coordination Process

1. If the emergency only impacts a local jurisdiction, the decision to evacuate will be made at the local jurisdiction level with regional collaboration considerations.
  - a. Based on the information gathered, local jurisdictions will generally make the determination on whether to evacuate communities as the need arises, on a case-by-case scenario basis.
  - b. The decision to evacuate will depend entirely upon the nature, scope, and severity of the emergency; the number of people affected; and what actions are necessary to protect the public.
  - c. Local jurisdictions may activate their Emergency Operations Center (EOC) and conduct evacuations according to procedures outline in their Emergency Operations Plan (EOP).
  - d. The EOC may make recommendations on whether a jurisdiction should evacuate and may help coordinate the evacuation effort.
  - e. The Evacuation Annex is automatically activated when an incident occurs requiring an evacuation effort that impacts two or more jurisdictions.
  - f. The EOC will coordinate with fire, law enforcement, public health, and other relevant support agencies to obtain recommendations on protective actions.
  - g. The EOC will coordinate with jurisdictional emergency management personnel and other public safety personnel. The Policy Group within the EOC will coordinate will other officials from jurisdictions within the OA to identify command decisions, including:
    - i. Gaining regional situational awareness
    - ii. Determining response status
    - iii. Reviewing status of initial protective actions
    - iv. Considering additional protective actions
    - v. Evaluating public information needs
    - vi. Determining next steps
    - vii. Establishing a regular time to share updates
  - h. The EOC will coordinate emergency public information to citizens in accordance with established procedures.
  - i. The EOC may support coordinating the evacuation response according to the EOP, including:

## Appendix G (Continued)

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- i. Providing transportation for those who need assistance
- ii. Provide support for people with disabilities and other access and functional needs
- iii. Coordinate and communicate with the private sector, community groups, and faith based organizations to utilize their services and resources available to support the response
- iv. Providing shelter for evacuees

### 1.3 Evacuation Response Operations

An evacuation of any area requires significant coordination among numerous public, private, and community/non-profit organizations. Wildfire evacuations will typically allow time for responders to conduct evacuation notification in advance of an immediate threat to life safety; giving residents time to gather belongings and make arrangements for evacuation. On the other hand, other threats, including wildfires igniting nearby, may occur with little or no notice and certain evacuation response operations will not be feasible (for example, establishing contra flow requires between 24 to 72 hours to be implemented; a no-notice event will not allow for contra flow to be established). Evacuation assistance of specific segments of the population may also not be feasible.

#### 1.3.1 Evacuation Points and Shelters

When the SDSD implements an evacuation order, they coordinate with the responding fire agency, the EOC, and others to decide on a location to use as a Temporary Evacuation Point (TEP). The SDSD Dispatch Center will utilize the AlertSanDiego system to direct evacuees to the established TEP or shelter. These evacuation points will serve as temporary safe zones for evacuees and will provide basic needs such as food, water, and restrooms. If there are residents unable to evacuate and need transportation assistance to get to a TEP or shelter, the SDSD may establish transportation points to collect and transport people without transportation resources to evacuation points. These points should be large, well known sites such as shopping centers, libraries, and schools. Transportation should be accessible to all populations, including people with disabilities and other access and functional needs.

The Pets Evacuation and Transportation Standards Act of 2006 amends the Stafford Act, and requires evacuation plans to take into account the needs of individuals with household pets and service animals, prior to, during, and following a major disaster or emergency.

The San Diego County Department of Animal Services (DAS) has plans in place to transport and shelter pets in a disaster under Annex O of the OA EOP, including the Animal Control Mutual Aid Agreement. Animal Control Officers, the San Diego Humane Society, and private animal

## Appendix G (Continued)

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care shelters will assist in the rescue, transport, and sheltering of small and large animals. In addition, potential volunteer resources and private groups should be identified and tracked in WebEOC. Only non-emergency resources and personnel, such as public and private animal services agencies, will be used to rescue and transport animals during an evacuation effort.

In most cases, DAS and the OA EOC will coordinate and attempt to co-locate animal shelters with people shelters.

### 1.3.2 Shelter-in-Place

Sheltering-in-place is the practice of going or remaining indoors during or following an emergency event. This procedure is recommended if there is little time for the public to react to an incident and it is safer for the public to stay indoors for a short time rather than travel outdoors. Sheltering-in-place also has many advantages because it can be implemented immediately, allowing people to remain in their familiar surroundings, and providing individuals with everyday necessities such as telephone, radio, television, food, and clothing. However, the amount of time people can stay sheltered-in-place is dependent upon availability of food, water, medical care, utilities, and access to accurate and reliable information.

The decision on whether to evacuate or shelter-in-place is carefully considered with the timing and nature of the incident (San Diego County 2014). Sheltering-in-place is the preferred method of protection for people that are not directly impacted or in the direct path of a hazard. This will reduce congestion and transportation demand on the major transportation routes for those that have been directed to evacuate by police or fire personnel. Safari Highlands Ranch provides decision makers with the option of temporarily sheltering the population, or portions thereof.

## 1.4 Available Evacuation Strategies

There are many evacuation strategies that are available that can be implemented during an evacuation effort to enhance traffic flow and reduce the overall evacuation time. These strategies include contra-flow, traffic signal coordination, closure of off and on-ramps, Intelligent Transportation Systems, segregation of pedestrian and vehicle traffic, exclusive bus routes, phased evacuation, phased release of parking facilities, use of designated markings, road barriers, and use of the San Diego Freeway Patrol Service. These methods are summarized below and would be used by law enforcement agencies as necessary to meet evacuation objectives.

### 1.4.1 Intersection Control

Experience with evacuations and input from law enforcement personnel experienced with conducting wildfire evacuations indicates that a key factor for maintaining traffic movement out of evacuation areas is “controlling the intersections”. This includes intersections downstream,

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possibly including the primary intersections along SR-78, Cloverdale Lane and internal Escondido streets along Valley Parkway. Typically, available law enforcement personnel may be a limiting factor on how well the intersections are controlled.

Intersections must be controlled by law enforcement personnel early, while they are still open. Once an intersection becomes gridlocked, it is almost impossible to re-open traffic flow (public hearing presentation by Orange County Sheriff's Department 2013). Therefore, intersections along the detailed Safari Highlands Ranch evacuation routes are critical to keep open and flowing traffic south and eastward. Keeping these roads flowing will provide for fast evacuation of the Safari Highlands Ranch Project as well as other communities in the area.

### 1.4.2 Contra-Flow Operations

Contra-flow is a tactic in which one or more lanes of a roadway are reversed to allow for an increase of traffic flow in one direction. Contra-flow can be implemented for highway and arterial roadways, however, the divided north bound and south bound directions, access-controlled configurations, and lack of signals on highways make these roadways ideal for contra-flow operations. An important consideration in the development of contra-flow plans is the identification of inception and termination points for the corridor. Congestion at these points can significantly reduce the effectiveness of these operations. Effective implementation of these plans includes the deployment of appropriate signage, signals, and barriers as well as the use of CHP and San Diego Sheriff's Department personnel. For safety considerations, contra-flow operations should only be performed during daylight hours. In addition, an emergency return lane must also be designated.

### 1.4.3 Traffic Signal Coordination and Timing

Traffic signal coordination and timing plans are intended to maximize traffic flow in the outbound direction during an evacuation effort. Depending on the extent of the evacuation, coordination may be necessary both locally and regionally to re-time the traffic signal systems.

### 1.4.4 Closure of On and Off-Ramps

Closure of outbound on-ramps on designated evacuation routes (such as I-15) will reduce congestion on these roadways resulting from traffic originating at intermediate locations between evacuation origins and destinations. In addition to reducing congestion, closure of outbound on-ramps will also help eliminate entrance queuing. Closure of off-ramps will ensure evacuees remain on designated evacuation routes. These tactics will require coordinated efforts between CHP, Caltrans, Sheriff's, and other emergency personnel to place and staff barricades at the tops of such ramps throughout the evacuation route.

## Appendix G (Continued)

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### 1.4.5 Intelligent Transportation Systems

Intelligent Transportation Systems include a broad range of technologically based tools that enable transportation and emergency managers to monitor traffic conditions, respond to capacity-reducing events, and provide real-time road conditions. San Diego is equipped with numerous forms of Intelligent Transportation Systems technologies including roadway electronic surveillance, automatic vehicle location, Changeable Message Signs, and Highway Advisory Radio. These types of technologies provide real-time information to the San Diego Transportation Management Center. The San Diego Transportation Management Center integrates Caltrans Traffic Operations, Caltrans Maintenance, and CHP Communications into a unified, co-located communication and command center. The Transportation Management Center functions to provide communications, surveillance, and computer infrastructure required for coordinated transportation management. Using Intelligent Transportation Systems technologies, the Transportation Management Center can quickly detect, verify, and respond to incidents, such as recommending a different evacuation route due to congestion.

### 1.4.6 Segregation of Pedestrian and Vehicle Traffic

Although not anticipated for wildfire evacuations, this strategy will designate certain urban roadways as pedestrian only. This will provide separation between vehicles and pedestrians during an evacuation, thus reducing confusion and increasing the efficiency and safety of the evacuation.

### 1.4.7 Exclusive Bus Routes

This strategy involves the designation of certain lanes within an evacuation route exclusively for buses or other large capacity or high occupancy vehicles. Exclusive bus routes may also be established along alternative evacuation routes. The implementation of this strategy will help support and expedite transportation point operations and can greatly increase the number of people that can be evacuated within a set period of time.

### 1.4.8 Phased Evacuation

The purpose of a phased evacuation is to reduce congestion and transportation demand on designated evacuation routes by controlling access to evacuation routes in stages and sections. This strategy can also be used to prioritize the evacuation of certain communities that are in proximity to the immediate danger.

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### 1.4.9 Use of Designated Markings

Designated markings and signs will play a key role in accomplishing a safe and efficient evacuation. Signs, flags, and other markings can be used to provide guidance and information to evacuees en-route.

### 1.4.10 Road Barriers

Road barriers are used in conjunction with other transportation strategies to ensure evacuees remain on designated evacuation routes or are blocked from entering closed areas.

Roadblocks and barricades

A variety of methods are used to stop or divert traffic. Roadblocks and barriers include a number of different technologies:

- ≠ Tape barriers
- ≠ Portable signs
- ≠ Cones
- ≠ Barrels
- ≠ DOT Type II rail barricades: must be at least 3 feet high with two rails 2 feet in length.
- ≠ DOT Type III rail barricades: must be at least 5 feet high and have three rails that are at least 3 feet long.
- ≠ Concrete or water-filled barricades (manual)
- ≠ Automated vehicle barricades
- ≠ Manual swinging gate barricades

These devices can be set in place without staffing or staffed (labor and time intensive) by traffic guides or law enforcement personnel (traffic control). In general, un-staffed and removable barricades are not very effective as drivers can circumvent them rather easily. The importance of maintaining intersections flowing traffic will supersede the possibility of using these types of barricades during most evacuations.

## 1.5 Social Aspects of Wildfire Evacuation

Orderly movement of people is the result of planning, training, education, and awareness, all of which are promoted in San Diego County. Evacuation has been the standard term used for

## Appendix G (Continued)

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emergency movement of people and implies imminent or threatening danger. The term in this Wildland Fire Evacuation Plan, and under the “Ready, Set, Go!” concept, indicates that there is a perceived threat to persons and movement out of the area is necessary, but will occur according to a pre-planned and practiced protocol, reducing the potential for panic.

Citizen reactions may vary during an evacuation event, although several studies indicate that orderly movement during wildfire and other emergencies is not typically unmanageable. Evacuation can be made even less problematic through diligent public education and emergency personnel training and familiarity. Social science research literature indicates that reactions to warnings follow certain behavior patterns that are defined by people’s perceptions (Aguirre 1994, Drabek 1991, Fitzpatrick and Mileti 1994, Gordon 2006, Collins 2004) and are not unpredictable. In summary, warnings received from credible sources by people who are aware (or have been made aware) of the potential risk, have the effect of an orderly decision process that typically results in successful evacuation. This success is heightened when evacuations are practiced (Quarentelli and Dynes 1977; Lindell and Perry 2004) as will occur within the Safari Highlands Ranch project. Further, in all but the rarest circumstances, evacuees will be receiving information from credible sources during an evacuation. Further, it would be anticipated that law enforcement and/or fire personnel would be on site to help direct traffic and would be viewed by evacuees as knowledgeable and credible. The importance of training these personnel cannot be understated and annual education and training regarding fire safety and evacuation events will be essential for successful future evacuations.

### 1.5.1 Evacuation of Special Populations

Vogt (1990 and 1991) defines special populations as those groups of people who, because of their special situations or needs, require different planning strategies from those of the general population. Special needs populations include those in institutions or special facilities, those with disabilities in homes, those who need care, children, and others who cannot provide for their own evacuation if necessitated. The special needs population is concentrated in facilities, but is also widespread in terms of facility locations and those who live in residences. Special needs populations in Newland Sierra include the hearing or visually impaired, foreign speaking, visitors passing through the area, temporary visitors such as day workers, and the non-ambulatory confined to residences either temporarily or permanently.

Tourists and temporary visitors may not have knowledge of the area’s fire hazard, they may not know how to react in a fire emergency, and they may not understand what they are being told to do. Conversely, this segment of the population would typically be easier to evacuate quickly as they have no possession or pets that they would need to prepare. They can get in their cars and be directed out of the area.



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The reasons why special needs populations may fail to respond to warnings to take protective actions is that they may require special transportation while others require different types of warnings or technologies to receive a warning. Some groups must rely on care-givers to hear the warning and respond.

### **Safari Highlands Ranch Approach:**

The Safari Highlands Ranch community will be advised of their need to register as a special needs resident, as applicable, so that accommodations for their transportation or other special requirements can be provided during an emergency evacuation.

### **1.5.2 Animal Evacuations**

Animal evacuations present a host of challenges that may affect the overall successful movement of people and their possessions out of harm's way. For example, livestock owners do not always have the means to load and trailer their livestock out of the area. Further, most wildfire evacuation relief shelters or commercial lodging facilities do not allow people to bring in pets or other animals. Sorensen and Vogt (2006) indicate that an issue receiving increasing attention is what evacuees do with pets or other animals such as livestock when they leave their homes and whether having pets or animals impacts their decision to evacuate.

The Safari Highlands Ranch project will not accommodate livestock of any type on-site, however the trails and trail access points could conceivably include horses during an evacuation notice. Household pets will be a common occurrence.

### **Safari Highlands Ranch Approach:**

- ≠ Develop a strong outreach program for pet owners so they understand their responsibilities and that they will not likely be allowed re-entry once evacuated.
- ≠ Develop a registration for owners of animals who cannot evacuate them without assistance so that volunteer organizations or individuals, can provide resources.
- ≠ Notice horse owners who utilize the Safari Highlands Ranch trailheads of the fire dangers and their responsibility to register with the avior alert programs and evacuate when given notice.

### **1.5.3 Re-Entry Procedures**

An important component of evacuations that was not executed well during past San Diego County evacuations is that of allowing citizens to re-enter their neighborhoods. Guidance and procedures to ensure a coordinated, safe, and orderly re-entry into impacted communities following an incident is provided in the County of San Diego Re-Entry Protocol.



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Re-entry will be initiated by the Incident Commander/Unified Command of the Incident Management Team, with the support of the Director of Emergency Services, the OA EOC Director, and the Operations Section Chief at the OA EOC. In most cases the OA EOC will remain activated until full re-entry is complete. In the event that the OA EOC has been deactivated, the Incident Commander or the Liaison Officer of the Incident Management Team will initiate re-entry procedures.

The Incident Commander will designate a Re-Entry Coordinator and the Operations Section Chief of the OA EOC will coordinate with and support the re-entry coordinator. The Re-Entry Coordinator is responsible for coordinating the re-entry procedures with all involved agencies and ensuring effective communication. Priorities for re-entry include:

The impacted areas must be thoroughly investigated to ensure it is safe for residents to return and normal operations have been restored. This assessment will include verification that:

The public will be notified of the re-entry status through the notification measures previously mentioned in this annex, including SDCountyEmergency.com, SDEmergency App for smart phones, emergency broadcast radio, television, press releases, informational phone lines such as 2-1-1, community briefings, and informational updates at shelters.

Once evacuees are permitted to return, it is important that procedures are established to properly identify residents and critical support personnel, as well as ensure the legitimacy of contractors, insurance adjusters, and other personnel. Re-entry points should be staffed by law enforcement personnel.

### 1.6 LIMITATIONS

During extreme fire weather conditions, there are no guarantees that a given structure will not burn or that evacuations will be successful all of the time. Wildfires may occur in the area that could damage property or harm persons. However, successful implementation of the recommendations outlined in this Evacuation Plan will provide for an informed populace, pre-planned and practiced fire and law enforcement personnel, and informed evacuation officials. The Newland Sierra community is designed specifically to be resistant to wildfire ignition and perform as a fire adapted project, offering fire and law officials additional options for resident safety than are available from less defensible communities.

This Wildland Fire Evacuation Plan does not provide a guarantee that all persons will be safe at all times because of the recommendations proposed. There are many variables that may influence overall safety. This Plan provides a summary for implementation of standard evacuation protocols, suggested roadway enhancements, and public outreach, which should result in reduced wildfire related risk and hazard. Even then, fire can compromise the procedures through various, unpredictable ways. The goal is to reduce the likelihood that the

## Appendix G (Continued)

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system is compromised through implementation of the elements of this Plan and regular occurring program maintenance and updates.

### 1.7 REFERENCES

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## Appendix G (Continued)

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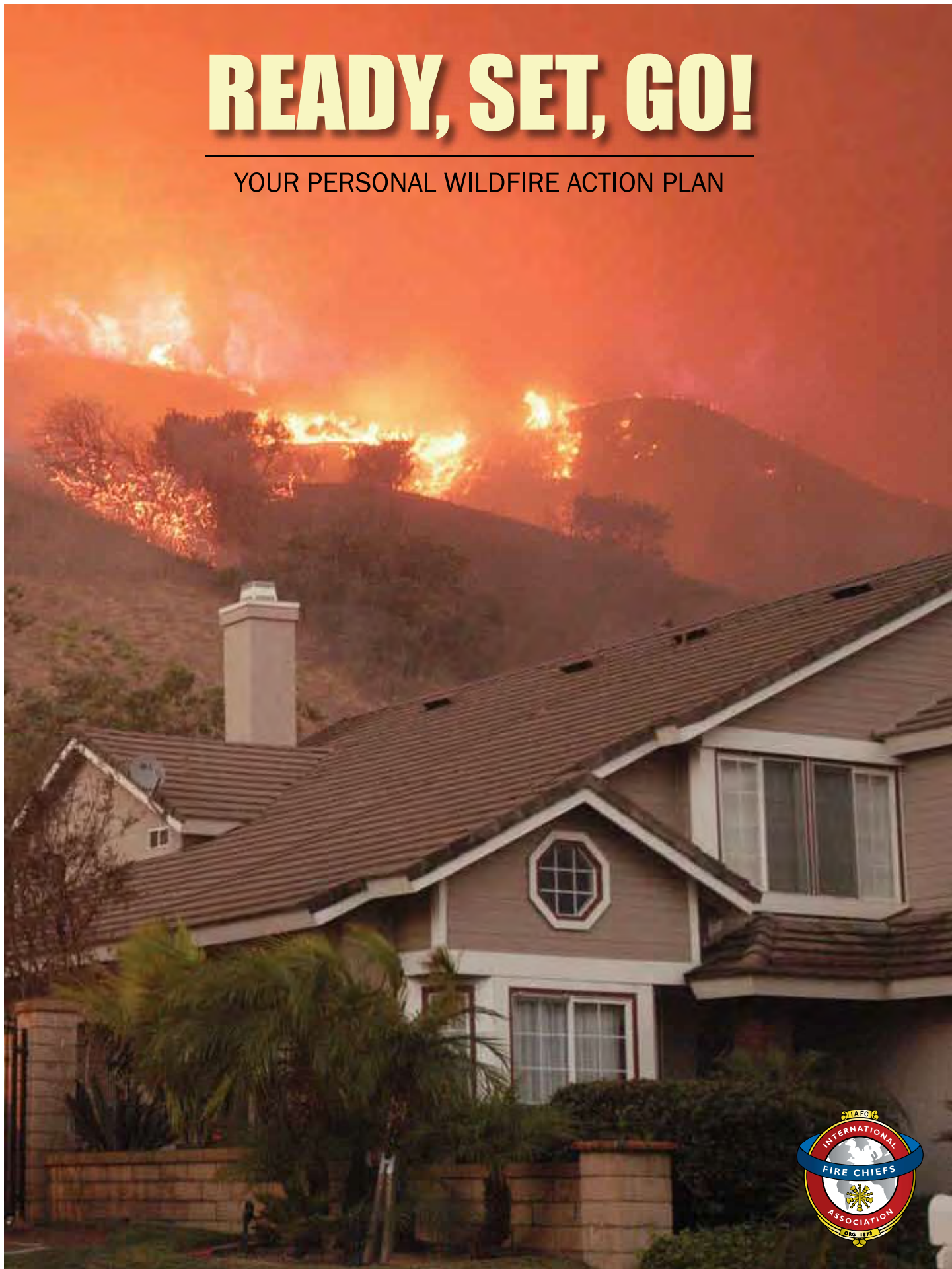
# **APPENDIX H**

*Ready, Set, Go! Wildfire Action Plan*



# READY, SET, GO!

YOUR PERSONAL WILDFIRE ACTION PLAN



# READY, SET, GO!

## Wildfire Action Plan

Saving Lives and Property  
through Advance Planning



The fire season is now a year-round reality in many areas, requiring firefighters and residents to be on heightened alert for the threat of wildfire throughout the year.

Each year, wildfires consume hundreds of homes in the Wildland/Urban Interface (WUI). Studies show that as many as 80 percent of the homes lost to wildfires could have been saved if their owners had only followed a few simple fire-safe practices. In addition, wildfire-related deaths occur because people wait too late to leave their home.

Your fire department takes every precaution to help protect you and your property from wildfire. However, the reality is that in a major wildfire, there will simply not be enough fire engines or firefighters to defend every home.

Successfully preparing for a wildfire requires **you** to take personal responsibility for protecting yourself, your family and your property. In this publication, we hope to give you the tips and tools you need to prepare and be successful.

Fire is, and always has been, a natural occurrence in the wildland. Our brush-covered hills, canyons and forests burned periodically long before we built homes there. Wildfires, fueled by a build-up of dry vegetation and driven by seasonal hot, dry winds, are extremely dangerous and impossible to control. However, many residents have built their homes and landscaped without fully understanding the impact a fire could have on them, and few have adequately prepared their families for a quick evacuation.

It's not a question of **if** but **when** the next major wildfire will occur. That's why the most important person in protecting your life and property is not the firefighter, but you. Through advance planning and preparation, we can all be ready for wildfire. We hope you find the tips in the next pages helpful in creating heightened awareness and a more fire-safe environment for you and your family.

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This publication was prepared with the assistance of the Ventura County Fire Department and the Orange County Fire Authority in cooperation with the International Association of Fire Chiefs. Special thanks to the Institute for Business and Home Safety, University of Nevada Cooperative Extension "Living with Fire" program, CAL FIRE, FireSafe Council, Firewise Communities and many other organizations for their contributions to content.



# Living in the Wildland Urban Interface and the Ember Zone

Ready, Set, Go! begins with a house that firefighters can defend.

## Defensible space works!

If you live next to a natural area, the Wildland Urban Interface, you must provide firefighters with the defensible space they need to protect your home. The buffer zone you create by removing weeds, brush and other vegetation helps to keep the fire away from your home and reduces the risks from flying embers.



A home within one mile of a natural area is in the Ember Zone. Wind-driven embers can attack your home. You and your home must be prepared well before a fire occurs. Ember fires can destroy homes or neighborhoods far from the actual flame front of the wildfire.





# What is Defensible Space?



Defensible space is the required space between a structure and the wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure. It protects the home from igniting due to direct flame or radiant heat. Defensible space is essential for structure survivability during wildfire conditions.

## ZONE ONE

Zone One extends 30 feet out from buildings, structures, decks, etc.

- Remove all dead or dying vegetation.
- Trim tree canopies regularly to keep their branches a minimum of 10 feet from structures and other trees.
- Remove leaf litter (dry leaves/pine needles) from yard, roof and rain gutters.
- Relocate woodpiles or other combustible materials into Zone Two.
- Remove combustible material and vegetation from around and under decks.
- Remove or prune vegetation near windows.
- Remove “ladder fuels” (low-level vegetation that allows the fire to spread from the ground to the tree canopy). Create a separation between low-level vegetation and tree branches. This can be done by reducing the height of low-level vegetation and/or trimming low tree branches.

## ZONE TWO

Zone Two extends 30 to 100 feet out from buildings, structures and decks. You can minimize the chance of fire jumping from plant to plant by removing dead material and removing and/or thinning vegetation. The minimum spacing between vegetation is three times the dimension of the plant.

- Remove “ladder fuels.”
- Cut or mow annual grass down to a maximum height of 4 inches.
- Trim tree canopies regularly to keep their branches a minimum of 10 feet from other trees.

# What is a Hardened Home?

Construction materials and the quality of the defensible space surrounding it are what gives a home the best chance to survive a wildfire. Embers from a wildfire will find the weak link in your home's fire protection scheme and gain the upper hand because of a small, overlooked or seemingly inconsequential factor. However, there are measures you can take to safeguard your home from wildfire. While you may not be able to accomplish all the measures listed below, each will increase your home's, and possibly your family's, safety and survival during a wildfire.



## **ROOFS**

Roofs are the most vulnerable surface where embers land because they can lodge and start a fire. Roof valleys, open ends of barrel tiles and rain gutters are all points of entry.

## **EAVES**

Embers can gather under open eaves and ignite exposed wood or other combustible material.

## **VENTS**

Embers can enter the attic or other concealed spaces and ignite combustible materials. Vents in eaves and cornices are particularly vulnerable, as are any unscreened vents.

## **WALLS**

Combustible siding or other combustible or overlapping materials provide surfaces or crevices for embers to nestle and ignite.

## **WINDOWS and DOORS**

Embers can enter gaps in doors, including garage doors. Plants or combustible storage near windows can be ignited from embers and generate heat that can break windows and/or melt combustible frames.

## **BALCONIES and DECKS**

Embers can collect in or on combustible surfaces or the undersides of decks and balconies, ignite the material and enter the home through walls or windows.

To harden your home even further, consider protecting your homes with a residential fire sprinkler system. In addition to extinguishing a fire started by an ember that enters your home, it also protects you and your family year-round from any fire that may start in your home.



# Tour a Wildfire Ready Home

**Home Site and Yard:** Ensure you have at least a 100-foot radius of defensible space (cleared vegetation) around your home. Note that even more clearance may be needed for homes in severe hazard areas. This means looking past what you own to determine the impact a common slope or neighbors' yard will have on your property during a wildfire.

Cut dry weeds and grass before noon when temperatures are cooler to reduce the chance of sparking a fire.

Landscape with fire-resistant plants that have a high moisture content and are low-growing.

Keep woodpiles, propane tanks and combustible materials away from your home and other structures such as garages, barns and sheds.

Ensure that trees are far away from power lines.

**Roof:** Your roof is the most vulnerable part of your home because it can easily catch fire from wind-blown embers. Homes with wood-shake or shingle roofs are at high risk of being destroyed during a wildfire.

Build your roof or re-roof with fire-resistant materials such as composition, metal or tile. Block any spaces between roof decking and covering to prevent ember intrusion.

Clear pine needles, leaves and other debris from your roof and gutters.

Cut any tree branches within ten feet of your roof.

**Vents:** Vents on homes are particularly vulnerable to flying embers.

All vent openings should be covered with 1/8-inch or smaller metal mesh. Do not use fiberglass or plastic mesh because they can melt and burn.

Attic vents in eaves or cornices should be baffled or otherwise protected to prevent ember intrusion (mesh is not enough).

**Windows:** Heat from a wildfire can cause windows to break even before the home ignites. This allows burning embers to enter and start internal fires. Single-paned and large windows are particularly vulnerable.

Install dual-paned windows with the exterior pane of tempered glass to reduce the chance of breakage in a fire.

Limit the size and number of windows in your home that face large areas of vegetation.

**Inside:** Keep working fire extinguishers on hand. Install smoke alarms on each level of your home and near bedrooms. Test them monthly and change the batteries twice a year.

**Address:** Make sure your address is clearly visible from the road.



**Walls:** Wood products, such as boards, panels or shingles, are common siding materials. However, they are combustible and not good choices for fire-prone areas.

Build or remodel with fire-resistant building materials, such as brick, cement, masonry or stucco.

Be sure to extend materials from foundation to roof.



**Garage:** Have a fire extinguisher and tools such as a shovel, rake, bucket and hoe available for fire emergencies.

Install a solid door with self-closing hinges between living areas and the garage. Install weather stripping around and under door to prevent ember intrusion.

Store all combustibles and flammable liquids away from ignition sources.

**Driveways and Access Roads:** Driveways should be designed to allow fire and emergency vehicles and equipment to reach your house.

Access roads should have a minimum 10-foot clearance on either side of the traveled section of the roadway and should allow for two-way traffic.

Ensure that all gates open inward and are wide enough to accommodate emergency equipment.

Trim trees and shrubs overhanging the road to a minimum of 13 1/2 feet to allow emergency vehicles to pass.

**Non-Combustible Fencing:** Make sure to use non-combustible fencing to protect your home during a wildfire.

**Non-Combustible Boxed In Eaves:** Box in eaves with non-combustible materials to prevent accumulation of embers.

**Raingutters:** Screen or enclose rain gutters to prevent accumulation of plant debris.

**Water Supply:** Have multiple garden hoses that are long enough to reach any area of your home and other structures on your property.

If you have a pool or well, consider a pump.

**Deck/Patio Cover:** Use heavy timber or non-flammable construction material for decks.

Enclose the underside of balconies and decks with fire-resistant materials to prevent embers from blowing underneath.

Keep your deck clear of combustible items, such as baskets, dried flower arrangements and other debris.

The decking surface must be ignition resistant if it's within 10 feet of the home.

**Chimney:** Cover your chimney and stovepipe outlets with a non-flammable screen of 1/4-inch wire mesh or smaller to prevent embers from escaping and igniting a fire.

Make sure that your chimney is at least 10 feet away from any tree branches.



# READY, SET, GO!

## Create Your Own Wildfire Action Plan

Now that you've done everything you can to protect your house, it's time to prepare your family. Your **Wildfire Action Plan** must be prepared with all members of your household well in advance of a fire.

Use these checklists to help you prepare your Wildfire Action Plan. Each family's plan will be different, depending on their situation.

Once you finish your plan, rehearse it regularly with your family and keep it in a safe and accessible place for quick implementation.

## GET READY

### Prepare Your Family



- Create a **Family Disaster Plan** that includes meeting locations and communication plans and rehearse it regularly. Include in your plan the evacuation of large animals such as horses.
- Have fire extinguishers on hand and train your family how to use them.
- Ensure that your family knows where your gas, electric and water main shut-off controls are and how to use them.
- Plan several different evacuation routes.
- Designate an emergency meeting location outside the fire hazard area.
- Assemble an emergency supply kit as recommended by the American Red Cross.
- Appoint an out-of-area friend or relative as a point of contact so you can communicate with family members who have relocated.
- Maintain a list of emergency contact numbers posted near your phone and in your emergency supply kit.
- Keep an extra emergency supply kit in your car in case you can't get to your home because of fire.
- Have a portable radio or scanner so you can stay updated on the fire.



# GET SET

## As the Fire Approaches

- Evacuate as soon as you are set!
- Alert family and neighbors.
- Dress in appropriate clothing (i.e., clothing made from natural fibers, such as cotton, and work boots). Have goggles and a dry bandana or particle mask handy.
- Ensure that you have your emergency supply kit on hand that includes all necessary items, such as a battery powered radio, spare batteries, emergency contact numbers, and ample drinking water.
- Stay tuned to your TV or local radio stations for updates, or check the fire department Web site.
- Remain close to your house, drink plenty of water and keep an eye on your family and pets until you are ready to leave.

### INSIDE CHECKLIST

- Shut all windows and doors, leaving them unlocked.
- Remove flammable window shades and curtains and close metal shutters.
- Remove lightweight curtains.
- Move flammable furniture to the center of the room, away from windows and doors.
- Shut off gas at the meter. Turn off pilot lights.
- Leave your lights on so firefighters can see your house under smoky conditions.
- Shut off the air conditioning.



### OUTSIDE CHECKLIST

- Gather up flammable items from the exterior of the house and bring them inside (e.g., patio furniture, children's toys, door mats, etc.) or place them in your pool.
- Turn off propane tanks.
- Don't leave sprinklers on or water running - they can waste critical water pressure.
- Leave exterior lights on.
- Back your car into the driveway. Shut doors and roll up windows.
- Have a ladder available.
- Patrol your property and extinguish all small fires until you leave.
- Seal attic and ground vents with pre-cut plywood or commercial seals if time permits.

### IF YOU ARE TRAPPED: SURVIVAL TIPS

- Shelter away from outside walls.
- Bring garden hoses inside house so embers don't destroy them.
- Patrol inside your home for spot fires and extinguish them.
- Wear long sleeves and long pants made of natural fibers such as cotton.
- Stay hydrated.
- Ensure you can exit the home if it catches fire (remember if it's hot inside the house, it is four to five times hotter outside).
- Fill sinks and tubs for an emergency water supply.
- Place wet towels under doors to keep smoke and embers out.
- After the fire has passed, check your roof and extinguish any fires, sparks or embers.
- Check inside the attic for hidden embers.
- Patrol your property and extinguish small fires.
- If there are fires that you can not extinguish with a small amount of water or in a short period of time, call 9-1-1.

# Go! | *Early!*

By leaving early, you give your family the best chance of surviving a wildfire. You also help firefighters by keeping roads clear of congestion, enabling them to move more freely and do their job.

## WHEN TO LEAVE

---

Leave early enough to avoid being caught in fire, smoke or road congestion. Don't wait to be told by authorities to leave. In an intense wildfire, they may not have time to knock on every door. If you are advised to leave, don't hesitate!

## WHERE TO GO

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Leave to a predetermined location (it should be a low-risk area, such as a well-prepared neighbor or relative's house, a Red Cross shelter or evacuation center, motel, etc.)

## HOW TO GET THERE

---

Have several travel routes in case one route is blocked by the fire or by emergency vehicles and equipment. Choose an escape route away from the fire.

## WHAT TO TAKE

---

Take your emergency supply kit containing your family and pet's necessary items.



## EMERGENCY SUPPLIES

---

The American Red Cross recommends every family have an emergency supply kit assembled long before a wildfire or other emergency occurs. Use the checklist below to help assemble yours. For more information on emergency supplies, visit the American Red Cross Web site at [www.redcross.org](http://www.redcross.org).

- Three-day supply of water (one gallon per person per day).
- Non-perishable food for all family members and pets (three-day supply).
- First aid kit.
- Flashlight, battery-powered radio, and extra batteries.
- An extra set of car keys, credit cards, cash or traveler's checks.
- Sanitation supplies.
- Extra eyeglasses or contact lenses.
- Important family documents and contact numbers.
- Map marked with evacuation routes.
- Prescriptions or special medications.
- Family photos and other irreplaceable items.
- Easily carried valuables.
- Personal computers (information on hard drives and disks).
- Chargers for cell phones, laptops, etc.

Note: Keep a pair of old shoes and a flashlight handy in case of a sudden evacuation at night.

Write up your Wildfire Action Plan and post it in a location where every member of your family can see it. Rehearse it with your family.

# My Personal Wildfire Action Plan

During High Fire Danger days in your area, monitor your local media for information on brush fires and be ready to implement your plan. Hot, dry and windy conditions create the perfect environment for a wildfire.

## Important Phone Numbers:

Out-of-State Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Work: \_\_\_\_\_

School: \_\_\_\_\_

Other: \_\_\_\_\_

Evacuation Routes: \_\_\_\_\_

Where to go: \_\_\_\_\_

Location of Emergency Supply Kit: \_\_\_\_\_

Notes: \_\_\_\_\_



International Association of Fire Chiefs  
4025 Fair Ridge Dr.  
Fairfax, VA 22033  
(703) 273-0911  
[www.iafc.org/ReadySetGo](http://www.iafc.org/ReadySetGo)





# READY, SET, GO!

## Residential Safety Checklist Tips To Improve Family and Property Survival During A Wildfire

Home	Yes	No
1. Does your home have a metal, composition, or tile (or other non-combustible) roof with capped ends and covered fascia?	<input type="checkbox"/>	<input type="checkbox"/>
2. Are the rain gutters and roof free of leaves, needles and branches?	<input type="checkbox"/>	<input type="checkbox"/>
3. Are all vent openings screened with 1/8 inch (or smaller) mesh metal screen?	<input type="checkbox"/>	<input type="checkbox"/>
4. Are approved spark arrestors on chimneys?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the house have non-combustible siding material?	<input type="checkbox"/>	<input type="checkbox"/>
6. Are the eaves "boxed in" and the decks enclosed?	<input type="checkbox"/>	<input type="checkbox"/>
7. Are the windows made of at least double-paned or tempered glass?	<input type="checkbox"/>	<input type="checkbox"/>
8. Are the decks, porches and other similar areas made of non-combustible material and free of easily combustible material (e.g. plastic furniture)?	<input type="checkbox"/>	<input type="checkbox"/>
9. Is all firewood at least 30 feet from the house?	<input type="checkbox"/>	<input type="checkbox"/>

Defensible Space	Yes	No
1. Is dead vegetation cleared to the recommended defensible space area? (Consider adding distance due to slope of property.)	<input type="checkbox"/>	<input type="checkbox"/>
2. Is there separation between shrubs?	<input type="checkbox"/>	<input type="checkbox"/>
3. Are ladder fuels removed?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is there a clean and green area extending at least 30 feet from the house?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is there a non-combustible area within five feet of the house?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is there separation between trees and crowns?	<input type="checkbox"/>	<input type="checkbox"/>

Emergency Access	Yes	No
1. Is the home address visible from the street?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the home address made of fire-resistant materials?	<input type="checkbox"/>	<input type="checkbox"/>
3. Are street signs present at every intersection leading to the house?	<input type="checkbox"/>	<input type="checkbox"/>
4. Are street signs made of fire-resistant materials?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is flammable vegetation within 10 feet of the driveway cleared and are overhanging obstructions removed?	<input type="checkbox"/>	<input type="checkbox"/>
6. If a long driveway is present, does it have a suitable turnaround area?	<input type="checkbox"/>	<input type="checkbox"/>



# **Exhibit 6**

# Griffin Cove Transportation Consulting, PLLC

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July 22, 2022

Mr. Peter J. Broderick  
Center for Biological Diversity  
351 California Street, Suite 600  
San Francisco, California 94104

Subject: ***Fanita Ranch Project – Santee, California  
Recirculated Sections of Final Revised Environmental Impact Report***

Dear Mr. Broderick:

The City of Santee, California, has recently recirculated certain sections of the final environmental impact report (FEIR) for the proposed Fanita Ranch project (“Project”) in that city. This recirculation was in response to a Superior Court determination that the FEIR previously certified by the city was inadequate, in part due to deficiencies in its consideration of the ability to safely evacuate the Project site in the event of a wildfire.

Griffin Cove Transportation Consulting, PLLC (GCTC) has completed a review of the recirculated documentation concerning the wildfire evacuation issue. (Reference: Harris & Associates, *Recirculated Sections of Final Revised Environmental Impact Report – Fanita Ranch Project*, June 2022.) Of particular interest in this review are the following documents contained within the recirculated material:

- Section 4.18 - Wildfire
- Appendix P1 – Fire Protection Plan (Reference: Dudek, *Revised Fanita Ranch Fire Protection Plan*, Revised May 2022.)
- Appendix P2 – Wildland Fire Evacuation Plan (Reference: Dudek, *Wildland Fire Evacuation Plan for the Fanita Ranch Community*, May 2022.)
- Wildland Fire Evacuation Plan Appendix D (Reference: Chen Ryan Associates, Memorandum Report to HomeFed Fanita Rancho, LLC, “Fanita Ranch Project Fire Evacuation Analysis – Technical Memorandum,” May 25, 2022.)

Our review focused on the technical adequacy of the evacuation analysis presented in these documents, including the detailed procedures and conclusions documented in the Fire Protection Plan (FPP), the Wildland Fire Evacuation Plan (WFEP), and the Chen Ryan technical memorandum.

## **BACKGROUND**

The proposed 2,638-acre Fanita Ranch project would be located in the northern portion of the City of Santee in San Diego County, California. The proposed project would consist of 2,949 residential dwelling units, 80,000 square feet of commercial space, a K – 8 school, parks, open space, and agricultural uses.

Vehicular access is proposed via the northerly extension of two existing roadways: Fanita Parkway and Cuyamaca Street. The current Project proposal also includes the extension of Magnolia Avenue from its current terminus to meet Cuyamaca Street a short distance south of the Project site boundary. The Magnolia Avenue extension, which was eliminated from the Project a short time prior to certification of the EIR by the City of Santee, has been restored to the Project.

## REVIEW OF RECIRCULATED SECTIONS OF FINAL REVISED ENVIRONMENTAL IMPACT REPORT

Our review of the documents listed above revealed several issues affecting the validity of the analysis results and conclusions. Those issues are presented below.

1. **Flawed Evaluation of New Significance Threshold** – Section 4.18 - Wildfire addresses a new significance threshold, as follows:

*Threshold 6: Wildland Fires - Would implementation of the proposed project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? (RSFREIR, p. 4.18-35)*

Pertinent issues related to wildland fire evacuation are discussed in Section 4.18 – Wildfire beginning at p. 4.18-44. That discussion relies heavily upon information presented in Appendix P1 – Fire Protection Plan, Appendix P2 – Wildland Fire Evacuation Plan, and the Chen Ryan technical memorandum, and concludes that the Project will have a less than significant impact. However, no meaningful support was provided for this determination.

In fact, it appears that no significance criterion or performance standard was established or applied in making the determination that the Project would have a “less than significant” impact with respect to evacuation. In this regard, the Chen Ryan Associates evacuation time memorandum (p. 19) acknowledges:

*Neither CEQA nor the City has adopted numerical time standards for determining whether an evacuation timeframe is appropriate.*

Similarly, the Fire Protection Plan presented in Appendix P2 (p. 3) claims:

*However, it must be clear that there is no evacuation timeframe threshold that Projects must meet in order to avoid a CEQA impact or to be consistent with codes, regulations or policies*

This raises an obvious question: If the city as Lead Agency has no established standard within CEQA, how was it determined that the Project’s impact was less than significant?

Section 4.18 and the associated appendices repeatedly make the claim that the evacuation times derived by Chen Ryan conform to some sort of established guideline. For example, the Fire Protection Plan (Appendix P2, p. 3) says:

*The evacuation times modeled for Fanita Ranch are well within acceptable guideline evacuation times.*

In addition, Section 4.18 - Wildfire concludes (p. 4.18-46):

*. . . the evacuation time would be up to approximately 1.3 hours, which is considered a reasonable time frame (Rohde & Associates 2019-2021; SFD 2022; Appendix P1).*

However, a detailed review of the evaluation of this new threshold reveals the flawed approach to this issue, which led to the faulty “less than significant” conclusion.

The Rohde & Associates documents referenced above are fire services operational assessments completed with respect to two other San Diego County projects.<sup>1,2</sup> Careful review of those documents revealed no statement regarding what constitutes an acceptable or reasonable time frame.

Despite the claim that the Project's evacuation times are "well within acceptable guideline evacuation times," no such guidelines are presented in any of the documentation. In fact, it appears that this conclusion is based on a misinterpretation of statements in the two referenced Rohde documents. Specifically, the WFEP incorrectly claims that the Federal Emergency Management Agency (FEMA) has established 1.5 hours as an evacuation guideline (WFEP, p. 34). That conclusion is simply not correct. What the Rohde documents actually say:

- Otay Ranch Village Resort, Village 13: "... the community can be evacuated in approximately 1.5 to 2 hours, according to general evacuation estimates published for urban areas by the Federal Emergency Management Agency."
- Otay Ranch Village 14: "This finding is also consistent with estimates published for urban areas by the Federal Emergency Management Agency."

Thus, the two Rohde documents simply say that the evacuation time findings presented in those documents are "consistent" with "general evacuation estimates" published by FEMA. These are not FEMA guidelines; in fact, there is no indication that FEMA has provided any guideline as to what constitutes an acceptable evacuation time.

It is simply disingenuous, therefore, to suggest that the Rohde documents provide any sort of FEMA-sanctioned guideline or standard. Further, it is not possible to derive any conclusion regarding Project-related significance based on the information provided. Absent an adopted standard of significance regarding acceptable evacuation times, no determination is possible as to the magnitude of the Project-related impact.

2. **Evacuation Analysis Results Lack Credibility** – The documents referenced above present a newly-completed analysis of evacuation times, which was completed by Chen Ryan Associates and is presented as Appendix D to the WFEP (Appendix P2). That analysis evaluated nine scenarios ranging from a claimed "Most Probable Evacuation" involving 1,885 vehicles to a total/mass evacuation scenario labeled "Existing Land Uses Plus Project with Magnolia Avenue Extension" (24,956 vehicles). Between those two extremes were a pair of "targeted" evacuation scenarios involving smaller geographic areas. The resulting evacuation times ranged from 19 minutes to 1 hour, 57 minutes. Those results are summarized in "Table 2 – Evacuation Time Summary – All Scenarios" in the Chen Ryan memorandum (p. 18).

