

**APPENDIX K:  
RESPONSES TO COMMENTS**

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# **RESPONSE TO COMMENTS ON THE UPPER SANTA ANA RIVER WASH LAND MANAGEMENT AND HABITAT CONSERVATION PLAN DRAFT ENVIRONMENTAL IMPACT REPORT**

The primary objective and purpose of the EIR public review process is to obtain comments on the adequacy of the analysis of environmental impacts, the mitigation measures presented, and other analyses contained in the report. The California Environmental Quality Act (CEQA) requires that the San Bernardino Valley Water Conservation District respond to all significant environmental issues raised during the public review process of the Draft EIR (*CEQA Guidelines* Section 15088). Comments that do not directly relate to the analysis in this document (i.e., are outside the scope of this document) are not given specific responses; however, all comments are included in this section so that the decision-makers may know the opinions of the commenter.

The comments regarding the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (State Clearinghouse No. [2004051023](#)) Draft EIR and the individual responses to each comment are included in this section. In the process of responding to the comments, there were minor revisions to the Draft EIR. None of the changes to the Draft EIR, constitute “significant new information” (*CEQA Guidelines* Section 15088.5 [a]) that would require recirculation of the EIR.

At the close of the public review period, thirteen comment letters had been received by the District. Aside from the courtesy statements, introductions, and closings, individual comments within the body of each letter have been identified and numbered. A copy of each comment letter is included in the Final EIR. Brackets delineating the individual comments and an alphanumeric identifier have been added to the right margin of the letter. Responses to each comment identified are included on the page(s) following each comment letter. Responses to comments were sent to the agencies that provided comments.

Per CEQA (§ 15088.5), a Lead Agency is required to recirculate a Draft EIR only when significant new information is added after public notice of the availability of the Draft EIR and prior to the EIR's certification. Significant new information includes:

- 1) A new significant environmental impact would result from the project or from new mitigation measures proposed to be implemented;
- 2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- 3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project proponents decline to adopt it; and/or
- 4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

New information is not significant unless the EIR is changed in a way 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. Since only minor revisions were required in response to comments that did not alter the significance of an identified impact, and the comments did not identify a new significant adverse environmental effect that was not previously identified in the Draft EIR; therefore, recirculation of the Draft EIR is not required.

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STATE OF CALIFORNIA  
 GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
 STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER  
 GOVERNOR

CYNTHIA BRYAN  
 DIRECTOR

May 8, 2008

Randy Scott  
 San Bernardino Valley Water Conservation District  
 1630 W. Redlands Boulevard, Suite A  
 Redlands, CA 92373

Subject: Upper Santa Ana River Wash Land Management and Habitat Conservation Plan  
 SCH#: 2004051023

Dear Randy Scott:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 7, 2008, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

A-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts  
 Director, State Clearinghouse

Enclosures  
 cc: Resources Agency



Document Details Report  
State Clearinghouse Data Base

Letter A

**SCH#** 2004051023  
**Project Title** Upper Santa Ana River Wash Land Management and Habitat Conservation Plan  
**Lead Agency** San Bernardino Valley Water Conservation District

**Type** EIR Draft EIR  
**Description** The Upper Santa Ana River Wash Land Management and Habitat Conservation Plan is a multifaceted, multi-agency, and multi-property owner project that provides for the coordination and accommodation of existing and anticipated future activities on the project site.

**Lead Agency Contact**

**Name** Randy Scott  
**Agency** San Bernardino Valley Water Conservation District  
**Phone** (909) 793-2503 **Fax**  
**email**  
**Address** 1630 W. Redlands Boulevard, Suite A  
**City** Redlands **State** CA **Zip** 92373

**Project Location**

**County** San Bernardino  
**City** Highland, Redlands  
**Region**  
**Cross Streets** Orange Street and Greenspot Road  
**Parcel No.**  
**Township** 1S **Range** 3W **Section** 9-12 **Base** SBB&M

**Proximity to:**

**Highways**  
**Airports** San Bernardino, Redlands  
**Railways**  
**Waterways** Santa Ana River Wash  
**Schools** Arroyo Verde ES, Highland Grove ES, & Beattie MS  
**Land Use** Water Conservation, Flood Control, Habitat Conservation, Undeveloped Natural Habitat, Aggregate Mining Agricultural  
Zoning: Highland - Agriculture/Equestrian, Public/Institutional; Redlands - Agricultural  
Equestrian Residential, Public/Quasi-Public  
General Plan: Highland - Agriculture/Equestrian, Public/Institutional, Open Space; Redlands - Flood Control/Construction Aggregates, Conservation/Habitat Preservation

**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

**Reviewing Agencies** Resources Agency; Regional Water Quality Control Board, Region 8; Department of Parks and Recreation; Native American Heritage Commission; Office of Historic Preservation; Cal Fire; Department of Fish and Game, Region 6; Department of Water Resources; Department of Conservation; Caltrans, District 8; Caltrans, Division of Aeronautics; Department of Toxic Substances Control; State Lands Commission

**Date Received** 03/24/2008 **Start of Review** 03/24/2008 **End of Review** 05/07/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.

## **RESPONSE TO COMMENT LETTER A**

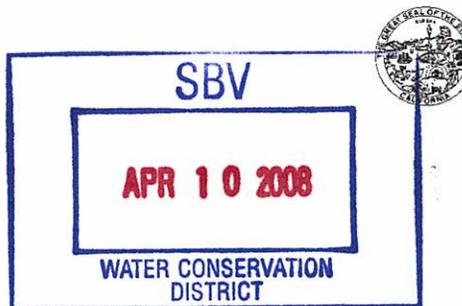
### **State Clearinghouse and Planning Unit**

**Response to Comment A-1.** The District recognizes that four State agencies (Native American Heritage Commission, California Department of Toxic Substances Control, Caltrans, and California Department of Fish and Game) in addition to the State Clearinghouse have submitted comment letters on the Draft EIR by the May 23, 2008, close of the 60-day public review period. The District further recognizes that it has complied with State Clearinghouse review requirements for draft environmental documents.

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NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds\_nahc@pacbell.net



April 7, 2008

Mr. Randy Scott
San Bernardino Valley Water Conservation District
1630 West Redlands Boulevard, Suite A
Redlands, CA 92373

Re: SCH#2004051023; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management & Habitat Conservation Plan; San Bernardino County, California

Dear Mr. Scott:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c) (CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- √ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur...
√ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
√ Contact the Native American Heritage Commission (NAHC) for:
\* A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information.
The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered.
√ Lack of surface evidence of archeological resources does not preclude their subsurface existence.

B-1

B-2

B-3

B-4

B-5

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

\* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

B-6

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

B-7

√ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**Native American Contacts  
San Bernardino County  
April 7, 2008**

**Letter B**

Cahuilla Band of Indians  
Anthony Madrigal, Jr., Chairperson  
P.O. Box 391760 Cahuilla  
Anza, CA 92539  
tribalcouncil@cahuilla.net  
(951) 763-2631

(951) 763-2632 Fax

Ramona Band of Cahuilla Mission Indians  
Joseph Hamilton, vice chairman  
P.O. Box 391670 Cahuilla  
Anza, CA 92539  
admin@ramonatribe.com  
(951) 763-4105  
(951) 763-4325 Fax

San Manuel Band of Mission Indians  
James Ramos, Chairperson  
26569 Community Center Drive Serrano  
Highland, CA 92346  
(909) 864-8933  
(909) 864-3724 - FAX  
(909) 864-3370 Fax

Gabrieleno/Tongva San Gabriel Band of Mission  
Anthony Morales, Chairperson  
PO Box 693 Gabrielino Tongva  
San Gabriel, CA 91778  
ChiefRBwife@aol.com  
(626) 286-1632  
(626) 286-1758 - Home  
(626) 286-1262 Fax

Gabrielino/Tongva Council / Gabrielino Tongva Nation  
Sam Dunlap, Tribal Secretary  
761 Terminal Street; Bldg 1, 2nd floor Gabrielino Tongva  
Los Angeles, CA 90021  
office @tongvatribes.net  
(213) 489-5001 - Office  
(909) 262-9351 - cell  
(213) 489-5002 Fax

Gabrielino Band of Mission Indians of CA  
Ms. Susan Frank  
PO Box 3021 Gabrielino  
Beaumont, CA 92223  
(951) 897-2536 Phone/Fax

San Manuel Band of Mission Indians  
Ann Brierty, Environmental Department  
101 Pure Water Lane Serrano  
Highland, CA 92346  
abrierty@sanmanuel-nsn.gov  
(909) 863-5899 EXT-4321  
  
(909) 862-5152 Fax

Morongo Band of Mission Indians  
Robert Martin, Chairperson  
11581 Potrero Road Cahuilla  
Banning, CA 92220 Serrano  
Robert.Martin@morongo.org  
(951) 849-8807  
(951) 755-5200  
(951) 922-8146 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed, SCH#2004051023; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management & Habitat Conservation Plan; San Bernardino Valley Water Conservation District; San Bernardino County, California.

**Native American Contacts  
San Bernardino County  
April 7, 2008**

**Letter B**

Serrano Nation of Indians  
Goldie Walker  
6588 Valaria Drive  
Highland, CA 92346  
(909) 862-9883

Serrano

**This list is current only as of the date of this document.**

**Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.**

**This list is only applicable for contacting local Native American with regard to cultural resources for the proposed, SCH#2004051023; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management & Habitat Conservation Plan; San Bernardino Valley Water Conservation District; San Bernardino County, California.**

## **RESPONSE TO COMMENT LETTER B**

### **Native American Heritage Commission (NAHC)**

**Response to Comment B-1.** In January of 2005, LSA Associates, Inc. (LSA) completed a Cultural Resources Assessment. As a part of the Cultural Resources Assessment, a record search was conducted. The results of this record search are included in the EIR and the Cultural Resources Assessment is included in Appendix F of the EIR. No changes are required in the EIR.

**Response to Comment B-2.** The project EIR contains mitigation measures to reduce impacts related to cultural resources in the event that they are discovered. **Mitigation Measures CUL-1** and **CUL-2** state the following:

**CUL-1** A qualified archaeological monitor shall be present during initial ground-disturbing activities in the proposed Planning Area. The monitor shall be empowered to temporarily halt or redirect construction/mining activities in the vicinity of the find until the find can be evaluated by a certified archaeologist.

**CUL-2** In the event of a new find, salvage, excavation, and reporting shall be required. The Secretary of the Interior's Guidelines for archaeological documentation shall be followed by a qualified archaeologist.

**Response to Comment B-3.** A Sacred Lands File Search was completed for the proposed project on June 24, 2005. Carol Gaubatz of the NAHC wrote a letter stating that the Sacred Lands File search did not identify Native American cultural resources. The Cities of Highland and Redlands will be required to conduct subsequent Sacred Land File Searches as part of their own environmental review procedures for the General Plan Amendments cited in Table 3.1 of the Draft EIR.

**Response to Comments B-4 and B-5.** Please refer to response B-2.

**Response to Comment B-6.** Provisions for the discovery of human remains have been included in the EIR. The following text is included in the EIR:

A high sensitivity for buried cultural resources and grave sites outside of formal cemeteries exists within the Wash Plan. If human remains are encountered during mining, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately.

If the remains are determined to be prehistoric, the Coroner will notify the NAHC, which will determine and notify an MLD. With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

**Response to Comment B-7.** Please refer to response B-6

**Response to Comment B-8.** The EIR includes the following mitigation measure in regard to archaeological sites CA-SBR-6075H, CA-SBR-6076H, and CA-SBR-6087H:

**CUL-3** If the archaeological sites CA-SBR-6075H, CA-SBR-6076H, and/or CA-SBR-6087H cannot be avoided during implementation of the proposed project, further study as detailed below shall be necessary for mitigation.

- *Subsurface Testing:* This would consist of a limited subsurface data collection program to help determine the depth and distribution of the resource.
- *Archival Research:* Archival research could yield specific data regarding the origin and age of found resources/artifacts and place them in a historical context.
- *Data Recovery:* If the resource/artifacts are determined eligible for the California Register of Historic Resources, additional archaeological data recovery excavations would be necessary. Data recovery shall consist of a research design, hand and/or block architectural excavation, laboratory analysis, research, data recovery report, and curation of collected artifacts.



Linda S. Adams  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

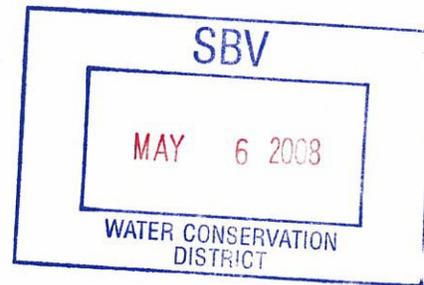
Maureen F. Gorsen, Director  
5796 Corporate Avenue  
Cypress, California 90630



Arnold Schwarzenegger  
Governor

April 30, 2008

Mr. Randy Scott  
San Bernardino Valley Water Conservation District  
1630 West Redlands Boulevard, Suite A  
Redlands, California 92373



### NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE UPPER SANTA ANA RIVER WASH LAND MANAGEMENT AND HABITAT CONSERVATION PLAN (SCH# 2004051023)

Dear Mr. Scott:

The Department of Toxic Substances Control (DTSC) has received your submitted EIR document for the above-mentioned project. The following project description is stated in your document: "The Upper Santa Anna River Wash Land Management and Habitat Conservation (Wash Plan or proposed project) is a multifaceted, multi-property owner project that provides for the coordination and accommodation of existing and anticipated future activities on the project site (Planning Area)".

Based on the review of the submitted (EIR) document DTSC has comments as follows:

The draft EIR needs to identify and determine whether current or historic uses at the Project site have resulted in any release of hazardous wastes/substances at the Project area.

1. The known or potentially contaminated sites within the proposed Project area should be identified. For all identified sites, the draft EIR should evaluate whether conditions at the site pose a threat to human health or the environment. A Phase I Assessment may be sufficient to identify these sites. Following are the databases of some of the regulatory agencies:

- National Priorities List (NPL): A list is maintained by the United States Environmental Protection Agency (U.S.EPA).

C-1

Mr. Randy Scott  
April 30, 2008  
Page 2

- CalSites: A Database primarily used by the California Department of Toxic Substances Control.
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards (RWQCBs).
- Local County and City maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.

C-1

2. The draft EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials or wastes were stored at the site, an environmental assessment should be conducted to determine if a release has occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state laws, regulations and policies.

C-2

3. If the subject property was previously used for agriculture, onsite soils could contain pesticide residues. Proper investigation and remedial action may be necessary to ensure the site does not pose a risk to the future residents.

C-3

Mr. Randy Scott  
 April 30, 2008  
 Page 3

- 4. All environmental investigations, sampling and/or remediation should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous waste cleanup. The findings and sampling results from the subsequent report should be clearly summarized in the EIR. C-4
- 5. Proper investigation, sampling and remedial actions, if necessary, should be conducted at the site prior to the new development or any construction, and overseen by a regulatory agency. C-5
- 6. If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a "Border Zone Property" C-6
- 7. Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency might have to be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. C-7
- 8. If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the C-8
- 9. California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). C-8
- 10. If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (818) 551-2171 to initiate pre application discussions and determine the permitting process applicable to the facility. C-9
- 11. If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If so, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. C-10

Mr. Randy Scott  
April 30, 2008  
Page 4

13. Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

C-11

14. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.

C-12

15. In future CEQA documents please provide the contact person's e-mail address. Also, if the project title changes, please provide historical project title(s).

C-13

If you have any questions regarding this letter, please contact me at (714) 484-5461 or call Mr. Al Shami, Project Manager, at (714) 484-5472 or at "ashami@dtsc.ca.gov".

Sincerely,

Greg Holmes  
Unit Chief  
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief  
Planning and Environmental Analysis Section  
CEQA Tracking Center  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

CEQA # 2113

## RESPONSE TO COMMENT LETTER C

### Department of Toxic Substances Control

**Response to Comments C-1 and C-2.** There are no obvious signs of spills or contamination within the project site as discussed in Section 4.7 of the EIR. **Mitigation Measure HAZ-3** has been revised to ensure that impacts related to hazardous materials are reduced to a level that is less than significant. The revised text in **Mitigation Measure HAZ-3** is shown below in double-underline format:

**HAZ-3** Prior to the issuance of any permit required for project-related ground-disturbing activities, a site-specific Phase I Environmental Site Assessment in accordance with DTSC standards shall be completed and submitted to the appropriate jurisdiction for review. In the event that hazardous materials are discovered, the project applicant shall provide evidence to the appropriate agency (agencies) that remediation and/or mitigation of said site has been completed to the satisfaction of the appropriate local, regional, State, and/or Federal entity, prior to any ground-disturbing activities within 100 feet of any hazardous material site identified during a project-specific Phase I.

The implementation of this mitigation measure will ensure that any potential hazards are identified and whether or not further investigation or remediation is necessary.

**Response to Comment C-3.** No residential uses are proposed as a part of the project. Therefore, no risk to future residents exists. No changes to the EIR are necessary.

**Response to Comment C-4.** As previously noted in response to comments C-1 and C-2, an Environmental Site Assessment will be conducted for each portion of the project at the time permits are sought. Implementation of **Mitigation Measure HAZ-3** will ensure that further investigation or sampling is conducted if needed and impacts reduced to a level that is less than significant.

**Response to Comment C-5.** Please refer to response C-4.

**Response to Comment C-6.** Comment noted. No changes to the EIR are necessary.

**Response to Comment C-7.** As noted in the response to comments C-1 and C-2, an Environmental Site Assessment will be conducted for each portion of the project at the time permits are sought. The ESA will identify areas of the project and surroundings that may potentially release hazardous materials. The ESA will be submitted to the appropriate government agencies for review as necessary. Additionally, the implementation of **Mitigation Measure HAZ-3** will ensure that impacts are reduced to a level that is less than significant. No changes to the EIR are necessary.

**Response to Comment C-8.** Comment noted. No changes to the EIR are necessary.

**Response to Comment C-9.** Comment noted. As stated in the EIR and required by law, the proposed project will comply with both State and Federal hazardous waste control regulations. No changes to the EIR are necessary.

**Response to Comment C-10.** Please refer to the response C-9.

**Response to Comment C-11.** The proposed project does not include the disposal of hazardous wastes. No changes to the EIR are necessary.

**Response to Comment C-12.** As stated in the EIR, in the unlikely event that contamination is found on the site, the project would be required to adhere to all existing notification and reporting requirements. No changes to the EIR are necessary.

**Response to Comment C-13.** The District contact's name and title have been added to the EIR.


 STATE OF CALIFORNIA \* DEPARTMENT OF TRANSPORTATION  
**FACSIMILE COVER**

Attention: Mr. Randy Scott		From: Caltrans - District 8 Office of Transportation Planning IGR/CEQA-Local Development Review 464 West Fourth Street, MS 725 San Bernardino, CA 92401-1400	
Unit/Company San Bernardino Valley Water Conservation District		Name of Sender Felipe Robles	
District/City Redlands, CA		Date May 23, 2008	Total Pages (plus cover) 3
Phone # (include area code)		FAX # (include area code) 909-383-6890	ATSS FAX 8-670-6890
FAX # (include area code) 909-793-0188		Phone #(include area code) 909-388-7139	ATSS
Per Request For Approval Information Comment URGENT		ORIGINAL DISPOSITION: DESTROY RETURN CALL FOR PICKUP	

**Comment:**

Mr. Scott,

Our comments regarding the DEIR dated March 2008 are attached. Feel free to contact us with any questions.

Best Regards,  
Felipe Robles - Transportation Planner

DEPARTMENT OF TRANSPORTATION

DISTRICT 8
PLANNING AND LOCAL ASSISTANCE (MS 722)
464 WEST 4th STREET, 6th FLOOR
SAN BERNARDINO, CA 92401-1400
PHONE (909) 383-4557
FAX (909) 383-5936
TTY (909) 383-6300



Flex your power!
Be energy efficient!

May 23, 2008

Mr. Randy Scott
San Bernardino Valley Water Conservation District
1630 West Redlands Boulevard, Suite A
Redlands, CA 92373

Dear Mr. Scott:

Upper Santa Ana River Wash Land Management and Habitat Conservation Plan, DEIR
SBd-210 PM R.30.232 (Formerly SR-30) (Fifth St UC)

The California Department of Transportation (Caltrans) has reviewed the Draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan. The industrial project consists of aggregate mining and concrete production by Cemex Construction Materials and Robertson's Ready Mix south of Fifth Street. This letter provides additional comments to previous letters sent out April 18, 2007 and November 20, 2007. We have the following comments on the DEIR that we recommend in order to alleviate potential impacts to SR-210:

- We recommend that the applicant provide project truck volumes on all freeway ramps at the SR-210/5th Avenue interchange. The DEIR states that there would be zero peak hour trips generated, thus we recommend that they provide projected hourly truck counts for freeway ramps and mainline. D-1
Due to the incline of the on-ramps to SR-210, we recommend a truck-merging analysis to determine what distance the mining trucks will need to reach freeway speeds. D-2
We recommend that the DEIR contain freeway peak hour and ADT volumes within the body of the report for existing, opening year and forecast year. Currently only densities, speeds, and LOS for the mainline are provided in the various tables. D-3
Figure 4.15.2 - Figure 4.15.6: There are deltas between intersections 5 and 6, 8 and 9, and 9 and 10 as high as 478 vehicles. We recommend that all turning movements be balanced and that all volumes be verified. D-4
Page 4.15-26: It is stated that project peak hour trips would be limited to zero. We recommend that the applicant provide more information on how this will be enforced. D-5

These comments are based on a review of the DEIR and Synopsis of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan dated March 2008. Thank you for providing us this opportunity to review this proposal and for your consideration of these

Mr. Randy Scott  
May 23, 2008  
Page 2

and future comments. If you have questions about this letter, please contact me at (909) 383-4557.

Sincerely,



DANIEL KOPULSKY  
Office Chief, IGR/Community Planning

c: Ernie Wong, City of Highland  
John Pagano, Caltrans 8, Planning & Local Assistance  
Haissam Yahya, Caltrans 8, Operation/Surveillance – Region B  
Savat Khamphou, Caltrans 8, Design Q  
Roy Wojahn, Caltrans 8, Truck Services

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## RESPONSE TO COMMENT LETTER D

### California Department of Transportation (Caltrans)

**Response to Comment D-1.** Projected hourly new truck volumes, which illustrate how the traffic volumes will not increase during the peak hours, are included in Appendix A of the traffic study. The same hourly distribution would apply to the traffic at the ramps and on the freeway.

**Response to Comment D-2.** Currently, approximately 344 project trucks per day use the SR-30 Southbound On-Ramp and 137 use the SR-30 Northbound On-Ramp. The project would add approximately 121 trucks per day to the SR-30 Southbound On-Ramp and 49 trucks per day to the SR-30 Northbound On-Ramp. It should be noted that the majority of the existing and additional project truck traffic is during off-peak hours when non-project traffic volumes are lower. Caltrans ramp counts from 2005 show that 12,000 vehicles use the SR-30 Southbound On-Ramp daily and 4,000 use the SR-30 Northbound On-Ramp daily. The project traffic is not a substantial increase in relation to the existing traffic volumes and does not warrant improvements to the ramps or auxiliary freeway lanes. Additionally, an auxiliary merging lane already exists on both directions of SR-30 at the point where the Fifth Street Ramps merge onto the freeway. This additional lane allows project and non-project traffic to merge more safely with freeway traffic and a merging analysis is, therefore, not necessary.

**Response to Comment D-3.** The Draft EIR included information only on density and speed as these are the factors that are used to calculate freeway levels of service (LOS). Peak hour freeway and ramp volumes are included in Appendix P of the traffic study. No changes to the Draft EIR are necessary.

**Response to Comment D-4.** The traffic volumes at Intersections 5 and 6 were balanced in the traffic study and in the Draft EIR, and LSA reviewed these volumes and found no significant loss or gain of traffic between these intersections. Regarding Intersections 8, 9, and 10, there are businesses and minor streets located between these intersections that produce the difference in traffic volumes at these locations and they should not balance due to the presence of these businesses and other access points to these segments of the roadways. More importantly, the project will add few trips to Fifth Street between SR-30 and Boulder Avenue and Orange Street between the Cemex driveway and Fifth Street. Therefore, no modification of traffic volumes is needed and no changes to the Draft EIR are necessary.

**Response to Comment D-5.** Restriction of truck traffic would be enforced through the mining companies mining permits with the Cities of Highland and Redlands. Robertson's dispatches its own trucks and, therefore, permit conditions can restrict additional truck traffic to off-peak hours through direction by the company. Cemex contracts for some of its material hauling, thus it does not directly control truck traffic accessing its site, and Table 4.15 F reflects the estimated additional peak hour traffic. No changes to the Draft EIR are necessary.

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STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF FISH AND GAME**

<http://www.dfg.ca.gov>  
Inland Deserts Region  
3602 Inland Empire Boulevard, C-220  
Ontario, California 91764  
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May 23, 2008

Mr. Randy Scott  
San Bernardino Valley Water Conservation District  
1630 West Redlands Boulevard, Suite A  
Redlands, CA 92373

**Re: Draft Environmental Impact Report for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan – SCH# 2004051023**

Dear Mr. Scott:

The California Department of Fish and Game (Department) thanks you for the opportunity to comment on the proposed project. The Department is responding as a Trustee Agency for fish and wildlife resources [Fish and Game Code sections 711.7 and 1802 and the California Environmental Quality Act Guidelines (CEQA) section 15386] and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Streambed Alteration Agreement or a California Endangered Species Incidental Take Permit (Fish and Game Code Sections 2080 and 2080.1).

**Project Description**

As described in the Draft Environmental Impact Report, (DEIR), the project is a multi-party, multi-jurisdictional plan for 4,519 acres, referred to in this letter as the Santa Ana Wash (Wash or Plan). The project consists of water conservation activities, aggregate mining, roadway improvements, flood control maintenance activities and habitat conservation.

The project is located below 7 Oaks Dam and is bounded by Greenspot Road to the north and east, Alabama Street to the west, and the Santa Ana River Wash to the south. The Plan Area is situated between the cities of Highland and Redlands and includes San Bernardino County Flood Control lands.

Historically, the Wash has been utilized for water conservation since 1911 as well as agriculture. Current uses of the Plan Area are: water conservation 1,260 acres; flood control 414 acres; natural habitat 1,215 acres; US Bureau of Land Management (BLM) habitat lands 604 acres; aggregate mining 832 acres; roadways 66 acres; agriculture 6 acres and undesignated public ownership 70 acres. Other uses include: the Inland Fish and Game Club, several utility easements, a vacant railroad right-of-way, the Metropolitan Water District Inland Feeder easement, a City of Highlands 16 ac. conservation easement and a 10 ac. Robertson's Ready Mix (Robertson's) conservation easement. There are also several private parcels in the northeastern part of the Plan Area that are not parties to the Plan.

The goal of the proposed project is to manage the present and future activities in the Plan area and balance aggregate mining, water conservation, flood control, and habitat conservation interests. The project has been in the planning stages since 1993 and involves the Cities of Redlands and Highland, Robertson's Ready Mix, Cemex Construction Materials Limited Partnership (Cemex), the BLM, the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (Department), San Bernardino County Flood Control (SBCFC), and the San Bernardino Valley Water Conservation District (District). The DEIR provides a framework under which projects can proceed and be provided coverage for the species covered in the Plan. The mitigation measures enumerated in this document are very general.

The proposed project configuration (Plan B) was developed over a number of years. Mining activity is located in the western portion of the Wash where existing mining is taking place. The underlying rationale for the configuration of the Plan is to place new development alongside existing development. Therefore, mining activity is concentrated in the western portion of the site and water conservation is placed in the eastern part of the Wash. This provides for a large bloc of conserved habitat contiguous with the Santa Ana Woolly Star Preserve (SAWSP) and off-site connectivity to Forest Service land to the northeast and southeast.

There are several items that require clarification. Management of the on-site habitat and species will be addressed in a Habitat Conservation Plan (HCP) that will be submitted to the wildlife agencies for review and approval. This pending HCP goes into much greater detail on the specifics of the funding, mitigation, monitoring and adaptive management for the conserved area of the Wash and the species therein. The United States Fish and Wildlife Service (USFWS) will prepare a biological opinion. The Department has the option of issuing its own California Endangered Species Incidental Take Permit or concur with the USFWS's Biological Opinion. Components of the project that affect jurisdictional waters will also require a 1600 Lake and Streambed Alteration Agreement from the Department.

E-1

The acreage figures for the Wash Plan include areas that are already utilized as mitigation, such as the SAWSP. This Plan has no jurisdiction over the SAWSP, which is managed separately by the San Bernardino County Flood Control District in consultation with the wildlife agencies. However, studies, mitigation and monitoring measures developed for the SAWSP can be utilized in the Wash Plan and it is expected that the Plan and the SAWSP will work together.

E-2

The Implementation of the Plan is contingent upon land exchanges with the BLM. An Environmental Impact Statement (EIS) is being prepared by the BLM for the land exchanges and will be available for public review.

The following is a list of some, but not all, of the issues that need to be further addressed in the Final Environmental Impact Report and Habitat Conservation Plan.

E-3

- The funding mechanism for habitat management
- The administrative structure of the habitat management plan
- A habitat manager

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- Policing and procedures to prevent unauthorized entry
- Non-native grasslands and a fire management plan
- Methodology for monitoring habitat acreages to ensure goals are met
- An Implementation Agreement
- Frequency of biological surveys to be conducted

This Plan is habitat based, and therefore individual impacts on plant and animal species are not addressed. It would be extremely difficult, time-consuming and expensive to survey the entire site and document impacts this way. However, as a result of surveys conducted by various consultants and agencies, locations of populations and inferences about density can be made.

### Project Specifics

The tables below document the acreage figures for existing and proposed land uses for aggregate mining and habitat conservation.

Mining Operator	Existing Mining Area (acres)	Proposed Mining Area (acres)	Difference (acres)
Cemex	576	700	+124
Robertson's	284	505	+221
<b>Total</b>	<b>860</b>	<b>1,205</b>	<b>+345</b>

E-3

Landholder	Existing Conservation (acres)	Proposed Conservation (acres)	Difference (acres)
BLM	642	674	+32
SAWS Preserve	547	574	+27
SBVWCD easement	10	10	0
Highland Mitigation	16	16	0
Redlands O.S.	0	141	+141
Hab Con / ACEC	0	532	+532
<b>Totals</b>	<b>1,215</b>	<b>1,947</b>	<b>+732</b>

The project consists of the following components:

Water Conservation Activities: The Plan allows for the maintenance on 820 acres of existing water conservation recharge facilities and the addition of future water conservation recharge facilities in the borrow pit and the northern area between the Metropolitan Water District easement and the mining area. In areas where there are spreading basins (749 acres), the area not directly used for the basins and associated infrastructure will be kept as habitat. The District will maintain its network of private roadways that connect percolation basins. Existing water conservation facilities include 16 percolation basins with a wetted area of approximately 64 acres. These or similar water recharge operations have been in existence since 1911 for the purpose of recharging the Bunker Hill Groundwater Basin.

In the future, the District plans to construct seven (7) new groundwater percolation basins, with accompanying dikes, access roads, diversion structures and canals. The basins typically require 12-15 foot wide access roads, 5-15 foot high dikes, and basins 100-200 feet wide of varying length. The total impact associated with the new basins is estimated to be 45.5 acres of permanent disturbance with an additional 32.5 acres of temporary construction impacts. As with the existing facilities, unused land will be kept as habitat. The District is also proposing to reconstruct several basins that were located in the borrow pit and restore native vegetation. Any future water conservation facilities in the areas designated as habitat are not covered by this Plan and the District has indicated that it does not have additional water conservation plans beyond what is proposed in this Plan. Implementation of the Plan would result in the reduction of water conservation lands by 511 acres.

