

**UPPER SANTA ANA RIVER WASH LAND
MANAGEMENT AND HABITAT
CONSERVATION PLAN**

**CERTIFICATION OF THE FINAL
ENVIRONMENTAL IMPACT REPORT
AND
APPROVAL OF THE WASH PLAN**

**Presentation to the Board of Directors
November 12, 2008**

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THE PRESENTATION WILL COVER:

- ▶ CEQA requirements of a Final EIR
- ▶ Key Elements of the Wash Plan Final EIR
- ▶ Revisions to the Draft EIR
- ▶ Certification of the EIR and Adoption of Wash Plan

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CEQA REQUIREMENTS FOR PREPARATION OF A FINAL EIR

- ▶ Prepare a Final EIR before approving a project;
- ▶ Provide opportunity to review the Final before approving the project (Optional);
- ▶ Evaluate comments on environmental issues and prepare written responses;

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CEQA REQUIREMENTS FOR CONTENT OF FINAL EIR

- ▶ Draft EIR or revision to Draft;
- ▶ List of Commenters and comments on the Draft
- ▶ Responses of the Lead Agency to significant points raised in comments
- ▶ Other information added by Lead Agency

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EVALUATION OF AND RESPONSE TO COMMENTS

- ▶ Provide a written proposed response to a public agency commenting on the Draft EIR 10 days prior to certifying the Final EIR;
- ▶ Address significant environmental issues raised and provide a good faith, reasoned analysis;
- ▶ Revise EIR, or somehow note changes, when responses concur with comments requiring changes to important information in the Draft

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KEY ELEMENTS OF THE WASH PLAN FINAL EIR

- ▶ Response to Comments received on the Draft EIR - Appendix K
- ▶ Mitigation Monitoring and Reporting Program – Appendix L;
- ▶ Biological Technical Report – Appendix M.

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COMMENT LETTERS RECEIVED ON THE DRAFT EIR

STATE AND REGIONAL AGENCIES

- ▶ Office of Planning & Research (OPR)
- ▶ Native American Heritage Commission (NAHC)
- ▶ Dept. of Toxic Substances Control (DTSC)
- ▶ California Dept. of Transportation (CalTrans)
- ▶ California Dept. of Fish and Game (CDFG)
- ▶ So. Calif. Assoc. of Governments (SCAG)

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COMMENT LETTERS RECEIVED ON THE DRAFT EIR

LOCAL AGENCIES

- ▶ **City of Highland (Highland)**
- ▶ **City of Redlands (Redlands)**
- ▶ **S.B. County Flood Control District (SBCFCD)**
- ▶ **S.B. County Regional Parks Department (Reg. Parks)**
- ▶ **S.B. Valley Municipal Water District (Muni)**
- ▶ **Western Municipal Water District (Western)**

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**COMMENT LETTERS RECEIVED ON THE
DRAFT EIR**

ORGANIZATIONS AND INDIVIDUALS

- ▶ **Center for Biological Diversity, San Bernardino Valley Audubon Society, & Sierra Club – San Geronimo Chapter (CBD)**

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COMMENT LETTERS RECEIVED FROM WASH PLAN TASK FORCE MEMBERS

- ▶ Highland
- ▶ Redlands
- ▶ SBCFCD
- ▶ Reg. Parks
- ▶ CDFG

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HIGHLAND LETTER

Highland Comments: 78 comments, 9 from Comm. Dev. Dept. (CDD) and 69 from the Public Works Dept. (PWD). Most comments asked for revisions to clarify the project description.

- ▶ Clarification on aesthetic impact mitigation measures; requested to see Mitigation Monitoring Plan; identified new noise ordinance that should be recognized in EIR.
- ▶ Requested numerous changes to clarify right-of-way references; titles and display on some figures; certain terminology, and 20 ac. mitigation area;
- ▶ Cited incorrect lengths and acreages for the planned improvements to Greenspot Road;
- ▶ Requested changes to traffic mitigation measures including the addition of a new mitigation measure to provide fair share payment for improvements to north & south bound freeway on-ramps

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RESPONSE TO HIGHLAND LETTER

- ▶ **Corrections and clarifications were made generally as requested.**
- ▶ **Length of road segments and impacted acreage relative Greenspot Road improvements have been incorporated into the Final EIR text.**
- ▶ **Traffic Mitigation Measures have been revised as requested.**

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REDLANDS LETTER

Redlands Comments: 25 comments, 20 from Comm. Dev. Dept. (CDD) and 5 from the Municipal Utilities & Eng. Dept. (MUED). Most comments asked for revisions to clarify the project description and certain discussions in impact analysis sections.