The validity of the 19-minute finding is highly questionable. First, we note that it represents less than eight percent of total number of potential evacuating vehicles in the study area (i.e., 1,885 vehicles out of a total of 24,956). Moreover, as described in greater detail below, it ignores up to three hours needed for pre-evacuation preparation and potentially substantial volumes of ambient traffic that are likely to be on the study area road system at the time an evacuation is initiated.

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<sup>1</sup> Rohde & Associates, *Otay Ranch Village Resort Village 13 Fire Services Operational Assessment*, Feb. 1, 2020.

<sup>2</sup> Rohde & Associates, *Otay Ranch Village 14 and Planning Areas 16/19 Fire Services Operational Assessment*, March 11, 2020

Also, the incremental evacuation times associated with addition of the project are questionable. Comparison of Scenarios 1 and 9 indicates that in the case of a mass evacuation, over 7,000 Project-related vehicles could be evacuated in only 39 additional minutes. The results for the targeted evacuation scenarios are even more noteworthy, as the Project-related incremental evacuation time is claimed to be only 7 or 8 minutes for those scenarios.

For further perspective, the additional 8 minutes of “1/8-mile” targeted evacuation time relates to an additional 3,637 Project-related vehicles in the evacuating traffic stream. In contrast, the additional 7 minutes associated with the “1/4-mile” targeted evacuation results from the addition of 4,419 project-related vehicles. This indicates that 782 additional vehicles can be evacuated 1 minute quicker, which seems unlikely. For ease of reference, the pertinent results are summarized in Table 1.

<b>Table 1 Incremental Evacuation Time Summary</b>		
Scenario	Evacuating Vehicles	Evacuation Time
1 – Existing Land Uses	17,924	1 Hour, 18 Minutes
9 – Existing Land Uses + Project with Magnolia Avenue Extension	24,956	1 Hour, 57 Minutes
Project Increment	7,032	39 Minutes
<hr/>		
5 – Existing Land Use with Targeted Evacuation (1/8 Mile)	10,706	1 Hour, 9 Minutes
6 – Existing Land Use with Targeted Evacuation (1/8 Mile) + Project with Magnolia Avenue Extension	14,343	1 Hour, 17 Minutes
Project Increment	3,637	8 Minutes
<hr/>		
7– Existing Land Use with Targeted Evacuation (1/4 Mile)	11,391	1 Hour, 11 Minutes
8 – Existing Land Use with Targeted Evacuation (1/4 Mile) + Project with Magnolia Avenue Extension	15,810	1 Hour, 18 Minutes
Project Increment	4,419	7 Minutes
Reference: Chen Ryan, Table 2 – Evacuation Time Summary – All Scenarios, p. 18.		

3. **Evacuation Times are Incomplete and Misleading** – The Chen Ryan technical memorandum presented as WFEP Appendix D documents an analysis of estimated evacuation times under various scenarios. However, the evacuation times presented there are incomplete and, therefore, misleading. In particular, the estimated evacuation times represent only the travel time beginning when evacuees leave home. They ignore all of the other time-consuming tasks associated with preparation for an evacuation. Included in this pre-evacuation period are public notification times, mobilization times (as people prepare to evacuate), and other activities, which are particularly critical with respect to fires that start in close proximity to the proposed Project.

Those additional tasks are commonly detailed in other Dudek fire protection plans, but are not included in this one, although p. 34 of the WFEP specifically mentions “the amount of mobilization time” as a factor affecting the evacuation time.

For example, the Fire Protection Plan prepared by Dudek for the Harvest Hills project in Escondido, California (December 2020) provided a detailed listing of time requirements for various pre-evacuation activities totaling 125 minutes (i.e., just over two hours), plus an additional 30 minutes of “contingency time,” leading to a total of 155 minutes (2.6 hours) for pre-evacuation activities. That plan went on to say:

*Total minimum time that may be needed for a large-scale evacuation from the detection of a fire until the last person is out of harm’s way is 90 to 180 minutes.<sup>3</sup>*

This pre-evacuation period of up to three hours is in addition to the travel time estimates presented in the Fanita Ranch documents. Thus, when Section 4.18 says, “. . . the evacuation time would be up to approximately 1.3 hours,” what it actually means is the evacuation time would be up to 4.3 hours, a substantial increase over the claimed time period.

In summary, consideration of the full spectrum of evacuation-related activities and associated time requirements, combined with the failure to establish a meaningful standard of significance (as discussed above) clearly suggest that it is inappropriate to conclude that the Project will have a less than significant impact with respect to wildland fire evacuation.

4. ***Failure to Account for Ambient Traffic*** – The evacuation time analysis presented as WFEP Appendix D failed to account for ambient or background traffic that is already on the nearby road system when the need for an evacuation is declared. Although the analysis included traffic generated within the evacuation area (associated with existing land uses and the proposed project), no traffic generated from outside the area that might be passing through the area or is in the area for business or social reasons was considered.

This omission is not insignificant. The transportation impact analysis prepared for the Project provides existing traffic volumes for roads in the vicinity of the Project.<sup>4</sup> Specifically, Table 4-1 (p. 26) in that document provides this information. Although traffic volumes in the immediate vicinity of the Project are not extremely high, it must be recognized that the evacuation plan has defined “safety” as occurring once evacuees reach Mission Gorge Road.

According to the LLG report, Cuyamaca Street carries almost 22,000 vehicles per day (VPD) just north of Mission Gorge Road (i.e., between Town Center Parkway and Mission Gorge Road). To the north of that, evacuees would have to travel through the segment of Cuyamaca Street between River Park Drive and Town Center Parkway; that road segment has an average daily traffic value of 26,690 VPD, according to LLG.

Similarly, Project evacuees using Magnolia Avenue will potentially encounter substantial traffic as they approach Mission Gorge Road. According to LLG, the road segment just north of Mission Gorge Road has an average daily traffic value of 25,830 VPD.

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<sup>3</sup> Dudek, *Fire Protection Plan – Harvest Hills*, Prepared for City of Escondido Fire Department, Revised December 2020.

<sup>4</sup> Linscott Law & Greenspan, *Transportation Impact Analysis – Fanita Ranch*, March 25, 2020.



Of course, the volume of traffic on these roads when the need for an evacuation is declared is dependent upon many factors, but the fact remains that an analysis that simply pretends this traffic does not exist is not valid. Such an analysis understates the travel time associated with the evacuation and potentially leads to a false conclusion regarding the significance of Project-related impacts.

5. **Traffic Simulation Analysis Scenarios** – The evacuation travel time estimates presented in the various recirculated documents assume that both of the primary evacuation routes (i.e. Fanita Parkway and Cuyamaca Street) will be available when needed for evacuation purposes. Further, all of the “with Project” scenarios assume the availability of Magnolia Avenue. No analysis is presented that reflects the possibility that any of these roads might be unavailable due to the proximity of the wildfire that is the cause of the evacuation. Given that the most likely direction of approach for a wildfire is from the north and/or east, it is not unreasonable to consider the potential that Cuyamaca Street and/or Magnolia Avenue might not be available to serve as an evacuation route. The analysis should address such a case, so as to establish whether Fanita Parkway alone would be adequate to accommodate evacuating traffic safely.
6. **Traffic Simulation Analysis Parameters** – The evacuation travel time estimates derived by Chen Ryan are based, at least in part, on a traffic simulation process. (Uncertainties regarding the specific analysis methodology are discussed in greater detail below.) Because traffic simulation is largely a “black box” procedure, little information is provided that would allow the public to fully understand the analysis procedures and to judge the validity of the results. Given that the primary objective of any CEQA document is to inform the public, this deficiency is critical. Among the specific areas of concern are the following:
  - As noted above, although the evacuation travel time analysis included traffic generated within the evacuation area, it is not clear if the analysis included the “shadow evacuees” referenced in Section 4.18 – Wildfire (p. 4.18-44) and the FPP (p. 39). Those individuals are described as:

*. . . up to approximately 25 percent of evacuees who decided to leave the area despite not being asked to evacuate off site . . .*
  - The traffic demand associated with these evacuees is potentially substantial, and must be taken into account.
  - No information is provided with respect to the roadway capacities assumed in the evacuation time analysis. Does the analysis accurately reflect the constraints associated with the fact that the Project’s only two direct connections to the regional road system (i.e., Fanita Parkway and Cuyamaca Street) will each be limited to two lanes (one in each direction) at and immediately south of the Project site? Of course, only one lane (i.e., the southbound lane) will be available to serve evacuating traffic, as the northbound lane must be reserved for emergency vehicles approaching the Project. Obviously, this is a key parameter in determining how quickly and how well traffic will flow.
  - Another key assumption in the analysis concerns the form of intersection traffic control employed at the critical intersections along the evacuation routes. According to the Chen Ryan report (p. 4), the “major intersections” were assumed to be controlled by first responders or law enforcement. (No information is provided regarding assumed traffic control at non-major intersections.) This suggests that those major intersections were assumed to be free flowing, which is certainly a “best

case” assumption that might not reflect the reality of an emergency situation under which extraordinary demands are placed upon first responders and law enforcement officers.

- Did the analysis account for the possibility that roads would be obscured by smoke or that visible nearby flames or blowing embers might affect driver behavior? These factors would have the effect of reducing effective road capacity and increasing evacuation travel time, as well as to increase the likelihood that incidents such as crashes will occur along the evacuation route, which could potentially block the evacuation route altogether. This possibility is acknowledged in the WFEP, which says (p. 14):

*. . . a roadway incident may block evacuating vehicles, requiring temporary or permanent rerouting of traffic.*

The WFEP further acknowledges (p. 31):

*Conditions may become so poor that the vehicle drives off the road or crashes into another vehicle, or that flames and heat overcome the occupants. This scenario has occurred in San Diego County during the 2003 Cedar Fire [which burned a large portion of the Project site (Section 4.18 - Wildfire, p. 4.18-5)] and in the 2017 northern California wildfires.*

- It is unclear how traffic was loaded onto the road network in the evacuation traffic analysis. For example, no description is provided with respect to how much traffic was assigned to Fanita Parkway, how much to Cuyamaca Street and, in turn, how much to Magnolia Avenue from Cuyamaca Street. Section 4.18 (p. 4.18-34) says:

*. . . the majority of the community traffic would exit the proposed project via Cuyamaca Street or Magnolia Avenue via Cuyamaca Street.*

Did the traffic analysis reflect this?

Or did it reflect the following statements from the WFEP (pp. 1-2)?

*During an evacuation, roughly the western 50% of the Fanita Commons and Orchard Village and the northern 50% of the Vineyard Village would be anticipated to utilize Fanita Parkway to exit the Project site. . . . Evacuation traffic from the eastern 50% of the Fanita Commons and Orchard Village and roughly 75% of the Vineyard Village would be anticipated to utilize these routes for evacuation [Cuyamaca Street, Magnolia Avenue, Princess Joann Road, Woodglen Vista Drive, and El Nopal].*

Or did it employ one of the previous traffic distributions documented in the *Second Errata to the Final Revised Environmental Impact Report* or the *Draft Revised Environmental Impact Report*, as summarized in Table 2 below?

<b>Table 2</b>		
<b>Previous Project Trip Distribution Assumptions</b>		
Street	Trip Distribution Percentage	
	Second Errata <sup>1</sup>	DREIR <sup>2</sup>
Princess Joann Rd.	10%	5%
Woodglen Vista Dr.	5%	5%
El Nopal	5%	10%
<b>Cuyamaca Street</b>		
Project Site to Princess Joann Rd.	53%	53%
Princess Joann Rd. to Woodglen Vista Dr.	43%	48%
Woodglen Vista Dr. to El Nopal	38%	43%
<b>Magnolia Avenue</b>		
Princess Joann Rd. to Woodglen Vista Dr.	10%	5%
Woodglen Vista Dr. to El Nopal	15%	10%
Notes:		
<sup>1</sup> Source: Harris & Associates, <i>Second Errata to the Final Revised Environmental Impact Report – Fanita Ranch Project</i> , Volume IV, September 2020.		
<sup>2</sup> Source: Harris & Associates, <i>Draft Revised Environmental Impact Report – Fanita Ranch Project</i> , May 2020.		

- In addition to questions regarding the assumed geographic distribution of evacuating traffic, it is unclear what was assumed in terms of the temporal distribution of traffic. Was all traffic assumed to enter the roadway system at the same time, or was some version of a phased traffic assignment assumed? In regard to this, we note that the two Rohde & Associates “fire service operational assessments” referred to above both include a version of the following statement:

*Historical evacuation experience during past San Diego County wildfires has found limited participation by large percentiles of affected populations to evacuation warnings until late in evacuation periods, leading to traffic congestion during peak threat times.<sup>5,6</sup>*

This delayed reaction on the part of potential evacuees must be reflected in the analysis.

Further, the Chen Ryan report (p. 18, with a similar statement at p. 19) says:

*Populations located in closer proximity to the safe zone will safely evacuate sooner than the calculated evacuation time. . . . Since the Project is located at the northern most [sic] end of the City of Santee and evacuated residents would travel south, traffic from existing neighborhoods would most likely have arrived at the safe zone by the time traffic from the proposed Project arrived at key intersections.*

This statement suggests that the analysis reflects the mistaken notion that residents and others will evacuate immediately upon receiving notification of the need to depart. In reality, as evidenced by the Rohde statements, some portion of the residents located closer to the safe zone will, in fact,

<sup>5</sup> Rohde, *Otay Ranch Village Resort Village 13 Fire Services Operational Assessment*, Feb. 1, 2020, p. 12.

<sup>6</sup> Rohde, *Otay Ranch Village 14 and Planning Areas 16/19 Fire Services Operational Assessment*, March 11, 2020, p. 15.

delay their departure from home, thereby adding to the traffic demand directly associated with Project-related vehicles as those vehicles pass through the area. In fact, it is reasonable to assume that persons located closer to the safe zone (and, therefore, probably farther from the wildfire) will be initially reluctant to evacuate, increasing the likelihood that they will enter the evacuating traffic stream created by Project vehicles.

In addition, if the analysis assumed that traffic will enter the evacuation in a uniform manner, so that the added traffic will be spread out relatively evenly over time, this represents another deficiency. Simply put, vehicles do not flow smoothly and uniformly, especially in the course of evacuating during an emergency. Instead, sudden surges in traffic would occur during an evacuation; it is extremely unlikely that traffic would be evenly distributed over time. That is, there will be variable pulses in traffic demand, just as there are in everyday traffic flows. These surges in demand will contribute to substantial instability within the evacuating traffic stream. It is not clear whether this characteristic of traffic flow is adequately reflected in the analysis.

- The Chen Ryan report is unclear with respect to the actual methodology employed in determining the travel times. Page 16 of that document indicates that the evacuation time was calculated using the following equation:

$$\text{Evacuation Time} = (\text{Evacuation Population} / \text{Average Vehicle Occupancy}) / \text{Roadway Capacity}$$

In contrast, the following page says evacuation events were analyzed using traffic simulations employing the VISSIM software package. These two approaches are vastly different, and the actual approach employed is critical.

The use of the equation presented above is particularly problematical, as this calculation does not, in fact, provide a measure of evacuation time. In order to provide an indication of time (and, in particular, the travel time associated with an evacuation), there must be a distance component in the calculation. In other words, the calculation must answer the question, “How long will it take me to get from Point A (e.g., my home in the proposed Project) to Point B (e.g., a safe location some distance from the wildfire)?” That distance component is lacking from the calculation.

In reality, the calculation described in the Chen Ryan document provides a volume/capacity (V/C) ratio for a given point on a given road. In other words, it is simply a calculation of the volume (V) of traffic estimated to be at a specific location on a particular road divided by the assumed capacity (C) of that road. (In the equation, the traffic volume is calculated by dividing the total number of people by the average number of persons per vehicle.)

It would be completely inappropriate to translate the results of this calculation into a travel time value. This is a particular issue when the calculation results exceed 1.00. For example, a calculation result of 1.50 that was interpreted to indicate a travel time of 1.50 hours or 90 minutes would represent a substantial deficiency in the analysis.

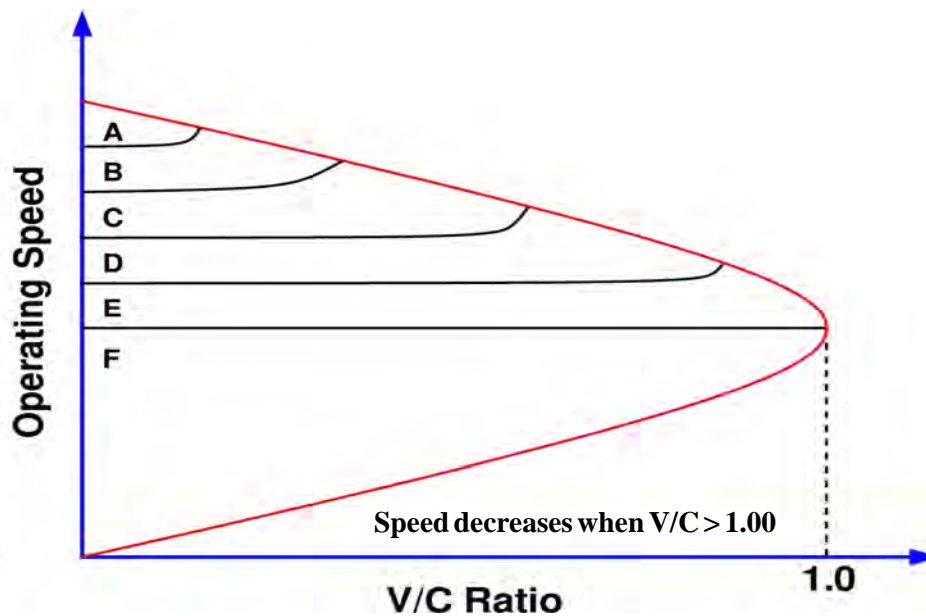
We note that seven of the nine analysis scenarios addressed in the Chen Ryan report had derived travel times in excess of one hour. Based on the discussion presented above, this suggests calculation results in excess of 1.00. As one example, the WFEP (p. 33) describes the evacuation times as “1.3 hours under a mass evacuation scenario and up to 1.2 hours under a targeted or phased evacuation scenario.”

However, as we pointed out above, the actual result of this calculation is a V/C ratio, not a time value, so when the formula shown above provides a result of 1.3, what it is really finding is that the traffic demand is equivalent to 1.3 times the capacity of the road (i.e., it has a V/C ratio of 1.3), not that the travel time is 1.3 hours. In other words, the traffic demand is 30 percent greater than the capacity of the road.

To provide additional perspective regarding traffic operations, the quality of flow on a road is described in terms of “level of service” (LOS), which ranges from LOS A (free-flowing conditions) to LOS F (highly congested;  $V/C > 1.00$ ). A V/C ratio of 1.30 indicates operation substantially in excess of the road’s capacity and, by definition, represents LOS F. According to the *Highway Capacity Manual* (Transportation Research Board, Sixth Edition, 2016, p. 12-18):

*Oversaturated conditions are represented by LOS F. LOS F describes unstable flow. . . . breakdown occurs when the ratio of existing demand to actual capacity, or of forecast demand to estimated capacity, exceeds 1.00.*

Unstable flow will be manifested in high levels of congestion and stop-and-go traffic, which will increase not only the time needed to evacuate, but also the levels of stress and anxiety for evacuees. The following graphic illustrates the relationship between LOS and travel speed. As shown, when a roadway reaches LOS F (i.e.,  $V/C > 1.00$ ), the operating speed rapidly declines.



The speed reduction illustrated here will directly translate into increased evacuation travel time. Travel speed is not linearly related to V/C ratio, particularly when traffic demand is near or beyond the road’s capacity. Instead, the higher the V/C ratio, the greater the level of traffic flow instability and congestion, with stop-and-go operation and increasing levels of driver frustration and stress.

In summary, the equation presented in the Chen Ryan memorandum does not provide a measure of travel time and to interpret it as such is a substantial deficiency in the analysis. This is a particular

problem when the calculation result exceeds 1.00, as would appear to be the case in seven of the nine analysis scenarios.

## CONCLUSION

Our review of the *Recirculated Sections of Final Revised Environmental Impact Report* completed in connection with the proposed Fanita Ranch project in Santee, California revealed a variety of issues regarding the accuracy and adequacy of the analysis related to evacuations from wildland fires. The deficiencies we have identified raise significant questions as to the validity of the conclusions presented in that document with respect to Project-related impacts.

We believe the recirculated document failed to remedy the previously-identified shortcomings concerning the feasibility of safely evacuating the Project in the event of a wildland fire. Although the current documents address an additional significance threshold regarding wildland fires, no meaningful significance criterion has been established against which to judge the Project-related impact, particularly with respect to evacuation times. In addition, we have raised a number of questions regarding the methodologies employed in the evacuation time analysis, including apparent misinterpretations of the results of an equation that apparently served as a key element of that analysis.

We hope this information is useful. If you have questions concerning any of the items presented here or would like to discuss them further, please feel free to contact me at (906) 847-8276.

Sincerely,

**GRIFFIN COVE TRANSPORTATION CONSULTING, PLLC**



Neal K. Liddicoat, P.E.  
Principal

Attachment

## EXPERIENCE

Over the course of the past 45 years, Neal Liddicoat has conducted numerous analyses of complex traffic and transportation issues. He is a licensed Civil Engineer in California, a licensed Professional Engineer in Michigan, a long-standing member of the American Society of Civil Engineers, and a Fellow of the Institute of Transportation Engineers. For a number of years, he served as instructor for the traffic engineering portion of the Civil Engineering licensing exam review course conducted by the Sacramento chapter of ASCE. He has particular expertise in the analysis of traffic operations at major event centers, at which large volumes of traffic arrive and depart in short periods of time. Among the event centers for which he has been primarily responsible for detailed traffic analyses are Crypto.com Arena (formerly Staples Center Arena) in Los Angeles; an 80,000-seat stadium for the Los Angeles Raiders (which was never built, as the team returned to Oakland); Sutter Health Park, a 14,000-seat baseball stadium in West Sacramento; Disney's California Adventure in Anaheim; and major expansions of the Los Angeles and Anaheim convention centers. He was invited to participate as a member of expert panels reviewing traffic operations plans for the Rose Bowl in Pasadena, California, and State Farm Stadium in Glendale, Arizona. The traffic operations principles in these analyses are similar to those that apply to wildfire evacuation planning and, as such, he

is frequently retained to provide expert comments on the evacuation effects of large-scale residential and mixed use projects like Fanita Ranch, primarily in the San Diego region. As a result of these comments, lead agencies often make revisions or alterations to the projects or the environmental analysis to improve evacuation safety.



**ATTACHMENT**  
**PROFESSIONAL RESUME**  
**FOR**  
**NEAL K. LIDDICOAT, P.E.**

**Education**

*BSCE / Michigan State University, 1977*  
*Graduate Studies, University of Tennessee,  
1977 – 1980*

**Professional Affiliations**

*Institute of Transportation Engineers – Fellow*  
*American Society of Civil Engineers – Member*

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**Registrations**

*California – Civil Engineer C35005*  
*Michigan – Professional Engineer 6201037605*

Mr. Liddicoat has 45 years of experience in the analysis of a broad range of traffic engineering, parking, and transportation planning issues, for both public and private sector clients. He has conducted traffic and parking analyses for a wide variety of development proposals, including office buildings, retail/commercial centers, multiplex cinemas, and residential projects. He has a particular expertise in the analysis of unique development proposals, including stadiums, arenas, convention centers, theme parks, and other facilities where large numbers of vehicles and pedestrians converge in a short period of time.

Mr. Liddicoat has developed and presented seminars on technical procedures and quality control in the conduct of traffic impact analyses, both in-house and as a co-instructor for the UCLA Extension Public Policy Program. For several years, he served as instructor for the traffic engineering portion of the Civil Engineering licensing exam review course conducted by the Sacramento chapter of the American Society of Civil Engineers. Significant traffic impact analysis experience includes the following selected projects:

- *Folsom, CA – Over 50 traffic analyses, including:*
  - *Folsom Heights Mixed-Use*
  - *Broadstone Estates*
  - *Bidwell Pointe Residential*
  - *Serenade Senior Housing*
  - *Commons at Prairie City*
  - *Country House Memory Care*
  - *Prospect Ridge Residential*
- *STAPLES Center Traffic Impact Analysis, Los Angeles, CA*
- *Sacramento City College Transportation Master Plan Analysis, Sacramento, CA*
- *Raley Field Traffic and Parking Analysis, West Sacramento, CA*
- *Convention Center Traffic & Parking Studies, Sacramento, Los Angeles, and Anaheim, CA*
- *Disney’s “California Adventure” Preliminary Traffic Analysis, Anaheim, CA*
- *Warner Bros. Studios Master Plan, Burbank, CA*
- *Elk Grove Boulevard Master Plan, Elk Grove, CA*
- *CSUS Bicycle/Pedestrian Study, Sacramento, CA*
- *SR 99/Twin Cities Road Traffic Operations, Galt, CA*
- *Thunder Valley Casino, Placer County, CA*

Mr. Liddicoat is frequently called upon to serve as an expert “peer reviewer” for traffic impact analyses prepared by others. In that role, he has commented on the technical adequacy of traffic studies for a variety of projects, including retail centers, office complexes, and mixed-use master plans. His recent experience as a peer reviewer includes the following selected projects:

- *Materials Recovery Facility, Irwindale, CA*
  - *LAX Landside Access Modernization, Los Angeles, CA*
  - *Granite Bay Circulation Study, Placer County, CA*
  - *Oil Exploration Zoning Ordinance, Kern County, CA*
  - *State Route 85 Express Lanes, Santa Clara Co., CA*
  - *Vacaville General Plan, Vacaville, CA*
  - *Martis Valley West Specific Plan, Placer County, CA*
  - *LAX Terminals 2/3 Modernization, Los Angeles, CA*
  - *Town & Country Hotel/Convention Ctr, San Diego, CA*
  - *University Community Plan, San Diego, CA*
  - *Canyon Springs Residential, Truckee, CA*
  - *Fresno General Plan, Fresno, CA*
  - *Saddle Crest Homes, Orange County, CA*
  - *Brentwood Manor Hotel, Los Angeles, CA*
  - *Highway 43/198 Retail Center, Hanford, CA*
  - *Village at Squaw Valley, Placer County, CA*
  - *Bridgepointe Master Plan Amendment, San Mateo, CA*
  - *Frog’s Leap Winery, Napa County, CA*
-

Additional recent peer reviewer experience includes the following projects:

- *Los Angeles International Airport (LAX) Airfield and Terminal Modernization, Los Angeles, CA*
- *Scarlett Winery, Napa County, CA*
- *Terra Vi Lodge Yosemite Wildfire Evacuation Plan, Tuolumne County, CA*
- *Church of the Woods Evacuation Plan, Rimforest, CA*
- *Otay Ranch Village 14 and Planning Areas 16/19 Wildfire Evacuation Plans, San Diego County, CA*
- *Warner Ranch Evacuation Plan, San Diego County, CA*
- *Harmony Grove Village South Wildfire Evacuation Plan, San Diego County, CA*
- *The Ranch Project, Antioch, CA*
- *Rancho La Habra Specific Plan, La Habra, CA*
- *Safari Highlands Ranch Wildfire Evacuation Plan and Citywide Sphere of Influence Update, Escondido, CA*
- *El Toro, 100-Acre Parcel Development Plan - Irvine, CA*
- *Trails at Carmel Mountain Ranch Final EIR & Wildfire Evacuation Plan, San Diego, CA*
- *Staglin Family Vineyards, Napa County, CA*
- *Yosemite Under Canvas Wildfire Evacuation Plan, Tuolumne County, CA*
- *Fanita Ranch Wildfire Evacuation Plan, Santee, CA*
- *Otay Ranch Resort Village 13 Alternative H Wildfire Evacuation Plans, San Diego County, CA*
- *Estero Trail Easement Project, Sonoma County, CA*
- *Faria/Southwest Hills Annexation, Pittsburg, CA*
- *The Village Student Housing Project, Arcata, CA*
- *Tulare Pilot Flying J, Tulare, CA*
- *Davidon/Scott Ranch General Plan Amendment, Rezoning, and Vesting Tentative Map, Petaluma, CA*
- *John Adams Academy, El Dorado Hills, CA*
- *Centennial Project Draft Environmental Impact Report, Los Angeles County, CA*
- *VillaSport Athletic Club and Spa Project, Roseville, CA*

**From:** ann z moore <[REDACTED]>

**Sent:** Wednesday, September 14, 2022 1:52 PM

**To:** Dustin Trotter <DTrotter@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Subject:** Fanita Ranch

Dear City Council and Mr. Jacobs,

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

Ann Z Moore

[REDACTED] Santee, CA 92071

**From:** Calistia Griebel [REDACTED]

**Sent:** Wednesday, September 14, 2022 4:35 PM

**To:** Chris Jacobs <CJacobs@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

**Subject:** Disapprove Fanita Ranch, Item 8

Dear Mr. Jacobs and City Council,

Santee residents passed Measure N and qualified a referendum to assure Santee residents would be able to vote on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical and un-American.

I urge you to vote NO against the Fanita Ranch project.

Santee is already overcrowded and our existing infrastructure cannot sustain a 3000 unit residential project in a severe fire hazard zone designated by Cal-Fire. This brings high risk to all of our residents and reduced quality of life.

Santee residents do not want or need Fanita Ranch and the problems it will bring to the area. Let the residents vote and make their voice heard please. Fanita Ranch is not in the best interest of the City of Santee.

Thank you,


Calistia Griebel

**From:** [Peter Broderick](#)  
**To:** [John Minto](#); [Laura Koval](#); [Ronn Hall](#); [Rob McNelis](#); [Dustin Trotter](#)  
**Cc:** [Chris Jacobs](#)  
**Subject:** Comments Re Fanita Ranch, SCH# 2005061118, Agenda Item 8, September 14, 2022  
**Date:** Wednesday, September 14, 2022 3:00:40 PM  
**Attachments:** [image001.png](#)  
[2022-09-13 CBD PWS EHL CCI Comments Re Fanita Ranch Final REIR \[with exhibits\].pdf](#)

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Dear Councilmembers,

Please find attached for your consideration comments submitted on behalf of the Center for Biological Diversity, Preserve Wild Santee, Endangered Habitats League, and California Chaparral Institute regarding the Fanita Ranch Project and Final Recirculated Sections of the Final Revised Environmental Impact Report for Fanita Ranch, SCH# 2005061118, agenda item #8.

The references to the comment letter are available in electronic format at:  [14-09-2022 Fanita Ranch Final REIR Comment Letter References](#), where they can be batch-downloaded.

Please include these materials in the City's file for the project. Do not hesitate to contact me if you have any questions.

**Peter J. Broderick**

Attorney  
Urban Wildlands Program  
Center for Biological Diversity  
(503) 283-5474 x421



September 14, 2022

*Sent via email [with references provided via FTP]*

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[cjacobs@cityofsanteeca.gov](mailto:cjacobs@cityofsanteeca.gov)

**Re: Final Recirculated Sections of the Final Revised Environmental Impact Report for Fanita Ranch, SCH# 2005061118**

Dear Councilmembers and Mr. Jacob:

This letter is submitted on behalf of the Center for Biological Diversity (Center), Preserve Wild Santee, Endangered Habitats League, and the California Chaparral Institute regarding the Final Recirculated Sections of the Final Revised Environmental Impact Report (Final REIR) for Fanita Ranch (Project) (State Clearinghouse No. 2005061118), in advance of the September 14, 2022, City Council meeting.

The Center has participated extensively in the administrative process leading up to the City Council's September 14, 2022, consideration of the Project and associated approvals. On July 13, 2020, the Center commented on the Draft EIR, and on September 13, 2020, followed up with comments on the Final EIR for the Project. The Center successfully litigated the City's failure to disclose and analyze the Project's wildfire-related hazards under the California



Environmental Quality Act (CEQA). Most recently, the Center submitted comments to the City Planning Department on the Draft Recirculated Environmental Impact Report (Draft REIR) for the Project, which are incorporated herein by reference.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Santee and throughout San Diego County.

As an initial matter, we strongly object to the City's decision to make the Final REIR and associated documents available for public review a mere three business days before the final hearing on the Project. Hundreds of pages of new analysis and technical reports were made public at the last minute under the City's Response to Comments, depriving the public and decision-makers of the time necessary to review, understand, and comment on the new materials. The City also failed to respond to the Center's July 25, 2022 comments on the Draft REIR, which included over 40 references documenting the best available science on fire risk and evacuation planning and expert comments. The City's failure in this regard violated CEQA and the CEQA Guidelines and severely hindered the Center's ability to provide feedback to the City Council before the City's consideration of the Project.

Given the voluminous nature of the new material, which includes significant new information, and the extremely limited time the City has provided for the public to review it, the Center has been unable to fully review and respond. Despite the lack of adequate time to review and comment on the documentation, it is clear that approval of the Project would violate CEQA, the California Planning and Zoning Law, the California Subdivision Map Act, and the California Elections Code. These comments provide responses to some points raised in the Final REIR but are not exhaustive.

**I. THE FINAL REIR DOES NOT REMEDY THE DRAFT REIR'S FAILURE TO ADEQUATELY ANALYZE AND MITIGATE WILDFIRE-RELATED IMPACTS.**

The Final REIR, like the Draft REIR, fails to provide the required evidentiary support for its conclusion that the proposed Project would not expose people or structures to a significant risk of loss, injury, or death from wildland fires.

The Center provided substantial evidence that roads, sprawl development, and increased human presence in the wildland-urban interface can have severe impacts on ignition risk. Scientific studies—including those relied upon in the Final REIR—continue to highlight the consistent and unambiguous threat of placing communities in high fire-prone areas. The Final REIR does not contest the veracity of these studies. Indeed, the City agrees that the evidence unambiguously shows that lower-density housing poses an increased ignition risk. (Thematic Response to Comments 4c.)

Rather than acknowledge that this Project entails these same risks, the Final REIR attempts to conceal any threat by suggesting, absent evidence, that this Project is actually “higher-density.” (Thematic Response to Comments 4c.) The City concludes that, since “lower-density housing is a larger ignition issue than higher-density communities,” this Project poses no ignition risk. (Thematic Response to Comments 4c.) The City’s reasoning fails for three reasons.

First, the City still fails to provide *any* evidence showing that this Project is “higher density,” and this unsupported conclusion is belied by the City’s own description of the Project. (See FEIR at 4.18-24, 4.18-25, Fire Protection Plan (FPP), Figure 3A.) In touting the Project’s housing mix, the City describes the Project footprint as primarily low-density, with “866 medium density residential units, 1,203 low density residential units, 445 active adult residential units, and 435 residential units in the Village Center.” (RTC Thematic Response 3, p. 7.) The EIR’s Fire Protection Plan (FPP) describes the development as “clustered” into 3 villages, two of which are “low density” housing separated by open space corridors. (FPP, p. 7-8.)

Second, the City’s conclusion ignores the more nuanced relationship between housing patterns and fire risk, which we presented with evidence to the City in our comment letter. While low- and intermediate-density housing is most at risk, density is not the only relevant factor; location within the larger landscape and configuration within the development also drive fire risk. (See Syphard and Keeley 2020; Syphard et al. 2013.) Other development configurations – such as intermediate and clustered high densities adjacent to wildlands – have also been proven to result in increased ignition risk. That the City believes it could have devised a riskier Project does not relieve the City of its obligation to consider whether this Project will result in an increased risk of wildfire.

Third, the Final REIR continues to assert, absent adequate support, that code compliance and “ignition-resistant” construction (fuel modification zones, landscaping, fire station, and public outreach) would protect adjacent communities from Project-related fires. (Thematic Response to Comments 4c.) The City parades a laundry list of design features—such as “dense” development and 100-foot fuel modification zones—that will make the project “ignition resistant” and thereby reduce fire intensity. (Thematic Response to Comments 4d.) But the Final REIR provides little evidence of how these design features will perform under modern, wind-driven firestorms. Instead, the City cites to studies from prior to 2008, and many from decades earlier. (*Ibid.*) The City’s claim regarding the effectiveness of new building codes in today’s fires is left completely unsupported, but for “personal communications” with its own hired consultant. (*Ibid.*)

As we explained in our prior comments, with abundant evidentiary support, neither code compliance nor fire hardening are sufficient to protect people from the significant risks posed by wildfires. The evidence shows that so-called “ignition-resistant” structures have performed only marginally better than older structures. Most structure loss occurs due to embers, which are carried by the wind and blown inside or against structures, often miles ahead of any flames. (Moritz 2014.) Even in houses with ignition-resistant roofs, siding, and landscaping, fires still ignite on the other flammable goods that accompany human development: wooden decks or play structures, RVs, boats, lawn furniture, or piles of leaves or debris. (Guerin 2018.) In the 2018 Thomas Fire, for example, 92 percent of destroyed structures had fire-resistant exteriors, and 97

percent had fire-resistant roofs. (Reax Engineering, p. 9.) In the 2018 Camp Fire, only 13 percent of structures built after 2008 survived. (St. John. 2018.) And in the 2017 Tubbs Fire, the Fountaingrove subdivision was built to fire-resistant standards and fared no better than older structures. (Parkinson 2018; Hickman 2018.)

And as all Californians have experienced in the last five years, climate change increases the likelihood that extreme firestorms will result from any particular ignition. (Radeloff 2018; CAL FIRE 2022 [as of 2022, 15 of the 20 most destructive fires in California history have taken place since 2015].) Climate change is linked to extreme high winds, low humidity, high temperatures, and reduced rainfall. (Moritz 2014, Fuller 2018, Bransford 2018.) All these factors result in increased fire severity, including increased wind-driven ember attacks. These firestorms can overwhelm even “ignition-resistant” communities like the one proposed here.

The REIR ignores the mounting body of evidence that the ability to “outbuild” catastrophic wildfires is severely limited by a changing climate. It references one 2015 study by Syphard and Keeley to suggest that “no large fires in the County since 1990 were determined to have been started within a nearby master planned, ignition-resistant subdivision or neighborhood.” (Thematic Response to Comments 4c.) The study makes no mention of master planned, ignition-resistant communities. It confirms that bringing more people and structures to the wildland-urban interface, regardless of the building materials employed, increases the frequency of ignitions: “substantial population growth has resulted in massive expansion of the wildland–urban interface (WUI), which in turn has led to a surge in the number and areal extent of human-caused ignitions.” (Syphard and Keeley 2015.) It observed that, ignition location is “generally concentrated in proximity to human infrastructure” and that in San Diego County, “[d]istance to roads and structure density” were the biggest predictors of ignition risk. (Syphard and Keeley 2015.) The study concluded that, “not surprisingly,” most ignitions in San Diego County occur close to roads and within the WUI. (Syphard and Keeley 2015.)

The City also references a 2016 Syphard and Keeley to support its claim that “the mere presence of new development in the WUI does not equate to increases in fire ignition or acres burned.” (Thematic Response to Comments 4c.) The City misrepresents the study’s findings. The study observed that fire frequency, as compared to population growth, increased most of the 20th century, peaked in 1980, and then steadily decreased until 2016. (Syphard and Keeley 2016.) The study explained that “as both population and development expand into wildland areas, ignitions increase up to a point at which the area of development, or, impervious surface, far exceeds the area of wildland, and at that point, the relationship becomes negative.” (Syphard and Keeley 2016.) In other words, introducing low- and intermediate-density development into the WUI does undoubtedly increase ignition risk. But once the population further builds out, such that paved surfaces actually *exceed* non-paved surfaces (like in cities), then the ignition risk decreases. And while the study does note that the development of modern building codes *may* have attributed to the observed decline in frequency of ignitions, Syphard’s research has confirmed that “residential losses to wildfire have *escalated* despite enormous investments in wildland fuel manipulation, improvements in fire-safe codes and building regulations, and advanced fire suppression tactics.” (Syphard 2012; emphasis added.)

The scientific evidence is mounting; bringing people into contact with wildlands, especially via low and intermediate-density development, greatly increases the risk that a wildfire may ignite. The City provides no basis from which to conclude that introducing 9,000 additional people, over 4,000 vehicles, thousands of structures, and numerous roads – all of which would not otherwise be there – into direct contact with flammable wildlands will not increase wildfire risk.<sup>1</sup>

## **II. THE FINAL REIR FAILS TO ADEQUATELY DISCLOSE, ANALYZE, AND MITIGATE THE PROJECT’S IMPACTS TO EVACUATION.**

### **A. The WFEP ignores the realities of large-scale evacuation efforts.**

What is clear from the past several years of California megafires is that these fires are extremely difficult, if not impossible to stop; the only choice is to get people out of harm’s way. As the City notes, evacuations hardly go according to plan, and wildfires can reach sizes that quickly overwhelm preexisting plans. The City in its response to comments acknowledges the challenging realities of a large-scale evacuation effort:

- “An important component to successful evacuation is early assessment of the situation and early notification.” (Thematic Response to Comments 4a.)
- “The main factors affecting the timing and routing of evacuations are those related to the nature of the wildfire.” (Thematic Response to Comments 4a.)
- “A key component of evacuations is the weather. Windy, low humidity days (Red Flag Warning days) are far more prone to result in vegetation ignition escape and spread, resulting in far more sensitive evacuation trigger thresholds.” (Thematic Response to Comments 4a.)

Many commenters, including the Center and the REAX Engineering Reports, noted that all nine scenarios in the City’s evacuation modelling fail to account for these realities, and instead rely on assumptions so flawed that the Final REIR’s results offer little insight.

For instance, although early assessment and notification are an important part of a successful evacuation, all nine scenarios do not account for the time needed to detect a fire, report a fire, for fire response, for evacuation notifications, for mobilization of the public (as people prepare to evacuate), or for notifying special needs citizens. The City offered no response or explanation for excluding these estimations in its total. (Thematic Response to Comments 4a.) Similarly, the City agrees that the nature of the wildfire and wildfire spread are the primary

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<sup>1</sup> Lacking an honest assessment of the fire risk, the Final REIR also fails to account for the cascading impacts that result from an increased fire risk – degraded habitat (Jennings 2018, Keeley 2005, Keeley 2006), altered fire regimes (Syphard 2009), and respiratory and cardiovascular impacts from poor air quality. (Delfino 2009, Kunzli 2006, Liu 2015, Phuleria 2015, Rappold 2012, Reid 2016.)

factors affecting timing and the route of evacuations, which led the City to acknowledge that “[e]vacuation routes that are considered acceptable when a wildfire is distant may be considered unsafe when a wildfire is in closer proximity.” (Thematic Response to Comments 4a.) Inexplicably, all nine scenarios assume a fire originates far away from the Project site, omitting any study of whether the City’s proposed evacuation routes would be “acceptable” should a fire ignite closer to the Project site.

Our letter, together with the REAX Engineering Reports, provided substantial evidence that the City relied on flawed methodology and inaccurate assumptions in evaluating the Project’s evacuation impacts. The Final REIR does nothing to resolve these concerns, and the City’s responses only confirm that it disregarded the realities of an evacuation. Because it relied on plainly false assumptions, the Final REIR did not adequately address the Project’s potential to expose people or structures to a significant risk of loss, injury or death from fires ignited inside or near the Project area. Consequently, the EIR lacks the evidentiary basis to support its conclusion that wildland fire-related impacts would be less than significant.

### **B. The Final REIR Omits Key Assumptions Underlying its Evacuation Analysis.**

The San Diego Superior Court found that the City’s original evacuation analysis for the Project was deficient under CEQA, in part, because the City had failed to provide key data underlying its evacuation analysis. (Final Writ and Judgment.) Without time estimates and the number of vehicles exiting the Project, the Court reasoned, it was “not clear...whether a ‘staggered’ evacuation would be adequate to safely evacuate residents and the surrounding community.” (*Ibid.*) The Court found the lack of adequate information and support for the agency’s methodology to be problematic and ordered the City to provide this relevant information. (*Ibid.*) The Court then invalidated the Project approvals and ordered the City to study whether the Project would expose people to a significant risk of loss, injury, or death involving wildland fires.