Flood Control Activities: The SBCFCD will continue maintaining and repairing flood control structures in designated areas within the Plan Area at Plunge Creek, Mill Creek and City Creek.

The SBCFCD maintains flood control facilities along the Santa Ana River, Mill Creek, Plunge Creek, and City Creek covering 350 acres and has existing levees to confine flood waters. The project includes maintenance of the Mill Creek levee and floodwall to the confluence of the Santa Ana River. No additional activities are proposed for Mill Creek. Maintenance of existing flood control facilities along Plunge Creek includes the continued repair and construction of the levees downstream of the crossing of Greenspot Road. No additional work is proposed along Plunge Creek. Maintenance activities along City Creek include levee repair and maintenance, as well as repair and maintenance activities at the Confluence of City Creek and Plunge Creek.

E-3

No new flood control facilities are proposed in the 395 acres owned and managed by the SBCFCD and the project only includes activities proposed within the boundary of the Plan Area.

Aggregate Mining Activity: The existing mining footprint covers 860 acres or 19 percent of the Wash Planning Area. Implementation of the proposed project will result in a footprint of 1,205 acres, an increase of 345 acres. The operating life of the mining activities will continue to 2065. The project allows the aggregate mining activities of Robertson's Ready Mix and Cemex on the areas designated in the Land Management Plan for mining, including construction of aggregate vehicle haul roads, an access road from the mining area to 5<sup>th</sup> Street in Highland and reclamation of the mine pits at the end of mining operations.

There are four aggregate processing operations in the Planning Area. Two of these operations, the Maitich Batch plant and the A-1 Grit plant that are located on seven acres east of Alabama Street in the City of Redlands, are not participants in the Plan. Two other mining facilities are controlled by Robertson's and Cemex. These four mining operations have approved permits by the Cities of Highlands and Redlands. These improvements will require project-level California Environmental Quality Act (CEQA) review.

E-4

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**Transportation Improvements:** The Plan proposes to purchase expanded rights-of-way for the widening of Alabama Street and Orange Street-Boulder Avenue, widening and straightening of Greenspot Road and dedication of right-of-way for a new Greenspot Road Bridge near the borrow pit.

Alabama Street is proposed to be widened ultimately to a 132 foot right-of-way. Street widening will permanently impact 1.4 acres and temporarily impact 5.0 acres. The Orange Street-Boulder Avenue widening will permanently impact 16.4 acres and temporarily impact 11.4 acres within the Wash Area. The entire road alignment is within the Santa Ana Wash. The Greenspot "S" curve and bridge projects result in a new bridge across the Santa Ana River 250 feet west of the existing bridge. This project will result in permanent impacts to 1.4 acres and temporary impacts to 5.0 acres.

Implementation of the Plan will result in the dedication of rights-of-way for these transportation improvements. This DEIR provides programmatic analysis of these potential impacts, however additional CEQA documentation will be required. The DEIR states that jurisdictional areas will be identified, impacts assessed and mitigation measures identified. These mitigation measures include avoidance, replacement or participation in mitigation banks. 1600 Lake and Streambed Alteration Agreements will be required for impacts to jurisdictional waters.

**Recreation:** Currently there are no recreational opportunities in the Wash Area. The Plan includes approximately 20 acres of hiking and bicycling trails. All trails would be located on existing service roads, utility easements, and old railroad beds. Off-road vehicles and equestrian uses would not be allowed in the Plan Area. Infrastructure associated with the trails would include interpretive kiosks and signage. Trails in the right-of-way along major roadway are classified as paved Class 2 bikeways.

The Old Greenspot Road trail is classified as a paved Class 1 dedicated bikeway and multi-use trail and would occur in an existing roadway. Two other paved trails are designated as Class 4 multi-use trails and include the Borrow Pit South Rim Trail and the Santa Ana River Trail. The Santa Ana River Trail is not a part of the plan and will require its own CEQA analysis. Depending upon the location, implementation of the trail may require an amendment of the Plan.

There are three Class 3 multi-use unpaved trails proposed in the Wash Area. These are the Pole Line Road Trail, the Old Rail Line Trail and the Cone Camp Road Trail. They would all utilize existing infrastructure in already disturbed areas, i.e., existing rights-of-way, maintenance roads and easements.

**Land Exchanges:** A land exchange is proposed between the District and the BLM. A separate Environmental Impact Statement will be required for this land exchange. A land exchange is also proposed between the SBCFCD and Robertson's Ready Mix. A 20-acre piece of the Woolly Star Preserve was disturbed by prior lumber mill use and will be given to the mining companies for Aggregate Mining.

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**Habitat Conservation:** With the exception of the Santa Ana Woolly Star Preserve (SAWSP) (part of the Plan Area but not a part of the Plan) and a 10- and 16-acre mitigation sites, there are no formal habitat conservation or management plans in the Plan area. The SAWSP was set aside as mitigation resulting from the construction of 7 Oaks Dam. This Plan would add approximately 47 acres to the SAWSP and would connect two divided segments of the SAWSP area. Additionally, some 20 acres that are in the SAWSP, historically used by a lumber mill, would be given over to the mining companies.

The proposed project consists of approximately 1,975 acres of habitat conservation in the Wash. The BLM owns approximately 645 acres of land within Areas of Critical Environmental Concern. Of these 645 acres, only 60 acres would be utilized for mining activities. The 60 acres are already disturbed. This project would add approximately 47 acres to the SAWSP and would connect two divided stretches of the SAWSP. Additionally, some 20 acres that are in the SAWSP but have been disturbed by a prior lumber mill would be utilized for mining. The project area also includes a 10-acre conservation easement given by Robertson's Ready Mix as mitigation for the construction of a haul road in the Wash. The Metropolitan Water District has an easement for the Inland Feeder project.

### **Biological Resources**

Biologically, the Wash is important because it contains Alluvial Fan Sage Scrub (AFSS), a sensitive and declining habitat that provides habitat for native animals. State Species of Special Concern and four threatened or endangered species, two of which are State-listed and four are federal, are found in the Plan Area. The Santa Ana River Wash Plan will impact the Santa Ana woolly star, slender-horned spineflower, San Bernardino kangaroo rat and species of special concern.

Habitats found in the Wash include: Riversidean alluvial fan sage scrub, chamise chaparral, Riversidean upland sage scrub (RSS), non-native grasslands, developed/ruderal, and water conservation recharge basins. Open water is found in the active channel and in the recharge basins. Sensitive plants found in the Wash are: Plummer's mariposa Lily (*Calochortus plummerae*), Parry's spineflower (*Chorizanthe parryi* var *parryi*) California species of concern (CSC); slender-horned spineflower (*Dodecahema leptoceras*) State and Federally-listed endangered; Santa Ana woolly star (*Eriastrum densifolium* ssp. *Sanctorum*) State and Federally-listed endangered; Robinson's pepper grass (*Lepidium virginicum* var *robinsonii*), CNPS 1B.

RAFSS is a state-ranked S1.1 (very threatened) natural community. Because of development pressures and flood control projects, much of the RAFSS and Riversidean Sage Scrub has been eliminated in alluvial fan areas. Therefore, remaining RAFSS and RSS are very important resources that require conservation.

The alluvial habitat has been divided into three categories: pioneer, intermediate and mature. These are general categories based upon the types of plants, location and density. The mitigation measures are based upon assigning acreage figures to each habitat and setting goals for acreage of each habitat. Declines of 10 percent of any one habitat type would trigger a response. Typically, pioneer alluvial scrub is found adjacent to streams

outside of the scour zone. Usually as the habitat gets further removed from disturbance you get the intermediate and then mature habitat. San Bernardino kangaroo rat prefers pioneer habitat, although it is found in intermediate. Santa Ana woolly star and slender-horned spineflower are also species dependent upon disturbance but the disturbed area can occur in any habitat type, including mining areas.

### Wildlife

Biological surveys in the Wash found that there are 77 wildlife species (3 amphibian species, 11 reptile species, 46 bird species and 17 mammal species). Amphibians include: western toad (*Bufo boreas*), Pacific treefrog (*Pseudacris regilla*), and western spadefoot toad (*Spea hammondi*).

State-designated avian species of special concern (CSC) include: Southern California rufous-crowned sparrow (*Aimophila ruficeps*); Bell's sage sparrow (*Amphispiza belli*); burrowing owl (*Athene cunicularia*); California horned lark (*Eremophila alpestris actia*); loggerhead shrike (*Lanius ludovicianus*); Cooper's hawk (*Accipiter cooperi*), white tailed kite (*Elanus leucurus*) and coastal California gnatcatcher (*Polioptila californica californica*).

State-designated mammals of special concern include: northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*) also a federal endangered species, San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), San Diego desert woodrat (*Neotoma lepida intermedia*), southern grasshopper mouse (*Onychomys torridus Ramona*), and Los Angeles pocket mouse (*Perognathus longimembris brevinasus*).

State designated reptile species of special concern include: silvery legless lizard (*Anniella pulchra pulchra*), northern red-diamond rattlesnake (*Crotalus exsul*) and the San Diego horned lizard (*Phrynosoma coronatum blainvillei*).

### Wildlife Movement

The Wash is also utilized by coyote, badger, mountain lion and bobcat. Any wildlife corridors in the Plan Area would likely occur in the eastern portion of the Wash, with the Wash connecting to Plunge Creek and U.S. Forest Service lands to the north and Mill Creek and Forest Service lands to the southeast. The far eastern portion of the project contains the borrow pit for the 7 Oaks Dam and this poses a barrier to wildlife. There are existing spreading grounds adjacent to Mill Creek, but they do not appear to adversely affect wildlife. Implementation of the Plan will not block these wildlife corridors and thus do not have an adverse impact. However, if development continues around the eastern portion of the Wash, these wildlife movement corridors will be adversely impacted.

### Project Impacts

There will be impacts to sensitive species in the wash from mining, construction of transportation projects, the trail system and water conservation and flood control activities. Impacts to habitat from the trail system result not so much from construction as from human activity. Mitigation measures to control these impacts should include: daytime

hours of operation, signage, parking area closures, control of unauthorized use and dumping, identification of times when trails should be closed to protect sensitive species, control of feral and domestic dogs, and policing the Plan Area. These issues will be addressed in the proposed HCP.

E-5

Implementation of the Plan will improve wildlife connectivity and therefore, wildlife movement and connectivity will not be adversely impacted by the Plan. New water conservation activities will adversely impact biological resources, however, land that is not used for water conservation will be kept in its current condition. The Plan will also have a beneficial impact on the SAWSP because it adds to the total acreage, improves connectivity in the SAWSP and provides a large block of contiguous habitat. There is no specific development proposed in the Plan, except for road rights-of-way and potential new spreading basins. These will require future processing through CEQA, although issues regarding biological species are addressed in this document and the pending HCP.

The configuration of the Plan is designed to minimize project impacts. However, the loss of biological resources from mining and new water conservation activities is significant.

#### Transportation Projects

The proposed Alabama St. and Orange St. road widening projects occur in the western portion of the site where aggregate mining is occurring. There will be impacts to the Santa Ana River resulting from these projects, as well as impacts to endangered species. These impacts can be mitigated by habitat enhancement or exotic removals. The Federal Emergency Management Agency Flood Zone Map shows that the potential areas of flooding are the Santa Ana River Channel and some adjacent areas parallel to the River, the aggregate mining pits, Mill Creek, Plunge Creek and the confluence of City Creek and the Santa River. However, except for the western portion of the site, the potential flooding areas are contained by existing levees.

#### Project Mitigation

The proposed plan has four land uses: aggregate mining, habitat & habitat conservation, water conservation and flood control. Currently, flood control, mining and water conservation occur in the Plan Area. No new flood control activities are proposed but maintenance and repair activities of existing facilities are covered. These existing activities will continue. The environmental impacts proposed by the Plan occur with future water conservation facilities in the northern part of the site east of Plunge Creek, the loss of habitat and species from future mining activities, and future impacts from transportation projects. There are no residential or commercial projects proposed in the Plan. Only those uses specified in the Plan are covered for "take" of species.

The overall mitigation for the various projects is the conservation of habitat for the listed and non-listed species. The advantages of the project are as follows:

- 1) The land to be set aside and managed will provide for north to south wildlife connectivity across the Wash, and between Mill Creek and Plunge Creek and National Forest lands;

E-6

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- 2) It provides for the conservation of Plunge Creek in the northern portion of the Plan Area and connectivity between the western reach below Greenspot Road and upstream open space;
- 3) It provides a connection between conserved habitat and the SAWSP to Mill Creek and the Santa Ana River adjacent to and below the borrow pit;
- 4) It provides a linkage between the SAWSP and prime San Bernardino kangaroo habitat to the west;
- 5) It provides for the geographic continuity of conserved acreage;
- 6) It adds valuable acreage to the SAWSP;
- 7) It provides a large bloc of habitat and only allows for water conservation spreading basins within and adjacent to the conserved habitat;
- 8) Land in water spreading grounds area that is not utilized for this purpose will be kept undisturbed and provide additional habitat;
- 9) It restricts aggregate mining to the western portion of the Plan Area by removing both the Cone Camp Quarry and Sunwest Orange Street Quarry;
- 10) Flood control lands that are not impacted by maintenance and repair activities will remain as is; and
- 11) The Plan captures most but not the entire habitat for the San Bernardino kangaroo rat, slender-horned spineflower, Santa Ana Woolly Star and coastal California gnatcatcher.

E-6

The document provides general mitigation measures applicable to the whole Wash. The applicants will submit a Habitat Conservation Plan setting out goals and specific components of habitat management. The Plan provides for annual surveys to identify exotic non-native terrestrial and aquatic species and measures to eradicate them (BIO-1, BIO-8). All measures specifying acreages to be maintained allow for a 10% loss threshold. The Plan provides for the maintenance of at least 1,662 acres of RAFSS along the Santa Ana River, Plunge Creek, and Mill Creek.(BIO-3); 121 acres of chamise chaparral (BIO-6), 374 acres of RAFSS along the Santa Ana River (BIO-4); 50 acres of chamise chaparral along the Santa Ana River (BIO-7); 64 acres of wetted acres in recharge basins; use methods not harmful to native flora, including pollutants, (BIO-10, BIO-11); removal of exotics shall be conducted by a biologist familiar with area native and non-native species (BIO-11); institute a program to control Argentine ants (BIO-12); employ fencing around entry points and post signage to control unauthorized trail use and dumping (BIO-13); restrict vehicular traffic associated with routine operation and maintenance activities of the involved parties and restrict these activities to daylight hours (BIO-14); employ Best Management Practices (BIO-15), and monitor trail use quarterly (BIO-16).

Other mitigation measures are the reclamation and revegetation of mining areas as per the reclamation plan approved by Redlands, Highland and the Surface Mining and Reclamation Act of 1976 (BIO-17), prohibit CEMEX from mining in conjunction with the Spineflower Enhancement and Relocation Plan (SERP) (BIO-18) until such time as the wildlife agencies determine that the requirements of the SERP are met, institute standard procedures when delineating nest surveys and breeding and conduct burrowing owl surveys (BIO-22, 26, 27).

FROM :DEPT OF FISH & GAME ONTARIO

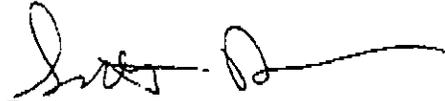
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Thank you for this opportunity to comment. Please contact Robin Maloney-Rames at (909) 980-3818, if you have any questions regarding this letter.

Sincerely,



Scott Dawson  
Senior Environmental Scientist  
Habitat Conservation Planning

cc: Nancy Ferguson USFWS Carlsbad  
State Clearinghouse, Sacramento

## RESPONSE TO COMMENT LETTER E

### California Department of Fish and Game (CDFG)

**Response to Introductory Comments.** Based on the history of coordination among the members of the Wash Plan Technical Advisory Committee that included the CDFG, the comment letter includes an explanation of the Department's understanding of the project. These portions of the letter require no response, and, therefore, no comment has been bracketed. However, the comment letter includes some comments requiring the following responses.

**Response to Comment E-1.** As stated in the comment, the Habitat Conservation Plan (HCP) will provide much greater detail regarding funding, mitigation, monitoring and adaptive management for the Wash Plan habitat conservation areas and the resident species.

The Federal Endangered Species Act (FESA) provides mechanisms for authorizing otherwise prohibited take. One of these is the incidental take permit process under section 10(a)(1)(B) of the FESA. Incidental take is defined by the FESA as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities." Under Section 10(a) of the FESA, an incidental take permit can be obtained provided the permit applicant submits to the Service a conservation plan often termed a "habitat conservation plan" or "HCP" that satisfies section 10(a)(2)(A) of the FESA, and that the U.S. Fish and Wildlife Service (USFWS) determines that the HCP meets the issuance criteria of section 10(a)(2)(B) of the FESA. The District is in the process of preparing an HCP pursuant to these requirements.

The California Endangered Species Act (CESA) prohibits the take of state-listed wildlife and plants, where take is defined as any action or attempt to "hunt, pursue, catch, capture, or kill" listed species. The HCP would also function as the mitigation plan required for an incidental take permit under Section 2081 of the CESA.

The District understands and agrees that Section 1600 Lake and Streambed alteration agreements will be required for portions of the project that affect State-defined streambeds. Jurisdictional delineations will be required as specified by **Mitigation Measures BIO-19, BIO-20, and BIO-21**. No changes to the EIR are necessary based on this comment.

**Response to Comment E-2.** The acreage figures in the EIR include all of the existing and proposed Santa Ana River Woollystar Preservation Area. The District understands that the Wash Plan has no jurisdiction over the Santa Ana River Woollystar Preservation Area (WSPA), which is managed by the San Bernardino County Flood Control District (SBCFCD). The Wash Plan includes additional Santa Ana River woollystar habitat designated as Habitat Conservation that will adjoin and complement the existing preservation area. This will create a large contiguous habitat area spanning most of the southern portion of the Wash Plan. The District agrees that the HCP for the Wash Plan may include information from the studies and mitigation and monitoring measures developed for the WSPA.

**Response to Comment E-3.** The Wash Plan EIR contemplates the future or subsequent action in which the HCP will be completed. At the time the HCP is prepared, it will incorporate the elements as requested in this comment as required. No changes to the EIR are required.

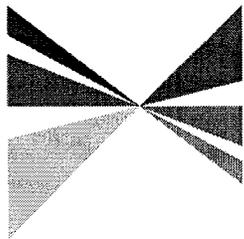
**Response to Comment E-4.** This EIR provides project level environmental review of all proposed mining operations conducted by Cemex and Robertson's. As stated in the comment, A-1 Grit and the Match Batch Plant are not a part of the Wash Plan. Any future projects involving A-1 Grit or the Match Batch plant would require separate environmental review; however, the District agrees that proposed Cemex and Robertson's mining operations may be subject to subsequent environmental review in accordance with CEQA (i.e., *CEQA Guidelines* Sections 15162 through 16164).

**Response to Comment E-5.** Please refer to response E-3. The measures cited in this comment are contained in **Mitigation Measures BIO-1** through **BIO-16**.

**Response to Comment E-6.** Comment noted. The District agrees with the CDFG's assessment of the project's advantages.

**Response to Comment E-7.** Comment noted. The District agrees with the CDFG's assessment of the mitigation measures included in the EIR.

SOUTHERN CALIFORNIA


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May 22, 2008

Mr. Randy Scott  
San Bernardino Valley Water Conservation District  
1630 West Redlands Boulevard, Suite A  
Redlands, California 92373  
(909) 793-2503

**RE: SCAG Comments on the Draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan - SCAG No. I20080171**

Dear Mr. Scott,

Thank you for submitting the **Draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan - SCAG No. I20080171**, to the Southern California Association of Governments (SCAG) for review and comment. SCAG is the authorized regional agency for Inter-Governmental Review of Programs proposed for federal financial assistance and direct development activities, pursuant to Presidential Executive Order 12372 (replacing A-95 Review). Additionally, pursuant to Public Resources Code Section 21083(d) SCAG reviews Environmental Impacts Reports of projects of regional significance for consistency with regional plans per the California Environmental Quality Act Guidelines, Sections 15125(d) and 15206(a)(1). SCAG is also the designated Regional Transportation Planning Agency and as such is responsible for both preparation of the Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP) under California Government Code Section 65080 and 65082. As the clearinghouse for regionally significant projects per Executive Order 12372, SCAG reviews the consistency of local plans, projects, and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

SCAG staff has reviewed this project and determined that the proposed project is regionally significant per California Environmental Quality Act (CEQA) Guidelines, Sections 15125 and/or 15206. The proposed project is a Land Management and Habitat Conservation Plan that represents a comprehensive approach to planning for the land uses within the Upper Santa Ana River Wash. It will provide for the coordination and accommodation of existing and anticipated future activities in the Upper Santa Ana River Wash Planning Area.

We have evaluated this project based on the policies of SCAG's Regional Comprehensive Plan and Guide (RCPG), Regional Transportation Plan (RTP), and Compass Growth Vision (CGV) that may be applicable to your project. The RCPG, RTP and CGV can be found on the SCAG web site at: <http://scag.ca.gov/igr>. The attached detailed comments are meant to provide guidance for considering the proposed project within the context of our regional goals and policies. Please provide a copy of the Final Environmental Impact Report (FEIR) for our review. If you have any questions regarding the attached comments, please contact Christine Fernandez at (213) 236-1923. Thank you.

Sincerely,

  
Jacob Lieb, Program Manager  
Environmental Planning Division

DOCS#145627

**COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR  
THE UPPER SANTA ANA RIVER WASH LAND MANAGEMENT AND HABITAT  
CONSERVATION PLAN - SCAG NO. I20080171**

**PROJECT DESCRIPTION**

The proposed project is a Land Management and Habitat Conservation Plan that represents a comprehensive approach to planning for the land uses within the Upper Santa Ana River Wash ("Wash"). The purpose of the project is to allow the continued use of land and mineral resources while maintaining the biological and hydrological resources of the planning area in an environmentally sensitive manner. The Wash Plan is a multi-agency, multi-property owner project that establishes the location for the often competing functions within the planning area, consisting of water conservation, flood control activities, mineral extraction and protection of endangered species habitat. The Wash Plan also provides for the necessary public services within the planning area which include water supply conveyance facilities, utility corridors, road rights-of-way and recreation/trails. The Wash Plan will require a series of actions by its participating agencies to implement. It does not implement individual actions but provides an overall planning and policy framework, and accompanying environmental review, within which the implementing actions can occur.

The planning area encompasses approximately 4,467 acres and is located within the upper wash area of the Santa Ana River in southwestern San Bernardino County. The planning area is located one mile downstream of the Seven Oaks Dam within the alluvial fan of the Upper Santa Ana River. Greenspot road generally forms the northern boundary of the planning area and the south bluffs of the Santa Ana River make up the southern boundary. The northern portion of the planning area is in the City of Highland and the southern portion is in the City of Redlands, with a small southeastern section within the jurisdiction of the County of San Bernardino.

**CONSISTENCY WITH REGIONAL COMPREHENSIVE PLAN AND GUIDE POLICIES**

The **Growth Management Chapter (GMC)** of the Regional Comprehensive Plan and Guide (RCPG) contains the following policies that are particularly applicable and should be addressed in the Final EIR.

**Regional Growth Forecasts**

The Final EIR should reflect the most current SCAG forecasts, which are the 2008 RTP (May 2008) Population, Household and Employment forecasts. The forecasts for your region, subregion, and cities are as follows:

**Adopted SCAG Regionwide Forecasts<sup>1</sup>**

	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
Population	19,208,661	20,191,117	21,137,519	22,035,416	22,890,797
Households	6,072,578	6,463,402	6,865,355	7,263,519	7,660,107
Employment	8,729,192	9,198,618	9,659,847	10,100,776	10,527,202

**Adopted SANBAG Forecasts<sup>1</sup>**

	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
Population	2,059,420	2,229,700	2,397,709	2,558,729	2,713,149
Households	618,782	686,584	756,640	826,669	897,739
Employment	770,877	870,491	972,243	1,074,861	1,178,890

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**Adopted SANBAG Unincorporated Area Forecasts<sup>1</sup>**

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
Population	329,293	357,214	384,773	411,188	436,515
Households	104,352	116,091	128,197	140,270	152,477
Employment	77,387	84,619	92,000	99,448	106,997

**Adopted City of Redlands Forecasts<sup>1</sup>**

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
Population	72,036	76,415	80,737	84,875	88,842
Households	26,419	29,091	31,865	34,642	37,477
Employment	29,777	34,418	39,149	43,921	48,752

**Adopted City of Highland Forecasts<sup>1</sup>**

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
Population	50,167	54,624	59,020	63,229	67,267
Households	15,111	16,796	18,541	20,289	22,067
Employment	10,171	11,909	13,682	15,471	17,282

1. The 2008 RTP growth forecast at the regional, county and subregional level was adopted by RC in April, 2008. City totals are the sum of small area data and should be used for advisory purposes only.

The following 2035 forecasts are provided for the Cities of Highland and Redlands, San Bernardino subregion (unincorporated and COG), and SCAG Region.

<b>2035 Forecasts<sup>1</sup></b>	<b>Population</b>	<b>Households</b>	<b>Employees</b>
City of Highland	72,497	21,912	16,493
City of Redlands	93,195	34,316	51,207
SANBAG – Unincorporated Area	487,698	163,943	128,681
SANBAG	3,133,797	972,565	1,254,752
SCAG Region	24,056,000	7,710,000	10,287,000

1. Source: 2008 RTP Baseline Growth Forecast

**3.01** *The population, housing, and jobs forecasts, which are adopted by SCAG's Regional Council and that reflect local plans and policies shall be used by SCAG in all phases of implementation and review.*

**SCAG Staff Comments:** Chapter 4.12 [Population and Housing] of the draft EIR demonstrates that the proposed project would not result in a substantial increase in population or housing since there is no residential or commercial development associated with this project. Growth that is induced by the project is expected to fall within the range given in the projected growth forecasts. Therefore, SCAG Staff conclude the proposed project is consistent with SCAG policy 3.01.

**GMC POLICIES RELATED TO THE RCPG GOAL TO IMPROVE THE REGIONAL STANDARD OF LIVING**

The Growth Management goals to develop urban forms that enable individuals to spend less income on housing cost, that minimize public and private development costs, and that enable firms to be more competitive, strengthen the regional strategic goal to stimulate the regional economy. The evaluation of the proposed project in relation to the following policies would be intended to guide efforts toward achievement of such goals and does not infer regional interference with local land use powers.

**3.05** *Encourage patterns of urban development and land use which reduce costs on infrastructure construction and make better use of existing facilities.*

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- 3.09 *Support local jurisdictions' efforts to minimize the cost of infrastructure and public service delivery, and efforts to seek new sources of funding for development and the provision of services.*
- 3.10 *Support local jurisdictions' actions to minimize red tape and expedite the permitting process to maintain economic vitality and competitiveness.*

**SCAG Staff Comments:** Chapter 4.13 [Public Services] and chapter 4.16 [Utilities and Service Systems] of the draft EIR state that the current level of public service delivery will not be affected by the proposed project. As previously mentioned, the proposed project does not involve any new residential or commercial development. Operations associated with the proposed project including water conservation operations/maintenance, flood control operations/maintenance, and water production operations/maintenance are not expected to change current levels of service around the project area. In addition, an analysis of SCAG policy 3.05 presented in Table 4.9.C [Chapter 4.9 - Land use and Planning] shows the proposed project would result in either an improved efficiency in the use of existing infrastructure or no change to existing infrastructure. Table 4.9.C also includes an analysis of policy 3.10 discussing the manner in which the proposed project will contribute to a streamlined permitting process. Therefore, SCAG Staff conclude the proposed project is consistent with SCAG Policies 3.05, 3.09, and 3.10.

F-2

#### **GMC POLICIES RELATED TO THE RCPG GOAL TO IMPROVE THE REGIONAL QUALITY OF LIFE**

The Growth Management goals to attain mobility and clean air goals and to develop urban forms that enhance quality of life, that accommodate a diversity of life styles, that preserve open space and natural resources, and that are aesthetically pleasing and preserve the character of communities, enhance the regional strategic goal of maintaining the regional quality of life. The evaluation of the proposed project in relation to the following policies would be intended to provide direction for plan implementation, and does not allude to regional mandates.

- 3.18 *Encourage planned development in locations least likely to cause adverse environmental impact.*
- 3.19 *Support policies and actions that preserve open space areas identified in local, state, and federal plans.*
- 3.20 *Support the protection of vital resources such as wetlands, groundwater recharge areas, woodlands, production lands, and land containing unique and endangered plants and animals.*
- 3.21 *Encourage the implementation of measures aimed at the preservation and protection of recorded and unrecorded cultural resources and archaeological sites.*
- 3.22 *Discourage development, or encourage the use of special design requirements, in areas with steep slopes, high fire, flood, and seismic hazards.*
- 3.23 *Encourage mitigation measures that reduce noise in certain locations, measures aimed at preservation of biological and ecological resources, measures that would reduce exposure to seismic hazards, minimize earthquake damage, and to develop emergency response and recovery plans.*

F-3

**SCAG Staff Comments:** Chapter 3.1 [Project Description: Background] of the draft EIR details the agreements made between the various landowners to exchange pieces of land in a way that will allow for the most appropriate uses which may not be reflected in the current zoning/ownership. As stated in the chapter, "...the TAC concluded that planned mining expansion would be best addressed by consolidating future mining activity into one area, adjacent to existing operations within the western half of the Wash. This would focus extraction activities on lands currently in or near mining disturbance; lands with the least long-term wildlife habitat value. In addition, the TAC determined that portions of the BLM land designated as an Area of Critical Environmental Concern (ACEC) were previously disturbed or fragmented by adjacent mining activities and thus would be better suited for mining expansion. The TAC also determined

that some of the most intact, viable wildlife habitat areas were contained within lands leased for future mining and currently used for water conservation. The TAC concluded that some of these lands were best suited for joint uses as water and habitat conservation, rather than mining. To effect these conclusions, a trade of land between the District and BLM was proposed.” The proposed plan states that it will coordinate these activities and lay out the goals and policies for future land use in the Santa Ana River Wash in a way that encourages habitat preservation, protection of groundwater water resources, and discourages development in inappropriate areas. Chapter 5.4.1 [Additional Topics Required By CEQA: Regional Comprehensive Planning Policies] also includes a consistency discussion of policies 3.20 through 3.23 with which SCAG staff agree. Therefore, Staff conclude the proposed project is consistent with SCAG Policies 3.18 through 3.23.

F-3

**GMC POLICIES RELATED TO THE RCPG GOAL TO PROVIDE SOCIAL, POLITICAL, AND CULTURAL EQUITY**

The Growth Management goals to develop urban forms that avoid economic and social polarization promotes the regional strategic goal of minimizing social and geographic disparities and of reaching equity among all segments of society. The evaluation of the proposed project in relation to the policy stated below is intended guide direction for the accomplishment of this goal, and does not infer regional mandates and interference with local land use powers.

- 3.27 Support local jurisdictions and other service providers in their efforts to develop sustainable communities and provide, equally to all members of society, accessible and effective services such as: public education, housing, health care, social services, recreational facilities, law enforcement, and fire protection.

F-4

**SCAG Staff Comments:** SCAG staff agree with the consistency discussion of policy 3.27 included in Chapter 5.4.1 [Additional Topics Required By CEQA: Regional Comprehensive Planning Policies] and conclude the proposed project is consistent with SCAG Policy 3.27.