- ▶ Requested additional discussion regarding the City's habitat area between Alabama and SR210 and clarification on the mining leased area under City ownership, also asked for clarification on timing of entitlement process relative to obtaining permits from FWS & CDFG;
- ▶ Requested various changes to Project Description to clarify right-of-way references, an additional GPA for the Santa Fe-Mentone Trail and raised a new issue about obtaining compensation for 155 ac of habitat between Alabama and the 210;
- ▶ MUED requested corrections to ROW citations and clarification on access to water wells, intersection LOS and NPDES procedures.

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RESPONSE TO REDLANDS LETTER.

- ▶ **Corrections and clarifications were made generally as requested.**
- ▶ **Acreage regarding City habitat acreage and mining lease area were corrected based on best available information. Timing of entitlement process relative to obtaining permits from FWS & CDFG was clarified.**
- ▶ **Response to City's position that "compensation for 155 ac of habitat" indicated that City had not originally taken such a position and the habitat conservation on that site was never part of the Concept Plan and that the Task Force understood that the City would assign the area to conservation to complete the Wash Plan.**

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COMMENTS AND RESPONSES ADDRESSING BIOLOGICAL IMPACTS

CDFG Comments: restated the Department's insight into the advantages of the Plan by connecting habitat areas and expanding woolly star conservation that currently exists in the WSPA, but pointed out that the Wash Plan has no jurisdiction over the WSPA; emphasized the need for more detailed mitigation in the HCP that would be a subsequent component of the EIR. The letter concludes by listing several advantages of the Wash Plan.

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COMMENTS AND RESPONSES ADDRESSING BIOLOGICAL IMPACTS

Responses to CDFG Comments: acknowledged the Dept's emphasis on the HCP as a mechanism for providing the necessary details on funding, habitat management, monitoring and adaptive management; acknowledged State procedures for compliance with CESA and Section 1600 Streambed Alteration procedures; expressed agreement with the Dept's assessment of the mitigation measures and project advantages.

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COMMENTS AND RESPONSES ADDRESSING BIOLOGICAL IMPACTS

Muni Comments: stated the agency's uncertainty about biological clearances, i.e. how those have been obtained; asked for clarification on the three components (EIR, EIS & HCP) and schedules for completion; questioned habitat conservation and water conservation activities; asked for documentation substantiating the ability to conduct water conservation on BLM exchange land; questioned what additional mitigation may be imposed in the future HCP.

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COMMENTS AND RESPONSES ADDRESSING BIOLOGICAL IMPACTS

Responses to Muni Comments: responses point out the programmatic approach to biological impacts through addition of designated habitat conservation areas that will add to existing WSPA, the HEP consisting of 16 mitigation measures and the future HCP to be completed; responses indicate that final biological clearance will occur through the incidental take permit issued by the FWS and a consistency determination by the DFG relying on approval of the HCP; restates the basis of 31% water conservation and 69% habitat conservation in Phase 2 & 3 areas.

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COMMENTS AND RESPONSES ADDRESSING BIOLOGICAL IMPACTS

CBD Comments: letter provides broad based attack on the Draft EIR citing inadequate analysis of impacts, inadequate mitigation, lack of current data on species occurrences, failure to consider proper reserve design, and general failure to provide clear and concise environmental assessment; cites many deficiencies related to HCP requirements and inadequate conservation for listed species; asserts inadequate conservation of all rare species and habitats within the Plan area; cites failure to evaluate indirect effects from edge effects adjoining residential land uses; calls for reanalysis and recirculation.