The Final REIR’s evacuation analysis still omits fundamental information supporting its analysis. The Wildland Fire Evacuation Plan (WFEP) used the following equation (provided in the County of San Diego – Operational Area Emergency Operations Plan – Annex Q Evacuation Plan) to model the Project’s evacuation times:

$$\text{Evacuation Time} = (\text{Evacuation Population} / \text{Average Vehicle Occupancy}) / \text{Roadway Capacity}$$

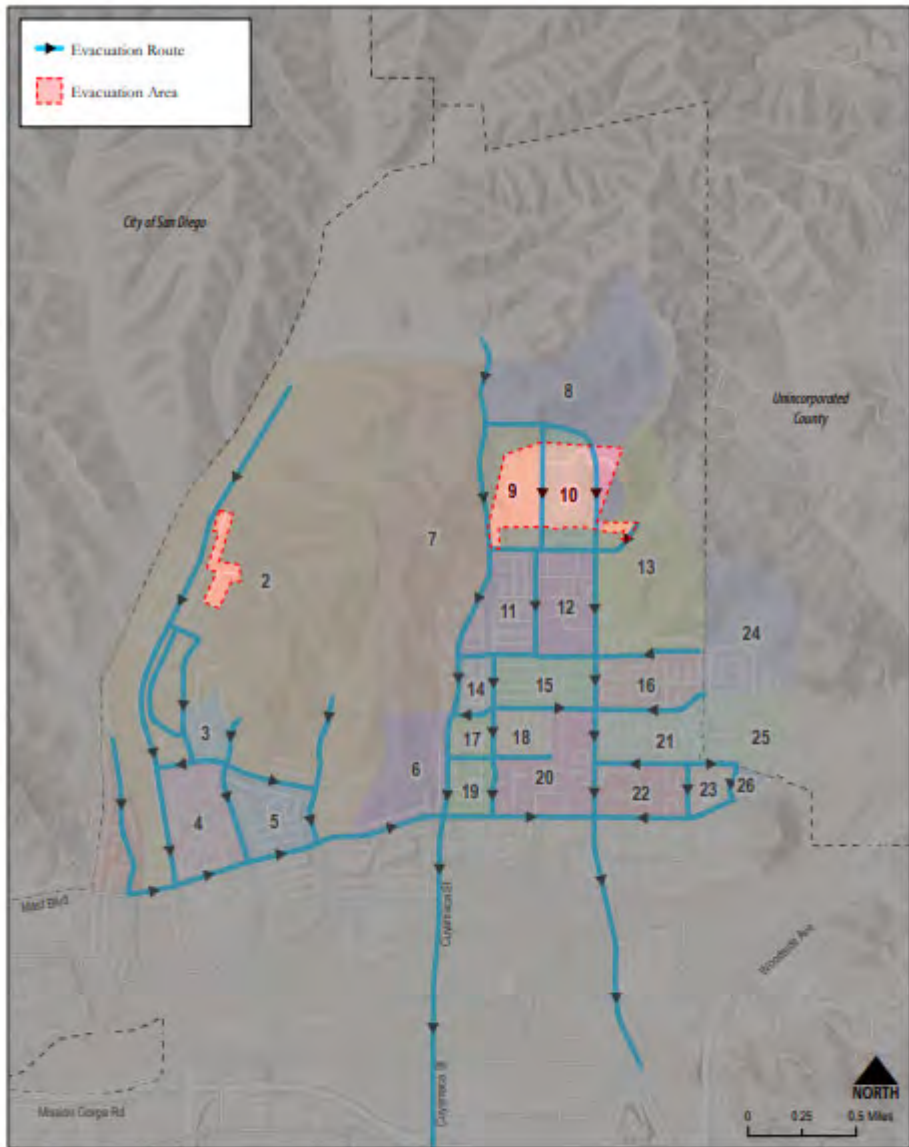
The WFEP discloses the evacuation population and number of vehicles evacuating. (WFEP, Appendix D at 13.) The WFEP presents the final evacuation times. (WFEP, Appendix D at 18.) But the WFEP offers no information on the third variable in its analysis: roadway capacity. The WFEP’s results remain a black box; the public has no way to independently verify, and comment upon, the results. The City’s responses did not fill in this clear analytical gap. The Final REIR still does not contain “sufficient detail to enable those who did not participate in the preparation to understand and to consider meaningfully” the evacuation impact. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516.)

From there, the City makes no effort to connect this approximately 19-minute to 2-hour evacuation time frame to whether the Project would create a significant safety risk. In response to concerns that the Project offered no basis by which to conclude that the estimated evacuation times would allow people to safely evacuate, the City focused on Santee’s “extremely high success rate” in past evacuations and “technological advancements.” (Thematic Response to Comments 4b.) The City asks the public to trust its conclusion, without any standard by which to independently assess the City’s findings.

The San Diego Superior Court ordered the City to analyze whether residents could “safely evacuate” from the Project, by studying whether the Project would expose people to a significant risk of loss, injury, or death involving wildland fires. The Final REIR still provides no evidentiary basis for the assumption that the modelled evacuation times would not do so.

### **C. The Final REIR defends the fiction of a “surgical” evacuation.**

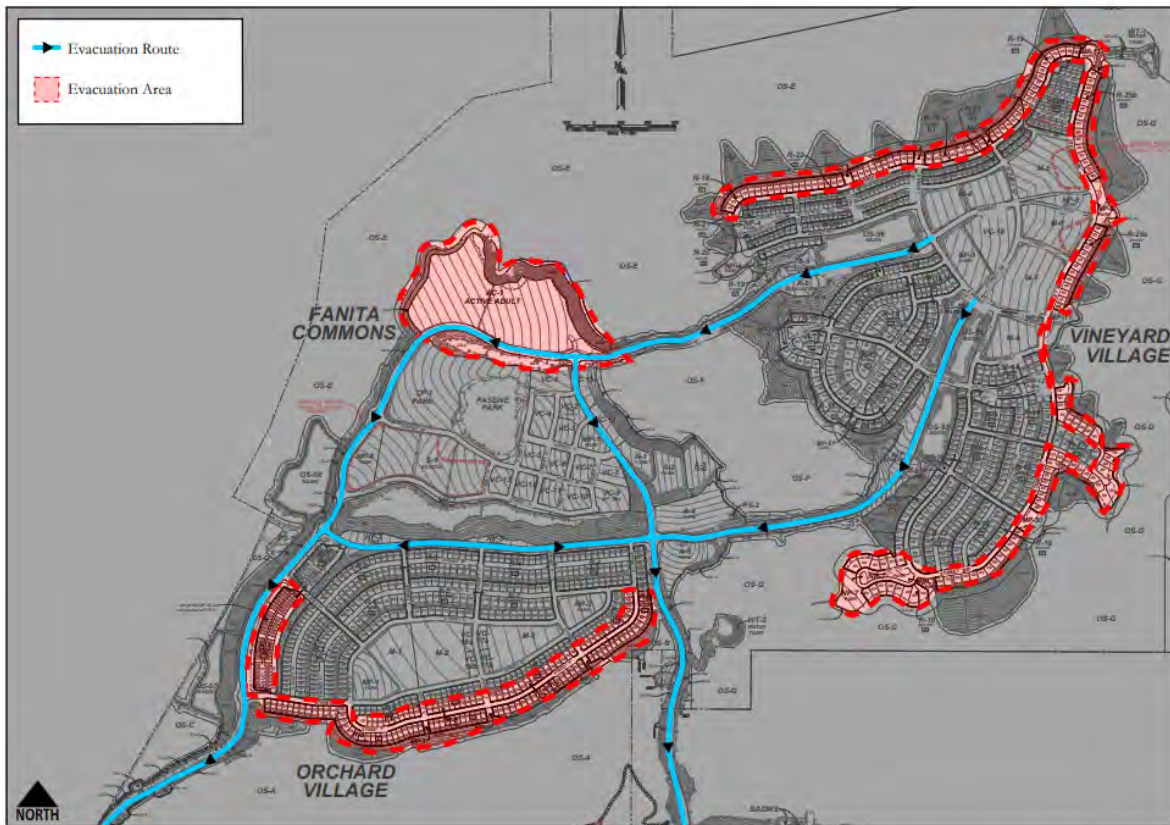
The Project REIR presents an analysis of evacuation times, evaluating nine scenarios ranging from a claimed “Most Probable Evacuation” involving 1,885 vehicles to a total/mass evacuation scenario labeled “Existing Land Uses Plus Project with Magnolia Avenue Extension,” involving 24,956 vehicles. (WFEP, Appendix D at 13.) Between those two extremes are “targeted” scenarios involving “surgical” evacuations, resulting in evacuation times from 19 minutes to 1 hour, 57 minutes. (*Ibid.*) For these “surgical” evacuations, the WFEP assumes that only perimeter homes in the Project will evacuate. Under the evacuation scenario the REIR describes as “most probable,” for example, the REIR assumes only those residents on the outermost block of the very northern edge of the Project development would evacuate:



Fanita Ranch Fire Evacuation Analysis  
 Technical Memorandum  
 C R

Figure 3.A  
 Most Probable Evacuation





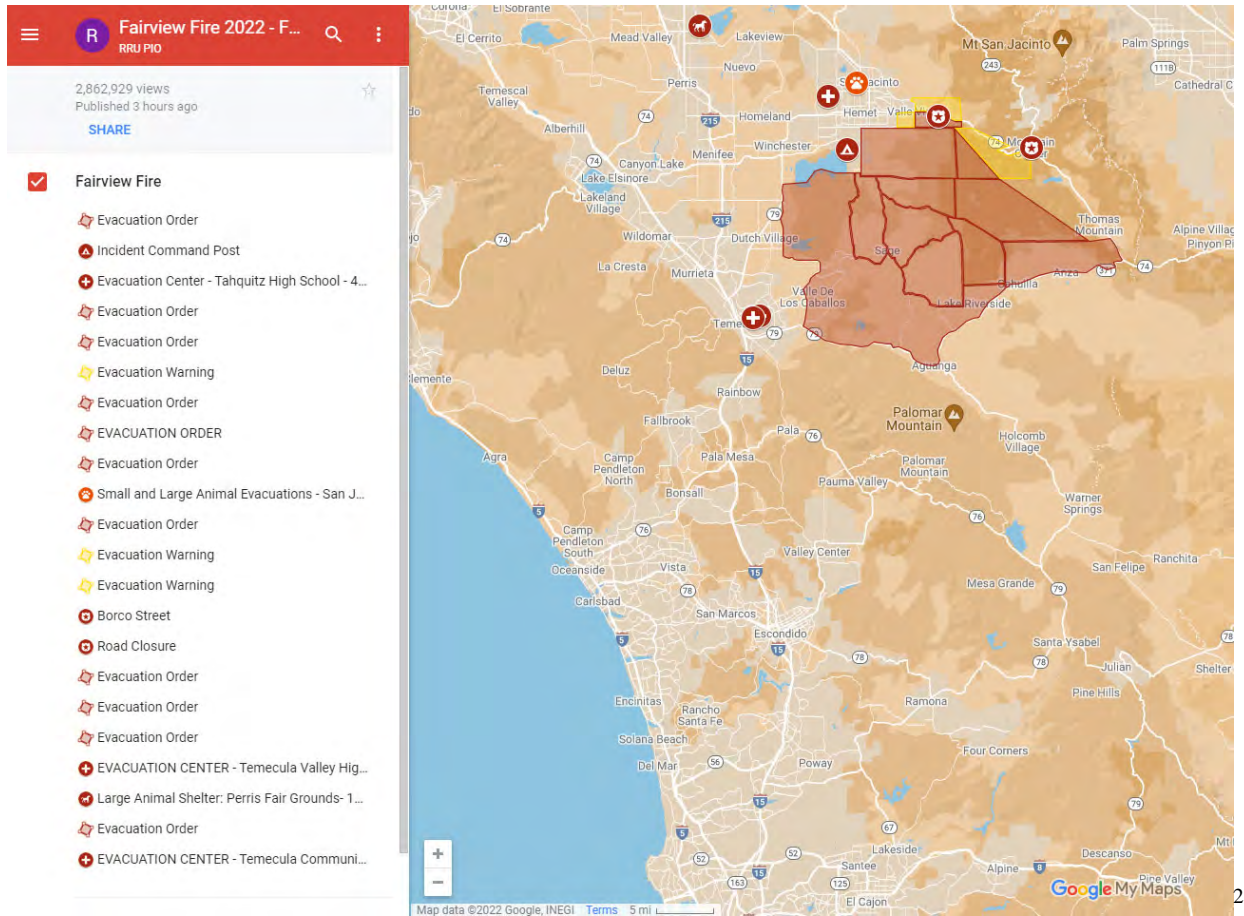
Fanita Ranch Fire Evacuation Analysis  
 Technical Memorandum  
 C+R

Figure 3B  
 Most Probable Evacuation

(WFEP Appendix D, Figure 3A and Figure 3B.)

The City provides no evidence that such targeted evacuations are happening anywhere in the state, or that the City could successfully execute such a targeted evacuation. Neither the Unified San Diego County Emergency Services Organization nor the County of San Diego Operational Area Emergency Operations Plan – Evacuation Annex Q suggest the use of these precise evacuations in the event of wildfire.

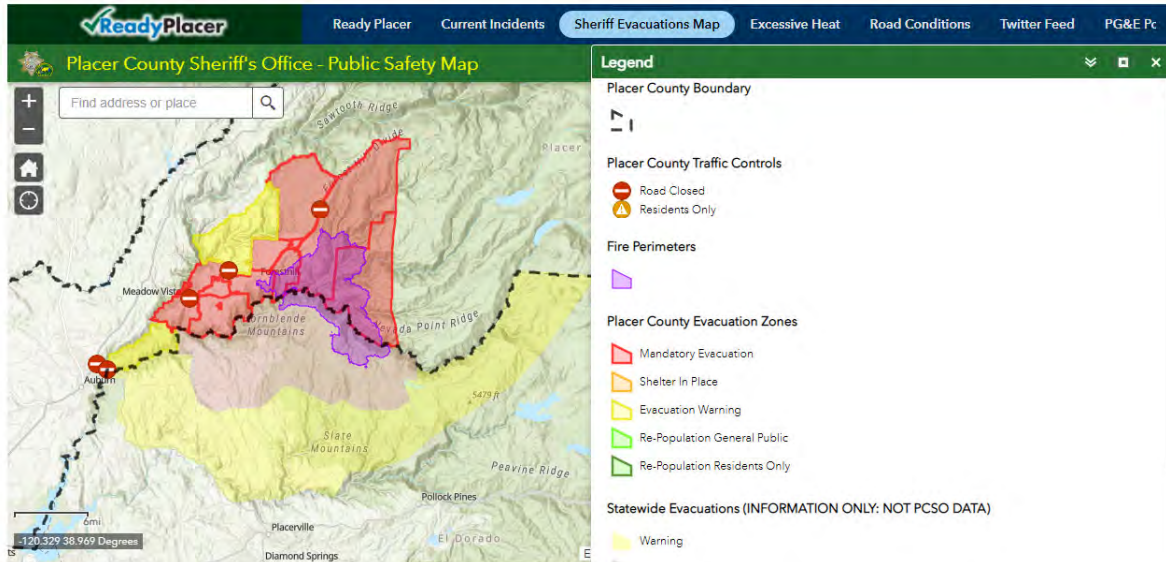
One need only look to the live evacuation orders for active wildfires in California to see that perimeter evacuation is a myth. On September 5, 2022, the Fairview fire ignited east of Hemet and quickly exploded to more than 2,000 acres. (Ding 2022.) Two people were killed, and one severely injured in the fast-moving blaze. (*Ibid.*) The following evacuation order was issued over at least 100 square miles:



The Mosquito Fire, which erupted last week near Lake Tahoe, in the midst of “record-breaking fuels” and “historically dry fuels,” has forced thousands to evacuate. (Toohey 2022.) As of last Friday, CAL FIRE issued the following evacuation orders along 12 miles of the Placer County boundary:

<sup>2</sup> San Diego authorities issue real-time maps of evacuation orders. This map for the Fairview Fire was pulled on September 9, 2022, at approximately 2:27 pm. Since these maps are updated constantly to give residents real-time information, this map is no longer available online. (<https://emergencymap.sandiegocounty.gov/index.html>.)

## Evacuation Zone Map



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These evacuations show that law enforcement do not parse block by block, especially in fast-changing situations. (Smith 2022.) Fires cross rivers, traverse highways, and send embers miles ahead of the flames. (Toohey 2022, Gabbert 2022, Hamilton 2018.) It is foolish to assume – absent the proven effectiveness of a surgical evacuation – that this City can rely on such evacuations to keep Project and downwind residents safe. (Lundstrom 2018.)

The REIR evaluates the impacts to evacuation in bite size pieces; it chopped a massive project—entailing a 17 percent increase in the City’s population – into little ones, each with a minimal impact, to avoid full environmental disclosure. (CEQA Guidelines §15003(h); *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283; *California Unions for Reliable Energy v Mojave Desert Air Quality Mgmt. Dist.* (2009) 178 Cal.App.4th 1225, 1249.) This study amounts to improper piecemealing.

Determining whether an evacuation can be successfully accomplished is the first step in evaluating whether the Project would pose a threat to public safety. (CEQA Guidelines § 15126.2(a).) The aforementioned information is precisely what must be considered in order to determine whether an evacuation can be successfully accomplished.

### **III. PROJECT APPROVAL WOULD VIOLATE STATE PLANNING AND ZONING LAW AND THE SUBDIVISION MAP ACT, IN ADDITION TO CEQA.**

<sup>3</sup> This map for the Mosquito Fire was pulled on September 9, 2022, at approximately 2:35 pm. Because these maps are updated regularly to give residents real-time information, this particular map is no longer available online. (<https://www.fire.ca.gov/incidents/2022/9/6/mosquito-fire/#evacuation-map>.)



The Project is inconsistent with the General Plan adopted by the City of Santee. The Project proposes residential development on land clearly designated as Specific Plan or PD—Planned Development or HL—Hillside Limited Residential and R1—Low Density Residential. (Santee General Plan, p. 1-3; Santee 2022.) The Specific Plan land use designation requires preparation of a specific plan for future development of those areas. (City of Santee 2022.) Yet the project evaluated in the REIR expressly purports not to include a specific plan, and proposes a higher density development than what the General Plan allows. Furthermore, the General Plan’s Land Use Element sets forth requirements specific to the Fanita Ranch site including, but not limited to: traffic, transportation, and roadway improvements; minimum lot sizes, planning requirements, park dedication, and specific amenities. (Santee General Plan, Land Use Element at 1-29 to 1-31.)<sup>4</sup> Yet, the proposed Project does not comport with these requirements. (Tellingly, because the Project was inconsistent with the Santee General Plan, the City originally sought a general plan amendment for the Project.)

Under the State Planning and Zoning Law (Gov. Code § 65000 et seq.), development approvals, including zoning ordinances, development agreements, subdivision maps, and “other plan[s]” must be consistent with the applicable general plan (Gov. Code §§ 65860(a), 65867.5(b), 65567, 65359). Because the Project is inconsistent with the General Plan’s land use requirements for development on the site, approving the Project as proposed would violate the State Planning and Zoning Law and Subdivision Map Act.

Separately, the REIR’s failure to disclose the Project’s inconsistency with the General Plan violates CEQA. CEQA requires that agencies analyze a project’s consistency with applicable land use plans. (*Napa Citizens for Honest Gov. v. Napa County Bd. Of Supervisors* (2001) 91 Cal.App.4th 342, 386-87; CEQA Guidelines § 15125(d); CEQA Guidelines Appendix G, § X.) Inconsistencies with plans that were enacted to protect the environment are significant impacts in themselves and can be evidence of other significant impacts. As described above, the Project is inconsistent with the City’s General Plan. But the REIR fails to acknowledge these inconsistencies and therefore fails to consider the environmental impacts that would follow from developing this area contrary to the General Plan. This undermines the REIR as an informational document and violates CEQA (*See Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322).

The City contends that its designation of the Project as an “Essential Housing Project” obviates the need to analyze consistency and comply with the General Plan. (*See REIR at 3-1.*) The City is wrong. The City created its “Essential Housing Project” designation process through Santee Ordinance No. 592 (2021).<sup>5</sup> The City now asserts that Ordinance No. 592 permits it to determine that certain projects are deemed automatically consistent with the General Plan. Not so. The general plan is a local agency’s “constitution” for all future development within the jurisdiction, and located at the top of the hierarchy of local government law regulating land use. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773.) Local agencies may not usurp the General

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<sup>4</sup> Available at: <https://www.cityofsantee.ca.gov/home/showpublisheddocument/7191/636336569667170000> (accessed September 13, 2022).

<sup>5</sup> The Ordinance was improperly adopted as an “urgency” ordinance, but failed to comply with state law requirements for the adoption of urgency ordinances.

Plan's primacy through ordinance.<sup>6</sup> The City's "Essential Housing Program" cannot supplant or excuse away state law requirements that the Project be consistent with the General Plan.

#### **IV. PROJECT APPROVAL WOULD VIOLATE THE CITY'S OWN VOTER-APPROVAL REQUIREMENT (MEASURE N).**

In November 2020, the voters of the City of Santee adopted the Santee General Plan Protection Initiative, which became known as "Measure N."<sup>7</sup> Measure N amended the General Plan "to require a vote of the people for certain development projects." (Measure N, Section 1.A.) Under the measure's Policy 12.1:

No General Plan amendment, Planned Development Area or new Specific Planning Area shall be adopted which would:

- 1) increase the residential density permitted by law,
- 2) change, alter, or increase the General Plan Residential Land Use categories if the change intensifies use; or
- 3) change any residential designation to commercial or industrial designation on any property, or visa versa, if the change intensifies use;

unless and until such action is approved and adopted by the voters of the City at a special or general election, or approved first by the City Council and then adopted by the voters in such an election.

The City and the Project proponent's attempt to strip the legislative approvals from the Project is a transparent attempt to circumvent this requirement of Measure N and to deprive the voters of their right to approve or disapprove of the Project.

#### **V. PROJECT APPROVAL WOULD VIOLATE THE ELECTIONS CODE.**

As explained in greater detail in the Center's June 8, 2022 letter to the City [attached as Exhibit A], on September 23, 2020, by Resolution 094-2020, the City Council adopted a General Plan Amendment for the Fanita Ranch Project. On October 29, 2020, the voters of the City of Santee filed a referendum petition with the City Clerk's office seeking a vote to overturn Resolution 094-2020 and thereby rescind the General Plan Amendment. On January 13, 2021, the City Council decided not to repeal the General Plan Amendment, and instead adopted Resolution 006-2021, which submitted the referendum to the voters at the November 8, 2022 General Municipal Election. On January 23, 2021, the City Clerk presented the Certificate of Sufficiency for the Referendum to the City Council.

On April 26, 2022, after finding that the City violated state law when it approved the Fanita Ranch Project without conducting the requisite environmental review, the San Diego

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<sup>6</sup> Ordinance No. 592 did not (and did not purport to) amend the City's General Plan.

<sup>7</sup> A copy of the full text of the initiative is available at: <https://preservewildsantee.org/wp-content/uploads/2018/05/Santee-General-Plan-Protection-Initiative-Final-submitted-04062018.pdf> (last accessed September 13, 2022).

Superior Court ordered the City to rescind all project approvals for the Fanita Ranch Project, including Resolution No. 94-2020, the subject of the referendum. On May 25, 2022, the City Council repealed Resolution 094-2020 in response to the Court’s order.

Once a qualified referendum is presented to a city, the city has a ministerial duty to either repeal the underlying legislation or place the referendum on the ballot. (Elec. Code, § 9241, *Widders v. Furchtenicht* (2008) 167 Cal.App.4th 769, 775.) It cannot escape this mandatory duty absent a court order. (Id. at 779.) Critically, whether the referendum is passed by a vote of the people or the city repeals the underlying legislation, the city is barred from enacting similar legislation for one year, either from the date of rescission or the date the vote becomes effective. (Elec. Code, § 9241.) This stay provision temporarily reverts legislative power over the particular subject matter to the people, and the legislative body may not violate that stay by enacting essentially the same legislation on the same subject matter. (*Lindelli v. Town of San Anselmo* (2003) 111 Cal.App.4th 1099, 1110.)

By certifying the REIR and approving the Project, the City is adopting “essentially the same” approvals that it repealed in May 2022 as a result of the Court’s writ and judgment, and—according to the City—consistent with Elections Code section 9241’s option of repeal in place of referring to the voters. The REIR makes clear that the Project that is being proposed for the City’s consideration and approval is identical in every material way to the Project repealed in May 2022. Courts have consistently rejected local agencies’ efforts to circumvent section 9241’s one-year stay provision by merely reworking the underlying approvals. (*See Martin v. Smith* (1959) 176 Cal.App.2d 115 [after a referendum petition challenged the commercial lease of public land, city’s passage of a new resolution which altered the length of the lease and the affected land violated one-year provision]; *see also Lindelli v. Town of San Anselmo* (2003) 111 Cal.App.4th 1099, 1110.) In doing so, courts look at the “fundamental principle” of the legislative actions with which voters were concerned. (*Martin*, 176 Cal.App.2d at 120.)

Here, the proponents of the Fanita Ranch referendum expressed objections to Resolution 94-2020, including that it is a “massive sprawl project” with “significant documented traffic, fire safety, and environmental impacts”; that it is “irresponsible” to place thousands of residents in a high fire risk area; concern over “jammed roads for evacuation and daily commutes”; and “unavoidable impacts on our streets and highways.”<sup>8</sup> These animating concerns apply with equal force to the Project once more being brought before the City Council. Contriving to strip this development project of its original General Plan Amendment component while preserving its particulars (such as the unit count, footprint, and nearly every other relevant aspect of the Project) does not permit the City to ignore Elections Code section 9241’s one-year stay requirement. If it certifies the REIR and approves the Project prior to the expiration of this period, it will do so in violation of the Elections Code.

**VI. SIGNIFICANT NEW INFORMATION REGARDING BIOLOGICAL IMPACTS MEANS THAT THE EIR MUST BE RECIRCULATED.**

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<sup>8</sup> Stop Fanita Ranch Vote NO on Nov 8th, <https://www.stopfanitaranch.com/act-today> (last visited September 13, 2022).

CDFW identified the Crotch bumble bee as a candidate species for eventual listing under the California Endangered Species Act (“CESA”) in June 2019 and subsequently provided notice of this determination and an evaluation report. (California Fish and Game Commission 2019, CDFW 2019; *see also* Xerces Society 2018.)<sup>9</sup> Nonetheless, the 2020 FEIR downplayed the Crotch’s likelihood of occurrence on the site, disagreeing with the Center’s comment that the bee occurs on the site (see 2020 FEIR at 4-O6-62 to -64.). However, the iNaturalist database includes two recent observations of Crotch’s bumble bee in Santee, including one from March 15, 2020 on the Project site<sup>10</sup>; the second observation is from June 3, 2021 in Mast Park<sup>11</sup>. The observation was identified as a Crotch’s bumble bee by John Ascher, a taxonomic expert and a former curator at the American Natural History Museum, and is designated “Research Grade” (accuracy is highly reliable and may be used for scientific research).

This high-quality evidence of the presence of a protected species onsite is “significant new information” requiring recirculation of the EIR. Moreover, the EIR’s and REIR’s failure to properly evaluate or disclose the species’ presence on the site or the Project’s impacts to it means that the environmental documents did not properly disclose the environmental baseline conditions on the Project site, did not adequately analyze the extent or significance of impacts to the species, and therefore did not consider or adopt mitigation to reduce these impacts. The 2020 FEIR also stated that “the legality of listing the bees is currently in litigation.” (2020 FEIR at 4-O6-62 to -64.) As noted, this litigation has been resolved, with the Court of Appeal determining that invertebrates such as the Crotch’s bumble bee are covered under CESA. The EIR and/or REIR should be revised to include this information, after the City has taken the necessary steps (such as conducting protocol surveys for the Crotch’s bumblebee) to consider and disclose this impact.

## VII. CONCLUSION

This REIR, with its glaring deficiencies, cannot properly form the basis of a final EIR. The City also has failed to name the California Department of Transportation (“CalTrans”) and the California Public Utilities Commission as responsible agencies with discretionary approval over crucial aspects of the Project, including the Magnolia extension at issue in the prior litigation. (RTC-S2-4, RTC-O1-1.) In light of the shortcomings described above, the City should decline to approve the Project, postpone approval until these agencies have had the opportunity to review the REIR and provide feedback to the City, and, *at a minimum*, recirculate the EIR for additional review and public comment. The City must also allow the voters of the City of Santee to exercise their right to approve or disapprove of the Project at the ballot.

Because of the possibility that the Center will be required to pursue legal remedies in order to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all

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<sup>9</sup> Although the Fish and Game Commission’s candidacy determination was subject to legal challenge on the grounds that the commission lacked statutory authority to list the species under the California Endangered Species Act (“CESA”), the Court of Appeal ruled in favor of the Commission in a published opinion. (*Almond Alliance of California v. Fish & Game Com.* (2022) 79 Cal.App.5th 337.)

<sup>10</sup> <https://www.inaturalist.org/observations/40049520> [attached as Exhibit B].

<sup>11</sup> <https://www.inaturalist.org/observations/81486959> [attached as Exhibit C].

documents and communications that may constitute part of the “administrative record” of this proceeding. (Pub. Res. Code § 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes “pretty much everything that ever came near a proposed [project] or [] the agency’s compliance with CEQA . . . .” (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City’s representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City’s representatives or employees and the Project applicant’s representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,



Peter J. Broderick  
Senior Attorney, Center for Biological Diversity  
1212 Broadway, Suite #800  
Oakland, CA 94612  
Tel: (510) 844-7100  
[pbroderick@biologicaldiversity.org](mailto:pbroderick@biologicaldiversity.org)

Hallie Kutak  
Staff Attorney | Senior Conservation Advocate  
Center for Biological Diversity  
1212 Broadway, Suite #800  
Oakland, CA 94612  
Tel: (510) 844-7117  
[hkutak@biologicaldiversity.org](mailto:hkutak@biologicaldiversity.org)



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# **Exhibit A**



June 8, 2022

*Sent via email*

City Council  
City of Santee  
10601 Magnolia Ave.  
Santee, CA 92071  
[clerk@cityofsanteeca.gov](mailto:clerk@cityofsanteeca.gov)

**Re: Fanita Ranch Referendum (Agenda Item #10, June 8, 2022 City Council Meeting)**

Dear Mayor Minto and City Councilmembers:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the City’s proposed repeal of Resolution No. 006-2021 (Agenda Item #10, June 8, 2022 City Council Meeting), which repeal would remove the voter referendum on the Fanita Ranch Project General Plan Amendment from the November 2022 ballot. The City should not deprive the voters of the opportunity to vote on the Fanita Ranch Project General Plan Amendment in November.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 68,000 members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in the City of Santee.

On September 23, 2020, by Resolution 094-2020, the City Council adopted a General Plan Amendment for the Fanita Ranch Project. On October 29, 2020, the voters of the City of Santee filed a referendum petition with the City Clerk’s office seeking a vote to overturn Resolution 094-2020 and thereby rescind the General Plan Amendment. On January 13, 2021, the City Council decided not to repeal the General Plan Amendment, and instead adopted Resolution 006-2021, which submitted the referendum to the voters at the November 8, 2022 General Municipal Election.

On April 26, 2022, after finding that the City violated state law when it approved the Fanita Ranch Project without conducting the requisite environmental review, the San Diego Superior Court ordered the City to rescind all project approvals for the Fanita Ranch Project, including Resolution No. 94-2020, the subject of the referendum. On May 25, 2022, the City Council repealed Resolution 094-2020 in response to the Court’s order.

The City now apparently wishes to avoid holding a vote on the Fanita Ranch Project—a vote it already committed to when it decided in January 13, 2021 to submit the referendum to the voters. The City’s Staff Report justifies this attempt to avoid voter accountability by urging that a

referendum vote would be a “meaningless act,” “legally moot,” and “without purpose” because the City has already repealed the subject General Plan Amendment under court order. The conclusion is wrong in several respects. First, the City lacks the discretionary authority to conclude that a qualifying referendum is moot. (*See Widders v. Furchtenicht* (2008) 167 Cal.App.4th 769, 779 [submitting qualifying measures to the voters is a ministerial act].) Additionally, the referendum vote will, in fact, have a legal effect: if voters disapprove of the General Plan Amendment (as is likely), the City will be prohibited by law from enacting similar legislation for one year from the date of the election. (Elec. Code § 9241.) Finally, allowing the voting public to weigh in on the Fanita Ranch Project through an up-or-down vote is a key aspect of participatory decision-making and serves the underlying democratic purpose of California’s constitutionally authorized voter referendum process. As the City is aware, Santee voters referended a prior City-approved development on the site of the Fanita Ranch Project in the late 1990s.

The City cannot use its failure to comply with the law when it adopted the General Plan Amendment for the Fanita Ranch Project as a justification avoiding voter accountability and the City’s obligations under the Elections Code, which arose after the City decided to place the referendum on the November 2022 ballot. The referendum should remain on the ballot.

Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the County complies with its legal obligations we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the administrative record of this proceeding. Please include the Center on your notice list for all future City activity relating to the Fanita Ranch Project and do not hesitate to contact the Center with any questions at the number or email listed below .

Sincerely,



Peter J. Broderick,  
Attorney  
Center for Biological Diversity  
1212 Broadway, Suite #800  
Oakland, CA 94612  
Tel: (510) 844-7100  
[pbroderick@biologicaldiversity.org](mailto:pbroderick@biologicaldiversity.org)

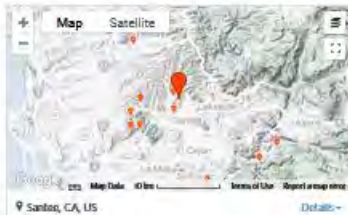
CC: [jminto@cityofsanteeca.gov](mailto:jminto@cityofsanteeca.gov)  
[rhall@cityofsanteeca.gov](mailto:rhall@cityofsanteeca.gov)  
[lkoval@cityofsanteeca.gov](mailto:lkoval@cityofsanteeca.gov)  
[rmcnelis@cityofsanteeca.gov](mailto:rmcnelis@cityofsanteeca.gov)  
[dtrotter@cityofsanteeca.gov](mailto:dtrotter@cityofsanteeca.gov)

# **EXHIBIT B**



madge

1475 observations

Observed:  
Mar 15, 2020 - 3:17 PM PDTSubmitted:  
Mar 15, 2020 - 3:20 PM PDT

## Activity



madge suggested an ID

ID Withdrawn



Bumble Bees

*Bombus*

johnscher suggested an ID

Improving



Crotch's Bumble Bee

*Bombus crotchii*

madge suggested an ID

2y



Crotch's Bumble Bee

*Bombus crotchii*

dominguezgr suggested an ID

2y



Crotch's Bumble Bee

*Bombus crotchii*

Comment Suggest an identification

Log in or sign up to add comments.

## Community Taxon

What's this?

Crotch's Bumble Bee (*Bombus crotchii*) IN +

Cumulative IDs: 3 of 3

0 2/3ids 3

Agree

About

## Projects (3)



San Diego County, California Biodiversity



California Rare, Threatened, and Endangered Species



California Natural Diversity Database

## Top Identifiers of Crotch's Bumble Bee

## Copyright Info and More

Observation by madge - some rights reserved  





This observation was created using

Naturalist iPhone App

## 👍 Data Quality Assessment <sup>1</sup>

Quality Grade: **Excellent**

The Data Quality Assessment is an evaluation of an observation's accuracy. Research Grade observations may be used by scientists for research. Cast your vote below.

Research Grade Qualification	Yes	No
 Date specified	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Location specified	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Has Photos or Sounds	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Has ID supported by two or more	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Date is accurate	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Location is accurate	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Organism is wild	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Evidence of organism	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Recent evidence of an organism	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Community Taxon at species level or lower	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Inappropriate content? [Flag As Inappropriate](#)



This observation is Research Grade! It can now be used for research and featured on other websites

This observation is featured on 1 site:



GBIF



# **EXHIBIT C**



langooney

2,065 observations

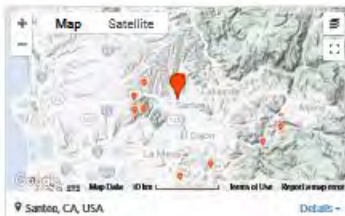


Observed:

Jun 3, 2021 - 9:55 AM HST

Submitted:

Jun 3, 2021 - 2:39 PM PDT



Activity

- langooney suggested an ID Improving 

**Crotch's Bumble Bee**  
*Bombus crotchii*
  - domingozungr1 suggested an ID  

**Crotch's Bumble Bee**  
*Bombus crotchii*
  - noylin suggested an ID  

**Crotch's Bumble Bee**  
*Bombus crotchii*
  - michaelwall suggested an ID  

**Crotch's Bumble Bee**  
*Bombus crotchii*
  - leif\_richardson suggested an ID  

**Crotch's Bumble Bee**  
*Bombus crotchii*
  - johnmasher suggested an ID  

**Crotch's Bumble Bee**  
*Bombus crotchii*
- [Log in or sign up to add comments.](#)

Community Taxon

What's this?

**Crotch's Bumble Bee** (*Bombus crotchii*)

Cumulative IDs: 6 of 6



- 
- 

Projects (2)

- California Rare, Threatened, and Endangered Species
- San Diego County, California Biodiversity

Top Identifiers of Crotch's Bumble Bee

Copyright Info

Observation by langooney - no rights reserved



## ✔ Data Quality Assessment <sup>1</sup>

Quality Grade: **Research**

The Data Quality Assessment is an evaluation of an observation's accuracy. Research Grade observations may be used by scientists for research. Cast your vote below:

Research Grade Qualification	Yes	No
 Date specified	✔	
 Location specified	✔	
 Has Photos or Sounds	✔	
 Has ID supported by two or more	✔	
 Date is accurate	✔	
 Location is accurate	✔	
 Organism is wild	✔	
 Evidence of organism	✔	
 Recent evidence of an organism	✔	
 Community Taxon at species level or lower	✔	

Inappropriate content? [Flag as inappropriate](#)



This observation is Research Grade! It can now be used for research and featured on other websites

This observation is featured on 1 site:



---

**From:** Beth Frice [REDACTED] >

**Sent:** Wednesday, September 14, 2022 5:57 PM

**To:** Chris Jacobs <CJacobs@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

**Subject:** Fanita Ranch, Item 8 - Disapprove!

Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program ([REPI](#)).

Thank you,

Elizabeth Frice

**From:** [Erin D.](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Opposition to Fanita Ranch/ Sept 14th City Council Meeting  
**Date:** Wednesday, September 14, 2022 3:21:32 PM

---

Hello,

This email is my legal and written testament to the opposition of the approval of the Fanita Ranch Development that the City Council of Santee may try to approve. Measures by voters and citizens of Santee were undertaken to make the approval of building this development go to voters of Santee residents via a ballot vote. It seems that this is not being followed. Given this, it seems the City of Santee is engaging in unethical and potentially illegal behaviors in regards to City/Government protocol. This email is to be on record that I disapprove and am aware of the City Council's failure to send this decision to the voters.

Research and experts by official fire studies and environmentalists have clearly highlighted that this area of potential build is a high-fire zone; yet, it seems that the city of Santee, the City Council, and developers of Fanita Ranch are putting profits before safety and the agreed-upon voter referendum regarding this matter. This is not okay.

In addition, the city roads and infrastructure are not adequately designed to handle the traffic of nearly 3,000 more homes. Proceeding with this development is putting the city of Santee and current residents at risk.

Again, as a voting resident of Santee for over 19 years, I oppose this development. The City Council should be sending this matter to a vote by registered voters as was recently agreed upon in the court system. To not send this matter to a citizen vote seems that this City Council is pandering to the developers of Fanita Ranch and does not value the "voice" of Santee's citizens.

I as a citizen often wonder if the developers of Fanita Ranch are giving financial "perks" to those on the City Council Board and City officials to "push" this project "through," while ignoring the majority of Santee residents' who disapprove of this project.

This email is again, legal testament and opposition to the approval and potential development of Fanita Ranch.

With Sincerity and Frustration,

Dr. Erin Doherty  
Santee Resident since 2003

\*This email has been sent prior to the Sept 14th, 2022 City Council meeting which is discussing the approval of Fanita Ranch. I wish it to be recorded in city records in case of potential legal concerns against the city of Santee.

**From:** Iliana Sonntag [REDACTED]  
**Sent:** Wednesday, September 14, 2022 2:09 PM  
**To:** Rob McNelis <RMcNelis@CityofSanteeCa.gov>  
**Subject:** Fanita Ranch vote

Mr. McNelis,

I object to the city council's **illegal approval** of the Fanita Ranch project scheduled on 9/14/22. Why are Fanita Ranch project approvals on the meeting agenda? Re-approval is not permitted for at least one year after the city rescinded project approvals in May of 2022.

The project must face Santee voters. When will it do so? We have a say in what happens in our community and a legal right to vote on this proposal.

The City "Essential Housing Certification" appears to be a sham and a ruse devised to circumvent the citizens of Santee who hold ultimate land use authority. There is no urgency to place luxury housing in a severe fire hazard zone or to further gridlock Santee streets with over 26,000 new vehicle trips per day. The state is in a major drought and climate emergency and there should be NO new housing built.

Please include my objection in the Administrative Record for the project. I totally disapprove of this action.

Thank you,

Iliana M Sonntag  
Santee resident  
East Elliott, Santee Lakes East

**From:** noreply@cityofsanteeca.gov <noreply@cityofsanteeca.gov>  
**Sent:** Wednesday, September 14, 2022 1:01 PM  
**To:** Rob McNelis <RMcNelis@CityofSanteeCa.gov>  
**Subject:** Email contact from Santee, CA

Message submitted from the <Santee, CA> website.

**Site Visitor Name:** Johanna Stafford

**Site Visitor Email:** [REDACTED]

The people of Santee have already said no to Fanita Ranch. A judge has ruled no on Fanita Ranch. You are obligated to listen to your constituents...no on Fanita Ranch. Please do not make the once beautiful city of Santee even worse. We are already facing rising homeless numbers, lack of social services and not enough public services. Fanita Ranch only serves to line the pockets of people in real estate and insurance. I realize that is the majority of the current city council and you all have personal gain from this project being passed, but we as the city of Santee have nothing to gain!

No on Fanita Ranch!!

Johanna Stafford



**From:** noreply@cityofsanteeca.gov <noreply@cityofsanteeca.gov>  
**Sent:** Wednesday, September 14, 2022 7:45 AM  
**To:** Rob McNelis <RMcNelis@CityofSanteeCa.gov>  
**Subject:** [REDACTED]

Message submitted from the <Santee, CA> website.

**Site Visitor Name:** Lisa McKean  
**Site Visitor Email:** [REDACTED]

Please vote NO on the Fanita Ranch housing project

---

**From:** Mark Cafferty <cafferty@sandiegobusiness.org>

**Sent:** Wednesday, September 14, 2022 4:39 PM

**To:** John Minto <JMinto@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>;  
Laura Koval <LKoval@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Dustin  
Trotter <DTrotter@CityofSanteeCa.gov>; Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Subject:** Fanita Ranch

Dear Santee Mayor, Councilmembers, and City Planning Leadership:

On behalf of the San Diego Regional EDC, please accept this letter as a show of support for the construction of additional housing opportunities brought by Fanita Ranch.

The EDC is an independently funded non-profit organization, with a mission to maximize the San Diego region's economic prosperity and global competitiveness. The availability of housing is a throughline in the work we do and imperative to the health and prosperity of the residents of our region and the economic viability of the member companies we represent.

Last year, we saw almost 60,000 new jobs created across the region, but added less than 10,000 new housing units. Year after year, this continued underbuilding has led to skyrocketing housing prices, and many residents have been priced out of the market as a function of the undersupply. Approval of additional and responsible residential development will help address this shortfall of housing and position regional employers to better meet the needs of our growing workforce.

Thank you in advance for your thoughtful consideration.

Sincerely,

Mark Cafferty

**Mark Cafferty** | President & CEO

[San Diego Regional EDC](#) | [Twitter](#) [LinkedIn](#) [Facebook](#)

o|619 234 8484

530 B Street • Suite 700 • San Diego, CA 92101



Join us at our [Annual Dinner!](#)

**From:** Melissa Stern [REDACTED]

**Sent:** Wednesday, September 14, 2022 10:32 AM

**To:** Dustin Trotter <DTrotter@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; John Minto <JMinto@CityofSanteeCa.gov>

**Cc:** Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Subject:** Please Approve Fanita Ranch

Dear City Council members,

This email is to show my support of Fanita Ranch. Fanita Ranch has been planned for too many years. It's time to approve it so more families will have the opportunity to own a home here in San Diego County. We are in a severe housing crisis and this project provides the much needed housing that we desperately need. I have reviewed the information on Fanita and it looks awesome. HomeFed has been developing Master Planned communities in San Diego County for 25 years. They know how to create a community that people want to call home.

The amenities that are planned are incredible. Miles of trails, a walkable sustainable community is exactly what we are looking for. Acres and acres of parks and an organic farm are fantastic. Please approve Fanita Ranch so more San Diegans will be able to own a home.

Thank you,

Melissa Stern

San Diego Resident

**From:** [michael mcsweeney](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fw: Failure Notice  
**Date:** Wednesday, September 14, 2022 3:41:52 PM  
**Attachments:** [Fanita Ranch letter.pdf](#)

---

Dear Mr. Jacobs:

Last evening I tested positive for Covid and will be unable to testify before your City Council this evening.

Attached is my message to your Mayor and Councilmembers. Would you be so kind as to provide each of them with my letter (attached)?

Thank you,

Michael McSweeney

Michael McSweeney  
5817 Arboles Street  
San Diego, CA 92120

September 14, 2022

Mayor John Minto & Councilmembers McNelis, Hall, Koval & Trotter  
10601 Magnolia Avenue  
Santee, CA 92071

re: Fanita Ranch

Dear Mayor Minto and Councilmembers McNelis, Hall, Koval & Trotter:

In 1984 I relocated from the Cleveland area to southern California. In May of 1985 I purchased my first home in Santee, off of El Nopal Rd. Santee will always be my first home in the Golden State.

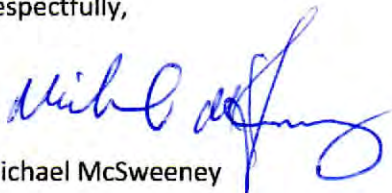
This evening you have the opportunity to approve a housing development which has been planned for since before I moved to Santee almost 40 years ago. I moved away from Santee because when I wanted to "move up", there wasn't a neighborhood to move to in Santee.