**AIR QUALITY CHAPTER**

The Air Quality Chapter core actions related to the proposed project include:

- 5.11 Through the environmental document review process, ensure that plans at all levels of government (regional, air basin, county, subregional, and local) consider air quality, land use, transportation, and economic relationships to ensure consistency and minimize conflicts.

**SCAG Staff Comments:** Chapter 4.3 [Air Quality] of the draft EIR notes that the activities associated with the proposed project are consistent with the SCAQMD AQMP. All activities (except for aggregate mining) are not expected to contribute emissions in nonattainment areas; the aggregate mining activity has the potential to exceed SCAQMD thresholds for NO<sub>x</sub> emissions even with mitigation. However, overall the proposed project ensures consistency with the local AQMP and AAQS. Therefore, SCAG staff conclude the proposed project is consistent with SCAG Policy 5.11.

F-5

**OPEN SPACE AND CONSERVATION CHAPTER**

The Open Space and Conservation Chapter goals related to the proposed project include:

- 9.01 Provide adequate land resources to meet the outdoor recreation needs of the present and future residents in the region.
- 9.02 Increase the accessibility to open space lands for outdoor recreation.
- 9.03 Promote self-sustaining regional recreation resources and facilities.

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- 9.04 *Maintain open space for adequate protection to lives and properties against natural and manmade hazards.*
- 9.05 *Minimize potentially hazardous developments in hillsides, canyons, areas susceptible to flooding, earthquakes, wildfire and other known hazards, and areas with limited access for emergency equipments.*
- 9.08 *Develop well-managed viable ecosystems or known habitats of rare, threatened and endangered species, including wetlands.*

F-6

**SCAG Staff Comments:** The draft EIR contains a Recreation and Parks element (Chapter 4.14) with plans to improve the current park and trail system that will create an integrated system of trails. "The previously referenced existing General Plan trails for the Cities of Highland and Redlands do not fully match up within the boundaries of the Planning Area. The proposed project seeks to rectify that situation by presenting a suggested plan of integrated trails for the Planning Area that would include the removal and addition of trails to form an interconnecting network. In addition, the reclamation plans for the closure of mining facilities (Cemex and Robertson's) following the completion of mining extraction activities could provide additional recreation space for future use at the time reclamation is estimated to be complete in 2070." Additionally, the proposed project is a land management and habitat conservation plan that "include 1,947 acres of habitat conservation (an increase of 732 acres over existing conditions) made up of the following:

- BLM Areas of Critical Environmental Concern (ACEC). The land to be exchanged to BLM and designated ACEC provides for an unrestricted wildlife movement corridor across the wash.
- Santa Ana River Woollystar Preservation Area
- District Conservation Easement
- City of Highland Biological Mitigation Area
- Habitat Conservation and Potential ACEC"

Therefore SCAG staff conclude the proposed project is consistent with SCAG policies 9.01 through 9.05 and 9.08.

**WATER QUALITY CHAPTER RECOMMENDATIONS AND POLICY OPTIONS**

The Water Quality Chapter goals related to the proposed project include:

- 11.07 *Encourage water reclamation throughout the region where it is cost-effective, feasible, and appropriate to reduce reliance on imported water and wastewater discharges. Current administrative impediments to increased use of wastewater should be addressed.*

**SCAG Staff Comments:** The proposed project includes the continuation of both water conservation facilities and groundwater recharge areas. As pointed out in the consistency discussion of policy 11.07 included in Chapter 5.4.1 [Additional Topics Required By CEQA: Regional Comprehensive Planning Policies], the project does not propose any actions other than possibly the expansion of mining activities that would necessitate water reclamation. Therefore, the proposed project is generally consistent with the goals of SCAG policy 11.07.

F-7

**REGIONAL TRANSPORTATION PLAN**

The 2008 Regional Transportation Plan (RTP) also has goals and policies that are pertinent to this proposed project. This RTP links the goal of sustaining mobility with the goals of fostering economic development, enhancing the environment, reducing energy consumption, promoting transportation-friendly development patterns, and encouraging fair and equitable access to residents affected by socio-economic, geographic and commercial limitations. The RTP continues to support all applicable federal and state laws in implementing the proposed project. Among the relevant goals and policies of the RTP are the following:

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**Regional Transportation Plan Goals:**

- RTP G1** Maximize mobility and accessibility for all people and goods in the region.
- RTP G2** Ensure travel safety and reliability for all people and goods in the region.
- RTP G3** Preserve and ensure a sustainable regional transportation system.
- RTP G4** Maximize the productivity of our transportation system.
- RTP G5** Protect the environment, improve air quality and promote energy efficiency.
- RTP G6** Encourage land use and growth patterns that complement our transportation investments.

F-8

**SCAG Staff Comments:** Chapter 5.0 [Additional Topics Required By CEQA] includes a discussion of RTP policies related to RTP goals 1-7. SCAG staff generally agree with the conclusions provided in the discussion of RTP goals and conclude the Proposed project is consistent with RTP goals 1 through 7.

**GROWTH VISIONING**

The fundamental goal of the **Compass Growth Visioning** effort is to make the SCAG region a better place to live, work and play for all residents regardless of race, ethnicity or income class. Thus, decisions regarding growth, transportation, land use, and economic development should be made to promote and sustain for future generations the region's mobility, livability and prosperity. The following "Regional Growth Principles" are proposed to provide a framework for local and regional decision making that improves the quality of life for all SCAG residents. Each principle is followed by a specific set of strategies intended to achieve this goal.

F-9

**Principle 1: Improve mobility for all residents.**

- GV P1.1** Encourage transportation investments and land use decisions that are mutually supportive.
- GV P1.2** Locate new housing near existing jobs and new jobs near existing housing.
- GV P1.3** Encourage transit-oriented development.
- GV P1.4** Promote a variety of travel choices

**Principle 2: Foster livability in all communities.**

- GV P2.1** Promote infill development and redevelopment to revitalize existing communities.
- GV P2.2** Promote developments, which provide a mix of uses.
- GV P2.3** Promote "people scaled," walkable communities.
- GV P2.4** Support the preservation of stable, single-family neighborhoods.

**Principle 3: Enable prosperity for all people.**

- GV P3.1** Provide, in each community, a variety of housing types to meet the housing needs of all income levels.
- GV P3.2** Support educational opportunities that promote balanced growth.
- GV P3.3** Ensure environmental justice regardless of race, ethnicity or income class.
- GV P3.4** Support local and state fiscal policies that encourage balanced growth
- GV P3.5** Encourage civic engagement.

**Principle 4: Promote sustainability for future generations.**

- GV P4.1** Preserve rural, agricultural, recreational, and environmentally sensitive areas.
- GV P4.2** Focus development in urban centers and existing cities.
- GV P4.3** Develop strategies to accommodate growth that uses resources efficiently, eliminate pollution and significantly reduce waste.
- GV P4.4** Utilize "green" development techniques

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**SCAG Staff Comments:** Although residential or commercial development is not part of the proposed project, the project includes certain aspects promoted by SCAG's Growth Visioning Principles. Among these activities is the setting aside of rights-of-way and the inclusion of a recreation element for the existing community as well as a habitat conservation plan and water conservation. Therefore, SCAG staff generally agree with the consistency discussion of Principles 1 through 4 included in Chapter 5.4.1 [Additional Topics Required By CEQA: Regional Comprehensive Planning Policies] and conclude the proposed project is consistent with SCAG's Growth Visioning Principles.

↑  
F-9

**CONCLUSION**

1. All feasible measures needed to mitigate any potentially negative regional impacts associated with the proposed project should be implemented and monitored, as required by CEQA.

F-10

2. When a project is of statewide, regional, or areawide significance, transportation information generated by a required monitoring or reporting program shall be submitted to SCAG as such information becomes reasonably available, in accordance with CEQA, Public Resource Code Section 21018.7, and CEQA Guidelines Section 15097 (g).

F-11

3. SCAG commends the San Bernardino Valley Water Conservation District for producing a Land Management and Habitat Conservation Plan that promotes regional goals and policies of sustainability, open space conservation, and improving the quality of life in the SCAG region.

F-12

## **RESPONSE TO COMMENT LETTER F**

### **Southern California Association of Governments (SCAG)**

**Response to Comment F-1.** At the time the EIR was prepared and circulated for public review, the latest SCAG numbers for population, households, and employment were not available. Instead, the EIR used 2005 information that was available. The proposed project does not include development that would create a significant increase housing population or employment. No changes to the EIR are necessary.

**Response to Comment F-2.** The District agrees with SCAG staff comments stating that the proposed project is consistent with SCAG Policies 3.05, 3.0.9 and 3.0.10. No changes to the EIR are necessary.

**Response to Comment F-3.** The District agrees with SCAG staff comments stating that the proposed project is consistent with Policies 2.18 through 3.23. No changes to the EIR are necessary.

**Response to Comment F-4.** The District agrees with SCAG staff comments stating that the proposed project is consistent with Policy 3.27. No changes to the EIR are necessary.

**Response to Comment F-5.** The District agrees with SCAG staff comments stating that the proposed project is consistent with Policy 5.11. No changes to the EIR are necessary.

**Response to Comment F-6.** The District agrees with SCAG staff comments stating that the proposed project is consistent with Policies 9.05 and 9.08. No changes to the EIR are necessary.

**Response to Comment F-7.** The District agrees with SCAG staff comments stating that the proposed project is consistent with Policy 11.07. No changes to the EIR are necessary.

**Response to Comment F-8.** The District agrees with SCAG staff comments stating that the proposed project is consistent with Regional Transportation Plan Goals 1 through 7. No changes to the EIR are necessary.

**Response to Comment F-9.** The District agrees with SCAG staff comments stating that the proposed project is consistent with the SCAG's Growth Visioning Principles 1 through 4. No changes to the EIR are necessary.

**Response to Comment F-10.** Comment noted. The proposed project provides mitigation measures and a monitoring program as required by CEQA to reduce any potential regional impacts associated with the project. No changes to the EIR are necessary.

**Response to Comment F-11.** Comment noted. The proposed project provides mitigation measures and a monitoring program as required by CEQA to reduce potential regional impacts associated with the project. No changes to the EIR are necessary.

**Response to Comment F-12.** Comment noted. No changes to the EIR are necessary.

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May 23, 2008

San Bernardino Valley Water Conservation District  
Att Randy Scott  
1630 West Redlands Boulevard, Suite A  
Redlands, CA 92373

27215 Base Line  
Highland, CA 92346  
(909) 864-6861  
FAX (909) 862-3160  
www.ci.highland.ca.us

Subject . Comment on Draft Environmental Impact Report (SCH No  
2004051023) for Upper Santa Ana River Wash Land  
Management and Habitat Conservation Plan (Wash Plan)

City Council

Mayor  
Penny Lilburn

Mayor Pro-Tem  
Ross B. Jones

Larry McCallon  
Jody Scott  
John P. Timmer

City Manager  
Joseph A. Hughes

Dear Randy,  
The City of Highland has completed its review of the subject Draft Environmental Impact Report (DEIR) regarding the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (Wash Plan), and has the following comments. Our phone conversation on May 22, 2008, also assisted with our review.

- 1 Section 1.6 Summary of Impacts (page 1-20)  
No draft Mitigation Monitoring and Reporting Program was provided in the DEIR, so it was difficult to determine the timing and responsible agencies involved in mitigation implementation. However, it is my understanding the Final EIR will include an MMRP for easy reference after all comments are received and evaluated, which could possibly alter the mitigation measures noted in the DEIR.
- 2. General comment related to 5<sup>th</sup> Street located in the City of Highland. As you may be aware the portion of 5<sup>th</sup> Street east of the SR210 (previously SR30) was changed to "Greenspot Road". The only reference to 5<sup>th</sup> Street should be restricted to discussions related to future hauling truck access points west of SR210.
- 3 Mitigation Measure AES-1 (Page 1-21)  
It is not clear in this mitigation or in the DEIR if the required berm near the Silt Pond Quarry will be permanent or be removed at the completion of reclamation. In either case, the City of Highland will require the berm design to incorporate curvilinear contours and varied berm heights so it will appear more natural.



4 Mitigation Measure AES-2 (Page 1-21)  
This mitigation measure requires the planting of an unknown number of 15 gallon sized trees along the westerly perimeter of the West Quarry. Said trees shall also be maintained during the life of the quarry. Planting of said trees appears to be contradictory to conclusions in the DEIR that the mining operations will not have a significant impact due to concurrent reclamation, existing setting/mining operations, and lack of impact to the views of the San Bernardino Mountains from SR210. It is not clear in the document whether or not the subject trees would be removed at the conclusion of reclamation. It is recommended that the proposed trees be planted, watered/maintained, and monitored as noted in the mitigation measures, which could in the long-term become a highway beautification effort along SR210.

G-4

5 Mitigation Measure AES-3 (Page 1-22)  
Similar comment as Number 3 above. Although in this particular area trees may impede vistas of the San Bernardino Valley to the west.

G-5

6 Mitigation Measure AIR-3 (Page 1-24)  
This mitigation measure will require both mining operators to schedule transportation of material out of Section 11 in such a way that they are not transporting material from Section 11 on the same day. It is not clear how this mitigation measure will be monitored or enforced.

G-6

7 Section 3.7.2 Permits and Other Approval – Table 3 I (Page 3-92)  
One of the action items listed for the City of Highland (responsible agency) is the incorporation of mitigation measures related to trails. It is recommended this item be amended to state, “Incorporate mitigation measures related to trails, pursuant to conditions of approval imposed on Cemex and Robertson’s, and in cooperation with the City of Redlands, SBVWCD, and SB County Parks and Recreation Department”

G-7

8 City of Highland Noise Standards (Page 4 11-13), and Aggregate Mining Noise Impacts (Page 4 11-32)  
The City of Highland adopted a new Noise Ordinance (Ordinance No. 324) on May 13, 2008. A copy of the City’s new Ordinance is attached herein for your reference and incorporation into the subject EIR (Attachment A). The DEIR noise impact conclusions appear to be adequately addressed.

G-8

In addition, the City's new Noise Ordinance relies on a noise study to justify appropriate conclusions for possible noise mitigation and protection of sensitive receptors, which the DEIR has completed

G-8

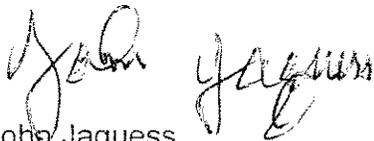
- 9 City Public Works and Engineering comments are attached for your consideration (Attachment B)

G-9

The City appreciates the opportunity to participate in this important Planning/CEQA process

Should you have questions, please contact me at (909) 864-8732, Ext 213, or Lawrence Mainez, City Planner at Ext 215

Sincerely,



John Jaquess  
Community Development Director

Attachments:

- A. City of Highland Noise Ordinance (Ord No 324)
- B. City of Highland Public Works and Engineering Comments

Cc: Joseph A. Hughes, City Manager  
Ernie Wong Public Works Director/City Engineer  
Lawrence A. Mainez, City Planner  
Craig A. Steele City Attorney

**Attachment – A**

**City of Highland Noise Ordinance  
(Ordinance No. 324, adopted May 13, 2008)**

Attachment B  
City of Highland  
Public Works Department

Comments on Draft Environment Impact Report for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan

The City of Highland Public Works Department appreciate the opportunity to review and comments on the Draft Environmental Impact Report for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan. For clarity and consistency within the DEIR, we request the following changes to the DEIR be made:

Page 1-8, Item 6 - Modify sentence to read, "Designation and dedication of rights-of-way, environmental mitigation for expanded roadway rights-of-way, widening on Alabama Street and Orange Street-Boulder Avenue, widening, straightening and realignment of Greenspot Road, including a new Greenspot Road Bridge." G-10

Page 1-11, City of Highland Biological Mitigation Area – Modify paragraph to read, "The City of Highland completed a drainage channel project that required approximately 20 acres of land designated for the mitigation of impacts that the City’s project caused to biological resources. As a separate action to be taken between the City of Highland and BLM independent of the Wash Plan, ownership of this 20 acres of land will be conveyed to BLM." G-11

Page 1-12, Section 1.3.5, Arterial Roads/Highways – Modify 5<sup>th</sup> sentence to read, "The proposed project would include the setting aside of rights-of-way and environmental mitigation for ..." G-12

Page 1-13, Fifth Street Mining Access Road – Modify paragraph starting from the 4<sup>th</sup> sentence to read, "The northern terminus of this haul road would connect to eastbound 5<sup>th</sup> Street for exiting project vehicles that go south on SR-30. Project vehicles not going south of SR-30 would not use this access road. Entering vehicles ...." G-13

Page 1-13, Right-of-way for Arterials – Modify 1<sup>st</sup> sentence to read, "Total acreage for right-of-way for arterials (Alabama Street, Orange Street-Boulder Avenue, and Greenspot Road widening, realignment and its associated Bridge), is 66 acres ..." Also, revise "66" acres per subsequent comments related to the number of acreage impacted by future roadway construction. G-14

Additionally, add to end of paragraph, "The roadway rights-of-way set aside for future roadway projects will be dedicated to the City of Redlands or the City of Highland respectively" G-15

Page 1-51, Impact 4.15.1 - Under the Issues/Impact column, modify 1<sup>st</sup> sentence to read, “ ... truck traffic would contribute to congestion at the Palm Avenue/Fifth Street intersection from local deliveries and regional deliveries that would travel north on SR-30.”; Under the Mitigation Measures column, Traffic 2, see comments on Page 4.15-37.

G-16

Page 2-7, Table 2.A, Cumulative Projects – For your information and clarification in the DEIR, the 5<sup>th</sup> Street 4-lane widening project was completed in early 2008, the Line “C” Drainage Realignment project was completed in August 2006, and the East Valley Center development has been replaced with other commercial developments in the general vicinity.

G-17

Page 3-7, Section 3.2.1, Item 6 – Modify the paragraph to read, “Designation and dedication of rights-of-way, and provide environmental mitigation for widening of Alabama Street and Orange Street-Boulder Avenue, and widening, realignment and straightening of Greenspot Road, and a new Greenspot Road Bridge.”

G-18

Page 3-21, Section 3.5.4, City of Highland Biological Mitigation Area – Change “storm drain” to “drainage channel”; change “16” acres to “20” acres; and add as 3<sup>rd</sup> sentence “As a separate action to be taken between City of Highland and BLM independent of the Wash Plan, ownership of this 20 acres of land will be conveyed to BLM.”

G-19

Page 3-57, City of Highland Biological Mitigation Area – Change “16” acres to “20” acres (2 places).

G-20

Page 3-61, Existing City of Highland Biological Mitigation Area – Modify 1<sup>st</sup> sentence to read, “ These 20 acres would remain a mitigation area for the City of Highland previously completed drainage channel project”.

G-21

Page 3-76, Mining Facilities 5<sup>th</sup> Street Access Road – Modify paragraph starting from 3<sup>rd</sup> sentence to read, “ The northern terminus of the new access road would connect to eastbound 5<sup>th</sup> Street for exiting vehicles that would go south on SR-30. All other vehicles that would not go south on SR-30 would use the Alabama Street access. Entering vehicles from SR-30 or east of SR-30 would ingress from the westbound lane of 5<sup>th</sup> Street and ...”

G-22

Page 3-76, Section 3.6.6 Arterial Roads and Highways, 1st Paragraph - Modify 1<sup>st</sup> sentence to read, “The proposed project includes the reservation and dedication of rights-of-way, and environmental mitigation for subsequent improvements to ...”

G-23

Add to end of 1st paragraph, “...and the bridge crossing will be replaced, and Greenspot Road will ultimately be widened to 4 lanes.”

G-24

Page 3-76, Greenspot Road Widening, Realignment and New Bridge, 2<sup>nd</sup> Paragraph - Modify 4<sup>th</sup> sentence, "...the new bridge would be built with four travel lanes and sidewalk to match the ultimate width of Greenspot Road, which would be a Major Highway with a 104-foot right-of-way...."

G-25

Modify 5<sup>th</sup> sentence to read, "The four-lane new bridge project would include realignment of a total of 3,200 feet of Greenspot Road on both sides of the bridge to match the location of the new bridge. The realigned section of Greenspot Road on both sides of the new bridge will be two-lane wide. In the longer term, it will be widened to four lanes. The bridge project would realign Greenspot Road ...."

G-26

Page 3-77, Figure 3.19 – A proposed paved haul road is shown to be constructed along the west side of Orange Street. This haul road should be constructed far enough away from Orange Street to avoid any conflict with and to provide sufficient buffer from the future widening of Orange Street to the General Plan width.

G-27

Page 3-79, Figure 3.20, Change title of Figure 3.20 to "Proposed Greenspot Roadway Widening and Realignment and New Bridge". Revise the purple line that depicts the limits of future City of Highland projects to widen and realign Greenspot Road and a new Greenspot Road Bridge, from the west line of Section 6 to approximately 1,000 south of the existing iron bridge across Santa Ana River.

G-28

Page 3-83, 2<sup>nd</sup> Paragraph – Change "eliminate" to "smoothen"; change "3,700" feet to "2,950" feet, and add a new paragraph behind the 2<sup>nd</sup> paragraph as follows:

G-29

"The third City of Highland project, which could be constructed in one or more phases, would widen a total of 12,960 feet of Greenspot Road to 4-lanes, where it has not been widened in the first and second projects, with street improvements on both sides, per the City's Major Highway standards, from the west line of Section 6 to approximately 1,000 feet south of the existing iron bridge across Santa Ana River."

G-30

Page 3-83, 3<sup>rd</sup> Paragraph – Modify 1<sup>st</sup> and 2<sup>nd</sup> sentences to read, " The three City of Highland projects would result in approximately 29.4 acres of permanent disturbance. A total of approximately 13.8 acres would be temporarily disturbed during construction based on an average of 33 feet of linear stage area beyond the roadway right-of-way."

G-31

Page 3-83, 4<sup>th</sup> Paragraph – Modify 1<sup>st</sup> sentence to read, "This document serves as a program level EIR for these Greenspot Road and Bridge projects, providing the environmental analysis and mitigations needed for designation and dedication of the rights-of-way, and future construction of roadway improvements."

G-32

Page 3-83, Alabama Street Widening, 2<sup>nd</sup> Paragraph - Modify 1<sup>st</sup> sentence to read, "This document serves as a program level EIR for these street improvements, providing the environmental analysis and mitigations needed for designation and dedication of rights-of-way, and future construction of roadway improvements."

G-33

Page 3-84, Orange Street-Boulder Avenue Widening, 3<sup>rd</sup> Paragraph - Modify 1<sup>st</sup> sentence to read, "This document serves as a program level EIR for these street improvements, providing the environmental analysis and mitigations needed for designation and dedication of rights-of-way, and future construction of roadway improvements."

G-34

Page 3-91, Responsible Agencies, City of Highland – Change "Public Works and Engineering Department" to "Public Works Department".

G-35

Page 3-92, Table 3.1, Actions within the Planning Area Covered by this EIR – Under San Bernardino Valley Water Conservation District, add a bullet point to read, " Grant Rights-of-way easements on Greenspot Road and Orange Street-Boulder Avenue to City of Highland or City of Redland for future Roadway improvements to be done on District land by the respective cities."

G-36

Page 3-92, Table 3.1, Actions within the Planning Area Covered by this EIR – Under City of Highland, add a bullet point to read, "Potential approval for construction of street and traffic improvements to widen and extend Third Street from Palm Avenue to 5<sup>th</sup> Street."

G-37

Page 3-93, Table 3.1, Actions within the Planning Area Covered by this EIR – Under Robertson's and Cemex, add a bullet point to read, "implement mitigation measures listed in DEIR."

G-38

Page 4.1-33, Roadway/Bridge Rights-of-way – First paragraph, 1<sup>st</sup> sentence: replace "reservation" with "reservation and dedication"; 2<sup>nd</sup> sentence: delete "dangerous"; 3<sup>rd</sup> sentence, modify to read, "...250 feet to the west of the existing bridge...."

G-39

Page 4.1-33, Recreational Trail Rights-of-Way – Modify 1<sup>st</sup> sentence to read, " The reservation, setting aside and dedication of trail rights-of-way ...."

G-40

Page 4.3-30, Roadway/Bridge Rights-of-Way – Modify 1<sup>st</sup> sentence to read, " The proposed project includes the setting aside and dedication of rights-of-way ..."

G-41

Page 4.3-40, Roadway/Bridge Rights-of-Way – Modify 2<sup>nd</sup> sentence to read, " Subsequent improvements to Greenspot Road and the Greenspot Road Bridge include widening Greenspot Road to ultimate width per City of Highland General Plan, smoothing the existing "S" curve, constructing a new bridge, and realigning roadway near the new bridge."

G-42

Page 4.4-22, City of Highland Biological Mitigation Area - Change "storm drain" to "drainage channel"; change "16" acres to "20" acres; and add as 3<sup>rd</sup> sentence "As a separate action to be taken between the City of Highland and BLM independent of the Wash Plan, ownership of this 20 acres of land will be conveyed to BLM."

G-43

Page 4.4-38, Roadway/Bridge Rights-of-Way, 2<sup>nd</sup> Paragraph – First sentence: modify 1<sup>st</sup> sentence to read, “ ..., Greenspot Road will be widened to ultimate general plan width, smoothed at the “S” curve, and realigned near the new bridge, including construction of a new bridge.”; 2<sup>nd</sup> sentence: change “11.9” to “27.7”; 3<sup>rd</sup> sentences, change “17.0” to “13.8”.

G-44

Please refer to the calculation of disturbance area for Greenspot Road projects dated 3/9/05 previously provided to District staff. The total distance of the Greenspot projects is 12,960 feet. The total area of temporary disturbance is 13.8 acres, the total area of permanent disturbance is 29.4 acres, and the area of existing pavement removal that would reduce the area of permanent disturbance is 1.7 acres.

G-45

Broken down into the three City of Highland Greenspot Road projects, the first project (Greenspot Bridge and 2- lane Roadway realignment) would have a temporary disturbance of 2.6 acres, and a permanent disturbance of 8.4 acres. The second project (2-lane “S” curve) would have a temporary disturbance of 6.8 acres and permanent disturbance of 4.2 acres. The third project (Ultimate 4-lane Greenspot widening) would have a temporary disturbance of 4.4 acres and permanent disturbance of 15.1 acres.

G-46

The 2<sup>nd</sup> Paragraph and Table 4.4E (Potentially Impacted Vegetation Types from Roadway Expansion Areas) should be amended to also list the City of Highland’s 3<sup>rd</sup> Greenspot Road project (Ultimate 4-lane Greenspot widening), and to list the impacted acreages for each of the three projects based on the above acreage breakdowns.

G-47

Various places in the DEIR – Based on the above acreage figures, the total areas of temporary and permanent disturbance caused by future construction of roadway improvements on Greenspot Road, Orange Street-Boulder Avenue and Alabama Street should be 30.2 acres and 45.5 acres respectively. The various places in the DEIR where these figures are mentioned should be revised appropriately.

G-48

Page 4.4-47, Roadway/Bridge Rights-of-Way – 1<sup>st</sup> sentence, modify to read “ As discussed previously, the Greenspot Road bridge project will result in ultimate widening of Greenspot Road and a new bridge across the Santa Ana River approximately 250’ west of the existing bridge.”; 3<sup>rd</sup> sentence: delete “around the bridge site” ; 4<sup>th</sup> sentence: modify to read, “ .... the remainder of the Greensspot Road widening and realignment are not within the channel.”

G-49

Page 4.4-48, Impact 4.4.7, Roadway/Bridge Rights-of-Way – As consistently stated in other parts of the DEIR, one of the 9 components of the Wash Plan is to provide environmental mitigations for construction of roadway improvements on Greenspot Road, Orange Street-Boulder Avenue, and Alabama Street. That means City of Highland and City of Redlands should not be required to replace the impacted habitat or to participate in in-lieu programs such as regional mitigation banks. This basic purpose of the Wash Plan should be clearly stated in the last paragraph on this page.

G-50

Page 4.15-1, Section 4.15, Transportation and Traffic – It would be helpful to include in this Chapter of the DEIR (1) a description of the proposed traffic circulation of project trucks, (2) a reference that the preferred access alternative is Access Alternative D analyzed in the Traffic Study, and (3) Figure 2D of the Traffic Study.

G-51

Page 4.15-6, Alabama Street – Within City of Highland, Alabama Street is designated in the General Plan as Secondary Highway with 64’ curb-to-curb and 88’ right-of-way.

G-52

Page 4.15-7, 5<sup>th</sup> Street – 4<sup>th</sup> sentence: change “Shirley” to “Tippecanoe”

G-53

Page 4.15-11, Table 4.15.C, Background Without Project Intersection Level of Service – Item 1, Palm Avenue/5<sup>th</sup> Street, under both the Baseline (2004) and 2008 Without Project columns, revise V/C and Delay numbers to be consistent with those listed in Tables D and G in the Traffic Study.

G-54

Page 4.15-11 – Footnote: Change the date of the Traffic Study from “June 30, 2006” to “August 31, 2007”.

G-55

Page 4.15-12 - Footnote: Change the date of the Traffic Study from “June 30, 2006” to “August 31, 2007”

G-56

Page 4.15-13 – Chapter 4.15 of the DEIR includes figures for 2008 and 2030 background peak hour traffic, and 2008 and 2030 background plus project peak hour traffic. It would be more logical and helpful if it also includes 2008 and 2030 project only peak hour traffic.

G-57

Page 4.15-17 – Footnote: Remove one “2000”

G-58

Page 4.15-21, Policy No. 8 – The DEIR quotes the following City of Highland General Plan policy: “Requires as a part of the development review process for all new or expanding mineral extraction and all other heavy industry activities within the City, that a fair-share mitigation analysis indicating the impacts and associated maintenance costs caused by the potential generation of future truck traffic, and a comprehensive mitigation program, designed to run the life of the mineral extraction activity (including reclamation) that will cover the fair-share portion of surrounding roadway maintenance costs due to the increase in local truck activity, or provide new or appropriate improvements to existing roadway facilities which in the opinion of the City would mitigate the impacts caused by the increase in local truck traffic”

G-59

The project’s truck traffic will have significant impact on the service life and maintenance cost of pavement on city streets. Please add a mitigation measure in the DEIR that the permit proponent shall pay its fair share of city street maintenance cost as determined by a pavement impact analysis to be conducted by the City of Highland.

Also related to roadway safety and maintenance, please add a mitigation measure in the DEIR that the permit proponent shall cover all loads on aggregate trucks, and sweep city streets along truck routes as frequently as deemed necessary by the City, not less than once per day.

G-60

Page 4.15-31, Table 4.15.G, Background With Project Intersection Levels of Service – Item 1, Palm Avenue/5<sup>th</sup> Street, under both the Baseline (2004) and 2008 Without Project columns, revise V/C and Delay numbers to be consistent with those listed in Tables D and J in the Traffic Study.

G-61

Page 4.15-31 - Footnote: Change the date of the Traffic Study from “June 30, 2006” to “August 31, 2007”.

G-62

Page 4.15-35, 1<sup>st</sup> Paragraph – Modify last sentence to read, “...extension of 3<sup>rd</sup> Street to 5<sup>th</sup> Street primarily as a one way street ....”. Please see attached conceptual drawing of 3<sup>rd</sup> Street for reference.

G-63

Page 4.15-37, Mitigation Measures, Traffic-2, Third Street – Modify 1<sup>st</sup> sentence to read, “Widen and extend 3rd Street from Palm Avenue to connect to 5<sup>th</sup> Street, and modify the 3<sup>rd</sup>/5<sup>th</sup> /Church intersection per City of Highland conceptual drawing of 3<sup>rd</sup> Street.”