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COMMENTS AND RESPONSES ADDRESSING BIOLOGICAL IMPACTS

Responses to CBD Comments: 11 pages of responses cite overall benefits of the plan as a comprehensive land management approach that provides additional commitment to habitat conservation, linking WSPA Units 2, 3 & 4 to the south with Unit 5 to the north and linkage of Units 1 & 2, providing connected corridor for biological diversity between the SAR and Plunge Creek; uses extensive references to the BTR for expanded analysis of impacts to listed and unlisted rare species; clarifies the follow-on HCP process that will provide detail on funding and sufficient offset of impacts with conservation to meet 10a permit issuance criteria; reiterates that EIR provides a sufficient project baseline and impact analysis consistent with CEQA requirements and includes extensive mitigation that will be incorporated in the later HCP and includes measures that address off-site, indirect impacts; indicates that recirculation is not required.

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BIOLOGICAL TECHNICAL REPORT

A Substantially Expanded Biological Technical Report (BTR) was completed by Dudek in October, included as Appendix M

- ▶ The report was prepared primarily to provide meaningful, good faith responses to the CBD comment letter;
- ▶ The report provides a comprehensive impact analysis for both listed and unlisted species and rare habitats and greatly expands the information present in Appendix E-1 of the Draft EIR;
- ▶ The report provides a habitat gain/loss analysis that provides substantial evidence for the value of the Wash Plan;
- ▶ The report also includes a comprehensive net change to special status species analysis

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REVISIONS TO MITIGATION MEASURES

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REVISED HAZARDOUS MATERIALS MITIGATION MEASURE

HAZ-3: Added provision in response to DTSC comment that provides a performance standard in the event that hazardous materials are discovered during implementation of the project. Provision calls for remediation or other mitigation acceptable to the appropriate agency having jurisdiction.

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REVISED BIOLOGICAL MITIGATION MEASURES

BIO-1 & 2: Minor editorial changes for clarification;

BIO-6 & 7: Correction to eliminate locational reference to chamise along Santa River since chamise does not exist at that location

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REVISED TRAFFIC MITIGATION MEASURES

TRAFFIC-1: Changed text for clarification

TRAFFIC-2,3,4 & 5: Timing changed at to allow appropriate timing of condition at request of mining companies; other provisions added at request of City of Highland to include all recommendations from Traffic Study

TRAFFIC-3: Changed at request of Highland to incorporate mitigation for on-ramps and use of current construction cost at time of implementation

ROLES AND RESPONSIBILITIES

SBVWCD: Lead Agency will certify the EIR and adopt the Wash Plan.

Task Force: Advisory body to the District and recommends adoption by the District.

Local and State Members are Responsible Agencies

Cities of Highland and Redlands

County and County Flood Control District

East Valley Water District

CDFG



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CERTIFICATION OF AN EIR

Prior to approving a project a Lead Agency shall certify that:

- ▶ That the Final EIR has been completed in compliance with CEQA;
- ▶ That the Final EIR was presented to the decision-making body of the Lead Agency and considered prior to their action on the project;
- ▶ That the Final EIR represents the Lead Agency's independent judgment and analysis.

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APPROVAL OF A PROJECT REQUIRING AN EIR

Lead Agencies must: 1) adopt a program for monitoring or reporting on mitigation, and 2) make findings regarding unavoidable significant impacts before approving a project including:

- ▶ Declaring that changes or alterations have been incorporated to lessen or avoid the impacts;
- ▶ Declaring that changes or alterations are within responsibility of another agency;
- ▶ Declaring that specific economic, legal, social, technical, or other considerations make certain mitigation or alternatives infeasible
 - Agency must declare that remaining unavoidable impacts are acceptable based on overriding considerations

SIGNIFICANT UNAVOIDABLE IMPACTS

Of the 16 environmental attributes, all the impacts were either not significant before or became non significant with mitigation, except for 5 attributes.

These attributes had significant, unavoidable impacts even with the number of associated mitigation measures (x).

Aesthetics	View of the mining pits (4)
Air Quality	Diesel emissions from mining vehicles (2)
Minerals	Unused aggregate resources (0)
Traffic	SR-30 Freeway ramps (4)
Biology	Loss of habitat (27)

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**ADOPT RESOLUTIONS NOS. 443 & 444
TO
CERTIFY THE EIR
AND
APPROVE THE WASH PLAN**

QUESTIONS