Now that SR 52 has been completed and opened Santee to easier commuting to various employment centers in the county, Santee needs a community like Fanita Ranch. The developer has created a well thought out plan, leaving most of the site as open space. The multi-millions of dollars invested into Santee's infrastructure won't happen unless Fanita Ranch is approved. Creating more housing options in Santee would keep residents like me from leaving.

Finally, in today's politically charged atmosphere regarding new development local residents have an opinion that they are entitled to have a say over property they don't own. Fanita Ranch will make Santee a more vibrant and exciting community. It will bring the infrastructure improvements Santee desperately needs while creating much needed housing for Santee and East County.

Please tune out the noise and make an affirmative decision on making Santee a more attractive and exciting place to live, work and play. I respectfully ask that you approve the Fanita Ranch development this evening.

Respectfully,



Michael McSweeney

**From:** [Steven Thong](#)  
**To:** [Chris Jacobs](#)  
**Cc:** [Mitchell Tsai](#); [Reza Bonachea Mohamadzadeh](#); [Maria Sarmiento](#); [Malou Reyes](#); [Jonathan Montano](#); [Rebekah Youngblood](#); [Hind Baki](#); [Barrie Brown Martinez](#)  
**Subject:** SWRCC - [City of Santee, Fanita Ranch] - Comment Letter  
**Date:** Wednesday, September 14, 2022 2:54:51 PM  
**Attachments:** [20220914\\_SWRCC\\_Santee\\_FanitaRanch\\_CommentLtr\\_v4\\_Complete.pdf](#)

---

Good Afternoon Chris Jacobs,

Please see the attached Comment Letter for the City of Santee's 09/14/22 Planning Commission Meeting for Item Agenda No. 8, Fanita Ranch.

Additionally, please confirm receipt of this email and attachment.

Best,  
Steven

--

Steven Thong  
Paralegal  
Mitchell M. Tsai, Attorney At Law  
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**VIA E-MAIL**

September 14, 2022

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**RE: Southwest Regional Council of Carpenters' Comments on the City of Santee Fanita Ranch Final Environmental Impact Report (SCH No. 2005061118) – Agenda Item No. 8**

Dear Honorable Council Members and Mr. Jacobs:

On behalf of the Southwest Regional Council of Carpenters (“**SWRCC**” or “**Southwest Carpenters**”), my Office is submitting these comments regarding the City of Santee (“**City**” or “**Lead Agency**”) Revised Final Environmental Impact Report (“**RFEIR**,” “**FEIR**,” or “**EIR**”) (SCH No. 2005061118) for Fanita Ranch Project (“**Project**”). These comments are to apprise the City of the potential environmental impacts of the Project and the issues inherent in the FEIR. The Project aims to develop roughly 2,638 acres of land in the northern portion of the City and will include up to 3,008 residential units and up to 80,000 square feet of commercial space, parks, trails, and a habitat preserve, to name several of its elements.

SWRCC is a labor union representing more than 57,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning, addressing the environmental impacts of development projects, and equitable economic development.

Individual members of SWRCC live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

SWRCC expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing and proceeding related to this Project. Gov. Code, § 65009, subd. (b); Pub. Resources Code, § 21177, subd. (a); see *Bakersfield*

*Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

SWRCC incorporates by reference all comments raising issues regarding the RFEIR submitted prior to its certification for the Project. *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, SWRCC requests that the City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (**CEQA**), Pub. Resources Code, § 21000 *et seq.*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Gov. Code, §§ 65000–65010. California Public Resources Code sections 21092.2 and 21167(f) and California Government Code section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

The City should require that the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should also require the utilization of workers who have graduated from a joint labor-management apprenticeship training program approved by the State of California, have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a program, or who are registered apprentices in an apprenticeship training program approved by the State of California.

Community benefits such as local hire and skilled and trained workforce requirements can also be helpful in reducing the negative environmental impact and improving the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project site, for example, can reduce the length of vendor and worker trips, reduce greenhouse gas (GHG) emissions, and provide localized economic benefits from saved time and costs associated with commuting. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the



reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai regarding Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Skilled and trained workforce requirements also promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the University of California, Berkeley Center for Labor Research and Education concluded:

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.<sup>1</sup>

On May 7, 2021, the South Coast Air Quality Management District found that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.<sup>2</sup>

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward’s 2040 General Plan requires the city to “promote local hiring . . . to help achieve a more positive jobs-housing balance and reduce regional commuting, gas consumption, and greenhouse gas emissions.”<sup>3</sup>

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<sup>1</sup> California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

<sup>2</sup> South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

<sup>3</sup> City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, *available at* [https://www.hayward-ca.gov/sites/default/files/documents/General\\_Plan\\_FINAL.pdf](https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf).

In fact, the City of Hayward has even incorporated a skilled labor force policy into its Downtown Specific Plan and municipal code. The policy contributes to the stabilization of regional construction markets by motivating applicants of housing and nonresidential developments to require that contractors utilize apprentices from state-approved joint labor-management training programs.<sup>4</sup> The City of Hayward mandates the same measure on all projects that are 30,000 square feet or larger.<sup>5</sup>

Locating jobs closer to residential areas can also have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.<sup>6</sup>

Moreover, local hire mandates and skill training are critical facets of a strategy to reduce vehicle miles traveled (VMT). As planning experts Robert Cervero and Michael Duncan note, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match to those held by local residents.<sup>7</sup> Some municipalities have gone as far as linking local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is

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<sup>4</sup> City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

<sup>5</sup> City of Hayward Municipal Code, Chapter 10, § 28.5.3.020, subd. (C).

<sup>6</sup> California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

<sup>7</sup> Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

Therefore, the City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically, mitigate greenhouse gas emissions, improve air quality, and reduce transportation impacts.

The City should also require the Project to be built to standards exceeding the current 2019 California Green Building Code to mitigate the Project’s environmental impacts and to advance progress towards the State of California’s environmental goals.

## I. **THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

### A. Background Concerning the California Environmental Quality Act

The California Environmental Quality Act has two basic purposes. First, it is designed to inform decision-makers and the public about the potential significant environmental effects of a project through an EIR. Cal. Code Regs., tit. 14, § 15002, subd. (a)(1) (“**CCR**” or “**CEQA Guidelines**”).<sup>8</sup> “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR protects not only the environment but also informed self-government.” *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (emphasis added) (internal citation and quotation omitted) (hereafter *Citizens of Goleta*). The EIR has been described as “an environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1354 (internal citation and quotation omitted) (hereafter *Berkeley Jets*); see *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

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<sup>8</sup> The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 *et seq.*, are regulatory guidelines promulgated by the California Natural Resources Agency for the implementation of CEQA. Pub. Resources Code, § 21083. The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62Cal.4th 204, 217.

Second, CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2) and (3); see also *Berkeley Jets*, *supra*, 91 Cal.App.4th at p. 1354; *Citizens of Goleta Valley*, *supra*, 52 Cal.3d 553; *Laurel Heights Improvement Assn. v. Regents of the U. of Cal.* (1988) 47 Cal.3d 376, 400 (hereafter *Laurel Heights*). The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines, § 15092 subds. (b)(2)(A) & (B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at pp. 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal.App.4th at p. 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a thorough understanding of the environmental consequences and, equally important, that the public is assured that those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate

opportunity to comment on that presentation before the decision to go forward is made. See *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80; see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450).

B. CEQA Requires Revision and Recirculation of an EIR When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that “[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 . . . but prior to certification, the public agency shall give notice again pursuant to Section 21092 and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report” in order to give the public a chance to review and comment upon the information. See also CEQA Guidelines, § 15088.5.

Significant new information includes:

- Changes in the project or environmental setting;
- The discovery of new or additional data that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative);
- New significant environmental impacts from the project or from a new mitigation measure;
- A substantial increase in the severity of an environmental impact;
- A feasible project alternative or mitigation measure that is considerably different from others previously analyzed; or
- When the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

An agency has an obligation to recirculate an EIR for public notice and comment due to “significant new information” regardless of whether the agency opts to include it in a project’s EIR. See *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to

groundwater supply “the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information.”]. If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the EIR.

For all of the reasons outlined in SWRCC’s original comment letters dated July 13, 2020, and September 23, 2020—in addition to those listed below—significant new information has been raised that mandates revision and recirculation of the FEIR. The FEIR failed to adequately describe the Project, include all feasible mitigation measures to reduce GHG emissions, or analyze potentially significant environmental impacts relating to the Project’s infrastructure requirements. Additionally, it deferred formulation of numerous mitigation measures. And in some areas, the FEIR suffers from several procedural and substantive flaws and omissions which preclude informed and meaningful public participation where it offered inaccurate information about the Project’s scope and resultant impacts. As such, the FEIR’s omissions are prejudicial, as detailed below.

Furthermore, the DEIR and FEIR were prepared in 2020, thus requiring substantial revisions considering that they rely on now potentially outdated data. Such a flaw has prevented the FEIR from capturing the various Project impacts given that the comments submitted and analyses included relied on the Project description as it was first introduced roughly two years ago. Additionally, SWRCC has revealed the Project’s inconsistencies with the City’s General Plan, the San Diego Multiple Species Conservation Program, and the State Subdivision Map Act.

Applicant has made substantial revisions to the Project since the Revised Draft EIR (“**RDEIR**” or “**DEIR**”) was released in May 2020. In the *Errata – Revisions or Clarifications to Volume I, Draft Revised EIR*, the FEIR includes significant revisions to the Project’s mitigation measures on air quality, biological resources, cultural resources, noise, and transportation. And these revisions are not simply *clarification* or *explanation*—as Applicant claims—but rather are *substantive* changes to the Project’s mitigation measures. For example, TRA-1 adds limits to the number of medium and heavy truck trips on Fanita Parkway; and BIO-14 changes the parameters of the nesting bird survey. Additionally, the Project’s air quality AIR-2 mitigation measure was also significantly revised to include further supplemental dust control measures.

The first errata also outlines numerous changes to the EIR’s environmental impact analyses and includes, for example, significantly more information relating to the EIR’s water supply analysis than was previously included in the RDEIR.

The RFEIR’s Second Errata also includes significant new information requiring recirculation given that the Magnolia Avenue extension has been deleted from the Project—contributing a substantial impact and a constituting a significant change to the EIR’s GHG, transportation, air quality, and energy analyses. Even if removal of the Magnolia Avenue extension reduces the Project’s impacts, this still constitutes significant new information.

For all of the reasons described above and in previous comments submitted by SWRCC, the RFEIR must be revised and recirculated with the proposed changes for additional and adequate review and public comment.

C. The City Failed to Adequately Respond to SWRCC’s Comments

SWRCC submitted comments on both the DEIR and FEIR on or about July 13, 2020, and September 23, 2020—neither of which were addressed by the City.

D. The RFEIR Does Not Adequately Describe the Project

An EIR must 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.” *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26. An EIR’s description of the project should identify the project’s main features and other information needed for an assessment of the project’s environmental impacts. *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1053.

Here, the FEIR inaccurate and misleading and it fails to adequately describe the Project because it fails to identify a specific project proposal for construction on the site. The FEIR proposes “a community consisting of approximately 2,949 residential units . . . or 3,008 units . . . [with] up to 80,000 square feet of commercial uses . . . .” While one of the plans proposes a new school be built as a part of the Project, another plan does not. Additionally, the RFEIR proposes the deletion of the extension of Magnolia Avenue—the north-south City street that currently terminates at the northern edge of existing development at the southeastern edge of the Project site.

The RFEIR is proposing two different projects and fails to describe, with any degree of specificity, how much commercial space will be constructed, including only a maximum figure dependent on whether the school is to be built. Further, what may replace the commercial square footage if it is not used, or whether the maximum number of residential units be constructed if the maximum commercial space is not used, the EIR's description is not clear or complete.

Additionally, the Project consists of three villages centered around a farm space with an approximate number of units per village, but the description fails to describe with specificity what type of residential units will be constructed beyond residential units of "varying densities and housing types." Without a description of the affordability levels, and the height and type of housing proposed to be built, the environmental analysis cannot meaningfully evaluate the Project's GHG, transportation, land use, or aesthetic impacts.

For the reasons described above and in previous Comment Letters submitted to the City, the Project description is not accurate, stable, or finite and should be amended to include additional requisite details.

E. The FEIR's Baseline is Fatally Inaccurate

An inaccurate baseline taints the entire EIR analysis, as occurred here. Based on CEQA, the EIR's baseline must be set as of the time the NOP was circulated, here, 2020. CEQA Guidelines § 15125(a)(1). In this instance, the EIR provides baseline conditions without specifying any timing and instead generally refers to "recent" conditions despite the fact that much has changed since 2020, both with the Project and at the Project site.

F. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts

The California Environmental Quality Act requires that an agency make a finding of significance when a project may cause a significant adverse effect on human beings. PRC, § 21083, subd. (b)(3); CEQA Guidelines, § 15065, subd. (a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a lower- to high-risk activity for COVID-19 spread by the Occupational Safety and Health



Administration. Recently, several construction sites have been identified as sources of community-wide spreads of COVID-19.<sup>9</sup>

SWRCC recommends that the City adopt additional CEQA mitigation measures to reduce public health risks from the Project's construction activities. SWRCC requests that the City require safe on-site construction work practices as well as training and certification for any construction workers on the Project site.

In particular, based upon SWRCC's experience with safe construction site work practices, it recommends that the City require that while construction activities are being conducted at the Project site, certain measure be enforced, including:

#### Construction Site Designs

- The Project site be limited to two controlled entry points.
- Entry points have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project site and Project site logistics for conducting temperature screening.
- A 48-hour advance notice be provided to all trades prior to the first day of temperature screening.
- The perimeter directly adjacent to the entry points clearly indicate the appropriate 6-foot social distancing position for when individuals approach the screening area. Reference the Apex temperature screening site map for additional details.
- There be clear signage posted at the project site directing workers through temperature screening.
- There be hand washing stations throughout the Project site.

#### Testing Procedures

- Temperature screening devices used are non-contact.

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<sup>9</sup> Santa Clara County Public Health (June 12, 2020) COVID-19 Cases at Construction Sites Highlight Need For Continued Vigilance in Sectors That Have Reopened, *available at* <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

- Temperature readings not be recorded.
- Personnel be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen, or any other cosmetics be removed from the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions be refused access to the Project site.
- Should the temperature screening device measure a temperature above 100.0 degrees Fahrenheit, a second reading be taken to verify accuracy.
- Should the second reading confirm this temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project site, and will instruct the individual to promptly notify his/her supervisor and his/her human resources representative and provide them with a copy of Annex A.

### Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that includes basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches), communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health, or applicable local public health agencies.<sup>10</sup>

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<sup>10</sup> See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27, 2020) NABTU and CPWR COVIC-19 Standards for U.S. Construction Sites, *available at* <https://www.cpwr.com/sites/default/files/>

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that union members and apprentices conduct safe work practices. The City should require that all construction workers undergo COVID-19 training and certification before being allowed to conduct construction activities at the Project site.

G. The EIR Must Describe All Feasible Mitigation Measures That Can Minimize the Project’s Significant and Unavoidable Impacts

One fundamental purpose of the EIR is to identify ways in which a proposed project’s significant environmental impacts can be mitigated or avoided. Pub. Res. Code §§ 21002.1(a), 21061. To implement this statutory purpose, an EIR must describe any feasible mitigation measures that can minimize the project’s significant environmental effects. PRC §§ 21002.1(a), 21100(b)(3); CEQA Guidelines §§ 15121(a), 15126.4(a).

If the project has a significant effect on the environment, the lead agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible”<sup>11</sup> and find that ‘specific overriding economic, legal, social, technology or other benefits of the project outweigh the significant effects on the environment.’<sup>12</sup> “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.

1. *The EIR Does Not Mitigate the Project’s Significant and Unavoidable Greenhouse Gas Emissions*

The EIR concludes that the Project will have significant impacts on GHG emissions given that the estimated total emissions from the Project’s construction and operation and from mobile sources will exceed annual per capita emissions of 1.77 MT CO<sub>2</sub>e—a threshold developed pursuant to the Sustainable Santee Plan or the data accumulated in the development of that plan. (RDEIR, p. 4.7-12.)

The Project proposes to follow certain regulatory requirements to reduce operational

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[NABTU CPWR Standards COVID-19.pdf](#); Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at [https://dpw.lacounty.gov/building-and-safety/docs/pw\\_guidelines-construction-sites.pdf](https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf).

<sup>11</sup> PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(A).

<sup>12</sup> PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(B).

emissions and proposes GHG mitigation measures 1-6 to further reduce operational emissions; however, these measures are not the only feasible means of mitigating GHG emissions. (*See* RDEIR, pp. 4.7-15~19, 4.7-24~26.)

The Southern California Association of Government’s (“**SCAG**”) 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (“**2016 RTP/SCS**”) and the California Air Resources Board (“**CARB**”) 2017 Climate Change Scoping Plan (“**2017 Scoping Plan**”) outline numerous measures for reducing Project GHG emissions which the present RFEIR fails to consider.

In September 2008, SB 375 (Gov. Code § 65080(b) et seq.) was instituted to help achieve AB 32 goals through strategies such as the requirement that regional agencies prepare and incorporate a Sustainable Communities Strategy (“**SCS**”) into Regional Transportation Plans (“**RTP**”). The RTP connects land use planning with the regional transportation system in order that the region may grow efficiently and sustainably while also demonstrating how the region can meet CARB targets that reduce per capita GHG emissions from passenger vehicles in the region. To comply with SB 375, SANDAG’s 2050 RTP includes a Sustainable Communities Strategy to guide the San Diego region toward meeting California’s regional GHG emissions reduction targets.<sup>13</sup> As outlined in SANDAG’s 2050 RTP Plan, the California’s targets for the San Diego region are a 13 percent reduction, per capita, in GHG emissions from automobiles and light trucks by 2035. These targets were set by the CARB on September 23, 2010.

In April 2012, SCAG adopted its 2012-2035 RTP/ SCS (“**2012 RTP/SCS**”), which proposed specific land use policies and transportation strategies for local governments to implement with the aim of assisting the region in achieving GHG emission reductions of 16 percent per capita by 2035. And in April 2016, SCAG adopted the 2016-2040 RTP/SCS (“**2016 RTP/SCS**”) <sup>14</sup>, which incorporates and builds upon the policies and strategies in the 2012 RTP/SCS<sup>15</sup>. Both SCAG’s and SANDAG’s RTP/SCS plans are based upon the same requirements outlined in CARB’s 2017 Scoping Plan and SB 375. SWRCC points to SCAG’s plan as an example of GHG emissions reduction measures that can be taken during execution of the Project.

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<sup>13</sup> SANDAG 2050 Regional Transportation Plan (RTP), p. 2-11,  
[https://www.sandag.org/uploads/2050RTP/F2050rtp\\_all.pdf](https://www.sandag.org/uploads/2050RTP/F2050rtp_all.pdf)

<sup>14</sup> *Compare with* SANDAG 2050 RTP.

<sup>15</sup> SCAG (Apr. 2016) 2016 RTP/SCS, p. 69, 75-115,  
<http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS.pdf>

For both the 2012 and 2016 RTP/SCS, SCAG prepared Program Environmental Impact Reports (“**PEIR**”) that included Mitigation Monitoring and Reporting Programs (“**MMRP**”) listing project-level environmental mitigation measures that relate to a project’s GHG impacts.<sup>16</sup> These environmental mitigation measures serve to help local municipalities when identifying mitigation measures to reduce impacts on a project-specific basis that can, and should be, implemented when project-specific environmental impacts are identified and mitigated.<sup>17</sup>

The sections below, though not exhaustive, outline applicable land use policies, transportation strategies, and project-level GHG measures identified in the 2012 and 2016 RTP/SCS and PEIRs which the EIR should consider and/or incorporate:

#### Land Use and Transportation

- Providing transit fare discounts<sup>18</sup>;
- Implementing transit integration strategies<sup>19</sup>; and
- Anticipating shared mobility platforms, car-to-car communications, and automated vehicle technologies.<sup>20</sup>

#### GHG Emissions Goals<sup>21</sup>

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<sup>16</sup> *Id.*, p. 116-124; see also SCAG 2012 RTP/SCS, *supra* fn. 38, p. 77-86.

<sup>17</sup> SCAG 2012 RTP/SCS, *supra* fn. 38, p. 77; see also SCAG 2016 RTP/SCS, *supra* fn. 41, p. 115.

<sup>18</sup> SCAG 2012 RTP/SCS, *supra* fn. 38, Tbls. 4.3 – 4.7; see also SCAG 2016 RTP/SCS, *supra* fn. 41, p. 75-114.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> SCAG 2012 RTP/SCS (Mar. 2012) Final PEIR MMRP, p. 6-2—6-14 (including mitigation measures (“MM”) AQ3, BIO/OS3, CUL2, GEO3, GHG15, HM3, LU14, NO1, POP4, PS12, TR23, W9 [stating “[l]ocal agencies can and should comply with the requirements of CEQA to mitigate impacts to [the environmental] as applicable and feasible ... [and] may refer to Appendix G of this PEIR for examples of potential mitigation to consider when appropriate in reducing environmental impacts of future projects.” (Emphasis added)]), <http://rtpscs.scag.ca.gov/Documents/peir/2012/final/Final2012PEIR.pdf>; see also *id.*, Final PEIR Appendix G (including MMs AQ1-23, GHG1-8, PS1-104, TR1-83, W1-62), [http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR\\_AppendixG\\_ExampleMeasures.pdf](http://rtpscs.scag.ca.gov/Documents/peir/2012/final/2012fPEIR_AppendixG_ExampleMeasures.pdf); SCAG 2016 RTP/SCS (Mar. 2016) Final PEIR MMRP, p. 11–63 (including MMs AIR-2(b), AIR-4(b), EN- 2(b), GHG-3(b), HYD-1(b), HYD-2(b), HYD-8(b), TRA-1(b), TRA-2(b), USS-4(b), USS-6(b)), [http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR\\_ExhibitB\\_MMRP.pdf](http://scagrtpscs.net/Documents/2016/peir/final/2016fPEIR_ExhibitB_MMRP.pdf).

- Reduction in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines,<sup>22</sup> such as:
  - Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
  - The potential siting, orientation, and design to minimize energy consumption, including transportation energy.
  - The potential for reducing peak energy demand.
  - Alternate fuels (particularly renewable ones) or energy systems.
  - Energy conservation which could result from recycling efforts.
- Off-site measures to mitigate a project's emissions.
- Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to:
  - Use energy and fuel-efficient vehicles and equipment;
  - Deployment of zero- and/or near zero emission technologies;
  - Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production;
  - Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse;

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<sup>22</sup> CEQA Guidelines, Appendix F-Energy Conservation,  
[http://resources.ca.gov/ceqa/guidelines/Appendix\\_F.html](http://resources.ca.gov/ceqa/guidelines/Appendix_F.html).

- Incorporate design measures to reduce energy consumption and increase use of renewable energy;
- Incorporate design measures to reduce water consumption;
- Use lighter-colored pavement where feasible;
- Recycle construction debris to maximum extent feasible;
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs.
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;
- Land use siting and design measures that reduce GHG emissions, including:
  - Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and
  - Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse.

#### Hydrology & Water Quality Goals

- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating water quality/supply requirements, such as:
  - Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings(xeriscaping), using weather-based irrigation systems, educating other public agencies about water use,

and installing related water pricing incentives.

- Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible.
- Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair.
- Ensure that projects requiring continual dewatering facilities implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project. Comply with appropriate building codes and standard practices including the Uniform Building Code.
- Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimized new impervious surfaces to the greatest extent possible, including the use of in-lieu fees and off-site mitigation.
- Avoid designs that require continual dewatering where feasible.
- Where feasible, do not site transportation facilities in groundwater recharge areas, to prevent conversion of those areas to impervious surface.
- Incorporate measures consistent in a manner that conforms to the standards set by regulatory agencies responsible for regulating and enforcing water quality and waste discharge requirements, such as:
  - Complete, and have approved, a Stormwater Pollution



Prevention Plan (“SWPPP”) before initiation of construction.

- Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable.
- Comply with the Caltrans stormwater discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control.
- Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures.
- Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings.
- Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse (e.g., Army Corps § 404 permit, Regional Waterboard § 401 permit, Fish & Wildlife § 401 permit).
- Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project.
- Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban stormwater runoff discharge permits, on new facilities.
- Provide structural stormwater runoff treatment consistent with the applicable urban stormwater runoff permit where Caltrans is the operator, the statewide permit applies.

- Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable stormwater runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase.
- Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' stormwater discharge permit including long-term sediment control and drainage of roadway runoff.
- Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process.
- Design projects to maintain volume of runoff, where any downstream receiving water body has not been designed and maintained to accommodate the increase in flow velocity, rate, and volume without impacting the water's beneficial uses. Pre-project flow velocities, rates, volumes must not be exceeded. This applies not only to increases in stormwater runoff from the project site, but also to hydrologic changes induced by flood plain encroachment. Projects should not cause or contribute to conditions that degrade the physical integrity or ecological function of any downstream receiving waters.
- Provide culverts and facilities that do not increase the flow velocity, rate, or volume and/or acquiring sufficient storm drain easements that accommodate an appropriately vegetated earthen drainage channel.

- Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels.
- Encourage Low Impact Development (“LID”) and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.
- Incorporate measures consistent with the provisions of the Groundwater Management Act and implementing regulations, such as:
  - For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes, to the greatest extent possible, adverse impacts on groundwater for the life of the project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building Code.
  - Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize to the greatest extent possible, new impervious surfaces, including the use of in-lieu fees and off-site mitigation.
  - Avoid designs that require continual dewatering where feasible.
  - Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface.

- Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.
- Incorporate mitigation measures to ensure compliance with all federal, state, and local floodplain regulations, consistent with the provisions of the National Flood Insurance Program, such as:
  - Comply with Executive Order 11988 on Floodplain Management, which requires avoidance of incompatible floodplain development, restoration and preservation of the natural and beneficial floodplain values, and maintenance of consistency with the standards and criteria of the National Flood Insurance Program.
  - Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.

#### Transportation, Traffic, and Safety

- Institute teleconferencing, telecommute and/or flexible work hour programs to reduce unnecessary employee transportation.
- Create a ride-sharing program by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.
- Provide a vanpool for employees.
- Provide a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use, including:

- Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement.
  - Direct transit sales or subsidized transit passes.
  - Guaranteed ride home program.
  - Pre-tax commuter benefits (checks).
  - On-site car-sharing program (such as City Car Share, Zip Car, etc.).
  - On-site carpooling program.
  - Distribution of information concerning alternative transportation options.
  - Parking spaces sold/leased separately.
  - Parking management strategies; including attendant/valet parking and shared parking spaces.
- Promote ride sharing programs e.g., by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations, providing shuttle service to public transit, offering public transit incentives and providing public education and publicity about public transportation services.
- Build or fund a major transit stop within or near transit development upon consultation with applicable CTCs.
- Work with the school districts to improve pedestrian and bike access to schools and to restore or expand school bus service using lower-emitting vehicles.
- Purchase, or create incentives for purchasing, low or zero-emission vehicles.

- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles.
- Promote ride sharing programs, if determined feasible and applicable by the Lead Agency, including:
  - Designate a certain percentage of parking spaces for ride-sharing vehicles.
  - Designate adequate passenger loading, unloading, and waiting areas for ride-sharing vehicles.
  - Provide a web site or message board for coordinating shared rides.
  - Encourage private, for-profit community car-sharing, including parking spaces for car share vehicles at convenient locations accessible by public transit.
  - Hire or designate a rideshare coordinator to develop and implement ridesharing programs.
- Support voluntary, employer-based trip reduction programs, if determined feasible and applicable by the Lead Agency, including:
  - Provide assistance to regional and local ridesharing organizations.
  - Advocate for legislation to maintain and expand incentives for employer ridesharing programs.
  - Require the development of Transportation Management Associations for large employers and commercial/ industrial complexes.
  - Provide public recognition of effective programs through awards, top ten lists, and other mechanisms.
- Implement a “guaranteed ride home” program for those who commute by public transit, ridesharing, or other modes of transportation, and encourage employers to subscribe to or support the program.
- Encourage and utilize shuttles to serve neighborhoods,

employment centers and major destinations.

- Create a free or low-cost local area shuttle system that includes a fixed route to popular tourist destinations or shopping and business centers.
- Work with existing shuttle service providers to coordinate their services.
- Facilitate employment opportunities that minimize the need for private vehicle trips, such as encourage telecommuting options with new and existing employers, through project review and incentives, as appropriate.
- Organize events and workshops to promote GHG-reducing activities.
- Implement a Parking Management Program to discourage private vehicle use, including:
  - Encouraging carpools and vanpools with preferential parking and a reduced parking fee.
  - Institute a parking cash-out program or establish a parking fee for all single-occupant vehicles.

#### Utilities & Service Systems

- Integrate green building measures consistent with CALGreen (Title 24, part 11), U.S. Green Building Council’s Leadership in Energy and Environmental Design, energy Star Homes, Green Point Rated Homes, and the California Green Builder Program into project design including, but not limited to the following:
  - Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities.
  - Inclusion of a waste management plan that promotes maximum C&D diversion.
  - Development of indoor recycling program and space.
  - Discourage exporting of locally generated waste outside of

the SCAG region during the construction and implementation of a project. Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and 2016 RTP/SCS policies can and should be required.

- Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities.
- Develop alternative waste management strategies such as composting, recycling, and conversion technologies.
- Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts.
- Require the reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
- Integrate reuse and recycling into residential industrial, institutional and commercial projects.
- Provide recycling opportunities for residents, the public, and tenant businesses.
- Provide education and publicity about reducing waste and available recycling services.
- Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and



providing public education and publicity about recycling services.

The EIR fails to mention or demonstrate consistency with any of the above-listed measures and strategies of the SCAG RTP/SCS Plan. Thus, the EIR fails to demonstrate that *all* feasible mitigation measures were considered. To the extent that the Project fails to comply with the measures here mentioned, the Project EIR has failed to mitigate GHG emissions to the extent feasible.

Furthermore, the EIR has failed to integrate or consider many GHG reduction measures outlined in the California Air Pollution Control Officers Association (“**CAPCOA**”) August 2010 Report which the South Coast Air Quality Management District has recognized as a “comprehensive guidance document for quantifying the effectiveness of GHG mitigation measures.”<sup>23</sup>

Lastly, SWAPE’s comments have also identified a number of feasible mitigation measures that are available to reduce emissions on pages 23-34 of its letter—all of which the EIR has failed to consider and incorporate to further reduce the Project’s GHG emissions.

The EIR must analyze the effectiveness and feasibility of a number of GHG mitigation measures proposed by the CAPCOA Report, including GHG mitigation measures for building energy use, lighting, alternative energy generation, land use, landscaping, waste, vegetation, construction and miscellaneous measures including carbon sequestration or other off-site mitigation measures.

#### H. The EIR Improperly Defers Formulation and Imposition of Performance-Based Mitigation Measures

The California Environmental Quality Act mitigation measures proposed and adopted into an EIR are required to describe what actions will be taken to reduce or avoid a given environmental impact. CEQA Guidelines § 15126.4(a)(1)(B) [providing “[f]ormulation of mitigation measures should not be deferred until some future time.”]. While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, but such exception is narrowly proscribed to

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<sup>23</sup> South Coast Air Quality Management District (2019) “Greenhouse Gases, accessed on March 22, 2019, available at <https://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/mitigation-measures-and-control-efficiencies/greenhouse-gases>; California Air Pollution Control Officers Association (CAPCOA) August 2010 Report.

situations where “measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” *Id.* Courts have also recognized a similar exception to the general rule against deferral of mitigation measures where the performance criteria for each mitigation measure is identified and described in the EIR. *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011.

Impermissible deferral can occur when an EIR calls for mitigation measures to be created based on future studies or describes mitigation measures in general terms, but the lead agency has failed to commit itself to specific performance standards. *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281 (city improperly deferred mitigation to butterfly habitat by failing to provide standards or guidelines for its management); *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671 (EIR failed to provide and commit to specific criteria or standard of performance for mitigating impacts to biological habitats); *see also Cleveland Natl. Forest Found. v. San Diego Assn. of Govs.* (2017) 17 Cal.App.5th 413, 442 (generalized air quality measures in the EIR failed to set performance standards); *California Clean Energy Comm. v City of Woodland* (2014) 225 Cal.App.4th 173, 195 (agency could not rely on a future report on urban decay with no standards for determining whether mitigation required); *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 740 (agency could not rely on future rulemaking to establish specifications to ensure emissions of nitrogen oxide would not increase because it did not establish objective performance criteria for measuring whether that goal would be achieved); *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119 (rejecting mitigation measure requiring replacement water to be provided to neighboring landowners because it identified a general goal for mitigation rather than specific performance standard); *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 (requiring report without established standards is impermissible delay).

Additionally, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health but simply *presumed* that no adverse impacts

would occur from the pesticides when used in accordance with the registration and labeling program of the California Department of Pesticide Regulation. *See also Ebbetts Pass Forest Watch v Dept. of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for a specific timber harvesting project).

Here, the EIR identifies potentially significant hazards and hazardous materials impacts relating to accidental release of hazardous materials from an existing groundwater well on the Project site and provides mitigation measure HAZ-1 to reduce that impact to less than significant. Nevertheless, no plan is provided for the groundwater well abandonment other than a provision that “the applicant shall provide documentation to the City of Santee Development Services Department showing the proper abandonment...in accordance with the County of San Diego’s Well Ordinance.” (RDEIR, p. 1-53.) The EIR defers formulation of a well abandonment plan until after certification of the EIR. Mere statements of future compliance with regulatory requirements is inadequate and may accurately be constituted as deferred mitigation.

Second, the EIR defers formulation of noise impact mitigation measures NOI-4 and NOI-8. Proposing a nighttime noise sound management plan, NOI-4 relies upon a sound management plan that is deferred until such time it will be “included in the construction documents.” The sound management plan lacks objective performance criteria and defers any details as would be “deemed necessary by a qualified acoustical engineer, to minimize noise at nearby receptors.” (RDEIR, pp. 1-58~59.) Further details necessary for adequate evaluation are deferred until after certification of the EIR.

Regarding mitigation measure NOI-8 for vibration, the EIR defers any detail and formulation of a plan to such time as a “qualified acoustician [identifies] best management practices to be implemented...to reduce vibration levels to below 80 vibration decibels at the nearest residence.” (RDEIR, p. 1-61.) Once again, objective performance criteria for a plan is lacking, and there is no plan to reduce vibration noise other than stating that “best practices” will be utilized.

Lastly, the EIR defers mitigation of significant impacts to aesthetics. The EIR admits that the Project would involve “extensive excavation and grading into the native terrain” causing significant impacts to aesthetics. (RDEIR, p. 4.1-55.) Fatally, the EIR

has failed to demonstrate how the extensive excavation and grading required would conform to the City’s hillside development guidelines, or how the methods or areas chosen for grading and excavation will minimize, to the maximum extent feasible, the damage to the nearby hills, canyons, and outcroppings. The EIR has failed to demonstrate consistency with the goals and objectives of the General Plan where it simply states that it plans to comply with municipal code and General Plan guidelines. See RDEIR, p. 4.1-56.)

The EIR must be amended to include specific noise and aesthetic mitigation measures based on objective performance criteria that are not deferred until after the EIR is already certified.

I. The EIR’s GHG and Air Quality Analyses are Not Supported by Substantial Evidence

SWAPE’s comments outline several deficiencies with the Project EIR’s GHG emissions and air quality analyses. The RDEIR failed to adequately evaluate GHG impacts and failed to conduct a health risk assessment (“**HRA**”) in support of its analysis on air quality impacts.

First, there are numerous deficiencies in the EIR’s GHG analysis, including, but not limited to<sup>24</sup>:

- Failure to adequately evaluate greenhouse gas impacts;
- Unsubstantiated input parameters used to estimate project emissions;
- Failure to model all proposed land uses;
- Failure to evaluate the feasibility of obtaining tier 4 final equipment; and
- Failure to demonstrate consistency with the Sustainable Santee Plan.

When SWAPE updated the GHG analysis with the correct input parameters, it found that “the proposed Project may result in a potentially significant GHG impact not previously identified or addressed by the [EIR].”<sup>25</sup> An updated GHG analysis must be prepared and incorporated into the FEIR.

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<sup>24</sup> Ex. J, pp. 1-21.

<sup>25</sup> *Id.* at 19.

Second, the EIR’s air quality analysis is deficient and unsupported by substantial evidence given that the EIR concludes that the Project’s excess cancer risk would not exceed the SDAPCD threshold of 10 in 1 million, and the Project would have a less than significant health risk impact. *See* DPEIR for the City of Santee Housing Element Rezone Program Implementation at p. 4.2-24. However, SWAPE points out that this is incorrect for several reasons, namely that:<sup>26</sup>

- The EIR’s construction HRA is incorrect and underestimates DPM emissions;
- The EIR’s reliance on MM AIR-3 is unsubstantiated because the EIR does not analyze the feasibility of obtaining tier 4 final equipment;
- The EIR failed to conduct a quantified operational HRA; and
- The HRA failed to evaluate the cumulative lifetime cancer risk to nearby existing receptors as a result of Project construction and operation together.

The FEIR must be amended to address these deficiencies and conduct and incorporate a new HRA that adequately evaluates the health impacts and lifetime cancer risk from the Project.

J. The Project May Have Traffic, Air, Noise, and Water Quality Impacts

There is substantial evidence in the record that the Project—with its mass and scale—will have significant impacts on traffic, air, noise, and water usage. The City’s contrary findings are unsupported and clearly erroneous, as is the City’s reliance on regulatory compliance measures.

K. Mitigation Measures to Reduce Impacts of New Utilities Infrastructure is Inadequate and Not Based on Substantial Evidence

An EIR must propose and describe mitigation measures to minimize the significant environmental effects identified in the EIR. Cal. Pub. Res. Code §§ 21002.1(a), 21100(b)(3); CEQA Guidelines § 15126.4. CEQA Guidelines § 15126.4 requires that mitigation measures be identified *for each significant effect* described in the EIR.

The substantial evidence test applies to any conclusions or findings in the EIR’s analysis of a topic. *See, e.g., Residents Against Specific Plan 380 v. County of Riverside* (2017) 9 Cal.App5th 941, 968. Substantial evidence is defined as “enough relevant

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<sup>26</sup> *Id.* at 22.

information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” CEQA Guidelines §15384(a); *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.App.3d 376, 393, 409; *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1446. Substantial evidence includes facts, reasonable assumptions predicated on facts, and expert opinion supported by facts, but does not include argument, speculation, or unsubstantiated opinion. Cal. Pub. Res. Code §§21080(e), 21082.2(c).

Here, the EIR identifies potentially significant impacts relating to the construction of infrastructure for the proposed Project yet fails to address any mitigation measures for these impacts. (RDEIR, p. 4.17-21.) Instead, without any analysis whatsoever, the EIR states that mitigation measures developed for other resource topics will also ameliorate the impacts of new infrastructure to less than significant levels and no additional mitigation is required. While that may be the case, the EIR fails to include any fact-based and individualized analysis of how “other” mitigation measures can reduce impacts to less than significant. The EIR must be amended to either include additional mitigation measures that cover these impacts, or else analyze—using substantial evidence—how mitigation measures for other resource topics apply to reduce the level of the impact for a different topic.

## **II. THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW AS WELL AS THE CITY’S GENERAL PLAN**

### **A. Background Regarding the State Planning and Zoning Law**

Every city and county in California must adopt a comprehensive, long-term general plan governing ongoing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352 (citing Gov. Code §§ 65030, 65300). The general plan sits at the top of the land use planning hierarchy, *DeVita v. County of Napa* (1995) 9 Cal. App. 4th 763, 773), and serves as a “constitution” or “charter” for all future development. *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.App.3d 531, 540.

General plan consistency is “the linchpin of California’s land use and development laws; it is the principle which infused the concept of planned growth with the force of law.” *Debottari v. Norco City Council* (1985) 171 Cal. App. 3d 1204, 1213.

State law mandates two levels of consistency. First, a general plan must be internally

or “horizontally” consistent in that its elements must “comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal.App.3d 698, 704. A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. See *DeVita*, 9 Cal.App.4th at p. 796 fn. 12.

Second, state law requires “vertical” consistency, meaning zoning ordinances and other land use decisions must also be consistent with the general plan. Gov. Code § 65860(a)(2) (land uses authorized by zoning ordinance must be compatible with the objectives, policies, general land uses, and programs specified in the general plan.); see also *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184. A zoning ordinance that conflicts with the general plan or impedes achievement of its policies is invalid and cannot be given effect. *Lesher*, 52 Cal.App.3d at 544.

State law requires that all subordinate land use decisions, including conditional use permits, be consistent with the general plan. See Gov. Code § 65860(a)(2); *Neighborhood Action Group*, 156 Cal.App.3d at p. 1184.

A project cannot be found to be consistent with a general plan if it conflicts with a general plan policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other general plan policies. *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal. App. 4th 1332, 1341-42 [“FUTURE”]. Additionally, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan’s policies and objectives. *Napa Citizens*, 91 Cal. App. 4th at pp. 378-79; see also *Lesher*, 52 Cal. App. 3d at p. 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

B. The Project is Inconsistent with the City’s General Plan Housing Element

Since 1969, California has required that all of its city and county governments adequately plan to meet the housing needs of everyone in their respective communities. California’s local governments meet this requirement, for example, by adopting housing plans as part of their “general plan” (also required by the state).

General plans serve as the local government’s “blueprint” for how it will grow and develop. It includes seven elements, including: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction’s general plan is known as “housing-element law.” California’s housing-element law acknowledges that, in order for the private market to adequately address the housing needs and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain), housing development. As a result, housing policy in California rests largely on the *effective implementation* of local general plans and, in particular, local housing elements.

Current law requires the housing element to contain a program that sets a five-year schedule of actions to implement the goals and objectives of the housing element under RHNA allocations. Current law also requires that cities and counties review and revise their housing elements at least every five years for compliance. Gov. Code § 65584.

The City of Santee General Plan includes the following objectives and policies in its Housing Element:

- Objective 3.0: Expand affordable housing options within Santee;
- Objective 5.0: Provide a wide range of housing types; and
- Program 10: Facilitate affordable housing development.<sup>27</sup>

The General Plan Housing Element also lists the City’s quantified housing objectives per the RHNA allocation assessment for Santee, with requirements to build, through 2021, 457 units for extremely low income, 457 units for very low income, 694 units for low income, 642 units for moderate income, and 1,410 units for above moderate income.<sup>28</sup> Per SANDAG’s latest available RHNA progress report, the City of Santee is woefully behind schedule in units permitted for very low-, low-, and moderate-income housing.<sup>29</sup>

The City’s plan to construct approximately 3,000 housing units, and not include *any*

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<sup>27</sup> Fanita Ranch General Plan – Housing Element, pp. 6-8, 6-12, and 6-10. Available at <https://www.cityofsanteeca.gov/home/showdocument?id=8551>.

<sup>28</sup> *Id.* at 4-1.

<sup>29</sup> SANDAG 2017 Regional Housing Progress Report, p. 37. Available at [https://www.sandag.org/uploads/publicationid/publicationid\\_2132\\_22605.pdf](https://www.sandag.org/uploads/publicationid/publicationid_2132_22605.pdf).



affordable housing units on the Project site is not only unconscionable, it is blatantly inconsistent with the City’s own General Plan. Fanita Ranch is one of the largest undeveloped tracts of land in the City and offers an easy opportunity for the City to make some progress toward its RHNA allocation from SANDAG. The City should not only seriously consider including a fair share of affordable housing on the Project site, it must do so if it has any hope of meeting its RHNA obligations under the state housing law and to comply with the City’s General Plan.

C. The Project is Inconsistent with the City’s General Plan Conservation Element and the San Diego Multiple Species Conservation Program

The City of Santee’s General Plan – Conservation Element<sup>30</sup> stipulates the following objectives and policies applicable to the Project:

- Objective 1.0<sup>31</sup>:
  - Policy 1.1: The City shall encourage significant natural landforms to be maintained during development whenever possible.
  - Policy 1.2 The City should encourage, through the environmental review process, the preservation of hillsides with steep slopes as appropriate to minimize danger from landslides and mudslides, as well as to protect key visual resources.
  - Policy 1.3 To protect and wisely manage hillsides and topographic resources, the City shall use the following hillside development guidelines: Percent Natural Slope Guideline Less than 10% This is not a hillside condition. Conventional grading techniques are acceptable. 10% - 19.9% Development with grading will occur in this zone, but existing landforms should retain their natural character. Padded building sites are permitted on these slopes, but contour grading, split level architectural prototypes, with stacking and clustering are expected. 20% and over Special

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<sup>30</sup> City of Santee, General Plan – Conservation Element, available at <https://www.cityofsanteeca.gov/home/showdocument?id=7199>.

<sup>31</sup> *Id.* at 6-18.

hillside grading, architectural and site design techniques are expected, and architectural prototypes should conform to the natural landform Compact development plans should be used to minimize grading footprints.

- Objective 2.0<sup>32</sup>: Protect floodways to reduce flood hazards, protect biological resources and preserve the aesthetic quality along water corridors.
  - Policy 2.1 The City shall encourage the protection of the San Diego River Corridor and all other City water corridors to reduce flood hazards, protect significant biological resources and scenic values, and to provide for appropriate recreational uses.
  - Policy 2.2 The City should promote open space in conjunction with other appropriate land uses along the San Diego River corridor and other water corridors found in the City.
- Objective 10.0: Preserve significant natural resources such as mineral deposits, biological resources, watercourses, groundwater, hills, canyons, and major rock outcroppings such as part of a Citywide open space system.
  - Policy 10.2: The City should encourage the preservation of significant natural features, such as watercourses, ridgelines, steep canyons, and major rock outcroppings through the Development Review process.