G-64

Page 4.15-40, Level of Significance after Mitigation – The DEIR indicates that although the project’s impact to freeway segments in the year 2030 would be potentially significant and require mitigation, there is no feasible mitigation exists. The DEIR indicates that there is no mechanism for development project proponents to pay fees or make fair-share contributions toward improving mainline freeway lanes. The DEIR indicates that even if there were such a mechanism to collect fees for mainline freeway lanes, there would be no way to ensure that such payments would be directed to a specific freeway improvement project.

G-65

The project generates heavy truck traffic, most of which would access SR-30 via the 5<sup>th</sup> Street ramps. Based on a speed study conducted by City of Highland, an aggregate truck or a cement truck climbing up the southbound 5<sup>th</sup> Street on-ramp reaches a speed between 26 to 34 mph when it merges with the freeway mainline traffic. Additional truck traffic from the project would only exacerbate this traffic safety and operation problem caused by the significant difference in vehicle speed. The solution anticipated by the City is to widen the freeway on-ramps to provide another travel lane, which will be extended to and will run parallel with the freeway mainline as a auxiliary lane, allowing the heavy trucks to accelerate to a speed closer to the prevailing speed on the freeway mainline. The project should be responsible for its fair shares of improvement cost.

G-66

While it is usually the State of California that initiates improvement to freeway mainlines, it is not uncommon for a local agency to initiate improvements to freeway ramps and the auxiliary lanes associated with freeway ramps. The City could collect the project fair shares and utilize the fees to prepare a Project Study Report, which is needed as a first step to pursue further efforts in securing federal or state grants, or to contribute

G-67

to the engineering design and/or construction of the proposed ramp and auxiliary lane improvements as required local funding match for federal or state grants.

G-67

Please add to the DEIR additional traffic mitigation measures to include payment of project fair shares to widen the 5<sup>th</sup> Street on-ramps to provide another travel lane, and construct an on-ramp acceleration lane along the freeway mainlines. Also, remove language relative to the lack of viable funding mechanism for freeway improvements that conflicts with the above comments.

G-68

Page 4.15-44, Aggregate Mining, Last Paragraph – This paragraph indicates that LOS at 6 intersections will improve, resulting in beneficial impacts. Based on the traffic study, only 4 out of the 6 listed intersections show improvement. The Alabama Street/Cemex Access does not improve under the AM condition, and the Alabama Street/Robertson’s Access does not improve under the PM condition. Therefore, the last paragraph should be revised accordingly, and mitigation should be required at the Alabama Street/Cemex Access, and the Alabama Street/Robertson’s Access.

G-69

Page 5.15-45, 1<sup>st</sup> Paragraph – This paragraph indicates that, with the change of traffic circulation pattern resulting from utilization of the proposed 5<sup>th</sup> Street access, the listed 6 (to be revised to 4 per above comments) intersections will have less project traffic, therefore will require no mitigation. It should be noted that the project continues to contribute traffic to these 4 intersections where the LOS remains below the acceptable level of D. In accordance with County of San Bernardino Congestion Management Plan, the project is responsible for its share of mitigation for these 4 locations.

G-70

Page 4.15-45, Mitigation Measures, Traffic-4, SR-30 Southbound Ramps/5<sup>th</sup> Street – Modify last sentence to read, “ This improvement would require widening of Greenspot Road under the SR-30 bridge from 80’ to 110’ or more.” Add to end of paragraph, “Provide storage length for turn lanes per the Traffic Study.”

G-71

Page 4.15-45, Mitigation Measures, Traffic-4, SR-30 Northbound Ramps/5<sup>th</sup> Street – Modify last sentence to read, “ These improvements will require widening of Greenspot Road under the SR-30 bridge from 80’ to 110’ or more. “ Add to end of paragraph, “Provide storage length for turn lanes per the Traffic Study.”

G-72

Page 4.15-45, Impact 4.15.3 – The short distance between the 5<sup>th</sup> Street haul road access and the SR-30 ramps does not provide adequate safe distance for project trucks to maneuver and merge with eastbound traffic on 5<sup>th</sup> Street. The preferred access alternative as described in the DEIR indicates that only outbound vehicles that go south on SR-30 will use the haul road exit on 5<sup>th</sup> Street, and outbound vehicles that go north on SR-30, or go east on 5<sup>th</sup> Street east of SR-30 will use the Alabama Street access. Maintaining this circulation pattern is critical to the safe operation of traffic on 5<sup>th</sup> Street near the haul road access. Please include a mitigation measure that would ensure that this circulation pattern is maintained.

G-73

Page 4.15-49, Table 4.15.I, Year 2030 With Improvements Intersection Levels of Service  
- Change the date of the Traffic Study from “June 30, 2006” to “August 31, 2007”

G-74

Page 4.15-49, the traffic mitigation measures listed in the DEIR do not include all the necessary improvements identified in the Traffic Study. Please add to the DEIR additional traffic mitigation measures to include all the necessary intersection improvements listed in Table V of the August 2007 Traffic Study.

G-75

Page 4.15-52, Impact 4.15.4, Mitigation Measures – Modify to read, “Within one year of the issuance of mining expansion permits, the permit proponent shall pay City impact fees and CMP fair-share fees as delineated in the respective City’s Development Impact Fee program.” Also revise Table 1C on Page 1-53 accordingly.

G-76

Page 4.15-52, Level of Significance after Mitigation- see earlier discussions under Page 4.15-40 Level of Significance after Mitigation.

G-77

Traffic Study - Relative to comments on the Traffic Study, please see attached letter dated October 30, 2007, and incorporate any changes suggested in the letter that have not been made previously.

G-78

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## RESPONSE TO COMMENT LETTER G

### City of Highland Community Development Department and Department of Public Works

**Response to Comment G-1.** A Mitigation Monitoring and Reporting Program is not part of a Draft EIR. The Final EIR will include a Mitigation Monitoring and Reporting Program that will be distributed to the City of Highland.

**Response to Comment G-2.** Comment noted. Changes have been made as appropriate.

**Response to Comment G-3.** The berm identified in **Mitigation Measure AES-1** is a permanent berm. The District understands the City's intent to require a more natural-appearing berm, and the City will be responsible for making sure this measure is implemented to its satisfaction.

**Response to Comment G-4.** The planting of trees is consistent with the conclusions in the EIR. As stated in the EIR, impacts related to mining would be significant in terms of near views. As stated on page 4.1-31 and 32:

Disturbances to the views of the Planning Area, caused by the continuing and expanding mining operations, would mainly affect the near views, which are not the prime views in the area. Near views are considered to be point of views that are observed within a close range. Prime views are defined as the views of the mountains, which form the backdrop for the Planning Area and implementation of the proposed project would not change these views. Public views to the Planning Area would mainly consist of prime views, not near views. However, a potentially significant impact to near views would still occur and would require mitigation.

The double-underlined text has been added to this portion of the EIR for clarification.

**Response to Comment G-5.** As stated in the response G-4, the impacted views are near views and the trees required in the mitigation measures would provide screening for these views. The views of the San Bernardino Valley to the west would not be significantly impacted. Additionally, these views are not protected or considered part of a scenic vista by the State or as disclosed in the City of Highland and Redlands General Plans.

**Response to Comment G-6.** Implementation of this mitigation measure is clarified in the Mitigation Monitoring and Reporting Program included in Appendix L of the Final EIR. The relevant portion of the MMRP has been included below.

<b>AIR-3</b>	The two operators, Cemex and Robertson's, shall schedule transportation of material such that both operators are not transporting material on the same day from the south half of the southeast quarter of Section 11, which is the area farthest from both processing plants.	City of Redlands Planning Director  City of Highland Planning Director	Once, at start up	Prior to issuance of Mining Permits	An MOU shall be entered into by the mining operators to implement the mitigation. A copy of the MOU shall be filed with both Cities prior to issuance of Mining Permits.	Withhold Mining Permits
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**Response to Comment G-7.** The requested changes to Table 3.I in the EIR have been included. The added text is shown in double underline format.

**Response to Comment G-8.** Comment noted. The Draft EIR was circulated for public review well before the adoption of the City's new Noise Ordinance. As stated in the City's comment, a noise study has been conducted for the proposed project and the comment acknowledges that noise impacts have been adequately addressed. Consequently, it will not be made part of this EIR.

**Response to Comment G-9.** Comment noted. Responses to the City of Highland's Public Works comments are included in responses G-10 through G-78.

**Response to Comment G-10.** As stated on page 3-76, Section 3.6.6, of the Draft EIR, the "proposed project" includes the reservation of rights-of-way for subsequent improvements to Greenspot Road and the Greenspot Road Bridge (Figure 3.20), Alabama Street, and Orange Street-Boulder Avenue (Figure 3.21)." Dedication of rights-of-way for these roadway improvements has never been included as part of the project and, therefore, these rights-of-way will not be dedicated by the District to the Cities of Redlands and Highland as part of this project. This raises an economic issue, not an environmental issue and therefore is not appropriate to address in the EIR. The word dedication in reference to rights-of-way has been stricken from the document or replaced with "designation" as appropriate. Page 1-8 been modified to indicate that right-of-way for a new Greenspot Road Bridge has been designated, with the word dedicated removed. For these reasons, the changes as requested in this comment have not been incorporated into the EIR. Instead, item 6 on page 1-8 has been modified as follows:

Designation of, and biological mitigation for, expanded roadway rights-of-way on Alabama Street and Orange Street-Boulder Avenue; widening, ~~and~~ straightening, and realignment of Greenspot Road, and ~~dedication~~ designation of right-of-way for a new Greenspot Road Bridge."

The Wash Plan EIR provides an analysis of the project's environmental impacts associated with the designation, or reservation, of new rights-of-way. The level of detail contained in the EIR is commensurate with the specificity provided by the project description in accordance with CEQA Guidelines (§15146). The proposed roadway improvements are described on pages 3-76 through 3-84, comprising the equivalent of two pages of text plus two exhibits. Because detailed, specific, engineering-level plans and drawings were not available for all of the roadways, they have been analyzed in the EIR at a programmatic level with the exception of biological resource impacts. Both the Cities of Highland and Redlands will be required to conduct subsequent environmental analysis for the construction of each roadway improvement as part of the engineering design plan approval. Consequently, the environmental analysis and mitigation contained in this EIR for the additional rights-of-way is programmatic for all of the analyzed issues with the exception of biological resources and will require further environmental analysis by the cities as identified in footnote 1 on page 1-8. The Cities of Highland and Redlands will use the environmental analysis contained in the Wash Plan EIR as part of the project level environmental review of each specific roadway project, in particular the clearance for biological resources.

**Response to Comment G-11.** The requested changes to the Draft EIR, page 1-11, have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-12.** The requested changes to the Draft EIR, page 1-12, have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-13.** The requested changes to the Draft EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-14.** The requested changes to the Draft EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-15.** Please see response G-10. Rights-of-way will not be dedicated by the District to the Cities as part of this project. The requested changes will not be incorporated into the EIR.

**Response to Comment G-16.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-17.** Per State guidelines, the cumulative project list was created based on the conditions known at the time of NOP circulation (May 5, 2004). Analysis in the EIR is based on these baseline conditions as known at the time of NOP circulation. No changes to the EIR are required.

**Response to Comment G-18.** Please see response G-10. The requested changes regarding dedication of rights-of-way will not be incorporated into the EIR; however, the text has been modified as follows to reflect widening, straightening, and realignment of Greenspot Road as follows:

Designation of, and environmental mitigation for, expanded roadway rights-of-way on Alabama Street and Orange Street-Boulder Avenue; widening, and straightening, and realignment of Greenspot Road, and ~~dedication~~ designation of right-of-way for a new Greenspot Road Bridge.

**Response to Comment G-19.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-20.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-21.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text contains a ~~strikeout~~ format.

**Response to Comment G-22.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-23.** Please see response G-10. The requested changes regarding dedication of rights-of-way will not be incorporated into the EIR. The EIR has been modified to incorporate the suggested text regarding environmental mitigation as follows:

The proposed project includes the reservation of rights-of-way and environmental mitigation for subsequent improvements to Greenspot Road and the Greenspot Road Bridge (Figure 3.20), Alabama Street, and Orange Street-Boulder Avenue (Figure 3.21).

**Response to Comment G-24.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear in double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-25.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-26.** Changes to the EIR have been made regarding the roadway lengths. The measurements used for roadway lengths have been updated using GIS data consistent with the data sets used for all other portions of the Wash Plan. While the resultant acreages and linear roadway distances do not exactly match the acreages and distances as stated by the commenter, they do reflect a reasonable estimate for the purposes of this EIR. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-27.** Mining plans will be submitted to the City that will include more specifics on the placement of the road. The City will have the opportunity to review and comment on the mining plans at that time. No changes are necessary to the EIR.

**Response to Comment G-28.** The requested title change to Figure 3.20 has not been made. However, the purple line depicting the future Greenspot Road projects has been adjusted to reflect the extents of the roadway projects.

**Response to Comment G-29.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-30.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-31.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-32.** Please see response G-10. No changes to the EIR associated with dedication have been made because the District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. The text of the EIR has been modified as follows:

This document serves as a program level EIR for these Greenspot Road and Bridge projects, providing ~~only~~ the environmental analysis and mitigation needed for designation of the rights-of-way.

**Response to Comment G-33.** Please see response G-10. No changes to the EIR associated with dedication have been made because the District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. The text of the EIR has been modified as follows:

This document serves as a program level EIR for these Greenspot Road and Bridge projects, providing ~~only~~ the environmental analysis and mitigation needed for designation of the rights-of-way.

**Response to Comment G-34.** Please see response G-10. No changes to the EIR associated with dedication have been made because the District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. The text of the EIR has been modified as follows:

This document serves as a program level EIR for these Greenspot Road and Bridge projects, providing ~~only~~ the environmental analysis and mitigation needed for designation of the rights-of-way.

**Response to Comment G-35.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-36.** Please see response G-10. The District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. No changes to the EIR are necessary.

**Response to Comment G-37.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-38.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-39.** Please see response G-10 regarding the dedication of rights-of way. The District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. The word “dangerous” has been deleted as requested in the comment and the text regarding

the location of the future Greenspot Road has been revised to indicate the bridge is located to the west rather than to the south.

**Response to Comment G-40.** Please see response G-10. The District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. No changes to the EIR are necessary.

**Response to Comment G-41.** Please see response G-10. The District is not dedicating right-of-way to the Cities of Highland and Redlands as part of this project. No changes to the EIR are necessary.

**Response to Comment G-42.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-43.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-44.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-45.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-46.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-47.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-48.** Please see response G-26. Based on the resultant changes to the acreages and roadway lengths, changes have been made to the EIR as shown in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-49.** The requested changes to the EIR have been included in an underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-50.** Please see response G-10, second paragraph. The EIR provides only programmatic environmental analysis and mitigation for the designation of additional rights-of-way. Biological mitigation for the areas that would be disturbed is provided consistent with the level of detail available on the roadway projects. At the time that these roadways are to be improved, additional project level environmental analysis may be required. As a part of the review of any project-specific environmental documents for these roadway projects, consultation with permitting agencies may be required. Any questions on further mitigation would be addressed at that time.

**Response to Comment G-51.** A description of the proposed truck traffic circulation and the preferred circulation alternative, Alternative D, has been added to the EIR; however, a new figure showing the preferred access alternative has not been added, although a reference to its location in the project traffic study has been added. Additions to the document appear double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-52.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-53.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-54.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-55.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-56.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-57.** The requested figures are included in the traffic study appendix to the EIR. Section 4.15 of the EIR serves to summarize the results of the traffic study and LOS analysis; the requested figures do not serve this purpose.

**Response to Comment G-58.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-59.** Impacts to roadways and pavement are not considered a CEQA environmental impact. Such impacts generally relate to the impacts to existing roadway infrastructure, within existing rights-of-way and do not generally result in a change in the existing environment, but rather address obsolescence of existing facilities. It therefore raises an economic issue and the

requested information is not related to an environmental impact and is beyond the scope of this EIR. It is the District's understanding that this issue will be addressed through the application for permits and conditions that the City may impose consistent with the cited General Plan Policy. No changes are necessary to the EIR.

**Response to Comment G-60.** The EIR contains mitigation for street-legal mining vehicles. **Mitigation Measure HAZ-5** states the following:

All loads in open street legal trucks shall be no higher than 6.0 inches below the top of the truck wall or covered and shall be subject to spot inspection pursuant to the Community Development Directors of the Cities of Highland and Redlands.

Street sweeping may be required as a part of compliance with NPDES requirements in a SWPPP or WQMP prepared for the proposed project. The location and frequency of street sweeping if deemed appropriate will be detailed by the NPDES documents prepared for the proposed project. No changes to the EIR are necessary.

**Response to Comment G-61.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-62.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-63.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-64.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-65.** The project's added vehicle trips are negligible and a less than significant project-specific impact would occur. As was stated in the EIR, SR-30 is projected to operate at an unsatisfactory level of service under year 2008 and year 2030 conditions. Comments G-66 through G-68 imply that addition of lanes to the on-ramps and an auxiliary merging lane on the freeway are required to mitigate this condition; however, the unsatisfactory level of service is due to inadequate capacity of the freeway mainline to handle the increasing traffic volumes under 2008 and 2030 conditions, not the merging of traffic at the on-ramps. This is demonstrated by the fact that the freeway also operates at an unsatisfactory level of service in the vicinity of the off-ramp influence areas where the problem of merging traffic is not present. The mitigation for this condition would be widening of the freeway mainline. SANBAG is already in the planning process for widening SR-30 from I-215 to I-10 to accommodate the additional traffic added to this segment since the opening of SR-210 west of I-215. The widening of this segment is also included in SANBAG's Regional Transportation Plan. As stated in the EIR, there is no mechanism for development projects to pay fees or make fair-share contributions toward improving freeway mainlines and issues of freeway improvement design and implementation are within the responsibility of the State Department of Transportation. These improvements, like most freeway improvements, would be paid for through a combination of Federal, State, and local fees.

**Response to Comment G-66.** Currently, approximately 344 Robertson's and Cemex trucks (non-project) per day use the SR-30 southbound on-ramp and 137 use the SR-30 northbound on-ramp. The project would add approximately 121 trucks per day to the SR-30 southbound on-ramp, and 49 trucks per day to the SR-30 northbound on-ramp. It should be noted that the majority of the existing and project truck traffic is during off-peak hours when non-project traffic volumes are lower. Caltrans ramp counts from 2005 show that 12,000 vehicles use the SR-30 southbound on-ramp daily and 4,000 use the SR-30 northbound on-ramp daily. The project traffic is not a substantial increase in relation to the existing traffic volumes and does not warrant freeway improvements. Additionally, an auxiliary merging lane already exists on both directions of SR-30 at the point where the Fifth Street Ramps merge onto the freeway. This additional lane allows project and non-project traffic to more safely merge with freeway traffic, alleviating potential safety concerns.

**Response to Comment G-67.** Auxiliary lanes already exist on SR-30 and the project does not substantially increase traffic to warrant further freeway improvements. The project will not pay additional fair-share costs toward freeway mitigations, and no change will be made to the Draft EIR.

**Response to Comment G-68.** See response G-67.

**Response to Comment G-69.** The EIR will be revised to remove Alabama Street/Robertson's Access and Alabama Street/Cemex Access from the list of intersections with improved LOS, as the LOS at these locations does not improve in both the a.m. and p.m. peak hours. Additionally, as these locations still operate at an unsatisfactory level of service, mitigation is required. Mitigations and fair-share cost are included in the traffic study; the EIR has been modified to include this mitigation.

**Response to Comment G-70.** As the commenter noted, although the level of service does improve compared to without project conditions at the four intersections noted, the levels of service at these intersections are still unsatisfactory. Because the project contributes traffic to these intersections, mitigation measures are required. Mitigation and fair-share costs are included in the traffic study; the EIR has been modified to include these mitigation measures.

**Response to Comment G-71.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-72.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-73.** It would be possible to design the new access road with a raised curb that physically prohibits truck traffic from merging left onto Fifth Street; however, this would also prohibit non-project traffic from using the additional right-turn lane provided by the new access road at the intersection of Fifth Street/SR-30 Southbound Ramps. As the additional right-turn lane would be beneficial to overall traffic flow, it is recommended that the movement of trucks be controlled through the plant dispatch. Plant traffic could be monitored by the City to ensure that the proper routing is maintained. The following mitigation measure has been added to the EIR:

- Truck traffic shall conform to Access Alternative D as described in the EIR and the traffic impact analysis for the proposed project. This truck traffic pattern shall be maintained in order to ensure the safe operation of traffic on Fifth Street and enforced by the City of Highland.

**Response to Comment G-74.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-75.** The EIR has been revised to include the all of the recommended traffic mitigation measures identified in the traffic study for the proposed project.

**Response to Comment G-76.** Changes to the EIR have been included in underline/strikeout format to address this comment. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-77.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment G-78.** The comments in the letter from HKA dated October 30, 2007, concern typographical errors or other similar issues that would not change the results of the analysis. HKA has stated in the letter that the traffic study fairly represents the traffic impacts from the project. No revision to the traffic study will be made.

# City of Redlands



May 23, 2008

Randy Scott  
San Bernardino Valley Water Conservation District  
1630 W. Redlands Boulevard  
Redlands, CA 92373

Re: Comments on Draft EIR for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan.

Dear Mr. Scott:

Thank you for providing the City of Redlands the opportunity to review the Draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan. The City of Redlands supports the efforts of the San Bernardino Valley Water Conservation District in the coordination and management of the existing and future activities in the Wash Planning Area.

Attached please find the City of Redlands' comments on the DEIR for your consideration. If you have any questions regarding the attached comments, or if I can be of any assistance in this matter, please do not hesitate to contact me at (909) 798-7562.

Sincerely,

Robert D. Dalquest, AICP  
Assistant Community Development Director

Cc: Dan McHugh, City Attorney  
Oscar Orci, Community Development Director

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: Randy Scott  
 San Bernardino Valley Water Conservation District

FROM: Robert D. Dalquest, AICP  
 Assistant Community Development Director

DATE: May 23, 2008

SUBJECT: Draft EIR for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan

The following are the comments from the Community Development Department of the City of Redlands regarding the Draft EIR for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan:

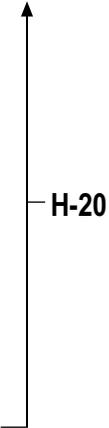
1. Section 1.3.3 Habitat Conservation Areas. This section does not include a discussion on the City's approximately 155± acres (APN: 0167-04 & 011) located between Alabama Street and State 210 Freeway, north of the Santa Ana River Bluff that is designated "Habitat Conservation" in the proposed Land Use Plan for the Wash Plan.
2. Section 3.5.5 Aggregate Mining and Processing. This section in the fourth paragraph briefly discusses the lease that CEMEX has with the City of Redlands. No discussion is provided relative to the location of this area, or how many acres of the City's property is under lease and approved for mining activities, and how many acres is being designated as "Habitat Conservation" in the Wash Plan. Nor is there a discussion on how this land might be utilized by the City for mitigation lands needed at the Sports Park or Redlands Municipal Airport expansion.
3. Page 3-57, Section 3.6.3 Habitat Conservation. The first paragraph mentions "Ultimate implementation of the project would require approval of USFWS of a HCP, a Habitat Management Plan, an Implementation Agreement and issuance of a take permit." No mention is provided relative to the timing of the City of Redlands and the City of Highland to initiate the entitlement process for the reconfigured mining operations resulting from approval of the Wash Plan, i.e. after the EIR is certified; after the HCP is approved; after the land exchange between the BLM and the Water Conservation District is approved; or after the land exchange between the County Flood Control District and Robertson's is approved.



- 4. Page 3-62 mentions City of Redlands property being 213 acres that is leased, whereas on the previous page 217 acres is mentioned. The correct amount is 217 acres (APN: 0167-011-09 & 011). H-4
- 5. Figure 3.21 (Ultimate Planned ROW) depicts Alabama Street at ultimate right-of-way as being 112 feet. This is incorrect and should be depicted as 132 feet as mentioned on the following page. See comments from Municipal Utilities & Engineering Department's comments that follow. H-5
- 6. Figure 3.22 (Planned Trails). The City of Redlands General Plan Trails Map depicts the Santa Fe-Mentone Trail extending north of the Santa Ana River Trail into the Wash Planning Area. This figure does not provide this segment and should be discussed in Section 3.6.7 (Trails) that it will require a General Plan Amendment to eliminate this segment. In addition, segments of several planned trails enter the City of Redlands boundaries that are not in the General Plan Trails Map, they include: Cone Camp Road Trail and Old Rail Line Trail. The General Plan Amendment will need to add these segments for consistency with the planned trails in the Wash Plan. H-6
- 7. Page 3-87 (Section 3.6.7 Trails) lists classifications of Bikeways for various streets in the Wash Planning Area. Orange Street is shown in the Circulation Element of the General Plan to be designated a Class III Bikeway, whereas this section mentions Orange Street-Boulder Avenue as being a Class 2. Possible discrepancy. H-7
- 8. Section 3.6.11 (Utility Easements). This section does not mention that the existing Church Street right of way will be affected by the Wash Plan and may need to be vacated as the street runs through the reconfigured mining areas. H-8
- 9. Page 3-92 (Table 3.I). Add bullet under the City of Redlands cell as follows: "Negotiate and obtain compensation for setting aside 155± acres for Habitat Conservation." H-9
- 10. Page 4.1-21. Second paragraph under Aggregate Mining states in general that mining operations would start at 5:00 am Monday through Friday. However, on Page 3-74 under CEMEX mining operations it is stated as mining operations start at 5:00 am Monday through Friday, and under Robertson's mining operations start at 4:00 am on Monday through Friday. Please clarify. H-10
- 11. Page 4.3-17. Under the Orange Street Processing Plant section, the "proposed operations" are shown to be 17 hours/day, whereas on the previous page under "existing operations" it is shown to be 10 hours/day. I don't recall this being discussed relative to the Orange Street Processing Plant increasing its hours of operation. Shouldn't this be specified or discussed in the project description? H-11
- 12. Figure 4.3.1 (Nearest Sensitive Receptor Locations). The Figure depicts an area hatched in red located 1,300 feet south of the West Quarry and west of Texas Street as being designated in the Redlands General Plan as future residential development. This is incorrect and H-12

- is actually designated Light Industrial. This figure should be corrected to show the land east of Texas Street along the Bluff as being designated for future residential development. This will also change the distance between this area and the West Quarry.
- 13. Figure 4.3.2 should also be corrected as stated above in Item No. 12.
  - 14. Page 4.3-61. Under the Aggregate Mining subsection the text needs to be corrected relative to future residential development in the City of Redlands being 1,300 feet away. This will actually be further away when Item No. 12 is corrected and the distance re-calculated.
  - 15. Figure 4.7.1 (Aviation Hazards Map). This Figure is a composite of the San Bernardino International Airport Hazard Zone and the Redlands Municipal Airport Hazard Zone. The Redlands portion of the exhibit reflects the original approved ALUP but not the revised ALUP adopted on May 6, 2003.
  - 16. Page 4.11-33, last paragraph. There is a discussion of noise and specifically references the noise impacts in dBA  $L_{max}$  for the closest residence (in Redlands). While the General Plan provides minimum criteria of 60 CNEL, there is no discussion of noise levels evaluated to residences in terms of CNEL. Therefore, staff cannot verify the determination made at the end of the paragraph that there are no significant noise impacts and no mitigation measures are required. This same discussion pertains to Processing Plant noise on Page 4.11-35. In addition, with the correction requested in Item No. 12 above, this will result in the distance to future residential development being further away than depicted, thereby decreasing the noise levels.
  - 17. Page 4.14-4, first paragraph should be corrected to state "City of Redlands Quality of Life Department and Community Services Division of the Police Department coordinates and schedules .....".
  - 18. Figure 4.14.2 (Future General Plan Trails). The City of Redlands General Plan Trails Map depicts the Santa Fe-Mentone Trail extending north of the Santa Ana River Trail into the Wash Planning Area. This figure does not provide this segment and thus should be included in the discussion on Page 4.14-16 and 17 that it will require a General Plan Amendment to eliminate this segment.
  - 19. Page 4.15-22 incorrectly lists the traffic level of services policies in the Redlands General Plan; 5.20a & 5.20c. The policies listed were as they appeared prior to being amended in 1997 by Measure "U". Please see attachment and correct.
  - 20. Section 4.15 Transportation and Traffic identifies the level of service for the three intersections in Redlands. These are the Robertson's and Cemex access driveways on Alabama Street and the Cemex access driveway on Orange Street. The Orange Street driveway has a traffic signal. All three currently have an LOS at acceptable standards. The year 2030 LOS figures show LOS E (am) and F (pm) for Robertson's Alabama Street driveway, LOS D (am) and F (pm) for Cemex's Alabama Street driveway and LOS F (am) and F (pm) for Cemex's

Orange Street driveway. There are no mitigation measures proposed. This appears to be in non-compliance with the City's General Plan standards that are established by Measure U which requires mitigation to ensure LOS is maintained at C or better. It is recognized that the projections for these driveways are the same without and with the project, except for some minor differences in the delay seconds. But the operators should contribute and some fair share cost of improvements is warranted. Mining operations while creating traffic do not fit the Redlands fee program to mitigate for traffic in that fees are collected based on a unit or area of a building.



MUNICIPAL UTILITIES & ENGINEERING  
DEPARTMENT

MEMORANDUM

TO: Bob Dalquest, Assistant City Planning Director

FROM: Rosemary Hoerning, MUED Director

DATE: May 23, 2008

SUBJECT: DRAFT EIR FOR THE UPPER SANTA ANA RIVER WASH  
LAND MANAGEMENT AND HABITAT CONSERVATION  
PLAN

The following are comments related to the subject document from the City of Redlands Municipal Utilities and Engineering Department.

1. Figure 3.21 Refers to the Right of Way widths for Alabama Street (112 feet) and Orange Street (135 feet) transportation corridors.
  - No typical cross sections were provided in the document to evaluate the right of way. This should be provided to cover the typical conditions.
  - No plan view information was provided to delineate the right of way and slope easement location and width. This should be included in the document.
  - Page 3-83 Alabama Street Widening: Calls for 132 foot of right of way and 24 foot wide slope easements, which is different than depicted on the Figure 3.21.
  - Alabama Street is designated as a Major Arterial and is included in the East Valley Corridor Specific plan, with a minimum right of way width of 120 feet and contiguous sidewalk and landscape easement. Therefore, referenced 112 foot right-of-way dimension for Alabama Street should be corrected in the document.
  - Orange Street is a Minor Arterial – 4 Lanes per the City’s General Plan, with a minimum right of way width of 88 feet. The document indicates the width of 135 feet for the right-of-way, which is in excess of the Minor Arterial street requirement.
  - Property owners within the project area adjacent to Alabama Street, Orange Street, etc. shall dedicate necessary half right of way width on each side of the street to provide full street right of way right of way requirements as part of the property land exchange activities.



H-21

2. Page 4.8-20 Clean Water Act

- The section mentions the responsible agency for the NPDES Stormwater Program to be the State and Regional Water Quality Control Board. It should also state that local cities and County of San Bernardino within the Santa Ana River Basin are the primary enforcer of the regulations.
- The section fails to mention the stormwater pollution mitigation measures relative to the mining operation. It should include detail description of where these various BMPs are to be situated and how they function, etc.

H-22

3. Figure 4.9.3 Proposed Land Exchange

- The City of Redlands Municipal Water Department has Water Wells located in the project area. All access and land rights shall be retained by the City of Redlands and shall not be altered by the project.

H-23

4. Table 4.15.C – Background with Project Intersection Levels of Service

- Intersections No. 3. Alabama Street/Robertson’s Access, No. 4. Alabama Street/Cemex Access, and No. 10 Orange Street/Cemex Access drop below level of service “C” with the project. The City General Plan requires the level of service be at least a “C” at intersections and appropriate mitigation measures are required for those intersection with the level of service below “C”. Robertson and Cemex shall be responsible for constructing full Traffic Signal Improvements at these locations to address safe ingress and egress from their operations on to the public right of way.