The Project site is located within the 1998 San Diego Multiple Species Conservation Plan (“**SD MSCP**” or “**MSCP**”) area<sup>33</sup>, and hence is subject to that plan, as well as the draft Fanita Ranch Subarea MSCP. The MSCP is a regional, landscape-level plan to preserve San Diego’s unique, native habitats and wildlife for future generations. Projects and subarea plans within the MSCP should support the goals and objectives

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<sup>32</sup> *Id.* at 6-19.

<sup>33</sup> San Diego MSCP, available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/mscp/docs/SCMSCP/FinalMSCPProgramPlan.pdf>.

of the 1998 umbrella plan and should also address the conservation needs of any sensitive species federally or State listed or proposed since the MSCP was completed.

The U.S. Fish and Wildlife Service (“**UFWS**”) and the California Department of Fish and Wildlife (“**CDFW**”) both submitted a comment letter on the Applicant’s previous attempt in 2016 to certify an EIR for this Project, and their concerns remain valid to the EIR.<sup>34</sup> As proposed, the Project fails to comply with the SD MSCP and the General Plan’s Conservation Element for at least the following reasons:

- The Project’s fragmented and broad footprint across Fanita Ranch;
- The Project’s fragmented reserve areas;
- The reserve design fails to adequately minimize edge effects;
- The Project should be located closer and concentrated near existing development;
- The Project fails to minimize damage to the habitats of multiple species, including but not limited to, the coastal cactus wren, Quino checkerspot butterfly, Hermes copper butterfly, and western spadefoot toad;
- The Project fails to expand acreages of reserve and habitats safe from construction or disturbance, edge effects, fires, or fragmentation as designed to adequately protect biological resources;
- The Project’s proposed development and reserve areas are not fully buffered from each other and all buffer areas should be unlit, and areas adjacent to development or roadways should have minimal lighting shielded away from buffer zones and natural areas;
- The Project does not attempt to adequately minimize the use of roadways, or roadways crossing habitat or reserve areas;
- Recreational trails do not utilize wildlife corridor road crossings to reduce the total extent of development infrastructure and increase corridor crossing function and size for wildlife;

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<sup>34</sup> UFWS and CDFW December 20, 2016 Comment Letter on the Proposed Fanita Ranch Project (attached as Exhibit A).

- The Project does not minimize and mitigate impacts to impacted species to the maximum extent feasible with a goal of no net loss of sensitive biological resources; and
- Vernal pools and their watersheds are not avoided to the maximum extent feasible. High-function vernal pools and their watersheds should be avoided and conserved. Moderate function vernal pools on site should be restored or enhanced.

With respect to Objectives 1.0 and 10.0 of the General Plan – Conservation Element, the Project site consists mostly of canyons, hillsides, ridgelines, rock outcroppings, and other similar natural features. The EIR admits that the Project would involve extensive excavation and grading into the native terrain. The EIR fails to demonstrate how the extensive excavation and grading required would conform to the City’s hillside development guidelines, or how the methods or areas chosen for grading and excavation will minimize to maximum extent feasible the damage to the hills, canyons, and outcroppings. The EIR simply states it plans to comply with municipal code and General Plan guidelines, but that fails to demonstrate consistency with the goals and objectives of the General Plan. (See RDEIR, p. 4.1-56.)

D. The Vesting Tentative Map Fails To Comply With The State Subdivision Map Act

The Subdivision Map Act, Government Code section 66410, *et seq.* (“**Subdivision Map Act**” or “**Act**”) requires local agencies to review and approve all land subdivisions. The Act regulates both the process for approving subdivisions and sets substantive requirements for approval of land subdivisions. The Act requires that a local agency deny approval of a land subdivision, referred to as a tentative map or a parcel map, if it makes a determination that “the proposed map is not consistent with applicable general and specific plans” or that “the design or improvements of the proposed subdivision is not consistent with the applicable general and specific plans.” Cal. Gov. Code, § 66474(a–b).

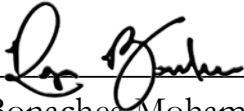
Here, Applicant has applied for (and the Project requires) a Vesting Tentative Map. However, the Project is inconsistent with all of the aforementioned goals, policies, and/or objective’s in the City’s General Plan, therefore, any approval of the Vesting Tentative Map violates the Subdivision Map Act.

### III. CONCLUSION

In light of the aforementioned defects in the Staff Report and FEIR, and the environmental concerns, SWRCC request that the City, at a minimum, revises and recirculates the Project's FEIR or otherwise deny the Project as proposed and deny the certification of its EIR.

Given these defects, the City's statements of overriding considerations are inadequate and unsupported by substantial evidence. Stated otherwise, the decision-makers cannot properly weigh whether the Project's significant impacts would be acceptable as compared to its benefits without knowing what those impacts or what their severity levels are. Should the City have any questions or concerns, feel free to contact my Office.

Sincerely,



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Reza Bonachea Mohamadzadeh  
Attorneys for the Southwest  
Regional Council of Carpenters

Attached:

United States Fish and Wildlife Service and California Department of Fish and Wildlife December 20, 2016 Comment Letter on the Proposed Fanita Ranch Project (attached as Exhibit A); and

SWAPE Comments on RDEIR's Greenhouse Gas and Air Quality Analyses (attached hereto as Exhibit B).

**EXHIBIT A**



U.S. Fish and Wildlife Service  
Carlsbad Fish and Wildlife Office  
2177 Salk Avenue, Suite 250  
Carlsbad, California 92008  
760-431-9440  
FAX 760-431-9624



California Department of Fish and Wildlife  
South Coast Region  
3883 Ruffin Road  
San Diego, California 92123  
858-467-4201  
FAX 858-467-4299

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In Reply Refer To:  
FWS/CDFW-16B0244-17CPA0016

December 20, 2016  
*Sent by Email*

Mr. Jeff O'Connor  
HomeFed Corporation  
1903 Wright Place, Suite 220  
Carlsbad, California 92008

Ms. Melanie Kush  
Director of Developmental Services  
City of Santee  
10601 Magnolia Avenue  
Santee, California 92071

Subject: Proposed Fanita Ranch Project within the City of Santee Draft MSCP Subarea Plan,  
City of Santee, San Diego County, California

Dear Mr. O'Connor and Ms. Kush:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department) have been working with the City of Santee (City) on development of the City's Multiple Species Conservation Program (MSCP) draft Subarea Plan, including review of HomeFed Corporation's (HomeFed) proposed Fanita Ranch project. Per a request from the City and HomeFed, we have reviewed the maps of the most recent proposed footprint for the project, which were provided by HomeFed in July 2016 (hard copy) and September 2016 (digital), along with relevant biological information previously provided or in our records. The maps included basic development features of the proposed Fanita Ranch project. In the interest of providing a timely response to HomeFed and the City, we reviewed only the limited suite of fundamental components of the proposed Fanita Ranch project that were available at this early stage of project and MSCP draft Subarea Plan development and design.

We analyzed the proposed development polygons for the Fanita Ranch project in view of regional and area-wide protection and management of natural wildlife diversity, proposed covered species, and overall reserve design to provide a preliminary assessment of whether the project would meet permit issuance criteria pursuant to section 10(a)(1)(B) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and findings pursuant to the Natural Community Conservation Planning Act (NCCP Act) of 1991, as amended. We did not compare the current proposal with various former footprints proposed by previous owners of the property over the past 18 years.

Consistent with the issues we have raised at our meetings with the City and HomeFed over the past several months and in our letter of September 16, 2016, we continue to be concerned about the proposed Fanita Ranch project's development footprint and reserve design. These concerns are based on current ecological information and baseline resource conditions, including development within and adjacent to the City of Santee, the effects of past wildfires and future threats including edge effects and from proposed development and the potential effects associated with climate change, the status of proposed covered species and associated habitats, and the overall status of reserve assembly under the MSCP in southwestern San Diego County. As more specifically explained by the analyses provided in the Enclosure, our preliminary conclusion is that the proposed Fanita Ranch project will not meet the issuance criteria for a section 10(a)(1)(B) permit or support corresponding positive findings under the NCCP Act.

The proposed Fanita Ranch project would develop nearly 40 percent of the project site, and the proposed footprint would spread development across the project site landscape within multiple polygons. The project proposal would also have long connecting roads that would pass through and encircle intervening undeveloped reserve areas and require considerable extension of public facilities and services. The proposed road and development polygons would combine to fragment a large undeveloped and mostly intact open space area of high ecological integrity into a series of natural areas with new, high-level edge effects. Despite their absolute size, the resultant reserve areas would reduce the likelihood of maintaining sensitive species' numbers and viabilities, including the Quino checkerspot butterfly (*Euphydryas editha quino*), Hermes copper butterfly (*Lycaena hermes*), western spadefoot toad (*Spea hammondi*), coastal cactus wren (*Campylorhynchus brunneicapillus*), and the San Diego golden star (*Bloomeria clevelandii*).

We suggest the proposed project footprint be reconsidered and modified with an improved reserve design. To that end, we have the following recommendations at this time for redesign of the proposed Fanita Ranch project:

1. The project should be redesigned to consolidate proposed development into a single polygon located largely in the southern portion of the site. This would reduce the amount of new development edge adjacent to remaining natural areas by eliminating "island" or "peninsula" types of development zones and fragmentation associated with infrastructure within surrounding natural areas.
2. The proposed reserve areas on site should be designed to be more contiguous across the property and with functional linkages to surrounding areas. Reserve areas should not be fragmented by roads or structure development.
3. A new modified reserve design should include a main reserve area with minimal new or existing edge effects.
4. Proposed project development should be sited closer to existing development in Santee in the southern portion of the site. This configuration would effectively provide for more inherent protection of new development from wildland fire (reducing concerns and conflicts



regarding natural fire in reserve areas) and much more effectively ensure/accommodate natural fire frequencies within remaining reserve areas.

5. The proposed project should provide improved conservation of habitats used by coastal cactus wren, Quino checkerspot butterfly, Hermes copper butterfly, and western spadefoot toad, through increasing the acreages of respective habitats conserved that would not be subject to proposed construction or ongoing operational disturbance, modified natural fire cycles, edge effects, and/or fragmentation.
6. Proposed development and reserve areas should be fully buffered from each other using: fuel modification and stormwater detention zones with native landscaping, passive use areas such as strip parks with minimal irrigation, single-loaded roads, and peripheral trails. All buffer areas should be unlit; adjacent development/road areas should have minimized lighting that is directed and shielded away from buffer zones and natural areas.
7. Any roadways that would otherwise cross natural/reserve areas should be avoided or minimized to the maximum extent practicable. Such roads that cannot be avoided should be: a) as short and as narrow as possible (including any sidewalks) and without medians or curbs/gutters; b) consolidated with existing development by aligning them adjacent to developed areas where practicable (except as needed to avoid concentrations of sensitive species); c) designed for and requiring low maximum speed limits; d) unlit; e) landscaped only with native plants; f) designed to reduce wildlife roadkill, including appropriate fencing and native landscaping to direct wildlife movement to safe and functional ground corridors (as determined by the specific target/covered species) or to adequate heights above the roadway to avoid vehicle strikes (for birds and bats using tall native vegetation); and g) signed to raise awareness of wildlife corridors/crossings. Any recreational trails in the area should use some of these same wildlife corridor road crossings, such as bridges and large soft-bottomed culverts, to reduce the total extent of development infrastructure and increase corridor crossing function and size for wildlife.
8. The main east-west running riparian drainage through the project site should be fully conserved for ecosystem functions, including it as (at least) a wide, high-function east-west linkage for both covered species and typical target wildlife corridor species.
9. The project should be revised to minimize and mitigate impacts to listed species to the maximum extent practicable with a goal of no net loss of sensitive biological resources and their values, services, and functions resulting from proposed activities.
10. Vernal pools and their watersheds should be avoided to the maximum extent practicable. High-function vernal pools and their watershed should be avoided and conserved. Moderate function vernal pools on site should be restored or enhanced, as practicable.

We maintain that our previously suggested reserve/footprint designs for the Fanita Ranch project are consistent with the MSCP Subregional Planning goals and address the reserve design and species and habitat conservation needs identified above.

Our comments herein are directed by changes in conservation challenges and practices over the last decade, including accelerated loss of many habitats, effects of wildfire and climate change, and advances in conservation science. We continue to be available to work with representatives from HomeFed and the City on a revised project footprint for the Fanita Ranch project that would fully minimize and mitigate the loss of proposed covered species and habitats.

The literature cited in the Enclosure in support of our conclusions is available upon request. If you have any questions regarding this letter, please contact Carol Roberts of the Service at (760) 431-9440 or David Mayer of the Department at (858) 467-4234.

Sincerely,

Karen A. Goebel  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

  
Gail Sevens  
Environmental Program Manager  
California Department of Fish and Wildlife

Enclosure

cc:  
James Whalen, J. Whalen Associates, Inc.

## ENCLOSURE

### *Proposed Fanita Ranch Project Footprint*

The proposed Fanita Ranch project footprint generally includes the following features: 1) a 2,666-acre site, including proposed road rights of way; 2) two large disjunct development polygons in the northern portion of the site; 3) two main access roads through existing habitat areas that would provide north-south connections between the two main development polygons; and 4) two access roads through existing habitat areas that would connect the more southerly development polygon to existing development and transportation corridors to the south. The proposed development polygons would include residential housing, a town center, a school site, a community farm and orchard, and neighborhood parks; the southern portion of the property would include the development of a special use area adjacent to the proposed regional park/trail system.

The proposed development would have a direct disturbance footprint of about 1,025 acres (about 904 acres permanent, 121 acres temporary), or 38 percent of the site. We estimate that the project as proposed would have an indirect effects footprint of roughly 592 acres within the site. This was calculated by applying a 150-meter “buffer” zone from the edge of proposed permanent development to proposed reserve areas on site that are not currently within 150 meters of existing development. Combined, this would make the direct and indirect footprint of permanent effects total about 1,496 acres (about 56 percent) of the project site.

Proposed reserve areas on site that would remain essentially undisturbed directly by development, outside of proposed trails, would consist of about 1,641 acres, or about 62 percent of the site. About 338 acres of this proposed reserve area is currently subject to indirect edge effects from existing development occurring within 150 meters of the property boundary. As noted above, 592 acres of this reserve area would be subject to new indirect edge effects from proposed development. Combined, about 930 acres (57 percent) of the 1,641-acre proposed reserve area would be subject to indirect edge effects.

The proposed reserve areas would consist of one relatively large polygon in the southwestern portion of the site and a series of remaining undeveloped areas of the site encircling the proposed development polygons. The proposed main reserve area would end up mostly surrounded by existing (to the south, east, and west) and proposed project (to the north) development, and would be fully encircled by roads/development. The proposed main reserve area polygon in the south would also include a regional park and a trail system, the specifics of which were not provided in the project footprint.

### *MSCP, ESA, and NCCP*

In order for Santee’s proposed Subarea Plan to integrate with the MSCP, the plan and the projects within it must meet the issuance criteria under section 10(a)(2)(B) of the ESA and the findings under the NCCP Act, and the Subarea Plan must be consistent with, and fulfill the requirements for, Subarea plans under the MSCP. The required criteria under section 10(a) are: 1) the taking will be incidental; 2) the Applicant(s) will, to the maximum extent practicable,

minimize and mitigate the impacts of the taking of covered species; 3) the Applicant(s) will ensure that adequate funding for the plan and procedures to deal with unforeseen circumstances will be provided; 4) the taking will not appreciably reduce the likelihood of survival and recovery for species in the wild; 5) other measures, as required by the Director of the Service, as necessary or appropriate for purposes of the plan will be met; and 6) the Director has received such other assurances as he or she may require that the plan will be implemented.

Per the NCCP Act, a Natural Community Conservation Plan (NCCP) must identify and provide for the regional or area-wide protection and management of natural wildlife diversity while allowing for compatible and appropriate development and growth. A NCCP is intended to provide comprehensive management and conservation of multiple species, including but not limited to, species listed under the California Endangered Species Act (CESA) or Federal ESA.

### ***Reserve Design***

Habitat loss is a leading cause of decline for many species worldwide, particularly in highly urbanized areas such as the coastal slope of southern California (Delaney *et al.* 2010). Urbanization in southern California over the last several decades has resulted in loss of large areas of native ecosystems, particularly in coastal regions. The coastal sage scrub natural community has been reduced to as little as 10 percent of its former extent by conversion to human uses and now supports around 100 animal and plant species considered by the Wildlife Agencies to be sensitive (Atwood 1993; McCaull 1994; Dobson *et al.* 1997; Rundel 2007). The reserve design component of projects, such as the proposed Fanita Ranch project, is key to minimizing the local and regional effects of habitat loss.

Reserve design is the process of planning an ecological reserve in a way that effectively accomplishes the goals of the reserve (Possingham *et al.* 2000). Almost all nature reserves have a primary goal of protecting biodiversity from harmful activities and processes, both natural and anthropogenic (Noss 1994). To achieve this, reserves must extensively sample biodiversity at all taxonomic levels and enhance and ensure long-term survival of the organisms (Margules and Pressey 2000).

When evaluating the currently proposed Fanita Ranch project, we must consider the NCCP Conservation Guidelines, November 1993. Following these Guidelines is imperative to the successful incorporation of the Fanita Ranch Subunit into the Santee Subarea Plan because of the Fanita Ranch site's undeveloped condition, overall configuration and size, and its geographic location and in recognizing that it is the largest undeveloped area (with the largest area of chaparral and coastal sage scrub) remaining in the Subarea. Several basic tenets of reserve design are central to the Guidelines, including:

1. Conserve target species throughout the planning area (species that are well-distributed across their native ranges are less susceptible to extinction than are species confined to small portions of their ranges);
2. Larger reserves are better (large habitat blocks containing large populations of the target species are superior to small habitat blocks containing small populations);

3. Keep reserve areas close (blocks of habitat that are close to one another are better than habitat blocks far apart);
4. Keep habitats contiguous (habitats that occur in less fragmented, contiguous blocks are preferable to habitats fragmented or isolated by urban lands);
5. Link reserves with corridors (interconnected habitat blocks serve conservation purposes better than do isolated blocks, and corridors or linkages function better when the habitats within them resemble habitats that are preferred by target species);
6. Reserves should be diverse (blocks of habitats should contain a diverse representation of physical and environmental conditions); and
7. Protect reserves from encroachment (habitat blocks that are roadless or otherwise inaccessible to human disturbance serve to better conserve target species than do accessible habitat blocks).

Our preliminary evaluation (based on general principles and the needs of a subset of the proposed covered species) is that the current Fanita Ranch project proposal is not consistent with NCCP Conservation Guidelines for the following reasons: 1) the proposed project footprint and associated reserve areas fail to conserve sufficiently large habitat areas for several of the proposed covered species including the Quino checkerspot butterfly (*Euphydryas editha quino*), Hermes copper butterfly (*Lycaena hermes*), western spadefoot toad, (*Spea hammondi*), coastal cactus wren (*Campylorhynchus brunneicapillus*), and San Diego goldenstar (*Bloomeria clevelandii*); 2) it does not provide reserve areas that are functionally contiguous so as to allow for unobstructed species movement and recolonization for the proposed covered species; 3) it does not provide reserve areas that are free from substantial edge effects and fragmentation for these species; and 4) it does not ensure reserves are protected from future encroachment that could disturb covered species and/or degrade their habitats.

Further, the increase in the number of housing units within the proposed Fanita Ranch development from the number of units contemplated/analyzed in the City of Santee General Plan (City of Santee 2003) would likely lead to an additional increase in human-caused disturbances from unauthorized uses in the proposed reserve areas, such as off-trail use, trespass, and the presence of uncontrolled domestic pets. The current general plan guidelines would permit the development of around 1,300 residential units on the Fanita Ranch project site (City of Santee 2003). The Fanita Ranch project would include on the order of 3,000 residential units according to our discussions with the City of Santee and HomeFed.

We also reviewed the proposed Fanita Ranch project footprint in view of the MSCP's Biological Preserve Design Checklist (Section 3.6 of the MSCP). The checklist incorporates these basic tenets of reserve design:

1. General Preserve Design: a) High biodiversity lands as indicated by spatially representative examples of extensive patches of sensitive vegetation communities ranked as Very High and High biological value by the MSCP habitat evaluation map

(Figure 2-3 of the MSCP) or as identified through subsequent fieldwork; b) Large blocks of unfragmented habitat, following natural topography (ridges and watersheds); c) Large, interconnected blocks of habitat that contribute to the preservation of wide-ranging species; d) Key existing linkage areas between core habitat blocks, with connections to other private or public open space lands and to other subareas and/or habitat patches outside the subarea restored or enhanced as necessary; and e) Configuration that minimizes edge effects between habitat preserves and development and the edge-to-preserve area ratio.

2. Habitat Criteria: a) Total acreages and vegetation communities equivalent in conservation value to those conservation targets listed in the MSCP Plan (Tables 3-1 and 3-2 of the MSCP); b) Representation of sensitive vegetation communities and their geographic subassociations containing priority species in large, functioning ecosystems; c) High-quality vernal pools (primarily but not exclusively supporting sensitive species) and no net loss of wetland habitats per state and federal policies and regulations; and d) High habitat quality including microhabitats (e.g., soil type, host plant, drainages, rock outcrops) important to sustain long-term viable populations of individual covered species as identified in the MSCP habitat evaluations map (Figure 2-3 of the MSCP) and subsequent fieldwork.
3. Species Criteria: a) Core coastal California gnatcatcher and coastal cactus wren populations and key linkage areas between them as identified in Figure 2-2 of the MSCP or through subsequent fieldwork; b) Federal and State endangered and threatened species and species proposed for listing; and c) Key regional populations of proposed covered species within the subarea, as coverage for the entire MSCP study area is dependent on the retention and maintenance of adequate populations of these species and their habitat within the subarea.
4. Management and Biological Monitoring Criteria: a) Appropriate management within the preserve to minimize edge effects from adjacent land uses; b) Appropriate uses within the preserve that are compatible with and complement the biological function of the area; and c) Biological monitoring of habitat and species should reflect priorities as determined in categories 2 and 3 above.

Our evaluation of the proposed Fanita Ranch project is that it is inconsistent with the MSCP's Biological Preserve Design Checklist, as follows:

1. General Preserve Design: The existing large blocks of habitats on the site that contribute to the preservation of important/indicator wide-ranging species (such as golden eagle, mountain lion, and bobcat) would be fragmented by the project; boundaries of the project reserve areas, as currently designed, would not follow natural topographic features, which would be expected to exacerbate edge effects; key existing linkage areas between core habitat blocks on the site (for species such as coastal cactus wren, Hermes copper butterfly, and Quino checkerspot butterfly) would not be maintained given the configuration of the proposed project; functional connections to other private and public open space lands within/outside the Subarea would be reduced

or lost with the current configuration, potentially reducing the ability for species to recolonize the area; and the project as currently designed would have a high edge-to-preserve area ratio because it does not minimize the edges of the proposed development that are in contact with the habitat preserve areas.

2. **Habitat Criteria:** The proposed project reserve areas would consist of representative sensitive vegetation communities containing priority species, but the configuration would not result in conservation of large, functioning ecosystems (as currently exist or have the potential to exist on the site); the project would result in net loss of vernal pool wetland habitat functions and values; and due to reserve design and resultant edge effects, the project as proposed would not conserve high quality habitats and microhabitats (e.g., host plants, drainages, rock outcrops) important to sustain viable populations of some covered species, such as coastal cactus wren, Quino checkerspot butterfly, and Hermes copper butterfly, in the long term.
3. **Species Criteria:** Coastal cactus wren, Quino checkerspot butterfly, and Hermes copper butterfly occurrences, habitats and linkage areas across the project site and broader MSCP area would not be functionally conserved by the project.

### ***Edge Effects and Fragmentation***

Habitat fragmentation and edge effects are among the principal threats to persistence of biological diversity (Soulé 1991). Harrison and Bruna (1999) did a review of a suite of studies dealing with fragmentation and edge effects and concluded that there is a general pattern of reduction of biological diversity in fragmented habitats compared with more intact ones, particularly in regards to habitat specialists. While physical effects associated with edges were predominant among species impacts, they found evidence for indirect effects including altered ecological interactions. Fletcher *et al.* (2007) found that distance from edge had a stronger effect on species than habitat patch size, but they acknowledged the difficulty in separating those effects empirically. Many southern California plant and animal species are known to be sensitive to fragmentation and edge effects; i.e., their abundance declines with fragment size and proximity to an edge (Wilcove 1985; Soulé *et al.* 1992; Bolger *et al.* 1997a,b; Suarez *et al.* 1998; Burke and Nol 2000; Henle *et al.* 2004). The development/reserve design proposal for Fanita Ranch, if implemented, would have very high levels of development to reserve edge boundary, in part due to the unconsolidated/multiple development and road polygons proposed and their resultant large perimeter to area ratios.

Edges are often defined ecologically as places where: natural communities meet, vegetation or ecological conditions within natural communities interact (Noss 1983), or patches with differing qualities abut one another (Ries *et al.* 2004). Edge effects are spillover effects from the adjacent human-modified matrix that cause physical gradients in light, moisture, noise, etc. (Camargo and Kapos 1995; Murcia 1995, Sisk *et al.* 1997) and/or changes in biotic factors such as predator communities, density of "edge species," and food availability (Soulé *et al.* 1988; Matlack 1994; Murcia 1995; Ries *et al.* 2004).

Urbanization is typically comprised of residential, commercial, industrial, and road-related development; urbanization is the “built” environment. At the perimeter, or edge, of the built environment is an area known as the urban/wildland interface. When development is configured in a manner that creates a high ratio of development edge to wildland, an increase in the potential impacts caused by human use occurs. Land managers and planners have for decades relied on island biogeographic theory (see Reserve Design above) to plan for large natural open space reserves with connections to other reserves in order to preserve biodiversity (MacArthur and Wilson 1967; Quammen 1996). However, it has recently become clear that relatively large connected reserves are often not enough. Because of adverse effects to these wildlands from adjacent developed areas, it has become evident that, in order to maintain viable ecosystems and biodiversity, enhanced attention must be given to minimizing indirect impacts to wildlands from adjacent urban areas.

Wildlife populations are typically changed in proximity to edges, either by changes in their demographic rates (survival and fecundity), or through behavioral avoidance of or attraction to the edge (Donovan 1997; Sisk *et al.* 1997; Ries *et al.* 2004). For example, coastal sage scrub areas within 250 meters of urban edges consistently contain significantly less bare ground and more coarse vegetative litter than more “intermediate” or “interior” areas, presumably due to increased human activity/disturbance of the vegetation structure near edges (Kristan *et al.* 2003). Increases in vegetative litter often facilitate non-native plant (particularly grass) growth, resulting in a positive feedback loop likely to enhance plant invasion success (Wolkovich *et al.* 2009). In another coastal southern California example, the abundance of native bird species sensitive to disturbance is typically depressed within 200 to 500 meters of an urban edge, and the abundance of the disturbance-tolerant species is elevated up to 1000 meters from an urban edge, depending on the species (Bolger *et al.* 1997a).

A few of these specific indirect edge impacts are as follows:

1. Introduction/expansion of invasive exotic vegetation carried in from vehicles, people, animals or spread from backyards or fuel modification zones adjacent to wildlands;
2. Higher frequency and/or severity of fire as compared to natural fire cycles or intensities;
3. Companion animals (pets) that often act as predators of, and/or competitors with, native wildlife;
4. Creation and use of undesignated trails that often significantly degrade the reserve ecosystems through such changes as increases in vegetation damage and noise;
5. Introduction of or increased use by exotic animals which compete with or prey on native animals; and
6. Influence on earth systems and ecosystem processes, such as solar radiation, soil richness and erosion, wind damage, hydrologic cycle, and water pollution that can affect the natural environment.



Any of these impacts individually or in combination can result in the effective loss or degradation of habitats used for foraging, breeding or resting, with concomitant effects on population demographic rates of sensitive species.

Habitat fragmentation is usually defined as a landscape scale process involving habitat loss and breaking apart of habitats (Fahrig 2003). Habitat fragmentation is among the most important of all threats to global biodiversity; edge effects (particularly the diverse physical and biotic alterations associated with the artificial boundaries of fragments) are dominant drivers of change in many fragmented landscapes (Laurance and Bierregaard 1997; Laurance *et al.* 2007). Fragmentation decreases the connectivity of the landscape while increasing both edge and remnant habitats. Urban and agricultural development often fragments wildland ecosystems and creates sharp edges between the natural and human-altered habitats. Edge effects for many species indirectly reduce available habitat use or utility in surrounding remaining areas; these species experience fine-scale functional habitat losses (e.g., see Bolger 2000; Kristan *et al.* 2003; Drolet *et al.* 2016). Losses of coastal sage scrub in southern California have resulted in the increased isolation of the remaining habitat fragments (O'Leary 1990).

Fragmentation has a greater relative negative impact on specialist species (e.g., the coastal cactus wren) that have strict vegetation structure and area habitat requirements (Soulé *et al.* 1992). Specialist species have an increased risk of extirpation in isolated habitat remnants because the specialized vegetative structures and/or interspecific relationships on which they depend are more vulnerable to disruption in these areas (Vaughan 2010). In studies of the coastal sage scrub and chaparral systems of coastal southern California, fragment area and age (time since isolation) were the most important landscape predictors of the distribution and abundance of native plants (Alberts *et al.* 1993), scrub-breeding birds (Soulé *et al.* 1988; Crooks *et al.* 2001), native rodents (Bolger *et al.* 1997b), and invertebrates (Suarez *et al.* 1998; Bolger *et al.* 2000).

Edge effects that emanate from the human-dominated matrix can increase the extinction probability of isolated populations (Murcia 1995; Woodroffe and Ginsberg 1998). In studies of coastal sage scrub urban fragments, exotic cover and distance to the urban edge were the strongest local predictors of native and exotic carnivore distribution and abundance (Crooks 2002). These two variables were correlated, with more exotic cover and less native shrub cover closer to the urban edge (Crooks 2002). The increased presence of human-tolerant "mesopredators" in southern California represents an edge effect of development; they occur within the developed matrix and are thus more abundant along the edges of habitat fragments, and they are effective predators on birds, bird nests, and other vertebrates in coastal sage scrub and chaparral systems and elsewhere (Crooks and Soulé 1999). The mammalian carnivores more typically detected in coastal southern California habitat fragments are resource generalists that likely benefit from the supplemental food resources (e.g., garden fruits and vegetables, garbage, direct feeding by humans) associated with residential developments. As a result, the overall mesopredator abundance [of species such as raccoons (*Procyon lotor*), opossums (*Didelphis virginiana*), and domestic cats (*Felis catus*)] increases at sites with more exotic plant cover and closer to the urban edge (Crooks 2002). Although some carnivores within coastal sage scrub natural community fragments seem tolerant of disturbance, these fragments have (either actually or effectively) already lost an entire suite of predator species, including mountain lions (*Puma concolor*), bobcats (*Lynx rufus*), spotted skunks (*Spilogale gracilis*), long-tailed weasels (*Mustela*

*frenata*), and badgers (*Taxidea taxus*) (Crooks 2002). Most “interior” sites within such fragments are still relatively near (less than 250 meters) urban edges (Crooks 2002).

Fragmentation generally increases the amount of edge per unit land area, and species that are adversely affected by edges can experience reduced effective area of suitable habitat (Temple and Cary 1988), which can lead to increased probability of extirpation/extinction in fragmented landscapes (Woodroffe and Ginsberg 1998). For example, native bee (Hung *et al.* 2015) and native rodent (Bolger *et al.* 1997b) species diversity is lower, and decomposition and nutrient cycling are significantly reduced (Treseder and McGuire 2011), with the fragmentation of the coastal sage scrub ecosystem as compared to larger core reserves. Similarly, habitat fragmentation and alterations of sage scrub habitats likely have reduced both the genetic connectivity and diversity of coastal cactus wren populations in southern California (Barr *et al.* 2015). Both sage sparrows (*Artemisiospiza nevadensis*) and California thrashers (*Toxostoma redivivum*) show strong evidence of direct, negative behavioral responses to edges in coastal sage scrub [i.e., they are edge-averse (Kristan *et al.* 2003)], and California thrashers and California quail were found to be more vulnerable to extirpation with smaller fragment size of the habitat patch (Bolger *et al.* 1991), demonstrating that both behavioral and demographic parameters can be involved. Other species in coastal sage scrub ecosystems, particularly the coastal cactus wren and likely the coastal California gnatcatcher and San Diego pocket mouse, are likely vulnerable to fragmentation, but for these species the mechanism is likely to be associated only with extirpation vulnerability from habitat degradation and isolation rather than aversion to the habitat edge (Kristan *et al.* 2003). Bolger (*et al.* 1997b) found that San Diego coastal sage scrub and chaparral canyon fragments under 60 acres that had been isolated for at least 30 years support very few populations of native rodents, and they suggested that fragments larger than 200 acres in size are needed to sustain native rodent species populations.

The penetration of exotic species into natural areas can reduce the effective size of a reserve in proportion to the distance they penetrate within the reserve: Argentine ants (*Linepithema humile*) serve as an in-depth example of edge effects and fragmentation. Spatial patterns of Argentine ant abundance in scrub communities of southern California indicate that they are likely invading native habitats from adjacent developed areas, as most areas sampled greater than 200 to 250 meters from an urban edge contained relatively few or no Argentine ants (Bolger 2007). The extent of Argentine ant invasions in natural environments is determined in part by inputs of urban and agricultural water run off (Hollway and Suarez 2006). Native ant species were more abundant away from edges and in areas with predominately native vegetation. Post-fragmentation edge effects likely reduce the ability of fragments to retain native ant species; fragments had fewer native ant species than similar-sized plots within large unfragmented areas, and fragments with Argentine ant-free refugia had more native ant species than those without refugia (Suarez *et al.* 1998). They displace nearly all surface-foraging native ant species (Hollway and Suarez 2006) and strongly affect all native ant communities within about 150 to 200 meters from fragment edges (Suarez *et al.* 1998; Hollway 2004; Fisher *et al.* 2002; Bolger 2007). Argentine ants are widespread in fragmented coastal scrub habitats in southern California, and much of the remaining potential habitat for coastal horned lizards (*Phrynosoma coronatum*) is effectively unsuitable due to the penetration of Argentine ants and the subsequent displacement of the native ant species coastal horned lizards need as prey (Fisher *et al.* 2002).

Similarly, the invasion of Argentine ants into coastal sage scrub has also shown a strong negative effect on the abundance of the gray shrew [*Notiosorex crawfordi* (Laakkonen *et al.* 2002)].

Although the direct effects of habitat loss to urbanization are fairly obvious and typically irreversible, the indirect effects of urbanization on adjacent remaining habitats can be more subtle to detect. While very intensive reserve management activities such as invasive plant and animal removal and repeated/continuous restoration/enhancement of the native vegetation can partially reduce some edge effects, these activities are often quite difficult and expensive and would have their own repeated impacts, making them impracticable on a large scale.

The proposed Fanita Ranch project's development design would result in substantial fragmentation of the existing habitats and natural communities on and around the property. The substantial edges and related effects associated with the current proposal would extend the zone of impacts from new development deeply into the reserve areas that would remain. While these edge effects would not strictly eliminate all potential covered species use and ecosystem function in the identified edge effect zone we have evaluated herein (i.e., reserve areas 150 meters from urban edge), these effects would very likely greatly reduce the utility of these reserve areas for the covered species. In addition, much of the area proposed as reserve is currently subject to edge effects from existing development.

### ***Fire and Nitrogen Deposition***

Fire affects animal species composition (at least temporarily) in California grassland and shrub communities by shifting vegetation structure and composition (Clark *et al.* 2008). The increase in urbanization of the project region is expected to lead to a subsequent increase in the ignition rate of wildfires (Keeley and Fotheringham 2001). Research in southern California suggests that the frequency and intervals of fire in coastal sage scrub and chaparral are likely more important than fire severity and size, largely because of the potential to convert native vegetation from shrubs to grass communities dominated by non-natives (Diffendorfer 2008).

Increasingly, it has become evident that fire-prone ecosystems of southern California can be highly vulnerable both to exotic plant invasion during the immediate post-fire period and to alterations of fire regime by altered fuel bed properties after invasion (Keeley *et al.* 2010). This is important, as vegetation is a key driver of wildlife diversity. When native shrublands are invaded by exotic grasses, many changes take place: rooting depths, canopy cover, habitat and ecosystem functions, species heterogeneity, water use, and fire regimes are radically altered (Wilcox *et al.* 2011).

Invasions resulting in the type transformation of one vegetation community to another are an increasingly widespread problem in coastal southern California shrub and grassland systems (Talluto and Suding 2008). While it is clear that these conversions, particularly between grassland and shrubland systems, have severe ecological consequences (Minnich 2008), it has only recently become relatively clear which factors are primarily associated with these conversions (e.g., see Talluto and Suding 2008; Flemming *et al.* 2009; Fenn *et al.* 2010; Keeley and Brennan 2012).

Anthropogenic sources of fixed nitrogen (N) are also having unintended consequences in ecosystems across the globe. Nitrogen inputs in the United States from human activity doubled between 1961 and 1997, mainly from inorganic N fertilizer use and emissions from burning fossil fuels (Howarth *et al.* 2002; Clark *et al.* 2013). Since the 1930s, coastal sage scrub cover in remaining extant areas has declined by about 49 percent, being replaced predominantly by exotic grassland species (Talluto and Suding 2008). Exotic grassland encroachment in coastal sage scrub is positively correlated with increased fire frequency and/or air pollution (measured as percent fossil carbon, which is likely correlated with nitrogen deposition), depending on location (Talluto and Suding 2008; Fenn *et al.* 2010; Cox *et al.* 2014). It is now understood that increases in fire frequency and nitrogen deposition combined over the last several decades have likely facilitated the conversion of coastal sage scrublands to exotic grasslands in southern California in many areas (Egerton-Warburton *et al.* 2002; Talluto and Suding 2008; Cox *et al.* 2014). It is also likely that the changes in climate that the San Diego region is experiencing will increase the frequency and intensity of fires in the future, making the region more vulnerable to large intense wildfires such as the ones that occurred in the project area in 2003 and 2007 (Messner *et al.* 2016).

### *Climate Change*

Climate change is defined as any significant change in climate metrics, including temperature, precipitation, and wind patterns, over a period of time (NASA 2011). Climate change may result from natural or human activities that change atmospheric composition (IPCC 2007). There is now broad scientific consensus that humans are changing the chemical composition of the earth's atmosphere (IPCC 2013). Activities such as fossil-fuel combustion, deforestation, and other changes in land use are resulting in the accumulation of greenhouse gases (GHGs) such as carbon dioxide (CO<sub>2</sub>) in the atmosphere (IPCC 2013). Substantial increases in GHG emissions likely result in an increase in the earth's average surface temperature, commonly referred to as global warming (Lockwood 2009; IPCC 2013, NASA 2016). Global warming is expected, in turn, to affect weather patterns, average sea level, chemical reaction rates, precipitation rates, and other climatic conditions; such changes, taken collectively, are commonly referred to as climate change (Melillo *et al.* 2014; EPA 2016). Human-caused climate change is now thought to have likely begun in the late 19th century coinciding with industrialization; the earth's climate is now changing rapidly, affecting species and natural communities (MEA 2003; Li *et al.* 2016). Observed rapid vertebrate wildlife declines over the last century are likely linked to climate change (Li *et al.* 2016). Climate change is likely having adverse effects on the ecosystems that many of southern California's sensitive species depend upon, and it is important to address in the context of regional plans (Messner *et al.* 2009).

The western United States has warmed at a faster rate compared to the national average (Moser *et al.* 2009). Over the twentieth century, California has experienced an increase in this average of roughly 0.8°C (1.5°F), with some variability in the rate of warming within the state. The warming trends are asymmetrical, with nighttime minimum temperatures rising faster than daytime maximum temperatures, and winter/spring seasonal temperatures experiencing greater warming compared to summer/fall (Nemani *et al.* 2010; Gershunov *et al.* 2009).

The United States government did not officially acknowledge that global climate change was a significant issue until 2008 (National Science and Technology Council 2008), resulting in a lack of emphasis on climate change in federally regulated conservation planning before 2008. Natural communities, species, and their habitats are vulnerable to climate change based on their ecology and natural history. While temperature rise in itself will have direct consequences on species viability and natural community distribution and composition, the effects of climate change on the amount and timing of precipitation and the frequency of severe weather and related disturbance events are also likely to affect natural communities and the proposed covered species in southern California. California saw 2015 as the warmest year on record (USGS 2016). Climate is a major driver of species distributions, and rising temperatures over the last 100 years have already resulted in significant shifts in species ranges worldwide (Parmesan 2006). One consequence of climate disturbance in California is a shift of many species to the north and to higher elevations (Loarie *et al.* 2008). Most southern California scrub and chaparral native plant species models show potential northern habitat expansion and southern habitat contraction due to projected climate change, assuming the potential for dispersal (Riordan and Rundel 2014).

Native plant and animal dispersal would, without barriers, likely play an important role moderating losses from both climate change and land use; however, land use currently restricts dispersal of many species in coastal southern California (Riordan and Rundel 2014). High geographic overlap in habitat losses driven by projected climate change and existing and projected land use on the coastal slope of southern California underscores the potential for compounding negative impacts of both drivers (Riordan *et al.* 2015). Limiting habitat conversion and maintaining ecosystem linkages is likely a broadly beneficial strategy under climate change (Collingham and Huntley 2000; Riordan and Rundel 2014).

Addressing projected land use as part of climate change assessments is particularly important for coastal southern California, where multiple drivers of environmental change are projected to cause some of the highest proportional biodiversity losses worldwide by the year 2100, chief among which is land use (Sala *et al.* 2000; Conlisk *et al.* 2013; Riordan and Rundel 2014). We emphasize the importance of maintaining linkages for dispersal in moderating future habitat loss for vulnerable species and addressing comprehensively the drivers of climate change, habitat loss, fire, nitrogen deposition, and land use in conservation and resource management planning.

### ***Preliminary Consistency Determinations and Findings on Proposed Covered Species***

In the interest of providing a timely response to the City of Santee and HomeFed, the Service and Department's preliminary consistency determinations and findings for the proposed Fanita Ranch project herein focus on a subset of the proposed 22 covered species being considered by the City of Santee as discussed below. While we performed a basic review of all the proposed covered species for the proposed Fanita Ranch project, a more detailed analysis was prepared for the following species based on the most important concerns that were apparent: Quino checkerspot butterfly (*Euphydryas editha quino*), Hermes copper butterfly (*Lycaena hermes*), western spadefoot toad (*Spea hammondi*), coastal cactus wren (*Campylorhynchus brunneicapillus sandiegensis*), and the San Diego golden star (*Bloomeria clevelandii*).

### **Quino Checkerspot Butterfly:**

**Status:** The Quino checkerspot butterfly (Quino) was listed as federally endangered in 1997. It was historically distributed throughout the coastal slope of southern California including Los Angeles, Orange, western Riverside, San Diego, and southwestern San Bernardino counties and also northern Baja California, Mexico (Mattoni *et al.* 1997). Quino occurs in coastal sage scrub vegetation, and it was once one of the most abundant species of butterflies in southern California but is now very rare. By the mid-1980s, Quino was thought to have fully disappeared, and a petition to list the species in 1988 suggested that it might be extinct (Service 1997). However, “new” populations were subsequently discovered in Riverside County, the butterfly was rediscovered in San Diego County, and it continued to survive in northern Baja California, Mexico (Parmesan 1996). As an important indicator of existing threats, Quino has likely been extirpated from Los Angeles, Orange, and San Bernardino counties (Service 2003).

**Threats and Conservation Needs:** More than 75 percent of the habitat in Quino’s former range has been converted to agriculture or urban development (Service 1997). In addition, Quino is threatened by non-native plant species, increased fire frequency, increased nitrogen deposition, drought, fire management practices, climate change, off-road vehicle use, and grazing (Service 1997; Service 2009; Anderson *et al.* 2014). Conversion from native vegetation to non-native annual grassland is the greatest threat to habitat on legally-protected lands, and a high magnitude threat to all extant habitat that is not managed (Service 2009). Increased dominance of non-native plant species reduces the abundance (by competition) and suitability (by shading) of host plants upon which Quino depends (Service 2003; Service 2009).

Butterflies are especially sensitive to environmental change, and extinction rates for these species are accelerating (Forister *et al.* 2010; Potts *et al.* 2010; Warren and Bourn 2010). Quino is likely increasingly vulnerable to prolonged and intense droughts predicted by climate change models, particularly when synergized with other threats (Parmesan 1996; Preston *et al.* 2012; Anderson *et al.* 2014). Other threats include direct mortality from vehicle collisions along roads and human use of extant habitat areas causing trampling of larvae and host plants and compaction of soils [San Diego Management and Monitoring Program (SDMMP) 2013]. Essentially, any activity that appreciably fragments Quino habitat or removes or excludes host or nectar plants increases the probability of extirpation/extinction of Quino (Service 2003; Fenn *et al.* 2003). In addition, the wildfires that burned much of the natural vegetation of San Diego County during 2003 and 2007 burned many areas of Quino habitat. It is unclear what the long-term impacts of these fires will be on the Quino populations. We have recently determined that Quino’s decline as well as its shifting distribution is a complex multi-scale process related to agricultural history, urban development, climate variability, and wildflower host and nectar source declines (Preston *et al.* 2012). Observed northward range shifts by Quino are largely blocked by urbanization, and range shifts to higher elevations may require additional shifts in host plant by the species (Parmesan *et al.* 2015). Projections indicate that much of Quino’s current range in the USA is becoming uninhabitable (Parmesan 2015).

**Metapopulation:** A metapopulation is composed of a number of local populations; to remain viable, individuals interact among local populations within a larger metapopulation enough to effectively reduce the extinction probability of the metapopulation as compared to the extinction

probability of any local population (Service 2009). The distribution of Quino is patchy at several geographic scales; habitats are patchily distributed and naturally form networks of connected habitat patches, which are variably occupied over time. Most Quino populations display this metapopulation structure, and it is essential to conserve temporarily unoccupied patches of habitat for metapopulation resilience (Service 2009).

Host plant availability affects butterfly diet, which in turn affects habitat colonization rates and local population persistence; important aspects of Quino metapopulation dynamics are likely emergent properties (i.e., resulting from the complex interplay of factors) affected by this and other host plant and butterfly characteristics (Service 2003). Interaction of Quino populations specifically refers to emigrants re-colonizing neighboring habitat patches where the local population has been extirpated, not just occasional exchanges of individuals and thus genetic material. Long-term persistence of species with metapopulation dynamics likely depends on maintenance of geographically intermediate habitat patches and rare long-distance dispersal events that link local populations across the larger metapopulation (Service 2003).

Quino metapopulations experience marked fluctuations in density and geographic distribution on a scale of about 5 to 10 years (Service 2003). The survival and recovery of the Quino depends on landscape-level protection, restoration, and management of metapopulations and ecosystems associated with the distribution of those metapopulations, including conservation of temporarily unoccupied habitats. Success will require the augmentation of extant populations, and the reestablishment of one or more populations in the coastal portion of its former range (Service 2003; Service 2009).

The long-term survival strategy for Quino includes protecting and managing remaining population distributions in habitat configurations designed to support resilient metapopulations (Service 2003). Using metapopulation theory, regional reserves must be designed to provide sufficient numbers of habitat patches such that: 1) only a small number of habitat patches will likely be extirpated in a single year; and 2) patches are close enough such that natural recolonization can occur at a rate sufficient to maintain a relatively constant number of patches supporting larval development (Service 2003).

**Drought:** The Quino checkerspot butterfly has likely undergone a limited increase in abundance and distribution following its extreme reduction before and during the prolonged 1980's drought. However, current species abundance and distribution remain far below the pre-drought 1970's levels, and there is no evidence that the long-term decline due to human impacts has slowed (Service 2003). California is currently entering a sixth year of drought (USGS 2016). A zone of "extreme drought" has persisted in the current range of Quino since 2014 (NASA 2016). During this current drought period the species has again likely declined based on rangewide survey data. Quino checkerspot could be increasingly vulnerable to prolonged and intense droughts predicted by climate change models (Parmesan 1996; Preston *et al.* 2012).

**Fragmentation and Edge Effects:** Habitat fragmentation establishes barriers to important dispersal and colonization processes when intervening habitat is degraded and unusable to Quino individuals. Fragmentation-induced isolation of populations greatly reduces the likelihood that immigrants from other populations will re-colonize adjacent, extirpated populations (Bleich *et al.*

1990). Habitat fragmentation also changes the environment and ecological functions at the fragment edge.

As noted elsewhere herein, important edge effects include increased frequency of fire and changes in light, temperature, wind, and humidity (Schelhas and Greenberg 1996; Laurance and Bierregaard 1997). Habitat fragmentation, and the associated increase in edge-to-area ratios, also increases the vulnerability of fragments to invasion by exotic species and ultimately to vegetation type conversion. Development edges typically provide high-energy, high-nutrient, disturbed environments where exotic species increase in numbers and then disperse or invade various distances from the edge into habitat areas (Janzen 1983; Paton 1994). Other causes (some synergistic) of vegetation type conversion include fire, off-road vehicle activity, and increased nitrogen deposition (Service 2009).

**Nitrogen Deposition:** Quino's host plant, dots-eed plantain (*Plantago erecta*), was at one time abundant in the open interspaces that commonly existed among coastal sage scrub shrubs, but these sites are increasingly now occupied by exotic grasses (Fenn *et al.* 2003). Biological response studies in western North America demonstrate that some natural communities are significantly altered by N deposition, including increases in exotic grass invasion in coastal sage scrub (Fenn *et al.* 2003). Quino has become locally extirpated in the southern edge of its range by a combination of N deposition, drought, and exotic grass invasion (Service 2002; Fenn *et al.* 2003). The continued existence of this butterfly is problematic considering these exotic grass invasions and the concomitant decline of the *P. erecta* host plants; this problem could potentially be solved by restoration efforts, but this restoration would likely be an expensive and continual process in the face of continued artificially high N deposition and other anthropogenic influences that promote exotic grass invasion and productivity (Service 2002; Fenn *et al.* 2003). Chronic N deposition in parts of southern California is also implicated in increased fire frequency (Fenn *et al.* 2003).

**Climate Change:** Climate change is an environmental factor that is likely influencing the current and future condition of many of the proposed covered species such as Quino, including their reproduction, numbers, and distribution. Worldwide, climate change may cause future large-scale extinctions and interact with other drivers to accelerate extinction and biodiversity loss (Purvis *et al.* 2000; Brook *et al.* 2008; Wiens 2016). Insects are especially vulnerable to climate change as ambient temperature controls body temperature that influences metabolic reaction rates and life history phenology (Parmesan 2006; Memmott *et al.* 2007; Wilson and Maclean 2011). Climatic data and predictions indicate that almost all California state climate divisions show a substantial increase in predicted mean daily temperatures and a considerable predicted decrease in mean precipitation for the 21<sup>st</sup> century (Karl *et al.* 1996; IPCC 2014).

Increasing climate variability can lead to phenological mismatches between butterflies and their host plants, affecting reproductive success and potentially causing population extinctions (Parmesan 2006; Hegland *et al.* 2009; Singer and Parmesan 2010). In addition, differential shifts in space between butterflies and their host plants, as a result of climate change imposed on narrow habitat requirements may lead to reductions in overall range, population distributions, and abundance of the butterflies. Quino is vulnerable to these effects, although one shift of host



plants with the elevational shift has been observed, with Quino shifting to Chinese houses (*Collinsia* sp.) as its host plant at higher elevations in some areas (Parmesan 2015).

Many population extinctions of Edith's Checkerspot butterfly (*Euphydryas editha*) have been associated with particular climatic events (Singer and Thomas 1996; Ehrlich *et al.* 1980; Singer and Ehrlich 1979). The 1975-77 severe drought throughout California caused the extinction of 5 out of 21 surveyed populations (Ehrlich *et al.* 1980; Singer and Ehrlich 1979). Extremely wet years caused opposite responses in two subspecies: following winters with 50–150 percent more precipitation than the average, Bay checkerspot butterfly (*E. editha bayensis*) suffered population crashes in the vicinity of San Francisco Bay (Dobkin *et al.* 1987), while Quino exhibited population booms in northern Baja, Mexico (Murphy and White 1984). The observed northward and upward range shift of *E. editha* during the 20<sup>th</sup> century has occurred as a result of increased numbers of population extinctions at the southern range boundary and at lower elevations, with a symmetrical tendency toward population stability along the northern range boundary and at the highest elevations (Parmesan 1996). Thus, infrequent and severe climatic events, via short-term responses at the population level, appear to have driven a gradual range shift in this species.

**Proposed Project:** Surveys were conducted on the Fanita Ranch site by Dudek in 2004, 2005, and 2016. The species was detected on the project site in 2005. Although Quino was not detected on the project site in 2016, the drought conditions over the past few years have created unfavorable conditions for Quino and negatively affected Quino populations in San Diego County. Based on survey data from throughout San Diego County, conditions in 2016 for Quino were once again below average. We expect that Quino are in low numbers on site or the site is currently temporarily unoccupied.

The proposed Fanita Ranch footprint would directly and indirectly impact most of the remaining habitat for Quino (mapped by host plant occurrences) within the project site, including fragmenting what would be the largest remaining habitat patch within the project site. The largest area of extant mapped Quino habitat onsite would, following project implementation, be located between two closely adjacent development polygons; these proposed adjacent development areas would include a community farm and orchard as well as urban development, and two surrounding paved access roads.

Specifically, about 48 percent of the available Quino habitat (mapped as Quino host plant polygons) on the Fanita Ranch project site would be directly affected by the currently proposed project footprint. About 25 percent of Quino habitat would be indirectly affected within a 150-meter edge effect zone we have mapped around the proposed development footprint. About 28 percent of the Quino habitat occurs outside the proposed direct footprint or edge effect zone. The one survey point occurrence known from the site in 2005 occurs within the noted edge effect zone (not within the direct project footprint) within a small area that would be completely surrounded by the proposed development.

Pursuant to the Recovery Plan for Quino, a *Possible Future Central San Diego Recovery Unit* was contemplated for the species. This potential future recovery unit in San Diego County includes vernal pool habitat on Kearny Mesa, Mira Mesa, Del Mar Mesa, and Lopez Ridge. The unit also includes inland/upland habitat in the vicinity of Sycamore and Little Sycamore

Canyons, Iron Mountain, San Vicente Reservoir, the Fortuna Mountain area, El Capitan Reservoir, the community of Alpine, and south to the Southwest San Diego Recovery Unit border near the community of Jamul. The unit location described includes Fanita Ranch, and this general area is expected to be the only suitable location in the coastal metapopulation's distribution available and expected to support the species. Loss of the Quino habitat, per the current proposal on the Fanita Ranch site, may preclude recovery of the species. Moreover, based on the current declining status of the species, Quino habitat on Fanita Ranch should be conserved to provide for the Quino metapopulation in the area. As noted above, Quino requires conservation of temporarily unoccupied patches of habitat essential to maintain population resilience (Service 2009). The edge effects and habitat fragmentation that would likely result from the proposed development would eliminate or considerably reduce the long-term viability of the Quino in the project area and limit the species ability to expand or re-populate the area locally.

**Conclusion:** After our review of the current status of the species, current and future threats, and the proposed project footprint and reserve areas, we conclude that the Fanita Ranch proposed project would not fully minimize and mitigate its impacts on Quino, would result in a net loss of Quino habitat function, and would have a high potential to preclude recovery of the species. As such, absent modifications to the Fanita Ranch project design, we recommend that the Quino be deleted from the proposed covered species list for the overall Subarea Plan.

### **Hermes Copper Butterfly:**

**Status:** Hermes copper butterfly (Hermes copper) became a Federal candidate species in 2011. In the United States, the current range of Hermes copper is entirely within San Diego County and consists of approximately 29 percent Federal land, 4 percent State land, 15 percent local government land, and 52 percent private land. Most occurrences of the species are concentrated in the southwest portion of the County (Marschalek and Klein 2010). Two or three occurrences have been identified in Baja California, Mexico, within an area approximately 100 miles south of the International Boundary (Brown *et al.* 1992; Marschalek and Klein 2013); this species has not been reported from Mexico since the 1980s (Marschalek and Klein 2013). The species occupies less than half of its former range in San Diego (Brown 1991).

Hermes copper is an extremely rare butterfly that inhabits coastal sage scrub and southern mixed chaparral (Marschalek and Deutschman 2008; Marschalek 2016a). Hermes copper larvae use only spiny redberry (*Rhamnus crocea*) as a host plant (Thorne 1963; Emmel and Emmel 1973). The range of spiny redberry extends throughout much of coastal California, as far north as Sonoma County (Calflora 2016); however, Hermes copper has never been documented north of San Diego County (Marschalek and Klien 2013; Service GIS database 2016). Therefore, some factor(s) other than host plant availability limits the range of the species. Researchers report adults are rarely found far from spiny redberry (Thorne 1963) and take nectar almost exclusively from California buckwheat [*Eriogonum fasciculatum* (Marschalek and Deutschman 2008)]. The densities of larval host and nectar plants required to support a Hermes copper population are not known. Natural wildfire regimes for the species in the past likely included occasional large fires, but recolonization events following large fires in 2003 and 2007 have been rare, suggesting that current dispersal of the species is quite limited (Strahm *et al.* 2012). However, historical

dispersal data do not exist, thus the expected length of time for recolonization is unknown (Strahm *et al.* 2012).

Hermes copper range and population distributions likely consist of 59 historical populations, of which 21 are extant, 27 are extirpated, and 11 are of unknown status. In 2000, 37 populations were thought to be extant. Between that time and 2014, 10 populations have been extirpated (1 by development, 1 by fire and development, and 8 by fire alone), and 6 are of unknown status. In the northern portion of the range, most remaining suitable habitat is limited to the relatively isolated and fragmented undeveloped lands between the cities of San Marcos, Carlsbad, and Escondido and the community of Rancho Santa Fe, and the habitat islands containing occurrences on Black Mountain and Van Dam Peak. In the southern portion of the range, all extant populations except Lopez Canyon, the southern portion of Mission Trails Park, Lakeside Downs, and Boulder Creek Road (isolated from other extant populations by development and fire) are within relatively well-connected undeveloped lands east of the City of El Cajon that are between the perimeters of the 2003 Cedar Fire and 2007 Harris Fire. The Mission Trails Park Hermes copper population remains extant even after approximately 74 percent of the occupied area burned in 2003, presumably because burned areas were recolonized (after host plant and nectar sources regrew) by butterflies from nearby unburned areas.

Marschalek and Klein (2010) studied intra-habitat movement of Hermes copper using mark-release-recapture techniques. They found the highest median dispersal distance for a given site in a given year was 146 feet (ft) (45 meters), and their maximum recapture distance was 0.7 mile (mi) (1.1 kilometer) (Marschalek and Klein 2010). They also found no adult movement across non-habitat areas, such as type-converted grassland or riparian woodland (Marschalek and Klein 2010).

**Threats and Conservation Needs:** The current distribution of Hermes copper habitat in San Diego County is largely a result of urban development within coastal and interior San Diego County, which has resulted in the loss and fragmentation of Hermes copper habitat (CalFlora 2010; Consortium of California Herbaria 2010; San Diego County Plant Atlas 2010). Habitat loss due to urbanization and impacts of recent wildfires has greatly restricted its range (Marschalek 2016a). Of the 27 known extirpated Hermes copper populations, loss and fragmentation of habitat as a result of development has contributed to the extirpation of 13 populations (48 percent).

The combined impacts of existing development, limited future development, existing dispersal barriers, increasing wildfire frequency, and megafires (wildfires that encompass atypically vast areas) could further fragment Hermes copper habitat and likely threaten the species (Service 2011). These threats are evidenced by the relatively recent loss or isolation of many populations throughout the range and the fact that remaining extant populations occur within areas of high megafire risk.

**Fire:** The coastal sage scrub and southern mixed chaparral natural communities experience relatively frequent fires, so the long-term survival of most species post-fire depends on the rate of recolonizations exceeding the rate of local extirpations. Recolonization of these post-wildfire habitats often requires long-distance dispersal events, but these movements can also counter

detrimental impacts associated with inbreeding (Marschalek 2016a). Marschalek's (2016b) research has documented several recent extirpations of Hermes copper, due to the 2003 and 2007 wildfires, but few recolonizations despite what appears to be extant suitable habitat. Although a few small populations exist within and north of the City of San Diego, the majority of Hermes copper individuals are currently found to the east and southeast of the City between the footprints of 2003 and 2007 fires (Marschalek 2016b). Historic occurrences within the adjacent Marine Corps Air Station Miramar are presumed to have been temporarily extirpated as a result of the 2003 wildfire that burned in that area (SDGE and SCG 2015).

The recolonization rate for Hermes copper appears to be quite slow, indicating that this species is vulnerable to long-term effects from fires (Marschalek and Klein 2013). However, dependence on a fire-prone vegetation community provides evidence that Hermes coppers have been able to coexist with fire in the past (Marschalek and Klein 2013). With vegetation recovering to suitable conditions for the butterfly, habitat function does not appear to be limiting them currently. Restricted dispersal is likely the reason for slow recolonization of the post-wildfire areas (Marschalek and Klein 2013). The long-term persistence of Hermes copper in a fire-prone landscape depends on them dispersing and reestablishing populations following a fire, but this has to happen before another fire kills the source population/occurrences that would provide those dispersing individuals (Marschalek and Klein 2013). Habitat fragmentation due to human activities, resulting in restricted movement of Hermes coppers and limited dispersal into burn areas, is a possible reason for the current slow recolonization rates despite the historic ability to persist with fire (Marschalek and Klein 2013; Marschalek 2016b). Fire (given recent sizes and return intervals) poses a substantial threat to the Hermes copper (Marschalek and Deutschman 2016); given its current extremely restricted distribution, the species is highly vulnerable since one large fire could cause further extirpations or extinction (Marschalek 2016b).

**Fragmentation and Edge Effects:** Habitat fragmentation typically results in smaller, more vulnerable Hermes copper populations (Service 2011). The presence of suitable habitat on which the Hermes copper depends often determines the size and range of the local population (Service 2011). Wildfires and past development have caused habitat fragmentation that separates populations and inhibits movement by creating a gap in area that Hermes copper are not capable of traversing (Service 2011). The connectivity of habitat occupied by a butterfly population is not defined by host plant distribution at the scale of host plant stands or patches, but rather by adult butterfly movement that results in effective interbreeding (Service 2003). Fragmentation can include prevention of movement by a barrier, or by distances between remaining host plants where larvae develop ending up greater than adult butterflies will functionally move to mate or deposit eggs. Deutschman *et al.* (2010) concluded that Hermes copper individuals are likely capable of long-distance movement, but developed areas and natural landscape features may enhance or restrict dispersal (Service 2011). It is important to note that although movement of the species may be possible, the habitat must be suitable at the time Hermes copper butterflies arrive to ensure successful recolonization, which is difficult with many predicted post-wildfire and mega-fire conditions (Service 2011).

Based on genetic research, Marschalek (2016a) concluded that historically Hermes copper butterflies were able to move among habitat patches prior to recent changes in the landscape. More recently, low post-fire recolonization rates suggest limited dispersal is occurring currently,

probably due to recent habitat fragmentation as discussed above. This fragmentation is a relatively new event, as the human population in San Diego County experienced substantial growth in the late 20th century (Marschalek 2016a).

**Drought:** Drought is a stochastic weather event. Few Hermes copper adults have been observed rangewide during the last 2 years due to the drought, particularly west of the Cleveland National Forest (Marschalek and Deutschman 2016). It is likely that the continued drought conditions suppress adult emergence (Marschalek and Deutschman 2016). Researchers have documented adult numbers rebounding following a 1-year drought (Marschalek and Deutschman 2015), but it is unclear how multiple years of extremely dry conditions have and will impact the species (Marschalek and Deutschman 2016). It is expected that Hermes copper individuals typically enter diapause during droughts and may emerge when the area receives adequate winter precipitation.

**Climate Change:** Butterfly species are typically sensitive to climate change due to their larval host plant and nectar-source dependence (Murphy and Weiss 1992). If the timing of host-plant availability changes without equal shifts in life-cycle timing, the phenological mismatch would likely affect reproductive success. In addition, the narrow habitat requirements of butterflies and host plants may lead to shifts in range, distribution, and abundance as a result of climate change. Nevertheless, given the temporal and geographical availability of their relatively widespread perennial host and nectaring plants, Hermes copper and its host and nectar plants are not likely to be negatively affected throughout the majority of the species' range by predicted phenological shifts in development of a several days (unlike species such as Quino checkerspot that depend on annual host plants) (Service 2011). While it is possible the species' climatic tolerance, such as temperature thresholds for activity, could result in a change in the species niche and distribution of suitable habitat as the climate changes, predicting such changes would be speculative because we currently do not understand what limits the species' range to a much smaller geographic area than its host and nectaring plants (Service 2011).

Conversely, expected increases in fire frequency and intensity (described herein), as well as increased extended drought frequencies/intensities/durations predicted under climate change for the region, are likely threats to Hermes copper. This is largely due to increased direct individual mortality from fire and increased potential for extirpation of occurrences through megafire and invasion of exotic grasses (noted above) causing suppression of nectar plants. These conditions could be worsened by the potential synergistic effects with extended suppression of emergence of adults during continued droughts.

**Proposed Project:** Surveys were conducted on the project site for the Hermes copper in 2001, 2003, 2004, 2005, 2014, and 2016, and the species was observed on the Fanita Ranch project site in 2001, 2003, 2004, and 2005 (Service GIS database 2016). Hermes copper was not detected in the 2014 and 2016 surveys conducted on the Fanita Ranch the site. As noted above, rangewide surveys conducted on sites known to support the species over multiple years (sentinel monitoring sites) observed greatly reduced numbers of Hermes copper over the past 2 years due to drought conditions. The drought conditions experienced in San Diego County are likely suppressing adult emergence (Marschalek and Deutschman 2016). A lack of detection on the Fanita Ranch site in 2014 and 2016 is expected considering current conditions.

Pursuant to the Draft City of Santee Multi-Species Conservation Program Subarea Plan Conservation Strategy for the Hermes Copper [Conservation Strategy (EDAW 2009)] prepared for the City of Santee, it was envisioned that the City of Santee would maintain a viable Hermes copper population and potential for natural recolonization of Hermes copper butterfly by conserving large blocks of habitat and supporting conservation efforts. The Conservation Strategy anticipated work with private landowners to conserve existing known populations within Santee, including associated host plant and nectar sources on occupied as well as unoccupied habitat. Based on the Conservation Strategy, two historical colonies occur on Fanita Ranch. The goals and objectives in the Conservation Strategy for habitat recommend the preservation of 100 percent of occupied Hermes habitat.

Based on the vegetation, habitat, and footprint maps provided to us by HomeFed, and after applying a 150-meter edge effect zone around the proposed direct development footprint, the currently proposed Fanita Ranch footprint would impact directly or indirectly through edge effects much of the Hermes copper habitat within the project site. It would also fragment almost all remaining habitat patches within the site. Specifically, about 23 percent of the available Hermes copper habitat (mapped spiny redberry shrub polygons) on the Fanita Ranch project site would be directly affected by the currently proposed project footprint, and about 23 percent of Hermes copper habitat would be indirectly affected within the 150-meter edge effect zone around the proposed development footprint. About 54 percent of the Hermes copper habitat would occur in open areas remaining outside of the direct footprint or edge effect zone. Based on survey point data collected from the site over the years, 50 percent of known occurrences occur within the proposed direct project footprint, none occur within the 150-meter edge effect zone, and 50 percent occur outside either of these areas.

The combined direct effects, edge effects, and habitat fragmentation resulting from the project as currently proposed would considerably reduce the viability of the Hermes copper population in the project region and likely greatly limit the species' ability to repopulate locally following a large fire or other substantial disturbances. The end result would not be consistent with the City's 2009 Conservation Strategy for the species.

As is the case for Quino checkerspot butterfly, the Hermes copper displays a metapopulation structure, and it similarly requires conservation of temporarily unoccupied patches of habitat for population resilience and viability. Maintaining unfragmented suitable habitat areas contiguous with occupied habitat for recolonization is essential for the long-term survival of the species. The Wildlife Agencies maintain that conserving a Hermes copper population that includes the Fanita Ranch site is essential for the Hermes copper due to site's demonstrated ability to support this narrow endemic species and its rangewide poor status.

**Conclusion:** After our review of the current status of the species, current and future threats, and the proposed project footprint and reserve areas, we conclude that the current proposed Fanita Ranch project would not fully minimize and mitigate its impacts on Hermes copper, would result in a net loss of function of its habitat, and would have a high potential to preclude recovery of the species. As such, absent modifications to the project design, we recommend that the Hermes copper butterfly be deleted from the proposed covered species list for the overall Subarea Plan.

### **Coastal Cactus Wren:**

**Status:** The coastal cactus wren is a former Federal candidate species, a California State Species of Concern, and a NCCP Focal Species (a target of conservation planning). Survival of the coastal cactus wren is considered one of the great challenges in bird conservation for southern California (Unitt 2004). A year-round resident of the dry landscapes of southern California's Pacific-slope, the coastal cactus wren has historically maintained a limited distribution in coastal southern California and extreme northwestern Baja California (Harper and Salata 1991). The subspecies is unique in that it occurs exclusively within the subset of the coastal sage scrub plant community with sizable cactus, ranging from Ventura County south into San Diego County, California, and northwestern Baja California, Mexico.

The coastal cactus wren, a habitat specialist of southern cactus scrub, builds its nests almost exclusively in mature stands of coastal cholla (*Cylindropuntia prolifera*) and prickly pear cactus (*Opuntia littoralis* and *O. oricola*) that are tall enough to support and protect their nests. These well-protected nests serve as roosts for adults and juveniles throughout the year.

The decline of coastal cactus wren populations rangewide is indicative of the significant loss of the coastal sage scrub plant communities that contained cactus (Solek and Szijj 2004). Populations of coastal cactus wrens have declined dramatically over the past couple decades, with extirpation from many locations as a result of habitat loss from development and agricultural conversion, habitat fragmentation, edge effects of development, and catastrophic fires (O'Leary 1995; Solek and Szijj 2004); major declines for the species have occurred as a result in Orange and San Diego counties (Rea and Weaver 1990). Some populations in Los Angeles County are declining or may be extirpated, and Ventura County populations have been severely reduced by development. Geographic isolation of coastal and interior populations has also been considerably increased by urbanization, and this may be facilitating genetic differentiation between these segments of the population (Rea and Weaver 1990; Eggert 1996). Based on information from historical and more recent accounts, the species has been extirpated from many locations where it previously bred (Dawson 1923; Willet 1933; Grinnel and Miller 1944; Rea and Weaver 1990; Eggert 1996).

Extensive urban development in coastal southern California has led to habitat loss and fragmentation resulting in small, isolated coastal cactus wren populations. Population viability analyses suggest that the small size of the remaining coastal cactus wren subpopulations coupled with habitat fragmentation likely constrains the long-term viability of species (Ogden Environmental and Energy Services 1992). Dispersal between remaining populations is likely constrained by development and/or distance, increasing the potential for local extinction and limiting recolonization. Remnant patches of cactus scrub are also subject to edge effects that likely impact coastal cactus wren reproduction and survival and affect population dynamics (Preston and Kamada 2012). Exotic plant species often invade habitat fragments and can alter the structure and composition of native cactus scrub, potentially affecting wren foraging and breeding (Preston and Kamada 2012). Mortality and nest predation may also be high within habitat fragments because of changes to the predator community associated with urban development and human activities, which subsidize mesopredators in particular (Preston and Kamada 2012).

Most dispersing cactus wrens are known to move less than 1 kilometer, with some individuals moving up to 10-11 km (Barr *et al.* 2012; Preston and Kamada 2012; Kamada and Preston 2013). Genetic analysis shows that individuals in the Otay coastal cactus wren population tend to move less than 5 km (Barr *et al.* 2012).

**Threats and Conservation Needs:** Coastal cactus wren occurrences face many threats in southern California. A primary threat is altered fire regime that causes direct mortality of birds and often temporarily destroys cactus scrub, which can take many years to recover (Bontrager *et al.* 1995; Mitrovich and Hamilton 2007; Hamilton 2008; Leatherman BioConsulting 2009). Other threats include invasive plant species reducing open habitat for foraging, declines in productivity during drought, and predation by domestic cats, roadrunners, snakes, loggerhead shrikes, corvids, and Cooper's hawks (Preston and Kamada 2012; Kamada and Preston 2013; The Nature Conservancy 2015). Recent declines of coastal cactus wrens in areas of Orange and San Diego counties that have not recently burned have been attributed to reduced annual productivity and survivorship and increased population isolation resulting from urban development and new road construction, impacts of edge effects from development, low productivity corresponding with food limitation during multiple years of below average rainfall, high predation rates, and mortality from West Nile Virus. (Preston and Kamada 2012; The Nature Conservancy 2015).

Small, isolated populations are vulnerable to local extinction, likely due to insufficient habitat and limited ability of coastal cactus wrens to disperse through habitat fragmented by urbanization (Barr *et al.* 2015). Small populations affected by habitat degradation from urban edge effects are often subject to low productivity (# fledglings/pair/year) related to limited food resources and nest predation, high juvenile mortality with low levels of recruitment into the breeding population, and potentially higher levels of predation on fledglings and adults (Preston and Kamada 2012; The Nature Conservancy 2015). These factors may combine, and be exacerbated by regional variables such as drought, such that sustaining small populations is less likely. In one monitoring study, sites with fewer than four coastal cactus wren territories were highly variable in occupancy between 1999 and 2004, whereas sites with more birds tended to remain occupied over time (Hamilton 2004). During the extreme 2007 drought, birds disappeared from some sites with small numbers of pairs, and most of these sites have not been re-colonized (The Nature Conservancy 2015).

**Fire:** While urbanization is the primary driver of habitat loss and fragmentation in coastal southern California, wildfires can also temporarily eliminate cacti and cactus wren habitat (Bontrager *et al.* 1995; Preston and Kamada 2012). Coastal sage scrub habitat and many obligate species can recover rapidly and indeed benefit from wildfire (Westman 1981); however, burned areas may remain unsuitable for cactus wrens for years. Over the past two decades, unusually large and intense wildfires caused significant loss or degradation of coastal sage scrub habitat in coastal southern California, including large expanses of cactus scrub; this has reduced the abundance of cactus wrens and adversely affected cactus wren populations across the region (Mitrovich and Hamilton 2006; Hamilton 2008; Preston and Kamada 2012). One of the very large recent fires in San Diego County included the Fanita Ranch project area in 2003. Wildfires are prevalent in the project area and represent a primary threat to cactus wren populations (Barr *et al.* 2015).



Wildfires are natural disturbances for coastal sage scrub, but their frequency, size, and intensity have been increased over the last several decades as a result of urbanization and human activities (Syphard *et al.* 2007). Recent wildfires have become a major threat to cactus wrens in coastal southern California, and fires can be particularly harmful when combined with artificially small and isolated populations (Barr *et al.* 2015). An altered wildfire regime coupled with other effects of urbanization are likely acting in concert to amplify loss of genetic diversity and connectivity for coastal cactus wrens in some sites (Barr *et al.* 2015). Major losses in cactus wren territories have been documented after recent fires, including central and coastal Orange County (Mitrovich and Hamilton 2006; Leatherman BioConsulting 2009), San Pasqual (Hamilton 2008), and Palos Verdes (Cooper 2010).

The slow recovery of the coastal cactus wrens in many southern California reserves and undeveloped areas post-fire has been attributed to the habitat specialization of the species. The southern cactus scrub plant community is susceptible to high intensity fires; with the slow growth rates of cactus and the coastal cactus wren's need for mature cactus structure, recovery times for this habitat following a wildfire are sometimes on the order of decades. Following a wildfire, it often takes many years for cactus to grow back to a size sufficient to again support breeding cactus wrens (Proudfoot *et al.* 2000; Solek and Szijj 2004).

**Fragmentation and Edge Effects:** Coastal cactus wrens are known as an interior species, and edge effects typically have negative impacts on the population dynamics of interior species (Kristan *et al.* 2003). Kristan *et al.* (2003) found considerable reductions in coastal cactus wren abundance within 10 m and at 250 m from development-wildland edges as compared to sites more than 1000 m from edges, at locations in Orange, Riverside, and San Diego counties. This species is poorly adapted to cope with edge-related conditions, such as increased predation and vegetation degradation, that they rarely encounter in their common interior habitats (Temple and Cary 1988; Vaughan 2010), but cactus wrens do not appear to be subject to reductions in habitat use through edge aversion (Kristan *et al.* 2003). Given their limited dispersal capabilities (Preston & Kamada 2012; Kamada & Preston 2013) and their tendency to be one of the first species to become locally extinct in recently isolated habitat patches (Crooks *et al.* 2001), cactus wrens appear to be highly sensitive to habitat fragmentation and edge effects.

**Proposed Project:** Surveys were conducted on the project site for the coastal cactus wrens in 1992, 1997, 1998, and 2002. The species was detected on the site in all of those years in the center and southern center portions of the project site (Service GIS database).

Based on the vegetation, habitat, and footprint maps provided to us by HomeFed, and after applying a 150-m edge effect zone around the proposed development footprint, the currently proposed Fanita Ranch footprint would directly, or indirectly through edge effects, impact much of the coastal cactus wren habitat within the project site. It would also fragment almost all remaining (and passively restoring) cactus scrub habitat patches within the site. Based on survey point data collected from the site available in our database, about 72 percent of occurrences fall within the proposed direct project footprint, 9 percent occur within the 150-m edge effect zone, and 18 percent occur outside either of these areas. The combined direct effects, edge effects, and habitat fragmentation of the project as currently proposed would considerably reduce the

viability of the coastal cactus wren population in the project region and likely greatly limit the species ability to repopulate locally following a large fire.

As is the case for Quino checkerspot and Hermes copper butterflies, the coastal cactus wren displays a metapopulation structure, and it similarly requires conservation of both occupied and temporarily unoccupied patches of habitat for population resilience and viability. Maintaining unfragmented suitable habitat areas contiguous with occupied habitat for recolonization is essential for the long-term survival of the species. Conserving a coastal cactus wren population that includes the Fanita Ranch site is essential for this species due to its rangewide poor status.

**Conclusion:** After our review of the current status of the species, current and future threats, and the proposed project footprint, we conclude that the Fanita Ranch project as proposed would not fully minimize and mitigate its impacts on coastal cactus wren, would result in a net loss of function of its habitat, and would have a high potential to preclude the long-term survival of the species. As such, absent modifications to the project design, we recommend that the coastal cactus wren be deleted from the proposed covered species list for the overall Subarea Plan.

### **Western Spadefoot Toad:**

**Status:** The Service was petitioned to list the western spadefoot toad (spadefoot) in 2012. In 2015 the Service determined the spadefoot petition contained substantial information and initiated in-depth reviews of the species. The spadefoot is a California Species of Special Concern and California Protected Species (California Protected are taxa that fall under special protection within the California Fish & Game Code; §5050 for reptiles and amphibians). The spadefoot is nearly endemic to California, and historically ranged from the vicinity of Redding in Shasta County southward to Mesa de San Carlos in northwestern Baja California, Mexico (Stebbins 1985).

The western spadefoot toad currently occurs east of the coastal ranges southward from Ventura County, California, to northern Baja California, Mexico, south and west of the Transverse and Peninsular ranges. The species also occurs along the valley floors and foothills of the Central Valley and the coastal valleys of western Santa Barbara, eastern San Luis Obispo and Monterey, and western San Benito counties of California (U.S. Fish and Wildlife Service 2005). The spadefoot has been extirpated throughout most of the lowlands of southern California (Stebbins 1985). Estimates of loss of historical habitat range from 30 percent in northern California to 80 percent in southern California (Jennings and Hayes 1994). Throughout most of the year the spadefoot is found in areas of open vegetation and short grasses (typically coastal sage scrub, chaparral, and grasslands) where the soil is sandy or gravelly. It breeds during the winter (January through May) in ephemeral ponds and vernal pools, formed by heavy winter rains that are devoid of bullfrogs (*Rana catesbeiana*), fish, and crayfish (*Pacifastacus leniusculus* and/or *Procambarus clarkii*) (SDGE & SCG 2015). During the dry season of the year, spadefoots live beneath the soil surface in burrows in upland habitats relatively near to breeding pools (AMEC 2003).

**Threats and Conservation Needs:** Spadefoot toads are threatened by habitat loss (urbanization, road construction, etc.), off-road vehicular traffic, drying of pools for agricultural uses, modified

hydro-period of temporary pools associated with irrigation, illegal dumping, livestock grazing and other direct or edge effects that degrade or eliminate habitat function. Road construction/use often results in direct mortality of spadefoots (e.g., driving through breeding pools) and can cause direct loss and fragmentation of habitat. Non-native aquatic animals, such as mosquito fish and bullfrogs, have been implicated in the decline of the spadefoot, either through competition or predation in some breeding habitats (Jennings and Hayes 1994). Mosquito control measures (e.g., introduced mosquito fish in detention basins) in occupied spadefoot habitat can harm spadefoots (Jennings and Hayes 1994; Fisher and Shaffer 1996; AMEC 2003).

Activities that produce low frequency noise and vibration, such as grading for development and seismic exploration, in or near habitat for spadefoots, may be detrimental to the species. Dimmitt and Ruibal (1980) determined that spadefoots were extremely sensitive to such stimuli and would break dormancy and emerge from their burrows at inappropriate times in response to these disturbances. Spadefoots often breed in road ruts and other depressions with pooled water along dirt roads, and vehicles traversing through occupied pools likely results in the loss of spadefoots.

Spadefoots require two distinct habitat components in order to meet their life history requirements, and these habitats likely need to be unconstrained, intact, and in close proximity for long-term viability. Spadefoots are primarily terrestrial, and require upland habitats for feeding and for constructing/utilizing burrows for their long dry-season dormancy. However, little is known regarding the distance that spadefoots typically range from aquatic (breeding) resources for dispersal, foraging, and estivation. Current research on amphibian conservation suggests that average habitat utilization falls within 370 m of aquatic habitats (Semlitsch and Brodie 2003). Typical of amphibians, wetland habitats are required for reproduction. Spadefoot eggs and larvae have been observed in a variety of permanent and temporary wetlands including rivers, creeks, pools in intermittent streams, vernal pools, and temporary rain pools (California Natural Diversity Database 2000), indicating a degree of ecological plasticity. However, it appears that vernal pools and other temporary wetlands may be optimal for successful breeding due to the absence or reduced abundance of both native and non-native predators, many of which require more permanent water sources. Fisher and Shaffer (1996) reported an inverse relationship between the presence of western spadefoot toads and that of nonnative predators.

It is likely that functional connectivity corridors or linkages between populations are essential for the conservation of spadefoot metapopulations (Service 2004). In any given spadefoot metapopulation, it is expected that some subpopulations will disappear, but the habitat they occupied will eventually be recolonized if it remains acceptable (Service 2004). To enable natural recolonization of unoccupied habitat, and to allow for gene flow that is vital for preventing inbreeding, effective opportunities for dispersal and interbreeding among subpopulations of the spadefoot need to be maintained (Service 2004).

**Roads:** Roads represent a threat to the spadefoot (Service 2005). Road construction can result in direct mortality of the western spadefoot toad, and can cause direct loss and fragmentation of habitat (Service 2005). Mortality of western spadefoot toads from motor vehicle strikes has been observed by multiple researchers (Morey and Guinn 1992; Jennings 1998; California Natural Diversity Database 2000). For instance, Jennings (1998) reported road mortality at all seven sites that he surveyed in Kings and Alameda counties. Roads can be a barrier to spadefoot movements

and effectively isolate populations (Service 2005). Roads are significant barriers to gene flow among common frogs (*Rana temporaria*) in Germany, which has resulted in genetic differentiation among populations separated by roads (Reh and Seitz 1990). Similarly, Kuhn (1987, *in* Reh and Seitz 1990) determined that approximately 24 to 40 cars per hour on a given road resulted in mortality of 50 percent of common toads (*Bufo bufo*) attempting to migrate across the road. In another study, Heine (1987, *in* Reh and Seitz 1990) identified that 26 cars per hour resulted in 100 percent mortality of common toads attempting to cross a road.

**Fragmentation and Edge Effects:** Fragmentation of spadefoot habitats through habitat loss typically produces small populations that are increasingly isolated and limited in space, which reduces the movement of individuals and genetic exchange between populations (Butte County Association of Governments 2011). Small, isolated populations are highly susceptible to extinction caused by catastrophic or stochastic events. Isolation also limits the ability of the population to recolonize areas with suitable habitat where western spadefoot toads may have been present in the past (Butte County Association of Governments 2011).

**Climate Change:** Amphibians' permeable skin, biphasic life cycles, and unshelled eggs make them sensitive to small changes in temperature and moisture (Carey and Alexander 2003). In most cases, amphibians in temperate climates can tolerate wide variations in temperature, but their dependence on aquatic environments for reproductive success could be compromised by changes in seasonal and regional climatic patterns. Decreases in precipitation or shifts in timing of precipitation would have an effect on reproductive success and adult survivorship due to increased risk of desiccation, reduced food supply, and increased predation due to reduced habitat availability. Such changes could lead to shifts/changes or net reductions in range, distribution, and/or abundance.

**Proposed Project:** The spadefoot was detected on the proposed Fanita Ranch in the surveys conducted for this species in 2004 and 2005, primarily in the area of northern portion of the project site. The currently proposed Fanita Ranch footprint would directly or indirectly impact most of the remaining habitat within the site. Based on spadefoot survey point data for the site, about 29 percent of occurrences occur within the proposed direct project footprint, 39 percent occur within the 150-m edge effect zone, and 32 percent occur outside either of these areas. The edge effects due to the proposed development, and habitat fragmentation would reduce the viability of the spadefoot on the Fanita Ranch project site.

**Conclusion:** Within the MSCP, the spadefoot has not received coverage under any of the subarea plans. After our review of the current status of the species, current and future threats, and likely effects of the proposed project footprint, we conclude that the Fanita Ranch project as proposed would not fully minimize and mitigate its impacts on spadefoot and would result in a net loss of function of its habitat. As such, absent modifications to the project design, we recommend that the spadefoot be deleted from the proposed covered species list for the overall Subarea Plan.

### **San Diego Goldenstar:**

**Status:** San Diego goldenstar is a native geophytic (emerges from an underground storage structure, e.g. bulb, corm, tuber, etc.) perennial herb that is restricted to southern San Diego County and northern Baja California, Mexico. It is a Federal Species of Concern. San Diego goldenstar is currently a covered species in the Subregional Multiple Species Conservation Program (MSCP), and is covered by a series of regional subarea plans, including the City of San Diego, City of Poway, and the County of San Diego. The City of Santee is currently proposing to cover San Diego goldenstar as a Rare and Narrow Endemic species under its proposed Subarea Plan.

The California Natural Diversity Database (CNDDDB) currently estimates that there are 101 populations presumed extant, five which are possibly extirpated, and nine which are presumed extinct within the species' range (CNPS, 2010-14). The San Diego Management and Monitoring Program (SDMMP) notes that there are 33 populations on conserved lands in Management Units 3, 4, and 6 (SDMMP 2010). Current SDMMP data shows that on conserved lands within the MSCP there are nine large occurrences (> 10,000 individuals), 13 small occurrences (<10,000 individuals) including Rattlesnake Mountain in Santee, and two populations of unknown size (SDMMP, unpublished data 2016).

The MSCP originally rationalized coverage for San Diego goldenstar based on conservation of eight of 11 populations with >500 individuals within the MSCP, conservation of 125 of the 144 known occurrences (86 percent conservation), and conservation of 38 percent of its grassland habitat. It was strongly considered for categorization as a narrow endemic species in the MSCP subregional plan, which would have necessitated higher level of conservation for individual projects as they came forward. Undeveloped lands in the City of Santee support a major population of the species, as documented in the conservation analysis performed in 1995 and 1996 and surveys on the Fanita Ranch site. Current data show that there are more populations than originally identified in the MSCP, with nine conserved populations exceeding 10,000 individuals.

**Threats and Conservation Needs:** The primary threats identified relative to this species are habitat loss from various urban development and landfill expansion projects expected in southwestern San Diego County. Additional threats to this species include impacts from habitat degradation, exotic plant competition, trampling, vehicular traffic, road construction, illegal dumping, edge effects, and bulb collecting (SDCWA 2010). Drought, fire regime changes, and herbivory burrowing mammals such as pocket gophers (*Thomomys* sp.) also likely exacerbate the noted anthropogenic impacts.

**Edge Effects:** Similar to the threats mentioned above, competition from annual plants is likely increased adjacent to development edges. Increased runoff and irrigation from development can also promote competition from invasive exotic plants, which is a major threat to goldenstar populations through displacement and competition (Cione *et al.* 2002; Cox *et al.* 2008; Hillerislammers *et al.* 2010). Non-native species of particular concern are annual grasses such as wild oats (*Avena* sp.) and herbaceous weeds including storksbill (*Erodium* sp.), as they are very widespread. Trampling due to public use is also a threat near developed areas.

**Nitrogen deposition:** As noted elsewhere herein, N deposition is implicated in the increased exotic grass invasions occurring in the vegetation communities where San Diego goldenstar occurs. N deposition and the resultant exotic grass competition for light and water poses a significant threat to San Diego goldenstar.

**Climate Change:** As noted elsewhere herein, climate change, as modeled for the region, is predicted to result in an increase in both fire frequency and intensity in the project area. Increases in fire frequency are associated with invasion of exotic plants into coastal sage scrub, chaparral, and native grasslands in the project region (Zedler *et al.* 1983; Hamilton 1997; D'Antonio *et al.* 1999; Keeley *et al.* 2005; Baker 2006; Talluto and Suding 2008; Keeley and Brennan 2012), and the resultant exotic grass competition for resources poses a significant threat to San Diego goldenstar.

**Proposed Project:** Fanita Ranch is the largest remaining block of habitat for the species within the Santee subarea. San Diego goldenstar has been consistently observed on the property during surveys performed from 2002-2016. The most recent surveys mapped areas of San Diego goldenstar as polygons of occupied habitat as well as other smaller occurrences as individual points. Over 1,000 individuals were counted in the course of the surveys. Based on mapped goldenstar occurrence data/habitat polygons for the Fanita Ranch site, about 40 percent of goldenstar habitat occurs within the proposed direct project footprint, 12 percent occurs within the 150-m edge effect zone, and 48 percent occurs outside either of these areas.