H-24

5. Figure 4.16.1 Existing Water Supply Infrastructure

- In addition to the wells shown, the City of Redlands Municipal Water Department has Water Wells located in or near the southerly project area. These wells are Orange Street Redlands Trap/ Skeet, Church Street, Airport 2, and Airport 1.

H-25

The Plan's circulation system has therefore been designed to:

- permit traffic to choose reasonably direct paths to destinations throughout the Planning Area
- minimize intrusion of through-traffic on local streets
- avoid over-reliance on the I-10 freeway for intracity travel
- provide efficient routes for transit service, emergency and other service vehicles.

The traffic projections upon which the Circulation Element is based assume continuation of current auto-oriented travel habits. However, even with the roadway improvements included in the Circulation Element, greater use of alternative modes such as transit, ridesharing and bicycling will be necessary to maintain acceptable peak period traffic service on routes such as Alabama Street, San Bernardino Avenue and Lugonia Avenue. Accordingly, the Circulation Element also contains policies and targets alternative modes to reduce peak period traffic.

### 5.20 Standards for Traffic Service

In a developed area the primary traffic issues are the feasibility of improvements and an acceptable level of service. Much of the General Plan design effort involved balancing land use and transportation by increasing traffic capacity and, where possible, limiting land use intensity to maintain acceptable levels of service. The definition of "acceptable," established by the City's standard for traffic level of service (Policies 5.20a, 5.20b, and 5.20c, below), allows a check on how well the Land Use and Circulation elements fit together.

Level of service (LOS) is a qualitative measure of traffic service along a roadway or at an intersection. As described in Table 5.1, it ranges from A to F, with LOS A being best and LOS F being worst. LOS A, B and C indicate conditions where traffic can move relatively freely. LOS D describes conditions where delay is more noticeable and average travel speeds are as low as 40 percent of the free flow speed. LOS E indicates significant delays and average travel speeds of one-third the free flow speed or lower; traffic volumes are generally at or close to capacity. Finally, LOS F characterizes flow at very slow speeds (stop-and-go), and large delays (over a minute) with queuing at signalized intersections; in effect, the traffic demand on the roadway exceeds the roadway's capacity.

Future levels of service for the Redlands circulation routes were determined by comparing projected roadway volumes to typical capacities. The resulting volume/capacity (V/C) ratio then establishes the LOS rating based on ranges given in Table 5.1. Although the traffic projections are for total daily traffic, the LOS estimates are for peak hours (typically a.m. and p.m. commute hours) since these dictate the need for roadway improvements. During other hours of the day higher levels of service would prevail.

#### Guiding Policies: Standards for Traffic Service

- 5.20a Maintain LOS C or better as the standard at all intersections presently at LOS C or better.
- 5.20b Within the area identified in GP Figure 5.3, including that unincorporated County area identified on GP Figure 5.3 as the donut hole, maintain LOS C or better; however, accept a reduced LOS on a case by case basis upon approval by a four-fifths (4/5ths) vote of the total authorized membership of the City Council.
- 5.20c Where the current level of service at a location within the City of Redlands is below the Level of Service (LOS) C standard, no development project shall be approved that cannot be mitigated so that it does not reduce the existing level of service at that location except as provided in Section 5.20b.

## RESPONSE TO COMMENT LETTER H

### City of Redlands Community Development Department and Municipal Utilities & Engineering Department

**Response to Comment H-1.** Section 1.3.3 has been revised to clarify that the parcels owned by the City of Redlands are included as a part of the additional Habitat Conservation Area. Based on the parcel data provided in GIS format from the San Bernardino County Assessor's Office, APNs 0167-011-09 and 011 total approximately 187 acres. Of the 187 acres on the west side of Interstate 215, 141 will be included as part of the Habitat Conservation Area. The remaining portion of the 187 acres is leased for mining operations. Other parcels belonging to the City of Redlands to the east of Interstate 215 are leased to Robertson's by a third party. These parcels are shown in the EIR as being owned by Robertson's. The parcels shown as being owned by Robertson's are not part of the Habitat Conservation Area; however, as indicated in the Final EIR, the City of Redlands owns 217 acres of land within the Wash Plan.

**Response to Comment H-2.** Mining leases between the various parties included in the Wash Plan are discussed in Section 3.6.3. See page 3-62 and Table 3.F. Please note that the acreage included as habitat conservation may differ from the parceled acreage due to areas that may be disturbed. The proposed project does not include and is not required to include mitigation for projects that are outside of the proposed project area. During the creation of the Plan B Concept Plan that later became the Wash Plan, the City of Redlands committed this land for habitat conservation. The habitat conservation land owned by Redlands will be committed to habitat conservation in a formal easement later in the HCP process.

**Response to Comment H-3.** Text has been added to the EIR to clarify the timing of the changes to the mining areas. Minor changes to the entitlements for mining activities may take place prior to the certification of the EIR and approval of the HCP. Any entitlement changes that would occur would not allow for the alteration in mining footprint. Increases in mining depth that would not include changes in the expansion of the existing mining footprint or impacts to endangered species may occur. After the EIR is certified, after the HCP is approved, and after the land exchanges have been completed, then mining expansion may occur beyond the existing horizontal mining footprint.

**Response to Comment H-4.** Based on the parcel data provided in GIS format from the San Bernardino County Assessor's Office, APNs 0167-011-09 and 011 total approximately 187 acres. Of the 187 acres on the west side of Interstate 215, 141 will be included as part of the Habitat Conservation Area. The remaining portion of the 187 acres is leased for mining operations. Other parcels belonging to the City of Redlands to the east of Interstate 215 are leased to Robertson's by a third party. These parcels are shown in the EIR as being owned by Robertson's. The parcels shown as being owned by Robertson's are not part of the Habitat Conservation Area; however, as indicated in the Final EIR, the City of Redlands owns 217 acres of land within the Wash Plan.

**Response to Comment H-5.** The changes to Figure 3.21 have been made to reflect a 132-foot ROW for Alabama Street as indicated in the text as requested.

**Response to Comment H-6.** Figure 3.22 (Planned Trails) illustrates the planned trails associated with the Wash Plan. As the Santa Fe-Mentone Trail is shown only in the General Plan of Redlands and not a Wash Plan planned trail, it was not included in Figure 3.22. Section 3.6.7, page 3-91 has been updated to identify the need for a General Plan Amendment to remove the trail segment for the existing Santa Fe-Mentone Trail within the Wash Plan. The removal is necessary because the planned trails within the Wash Plan would not connect with this existing trail within the Wash Plan. Additionally, the EIR text has been updated to identify the need for General Plan Amendments to

include the trail alignments for the proposed Cone Camp Road Trail and Old Rail Line Trail within the Wash Plan under the jurisdiction of the City of Redlands. The City of Redlands General Plan Trails Map does not depict the Cone Camp Road Trail or Old Rail Line Trail. The text within Section 3.6.7 has been updated to identify the amendments required for consistency of the City of Redlands General Plan with the planned trails in the Wash Plan.

**Response to Comment H-7.** The EIR has been revised to include a discussion of the trail system as it relates to the trails on Orange Street in Redlands in an underline/strikeout format. Definitions for Classes 1 through 3 are adopted from the Caltrans Highway Design Manual. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-8.** As the comment states, there is an existing Church Street right-of-way that runs through the Wash Plan. This ROW would require vacation. The expansion of mining activities would prohibit the development of an actual roadway. Text has been added to the EIR to discuss and clarify this point.

**Response to Comment H-9.** This is provided to explain the Water Conservation District's position regarding the role of the City of Redlands habitat area, consisting of approximately 141 acres, that is located south of, and contiguous with, the Cemex Alabama Street Quarry, east of Alabama Street, and west of SR-30 within the Wash Plan area.

The manner that this land is considered within the Wash Plan is that of a habitat area that is one of the cornerstones of the entire Plan. The Plan is conceived as an integrated land use plan that is self-mitigated by the habitat conservation that has been assigned to various parcels throughout the Plan area, including the City's 141 acres. Habitat conservation will be an assigned land use in the Land Management Plan and the Habitat Conservation Plan, under consideration in this EIR, as well as the formal HCP that is required by the USFWS in order to issue an Incidental Take Permit. The use of the land as habitat conservation is a commitment that each affected property owner must make to implement the plan to provide mitigation for the impacts that are caused by the Wash Plan. Habitat conservation lands cannot be used to mitigate endangered species impacts "off-site" (outside of the boundaries) of the Wash Plan. This is a fundamental premise of obtaining approval of the HCP and 10a Permit in order to allow incidental take associated with mining, water conservation, recreation, and infrastructure within the Wash Plan. In other words, habitat conservation lands within the Wash Plan cannot serve as a "mitigation bank" in order to avoid the issue of "double-dipping" of mitigation value.

It is the District's understanding (and that of members of the Wash Plan Task Force with the possible exception of the City of Redlands) that the City offered its mitigation area without any indication of compensation at the outset, based on the expectation that mining revenues that the City receives from the Cemex lease of City property for mining, should make up for any perceived value losses. There is also added value to the City of Redlands gained through the mitigation of endangered species impacts for the future infrastructure that the City intends to carry out, namely the future improvements to Alabama and Orange Streets, for which they will receive environmental credit. The allocation of the City's land along with District property, serves to provide habitat that contributes to a comprehensive plan that offsets the Plan's impacts.

It should also be noted that three previous Redlands mayors (Bill Cunningham, Gary George, and Pat Galbreath were all members of the initial Wash Planning Committee, with Gary George serving as Task Force chair at one point) were all quite familiar with the initial Component Plans (Water, Mining, Habitat, Flood Control, and Recreation). The initial Habitat Plan included the designation of the Redlands property for habitat. Once the mining and habitat boundaries were drawn, there was never any discussion that the land would be assigned any other use, or that the City would need compensation.

**Response to Comment H-10.** There is no change to the existing permitted hours of mining operations. The hours will not increase or decrease. Mining operations for both Robertson's and Cemex are the same. Mining operations would occur from 4:00 a.m. to 10:00 p.m. Monday through Friday and 6:00 a.m. to 6:00 p.m. on Saturdays, with no mining occurring on Sundays or holidays. Loading from the processing plants would occur 24 hours a day, seven days a week, consistent with existing baseline operations. The EIR has been modified to reflect the hours of operation as indicated above. Additions to the document appear double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-11.** The hours of operation discussed in the air quality section of the EIR are used to estimate the daily emissions. For existing conditions, the plants and mining typically operate one shift a day or approximately 8–10 hours/day. Even with the proposed increases in production the plant and mining operational hours will likely be in the range of 8–10 hours per day. There could be increased shipping during off-hours to avoid traffic. However, the existing permitted hours allow some flexibility for the operators for the following: (1) to meet a short-term increase in demand where they could operate more hours per day; (2) to operate the plant for 4-day work week; (3) increased hours to make up for downtime due to repair, maintenance, or weather; and (4) early morning hours to reduce operating during afternoons to reduce electrical usage during the summer.

**Response to Comment H-12.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-13.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-14.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-15.** Figure 4.7.1 in the EIR shows the May 6, 2003, version of the Redlands ALUP figure; however, the citation incorrectly referred to an older version of the Redlands document. The citation on Figure 4.7.1 has been updated.

**Response to Comment H-16.**  $L_{max}$  indicates the maximum noise level measured for a very short period of time (in seconds). CNEL is a 24-hour weighted average of noise. CNEL is designed for transportation (road, rail, and airport) sources that have set paths (even flight tracks), not stationary sources or point sources that move around without any patterns. CNEL is not a suitable noise standard for mining activity noise, which is primarily stationary. An  $L_{max}$  noise level which is not weighted or averaged over time would yield a higher measurement than a CNEL. CNEL takes into account quiet times such as in between passing cars or late night traffic conditions whereas  $L_{max}$  would be the most intense measurement of sound for a short period and not diluted over time yielding a much higher measurement. Therefore, an  $L_{max}$  measurement of sound is a more conservative approach. No changes to the EIR are necessary.

**Response to Comment H-17.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-18.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-19.** The requested changes to the EIR have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-20.** Mitigation measures at these locations are included in the traffic study appendix to the EIR. These mitigation measures have been added to the EIR. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-21.** Plan views and specific cross-sections of the proposed roadways within the Wash Plan are not provided due to the fact that the project only entails the biological mitigation for the roadways. The biological impacts are analyzed and mitigation is provided based on the proposed right-of-way widths. The specifics of the roadway configuration are not relevant to this type of analysis.

Figure 3.21 has been revised to be consistent with the text on page 3-83. Additionally, the text and illustrations of Orange Street and Alabama Street in the EIR have been revised to reflect the Redlands General Plan.

The request for the dedication of one-half right-of-way width on each side of the street to provide full street right-of-way as a part of the land exchange activities is beyond the scope of the EIR. No development or subdivision is taking place as a part of this project. The City may condition future projects at the time of approval to dedicate rights-of-way as necessary. No changes to the EIR are necessary.

**Response to Comment H-22, First Bullet.** The requested changes to the EIR regarding the City and County responsibility to enforce NPDES regulations have been included in underline/strikeout format. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-22, Second Bullet.** As indicated on page 4.8-24 of the Draft EIR, "...mining activities may also be required to obtain an Industrial NPDES Storm Water Permit (SWRCB Order No. 97-03-DWQ) to comply with regulations for stormwater discharges associated with industrial sites. One of the requirements of the NPDES permit is to maintain and update an SWPPP. Both Cemex and Robertson's currently operate in accordance with SWPPPs that can be reviewed by the jurisdiction in which the mining takes place as well as the Santa Ana RWQCB for inspection purposes. Each SWPPP regulates on-site activities that may release contaminant discharges to surface and groundwater. With the implementation of the proposed project, Cemex and Robertson's would be required to incorporate the new mining areas into an SWPPP."

The commenter indicates that the section fails to mention the stormwater pollution mitigation measures relative to the mining operations. However, as indicated on page 4.8-25, "The mining component of the proposed project currently routes all water used for processing to a silt basin. The

additional excavation and resulting processing water generated is anticipated to be routed to the existing silt basin and the Silt Pond Quarry (when excavation of the Silt Pond Quarry is completed).” Since the mining component currently has an existing SWPPP and because a revised SWPPP will be required for the new mining areas, it is reasonable to conclude that stormwater pollutants would be routed and treated in a similar manner as current stormwater generated from mining operations are routed and treated. Since all processing water is routed to a silt basin, which does not have an outlet, stormwater would not be discharged but would evaporate naturally. In addition, the exact location and type of BMPs is typically determined when the NPDES permit is issued. Since a revised SWPPP is required for an issuance of the NPDES permit, and because the type and location of BMPs would be similar to existing type and location of BMPs, no changes to the Draft EIR are required.

**Response to Comment H-23.** Comment noted. The project does not propose to change or eliminate access or land rights to water wells belonging to the Redlands Municipal Water District.

**Response to Comment H-24.** Mitigation measures at these locations are included in the traffic study appendix to the EIR. These mitigation measures have been added to the EIR. Additions to the document appear as double-underlined, while deleted text is shown in ~~strikeout~~ format.

**Response to Comment H-25.** Figure 4.16.1 has been updated to show the additional wells operated by the City of Redlands Municipal Water Department as requested in the comment.

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DEPARTMENT OF PUBLIC WORKS  
FLOOD CONTROL • SOLID WASTE MGMT • SURVEYOR • TRANSPORTATION

COUNTY OF SAN BERNARDINO  
PUBLIC AND SUPPORT  
SERVICES GROUP



825 East Third Street • San Bernardino, CA 92415-0835 • (909) 387-8104  
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VANA R. OLSON  
Director of Public Works

May 23, 2008

San Bernardino Valley Water Conservation District  
P.O. Box 1839  
Redlands, CA 92373

Subject: Review Comments / Draft Upper Santa Ana River Wash Land Management and Habitat Conservation Plan, dated March 23, 2008 (SCH# 2004051023)

Attn: Randy Scott, Study Manager

Dear Mr. Scott,

The following are our comments to the subject document:

- 1. Page 1-7, Executive Summary, 2<sup>nd</sup> bullet item: Unless it is covered more thoroughly elsewhere, SBCFCD (FCD) is managing the Woolly Star Preservation Area (WSPA) lands on behalf of the Local Sponsors of Seven Oaks Dam, according to an existing management plan. I-1
- 2. Figure 3.4: Known occurrences for the Woolly Star (as well as other species) depicted on this map show populations inside of the SOD borrow pit. This pit has already been excavated. The site occurrences on this map should not reflect Woolly Star, as it appears to be a representation of the surface pre-mined condition. I-2
- 3. Figure 3.16: Please verify the existing condition boundary. A change in the right side (slanted) northeasterly line may be needed. I-3
- 4. Figure 4.4.3: See FCD comment #2. Same issue. I-4
- 5. Figure 4.4.4: See FCD comment #2. Same issue. I-5
- 6. Figure 4.9.3: See FCD comment #3. Same issue. I-6
- 7. General Comment: The EIR should reflect that the impending Corps/Local Sponsor Seven Oaks Dam MSHMP document will manage additional species within the same identified WSPA boundaries. It would not impact anything this EIR covers. The Local Sponsors for Seven Oaks Dam intend to share all information gained from their efforts on biological studies on the WSPA. I-7

Thank you for the opportunity to review this document.

Sincerely,

*Jim Borcuk*  
**JIM BORCUK, P. E., Chief**  
Federal Projects/Flood Control Engineering

JPB/DWL/ss

MARK H. UFFER  
County Administrative Officer

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

Board of Supervisors			
BRAD MITZELFELT	..... First District	DENNIS HANSBERGER	..... Third District
PAUL BIANE	..... Second District	GARY C. OVITT	..... Fourth District
JOSIE GONZALES	..... Fifth District		

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## **RESPONSE TO COMMENT LETTER I**

### **County of San Bernardino Department of Public Works**

**Response to Comment I-1.** Changes have been made to the EIR to clearly explain that the existing Santa Ana River Woollystar Preservation Area is currently managed by the San Bernardino County Flood Control District. It is the intent of the Wash Plan to create additional habitat, designated as Habitat Conservation in the Wash Plan, that would be available to add to the WSPA and maintained by the San Bernardino County Flood Control District.

**Response to Comment I-2.** Figure 3.4 shows species occurrences within the entire Plan area dating back to before the borrow pit was excavated. Figure 3.4 has been revised to reflect no species occurrences within the borrow pit area.

**Response to Comment I-3.** The project boundary indicated in Figure 3.16 is depicted correctly. No changes to the EIR are necessary.

**Response to Comment I-4.** Figure 4.4.3 has been revised to reflect no species occurrences within the borrow pit area.

**Response to Comment I-5.** Figure 4.4.4 has been revised to reflect no species occurrences within the borrow pit area.

**Response to Comment I-6.** Figure 4.9.3 does not show species occurrences. No changes to the figure are necessary.

**Response to Comment I-7.** Comment noted. Text has been added to the EIR to explain that the Seven Oaks Dam MSHMP will cover additional species within the WSPA and that this MSHMP will not affect anything this EIR covers.

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**REGIONAL PARKS DEPARTMENT**

**COUNTY OF SAN BERNARDINO  
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777 East Rialto Avenue • San Bernardino, CA 92415-0763  
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THOMAS A. POTTER  
Director

May 23, 2008

Randy Scott  
San Bernardino Valley Water Conservation District  
1630 West Redlands Boulevard, Suite A  
Redlands, CA 92373

**SUBJECT: UPPER SANTA ANA RIVER WASH LAND MANAGEMENT AND HABITAT  
CONSERVATION PLAN DRAFT ENVIRONMENTAL IMPACT REPORT –  
STATE CLEARINGHOUSE No. 2004051023**

On behalf of the San Bernardino County Regional Parks Department (Regional Parks) we offer the following general and specific comments to the San Bernardino Valley Water Conservation District (District) upon the Upper Santa Ana Wash Land Management and Habitat Conservation Plan EIR.

Regional Parks supports the proposed plan goals of preserving habitat, consolidating aggregate mining, water conservation ground water recharge facilities, water production, Flood Control operations, maintenance and flood risk reduction activities, road widening and right of way dedication and the required land exchanges required to implement this plan.

Regional Parks offers the following specific comments on the Trails and Recreation and Parks sections of the EIR including Appendices.

The Regional Parks Department is the lead agency planning and supervising the construction of the Santa Ana River Trail (SART) in the County. Regional Parks has constructed and opened two segments of the SART encompassing seven miles of trail from Waterman Avenue to the Riverside/San Bernardino County Line. Three Counties have partnered with the Cities adjacent to the river, along with the Wildlands Conservancy to complete the SART from the Pacific Ocean at Huntington Beach to the connection to the Pacific Crest National Scenic Trail at the Coon Creek area of the San Bernardino National Forest.

*"In 1955 the Santa Ana River was recommended to the State Parks Commission as a multi-purpose recreation area. Since that time, the river corridor has been viewed by many as an important regional recreation and open space resource. The river corridor covering three counties has always had the potential to include a regional trail system from the crest of the San Bernardino Mountains to the Pacific Ocean, some 110 miles long. In 1969, the first Crest to Coast Trail Event was held drawing attention to the significance of the river corridor and the need for a continuous trail system. In 1977, portions of the trail were designated National Recreation Trail status by the U.S. Department of the Interior. Ultimately connecting with Pacific Crest National Scenic Trail, the Santa Ana River Trail is destined to be completed over the next two decades and become one of the nation's longest recreation trails serving millions of people*

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*in the fast growing Orange County and inland empire region.” – Santa Ana River Trail System Master Plan, 1990, EDAW Inc.*

The 1990 Santa Ana River Trail System Master Plan is the basis for current planning and construction efforts to complete the trail as envisioned as early as 1955. Currently Regional parks and consultants are preparing preliminary plans, permits, environmental review and ultimately final design plans, specifications and engineer's estimates to construct the SART Phase IV, from California Street in Redlands to Greenspot in Highland. In concert with the stated goals of the 'Wash Plan' to "Provide trails for the public enjoyment of the existing (Wash) environment" and "Accommodate arterial roads and highways to provide safe modes of travel", the San Bernardino County Regional Parks is in the process of planning the Santa Ana River Trail, Phase IV.

The SART Ph IV overlaps a few areas of the 'Wash Plan', along the southern wash edges or bluffs of Santa Ana River (SAR) and in the eastern area of the plan at Mill Creek.

SART Phase IV "Preferred Trail Alignment" as of May, 2008 includes specific overlap with the 'Wash Plan' area as follows:

- At Alabama Street intersection with the south bluff of the Santa Ana River (SAR), the Preferred Trail Alignment is proposed to cross under Alabama Street Bridge via paved surfaces, including retaining walls for structural support. This below-grade crossing is proposed to avoid safety conflicts between bicyclists and pedestrian trail users and high-speed traffic on Alabama Street. This likely brings the trail alignment within the edge of the SAR scour area and appears also to touch the southern edge of the existing Woolly Star Preserve Area (WSPA).

J-1

**Regional Parks recommends modifying the boundary of the WSPA, west of Alabama, to allow trail development from the flood control levee at the toe of the Redlands landfill to the Alabama street bridge undercrossing.**

- At Hwy 30 intersection with the south bluff of the Santa Ana River (SAR), the Preferred Trail Alignment is proposed to cross under Hwy 30 Bridge via paved surfaces, including retaining walls for structural support. This below-grade crossing is proposed to avoid safety conflicts between bicyclists and pedestrian trail users and high-speed traffic on Hwy 30, as well as more cost-prohibitive above or below grade options further to the south. This likely brings the trail alignment within the edge of the SAR scour area and appears also to touch the southern edge of the proposed new zone boundaries of Woolly Star Preserve Area (WSPA) and San Bernardino Kangaroo Rat (SBKR) habitat preserves.

J-2

**Regional Parks recommends including this trail alignment of the Santa Ana river trail in the Wash Plan EIR as an approved right of way encroachment into the WSPA.**

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- At Opal Street intersection with the south bluff of the Santa Ana River (SAR), an Optional Trail Alignment is proposed to cross the SAR for linkage with trails on the north side of the SAR, identified in the Wash Plan Figure 4.14.2 as the Cone Camp Road Trail and the Borrow Pit South Rim Trail.

**Regional Parks recommends including this connection and Optional Trail Alignment within the Wash Plan EIR. Regional Parks identified that section of the Flood Control levee maintenance road extending west from Garnett Street along the south bank of Mill Creek as a segment of the SART on April 24, 1999. The optional Trail Alignment would provide connectivity to the western end of an existing trail segment.**

- At the very southeast corner of the 'Wash' Area boundaries, following Greenspot Road Trail on the northeast bluff of Mill Creek, aligning with Diamond Street (extension) intersection with the southwest bluff of Mill Creek, an Optional Trail Alignment is proposed to cross Mill Creek to join trails for west-east and south-north trail connectivity. Allowance for all non-motorized trail users, including pedestrians, bicyclists and equestrians is preferred, in order to more effectively control trail user access away from potentially sensitive habitat areas.
- At Greenspot Bridge alignment(s), re-use of the Old Greenspot Bridge to include all trail users, including pedestrians, bicyclists and equestrians is preferred. SART Ph IV Optional Trail Alignment is proposed to cross the SAR at Greenspot Bridge to allow north-south and east-west trail connectivity.
- Staging Area – Regional Parks proposes a Staging Area, size and specific amenities to be determined at the intersection of the SART/Greenspot Road and the US Forest Service Santa Ana River Trail segment, 1S14 and or 1S13. This staging area would be the end point of the Class 1 SART and connection point to the Class 2, on street trail through Highland as well as to the existing Forest Service hiking, equestrian and mountain bike trail connection to the Pacific Crest Trail.

**Regional Parks recommends inclusion of this staging area as a vital transition point along the trail.**

## Section 3.6.7 Trails

The EIR describes four types of trails. However the California Department of Transportation (Caltrans) within the Highway Design Manual Chapter 1000, Bikeway Planning and Design defines the following three Classes of bike trail.

Class 1 Bikeway (Bike Path). Provides a completely separated right of way for the exclusive use of bicycles and pedestrians with cross flow by motorists minimized.

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Class 2 Bikeway (Bike Lane). Provides a striped lane for one way like to travel on a street or highway.

Class 3 Bikeway (Bike Route). Provides for shared use with pedestrian or motor vehicle traffic.

Caltrans does not identify a class four trail type.

**Regional Parks recommends that the EIR adopt the Caltrans standards definition of Class 1, 2 and 3 trails. Unpaved or natural surface trails should be classified as a class four type trail.**

Attached and included are two (2) sheets labeled Santa Ana River Trail Phase 4 Preferred Route, 02 May 08, prepared by KTU+A Landscape Architecture.

Thank you for the opportunity to comment upon this Upper Santa Ana Wash Plan EIR. If you have any questions about the responses above please contact me directly at (909) 383-3202

Sincerely,

JIM CANADAY,  
Park Planner III  
San Bernardino County  
Regional Parks Department

cc: Tom Potter, Director of Regional Parks  
Maureen Snelgrove, Deputy Director of Regional Parks  
Phil Krause, Chief of Planning  
Julie Rynerson-Rock, Director of Land Use Services  
Vana Olson, Director of Public Works  
David Lovell, Assistant Chief of Federal Projects  
Ed Demesa, Chief Planning Section A, USACE, Los Angeles District

## **RESPONSE TO COMMENT LETTER J**

### **County of San Bernardino Regional Parks Department**

**Response to Comment J-1.** The Santa Ana River trail is not a part of the proposed project. If the location of the trail as proposed by the Parks Department is in conflict with the WSPA, the Parks Department may choose to amend the WSPA at a later date to accommodate the Santa Ana River Trail and provide biological and other environmental mitigation as necessary. No changes to the EIR are necessary.

**Response to Comment J-2.** Please see response J-1.

**Response to Comment J-3.** This comment requests that the Borrow Pit South Rim Trail be extended to farther to the south to connect to Opal Avenue. As the trail is shown in Figure 4.14.2, it dead ends approximately 1,200 feet north of the Santa Ana River trail and Opal Avenue. This is because the WSPA is located in the area between the dead end of the trail and Opal Avenue. Introducing trail users into the habitat preservation area would be detrimental to the habitat and would conflict with the goals of its preservation. No changes to the EIR are necessary.

**Response to Comment J-4.** As previously stated, the Santa Ana River trail is not a part of the Wash Plan. The Parks Department may choose to include this staging area in its plans for the Santa Ana River trail at this location and provide biological and other environmental mitigation as necessary.

**Response to Comment J-5.** The EIR has been updated to include the Caltrans standards for trails. The City of Redlands does not follow the Caltrans standard. In an effort to clarify the standard, the Wash Plan text has been updated and now indicates how the Redlands trails deviate from the Caltrans standard.

**Response to Comment J-6.** The Santa Ana River trail is not a part of the proposed project.

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May 23, 2008

Via Electronic and U.S. Mail

Robert Neufeld  
General Manager  
San Bernardino Valley Water Conservation District  
1630 W. Redlands Boulevard, Suite A  
Redlands, CA 92373-8032

Re: Draft Environmental Impact Report for the Upper Santa Ana  
River Wash Land and Habitat Management Plan (SCH #  
2004051023)

Dear Bob:

San Bernardino Valley Municipal Water District (Valley District) is pleased to submit the following comments on the Draft Environmental Impact Report for the Upper Santa Ana River Wash Land and Habitat Management Plan (Draft EIR) to the San Bernardino Valley Water Conservation District (Conservation District). Valley District appreciates this opportunity to comment upon and better understand a project that has broad regional implications related to water conservation, sand and gravel mining, recreation, and environmental issues over multiple jurisdictions.

Valley District understands that the Draft EIR represents the culmination of many years of discussions among the Conservation District, state and federal agencies, mining companies, the County of San Bernardino, and the Cities of Highland and Redlands in an effort to formulate a balanced approach to land use in the Santa Ana River Wash Area. Valley District further understands that the Wash Plan is complicated and multi-faceted and requires many actions by many parties over an extended

Robert Neufeld  
May 23, 2008  
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period of time. We appreciate the tireless efforts of the Wash Plan participants to find solutions to these complex land use issues. However, Valley District, as part of its responsibility to maintain adequate water supplies for those areas within its boundaries, wants to ensure that the Wash Plan does not preclude the opportunity to optimize the use of local and imported water supplies within the Wash Plan Area. Therefore, Valley District has a number of questions regarding the proposed project, permitting requirements and the like. Those questions are stated below.

1. Relationship to Upper Santa Ana River Watershed IRWMP

In November 2007, Valley District and a number of other public agencies (including the Conservation District) completed and approved the Integrated Regional Water Management Plan for the Upper Santa Ana River Watershed (IRWMP). Implementation of the IRWMP relies in large part on the recharge of surface water diverted from the Santa Ana River into the San Bernardino Basin Area (SBBA) at the Conservation District's spreading grounds described in the Draft EIR and at other locations. Therefore, the Wash Plan and any subsequent Habitat Conservation Plan (HCP) may have a substantial impact on the implementation of the IRWMP.

a. Are the elements of the Wash Plan, as reflected in the Draft EIR, consistent with the approved IRWMP? Valley District agrees with statements in the Draft EIR such as the one on Page 3-40, which states, "Therefore, there exists the possible need for additional groundwater spreading facilities in the eastern end of the Bunker Hill Basin, outside of the footprint of existing groundwater spreading facilities,...". Valley District requests that the EIR include a section that explains, in detail, how these anticipated additional water conservation facilities are accommodated under the Wash Plan.

K-1

b. Valley District and the Conservation District are currently cooperating in a comprehensive "Evaluation of the Santa Ana River Spreading Facilities". This study will, among other things, identify the current capacities of the SBVWCD existing Santa Ana River diversion, conveyance, and recharge facilities. Preliminary indications from actual field testing conducted as part of that study show that additional recharge facilities will likely be necessary to continue to reliably meet the water demands of the region as identified in the IRWMP. Valley District requests that the results of that study be incorporated

K-2

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into the Wash Plan EIR analysis of future water conservation facilities and the biological clearance for such facilities.

↑  
K-2

c. Please explain whether additional water conservation facilities are included in the project analyzed in the Draft EIR and, if so, where the discussion of impacts from and approvals for these facilities may be found.

K-3

d. The Draft EIR states that "it cannot be predicted how many new [water conservation or spreading] facilities might be needed, of what size, and where." (Draft EIR, p. 3-33). That may be true in general, but the statement that "the IRWMP does seem to point to a potential long-term need for additional groundwater spreading facilities, for spreading by the District or others." (Draft EIR, p. 3-40) points to a logical conclusion that additional water conservation facilities will or are, in fact, needed. Please explain why additional groundwater recharge facilities in Phase 2 and 3 areas were not designed and included in the Draft EIR at a project level to ensure environmental clearance.

K-4

e. The Draft EIR recognizes on page 3-33 that "if there is a need for future water facilities, such needs will have to be met within the geographic limits of portions of the Planning Area." Does the Conservation District doubt that there is a regional need for additional recharge facilities in the Planning Area? If so, please explain the basis for this conclusion.

K-5

f. Page 1-45 of the Draft EIR states that the "project does not contemplate substantial differences in these activities from existing baseline activities and operations, and therefore no cumulative impacts resulting from the continuation of these activities is expected to occur." Is it correct to conclude from this statement that the "project" does not include future water conservation recharge facilities?

K-6

2. Biological Clearance

Valley District believes that it is important that the Draft EIR provide "biological clearance" for the expansion of spreading basins in the future in Phases 2 and 3 as displayed on Figure 3.12 and fully supports such expansion. Valley District is unclear, however, as to how the Draft EIR proposes to obtain such biological clearance from state and federal regulatory agencies and how such clearance fits together with the proposed HCP.

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a. The Draft EIR states that there will be programmatic approval or "biological clearance" for the potential development of additional water spreading or conservation facilities." (Draft EIR, p. 3-33). Please describe exactly what is meant by "biological clearance," including the agencies involved, the permit(s) to be issued, the timing of such approval(s) and any other relevant information. Also, please describe whether and how the regulatory agencies involved have approved such programmatic or project-level biological clearance.

K-7

b. The Draft EIR states that the impacts of the Bureau of Land Management (BLM) land exchange will be analyzed in a companion environmental document. (Draft EIR, p. 1-11, 4.4-21). Is the companion environmental document available for review, is it the Environmental Impact Statement (EIS) referred to on page 1-8, or is it the supplemental environmental review identified on page 1-9? Also, please describe the current status of the EIS, which is described as "being prepared" on page 3-7.

K-8

c. The Draft EIR includes references to a number of subsequent environmental documents, including the EIS, the HCP, a habitat management plan and a habitat enhancement plan. Please clarify the purpose of each of these documents, the legal authority under which it will be prepared, its current status, the timing of when it would be released for public review, the agency(ies) that would prepare the document, the agency(ies) that would approve the document, and how the document preparation and then plan implementation would be funded. It would be very helpful if the Conservation District could include a comprehensive plan/chart showing the relationships among these various documents that has been approved by the state and federal regulatory agencies.

K-9

d. Has the Conservation District conducted appropriate surveys (pursuant to U.S. Fish & Wildlife and/or California Department of Fish & Game protocols) to determine the presence and extent of threatened and endangered species, under both federal and California law, in the project area? If so, can the Conservation District provide more detail regarding the presence, location and abundance of such species in the Water Conservation Area (Phases 1,2 and 3)? If not, can the Conservation District describe how state and federal agencies would provide "biological clearance" to additional water conservation facilities without such surveys? Have these regulatory agencies approved such biological clearance? Also, can the Conservation District state when protocol-level surveys may occur?

K-10

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e. The analysis of additional water conservation facilities seems to be based on the regulatory agencies' approval of the 31% limit, as described on pages 3-40 and 3-41 of the Draft EIR. Can the Conservation District provide additional details regarding the approval of this limitation by the regulatory agencies? Also, have these agencies agreed not to seek additional biological or land mitigation for water conservation facilities that occupy less than 31% of the Water Conservation Area? If so, could the Conservation District please document that agreement?

K-11

f. It appears that some of the land that will be transferred for habitat conservation is land that could also be used for additional water conservation facilities. Could the Conservation District please describe any documents (such as permits or memoranda of agreement) through which the state and federal regulatory agencies have agreed that future water conservation facilities can be constructed on lands being devoted to habitat?

K-12

g. On page 4.8-34, the Draft EIR states that the "designation of the remaining land to habitat conservation would not only conserve wildlife habitat but would also serve as a natural recharge system due to the permeability of the area." Does this statement imply that water conservation in areas designated as water conservation and habitat would only occur in the passive sense without the construction of additional facilities?

K-13

h. On page 4.8-38, the Draft EIR states that land set aside for "habitat conservation and the continuance of water conservation activities would be left in its natural state." Does this statement imply that the Conservation District would not operate and maintain existing water conservation facilities such as Dike "D"? Further, does this statement preclude the construction of new water conservation facilities? Please clarify and provide any documents that have been approved by state or federal regulatory agencies supporting the response.

K-14

i. Valley District understands that additional water conservation facilities could be built in any of the lands identified as Phases 1, 2 or 3. Phase 3 lands, however, are not shown as water conservation in Figures 2, 3.9 and 3.12. Is this a mistake? Please confirm that the Draft EIR will provide complete biological clearance for the construction of water conservation facilities in Section 12 (Phase 3).

K-15

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j. Has the Bureau of Land Management or any other federal agency approved the construction of additional water conservation facilities on lands that are identified as ACEC or RNA or on lands which are proposed to be exchanged for lands so designated? If so, please provide a copy of the approval documents.

K-16

k. Please identify the species for which biological clearance will be obtained. Will biological clearance include incidental take authority under either the federal or California endangered species acts? Also, will the biological clearance extend to species that may be listed after March 2008?

K-17

l. On page 4.4-31, the Draft EIR notes that the "newly created managed habitat area already exists in an undeveloped/natural state within the Planning Area and already is providing natural habitat for these species." If that is correct, is it the Conservation District's intent that the preservation of land already in habitat mitigate for the potential impacts of the project? Have the regulatory agencies agreed to this conclusion?

K-18

m. Also on page 4.4-31, the Draft EIR states that the "HCP may include additional or differing implementation measures" than those contained in the Draft EIR. Has the Conservation District reached any agreement with the U.S. Fish & Wildlife Service or other regulatory agencies regarding the scope, extent or cost of such additional or differing implementation measures? Would the Draft EIR allow the regulatory agencies to impose additional or differing implementation measures that are so expensive that they effectively preclude the construction of additional water conservation facilities?

K-19

Valley District appreciates the opportunity to provide these comments on the Draft EIR. Please feel free to contact me at (909) 387-9218 if you have any questions.

Very truly yours,



Randy Van Gelder  
General Manager

cc: John Rossi, Western Municipal Water District of Riverside County

## RESPONSE TO COMMENT LETTER K

### San Bernardino Valley Municipal Water District

**General Response:** San Bernardino Valley Municipal Water District (SBVMWD) states that the implementation of the Wash Plan may have a substantial impact on the implementation of the Integrated Regional Water Management Plan for the Upper Santa Ana River Watershed (the IRWMP). SBVMWD was the lead agency for the environmental review of the IRWMP. The commenter exhibits a particular concern for the construction of future water conservation facilities within the Wash Plan project area. However, while future water conservation facilities are contemplated in the Wash Plan, and while the Wash Plan locates future facilities adjacent to existing facilities, the District has no current plans to construct future facilities. (Draft EIR pp. 3-33 to 3-41.) Thus, a project-level environmental analysis of future facilities in the Wash Plan EIR would be premature and purely speculative. The environmental analysis of future facilities will occur when a discretionary decision approving concrete, final facility plans is made.

Notably, the Wash Plan EIR's analysis of future water conservation facilities mirrors the commenter's own CEQA Notice of Exemption (NOE) prepared for the IRWMP. When the IRWMP was approved, SBVMWD made a CEQA exemption finding. (SBVMWD, Resolution No. 941 [December 5, 2007].) At that time, SBVMWD's attorney opined that the IRWMP "should be considered to be a feasibility or planning study for possible future actions that the District has **not approved, adopted or funded** that includes consideration of the environment." (David Aladjem, NOE memorandum to SBVMWD Board of Directors [November 20, 2007]), emphasis added.) Similarly, neither the District, nor any other agency to the District's knowledge, has approved, adopted, or funded specific future water conservation facilities in the Wash Plan project area. SBVMWD's attorney went on to state that the IRWMP will not have any impact on the environment: "Such effect would **only occur** if the District (or other Plan participants) makes a subsequent discretionary decision to implement one of the projects identified in the Plan." (*Ibid.*, emphasis added.) Similarly, the future facilities contemplated by the Wash Plan will only have environmental effects if SBVMWD or another public agency makes a subsequent discretionary action subject to CEQA review. Accordingly, the IRWMP NOE states: "The [IRWMP] involves only a planning study for **possible future actions that have not been approved, adopted, or funded**. In addition, it can be seen with certainty that such a planning study will not have any impact on the environment, particularly if that study requires **additional discretionary decisions before any action would be taken**. Finally, the adoption of the study is not the approval of a project where it does not commit the agency to a specific course of action." (IRWMP NOE, emphasis added.) The Wash Plan EIR comes to the same conclusion. Once an agency's water conservation facility improvement plans progress to the point where the agency is ready to obtain the necessary approvals for such facilities in the Wash Plan project area, that agency should then proceed with CEQA review for its proposed facilities. Such review is premature in the Wash Plan EIR.

Furthermore, specifically as to SBVMWD, SBVMWD's easement agreement with the District easement agreement with the District provides that SBVMWD will construct future facilities at its "sole cost and expense" (Easement Agreement [February 6, 2008], § 8(c)(1)). Moreover, the easement agreement provides that SBVMWD "shall be the **lead agency** for any environmental review required in connection with any New Facility, **including any review under CEQA** or NEPA, and [SBVMWD] shall be solely responsible for securing and complying with all applicable permits or approvals required in connection with the construction, placement, operation, or maintenance of any New Facility" (*Id.*, § 8(c)(2)). Any project-level review of future facilities contemplated by SBVMWD should be prepared by SBVMWD separate from the Wash Plan.

**Response to Comment K-1.** The Wash Plan is fully consistent with the IRWMP. Both plans contemplate future water conservation facilities in the Wash Plan project area, and both reserve environmental review of future facilities until such time as the facilities are actually planned. The Wash Plan clearly accommodates future facilities, but consistent with the IRWMP NOE, facility-specific environmental review is not appropriate at this time. (Draft EIR pp. 3-40 to 3-41.)

**Response to Comment K-2.** The Wash Plan contemplates future water conservation facilities which may or may not be necessary pursuant to the “Evaluation of the Santa Ana River Spreading Facilities” referenced by the commenter. In any case, analysis of future water conservation facilities and biological clearance of those facilities is not part of the Wash Plan and will be conducted by the appropriate agency when such facilities are proposed and planned beyond the point of speculation. (Draft EIR pp. 3-38, 3-41.)

**Response to Comment K-3.** As indicated, future water conservations facilities are contemplated by the Wash Plan but are not part of the Wash Plan. Therefore, specific impact analyses and facility approvals are not an appropriate part of the Wash Plan EIR, but programmatic approval of the impacts to biological resources for these future facilities is included. (Draft EIR pp. 3-38, 3-41.)

**Response to Comment K-4.** The above comments and the commenter’s own citations to the Draft EIR explain why specific, future water conservation facilities are not designed and included at the project level in the Wash Plan EIR.

**Response to Comment K-5.** Regardless of whether such facilities prove necessary or not, the District discusses future water conservation facilities throughout the Wash Plan EIR (e.g., Draft EIR pp. 3-33 to 3-41, 4.4-23). However, the District does not yet know the exact size, location, timing, and accompanying environmental effects of said facilities. Thus, environmental review is appropriately reserved until facilities are proposed and planned beyond the point of speculation.

**Response to Comment K-6.** The Wash Plan EIR does not include project-level analysis of future water conservation facilities for the reasons discussed above, but does include programmatic approval of the impacts to biological resources for these future facilities.

As discussed in responses K-1 through K-6, project-level environmental review of future water conservation facilities is premature. As indicated in the Wash Plan EIR and the commenter’s own IRWMP NOE, such review is appropriately reserved until such a time as future facilities are planned and their exact size, location, timing and environmental effects are known. (Cf. Draft EIR pp. 3-38, 3-41.) The necessity of deferred review is especially apparent with regard to project-level construction biological impacts. Suppose, hypothetically, that specific future facilities are not planned until five, ten, or twenty years after Wash Plan implementation. At that time, certain species may no longer be listed or of special concern, and/or new species may be newly listed or designated of special concern. Also, concentrations of species may move and expand as habitat areas are preserved and managed under the Wash Plan EIR’s mitigation measures. If environmental clearance was sought now for facilities that may not be constructed until well into the future, the environmental clearance could be stale by the time actual construction begins. At best, the analysis would need to be supplemented. At worst, potentially listed species would be ignored and unnecessary take would occur. Hence, project-level review is best reserved until project-level plans are known.

As a general note, future environmental review by State and/or Federal agencies is not this EIR’s issue. Provided the Wash Plan EIR adequately discloses, analyzes, and mitigates the Wash Plan project’s significant environmental effects, the Wash Plan EIR satisfies CEQA. The Wash Plan EIR stands on its own.

**Response to Comment K-7.** The “biological clearance” contemplated by the Wash Plan EIR will involve CDFG and USFWS approvals, including but not limited to an HCP, EIS, and take permits. Approval of the Wash Plan EIR is a prerequisite for subsequent biological clearance documents to be conducted by BLM (for the Land Exchange) and the District/USFWS (for the HCP).

**Response to Comment K-8.** The “companion environmental document” analyzing the BLM land exchange is an EIS, which will be finalized subsequent to approval of the Wash Plan EIR.

**Response to Comment K-9.** This Draft EIR contemplates the preparation of a Habitat Enhancement Plan (HEP), as required by **Mitigation Measure BIO-1**. The HEP will, in essence, function as the template for the HCP serving a primary purpose of setting the stage for the subsequent HCP. Future documents that will be prepared include an EIR for the BLM land exchange and an HCP with a companion NEPA document anticipated to be an Environmental Assessment (EA). The subsequent NEPA documents have their own timelines, which are not precisely known at this time. However, it is likely that the BLM analysis will be prepared and distributed for public review within three months of certification of the Wash Plan EIR. The HCP document will follow the BLM, however, its timing can not be accurately predicted at this time.

**Response to Comment K-10.** See responses M-9, M-11, and M-15 through 30 (qq.v.). A supplemental Biological Technical Report (BTR) for the Upper Santa Ana River Wash Plan has been prepared by Dudek (October 2008) and will be included in the Final EIR as Appendix M. The BTR lists the previous technical biological surveys conducted within the limits of the Wash Plan. The BTR also provides supplemental analysis of impacts to special-status species and their habitat. No additional surveys are warranted except those needed to comply with the mitigation measures for avoidance, implementation of the HEP and Slender-horned Spineflower Enhancement and Relocation Plan.

**Response to Comment K-11.** As explained on page 3-41 and 42 of the Draft EIR, impacts of the District's future water conservation facilities in the Phase 1, 2, and 3 areas was based on determining amount of total area occupied by water facilities in the District's most highly developed area within Phase 2. The District did not confirm this amount with regulatory agencies and there is no reason to do so at this time because the future water conservation facilities will require their own subsequent environmental documentation, tiering off the Wash Plan EIR's assessment of impact to biological resources. The 31 percent impact area was used to estimate the upper limit of the total footprint of future facilities. In this way, the 31 percent value functions as the project description analyzed in the EIR at a programmatic level and for impact to biological resources only.

**Response to Comment K-12.** There will be no future change in the current condition of the Phase 1 area (i.e., borrow pit) of the Water Conservation Area. With regard to the Phase 2 and 3 areas of the Water Conservation Area, 69 percent will be preserved and 31 percent will consist of a combination of area that has already been developed and that which is proposed for future development. The specific location and configuration of lands proposed for conservation versus lands proposed for development within Phases 2 and 3 will involve the resource agencies (i.e., USFWS, BLM, and CDFG) as part of the subsequent land exchange with the BLM and separate environmental documentation. The various landowners and local agencies have worked closely with representatives of the USFWS, BLM, and CDFG for a number of years pertaining to the Wash Plan, and this close working relationship with the resource agencies will continue through the BLM land exchange and the HCP processes.

**Response to Comment K-13.** The point being addressed in this comment was a simple statement that lands without impervious surfaces have the potential for contributing to groundwater recharge from rainfall, large storm flows, etc.

**Response to Comment K-14.** In response to this comment, page 4.8-38 of the Draft EIR has been revised to clarify that future water conservation facilities may be developed within the Phase 3 area of the BLM land exchange. As stated in response K-11, coordination with regulatory agencies is not required at this time because the future water conservation facilities will require their own subsequent environmental documentation.

**Response to Comment K-15.** See responses K-11 and K-12 for discussion of future water conservation facilities associated with Phases 1, 2, and 3 of the Water Conservation Area. Also, proposed impacts to biological resources due to construction of future water conservation facilities in Phase 3 are adequately addressed in the DEIR and the BTR.

**Response to Comment K-16.** See response K-12. The BLM and other federal agency approvals will be forthcoming upon the preparation and approval of the HCP and EIS; however, the HCP and EIS will not be finalized until the Wash Plan EIR is approved.

**Response to Comment K-17.** Refer to the BTR for species that would be affected by the construction of water conservation facilities. An HCP and Consistency Determination (CD), pursuant to State and Federal Endangered Species Acts, will be obtained for “take” of certain species known or expected to occur in the area, including all listed species with potential to occur in the area. Note that species not covered under the HCP would not be granted coverage, subject to any *No Surprises* language included in the final HCP. The *No Surprises* policy establishes that, consistent with the requirements of the Federal Endangered Species Act (FESA) and other Federal laws, the Federal Government will honor its agreements under an approved HCP for which the permittee is in good faith implementing terms and conditions of that HCP that vary among HCPs depending upon individual habitat and species needs. However, it is premature to predict what, if any, *No Surprises* language would be included.

**Response to Comment K-18.** The preservation of habitat proposed by Wash Plan provides mitigation for the potential impacts of the Wash Plan project. The statement addressed by this comment simply acknowledges that much of the proposed habitat conservation areas is already in an undisturbed/natural state. However, the Wash Plan will provide for a greater level of habitat benefit through the EIR HEP as ultimately implemented by the Wash Plan HCP by managing the habitat conservation areas. Through the HEP’s habitat management measures brought forward by **Mitigation Measures BIO-1** through **BIO-16**, stewardship of the habitat conservation lands will be provided, thus resulting in higher value habitat. Regarding the commenter’s question concerning agency participation, the SBWCD has worked closely with representatives of the USFWS, BLM, and CDFG for a number of years pertaining to the Wash Plan. Furthermore, future discussions with these resource agencies will occur during the BLM land exchange and the HCP processes.

**Response to Comment K-19.** The scope, extent, and cost of additional mitigation measures that may or may not be imposed by the USFWS are not known and cannot be known by the District. Also, the District has no jurisdictional authority over the costs of mitigation measures that may or may not be imposed by the USFWS on future water conservation facilities.

As stated in response K-12, the various landowners and local agencies have worked closely with representatives of the USFWS, BLM, and CDFG for a number of years pertaining to the Wash Plan, and this close working relationship with the resource agencies will continue through the BLM land exchange and the HCP processes. Any additional implementation measures must be economically feasible to implement. However, this feasibility cannot be determined until all permits have been obtained.



John V. Rossi  
General Manager

Charles D. Field    Thomas P. Evans    Brenda A. Dennstedt    Donald D. Galleano    S.R. Al Lopez  
Division 1            Division 2            Division 3            Division 4            Division 5

May 23, 2008

Via Electronic and U.S. Mail

Robert Neufeld  
General Manager  
San Bernardino Valley Water Conservation District  
1630 W. Redlands Boulevard, Suite A  
Redlands, CA 92373-8032

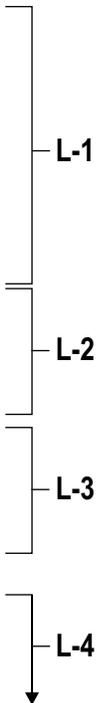
Re: Draft Environmental Impact Report for the Upper Santa Ana River Wash Land and Habitat Management Plan (SCH # 2004051023)

Dear Bob:

Western Municipal Water District of Riverside County (Western) is pleased to be able to provide these brief comments on the Draft Environmental Impact Report for the Upper Santa Ana River Wash Land and Habitat Management Plan (Draft EIR).

First, Western agrees with the comments that are being submitted today on the Draft EIR by San Bernardino Valley Municipal Water District.

Second, it appears to Western that the discussion of water conservation in the Draft EIR is legally inadequate because it fails to consider the effects of two reasonably foreseeable future projects. Specifically, the Draft EIR ignores the conclusion of the recent Integrated Regional Water Management Plan for the Upper Santa Ana River Watershed (IRWMP), which calls for substantial additional spreading/conjunctive use in the San Bernardino Basin Area, and also ignores the recent Western/San Bernardino Valley Municipal Water District EIR for the diversion of water from the Santa Ana River, which also calls for substantial spreading of water in the San Bernardino Basin Area. The construction of water spreading facilities needed for these projects should have been fully incorporated in the analysis contained in the Draft EIR, if only in the cumulative impacts analysis. Moreover, it is not clear to Western how the Draft EIR considers the cumulative impacts of either of these projects on water supplies or groundwater. The failure to include these projects in the Draft EIR could adversely impact Western's ability to provide a reliable source of water to our retail and wholesale customers. The Draft EIR should be revised to include these known future projects and then recirculated for public review and comment.



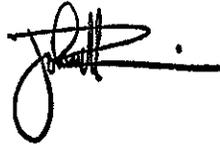
Third, after reviewing the Draft EIR, Western wonders why the Conservation District is the lead agency for this project. Aside from the very general programmatic "biological clearance" for

Robert Neufeld  
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future water conservation activities, the remainder of the Wash Plan reads more like a County General Plan amendment. The Wash Plan considers a variety of new habitat preservation, mining, recreational trails, flood control and other land-use measures that are typically under the control of local general-purpose governments, not special districts. For these reasons, the Wash Plan seems quite similar to the MSHCP effort that Riverside County successfully led in our area several years ago. Western suggests that the Conservation District may wish to consider relinquishing lead agency status and ask the County of San Bernardino, which has much broader powers, responsibility and experience in implementing these broad-ranging activities over multiple jurisdictions, to serve as lead agency.

↑  
L-4

Very truly yours,



John V. Rossi  
General Manager

cc: Randy Van Gelder, San Bernardino Valley Municipal Water District

## RESPONSE TO COMMENT LETTER L

### Western Municipal Water District

**Response to Comment L-1.** The District's responses to SBVMWD's comments are included above as responses K-1 through K-19. The Wash Plan EIR does not ignore the need for future water conservation facilities. In fact, future water conservation facilities are discussed throughout the EIR and included in the cumulative impact analyses where appropriate (e.g., Draft EIR pp. 3-33 to 3-41, 4.4-23). As discussed in response to SBVMWD's comments, the project-level analysis of future facilities is premature, and premature environmental analysis would fail to identify accurately the environmental effects that may or may not result when specific facilities are proposed, whether in the immediate or distant future. Furthermore, the level of detail contained in the EIR is commensurate with the specificity provided by the project description in accordance with *CEQA Guidelines* (§15146).

**Response to Comment L-2.** Additionally, as with SBVMWD, commenter Western Municipal Water District (WMWD) is a signatory of the easement agreement with the District. Accordingly, WMWD is required to perform CEQA review for future water conservation facilities. The easement agreement provides that WMWD will construct future facilities at its "sole cost and expense" (Easement Agreement [February 6, 2008], § 8(c)(1)), and that WMWD "shall be the **lead agency** for any environmental review required in connection with any New Facility, **including any review under CEQA** or NEPA, and [WMWD] shall be solely responsible for securing and complying with all applicable permits or approvals required in connection with the construction, placement, operation, or maintenance of any New Facility." (*Id.*, § 8(c)(2).) Any project-level review of future facilities contemplated by WMWD should be prepared by WMWD separate from the Wash Plan.

**Response to Comment L-3.** Lead agency designation is not an environmental issue. Provided the Wash Plan EIR adequately discloses, analyzes, and mitigates the Wash Plan project's significant environmental effects, the Wash Plan EIR satisfies CEQA, regardless of what entity is designated as the lead agency. This comment raises a political, not an environmental issue. Nevertheless, the Conservation District was the originator of the Wash Plan effort and has been the Project Manager throughout the years of discussion and negotiations that led to the multi-agency compromises that make the Wash Plan possible. The Conservation District has served as the CEQA Lead Agency through the preparation and release of the DEIR, and is now involved with assisting the BLM on the companion EIS. Any change in lead agency designation would delay the project, upset existing relationships, and threaten the continuity of the Wash Plan. Moreover, much of the property within the Planning Area is owned by the Conservation District, and the Wash Plan Task Force has agreed that the Conservation District will serve as the entity to manage the habitat under the ultimate HCP and Implementing Agreement. In this respect, the Conservation District is the "public agency which has principal responsibility for carrying out or approving the project," and is therefore the appropriate lead agency under Public Resources Code Section 21067.

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San Bernardino Valley Audubon Society



Sierra Club – San Gorgonio Chapter

**VIA Facsimile, Email and U.S. Mail**

May 23, 2008

Mr. Randy Scott  
 San Bernardino County Water Conservation District  
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**Re: Comments on Draft Environmental Impact Report (DEIR) for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan SCH No. 2004051023**

Dear Mr. Scott:

The following comments on the Draft EIR for the Upper Santa Ana River Wash Land Management Plan and Habitat Conservation Plan (“Wash Plan”) are submitted on behalf of the Center for Biological Diversity, the San Bernardino Valley Audubon Society and the San Gorgonio Chapter of the Sierra Club (Conservation Organizations). The Conservation Organizations are committed to the development and implementation of a conservation plan that will guarantee the survival and recovery of imperiled species in the Santa Ana River Wash area in perpetuity. We hope our comments will be carefully considered and incorporated into the final EIR to ensure that the final plan and environmental documentation are legally and biologically defensible.

The Center for Biological Diversity has over 40,000 members, many of whom reside in California, including San Bernardino County and surrounding areas of the Santa Ana River Wash. The Center’s members and staff regularly visit the Santa Ana River wash and its tributaries including City, Plunge and Mill Creeks for purposes of viewing rare and endangered

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species and their habitats, research, photography, hiking, and other recreational, scientific, and educational activities.

The San Bernardino Valley Audubon Society (SBVAS) is a chapter of the National Audubon Society, which has about half a million members nationwide. The chapter itself has approximately 1800 members who reside in the inland empire. Audubon members regularly visit the Santa Ana River Wash for birdwatching, photography, and the appreciation of nature. In addition, an adjunct organization, the Meadowlark Land Trust, owns Bearpaw Ranch, a 70-acre wildlife preserve on Mill Creek, upstream of the Wash area, which SBVAS uses for wildlife research, bird-watching, nature education, and meetings.

The Sierra Club is a national nonprofit organization of approximately 1.3 million members and supporters dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club’s concerns encompass the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan SCH No. 2004051023. With approximately 6,000 members in the San Bernardino/Riverside area, our members regularly visit the Santa Ana River Basin to enjoy hiking, birding, photography, quiet contemplation, flower and plant species appreciation, and a myriad of other environmentally respectful activities. Our members regularly visit and enjoy the areas adjacent to the Upper Santa Ana River Wash including Plunge Creek, Mill Creek, and the other **tributaries** of the Santa Ana River.

Southern California is a biological hotspot for nearly every taxonomic group, including plants, invertebrates, birds, mammals, and reptiles, due in part to the mild Mediterranean climate, with long, hot summers and rainy winters combined with a diverse landscape with elevations that range from +11,000’ to -220’ in only 60 miles. San Bernardino County is a biological diversity hotspot, but also suffers the most extreme adverse impacts of sprawl development of any region of the Country, as measured by a recent study by Smart Growth America (Ewing et al. undated). The numerous species at risk of extinction or extirpation from development and other activities makes this HCP perhaps one of the most important in the United States.

A recent analysis found that species within multi-species plans are significantly more likely to exhibit a declining status trend. (Clark and Harvey 2002). The study also concluded that multi-species plans reflect a poor understanding of species-specific biology, are less likely to include adaptive management provisions, and are revised less frequently. *Id.* Consequently, the Conservation Groups expect that unlike the draft Wash Plan, the final documents will err on the side of species protection in the face of incomplete data and uncertain impacts, as required by law. As currently drafted, the Wash Plan relies on inadequate and insufficient mitigation for the Plan’s environmental impacts. Perhaps most alarming, the draft Wash Plan EIR does not explicitly include a list of covered species. Nor does the DEIR include a timeline for the HCP.

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Rather it provides vague references to species that could perhaps be included in the HCP over an unspecified number of years.

M-1

The Center provided the San Bernardino Valley Water Conservation District (SBVWCD) with comments on April 4, 2006 which are hereby incorporated by reference and included as Attachment 1. Unfortunately, our major concerns have not been incorporated into this Draft EIR. The Center concludes that the proposed Wash Plan falls short of legal and biological obligations of the Endangered Species Act, 16 U.S.C. § 1531 *et seq.* (“ESA”), the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, the California Environmental Quality Act (“CEQA”), Public Resources Code §§ 21000-21178, the California Endangered Species Act, Fish and Game Code §§ 2050 *et seq.*, and their implementing regulations. There are fundamental flaws in the proposed Wash Plan EIR, including inadequate mitigation in sensitive species habitats including critical habitat, reliance on previous survey results rather than comprehensive surveys from the project area; lack of data; inadequate discussion of the conservation needs; inadequate analysis of the impacts of the proposed projects on the rare, sensitive, and endangered species that occur in the area; and inadequate assurances that conservation will be achieved. These flaws cannot be rectified without significant additional biological survey data, an evaluation of the effects that the projects will have on the species, and strong commitments on the part of the cooperators to assure effective conservation. We believe that rectifying the flaws is feasible, and ultimately will result in a workable plan.

M-2

The Final Wash Plan EIS/EIR will be the planners’ opportunity to remedy these deficiencies and demonstrate compliance with the legal mandates of governing statutes and regulations. The purpose of the EIR is to fully analyze and provide the public with information concerning the impacts of the Wash Plan, alternatives to preferred Wash Plan, and mitigation measures that can avoid or minimize the impacts of the development permitted under the Wash Plan. Under CEQA and NEPA, the document should be clear, concise, and user-friendly. The Draft EIR has impermissibly presented information in a manner that has obscured or omitted data, methodologies, and meaning (i.e., how certain lands were included or omitted into the Conservation Area or how mitigation fees will be assessed and expended). The Draft EIR has also minimized feasible alternatives and mitigation measures that are practicable, though possibly not preferred by the Wash Plan proponents (i.e., Modified Reserve Configuration; see discussion below). The Center expects that the Final EIR will address these weaknesses of the draft documents as well.