The City reportedly plans to identify San Diego goldenstar as a narrow endemic species in their forthcoming Subarea Plan. As such, this designation would require a minimum of 80 percent conservation (avoidance) of newly discovered populations per the requirements of the MSCP. This would theoretically help conserve goldenstar across the Santee Subarea. However, because very few large undeveloped parcels other than Fanita Ranch remain for development in the City, it is unlikely that additional major populations are likely to be discovered in the Santee Subarea.

**Conclusion:** The Fanita Ranch project, as proposed, would apparently not be consistent with the Narrow Endemic policy standard, which typically requires conservation (avoidance) of a minimum of 80 percent of a population. After our review of the current status of the species, current and future threats, and likely effects of the proposed project footprint, we conclude that the Fanita Ranch project as proposed would not fully minimize and mitigate its impacts on San Diego goldenstar and would result in a net loss of function of its habitat. As such, absent modifications to the project design, we recommend that the San Diego goldenstar be deleted from the proposed covered species list for the overall Subarea Plan.

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**EXHIBIT B**



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**Subject: Comments on the Fanita Ranch Project (SCH No. 2005061118)**

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Dear Ms. Prabhala,

We have reviewed the May 2020 Revised Draft Environmental Impact Report (“RDEIR”) for the Fanita Ranch Project (“Project”) located in the City of Santee (“City”). The Project proposes to construct either (1) the land use plan with school, which includes 2,949 housing units, 80,000-SF of commercial uses, and a 15-acre school for up to 700 students; or (2) the land use plan without school, which includes 3,008 housing units and 80-SF of commercial land uses. The Project also includes 78-acres of parks, 256-acres of open space, and 31.09-acres of special use on the 2,638-acre Project site.

Our review concludes that the REDIR fails to adequately evaluate the Project’s greenhouse gas and health risk impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An updated EIR should be prepared to adequately assess and mitigate the potential greenhouse gas and health risk impacts that the project may have on the surrounding environment.

## Greenhouse Gas

### Failure to Adequately Evaluate Greenhouse Gas Impacts

The RDEIR concludes that the Project would generate greenhouse gas (“GHG”) per service population efficiency values of approximately 1.5 metric tons of carbon dioxide equivalents per service population per year (“MT CO<sub>2</sub>e/SP/year”) for the land use plan with school and approximately 1.61 MT CO<sub>2</sub>e/SP/year

for the land use plan without school (p. 4.7-26, 4.7-27). As a result, the RDEIR concludes that the Project's GHG emissions would not exceed the per capita GHG significance threshold of 1.77 MT CO<sub>2</sub>e/SP/year, and the Project's GHG impact would be less than significant (p. 4.7-26, 4.7-27). Furthermore, the RDEIR concludes that the Project would result in a less than significant GHG impact as a result of the Project's consistency with the Sustainable Santee Plan (p. 4.7-31). However, the RDEIR's GHG analysis should not be relied upon for three reasons.

- (1) The DEIR's quantitative GHG analysis relies upon an incorrect and unsubstantiated air model;
- (2) The DEIR fails to demonstrate the Project's consistency with the Sustainable Santee Plan; and
- (3) Updated analysis demonstrates significant impacts.

### *1) Unsubstantiated Input Parameters Use to Estimate Project Emissions*

According to the RDEIR, the Project's GHG analysis relies on emissions calculated from the California Emissions Estimator Model Version CalEEMod.2016.3.2 ("CalEEMod") (p. 4.7-14).<sup>1</sup> CalEEMod provides recommended default values based on site specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but CEQA requires that such changes be justified by substantial evidence.<sup>2</sup> Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters were utilized in calculating the Project's air pollutant and GHG emissions and make known which default values were changed as well as provide a justification for the values selected.<sup>3</sup>

When we reviewed the Project's CalEEMod output files, provided as Appendix H to the RDEIR, we found that several of the values inputted into the model are not consistent with information disclosed in the RDEIR and associated documents. As a result, emissions associated with the Project are underestimated. An updated EIR should be prepared that adequately assesses the potential impacts that construction and operation of the proposed Project may have on regional and local air quality.

### *Unsubstantiated Reductions to CH<sub>4</sub>, N<sub>2</sub>O, and CO<sub>2</sub> Intensity Factors*

The Project's CalEEMod output files demonstrate that both the mitigated and unmitigated models for both plans incorrectly include several changes to the Project's CH<sub>4</sub>, N<sub>2</sub>O, and CO<sub>2</sub> intensity factors. As a result, the models may underestimate the Project's emissions and should not be relied upon to determine Project significance.

Review of the Project's CalEEMod output files demonstrates that both the unmitigated land use plan with school and land use plan without school models include manual changes to the Project's CH<sub>4</sub>, N<sub>2</sub>O, and CO<sub>2</sub> intensity factors (see excerpt below) (Appendix H, pp. 408, 435).

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<sup>1</sup> CalEEMod website, available at: <http://www.caleemod.com/>

<sup>2</sup> CalEEMod User Guide, p. 2, 9, available at: <http://www.caleemod.com/>

<sup>3</sup> "CalEEMod User's Guide." CAPCOA, November 2017, available at: <http://www.caleemod.com/> (A key feature of the CalEEMod program is the "remarks" feature, where the user explains why a default setting was replaced by a "user defined" value. These remarks are included in the report.), p. 7, 13.

*Unmitigated Land Use Plan with School and Land Use Plan without School:*

Table Name	Column Name	Default Value	New Value
tblProjectCharacteristics	CH4IntensityFactor	0.029	0.001
tblProjectCharacteristics	CO2IntensityFactor	720.49	288.2
tblProjectCharacteristics	N2OIntensityFactor	0.006	0

As you can see in the excerpt above, the CH<sub>4</sub>, CO<sub>2</sub>, and N<sub>2</sub>O intensity factors were reduced by approximately 97%, 60%, and 100%, respectively. Furthermore, review of the Project’s CalEEMod output files demonstrates that both the mitigated land use plan with school and land use plan without school models include manual changes to the Project’s CH<sub>4</sub>, N<sub>2</sub>O, and CO<sub>2</sub> intensity factors (see excerpts below) (Appendix H, pp. 463, 491)

*Mitigated Land Use Plan with School and Land Use Plan without School:*

Table Name	Column Name	Default Value	New Value
tblProjectCharacteristics	CH4IntensityFactor	0.029	0.004
tblProjectCharacteristics	CO2IntensityFactor	720.49	29.602
tblProjectCharacteristics	N2OIntensityFactor	0.006	0.001

As you can see in the excerpt above, the CH<sub>4</sub>, CO<sub>2</sub>, and N<sub>2</sub>O intensity factors were reduced by approximately 86%, 96%, and 83%, respectively. As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>4</sup> According to the User Entered Comments and Non-Default Data table, the justifications provided for this changes are: “60% renewable” and “Santee CCA in combination with SDG&E for year 2035 (SDG&E Renewable Portfolie = 60%)”<sup>5</sup> (Appendix H, pp. 404, 431, 458, 487). However, these justifications are insufficient for two reasons. First, as demonstrated above, the CH<sub>4</sub>, CO<sub>2</sub>, and N<sub>2</sub>O intensity factors were reduced by far more than 60%. Second, assuming the justification is referring to the state’s renewable portfolio standard (“RPS”), just because the state *has* a 60% renewable goal does not guarantee that it will be achieved. Furthermore, without a substantial justification, the proposed Project cannot claim that the statewide RPS goal will result in a project-level reduction of the Project’s actual emissions. Finally, the RDEIR acknowledges that this goal is for 2035, which is 15 years away. As a result, we cannot verify the model’s use of the reduced CH<sub>4</sub>, CO<sub>2</sub>, and N<sub>2</sub>O intensity factors.

This presents an issue, as the CH<sub>4</sub>, CO<sub>2</sub>, and N<sub>2</sub>O intensity factors are used by CalEEMod to calculate the Project’s GHG emissions associated with electricity use.<sup>6</sup> As such, by including unsubstantiated changes to the Project’s CH<sub>4</sub>, CO<sub>2</sub>, and N<sub>2</sub>O intensity factors, the model underestimates the Project’s GHG emission and should not be relied upon to determine Project significance.

<sup>4</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

<sup>5</sup> \*Note: The rest of the justification was not legible.

<sup>6</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9



## Failure to Model All Proposed Land Uses

According to the RDEIR, the Project includes 20,000-SF of “Agricultural Overlay” space (p. 3-22, Table 3-3). However, review of the CalEEMod output files for the land use plan with school demonstrates that this land use was not included (see excerpt below) (Appendix H, pp. 404, 458).

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Elementary School	1,000.00	Student	15.00	83,603.37	0
General Light Industry	1,389.56	1000sqft	31.90	1,389,564.00	0
City Park	78.60	Acre	78.60	3,423,816.00	0
Apartments Low Rise	866.00	Dwelling Unit	67.00	866,000.00	2477
Apartments Low Rise	435.00	Dwelling Unit	35.00	435,000.00	1244
Retirement Community	445.00	Dwelling Unit	30.90	445,000.00	1273
Single Family Housing	1,203.00	Dwelling Unit	241.30	2,169,400.00	3441
Regional Shopping Center	60.00	1000sqft	1.50	60,000.00	0

As you can see in the excerpt above, the 20,000-SF of “Agricultural Overlay” space was not included in the CalEEMod model for the land use plan with school. Furthermore, review of the CalEEMod output files for the land use plan without school demonstrates that this land use was not included (see excerpt below) (Appendix H, pp. 431, 487).

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Light Industry	1,389.56	1000sqft	31.90	1,389,564.00	0
City Park	78.60	Acre	78.60	3,423,816.00	0
Apartments Low Rise	866.00	Dwelling Unit	67.00	866,000.00	2477
Apartments Low Rise	435.00	Dwelling Unit	35.00	435,000.00	1244
Retirement Community	445.00	Dwelling Unit	30.90	445,000.00	1273
Single Family Housing	1,262.00	Dwelling Unit	256.30	2,271,600.00	3609
Regional Shopping Center	60.00	1000sqft	1.50	60,000.00	0

As you can see in the excerpt above, the 20,000-SF of “Agricultural Overlay” space was not included in both CalEEMod models for the land use plan with and without school. This presents an issue, as the land use type and size features are used throughout CalEEMod to determine default variable and emission factors that go into the model’s calculations.<sup>7</sup> For example, the square footage of a land use is used for certain calculations such as determining the wall space to be painted (i.e., VOC emissions from architectural coatings) and volume that is heated or cooled (i.e., energy impacts). Furthermore, CalEEMod assigns each land use type with its own set of energy usage emission factors.<sup>8</sup> Thus, by failing to include the proposed “Agricultural Overlay” space, the model underestimates the Project’s construction and operational emissions and should not be relied upon to determine Project significance.

<sup>7</sup> “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/upgrades/2016.3/01\\_user-39-s-guide2016-3-1.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/caleemod/upgrades/2016.3/01_user-39-s-guide2016-3-1.pdf?sfvrsn=2), p. 17

<sup>8</sup> “CalEEMod User’s Guide, Appendix D.” CAPCOA, September 2016, available at: [http://www.aqmd.gov/docs/default-source/caleemod/upgrades/2016.3/05\\_appendix-d2016-3-1.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/caleemod/upgrades/2016.3/05_appendix-d2016-3-1.pdf?sfvrsn=2)



### Failure to Evaluate the Feasibility of Obtaining Tier 4 Final Equipment

Review of the Project’s CalEEMod output files demonstrates that the Project’s emissions were modeled assuming that construction equipment would be equipped with Tier 4 Final engines (see excerpt below) (Appendix H, pp. 61-62, 143-144, 220-221, 315-316).

Table Name	Column Name	Default Value	New Value
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	2.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	44.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	33.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	10.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	126.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	2.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	2.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	3.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	14.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	21.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	3.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	32.00
tblConstEquipMitigation	NumberOfEquipmentMitigated	0.00	25.00
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final

As you can see in the excerpt above, the model assumed that 317 pieces of off-road construction equipment would be equipped with Tier 4 Final mitigation. As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>9</sup> According to the RDEIR, MM AIR-3 requires the use of Tier 4 construction equipment (p. 1-9 1-10). Specifically, MM AIR-3 states:

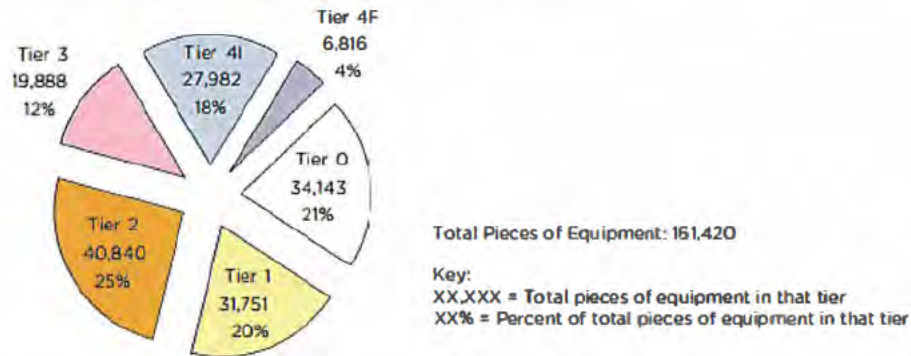
“AIR-3: Tier 4 Construction Equipment. The City of Santee shall require heavy-duty, diesel-powered construction equipment used on the project site during construction to be powered by California Air Resources Board-certified Tier 4 (Final) or newer engines and diesel-powered haul trucks to be 2010 model year or newer that conform to 2010 U.S. Environmental Protection

<sup>9</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

Agency truck standards. This requirement shall be included in the construction contractor’s contract specifications and the project construction documents, including the grading plan, which shall be reviewed and approved by the City of Santee prior to issuance of a grading permit. This mitigation measure applies to all construction phases” (p. I-9 I-10).

However, due to the limited amount of Tier 4 Final equipment available, the RDEIR should have assessed the feasibility in obtaining equipment with Tier 4 Final engines (see excerpt below).<sup>10</sup>

Figure 4: 2014 Statewide All Fleet Sizes (Pieces of Equipment)



As demonstrated in the figure above, the Tier 4 Final equipment only accounts for 4% of all off-road equipment currently available in California. Thus, emissions are modeled assuming that the Project will be able to obtain 317 pieces of Tier 4 Final equipment even though this equipment only accounts for 4% of available off-road equipment currently available in California. As a result, the model represents the best-case scenario even though obtaining this type of equipment may not be feasible. This is incorrect, as CEQA requires the most conservative analysis. Thus, by failing to evaluate the feasibility in obtaining Tier 4 Final equipment, the RDEIR may underestimate the Project’s construction-related emissions and should not be relied upon.

#### Unsubstantiated Reductions to Acres of Grading

Review of the CalEEMod output files demonstrates that both models for Construction Phase 1-2 and for Construction Phase 3-4 include unsubstantiated reductions to the Project’s anticipated Acres of Grading (see excerpts below) (Appendix H, pp. 65-66, 147-148, 224-225, 319-320).

#### Fanita Ranch Construction Phase 1-2:

<sup>10</sup> “San Francisco Clean Construction Ordinance Implementation Guide for San Francisco Public Projects.” August 2015, available at: [https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San\\_Francisco\\_Clean\\_Construction\\_Ordinance\\_2015.pdf](https://www.sfdph.org/dph/files/EHSdocs/AirQuality/San_Francisco_Clean_Construction_Ordinance_2015.pdf), p. 6.



Table Name	Column Name	Default Value	New Value
tblGrading	AcresOfGrading	1,671.00	208.50
tblGrading	AcresOfGrading	1,091.25	253.00
tblGrading	AcresOfGrading	3,102.00	240.00
tblGrading	AcresOfGrading	0.00	253.00
tblGrading	AcresOfGrading	0.00	208.50
tblGrading	AcresOfGrading	0.00	240.00

*Fanita Ranch Construction Phase 3-4:*

Table Name	Column Name	Default Value	New Value
tblGrading	AcresOfGrading	1,671.00	208.50
tblGrading	AcresOfGrading	1,671.00	208.50
tblGrading	AcresOfGrading	0.00	208.50
tblGrading	AcresOfGrading	0.00	208.50

As you can see in the excerpts above, both models for Construction Phases 1-2 and 3-4 included reductions to the Project’s Acres of Grading. As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>11</sup> According to the “User Entered Comments & Non-Default Data” table, the justification provided for these changes is: “grading acreage provided by developer” (Appendix H, pp. 61, 143, 220, 315). However, this change is unaddressed in the Grading Plan (p. 3-78). Furthermore, the Acres of Grading is not just the Project site acreage, but the “cumulative distance traversed on the property by the grading equipment, assuming a blade width of 12 feet.”<sup>12</sup> As a result, we cannot verify the revised Acres of Grading values, and the model may underestimate the Project’s construction-related emissions.

**Unsubstantiated Changes to Off-Road Construction Equipment Horsepower and Usage Hours**

Review of the CalEEMod output files demonstrates that both models for Construction Phase 1-2 and Construction Phase 3-4 include manual changes to the Project’s anticipated off-road construction equipment usage hours and horsepower values (Appendix H, pp. 66-74, 148-156, 225-233, 320-328). As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>13</sup> According to the “User Entered Comments & Non-Default Data” table, the justification provided for these changes is: “construction equipment list provided by developer” (Appendix H, pp. 65, 143, 220, 315). However, while the Air Quality Analysis, provided as Appendix C1 to the RDEIR, provides a construction equipment list, many of the usage hours and horsepower values are provided in ranges (see excerpt below) (Appendix C1, p. 18-20, Table E).

<sup>11</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

<sup>12</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 33

<sup>13</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9



**Table E: Diesel Construction Equipment Utilized by Construction Phase**

Phase No.	Phase Name	Off-Road Equipment Type	Off-Road Equipment Unit Amount	Hours Used per Day	Horsepower	Load Factor
1	Site Preparation	Rubber-Tired Dozers	1	5.1	436	0.4
		Rubber-Tired Loaders	1	5.1	249	0.36
1	Grading	Excavators	1	0.2	760	0.38
		Graders	2	0.2-2.3	275	0.41
		Off-Highway Trucks	8	0.2-8.0	300-1025	0.38
		Plate Compactors	1	2.3	554	0.43
		Rubber-Tired Dozers	6	0.2-2.3	354-600	0.4
		Scrapers	10	2.3	600	0.48
		Tractors/Loaders/Backhoes	1	0.6	249	0.37
		Excavators	15	0.2-3.0	85-417	0.38

As you can see in the excerpt above, many of the usage hours and horsepower values are provided in ranges. As such, and in order to conduct the most conservative analysis, the RDEIR’s modeling should have included the greatest usage hours and horsepower values provided in the Air Quality Analysis. However, review of the Project’s CalEEMod output files demonstrates that this is not the case. Until an updated EIR is prepared to provide a revised equipment list specifying the usage hours and horsepower for each piece of equipment, the models may underestimate the Project’s construction-related emission and should not be relied upon to determine Project significance.

**Unsubstantiated Changes to Vendor and Worker Trips**

Review of the CalEEMod output files demonstrates that the models for both Construction Phase 1-2 and Construction Phase 3-4 include manual changes to the Project’s anticipated vendor and worker trip numbers (see excerpts below) (Appendix H, pp. 75, 157, 234, 329).

*Fanita Ranch Construction Phase 1 2:*

Table Name	Column Name	Default Value	New Value
tblTripsAndVMT	VendorTripNumber	858.00	165.00
tblTripsAndVMT	VendorTripNumber	858.00	312.00
tblTripsAndVMT	WorkerTripNumber	15.00	5.00
tblTripsAndVMT	WorkerTripNumber	15.00	5.00
tblTripsAndVMT	WorkerTripNumber	3,050.00	588.00
tblTripsAndVMT	WorkerTripNumber	3,050.00	1,099.00
tblTripsAndVMT	WorkerTripNumber	15.00	5.00

*Fanita Ranch Construction Phase 3-4:*

Table Name	Column Name	Default Value	New Value
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tblTripsAndVMT	VendorTripNumber	858.00	312.00
tblTripsAndVMT	VendorTripNumber	858.00	147.00
tblTripsAndVMT	VendorTripNumber	858.00	235.00
tblTripsAndVMT	VendorTripNumber	858.00	165.00
tblTripsAndVMT	WorkerTripNumber	3,050.00	1,099.00
tblTripsAndVMT	WorkerTripNumber	<del>3,050.00</del>	525.00
tblTripsAndVMT	WorkerTripNumber	3,050.00	838.00
tblTripsAndVMT	WorkerTripNumber	15.00	5.00
tblTripsAndVMT	WorkerTripNumber	3,050.00	588.00
tblTripsAndVMT	WorkerTripNumber	15.00	5.00

As you can see in the excerpt above, the models for both Construction Phase 1-2 and Construction Phase 3-4 include manual reductions to the Project’s anticipated vendor and worker trip numbers. As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>14</sup> According to the “User Entered Comments & Non-Default Data” table, the justifications provided are: “assume 1 hauling trip per day, 10 miles per trip (cut and fill balanced onsite)” (Appendix H, pp. 61, 143, 220, 315). However, this justification fails to address any change to the Project’s vendor and worker trip numbers. Furthermore, the Air Quality Analysis, provided as Appendix C1 to the RDEIR, states:

“[B]ased on CalEEMod defaults and the number of residential units and floor area of commercial buildings to be built during each phase, the project would generate a maximum of approximately 1,099 worker trips and 312 vendor trips per day” (Appendix C1, 21).

However, this statement is contradictory to the changes in the model, as the model did not rely upon default vendor and worker trip numbers, but instead on manually reduced vendor and worker trip numbers. Furthermore, it should be noted that the vendor and worker trip numbers indicated in the Air Quality Analysis are *per day*, while the “Trips and VMT” table in the CalEEMod model should include *total* vendor and worker trips *throughout Project construction*. As such, the manual reductions to the vendor and worker trip numbers are unsubstantiated. By including unsubstantiated reductions to the Project’s vendor and worker trip numbers, the model may underestimate the Project’s construction-related emissions and should not be relied upon to determine Project significance.

#### Incorrect Application of Construction Dust Mitigation Measures

Review of the CalEEMod output files reveals that the models for both Construction Phase 1-2 and Construction Phase 3-4 include unsubstantiated construction-related mitigation measures. As a result, the model may underestimate the Project’s construction-related emissions and should not be relied upon to determine Project significance.

The following construction-related mitigation measures were included in the models: “Water Exposed Area” and “Water Unpaved Roads,” (see excerpt below) (Appendix H, pp. 86, 167, 247, 340).

<sup>14</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9



### 3.1 Mitigation Measures Construction

- Use Cleaner Engines for Construction Equipment
- Use Soil Stabilizer
- Replace Ground Cover
- Water Exposed Area
- Water Unpaved Roads
- Reduce Vehicle Speed on Unpaved Roads
- Clean Paved Roads

As you can see in the excerpt above, the model includes five construction-related mitigation measures. Furthermore, the model also includes a 26% reduction in particulate matter (“PM”) as a result of the “Clean Paved Roads” measure, a moisture content of 0.5 as a result of the “Water Unpaved Roads” measure, and a reduced vehicle speed of 15 miles per hour (“MPH”) as a result of the “Reduce Vehicle Speed on Unpaved Roads” measure (see excerpt below) (Appendix B, pp. 61, 143, 220, 315).

Table Name	Column Name	Default Value	New Value
tblConstDustMitigation	CleanPavedRoadPercentReduction	0	26
tblConstDustMitigation	WaterUnpavedRoadMoistureContent	0	0.5
tblConstDustMitigation	WaterUnpavedRoadVehicleSpeed	0	15

As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>15</sup> According to the “User Entered Comments & Non-Default Data” table, the justifications provided are: “fugitive dust control” and “clean engine and dust control” (Appendix H, pp. 61, 143, 220, 315). Furthermore, while the RDEIR includes MM AIR-1 and MM AIR-2, these air quality measures fail to require the proposed Project to water exposed areas or water unpaved roads. Furthermore, MM AIR-1 and MM AIR-2 fail to mention the 26% reduction in PM, 0.5 moisture content, or a reduced vehicle speed of 15 MPH. As such, we cannot verify that these measures will actually be implemented, monitored, and enforced on the Project site. By including unsubstantiated construction-related mitigation measures, the models may underestimate the Project’s construction-related emissions and should not be relied upon to determine Project significance.

#### Underestimated Number of Natural Gas Fireplaces

Review of the Project’s CalEEMod output files demonstrates that the number of fireplaces included in both the mitigated land use plan with school and land use plan without school was reduced to zero (see excerpt below) (Appendix H, pp. 459, 488).

Table Name	Column Name	Default Value	New Value
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<sup>15</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

tblFireplaces	NumberGas	244.75	0.00
tblFireplaces	NumberGas	661.65	0.00
tblFireplaces	NumberNoFireplace	130.10	0.00
tblFireplaces	NumberNoFireplace	44.50	0.00
tblFireplaces	NumberNoFireplace	120.30	0.00
tblFireplaces	NumberWood	455.35	0.00
tblFireplaces	NumberWood	155.75	0.00
tblFireplaces	NumberWood	421.05	0.00
tblFleetMix	HHD	0.03	0.02

As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.<sup>16</sup> However, no justification was provided in the “User Entered Comments & Non-Default Data” table for these models (Appendix H, pp. 458-459, 487-488). Furthermore, the GHG Analysis contradictorily states:

“The project has been designed to prohibit wood stoves and fireplaces and to allow a total of six natural gas fire pits / fireplaces within the community areas of the villages (Project Design Feature (PDF)-AQ/GHG-1)” (p. 22).

As such, the Project is expected to include 6 natural gas fire pits/fireplaces, while the models include 0. This presents an issue, as CalEEMod uses the number of fireplaces to calculate the Project’s area-source operational emissions.<sup>17</sup> Thus, by including unsubstantiated reductions to the Project’s anticipated number of fireplaces, the model underestimates the Project’s area-source operational emissions and should not be relied upon to determine Project significance.

### Unsubstantiated Changes to Energy Use Values

Review of the Project’s CalEEMod output files demonstrates that the mitigated land use plan with school and mitigated land use plan without school included several changes to the Project’s energy use values, including the Nontitle-24 Electricity Energy Intensity (“NT24E”), Nontitle-24 Natural Gas Energy Intensity (“NT24NG”), Title-24 Electricity Energy Intensity (“T24E”), and the Title-24 Natural Gas Energy Intensity (“T24NG”) (see excerpt below) (Appendix H, pp. 459, 488).

Table Name	Column Name	Default Value	New Value
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<sup>16</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

<sup>17</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 41

tblEnergyUse	NT24E	3,172.76	3,490.04
tblEnergyUse	NT24E	3,172.76	3,490.04
tblEnergyUse	NT24E	6,155.97	6,771.57
tblEnergyUse	NT24NG	4,180.00	0.00
tblEnergyUse	NT24NG	4,180.00	0.00
tblEnergyUse	NT24NG	4,180.00	0.00
tblEnergyUse	T24E	260.86	300.04
tblEnergyUse	T24E	260.86	300.04
tblEnergyUse	T24E	331.07	380.75
tblEnergyUse	T24NG	7,045.49	0.00
tblEnergyUse	T24NG	7,045.49	0.00
tblEnergyUse	T24NG	19,206.92	0.00

As you can see in the excerpt above, the natural gas energy intensity values, including NT24NG and T24NG, were reduced to zero, while the electricity energy intensity values, including NT24E and T24E, were minimally increased. As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.<sup>18</sup> According to the "User Entered Comments & Non-Default Data" table, the justifications provided for these changes are: "All electric homes increased electrical usage an natural gas usage set at zero" and "All Electric homes" (Appendix H, pp. 459, 488). Furthermore, the RDEIR states that the Project would include:

"All-Electric Homes. Prior to the issuance of building permits, the applicant or its designee shall provide evidence to the City of Santee that the proposed project will include all-electric homes. No natural gas shall be provided to the residential portion of the proposed project" (p. 4.7-25).

However, the RDEIR and associated appendices fail to disclose any information to demonstrate how the above energy use values were calculated, or even substantiate their inclusion in the model. Until an updated EIR is prepared to provide calculations for the revised energy use values, we cannot verify these changes. This presents an issue, as the energy use values are used by CalEEMod to calculate the Project's emissions associated with building electricity and non-hearth natural gas usage.<sup>19</sup> Thus, by including unsubstantiated energy use values, the models may underestimate the Project's operational emissions and should not be relied upon to determine Project significance.

#### Unsubstantiated Changes to Vehicle Emission Factors

Review of the CalEEMod output files for both the land use plan with school and the land use plan without school demonstrates that the operational vehicle emission factors were manually altered (Appendix H, pp. 408-410, 435-437, 463-465, 493-493). As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.<sup>20</sup> However, the RDEIR and associated appendices fail to justify these changes for three reasons.

<sup>18</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

<sup>19</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 43

<sup>20</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9



First, while no justification was provided in the “User Entered Comments & Non-Default Data” table for the changes to the Project’s vehicle emission factors, the justification provided for the changes to the Project’s fleet mix is: “from EMFAC for SD air basin 2035” (Appendix H, pp. 404-405, 431-432, 458-459, 487-488). However, this justification is insufficient, as EMFAC refers to an entire database, not a specific set of vehicle emission factors.<sup>21</sup> Thus, the RDEIR and associated appendices should have specified which input parameters were used to obtain the vehicle emission factors inputted in the model. Without specific input parameters, we cannot verify the altered vehicle emission factors, and the changes may be incorrect.

Second, the GHG Analysis, provided as Appendix H to the DEIR, states:

“Emission factors representing the vehicle mix and emissions for 2035 were used to estimate emissions associated with full buildout of the project” (Appendix H, p. 4).

However, this justification fails to justify the specific changes made to the Project’s anticipated vehicle emission factors. As such, we cannot verify the altered vehicle emission factors, and the changes may be incorrect.

Third, contradictorily, the GHG Analysis states:

“Accounted for in EMFAC 2016 vehicle emission factors as part of CalEEMod Version 2016 3.2.25” (Appendix H, p. 25, Table H).

As you can see in the excerpt above, the RDEIR’s GHG Analysis indicates that CalEEMod default values for vehicle emission factors were utilized to estimate the Project’s mobile-source operational emissions. As such, the changes made to the Project’s operational vehicle emission factors are inconsistent with the information provided in the GHG Analysis.

As discussed above, we cannot verify the changes made to the Project’s operational vehicle emission factors. This presents an issue, as the vehicle emission factors are used by CalEEMod to calculate the Project’s emissions associated with operational on-road vehicles.<sup>22</sup> Thus, by including unsubstantiated changes to the Project’s operational vehicle emission factors, the models may underestimate the Project’s operational emissions and should not be relied upon to determine Project significance.

### Underestimated Daily Vehicle Trips

According to the Transportation Impact Analysis (“TIA”), provided as Appendix N to the RDEIR, the Project is estimated to generate 26,272 daily vehicle trips, including pass-by and internal trip reductions, throughout the Project’s operation (see excerpt below) (Appendix N, p. 53, Table 7-2).

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<sup>21</sup> “EMFAC2017 Web Database.” CARB, available at: <https://arb.ca.gov/emfac/2017/>.

<sup>22</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

	Gross Trip Generation (E-Q)	31,213	—	—	1,183	2,010	3,198	—	—	1,924	1,032	2,956	
R	Total Primary Trip: (E+G+J+L+M+N+O+P)	—	28,713	—	—	921	1,780	2,701	—	—	1,826	917	2,742
	Total Pass-By Diverted Link Trip Reduction (H+K)	—	(2,500)	—	—	(267)	(230)	(497)	—	—	(99)	(115)	(214)
S	Internal/Mixed-Use Reduction (R*8.5%) <sup>1</sup>	—	(1,441)	—	—	(78)	(151)	(229)	—	—	(155)	(78)	(233)
	<b>Net External Trip Generation (R+S)</b>	—	<b>26,272</b>	—	—	<b>843</b>	<b>1,629</b>	<b>2,472</b>	—	—	<b>1,670</b>	<b>839</b>	<b>2,509</b>

However, review of the Project's CalEEMod output files demonstrates that the model for the mitigated land use plan with school only calculated 9,448.76 Weekday, 8,923.12 Saturday, and 8,923.12 Sunday vehicle trips, based on the trip rates inputted (see excerpt below) (Appendix H, pp. 474).

Land Use	Average Daily Trip Rate		
	Weekday	Saturday	Sunday
Apartments Low Rise	2,537.38	2,528.72	2,528.72
Apartments Low Rise	1,274.55	1,270.20	1,270.20
City Park	491.25	491.25	491.25
Elementary School	500.00	0.00	0.00
General Light Industry	41.69	41.69	41.69
Regional Shopping Center	465.00	464.40	464.40
Retirement Community	614.10	614.10	614.10
Single Family Housing	3,524.79	3,512.76	3,512.76
<b>Total</b>	<b>9,448.76</b>	<b>8,923.12</b>	<b>8,923.12</b>

As you can see in the excerpt above, the Weekday, Saturday, and Sunday vehicle trips were underestimated by approximately 16,823, 17,349, and 17,349 trips, respectively. Furthermore, review of the Project's CalEEMod output files demonstrates that the model for the mitigated land use plan without school only calculated 9,585.78 Weekday, 9,554.31 Saturday, and 9,554.31 Sunday vehicle trips, based on the trip rates inputted (see excerpt below) (Appendix H, pp. 502-503).

Land Use	Average Daily Trip Rate		
	Weekday	Saturday	Sunday
Apartments Low Rise	2,667.28	2,658.62	2,658.62
Apartments Low Rise	1,339.80	1,335.45	1,335.45
City Park	516.40	515.62	515.62
General Light Industry	41.69	41.69	41.69
Regional Shopping Center	488.40	487.80	487.80
Retirement Community	645.25	640.80	640.80
Single Family Housing	3,886.96	3,874.34	3,874.34
<b>Total</b>	<b>9,585.78</b>	<b>9,554.31</b>	<b>9,554.31</b>

As you can see in the excerpt above, based on available trip generation data, the Weekday, Saturday, and Sunday vehicle trips were underestimated by approximately 16,686, 16,718, and 16,718 trips, respectively. As such, the Project's CalEEMod models are inconsistent with the trip generation estimates



provided in the TIA. As a result, the models underestimate the Project's mobile-source operational emissions and should not be relied upon to determine Project significance.

#### Unsubstantiated Changes to Vehicle Fleet Mix

Review of the CalEEMod output files for the land use plan with school and the land use plan without school demonstrates that the fleet mix percentages values were manually altered, including reductions to the percentage of heavy-heavy duty trucks ("HHD") anticipated (Appendix H, pp. 405-408, 432-434, 459-462, 488-491). As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.<sup>23</sup> According to the "User Entered Comments & Non-Default Data" table, the justification provided for these changes is: "from EMFAC for SD air basin 2035" (Appendix H, pp. 405, 432). However, this justification is insufficient, as EMFAC refers to an entire database, not a specific set of fleet mix percentages values.<sup>24</sup> Thus, the RDEIR and associated appendices should have specified which input parameters were used to obtain the vehicle fleet mix percentage values inputted in the model. Without specific input parameters, we cannot verify the altered fleet mix, and the changes may be incorrect.

Furthermore, contradictorily, the RDEIR states:

*"CalEEMod default emissions factors and vehicle fleet mix were conservatively used for the model inputs to estimate daily emissions from proposed vehicular sources"* (emphasis added) (Appendix H, p. 4).

As you can see in the excerpt above, the RDEIR's GHG Analysis indicates that CalEEMod default values were utilized to estimate the Project's mobile-source operational emissions. Furthermore, the GHG Analysis states:

*"Emission factors representing the vehicle mix and emissions for 2035 were used to estimate emissions associated with full buildout of the project"* (Appendix H, p. 4).

However, this justification only relates to emission factors, not the Project's operational vehicle fleet mix. As a result, the RDEIR and associated appendices fail to justify any change to the Project's anticipated operational vehicle fleet mix. This presents an issue, as the fleet mix percentages are used by CalEEMod to calculate the Project's emissions associated with operational on-road vehicles.<sup>25</sup> By including unsubstantiated changes to the Project's operational vehicle fleet mix, the model may underestimate the Project's mobile-source operational emission and should not be relied upon to determine Project significance.

#### 2) Failure to Demonstrate Consistency with the Sustainable Santee Plan

As discussed above, the RDEIR relies upon the Project's consistency with the Sustainable Santee Plan in order to conclude that the Project would result in a less than significant GHG impact (p. 4.7-31).

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<sup>23</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9

<sup>24</sup> "EMFAC2017 Web Database." CARB, available at: <https://arb.ca.gov/emfac/2017/>.

<sup>25</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 2, 9



However, review of the Sustainable Santee Plan reveals that the proposed Project is inconsistent with numerous checklist measures required by the plan, including but not limited to those listed below:

<b>Sustainable Santee Plan<sup>26</sup></b>	
<b>Energy Efficiency</b>	
<b>Land Use Sector-Residential</b>	
<p>Measure 2.1: New residential construction meet or exceed California Green Building Standards Tier 2 Voluntary Measures, such as obtaining green building ratings including LEED, Build it Green, or Energy Star Certified building certifications in scoring development and explain the measures implemented.</p>	<p>Here, the RDEIR states: “The proposed project would comply with 2019 Title 24, Part 6, Standards and implement Mitigation Measure AIR-8, which requires the use of high-efficiency equipment and fixtures that exceed 2016 California Green Building Standards Code and 2019 Title 24 standards by 14 percent. Mitigation Measure AIR-8 would apply to the entire residential portion of the proposed project” p. 4.7-29, Table 4.7-12). However, while the Project commits to exceeding the 2019 Title 24 Standards by 14%, the RDEIR fails to mention whether or not the Project would obtain any green building certifications, such as LEED or Build it Green. As such, we cannot verify that this measure would be fully implemented, monitored, and enforced on the Project site. Furthermore, the RDEIR fails to mention green building ratings including LEED, Build it Green, and Energy Star Certified. Thus, the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.</p>
<b>Land Use Sector-Commercial</b>	
<p>Measure 4.1: New commercial units meet or exceed California Green Building Standards Tier 2 Voluntary Measures such as obtain green building ratings including: LEED, Build it Green, or Energy Star Certified buildings certifications in scoring development and explain the measures implemented.</p>	<p>Here, the RDEIR states: “The proposed project would comply with 2019 Title 24, Part 6, Standards and implement Mitigation Measure AIR-8. Implementation of this goal would result in the proposed project increasing the energy efficiency of commercial buildings by an additional 14 percent, consistent with the City’s performance metric. Therefore, after mitigation, the proposed project would be consistent with Goal 4” (p. 4.7-29, Table 4.7-12). However, while the Project commits</p>

<sup>26</sup> “Sustainable Santee Plan: The City’s Roadmap to Greenhouse Gas Reductions.” City of Santee, December 2019, available at: [https://www.cityofsanteeca.gov/home/showdocument?id\\_18422](https://www.cityofsanteeca.gov/home/showdocument?id_18422), pp. 195-199.

	to exceeding the 2019 Title 24 Standards by 14%, the RDEIR fails to mention whether or not the Project would obtain any green building certifications, such as LEED or Build it Green. As such, we cannot verify that this measure would be fully implemented, monitored, and enforced on the Project site, and the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.
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**Advanced Goals Measures**

**Land Use Sector-Commercial**

<p>Measure 5.2: Project uses light-reflecting surfaces such as enhanced cool roofs on commercial buildings.</p>	<p>Here, while the RDEIR states that the Project would “encourage the use of light-colored, semi-reflective, or cool-roof technology for all roofing within the proposed project, including at least 60,000 square feet of commercial rooftops,” the RDEIR fails to require this measure (p. 4.7-29, Table 4.7-12). As such, we cannot verify that this measure would be implemented, monitored, and enforced on the Project site, and the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.</p>
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**Transportation**

**Land Use Sector-Residential and Commercial**

<p>Measure 7.1: Install electric vehicle chargers in all new residential and commercial developments.</p> <ul style="list-style-type: none"> <li>a. For new Single-Family Residential, install complete 40 Amp electrical service and one e-charger.</li> <li>b. For new Multifamily Residential, install e-chargers for 13 percent of total parking.</li> <li>c. For new Office Space, Regional Shopping Centers, and Movie Theaters, install e-chargers for 5 percent of total parking spaces.</li> <li>d. For new Industrial and other Land Uses employing 200 or more employees, install e-charges for 5 percent of total parking spaces.</li> </ul>	<p>Here, the RDEIR states: “Mitigation Measure AIR-7 requires the proposed project to include electric vehicle chargers, consistent with the City’s goal to install 4,500 EVSE by 2035. The proposed project would install a total of 1,572 electric vehicle chargers (e-chargers) as follows: the proposed project would install 1,203 240-volt Level 2 EVSE in each low density residential garage; a total of 354 EVSE within the parking areas of Medium Density Residential, Village Center, and Active Adult residential uses; and 15 EVSE within the proposed project’s commercial parking lots. Additionally, Mitigation Measure GHG-6 would provide 100 electric vehicles to project residents” (p. 4.7-30, Table 4.7-12). However, the RDEIR fails to demonstrate that the Project would install complete 40 Amp electrical service and one e-</p>
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	<p>charger for new single family residences; install e-chargers for 13 percent of total parking for new multifamily residences; install e-chargers for 5 percent of total parking spaces for office space, regional shopping centers, and movie theatres; and install e-chargers for 5 percent of total parking spaces for new industrial and other land uses employing more than 200 employees, as is required for this measure. As such, we cannot verify that this measure would be implemented, monitored, and enforced on the Project site, and the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.</p>
<p>Measure 8.1: Implement traffic flow improvement program.</p> <ul style="list-style-type: none"> <li>a. Install smart traffic signals at intersections warranting a traffic signal, OR</li> <li>b. Install roundabout.</li> </ul>	<p>Here, the RDEIR states: “[t]he proposed Project would include roundabouts at key intersections” and “Mitigation Measure TRA-16 requires installation of Adaptive Traffic Signal Control (e.g., smart signals) along Mission Gorge Road between Fanita Drive and Town Center Parkway to improve traffic flow and reduce project transportation impacts along that roadway” (p. 4.7-30 &amp; 4.7-32, Table 4.7-12 &amp; Table 4.7-13). However, the RDEIR fails to specify where the roundabouts would be located and how this measure would be implemented, monitored, and enforced on the Project site. As such, the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.</p>
<p><b>Solid Waste</b></p>	
<p><b>Land Use Sector-Residential and Commercial</b></p>	
<p>Measure 9.1: Reduce waste at landfills.</p>	<p>Here, the RDEIR states: “Mitigation Measure GHG-2 requires the applicant to institute recycling and composting services to divert at least 90 percent of the proposed project’s operational waste, consistent with the City’s performance metric. The proposed project would also recycle or reuse at least 70 percent of the construction waste, soil, and debris by 2030 and 80 percent starting in 2030. Therefore, after mitigation, the proposed project would be consistent with Goal 9” (p. 4.7-32, Table 4.7-13). However, the RDEIR fails to demonstrate</p>

	how this measure would be implemented, monitored, and enforced on the Project site. As such, the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.
<b>Clean Energy</b>	
<b>Land Use Sector-Residential and Commercial</b>	
<p>Measure 10.1: Increase distributed energy generation within City of Santee by implementing the following applicable photovoltaic solar systems:</p> <ul style="list-style-type: none"> <li>a. Single-family residential to install at least 2kW per unit of PV solar systems, unless the installation is infeasible due to poor solar resources established in a solar feasibility study prepared by a qualified solar consultant submitted with an application</li> <li>b. Multifamily residential to install at least 1kW per unit of PV solar systems, unless the installation is infeasible due to poor solar resources established in a solar feasibility study prepared by a qualified solar consultant submitted with an applicant’s formal project submittal to City.</li> <li>c. On commercial buildings, install at least 2 kW per square foot of building area (e.g., 2,000 sq. ft. = 3 kW) unless the installation is infeasible due to poor solar resources.</li> </ul>	<p>Here, the RDEIR states: “The proposed project would implement Mitigation Measure GHG-1 and supply at least 12.147 megawatts for the preferred land use plan with school or 12.083-megawatt capacity for the land use plan without school by buildout, consistent with the City’s performance metric. Therefore, after mitigation, the proposed project would be consistent with Goal 10” (p. 4.-32, Table 4.7-13). However, the RDEIR fails to demonstrate that at least 2kW of PV solar systems would be installed per single family residential unit; at least 1kW of PV solar systems would be installed per multifamily residential unit; and at least 2 kW per square foot of building area (e.g., 2,000 sq. ft. = 3 kW) would be installed for commercial land uses, as is required for the measure. As such, we cannot verify that this measure would be implemented, monitored, and enforced on the Project site, and the RDEIR’s consistency evaluation should not be relied upon to determine Project significance.</p>

As the above table indicates, the RDEIR fails to provide sufficient information and analysis to demonstrate the Project’s consistency with numerous measures required by the Sustainable Santee Plan. Thus, we cannot verify that the Project would be consistent with the Sustainable Santee Plan. As a result, we recommend that an updated EIR be prepared to include further information and analysis demonstrating the Project’s consistency.

### *3) Updated Analysis Indicates Significant GHG Impact*

Applicable thresholds and modeling demonstrate that the proposed Project may result in a potentially significant GHG impact not previously identified or addressed by the RDEIR.