M-3

**I. THE HCP MUST ENSURE SURVIVAL AND CONTRIBUTE TO RECOVERY OF LISTED SPECIES**

The MSHCP must not “appreciably reduce the likelihood of survival and recovery” of covered species in the wild. ESA § 10(a)(2)(B)(iv); *see also* Cal. Fish & Game Code § 2081 (providing equivalent protections under state law). In addition, the Wash Plan must provide additional biological protections where feasible (“the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such a taking.”). ESA § 10(a)(2)(b)(ii); Cal. Fish & Game Code § 2081; *see also* Cal. Pub. Res. Code §§ 21002, 21002.1, 21801 (under

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CEQA, projects may not be approved where feasible alternatives and mitigation measures available to avoid or lessen environmental impacts). In ESA Section 10, the term “conservation plan” must be consistent with the term “conservation” as described in Section 3, meaning “the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.” Regulated taking should occur *only* “in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved,” ESA § 3(3). The Wash Plan must abide by these principles to ensure the survival and contribute to the recovery of all the species covered by the plan. There are feasible alternatives and mitigation measures available to ensure a more biologically robust conservation plan than the proposed Wash Plan. The San Bernardino Valley Water Conservation District has the opportunity – and the legal mandate under both state and federal law – to undertake such actions when feasible.

M-4

**A. The HCP Must Not Appreciably Reduce the Likelihood of Survival and Recovery of Covered Species**

The HCP must include measures that will bring federally and state listed species to a point where ESA protections are no longer necessary. The foundation of the proposed Wash Plan is the Habitat Conservation Areas and easements, whereby a potential 1,947-acre Conservation Area (reserve) is to be derived from a 4,467-acre Plan Area. The Plan Area is comprised of lands under both federal and private land ownership wherein areas will be swapped or set aside to contribute to the conservation of covered species. The SBVWCD and its cooperators have attempted to obtain data on species, and to include important areas within the Conceptual Reserve. However, the following deficiencies in the proposed MSHCP must be rectified before the plan satisfies all applicable legal requirements and is biologically acceptable.

M-5

*1. The Wash Plan EIR fails to Clarify the Covered Species*

No table exists in any of the sections of the EIR (except the *Draft Existing Biological Conditions - Appendix E-1 [emphasis added]*) that lists the covered species that the Wash Plan HCP is proposing to conserve. The absence of a clear list of species makes the evaluation of impacts and mitigation impossible to evaluate. Table 4.4.A (pg 4.4-6 through 4.4-14) list Special Interest Species Potentially Occurring in the Project Vicinity. It is unclear though if all of these species are covered species under the proposed HCP. They certainly are not discussed by on a species-by-species basis under project impacts and mitigations. Appendix E-1 does provide a table of covered species (Table 1, no page number), but this document is draft and therefore it is unclear if this is the final list, and in any case, this information should be included in the body of the EIR and Wash Plan. The failure to include this very fundamental list of covered species makes this DEIR completely inadequate under CEQA.

M-6

*2. The Wash Plan EIR fails to Identify the Duration of the HCP.*

We could find no reference in the text of the DEIR or in its appendices for the duration of the HCP. Failure to provide this very basic and essential information of the HCP in the DEIR also renders the DEIR completely inadequate under CEQA.

M-7

3. *The Reserve Was Not Designed With Sufficient Ecological Data*

A. The Wash Plan Should Incorporate Updated Species Information and Locations and should be Incorporated into the Reserve Design

The DEIR at pg 4.4-5 indicate that the wildlife data came from biological surveys covering 1,030 acres. These surveys cover less than one quarter of the project area. Appendix E-1 is a *Draft Existing Biological Conditions Report* (emphasis added), that relies on data sets from existing reports prior to 2003 and unspecified days, duration or species foci of site visits in 2004 and 2006 (Appendix E-1, Section 1.2, no page number). For example, Figure 4.4.3 indicates occurrences for numerous species, but fails to clearly reference where these data come from, how recent the occurrences are, and how comprehensive the data set actually is.

M-8

While the *Draft Existing Biological Conditions Report* (Appendix E-1) discusses in some detail fifteen species, it is unclear if all of these are covered species. Other covered species' existing conditions may not be discussed. For instance, the silvery legless lizard (*Anniella pulchra pulchra*) is known to occur on site (DEIR at pg 4.4-10) yet is not discussed further in the DEIR or the *Draft Existing Biological Conditions Report* (Appendix E-1, no page number) – it is undeterminable if it is a covered species, although it is a State Species of Concern. Also, the Santa Ana speckled dace is described in detail in the *Draft Existing Biological Conditions Report* (Appendix E-1, no page number) as a covered species, but the DEIR states that the species is not known to be present in the project site (pg. 4.4-9) because there is “no perennial water on site”. In fact Plunge Creek often has perennial flows in the project area and Figure 4.4.3 shows the species occurrence on site.

M-9

At pg. 4.4-24, a list of additional “non-listed special interest species (i.e., not listed as threatened or endangered under the FESA or CESA) known to occur in the Planning Area or may potentially occur in the Planning Area” is included, but some species are not discussed anywhere else in the document or Appendices. For instance, the White-tailed Kite is included on this list only. This species is a California fully protected species, and cannot be impacted by any activities. This species should not be covered by the Wash Plan for this reason.

M-10

4. *The Proposed MSHCP will not Adequately Conserve all Species or Habitat types*

a. Floodplain

Unbelievably, the proposed Wash Plan does not provide adequate mitigation for proposed impacts. For instance, simply based on the rare plant communities, significant impacts will occur in the following amounts:

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Impacting Activity	Riversidean Alluvial Fan Sage Scrub and Riversidean Sage Scrub	
	Acres of Impacts	Acres Conserved in Wash Plan
Water Conservation	93 (Pg. 4.4-28)	732 acres (pg 4.4-28)
Mining	363 (pg. 4.4-33)	
Roads	16.85 (permanent) (pg. 4.4-39) 19.35 (temporary) (pg. 4.4-39)	
Total	472.85 (permanent) 19.35 (temporary)	

M-11

Currently 1,215 acres of habitat is already set aside for conservation (pg. 4.4-6). The Wash Plan proposes to set aside only 732 additional acres of habitat (including potentially other less rare types of habitat including chaparral and non-native grassland). At best, this is only a 1:1.5 ratio of impact to mitigation. Sadly, this mitigation fall woefully short of typical mitigation ratios and effectively further decreases the habitat available for the persistence and recovery of the federally- and state-listed species, as well as other rare species. More typical mitigation in such rare habitats is at a 3:1 ratio of conserved acreage to impacted acreage; sometimes even a 5:1 ratio is used particularly in cases where federally designated critical habitats are involved. In this case, on a project level basis, the appropriate conservation acreage would range from 1,418.55 to 2,364.25 acres. Clearly the 732 acres being set aside is woefully inadequate and a violation of CEQA, CESA and the ESA.

b. Plants

The Wash Plan makes no attempt to evaluate the impact to the actual numbers of rare and endangered plants from the project impacts. This type of analysis is essential in determining if the project as proposed will jeopardize the existence of the species for the federally and State-listed plants. For the rare plants, no evaluation of the project’s impacts on the species is provided, and in fact the only occurrence of Robinson’s pepper grass on the project site will be extirpated by the water conservation Phase 1 and 2 (Figure 4.4.3). Robinson’s pepper grass is a CNPS List 1B.2 plant which indicates that it is fairly endangered in California and elsewhere where 20-80% occurrences threatened with extinction. There is no evidence of efforts to minimize this impact, and this impact threatens to reduce the likelihood of the species’ survival and recovery.

M-12

c. San Diego Horned Lizard

This subspecies is a California species of Special Concern and is particularly vulnerable to edge effects. Domestic cats can eliminate horned lizards within a several kilometer-squared

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area from the cat’s home base (Jennings and Hayes 1994). Ninety percent of its diet is native harvester ant, and the spread of exotic Argentine ants associated with urban development is a major threat to the horned lizard. Therefore, although we support the control of Argentine ants, a more thorough analysis of how the proposed control affects the native harvester ants (and other native ants) is also essential.

M-13

d. Coastal Cactus Wren

This subspecies is considered a Bird of Conservation Concern by U.S. Fish and Wildlife Service and a California Species of Concern. It occurs exclusively within sage scrub habitats, with patches of cholla and tall prickly pear cacti for nesting. Unfortunately this species is not included in Table 4.4.A, although it is included in the Covered Species Table (Table 1 no page number) of Appendix E-1. The DEIR fails to provide a map of cactus-dominated sage scrub was not presented. 472+ acres of Riversidean alluvial fan sage scrub and Riversidean sage scrub in the range of the species will be impacted by the proposed project; however this fails to quantify the actual amount of suitable habitat for the Coastal Cactus wren. An updated, fine-scaled vegetation map and associated habitat suitability modeling and analysis for the cactus wren should be conducted prior to the determination of the conserved areas, to ensure the inclusion of an appropriate amount of cactus-dominated sage scrub in the Conservation Area.

M-14

Wildfire may harm cactus wrens more than other coastal sage scrub residents because a large cactus can take many years to recover after an intense burn. Fire is simply not addressed at all in the Wash Plan DEIR or Appendices. Finally, these birds are highly affected by predation from cats, as nesting can occur close to urban development, but no species-specific mitigation measure was included to address this serious problem.

e. San Bernardino Kangaroo Rat

The proposed Wash Plan does not adequately conserve the federally endangered San Bernardino Kangaroo Rat. Currently in place is the 2002 Critical Habitat for this species, and the DEIR fails to analyze the adverse modification from impacts to this Critical Habitat unit from the proposed projects. The DEIR instead wrongly includes an outdated draft Critical Habitat Proposal from 2007 which is the basis for the impact analysis. In fact, a more recent draft proposal was published on April 16, 2008 (73 FR 20581). However even this more recent draft proposal is an inappropriate potential designation on which to base impact analysis. The DEIR must analyze the impact on the current Critical Habitat designation (67 FR 19812).

M-15

f. Coastal California Gnatcatcher

The proposed Wash Plan does not adequately conserve this federally threatened coastal sage scrub species. Over 15 percent of *remaining* habitat in the Plan Area is slated for development. For a federally listed species in serious decline, this amount of habitat destruction is unfathomable. In addition, the California gnatcatcher has been identified by the American

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Bird Conservancy as a listed species at high risk of predation by domestic cats, and the species is also significantly impacted by overly frequent fire return intervals due to increasing human populations and spread of Mediterranean grasses. Coastal sage scrub is also at risk due to nitrogen deposition from vehicle exhaust and other emissions sources, which increases weed productivity and contributes to type conversion from coastal sage shrubland to annual grassland (Allen et al. 1998). The proposed Wash Plan has mitigation measures in place for potentially reducing the weeds, but still needs to address fire issues.

M-16

g. Los Angeles Pocket Mouse

This species is restricted to low-elevation grasslands and coastal sage associations, and prefers open ground with fine, sandy soils. Biologists generally believe that the species is in dramatic decline throughout its range because so much of its suitable habitat has been lost. Take authorization should not be provided for this species due to insufficient knowledge of its distribution and habitat requirements.

M-17

h. Western Spadefoot Toad

All of the known locations for the toad in the Project area would be impacted potentially by water conservation activities (Figure 4.4.3). We support the surveys for non-native aquatic species (e.g., bullfrogs, crayfish, mosquitofish, and snapping turtles) known to be detrimental to western spadefoot shall be conducted annually in the spring or summer (Bio-9) and the removal of these species (Bio-11).

However, additional impacts to the only two known occurrences of the spadefoot in the project area from water conservation activities needs to be more clearly analyzed. For instance, if the water conservation activities will extirpate the spadefoot toads, the mitigation measures as proposed are irrelevant.

M-18

i. Burrowing Owl

Breeding burrowing owls have been extirpated from coastal Ventura County and nearly eliminated from Orange, San Diego, and Los Angeles Counties (Sheffield 1997). The species is greatly reduced in numbers and is now quite local in coastal southern California. An estimated 260 nesting pairs (3% of California's population) persist in all of Southwestern California, representing a decline of about 57-85% since the mid 1980s (Sheffield 1997). Remaining owls are mostly in isolated pairs and very small groups, and are threatened by intense development pressure (Sheffield 1997). The proposed Wash Plan does not add significant protections for the burrowing owl because the two known locations will both be affected by water conservation activities (Figure 4.4.3).

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The analysis of impacts to the burrowing owl is inadequate, and the Wash Plan threatens to reduce the survival and recovery of the burrowing owl. The proposed Wash Plan relies heavily on active relocation as a strategy to remove the burrowing owl from impacting activities.

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However, Trulio (1997) reported that of 27 birds actively relocated to new burrows, 17 disappeared (63 percent) within a year of release. Seven owls (26 percent) flew back to their original site. Two bred unsuccessfully, one bred but the nest was destroyed, one was a victim of predation, and one stayed on the new site for two breeding seasons. These results indicate that relocation of burrowing owls will not avoid diminishing the survival and recovery of the species. Some data exist that passive relocation to burrows within 75 meters of the original site may be more successful than actively moving owls to new burrows far outside their original nesting territory.

M-19

5. *Additional Species need to be included as Covered Species*

Each of the following species is included in the list of special interest species on Page 4.4-24, but do not appear to be included as covered species:

a. Bell's Sage Sparrow

Bell's sage sparrows needs to be included as a species in the Wash Plan. This bird seems partial to pure stands of mature chamise chaparral growing on gravelly or sandy soils, with very little grasses in between plants, or in coastal sage scrub with widely spaced plants on sandy soils with few grasses. The Bell's sage sparrow may benefit from intermediate fire frequencies, and an age-class mosaic interspersed with open, young stands may be the optimal habitat. The subspecies requires extensive low open brush for nesting, can tolerate herbaceous mosaic, is very sensitive to habitat fragmentation, may be socially facilitated, and is an appropriate indicator species for management of Riversidean sage scrub and chaparral. The Wash Plan needs to further analyze the impacts to this species and present a conservation analysis because it is known to occur in the Project Area (Pg. 4.4-11).

M-20

b. Southern California Rufous-crowned Sparrow

This species may benefit from higher fire frequency than coastal cactus wren and coastal California gnatcatcher. Therefore, management for the species may complicate recovery of the two sympatric bird species (i.e., occupying the same habitat). The rufous-crowned sparrow prefers rocky slopes with grasses and scattered low shrubs, and avoids dense chaparral. Again, vegetation maps are not fine scaled enough to distinguish between the open scrub favored by the rufous-crowned sparrow, and denser scrub. The Wash Plan needs to further analyze the impacts to this species and present a conservation analysis because it is known to occur in the Project Area (Pg. 4.4-11).

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c. California Horned Lark

The California Horned Lark needs to be included as a species in the Wash Plan. This ground-nesting grassland-dependent bird species is not adequately addressed in the Wash Plan.

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The Wash Plan needs to further analyze the impacts to this species and present a conservation analysis because it is known to occur in the Project Area (pg. 4.4-12).

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d. San Diego Black-tailed Jackrabbit

The San Diego Black-tailed Jackrabbit needs to be included as a species in the Wash Plan. Very little data are available regarding the status of this subspecies in Wash Plan. The San Diego black-tailed jackrabbit is a prime candidate for additional, focused surveys Project Area. The black-tailed jackrabbit is found only in open or semi-open country such as grasslands and *very sparse* coastal scrub. The Wash Plan needs to further analyze the impacts to this species and present a conservation analysis because it is known to occur in the Project Area (pg. 4.4-13).

M-23

e. Loggerhead Shrike

The Loggerhead Shrike needs to be included as a species in the Wash Plan. The DEIR indicates that one of three known locations of this species will be impacted by mining expansion. Another may be affected by “straightening” Greenspot road. Very little data are available regarding the status of this subspecies in Wash Plan. The Wash Plan needs to further analyze the impacts to this species and present a conservation analysis because it is known to occur in the Project Area (pg. 4.4-12).

M-24

f. Northwestern San Diego Pocket Mouse and San Diego Desert Woodrat

These two species are known to occur in the project area (pg. 4.4-12 and 4.4-13 respectively), but no information is included about the species. The Wash Plan needs to further analyze the impacts to these species and present a conservation analysis.

M-25

g. Cooper’s Hawk

The Cooper’s hawk is known to forage within the Plan Area (pg 4.4-10), but no other information is included about this species. The Wash Plan needs to further analyze the impacts to this species and present a conservation analysis

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h. Coastal Western Whiptail and Northern Red-diamond Rattlesnake

These two species were assessed to have high to moderate (respectively) potential to occur on site. Further surveys need to be done to evaluate their presence onsite. Then the Wash Plan needs to further analyze the impacts to these species and present a conservation analysis.

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6. *Habitat Enhancement Plan*

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The Habitat Enhancement Plan that is so heavily relied upon in all Mitigation Measures 1-16 (pgs 4.4-29 through 4.4-30) needs to be included in the next draft of the Wash Plan. Because every mitigation measure relies upon this plan, the absence of the plan itself makes it impossible to determine if, in fact, the mitigation measures will be adequate. Deferring true mitigation to some unwritten plan is a recipe for disaster, and certainly fails to comply with CEQA and the ESA.

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In addition, the Habitat *Enhancement* Plan [emphasis added] is Orwellian in that, rather than enhancing habitat, it actually allows for a 10-15% decrease in every existing native plant community. Enhancement is defined as “alteration of a site for improvement of a specific value” (SERCAL 1992). A decrease in native plant communities is not an improvement, but a degradation of the existing resources. Scientifically justifiable evidence needs to be provided as to why a decrease in native plant communities would ever be allowed in the conservation areas.

M-29

Bio-16, which requires quarterly trash clearance, is exemplary in how the mitigation measures miss the mark on effectiveness of protecting the resources. While we support trash pick-up, a priority should instead be placed on absolutely prohibiting trash dumping together with effective enforcement of this prohibition. The Wash Plan should have adequate funding to engage full-time law enforcement rangers to patrol and enforce environmental protection and ensure that resources are not being damage from trash, off-road vehicles and other human-caused degradation. The naturally occurring ecosystem of the Santa Ana River Wash is unlikely to increase in size, and it is already a small reserve. The smaller the reserve the greater active management is required to keep the system functioning (Noss et al. 1997). Therefore, significant resources and funding should be put in place to assure preserve level protection.

M-30

7. *Biological Monitoring*

The only surveys included in the Wash Plan are for non-native plants and animals (Bio-9). While we support these surveys, additional surveys of other resources, including plant communities and covered species, need to be a key component in the Wash Plan. Absent monitoring surveys, potential declines in populations would not be noted, and would not comply with HCP regulations. The Wash Plan needs to have regularly scheduled monitoring (quarterly, annually, etc.) to be able to evaluate changes in the resources over short as well as longer time frames. Changes can be quickly identified and should result in immediate adjustments of permit conditions if populations are doing worse than expected.

M-31

8. *Slender-horned Spineflower Enhancement and Relocation Plan (SLERP)*

The Wash Plan is very premature in including the Draft SLERP as a mitigation measure (Bio-18). The DEIR fails to clarify why a previous mitigation and transplantaion site for the spineflower is required to be moved. It is unacceptable that success for this mitigation is defined as the fact that “the SLERP has effectively transplanted or relocated all members (or a sufficient number as determined by USFWS) of the slender-horned spineflower from the SLERP area, or

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the USFWS determines the SLERP ineffective and abandons the program.” If the SLERP is ineffective, it is not a mitigation measure, and certainly not a basis for deeming mitigation successful. No assurances are provided as to what a sufficient number of transplants or relocated spineflowers are. These short-comings render this “mitigation measure” unenforceable and ineffective.

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**B. The HCP Must Minimize and Mitigate the Impact of Takings to the Maximum Extent Practicable**

The proposed Wash Plan specifies that the proposed project’s goal is “to balance the ground-disturbing activities of aggregate mining, water conservation, and other public services, including recreational activities; with quality, natural habitat for endangered, threatened, and sensitive species.” Unfortunately it does not provide full mitigation under CEQA, ESA, and CESA for impacts to species and their habitats. The proposed reserve represents an inadequate mitigation of only 1.5 acres of conservation for every acre impacted by projects in this very rare ecosystem type that supports four federally and state listed species. Despite this severe and obvious net loss of habitat, the proposed Wash Plan provides no substantiation that the proposed reserve is sufficient in amount or habitat type to protect and recover covered species.

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The MSHCP proposes to add only 732 acres of conserved habitat to existing protected years over an unspecified amount of time. This is an inadequate amount and is far less than would be conserved in the absence of the proposed Wash Plan, were mitigation measures prescribed on a project-by-project basis under the current system. The reserve size must be increased dramatically as well as protect 100% of unique or rare habitat areas. Furthermore, there must be more analysis and commitment to restoration. Under no circumstances must the discretion of agencies to require mitigation for impacts to biological resources, or the ability of interested individuals and entities to challenge such determinations under CEQA and NEPA, be curtailed.

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*1. Select a Reserve Configuration and Size that Minimizes and Mitigates Impacts to Listed Species to the Maximum Extent Practicable*

In approving an incidental take permit for the plan, the Fish and Wildlife Service must find that the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking. 16 U.S.C. § 1539(a)(2)(B). Section 15021 of CEQA states that a public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant environmental effects of the project. The Council on Environmental Quality, which wrote the NEPA regulations, describes the alternatives requirement as the “heart” of the environmental impact statement. 40 C.F.R. § 1502.14. The purpose of this requirement is to insist that no major federal project should be undertaken without intense consideration of other more ecologically sound courses of action, including no action. “The existence of a viable but unexamined alternative renders an environmental impact statement inadequate.” *Alaska Wilderness Recreation & Tourism v.*

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*Morrison*, 67 F.3d 723, 729 (9th Cir. 1995). The EIS must “[r]igorously explore and objectively evaluate all reasonable alternatives” to a proposed action. 40 CFR § 1502.14(a) (emphasis added). See *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1310 (9th Cir. 1990).

Alternative 4: Reduced Mining Production Rate and Proposed Quarry Alternative was impermissibly rejected without sufficient evidence that the alternative is, in fact, infeasible. Also the range of reasonable alternatives was not adequate. For instance the Alternative 4, which would have greater benefits to conservation, simply reduced the acres of mining, but did not reduce water use or road impacts. Alternatives that include these impact reductions are feasible and should also be evaluated.

M-35

2. *Ensure that Project Design and Mitigation Protect Critical Habitat and Result in the Conservation and Recovery of Covered Species*

The USFWS is required to designate areas “essential to the conservation of a given species and that may require special management considerations or protection” as critical habitat under the ESA. 50 C.F.R. § 424.12(b). Conservation is defined as measures to be taken to bring the species to the point where they do not need ESA protections. Critical habitat designation provides vital additional protections to listed species, including but not limited to an absolute prohibition against “adverse modification” of critical habitat by federal agency activities. The designation of critical habitat is one of the lynchpins of the ESA.

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The Wash Plan’s proposed approach to critical habitat designation is unacceptable. As discussed above in the section on the San Bernardino Kangaroo Rat, the analysis of impacts to its currently designated critical habitat is fatally flawed. Furthermore, any assurances that the USFWS intends to give with respect to critical habitat are unlawful. An HCP, especially an HCP as fundamentally flawed as the Wash Plan, cannot substitute for designation of critical habitat and the full enforcement of its protections. It is unlawful for the USFWS to consider amending current critical habitat designations by deleting areas within the proposed Wash Plan. The USFWS has been repeatedly chastised by the courts for its failure to properly implement the critical habitat provisions set forth by Congress.

**C. The Wash Plan Must Specify All Harmful Effects of the Proposed Action**

The Wash Plan must specify any harmful effects of the proposed action in order to meet the requirements of the ESA (10(a)(2)(a)(i)), CESA, and CEQA. Without a full analysis of all effects of a proposed action, any choice among alternatives and mitigation measures is uninformed. The Wash Plan must include comprehensive analyses of edge effects, such as urban versus agricultural matrix, domestic pets, roads and trails (current within the proposed Conservation Area, and new roads throughout the Planning Area), and increased air and noise pollution on the plants and animals in the Plan Area. Such harmful effects will negatively affect the recovery and survival of covered species and are not mentioned in the species accounts. The proposed Wash Plan discusses reserve configuration to a great extent, but does not analyze in

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detail these harmful edge effects. More detailed edge analyses should be conducted on a species-specific basis; otherwise the MSHCP is simply paying lip service to key complex ecological concepts.

M-37

The following concepts should be more thoroughly analyzed for each species.

1. *Habitat Fragmentation*

Habitat fragmentation affects numerous ecological process across multiple spatial and temporal scales, including changes in abiotic regimes, shifts in habitat use, altered population dynamics, and changes in species compositions (Schweiger et al. 2000). Patch size has been identified as a major feature influencing the plant and small mammal communities, and native rodent populations are vulnerable to collapse in habitat fragments. The composition, diversity, and spatial configuration of patch types, distances from sources, edge-to-area ratios, and ecotonal features may also structure the plant and small mammal communities. The vagility of small mammals and the role of dispersal in their ecology suggest that factors determining long-term small mammal population dynamics could include patch size (Schweiger et al. 2000). Bolger et al. (1997) found that canyon coastal sage scrub and chaparral fragments under about 60 acres in San Diego County that had been isolated for at least 30 years supported very few populations of native rodents. More detailed species-specific analyses on patch size is needed in the conservation analyses.

M-38

Habitat fragmentation can also increase impacts on rodent predators. Housecats, coyotes, striped skunks, opossums, great-horned owls, and red-tailed hawks are as abundant or more abundant in fragments than in unfragmented habitat (Bolger et al. 1997)

2. *Edge Effects:*

a. The Reserve Matrix

Edge effects are different based on the matrix surrounding reserves as well as the extent of roads and recreational trails within reserves, and vary by target species. Edge effects in this HCP must be analyzed separately for the urban and agricultural matrix. Surrounding matrix can serve as a buffer against encroaching edge effects and other negative factors, and isolation effects along corridors can be offset by having surrounding habitat similar to that found within corridors (Perault and Lomolino 2000). For example, studies of white-footed mice document that only males passed through matrix surrounding woodlots, so the presence of some individuals in a patch may not be equivalent to the presence of a self-sustaining populations (Szacki 1999). Szacki (1999) points out that for several months in a year fields constituting matrix provide plenty of food as well as some cover for small mammals, and that they may be motivated to undertake the risk of visiting fields. *Id.* However, it is far less likely that small mammals can move through an urban matrix (Bolger et al. 1997). Burrowing owls use agricultural lands extensively for foraging. Impacts to the burrowing owl include the conversion of agricultural

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land to community development, particularly surrounding the Plan Area. Rosenberg et al. (1997) suggested that increasing the size of a reserve or the permeability of the matrix may increase population viability of a species more than adding corridors as distinct linear elements.

The same edge can evoke different kinds of effects with different species (Joppa et al. 2008). No species-specific analysis was offered in the proposed Wash Plan on the type of edge that each covered species might experience in the Conservation Area, and whether the matrix will provide some measure of permeability. The level of connectivity needed to maintain a population will vary with the demography of the population, including population size, survival and birth rates, and genetic factors such as the level of inbreeding and genetic variance (Rosenberg et al. 1997). These factors must be obtained to be able to conduct any reasonable analyses of the viability of populations of covered species in the proposed reserve.

M-39

b. Domestic Pets

The proposed Wash Plan does not adequately analyze the negative effects of domestic pets on covered species. Unfortunately, this problem is far more insidious and difficult to mitigate to a non-significant effect.

Domestic dogs should not be allowed in the conservation areas in order to reduce impacts to the rare species that are present. Strict enforcement will be required.

Adjacent housing should be required to keep their cats indoors. A survey of cat owners living along the rims of steep-sided canyons in San Diego – isolated fragments of habitat with many endemic species – estimated that all the domestic cats living along the rim of one moderately-sized canyon return about 840 rodents, 525 birds, and 595 lizards to residences each year (American Bird Conservancy). The study also found that in small canyons where coyotes were absent, there was an increase in mid-sized predators such as cats, raccoons, and opossum, and a drastic decline in diversity, and in some cases elimination, of scrub-breeding birds such as cactus wrens and California gnatcatchers, while in larger canyons where coyotes were still present, scrub-breeding birds were also seen. The American Bird Conservancy notes that domestic cat predation is critical for federally endangered species such as the California gnatcatcher, the Pacific pocket mouse, and Stephens' kangaroo rat.

M-40

Not only do cats prey on many small mammals and birds, but they can outnumber and out-compete native predators. When present in large numbers, cats can reduce the availability of prey for native predators, such as hawks and weasels (Ehrlinge et al. 1984).

However, they differ from wild predators in three important ways: First, people protect cats from disease, predation and competition, factors that can control numbers of wild predators, such as bobcats, foxes, or coyotes. Second, they often have a dependable supply of supplemental food provided by humans and are, therefore, not influenced by changes in populations of prey. Whereas populations of native predators will decline when prey becomes scarce, cats receiving

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food subsidies from people remain abundant and continue to hunt even rare prey. Third, unlike many native predators, cat densities are either poorly limited or not limited by territoriality. Finally, free-ranging domestic cats can transmit new diseases to wild animals. For example, domestic cats have spread feline leukemia virus to mountain lions (Coleman et al. 1997).

M-40

c. Roads

Vehicles release a variety of pollutants, including oil and gas, ozone precursors, nitrogen oxides, particulate matter, carbon dioxide, carbon monoxide, and heavy metals (such as lead, zinc, and cadmium), all of which may have serious cumulative effects on the surrounding environment. Detectable amounts of toxic compounds have been shown to increase with traffic volume and concentrate in vegetation and soils adjacent to the road (Lode 2000).

Road-specific organic pollutants include compounds extractable with petroleum ether or carbon tetrachloride, some volatile aliphatic and aromatic hydrocarbons, polycyclic aromatic hydrocarbons, phenols, anionic surfactants, and total cyanides. Inorganic substances from roads spread farther underground than organic substances. Chemical analyses of roadside Sphagnum moss bogs in New Brunswick, Canada showed that concentrations of the inorganic elements aluminum, chromium, iron, lanthanum, nickel, scandium, samarium, and vanadium decrease logarithmically away from the road to a distance of 200 meters, or 667 feet (Santelmann and Gorham 1988). The Wash plan has failed to consider the increase in traffic from road expansion and its effects on the conservation areas.

M-41

Noise pollution from vehicles has been found to significantly impact wildlife populations adjacent to roads. Studies by Reijnen and others in the Netherlands showed strongly reduced densities of many avian species in woodland and grassy habitats adjacent to busy roads. Declining densities were attributed to decreased habitat quality, and traffic noise was probably the most important factor (Reijnen et al. 1997). One study of 43 bird species in coniferous and deciduous woodlands determined that 26 species (60%) showed reduced densities adjacent to roads due to noise levels (Reijnen et al. 1995). Another study reported 7 of 12 grassland species with reduced densities next to a road (Reijnen et al. 1996). A 3-year analysis of 23 species showed that 17 species had a reduced density close to the road in at least 1 year, and concluded that in years with a high overall population size, the use of density as an indicator of habitat quality might seriously underestimate the decline in habitat quality close to roads (Reijnen and Foppen 1995). Disturbance from vehicles has also been correlated with unnecessary expenditure of energy in flight. Reijnen et al. (1997) noted that the effects of noise disturbance by traffic on wildlife have rarely been considered in planning and managing road corridors. Even recreational trails can influence species compositions and densities of wildlife. Three grassland bird species in the Boulder, Colorado (Western meadowlark, vesper sparrow, and grasshopper sparrow) were less abundant along trails than interior habitats (Miller et al. 1998).