The CalEEMod output files, modeled by SWAPE utilizing Project-specific information as disclosed in the RDEIR, disclose the land use plan with school’s mitigated emissions, which include approximately



129,240 MT CO<sub>2</sub>e of total construction emissions (sum of 2021 through 2033 construction emissions for Construction Phase 1-2 and Construction Phase 3-4) and approximately 67,343 MT CO<sub>2</sub>e/year of annual operational emissions (sum of area, energy, mobile, waste, and water-related emissions). When we compare the land use plan with school's amortized construction and operational GHG emissions to the threshold of 1.77 MT CO<sub>2</sub>e/SP/year, we find that the land use plan with school's GHG emissions exceed the threshold (see table below).

<b>SWAPE Annual Greenhouse Gas Emissions with School</b>	
<b>Project Phase</b>	<b>Proposed Project (MT CO<sub>2</sub>e/year)</b>
Construction (amortized over 30 years)	43,07.99
Area	46.18
Energy	13,351.49
Mobile	50,174.08
Waste	0.00
Water	3,771.49
<b>Total</b>	<b>71,651.23</b>
Service Population	8,424
<b>Efficiency</b>	<b>8.51</b>
Threshold	1.77
<b>Exceed?</b>	<b>Yes</b>

Furthermore, the CalEEMod output files, modeled by SWAPE utilizing Project-specific information as disclosed in the RDEIR, disclose the land use plan without school's mitigated emissions, which include approximately 129,240 MT CO<sub>2</sub>e of total construction emissions (sum of 2021 through 2033 construction emissions for Construction Phase 1-2 and Construction Phase 3-4) and approximately 68,536 MT CO<sub>2</sub>e/year of annual operational emissions (sum of area, energy, mobile, waste, and water-related emissions). When we compare the land use plan with school's amortized construction and operational GHG emissions to the threshold of 1.77 MT CO<sub>2</sub>e/SP/year, we find that the land use plan with school's GHG emissions exceed the threshold (see table below).

<b>SWAPE Annual Greenhouse Gas Emissions without School</b>	
<b>Project Phase</b>	<b>Proposed Project (MT CO<sub>2</sub>e/year)</b>
Construction (amortized over 30 years)	4,307.99
Area	46.89
Energy	13,411.99
Mobile	51,311.70
Waste	0.00
Water	3,765.61

<b>Total</b>	<b>72,844.17</b>
Service Population	8,424
<b>Efficiency</b>	<b>8.65</b>
Threshold	1.77
<b>Exceed?</b>	<b>Yes</b>

As the above tables demonstrate, when correct input parameters are used to model emissions associated with both the land use plan with school and the land use plan without school, we find a significant impact not previously assessed or identified in the RDEIR. As a result, an updated GHG analysis should be prepared in an EIR and additional mitigation should be incorporated into the Project, such as those listed below.

### Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The RDEIR conducts a health risk assessment (“HRA”) for Project construction, and concludes that, after the implementation of MM AIR-3 and MM AIR-4, the maximum mitigated cancer risk posed to off-site sensitive receptors would be 2.84 in one million (see excerpt below) (Appendix C2, p. 19).

**Table C: Project Construction Mitigated Cancer Risk (in one million)**

Receptor No.	Description	3 <sup>rd</sup> Trimester	0-2 Years	2-16 Years	16-30 Years	Project Construction Exposure <sup>1</sup>
12	On-site – Highest/Southwest Corner	0.22	5.40	6.56	1.00	9.96
22	On-site – 2 <sup>nd</sup> Highest	0.20	4.86	5.91	0.90	8.97
13	On-site – 3 <sup>rd</sup> Highest	0.19	4.64	5.64	0.86	8.56
23	On-site – 4 <sup>th</sup> Highest	0.18	4.38	5.33	0.81	8.08
4	On-site – 5 <sup>th</sup> Highest	0.18	4.27	5.19	0.79	7.87
72	On-site – Northwest Corner	0.08	1.88	2.28	0.35	3.46
75	On-site – Northeast Corner	0.05	1.17	1.42	0.22	2.16
11	On-site – Southeast Corner	0.05	1.31	1.60	0.24	2.42
1	Off-site – Southwest	0.06	1.37	1.67	0.25	2.37
2	Off-site – Southeast	0.06	1.42	1.72	0.26	2.23
3	Off-site – Southeast	0.08	1.86	2.27	0.35	2.84

As a result, the RDEIR concludes that the Project’s excess cancer risk would not exceed the SDAPCD threshold of 10 in one million, and the Project would have a less than significant health risk impact (p. 19). Regarding the Project’s operational health risk impact, the RDEIR states:

“[T]he commercial component of the Fanita Ranch Project does not include specific uses or tenants but does allow the types of businesses, such as gasoline dispensing stations, that could emit TACs. However, location and operational details of those facilities are currently unknown” (Appendix C2, p. 20).

As such, instead of conducting an HRA for the entire Project’s operation, the RDEIR implements MM-AIR-12, which states:

“The City of Santee shall require the applicant to avoid siting new on-site toxic air contaminant sources in close vicinity of residences and schools. Gasoline dispensing facilities with a throughput of less than 3.6 million gallons per year must have the gasoline dispensers at least

50 feet from the nearest residential land use, day care center, or school. In addition, gasoline dispensing facilities with a throughput of 3.6 million gallons per year, distribution centers, and dry cleaning operations are prohibited within the project” (Appendix C2, p. 20).

However, the RDEIR’s HRA and less-than-significant impact conclusion is incorrect for four reasons.

First, the RDEIR’s construction HRA is incorrect, as it relies upon exhaust PM<sub>10</sub> estimates from an incorrect and unsubstantiated CalEEMod model, as discussed above (Appendix C2, p. 10). Thus, the HRA utilizes an underestimated DPM concentration to calculate the health risk associated with Project construction. As a result, the Project’s construction HRA is underestimated and should not be relied upon to determine Project significance.

Second, the RDEIR’s reliance on MM AIR-3, which requires the use of Tier 4 Final equipment during construction, is incorrect (Appendix C2, p. 18). As discussed above, the RDEIR failed to evaluate the feasibility of obtaining Tier

4 Final equipment. As the RDEIR fails to demonstrate that MM AIR-3 is feasible for the proposed Project, we cannot verify that the Project’s health risk impact would be reduced to a less than significant level as claimed.

Third, the RDEIR failed to conduct a quantified operational HRA. By failing to prepare an operational HRA, the Addendum is inconsistent with recommendations set forth by the Office of Environmental Health and Hazard Assessment’s (“OEHHA”) most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments*, as referenced by the RDEIR (Appendix C2, p. 10). Once construction of the Project is complete; the Project will operate for a long period of time. The RDEIR’s Transportation Impact Analysis (“TIA”), provided as Appendix N to the RDEIR, indicates that the Project would generate 26,272 daily vehicle trips throughout operation, including pass-by and internal trip reductions, which will result in additional exhaust, thus continuing to expose nearby sensitive receptors to emissions (Appendix N, p. 53, Table 7-2). The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (“MEIR”).<sup>27</sup> Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, we recommend that health risk impacts from Project operation also be evaluated, as a 30-year exposure duration vastly exceeds the 6-month requirement set forth by OEHHA. These recommendations reflect the most recent health risk policy, as referenced by the Addendum, and as such, we recommend that an updated assessment of health risk impacts posed to nearby sensitive receptors from Project operation be included in an updated EIR for the Project.

Fourth, review of the RDEIR demonstrates that, while the Project did conduct a construction HRA that evaluates the health risk impacts to nearby, existing receptors, the HRA fails to evaluate the cumulative

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<sup>27</sup> “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnrn/2015guidancemanual.pdf> p. 8-6, 8-15.



lifetime cancer risk to nearby, existing receptors as a result of Project construction *and* operation *together*. According to OEHHA guidance, as referenced by the RDEIR, “the excess cancer risk is calculated separately for each age grouping and then summed to yield cancer risk at the receptor location”.<sup>28</sup> However, the HRA conducted in the RDEIR failed to sum each age bin to evaluate the total cancer risk over the course of the Project’s construction and operation. This is incorrect and thus, an updated analysis should quantify the Project’s construction and operational health risks and then sum them to compare to the SDAPCD threshold of 10 in one million, as referenced by the RDEIR (Appendix C2, p. 17).

**Feasible Mitigation Measures Available to Reduce Emissions**

Our analysis demonstrates that the Project’s GHG emissions may result in potentially significant impacts. In an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project. Feasible mitigation measures can be found in CAPCOA’s *Quantifying Greenhouse Gas Mitigation Measures*.<sup>29</sup> Therefore, to reduce the Project’s emissions, consideration of the following measures should be made:

<i>CAPCOA’s Quantifying Greenhouse Gas Mitigation Measures</i> <sup>30</sup>	
<b>Measures – Energy</b>	
<b>Building Energy Use</b>	
<b>BE-2</b>	Install Programmable Thermostat Timers
	<i>Range of Effectiveness:</i> Best Management Practice – Influences building energy use for heating and cooling.
<b>BE-3</b>	Obtain Third-party HVAC Commissioning and Verification of Energy Savings (to be grouped with BE-1)
	<i>Range of Effectiveness:</i> Not applicable on its own. This measure enhances the effectiveness of BE-1.
<b>BE-5</b>	Install Energy Efficient Boilers
	<i>Range of Effectiveness:</i> 1.2-18.4% of boiler GHG emissions.
<b>Lighting</b>	
<b>LE-1</b>	Install Higher Efficacy Public Street and Area Lighting
	<i>Range of Effectiveness:</i> 16-40% of outdoor lighting.
<b>LE-2</b>	Limit Outdoor Lighting Requirements
	<i>Range of Effectiveness:</i> Best Management Practice, but may be quantified.
<b>LE-3</b>	Replace Traffic Lights with LED Traffic Lights
	<i>Range of Effectiveness:</i> 90% of emissions associated with existing traffic lights.
<b>Alternative Energy Generation</b>	
<b>AE-1</b>	Establish Onsite Renewable or Carbon-Neutral Energy Systems – Generic

<sup>28</sup> “Guidance Manual for preparation of Health Risk Assessments.” OEHHA, February 2015, *available at:* <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf> p. 8-4

<sup>29</sup> <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

<sup>30</sup> “Quantifying Greenhouse Gas Mitigation Measures.” California Air Pollution Control Officers Association (CAPCOA), August 2010, *available at:* <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>, p.



<i>Range of Effectiveness:</i> 0-100% of GHG emissions associated with electricity use.
<b>AE-3</b> Establish Onsite Renewable Energy System Wind Power <i>Range of Effectiveness:</i> 0-100% of GHG emissions associated with electricity use.
<b>AE-4</b> Utilize a Combined Heat and Power System <i>Range of Effectiveness:</i> 0-46% of GHG emissions associated with electricity use.
<b>AE-5</b> Establish Methane Recovery in Landfills <i>Range of Effectiveness:</i> 73-77% reduction in GHG emissions from landfills without methane recovery.
<b>AE-6</b> Establish Methane Recovery in Wastewater Treatment Plants <i>Range of Effectiveness:</i> 95-97% reduction in GHG emissions from wastewater treatment plants without recovery.
<b>Measures – Transportation</b>
<b>Land Use/Location</b>
<b>LUT-1</b> Increase Density <i>Range of Effectiveness:</i> 0.8-30% VMT reduction and therefore a 0.8-30% reduction in GHG emissions.
<b>LUT-2</b> Increase Location Efficiency <i>Range of Effectiveness:</i> 10% VMT reduction and therefore 10-65% reduction in GHG emissions.
<b>LUT-3</b> Increase Diversity of Urban and Suburban Developments (Mixed Use) <i>Range of Effectiveness:</i> 9-30% VMT and therefore 9-30% reduction in GHG emissions.
<b>LUT-4</b> Increase Destination Accessibility <i>Range of Effectiveness:</i> 6.7-20% VMT reduction and therefore 6.7-20% reduction in GHG emissions.
<b>LUT-5</b> Increase Transit Accessibility <i>Range of Effectiveness:</i> 0.5-24.6% VMT reduction and therefore 0.5-24.6% reduction in GHG emissions.
<b>LUT-6</b> Integrate Affordable and Below Market Rate Housing <i>Range of Effectiveness:</i> 0.04-1.20% VMT reduction and therefore 0.04-1.20% reduction in GHG emissions.
<b>LUT-7</b> Orient Project Toward Non-Auto Corridor <i>Range of Effectiveness:</i> Grouped strategy (see LUT-3).
<b>LUT-8</b> Locate Project near Bike Path/Bike Lane <i>Range of Effectiveness:</i> Grouped strategy (see LUT-4).
<b>Neighborhood/Site Enhancements</b>
<b>SDT-1</b> Provide Pedestrian Network Improvements, such as: <ul style="list-style-type: none"> <li>• Compact, mixed-use communities</li> <li>• Interconnected street network</li> <li>• Narrower roadways and shorter block lengths</li> <li>• Sidewalks</li> <li>• Accessibility to transit and transit shelters</li> <li>• Traffic calming measures and street trees</li> <li>• Parks and public spaces</li> <li>• Minimize pedestrian barriers</li> </ul> <i>Range of Effectiveness:</i> 0-2% VMT reduction and therefore 0-2% reduction in GHG emissions.

**SDT-2** Provide Traffic Calming Measures, such as:

- Marked crosswalks
- Count-down signal timers
- Curb extensions
- Speed tables
- Raised crosswalks
- Raised intersections
- Median islands
- Tight corner radii
- Roundabouts or mini-circles
- On-street parking
- Planter strips with trees
- Chicanes/chokers

*Range of Effectiveness:* 0.25-1% VMT reduction and therefore 0.25-1% reduction in GHG emissions.

**SDT-3** Implement a Neighborhood Electric Vehicle (NEV) Network.

*Range of Effectiveness:* 0.5-12.7% vehicle miles traveled (VMT) reduction since NEVs would result in a mode shift and therefore reduce the traditional vehicle VMT and GHG emissions. Range depends on the available NEV network and support facilities, NEV ownership levels, and the degree of shift from traditional.

**SDT-4** Create Urban Non-Motorized Zones

*Range of Effectiveness:* Grouped strategy (see SDT-1).

**Parking Policy/Pricing**

**PDT-1** Limit Parking Supply through:

- Elimination (or reduction) of minimum parking requirements
- Creation of maximum parking requirements
- Provision of shared parking

*Range of Effectiveness:* 5-12.5% VMT reduction and therefore 5-12.5% reduction in GHG emissions.

**PDT-2** Unbundle Parking Costs from Property Cost

*Range of Effectiveness:* 2.6-13% vehicle miles traveled (VMT) reduction and therefore 2.6-13% reduction in GHG emissions.

**PDT-3** Implement Market Price Public Parking (On-Street)

*Range of Effectiveness:* 2.8-5.5% VMT reduction and therefore 2.8-5.5% reduction in GHG emissions.

**PDT-4** Require Residential Area Parking Permits

*Range of Effectiveness:* Grouped strategy (see PPT-1, PPT-2, and PPT-3).

**Commute Trip Reduction Programs**

**TRT-1** Implement Commute Trip Reduction (CTR) Program – Voluntary

- Carpooling encouragement
- Ride-matching assistance
- Preferential carpool parking
- Flexible work schedules for carpools

- Half time transportation coordinator
- Vanpool assistance
- Bicycle end-trip facilities (parking, showers and lockers)
- New employee orientation of trip reduction and alternative mode options
- Event promotions and publications
- Flexible work schedule for employees
- Transit subsidies
- Parking cash-out or priced parking
- Shuttles
- Emergency ride home

*Range of Effectiveness:* 1-6.2% VMT reduction and therefore 1-6.2% reduction in commute trip GHG emissions.

**TRT-2** Implement Commute Trip Reduction (CTR) Program Required Implementation/Monitoring

- Established performance standards (e.g. trip reduction requirements)
- Required implementation
- Regular monitoring and reporting

*Range of Effectiveness:* 4.2-21% VMT reduction and therefore 4.2-21% reduction in commute trip GHG emissions.

**TRT-3** Provide Ride-Sharing Programs

- Designate a certain percentage of parking spaces for ride sharing vehicles
- Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
- Providing a web site or messaging board for coordinating rides
- Permanent transportation management association membership and funding requirement.

*Range of Effectiveness:* 1-15% VMT reduction and therefore 1-15% reduction in commute trip GHG emissions.

**TRT-4** Implement Subsidized or Discounted Transit Program

*Range of Effectiveness:* 0.3-20% VMT reduction and therefore a 0.3-20% reduction in commute trip GHG emissions.

**TRT-5** Provide Ent of Trip Facilities, including:

- Showers
- Secure bicycle lockers
- Changing spaces

*Range of Effectiveness:* Grouped strategy (see TRT-1 through TRT-3).

**TRT-6** Encourage Telecommuting and Alternative Work Schedules, such as:

- Staggered starting times
- Flexible schedules
- Compressed work weeks

*Range of Effectiveness:* 0.07-5.5% VMT reduction and therefore 0.07-5.5% reduction in commute trip GHG emissions.

**TRT-7** Implement Commute Trip Reduction Marketing, such as:

- New employee orientation of trip reduction and alternative mode options
- Event promotions
- Publications

*Range of Effectiveness:* 0.8-4% VMT reduction and therefore 0.8-4% reduction in commute trip GHG emissions.

<p><b>TRT-8 Implement Preferential Parking Permit Program</b></p> <p><i>Range of Effectiveness:</i> Grouped strategy (see TRT-1 through TRT-3).</p>
<p><b>TRT-9 Implement Car-Sharing Program</b></p> <p><i>Range of Effectiveness:</i> 0.4-0.7% VMT reduction and therefore 0.4-0.7% reduction in GHG emissions.</p>
<p><b>TRT-10 Implement School Pool Program</b></p> <p><i>Range of Effectiveness:</i> 7.2-15.8% in school VMT reduction and therefore 7.2-15.8% reduction in school trip GHG emissions.</p>
<p><b>TRT-11 Provide Employer-Sponsored Vanpool/Shuttle</b></p> <p><i>Range of Effectiveness:</i> 0.3-13.4% VMT reduction and therefore 0.3-13.4% reduction in commute trip GHG emissions.</p>
<p><b>TRT-12 Implement Bike-Sharing Programs</b></p> <p><i>Range of Effectiveness:</i> Grouped strategy (see SDT-5 and LUT-9).</p>
<p><b>TRT-13 Implement School Bus Program</b></p> <p><i>Range of Effectiveness:</i> 38-63% School VMT reduction and therefore 38-63% reduction in school trip GHG emissions.</p>
<p><b>TRT-14 Price Workplace Parking, such as:</b></p> <ul style="list-style-type: none"> <li>• Explicitly charging for parking for its employees;</li> <li>• Implementing above market rate pricing;</li> <li>• Validating parking only for invited guests;</li> <li>• Not providing employee parking and transportation allowances; and</li> <li>• Educating employees about available alternatives.</li> </ul> <p><i>Range of Effectiveness:</i> 0.1-19.7% VMT reduction and therefore 0.1-19.7% reduction in trip GHG emissions.</p>
<p><b>TRT-15 Implement Employee Parking “Cash-Out”</b></p> <p><i>Range of Effectiveness:</i> 0.06-7.7% VMT reduction and therefore 0.6-7.7% reduction in commute trip GHG emissions.</p>
<p><b><i>Transit System Improvements</i></b></p>
<p><b>TST-1 Transit System Improvements, including:</b></p> <ul style="list-style-type: none"> <li>• Grade-separated right-of-way, including bus only lanes (for buses, emergency vehicles, and sometimes taxis), and other Transit Priority measures. Some systems use guideways which automatically steer the bus on portions of the route.</li> <li>• Frequent, high-capacity service</li> <li>• High-quality vehicles that are easy to board, quiet, clean, and comfortable to ride.</li> <li>• Pre-paid fare collection to minimize boarding delays.</li> <li>• Integrated fare systems, allowing free or discounted transfers between routes and modes.</li> <li>• Convenient user information and marketing programs.</li> <li>• High quality bus stations with Transit Oriented Development in nearby areas.</li> <li>• Modal integration, with BRT service coordinated with walking and cycling facilities, taxi services, intercity bus, rail transit, and other transportation services.</li> </ul> <p><i>Range of Effectiveness:</i> 0.02-3.2% VMT reduction and therefore 0.02-3% reduction in GHG emissions.</p>
<p><b>TST-2 Implement Transit Access Improvements, such as:</b></p> <ul style="list-style-type: none"> <li>• Sidewalk/crosswalk safety enhancements</li> </ul>

<ul style="list-style-type: none"> <li>• Bus shelter improvements</li> </ul> <p><i>Range of Effectiveness:</i> Grouped strategy (see TST-3 and TST-4)</p>
<p><b>TST-3 Expand Transit Network</b></p> <p><i>Range of Effectiveness:</i> 0.1-8.2% VMT reduction and therefore 0.1-8.2% reduction in GHG emissions.</p>
<p><b>TST-4 Increase Transit Service Frequency/Speed</b></p> <p><i>Range of Effectiveness:</i> 0.02-2.5% VMT reduction and therefore 0.02-2.5% reduction in GHG emissions.</p>
<p><b>TST-5 Provide Bike Parking Near Transit</b></p> <p><i>Range of Effectiveness:</i> Grouped strategy (see TST-3 and TST-4).</p>
<p><b>TST-6 Provide Local Shuttles</b></p> <p><i>Range of Effectiveness:</i> Grouped strategy (see TST-4 and TST-5).</p>
<p><b>Road Pricing/Management</b></p>
<p><b>RPT-1 Implement Area or Cordon Pricing</b></p> <p><i>Range of Effectiveness:</i> 7.9-22% VMT reduction and therefore 7.9-22% reduction in GHG emissions.</p>
<p><b>RTP-3 Required Project Contributions to Transportation Infrastructure Improvement Projects</b></p> <p><i>Range of Effectiveness:</i> Grouped strategy (see RPT-2 and TST-1 through 7).</p>
<p><b>RTP-4 Install Park-and-Ride Lots</b></p> <p><i>Range of Effectiveness:</i> Grouped strategy (see RPT-1, TRT-11, TRT-3, and TST-1 through 6).</p>
<p><b>Vehicles</b></p>
<p><b>VT-1 Electrify Loading Docks and/or Require Idling-Reduction Systems</b></p> <p><i>Range of Effectiveness:</i> 26-71% reduction in TRU idling GHG emissions.</p>
<p><b>VT-2 Utilize Alternative Fueled Vehicles, such as:</b></p> <ul style="list-style-type: none"> <li>• Biodiesel (B20)</li> <li>• Liquefied Natural Gas (LNG)</li> <li>• Compressed Natural Gas (CNG)</li> </ul> <p><i>Range of Effectiveness:</i> Reduction in GHG emissions varies depending on vehicle type, year, and associated fuel economy.</p>
<p><b>VT-3 Utilize Electric or Hybrid Vehicles</b></p> <p><i>Range of Effectiveness:</i> 0.4-20.3% reduction in GHG emissions.</p>
<p><b>Measures – Water</b></p>
<p><b>Water Supply</b></p>
<p><b>WSW-1 Use Reclaimed Water</b></p> <p><i>Range of Effectiveness:</i> Up to 40% in Northern California and up to 81% in Southern California.</p>
<p><b>WSW-2 Use Gray Water</b></p> <p><i>Range of Effectiveness:</i> Up to 100% of outdoor water GHG emissions if outdoor water use is replaced completely with graywater.</p>
<p><b>WSW-3 Use Locally Sourced Water Supply</b></p>



<i>Range of Effectiveness:</i> 0-60% for Northern and Central California, 11-75% for Southern California.
<b>Water Use</b>
<b>WUW-5 Reduce Turf in Landscapes and Lawns</b> <i>Range of Effectiveness:</i> Varies and is equal to the percent commitment to turf reduction, assuming no other outdoor water use.
<b>WUW-6 Plant Native or Drought-Resistant Trees and Vegetation</b> <i>Range of Effectiveness:</i> Best Management Practice; may be quantified if substantial evidence is available.
<b>Measures – Area Landscaping</b>
<b>Landscaping Equipment</b>
<b>A-2 Implement Lawnmower Exchange Program</b> <i>Range of Effectiveness:</i> Best Management Practice, influences Area GHG emissions from landscape equipment.
<b>Measures – Construction</b>
<b>Construction</b>
<b>C-1 Use Alternative Fuels for Construction Equipment</b> <i>Range of Effectiveness:</i> 0-22% reduction in GHG emissions.
<b>C-2 Use Electric and Hybrid Construction Equipment</b> <i>Range of Effectiveness:</i> 2.5-80% of GHG emissions from equipment that is electric or hybrid if used 100% of the time.
<b>C-3 Limit Construction Equipment Idling Beyond Regulation Requirements</b> <i>Range of Effectiveness:</i> Varies with the amount of Project Idling occurring and the amount reduced.
<b>C-4 Institute a Heavy-Duty Off-Road Vehicle Plan, including:</b> <ul style="list-style-type: none"> <li>• Construction vehicle inventory tracking system;</li> <li>• Requiring hour meters on equipment;</li> <li>• Document the serial number, horsepower, manufacture age, fuel, etc. of all onsite equipment; and</li> <li>• Daily logging of the operating hours of the equipment.</li> </ul> <i>Range of Effectiveness:</i> Not applicable on its own. This measure ensures compliance with other mitigation measures.
<b>C-5 Implement a Construction Vehicle Inventory Tracking System</b> <i>Range of Effectiveness:</i> Not applicable on its own. This measure ensures compliance with other mitigation measures.
<b>Measures – Miscellaneous</b>
<b>Miscellaneous</b>
<b>Misc-1 Establish a Carbon Sequestration Project, such as:</b> <ul style="list-style-type: none"> <li>• Geologic sequestration or carbon capture and storage techniques, in which CO<sub>2</sub> from point sources is captured and injected underground;</li> <li>• Terrestrial sequestration in which ecosystems are established or preserved to serve as CO<sub>2</sub> sinks;</li> <li>• Novel techniques involving advanced chemical or biological pathways; or</li> <li>• Technologies yet to be discovered.</li> </ul> <i>Range of Effectiveness:</i> Varies depending on Project Applicant and projects selected. The GHG emissions reduction is subtracted from the overall baseline project emissions inventory.
<b>Misc-2 Establish Off-Site Mitigation</b>

<i>Range of Effectiveness:</i> Varies depending on Project Applicant and projects selected. The GHG emissions reduction is subtracted from the overall baseline project emissions inventory.
<b>Misc-3 Use Local and Sustainable Building Materials</b>
<i>Range of Effectiveness:</i> Varies depending on Project Applicant and strategies selected. Best Management Practice.
<b>Misc-4 Require best Management Practices in Agriculture and Animal Operations</b>
<p><b>Misc-5 Require Environmentally Responsible Purchasing, such as:</b></p> <ul style="list-style-type: none"> <li>• Purchasing products with sustainable packaging;</li> <li>• Purchasing post-consumer recycled copier paper, paper towels, and stationary;</li> <li>• Purchasing and stocking communal kitchens with reusable dishes and utensils;</li> <li>• Choosing sustainable cleaning supplies;</li> <li>• Leasing equipment from manufacturers who will recycle the components at their end of life;</li> <li>• Choosing ENERGY STAR appliances and Water Sense-certified water fixtures;</li> <li>• Choosing electronic appliances with built in sleep-mode timers;</li> <li>• Purchasing 'green power' (e.g. electricity generated from renewable or hydropower) from the utility; and</li> <li>• Choosing locally-made and distributed products.</li> </ul> <p><i>Range of Effectiveness:</i> Varies depending on Project Applicant and strategies selected. Best Management Practice.</p>
<b>Misc-6 Implement an Innovative Strategy for GHG Mitigation</b>
<i>Range of Effectiveness:</i> Varies depending on Project Applicant and strategies selected. Best Management Practice.
<b>Measures – General Plans</b>
<b>General Plans</b>
<p><b>GP-1 Fund Incentives for Energy Efficiency, such as:</b></p> <ul style="list-style-type: none"> <li>• Retrofitting or purchasing new low-emissions equipment;</li> <li>• Purchasing electric or hybrid vehicles;</li> <li>• Investing in renewable energy systems</li> </ul> <p><i>Range of Effectiveness:</i> Varies depending on Project Applicant and strategies selected. Best Management Practice.</p>
<b>GP-2 Establish a Local Farmer’s Market</b>
<i>Range of Effectiveness:</i> Varies depending on Project Applicant and strategies selected. Best Management Practice.
<b>GP-3 Establish Community Gardens</b>
<i>Range of Effectiveness:</i> Varies depending on Project Applicant and strategies selected. Best Management Practice.

Furthermore, in an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project from NEDC’s *Diesel Emission Controls in Construction Projects*.<sup>31</sup> Therefore, to reduce the Project’s emissions, consideration of the following measures should be made:

<sup>31</sup> “Diesel Emission Controls in Construction Projects.” Northeast Diesel Collaborative (NEDC), December 2010, available at: <https://www.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-specification.pdf>.



## NEDC's Diesel Emission Controls in Construction Projects<sup>32</sup>

### Measures – Diesel Emission Control Technology

#### a. Diesel Onroad Vehicles

All diesel nonroad vehicles on site for more than 10 total days must have either (1) engines that meet EPA onroad emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.

#### b. Diesel Generators

All diesel generators on site for more than 10 total days must be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.

c. Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.

d. All diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend<sup>33</sup> approved by the original engine manufacturer with sulfur content of 15 ppm or less.

### Measures – Additional Diesel Requirements

a. Construction shall not proceed until the contractor submits a certified list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:

- Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
- Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
- For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.

b. If the contractor subsequently needs to bring on site equipment not on the list, the contractor shall submit written notification within 24 hours that attests the equipment complies with all contract conditions and provide information.

c. The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.

### Reporting

a. For each onroad diesel vehicle, nonroad construction equipment, or generator, the contractor shall submit to the developer's representative a report prior to bringing said equipment on site that

<sup>32</sup> "Diesel Emission Controls in Construction Projects." Northeast Diesel Collaborative (NEDC), December 2010, available at: <https://www.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-specification.pdf>.

<sup>33</sup> Biodiesel blends are only to be used in conjunction with the technologies which have been verified for use with biodiesel blends and are subject to the following requirements: <http://www.arb.ca.gov/diesel/verdev/reg/biodieselcompliance.pdf>.



includes:

- i. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, and engine serial number.
- ii. The type of emission control technology installed, serial number, make, model, manufacturer, and EPA/CARB verification number/level.
- iii. The Certification Statement signed and printed on the contractor's letterhead.

b. The contractor shall submit to the developer's representative a monthly report that, for each onroad diesel vehicle, nonroad construction equipment, or generator onsite, includes:

- i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
- ii. Any problems with the equipment or emission controls.
- iii. Certified copies of fuel deliveries for the time period that identify:
  1. Source of supply
  2. Quantity of fuel
  3. Quality of fuel, including sulfur content (percent by weight)

Finally, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project from the Sacramento Metropolitan Air Quality Management District's ("SMAQMD") *Basic Construction Emission Control Practices (Best Management Practices)* and *Enhanced Exhaust Control Practices*.<sup>34, 35</sup> Therefore, to reduce the Project's emissions, consideration of the following measures should be made:

#### SMAQMD's *Basic Construction Emission Control Practices*<sup>36</sup>

*The following Basic Construction Emissions Control Practices are considered feasible for controlling fugitive dust from a construction site. The practices also serve as best management practices (BMPs), allowing the use of the non-zero particulate matter significance thresholds. Lead agencies should add these emission control practices as Conditions of Approval (COA) or include in a Mitigation Monitoring and Reporting Program (MMRP).*

Use wet power vacuum street sweepers to remove any visible trackout mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited.

Limit vehicle speeds on unpaved roads to 15 miles per hour (mph).

All roadways, driveways, sidewalks, parking lots to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

<sup>34</sup> "Basic Construction Emission Control Practices (Best Management Practices)." Sacramento Metropolitan Air Quality Management District (SMAQMD), July 2019, available at: <https://www.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf>.

<sup>35</sup> "Enhanced Exhaust Control Practices." Sacramento Metropolitan Air Quality Management District (SMAQMD) October 2013, available at: <http://www.airquality.org/LandUseTransportation/Documents/Ch3EnhancedExhaustControlFINAL10-2013.pdf>.

<sup>36</sup> "Basic Construction Emission Control Practices (Best Management Practices)." Sacramento Metropolitan Air Quality Management District (SMAQMD), July 2019, available at: <https://www.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf>.



*The following practices describe exhaust emission control from diesel powered fleets working at a construction site. California regulations limit idling from both on-road and offroad diesel-powered equipment. The California Air Resources Board (CARB) enforces idling limitations and compliance with diesel fleet regulations.*

Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes [California Code of Regulations, Title 13, sections 2449(d)(3) and 2485]. Provide clear signage that posts this requirement for workers at the entrances to the site.

Provide current certificate(s) of compliance for CARB's In-Use Off-Road Diesel-Fueled Fleets Regulation [California Code of Regulations, Title 13, sections 2449 and 2449.1].

### SMAQMD's Enhanced Exhaust Control Practices<sup>37</sup>

1. The project representative shall submit to the lead agency and District a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the construction project.
  - The inventory shall include the horsepower rating, engine model year, and projected hours of use for each piece of equipment.
  - The project representative shall provide the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman.
  - This information shall be submitted at least 4 business days prior to the use of subject heavy-duty off-road equipment.
  - The District's Equipment List Form can be used to submit this information.
  - The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.
2. The project representative shall provide a plan for approval by the lead agency and District demonstrating that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a project wide fleet-average 20% NOX reduction and 45% particulate reduction compared to the most recent California Air Resources Board (ARB) fleet average.
  - This plan shall be submitted in conjunction with the equipment inventory.
  - Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.
  - The District's Construction Mitigation Calculator can be used to identify an equipment fleet that achieves this reduction.
3. The project representative shall ensure that emissions from all off-road diesel powered equipment used on the project site do not exceed 40% opacity for more than three minutes in any one hour.
  - Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired

<sup>37</sup> "Enhanced Exhaust Control Practices." Sacramento Metropolitan Air Quality Management District (SMAQMD) October 2013, available at: <http://www.airquality.org/LandUseTransportation/Documents/Ch3EnhancedExhaustControlFINAL10-2013.pdf>.



immediately.

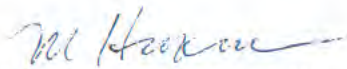
- Non-compliant equipment will be documented and a summary provided to the lead agency and District monthly.
- A visual survey of all in-operation equipment shall be made at least weekly.
- A monthly summary of the visual survey results shall be submitted throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.

4. The District and/or other officials may conduct periodic site inspections to determine compliance. Nothing in this mitigation shall supersede other District, state or federal rules or regulations.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation. An updated EIR should be prepared to include all feasible mitigation measures, as well as include an updated air quality and GHG analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The updated EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

SWAPE has received limited information regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

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**From:** Peter Broderick <pbroderick@biologicaldiversity.org>

**Sent:** Wednesday, September 14, 2022 5:06 PM

**To:** John Minto <JMinto@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>

**Cc:** Chris Jacobs <CJacobs@CityofSanteeCa.gov>

**Subject:** City Council Meeting Agenda Item 8: Public Testimony

Councilmembers,

Because I am unable to attend this evening's hearing on the Fanita Ranch Project in person, I had planned on giving testimony remotely via Zoom. However, I see from the City's website that the City is prohibiting the public from giving remote testimony at this hearing. This is highly unusual; in my experience, nearly every other local government in California now allows for remote testimony, usually via Zoom. This has been common practice across the state since several months into the COVID-19 pandemic. The City's decision not to allow remote testimony is another unfortunate barrier to full public participation in this decision-making process.

In lieu of remote real-time testimony, I am providing written remarks below. Please consider these remarks prior to your decision this evening.

**My name is Peter Broderick and I am an attorney with the Center for Biological Diversity. The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Santee and throughout San Diego County.**

**I provide this testimony today to object in the strongest terms to the City's proposed approval of the Fanita Ranch Project and certification of the REIR. As the Center has detailed in our written comments on the Draft REIR and Final REIR, the City has yet to acknowledge or adequately disclose, analyze, and mitigate the Project's significant impacts to wildfire safety and evacuation. We were dismayed that the City ignored our extensive comments on the Draft REIR.**

**Additionally, the Council appears poised to attempt to circumvent Santee voters' right to hold a vote on whether the Project should move forward. Participatory democracy is a cornerstone of California law, enshrined in the state Constitution, and an essential component of civic engagement. The City should respect state law and the will of its residents and voters and place the project on the ballot.**

Regards,

**Peter J. Broderick**

Attorney

Urban Wildlands Program

Center for Biological Diversity

(503) 283-5474 x421

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**From:** Renee Royal <rroyal@jaamelectric.com>  
**Sent:** Wednesday, September 14, 2022 8:44 AM  
**To:** John Minto <JMinto@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>; Chris Jacobs <CJacobs@CityofSanteeCa.gov>  
**Subject:** Project Green Light: Fanita Ranch

Dear City Council Members,

My name is Renee Royal and I am writing to you this morning to show my support for the Fanita Ranch project. I am employed by a local electrician who would certainly be involved and benefit from a business standard point. However, I am writing to you as a person who knows the pride one feels when they are blessed with homeownership and connected to a community.

As you know, Fanita Ranch has been planned for several years. It's time to approve it so many San Diego Families will have a better chance of the American Dream.....owning a home! I have reviewed the information on Fanita Ranch and it looks to be well planned as well as an amazing place to come home to. HomeFed has been developing Master Planned communities in San Diego County for 25 years. They know how to create a community that people can be proud to call home.

All of the planned amenities are well thought out. Miles of trails creating a sustainable walking community. Acres and acres of parks and an organic farm to offer an amazing experience and lifestyle right in your own backyard.

Please approve Fanita Ranch to offer quality housing and to support the future of the city of Santee.

Your time and consideration are appreciated.

Sincerely,



**Renee Royal | Sales Executive**

9260 Isaac St Suite G, 92071

619-954-4924

[rroyal@JAAMElectric.com](mailto:rroyal@JAAMElectric.com)

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**From:** [Roxane Dyer](#)  
**To:** [Dustin Trotter](#); [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Wednesday, September 14, 2022 4:17:47 PM

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Dear City Council and Mr. Jacobs,

Please VOTE NO! We do not have the resources for this city to handle these homes. Our streets are a disaster and we have issued numerous permits for condos being built on the west end of Santee. Look at the water resources WE DO not have. This project needs to be approved by the people not the mayor or city council or ONE judge. For 40 years this project has cost the people thousands of dollars and time. Be the BRAVE one and vote No! You were voted by the people as our voice. Our voice is NO!!

Please respect the will of Santee resident voters. Residents rejected Fanita Ranch sprawl in a landslide referendum vote in 1999. In 2020, residents voted to protect the Santee General Plan from inconsistent sprawl developments like Fanita Ranch. In March 2022, the court ruled against Fanita Ranch for the 4th time, once again aligning with the will of voters.

Campaign contributions should not be able to buy amendments to Santee's General Plan or exempt developers from the democratic will of Santee voters.

The people of Santee passed Measure N to assure Santee residents make the final decision at the ballot on Fanita Ranch and any other projects that violate the Santee General Plan.

City maneuvers attempting to prevent a vote of the people on the Fanita Ranch project are unethical, anti-democracy and anti-American. Please re-notice the Revised Environmental Impact Report to recognize the legal authority of Santee residents.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program (REPI).

Thank you

Roxane Dyer

  
HomeSmart Realty West

Home is where the is -- Welcome Home!



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**From:** Stephanie Price [REDACTED]

**Sent:** Wednesday, September 14, 2022 10:03 AM

**To:** John Minto <JMinto@CityofSanteeCa.gov>; Ronn Hall <RonnHall@CityofSanteeCa.gov>; Laura Koval <LKoval@CityofSanteeCa.gov>; Dustin Trotter <DTrotter@CityofSanteeCa.gov>; Rob McNelis <RMcNelis@CityofSanteeCa.gov>

**Subject:** Fanita Ranch

My name is Stephanie Price, and I'm in support of Fanita Ranch.

I think we can all agree that open space preservation is vital to the region.  
Fanita Ranch has so much to offer. We'd be foolish not to take advantage of the plan.

I want my kids and grandkids to be able to live in Santee if they choose to.  
Santee needs new move up housing.

Please vote yes in support of Fanita Ranch.

INVEST IN SANTEE.

Thank You!

**From:** [Steve Stelman](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch FREIR RTC Comments  
**Date:** Wednesday, September 14, 2022 2:58:14 PM

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Mr. Jacobs and City Council,

In rebut of the comments made regarding my letter dated July 25, 2022; Harris and Associates fails to adequately respond to the issues.

Comment I111-1 stated that my concerns were addressed in Thematic Response 4, specifically subsections 4a and 4b. In those sections, references are made to the 2003 and 2007 (and later) wildfires in the regions stating that "Technological advancements in emergency notification capabilities has resulted in the ability of emergency managers to evacuate targeted areas in contrast to the mass evacuations that occurred during 2003 and 2007 wildfires in the region."

It furthermore states that "the majority of the community traffic would exit the proposed project via Cuyamaca Street or Magnolia Avenue via Cuyamaca Street." This is in reality a single southbound exit from the entire project geography.

Note that deaths, critical injuries, and property destruction occurred more recently than 2003, 2007, 2010, or even the 2018 data cited in Response 4, notably in the nearby Border 32 and Fairview Fires this year. Those fires allowed evacuation in multiple directions, while a potential fire in Fanita Ranch would direct all traffic only southward into the city. Furthermore, As every Santee commuter already knows (and the City Council has acknowledged over the years during on the record meetings) daily rush hour congestion just for those who live in Santee but work outside the city generates stand-still traffic on a daily basis. Imagine the population of an entire subdivision needing to evacuate at one time through a funnel. This is dangerous and should not be approved.

In regards to Comment I111-2, I found the reply to be non-responsive. As a resident of Santee, I was led to believe from statements made by the Santee Mayor that any re-approval of the Fanita Ranch project subsequent to court-ordered repeal of the project's prior approval, would be subject to a public vote. Mayor Minto publicly stated in June 2022 after voting to remove the project approval from the November ballot, "that because the project would need an amendment to the city's General Plan, it would require a public vote." [<https://www.eastcountymagazine.org/santee-council-removes-fanita-ranch-november-ballot-collinsworth-cries-foul>]. The potential approval of the project under Ordinance 592 which would preclude a public vote from ever occurring contradicts what the Mayor and City Council led me to believe.

Steve Stelman

**From:** [Thomas Jefferson](#)  
**To:** [Chris Jacobs](#)  
**Subject:** Fanita Ranch  
**Date:** Wednesday, September 14, 2022 2:54:54 PM

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Dear Mr. Jacobs and City Council,

The people of Santee passed Measure N and qualified a referendum to assure Santee residents make the final decision at the ballot on Fanita Ranch.

Item 8 approval of Fanita Ranch with the illegal exclusion of a public vote on the Fanita Ranch project is unethical, anti-democracy and anti-American. I urge you to vote against it.

Placing a 3,000-unit project with significant traffic impacts into a Cal Fire identified severe fire hazard zone is a significant risk to new residents and to existing residents that must use the same routes for evacuation. The development application should be abandoned and the land permanently conserved through the Department of Defense military base buffer program.

Thank you,  
Tom Jefferson

**From:** [Ben Johnson](#)  
**To:** [James Jeffries](#)  
**Subject:** Concerns about Fanita Ranch \_ Santee Resident \_ 09-14-2022  
**Date:** Thursday, September 15, 2022 8:50:38 AM

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Hi James,

I am sure you are getting ready for tonight's discussion and I am sending this in case I do not get the time to speak tonight.

Good evening,

Thank you for letting me voice be heard. I understand that this is a contentious issue and both sides of the argument feel they are justified.

My concerns are based on how I believe this development will effect the town of Santee. I understand the case has been made the Cuyamaca and Mast have been designed with the understanding that Fanita Ranch will be developed. However, much of Santee's roads have not and the additional 26K cars combined with other neighboring cities traffic causes me concern. Not to mention that the remedies to 52W do not address the backup that occurs on Mast as a result of the high school this will only be made worse by additional cars coming from that direction.

I also believe that the additional cars are going discourage campers from the lakes decreasing the towns revenue and also create additional negative effects for the existing communities.

I hope that the city council decided to postpone the approval of Fanita Ranch as emergency housing.

Best,

Ben

Sent from [Mail](#) for Windows

Robert Janica

[REDACTED]  
Santee, Ca. 92071

Dear City Council, Major and Vice Mayor and Staff,

I have relocated back to Calif in April this year.

Please accept this email as support for Fanita Ranch. Fanita Ranch has been part of the City's future development plans for over 30 years. Originally planned for 13,000 homes, it's been whittled down over and over by a few extremists in an effort to respond to NYMBY opposition, but no amount of concessions or planning have made this vocal minority happy. It's time to approve this thoughtful plan so our families have a better chance of owning a home!

HomeFed has been developing Master Planned communities in San Diego County for 25 years. They have brought highly qualified and thoughtful planners, designers, engineers, and development professionals into their planning efforts to ensure Santee gets a stellar community of which can be proud

The amenities planned are incredible miles of trails, publicly accessible parks and open space, acres and acres of parks and open space, a new fire station and an organic farm, a walkable sustainable community is exactly what we are looking for. Please approve Fanita Ranch.

[REDACTED]  
Robert Janica