3. *Global Climate Change*

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The Wash Plan fails to consider the impacts of global climate change. Over the past 100 years, the global average temperature has increased by approximately 0.6 degrees C and is projected to continue to rise at a rapid rate (Root et al. 2003). This global warming trend will cause glacial retreat, thinning of permafrost, change in plant communities, and an increase in the intensity and frequency of hurricanes, fires, and floods (Shafer 2001). The impacts of global climate change are already evident in some plant and animal populations. A meta-analysis species distribution and global warming from 143 studies found that more than 80 percent of the species that show changes are shifting in the direction of expected on the basis of known physiological constraints of the species. (Root et al. 2003). The result could be numerous extirpations and extinctions. The proposed Wash Plan ignores the potential impact of take in the context of global climate change. An analysis of the interplay between global climate change and the impact to species and their habitats is simply lacking in the Wash Plan.

M-42

**II. THE WASH PLAN MUST ENSURE ADEQUATE FUNDING TO CARRY OUT THE HCP**

The Wash Plan has not demonstrated that “the applicant will ensure that adequate funding for the plan will be provided.” 16 U.S.C. 1539(a)(2)(B)(iii) (emphasis added); see also Cal. Fish & Game Code § 2080. Assured funding is critical to the success of the conservation strategy and is a mandatory requirement of any HCP. See, e.g., *National Wildlife Federation v. Babbitt*, 128 F.Supp.2d 1274 (E.D.Cal. 2000).

As a preliminary matter, the draft Wash Plan does not clearly delineate and specify all funding needs for implementation of the plan, including but not limited to costs associated with adaptive management for the reserves and covered species, and scientific and compliance monitoring, law enforcement and other activities. Only with this baseline information can the Wash Plan accurately calculate and assure the amount of funding necessary to carry out the necessary measures for the life of the permit. The Wash Plan must ensure sufficient funding for all agencies (whether local, state, or federal) with implementation responsibilities related to the Conservation Area.

M-43

A glaring flaw in the Wash Plan is the lack of a fund, trust or endowment earmarked for the maintaining of mitigation lands to ensure that under no circumstances will there be insufficient funds to maintain mitigation lands required under the HCP. Funding without an identified source is an exercise in speculation.

**III. The WASH PLAN EIR MUST COMPLY WITH ALL REQUIREMENTS OF CEQA AND THEIR IMPLEMENTING REGULATIONS**

The above comments highlight the failure of the proposed Wash Plan to adequately ensure protection of species and conservation of habitat. The above sections reveal not only the failure of the environmental review documents to comply with the federal and state ESA, but also the (1) lack of adequate baseline environmental data; (2) lack of use of best available

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scientific and other data; (3) lack of a reasonable range of alternatives and sufficient alternatives analysis; (4) lack of detailed analysis of significant direct, indirect, and cumulative impacts (and adequate explanation for why other impacts are considered insignificant); (5) lack of adequate analysis of irreversible significant environmental effects that cannot be avoided if the project is implemented; (6) lack of analysis and adoption of sufficient mitigation measures to reduce the impacts to less than significant levels (or that mitigations and alternatives identified in the EIS/EIR are infeasible and the unmitigated effects are outweighed by the project’s benefits); and (7) basic inadequacy of mitigation under CEQA.

M-44

The Draft Wash Plan is also inadequate under CEQA a for the above-listed reasons for a host of additional environmental impacts, including but not limited to (1) air quality impacts; (2) traffic and circulation impacts; (3) water quality and quantity impacts; (4) loss of open space; (5) aesthetic impacts; and (6) cumulative impacts of past, present, and reasonably foreseeable activities.

M-45

**IV. THE WASH PLAN FAILS TO COMPLY WITH POLICIES AND REGULATIONS**

The Wash Plan fails to comply with both the City of Highland and the City of Redlands General Plans.

The City of Highland’s General Plan has the following goal and policies: “5.7.1 Maintain, protect, and preserve biologically significant habitats, including riparian areas, woodlands and other areas of natural significance. Policy 2 Ensure that all development, including roads proposed adjacent to riparian and other biologically sensitive habitat, avoid significant impacts to such areas. Policy 3 Require that new development proposed in such locations be designed to: • Minimize or eliminate the potential for unauthorized entry into the sensitive area;... • Protect wildlife crossings and corridors.” (pg.4.4-17). The Wash Plan as proposed allows for development in biologically significant habitats, including federally designated Critical Habitat for the San Bernardino Kangaroo Rat. It also would allow for significant impacts to occur to the areas and does not protect all existing wildlife corridors.

M-46

The City of Redlands’ General Plan has the following policy: “Policy 7.21a Minimize disruption of wildlife and valued habitat throughout the Planning Area [meaning the City of Redlands area and its sphere of influence]. Policy 7.21b Preserve, protect, and enhance natural communities of special status.” (pg.4.4-17). The proposed Wash Plan will disrupt wildlife and valued habitat in the Plan Areas, and will allow for increased development in natural communities of special status, in direct conflict with the City of Redlands General Plan.

M-47

**V. THE WASH PLAN FAILS TO CONSIDER OTHER PLANNING EFFORTS OCCURING WITHIN THE PLAN AREA**

The Wash Plan fails to mention much less analyze how it fits in with another planning process – the Army Corps of Engineers (Corps)’ Multiple Species Habitat Management Plan (MSHMP).

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The MSHMP overlays a substantial section of the Plan Area and is required as mitigation for the Seven Oaks Dam project. In addition to that, the Wash Plan fails to analyze how it fits in with the Woolly Star Preservation Area (WSPA) that the Corps has established. In addition, other current processes include the Environmental Impact Statement process that the Corps has scoped for water quality issues in the Santa Ana River from the installation of the Seven Oaks Dam, as well as the current scoping process of the Corps for changes to the water management behind Seven Oaks Dam in support of habitat renewal for the Woolly Star.

M-48

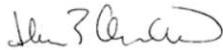
VI. CONCLUSION

In sum, we urge the following changes to the proposed Wash Plan to ensure a biologically adequate plan while still allowing for housing and infrastructure needs to be met:

- 1) Identify the list of covered species;
- 2) Identify the timeframe over which the Wash Plan will be functioning as an HCP;
- 3) Conduct additional biological surveys within areas of data gaps to determine for species;
- 4) Omit species from the list of covered species if fully protected under state law;
- 5) Increase the acreage of lands included in the proposed reserve to the maximum extent practicable;
- 6) Ensure and implement effective mitigation ratios to mitigate for proposed projects;
- 7) Ensure and implement effective mitigation measures;
- 8) Address all issues that will affect the success of conservation in the Plan Area;
- 9) Ensure adequate funding of the Wash Plan; and
- 10) Analyze how the Wash Plan integrates with other policies, regulations and plans;

M-49

Thank you for your consideration of these comments. If you have any questions related to these comments please contact Ileene Anderson at 323-654-5943 or [ianderson@biologicaldiversity.org](mailto:ianderson@biologicaldiversity.org)  
Sincerely,

  
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/s/  
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## RESPONSE TO COMMENT LETTER M

### Center for Biological Diversity (CBD)

**Response to Comment M-1.** The commenter's opinion regarding multi-species plans is noted. With regard to the current description ("draft") of the Wash Plan, the Conservation District believes that the Plan itself provides a comprehensive approach to resolving the various interests within the Upper Santa Ana Wash. The District views the plan as an innovative approach to consolidating mining and water conservation land uses into a more compact configuration that produces a positive net gain in habitat conserved within the Wash Plan Area, and at the same time, preserving vital land uses into the future. The rearranged land uses that will result from the exchange of lands between the Conservation District and the Bureau of Land Management (approximately 320 acres of District land for 315 acres of Federal land) and between Robertson's Ready-mix and the San Bernardino County Flood Control District (approximately 47 acres of Robertson's property for approximately 20 acres of Flood Control District property) will produce three distinct land uses that provide an optimum arrangement of activities and habitat conservation within the Wash Plan Area. Habitat conservation will benefit significantly by reducing the habitat fragmentation that currently exists due to the existing ownership pattern and the associated land uses. The resulting ownership and land use pattern created by implementing the Wash Plan will assemble mining activity in the westerly portion of the Plan Area, water conservation activity in the easterly portion of the Plan Area, and habitat conservation in the central part of the Plan Area. The Wash Plan will commit all of Section 12, in the center of the Wash Plan Area, to habitat conservation thereby linking the Plunge Creek drainage habitat conservation area (including Unit 5 of the WSPA in the north) with WSPA Units 2, 3, and 4 to the south along the Santa Ana River. The connection, created by dedicating Section 12 to habitat conservation, will provide an uninterrupted corridor for wildlife movement and linkage for biodiversity between the two areas of concentrated endangered species occupation.

Furthermore, with regard to the mitigation included in the Draft EIR, the measures mitigate impacts from land-disturbing activities included in the Plan by ensuring the preservation and management of dedicated habitat areas. The Wash Plan will provide a greater level of habitat conservation than currently exists by implementing the proposed HEP as a key element of the HCP that is being prepared to obtain incidental take authorization from the USFWS and the CDFG for land disturbance within the mining and water conservation areas. Through the HEP's habitat management measures brought forward by **Mitigation Measures BIO-1** through **BIO-16**, stewardship of the habitat conservation lands will be provided, thereby resulting in long-term preservation of higher value habitat.

**Response to Comment M-2.** The Wash Plan EIR is the first step in a series of environmental reviews for various actions required to implement the Wash Plan. The process for the development of the Wash Plan, its goals and objectives, and the project-specific components of the Wash Plan are in the Project Description, Section 3.0, pages 3-1 through 3-7. Table 3.7.2 on page 3-91 describes the permits and other approvals that will be required to fully implement the plan. Furthermore, Section 3.7.3 on page 3-94 describes the additional environmental reviews and actions required by the participating Federal agencies in the Wash Plan Taskforce to effect the plan. The Wash Plan process involves three components and three corresponding environmental review processes consisting of the following: 1) a Wash Plan project (the project description described in Chapter 3 of the Draft EIR – previously the Concept Plan developed by the Wash Plan Committee); 2) a land exchange with the BLM; and 3) a formal HCP that must be prepared pursuant to the FESA. The Wash Plan EIR provides compliance with CEQA by providing project-level review for certain activities and program-level review of other activities as described in Section 4.0 of the DEIR. The BLM land exchange requires compliance with NEPA and an EIS will be used to meet NEPA requirements. A formal HCP must be prepared to obtain an Incidental Take Permit (Section 10(a)(1)(B) permit) from the USFWS with a Section 2080.1 concurrence review by the CDFG. The HCP is also subject to NEPA compliance and will have an Environmental Assessment prepared. These actions will occur in a logical sequence that allows for public review and comment at each step. The DEIR is the first step that provides mitigation required for the actions that are subject to CEQA, but the document also lays

out the measures that will be incorporated and amended or enhanced as required by the respective Federal Lead Agency for the second and third steps in the process. Mitigation implementation and assurances will contain a commensurate level of detail to satisfy each succeeding step, including a Record of Decision for the land exchange by the BLM and the approval of the HCP by the USFWS and CDFG and issuance of a Section 10a permit by the USFWS and concurrence review by the CDFG. Adequacy of mitigation and funding assurances are an integral part of the HCP process and must satisfy the requirements of the USFWS and CDFG.

With regard to the comments regarding survey information and data for analysis of impacts to endangered species, the District had a final Biological Technical Report (BTR) prepared for the Final EIR in response to comments by the Center and other commenters. The BTR provides additional information regarding survey information and data regarding species occurrences within the Wash Plan Area. The BTR also provides an enhanced analysis of impacts and provides an assessment of the net gain/loss of habitat that would occur as a result of Wash Plan implementation. The commenter is referred to the BTR for a comprehensive description of the existing biological conditions and the future conditions with project implementation. The BTR will be referred to extensively throughout this response to the CBD comment letter.

**Response to Comment M-3.** See response M-2 for an explanation of the sequence of the EIR and the EIS associated with the full and complete Wash Plan project review process. As noted in Response M-2, the manner in which lands were assigned the proposed land use and ownership for project implementation is described in Section 3.0 of the DEIR, specifically see pages 3-1 through 3-6. Also, see the document titled “A Guide for Land Use –Synopsis of the Upper Santa Ana River Wash and Land Management and Habitat Conservation Plan,” which was provided to the public along with the CD-ROM containing the DEIR for history and background relative to the development of the Wash Plan. With regard to funding and expenditures related to Wash Plan implementation, the HCP process requires that funding be fully addressed and the Section 10a permit issuance procedures require an Implementation Agreement that sets forth specific conditions for compliance with the HCP, including management measures and funding to accomplish those measures. For CEQA purposes, these subsequent provisions required by the Section 10a permit process serve as performance standards, relative to the DEIR mitigation, that the District must adhere to for satisfactory performance of its obligations under the Implementing Agreement. With regard to the adequacy of alternatives considered in the DEIR, the District believes that a reasonable range of alternatives to the proposed project has been displayed and analyzed in the DEIR. The commenter is directed to Section 6.0 of the DEIR, pages 6-1 to 6-18, for a full explanation of the rationale used in selecting viable alternatives that satisfy the requirements of CEQA while, at the same time, being capable of meeting the project’s objectives. While an alternative titled “Modified Reserve Design” was not so named in the DEIR, various alternatives that were evaluated in detail contain elements of expanded or contracted habitat conservation designation. See Table 6.A – Alternatives Matrix and the narrative impact analysis contained on pages 6-19 through 6-40.

**Response to Comment M-4.** The EIR is a precursor to the HCP. The District intends to implement measures as a part of the HCP that will ensure the survival of and contribute to the recovery of listed species. No changes to the EIR are required. As part of the companion environmental document that will accompany the HCP, analysis of the Wash Plan’s impacts to covered species and the potential for incidental take will be addressed.

The Wash Plan Draft EIR adequately explores a reasonable range of project alternative, including a no-project alternative as required by CEQA. The range of alternatives analyzed in the EIR need only include those alternatives that meet most of the primary objectives of the project. As stated in response M-3, analysis of project alternatives is included in Chapter 6.0 of the Draft EIR.

**Response to Comment M-5.** As discussed in response M-2, the HCP is the last component of the Wash Plan in the sequence of plans and environmental reviews to be conducted in order to implement the plan. It is premature to examine the standards and procedures for approval of an HCP and a Section 10a permit. These requirements of the Section 10(a)(1)(B) permit process are very rigorous and highly technical. The requirements will be examined when the HCP is presented to the USFWS for evaluation. The DEIR provides mitigation consistent with the requirements of CEQA for the actions listed in Table 3.1 – Actions with the Planning Area Covered by the EIR, page 3-92. The biological mitigation measures are intended to be carried forward in the HCP and amended or enhanced as required by the USFWS and CDFG for the third step in the process. As noted above, the mitigation that appears in the DEIR serves as performance standards that the District must adhere to for satisfactory performance of its obligations under the Implementing Agreement.

**Response to Comment M-6.** The Wash Plan was drafted with consideration of the requirements of the State and Federal Endangered Species Acts. A supplemental BTR for the Upper Santa Ana River Wash Plan has been prepared by Dudek (October 2008) and will be included in the Final EIR as Appendix M. The BTR provides supplemental analysis of impacts to special-status species and their habitats. Table 13 provides a summary of the percentage of suitable habitat for each special-status species listed in Table 4.4.A of the Draft EIR that would be conserved, or preserved, on-site inclusive of the entire Wash Plan Area. Table 14 provides a summary of the percent of suitable habitat for each special-status species that would be affected within the major areas of project impact (i.e., mining, roads and highways, flood control, water conservation, and undesignated/public and semi-public lands). Table 15 presents a gain/loss analysis of the critical vegetation types within the Wash Plan area and Table 16 presents a gain/loss analysis of the critical vegetation types for each of the special-status species within the Wash Plan area.

The HCP as presently planned will, at a minimum, include take authorization for the Federal and State listed species that are known to occur within the Wash Plan Area. Unlisted additional species will be elevated when the HCP is prepared. The HCP will be completed as the last step in obtaining the necessary approvals for the project. The Section 10a permitting procedures limit the USFWS authority to only those species that are formally listed by the FESA; however, an HCP may address conservation measures for unlisted species if the permit applicant seeks pre-listing assurances for the subject species. The extent of conservation that may be required for unlisted species becomes an issue of cost-effectiveness and likelihood of formal listing during the permit period. These unlisted species will be evaluated at the time of HCP preparation. The unlisted species listed in Table 4.4.A and in the BTR are evaluated in the context of rare species pursuant to CEQA review requirements.

**Response to Comment M-7.** As previously stated, the HCP has not been drafted at this point. The Concept Plan anticipated a 60-year Section 10a permit length based on the amount of aggregate reserves available for mining and the rate of mining activity to exhaust the reserves. However, several factors will affect the actual permit length for which the District ultimately seeks approval. A reasonable minimum permit length would be 30 years due to the level of effort and cost associated with pursuing such authorizations. In spite of this range of permit duration, the actual permit length will ultimately be evaluated in the HCP and attendant NEPA analysis. The CEQA analysis required for the EIR is limited to the level of detail that is available at the time the NOP is distributed. The detail regarding permit length was not specified at that time. No changes to the EIR are required.

**Response to Comment M-8.** The Draft EIR has been revised to identify the numerous technical biological studies that contributed various biological data used in the analysis of the Draft EIR. The supplemental BTR incorporates data from numerous other biological technical studies. Table 1 in the BTR lists the numerous surveys that have been conducted in the Wash Plan area. It is important to note that the supplemental analysis provided in the BTR and referred to in these responses to comments does not change the conclusions identified in the Draft EIR.

**Response to Comment M-9.** As stated in response M-6, “covered species” will be designated when the future HCP is prepared. The BTR provides an evaluation of habitat suitability and occurrence data for each of the species analyzed in the Draft EIR. Additional detail is provided in the BTR for species that were considered, through consultation with USFWS and CDFG staff, to be those species most likely to be threatened by the various activities in the project area. To clarify comments made regarding the Santa Ana speckled dace, Table 6 of the BTR indicates that Santa Ana speckled dace was previously identified as present in the Wash Plan area, but the location corresponding to that reported occurrence has since been developed. Although Santa Ana speckled dace is likely to occur at other locations in the vicinity of the Wash Plan Area, this fish species is now likely extirpated from the Wash Plan Area. The EIR and BTR continue to show the location of the occurrence only as a historic occurrence.

**Response to Comment M-10.** As stated on page 4.4-27 of the Draft EIR, impacts to the 24 special status species listed on pages 4.4-24 and 27 were not considered to be significant. “Because these species are not listed as endangered or threatened and because the project will not affect a large quantity of high quality habitat remaining for the species, impacts ... to these species are considered less than significant and no mitigation is required.” As stated in responses M-6 and M-9, the BTR provides an evaluation of habitat suitability and occurrence data for each of the species analyzed in the Draft EIR.

The supplemental analysis within the BTR concludes that impacts to the 24 special status species listed in the Draft EIR are less than significant. As stated in Table 4.4.A of the EIR, the white-tailed kite has a low probability of occurrence within the Wash Plan. Based on the habitat analysis contained in the BTR summarized in Table 16, the Wash Plan will result in a net gain of suitable habitat for this species and thus will adequately conserve it.

**Response to Comment M-11.** Mitigation in the form of habitat conservation includes 1) designation of habitat conservation lands, 2) long-term management through implementation of the Habitat Enhancement Plan (HEP), and 3) establishment of a preferred preserve configuration. These three factors provide a mosaic of habitat types supporting multiple special-status species. The revised BTR includes the calculation of mitigation ratios derived from a comparison of net change in habitat conservation and impacts resulting from the project. This evaluation concludes that the overall project achieves a 1.7:1 mitigation to impact ratio. However, the evaluation of adequate mitigation, takes into account not only the acreage of impact compared with the acreage of conservation, but the benefits to existing conservation lands from the improvement of overall habitat preserve configuration and the implementation of a long-term management plan. These factors considered as a whole, adequately mitigate project impacts with respect to special-status vegetation communities and species by reducing impacts to a level which is less than significant.

**Response to Comment M-12.** Impacts to special-status plant species are addressed in Section 7.0 of the BTR. That impact analysis corroborates and is consistent with the conclusions identified in the Draft EIR.

With respect to Robinson’s pepper grass, the one known locality in Wash Plan Area dates to 1987 and is within the Phase 1 area of the potential future water conservation areas, which is also known as the Seven Oaks Dam Borrow Pit. This area has previously been disturbed and excavated to provide construction materials for the Seven Oaks Dam, starting in 1995. Therefore although the DEIR has identified this single location within the Phase 1 area, examination of the data indicates that the locality has been extirpated. Although there is no mapped occurrence of Robinson’s pepper grass, as indicated in Tables 13 and 16 of the revised BTR, the Wash Plan preserves 79 percent of the Robinson’s pepper grass habitat within the Wash Plan and provides a net increase in conserved habitat of 56 acres.

**Response to Comment M-13.** Concerns regarding measures to limit and deter impacts to the San Diego horned lizard and measures to control exotic Argentine ants are addressed in the BTR and will be incorporated into the long-term management and monitoring components of the agency-approved HEP. Page 191, Section 7.3.4 of the BTR (Habitat Enhancement Plan) included measures to control Argentine ants within the Habitat Conservation, Water Conservation, and Flood Control areas and within 300 feet of these areas within the Planning Area. Table 13 of the BTR indicates that 65 percent of the San Diego horned lizard habitat within the Wash Plan area will be preserved. Table 14 indicates that 36 percent of the suitable habitat for the San Diego horned lizard will be affected by project activities while Table 16 shows that 907 acres of suitable habitat will be gained.

**Response to Comment M-14.** The coastal cactus wren occurs in southern Orange County, western San Diego County, and Baja California. The mainland cactus wren is incorrectly identified and addressed in the BTR as the coastal cactus wren. It is important to note that the conclusions in the Draft EIR have not changed as a result. Regarding fire and domestic cats, measures to address these potential impacts will be incorporated into the long-term management and monitoring components of the agency-approved HEP. The coastal cactus wren does not occur in the Wash Plan; however, there are five mapped occurrences of mainland cactus wren within the Wash Plan. As indicated in Table 13 of the BTR, the Wash Plan preserves 57 percent of its habitat and two of the five mapped occurrence locations within the Wash Plan. Table 14 indicates that 35 percent of the suitable habitat for the mainland cactus wren will be affected by project activities while Table 16 shows that 674 acres of suitable habitat will be gained. It should be noted that the mainland cactus wren is not a species of concern.

**Response to Comment M-15.** The critical habitat designation for the San Bernardino kangaroo rat used in the analysis of the Draft EIR was not outdated as indicated by the commenter. The critical habitat designation was the most current available at the time of the Draft EIR submittal (i.e., March 25, 2008). There are 29 mapped occurrences of San Bernardino Kangaroo rat within the Wash Plan. As indicated in Table 13 of the BTR, the Wash Plan preserves 58 percent of its habitat and 16 of the 29 mapped occurrence locations within the Wash Plan. Table 14 indicates that 42 percent of the suitable habitat for the San Bernardino kangaroo rat will be affected by project activities while Table 16 shows that 464 acres of suitable habitat will be gained.

**Response to Comment M-16.** The Draft EIR and BTR adequately address potential impacts to the coastal California gnatcatcher. The HEP will address fire-response management measures and other potential impacts to the suitable habitat to be preserved for this species. There are five mapped occurrences of coastal California gnatcatcher within the Wash Plan. As indicated in Table 13 of the BTR, the Wash Plan preserves 65 percent of its habitat and four of the five mapped occurrence locations within the Wash Plan. Table 14 indicates that 36 percent of the suitable habitat for the coastal California gnatcatcher will be affected by project activities while Table 16 shows that 823 acres of suitable habitat will be gained.

**Response to Comment M-17.** Previous and current analysis and conclusions pertaining to the Los Angeles pocket mouse have been based on the best, most current species information available. The Draft EIR and BTR adequately address potential impacts to this species. There are seven mapped occurrences of Los Angeles pocket mouse within the Wash Plan. As indicated in Table 13 of the BTR, the Wash Plan preserves 58 percent of its habitat and five of the seven mapped occurrence locations within the Wash Plan. Table 14 indicates that 42 percent of the suitable habitat for the Los Angeles pocket mouse will be affected by project activities while Table 16 shows that 464 acres of suitable habitat will be gained. Page 190, Section 7.3.4 of the BTR (Habitat Enhancement Plan) includes measures to reduce impacts to this species within the Planning Area.

**Response to Comment M-18.** The literature review conducted for the BTR identified three localities of western spadefoot toad: two locations within the Seven Oaks Dam borrow pit and one within an existing recharge basin. The two locations within the borrow pit are considered extirpated. The location within an existing recharge basin would be unaffected by the project since that area will remain as designated water conservation. Overall, the proposed project proposes conservation of 65 percent of suitable habitat for the species (Table 13 of revised BTR) and provides 370 net additional acres of suitable habitat conserved (Table 16 of revised BTR). Proposed activities are not expected to result in a significant impact to the western spadefoot toad as indicated on page 4.4-27 of the Draft EIR. Furthermore, suitable habitat to be preserved for this species will allow the species to persist in the Wash Plan Area, as indicated in the BTR.

**Response to Comment M-19.** The impact analysis in the BTR specific to burrowing owl identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 64 percent of its habitat within the Wash Plan. Table 14 indicates that 36 percent of the suitable habitat for the burrowing owl will be affected due to project activities while Table 16 shows that 945 acres of suitable habitat will be gained. This supports the conclusion that impacts to burrowing owls would be considered less significant with the proposed mitigation incorporated as indicated on page 4.4-51 of the Draft EIR. Nevertheless, the HEP will address relocation efforts to occur within 75 meters of the original site, where possible, and as approved by the resource agencies.

**Response to Comment M-20.** The impact analysis in the revised BTR specific to Bell's sage sparrow identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 65 percent of its habitat and there are no mapped occurrences of the Bell's sage sparrow within the Wash Plan. Table 14 indicates that 35 percent of the suitable habitat for the Bell's sage sparrow will be affected due to project activities while Table 16 shows that 963 acres of suitable habitat will be gained. This supports the conclusion that impacts to Bell's sage sparrow are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-21.** The impact analysis in the BTR specific to Southern California rufous-crowned sparrow identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 64 percent of its habitat and four of the eight mapped occurrences within the Wash Plan. Table 14 indicates that 36 percent of the suitable habitat for the Southern California rufous-crowned sparrow will be affected due to project activities while Table 16 shows that 861 acres of suitable habitat will be gained. This supports the conclusion that impacts to Southern California rufous-crowned sparrow are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-22.** The impact analysis in the BTR specific to California horned lark identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 64 percent of its habitat and there are no mapped occurrences within the Wash Plan. Table 14 indicates that 41 percent of the suitable habitat for the California horned lark will be affected due to project activities while Table 16 shows that 583 acres of suitable habitat will be gained. This supports the conclusion that impacts to California horned lark are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-23.** The impact analysis in the BTR specific to San Diego black-tailed jackrabbit identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 60 percent of its habitat and there are no mapped

occurrences within the Wash Plan. Table 14 indicates that 40 percent of the suitable habitat for the San Diego black-tailed jackrabbit will be affected due to project activities while Table 16 shows that 638 acres of suitable habitat will be gained. This supports the conclusion that impacts to San Diego black-tailed jackrabbit are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-24.** The impact analysis in the BTR specific to loggerhead shrike identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 60 percent of its habitat and three of its six mapped occurrences within the Wash Plan. Table 14 indicates that 35 percent of the suitable habitat for the loggerhead shrike will be impacted due to project activities while Table 16 shows that 1,045 acres of suitable habitat will be gained. This supports the conclusion that impacts to loggerhead shrike are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-25.** The impact analyses in the BTR specific to San Diego desert woodrat and northwestern San Diego pocket mouse identify the preservation of sufficient suitable habitat to maintain these species. As indicated in Table 13 of the BTR, the Wash Plan preserves 81 percent of San Diego desert woodrat's potential habitat and 65 percent of the northwestern San Diego pocket mouse. There are no mapped occurrences of either species within the Wash Plan. Table 14 indicates that 19 percent and 35 percent of the suitable habitat for the northwestern San Diego pocket mouse and San Diego desert woodrat, respectively, will be impacted due to project activities while Table 16 shows that 963 acres and 211 acres of suitable habitat for the northwestern San Diego pocket mouse and San Diego desert woodrat, respectively, will be gained. This supports the conclusion that impacts to northwestern San Diego pocket mouse and San Diego desert woodrat are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-26.** As of February 2008, Cooper's hawk is no longer considered a California Species of Special Concern by the CDFG. Although still listed on CDFG Special Animals List, Cooper's hawk has no formal State or Federal designated status. Nevertheless, impact analysis in the BTR specific to this species identifies the preservation of sufficient suitable habitat to maintain this species. As indicated in Table 13 of the BTR, the Wash Plan preserves 64 percent of its habitat and there are no mapped occurrences of this species within the Wash Plan. Table 14 indicates that 36 percent of the suitable habitat for the Cooper's hawk will be affected due to project activities while Table 16 shows that 823 acres of suitable habitat will be gained. The conclusion that impacts to Cooper's hawk are not considered significant as indicated on page 4.4-27 of the Draft EIR is still valid.

**Response to Comment M-27.** The impact analyses in the BTR specific to coastal western whiptail and northern red-diamond rattlesnake identify the preservation of sufficient suitable habitat to maintain these species. As indicated in Table 13 of the BTR, the Wash Plan preserves 65 percent of the coastal western whiptail's habitat and 60 percent of the northern red-diamond rattlesnake's habitat. There are no mapped occurrences of either species within the Wash Plan. Table 14 indicates that 36 percent and 35 percent of the suitable habitat for the coastal western whiptail and northern red-diamond rattlesnake, respectively, will be affected by project activities while Table 16 shows that 907 acres and 1,008 acres of suitable habitat for the coastal western whiptail and northern red-diamond rattlesnake, respectively, will be gained. This supports the conclusion that impacts to coastal western whiptail and northern red-diamond rattlesnake are not considered significant as indicated on page 4.4-27 of the Draft EIR.

**Response to Comment M-28.** See responses M-4 and M-5. The commenter correctly notes that **Mitigation Measures BIO-1** through **BIO-16** form the basis for the HEP that will be produced by the District. As required by CEQA, all project activities will be required to comply with the measures

contained in the future HEP, which, in turn, will contain these specific habitat conservation measures. Because the mitigation measures are specified as part of this EIR, there is no deferral of mitigation. It is also worth noting that all project activities must await approval by the USFWS and CDFG of the ultimate HCP.

**Response to Comment M-29.** The EIR biological mitigation measures allow for fluctuation in habitat compositions within the conserved portions of the Wash Plan. These fluctuations do not include declines in habitat quality (such as through the establishment of exotic, invasive species), but rather successional stages between native habitat types (such as from mature to pioneer Riversidean alluvial fan sage scrub). The HEP includes standards for maintenance of habitat quality, such as the control of exotic, invasive species; however, additional adaptive management measures would be implemented according to the maximum allowable fluctuations in order to maintain a mosaic of habitat types in proportions necessary to support special-status species.

**Response to Comment M-30.** Trash dumping is currently prohibited in the Wash Plan area by the City of Redlands, the City of Highland, and the County of San Bernardino. Existing law enforcement personnel as part of their normal duties will check for illegal activities such as trash dumping and trespassing. The existing prohibition of trash dumping and law enforcement patrol in combination with **Mitigation Measures BIO-9** and **BIO-16** will ensure that preservation areas will remain in pristine condition. Additionally, the BTR (Section 7.3.4) includes measures to control access and periodic trash pickup.

**Response to Comment M-31.** The District agrees that biological monitoring is an integral part of a habitat management strategy and will include such monitoring in the HEP. It is worth noting that the HEP will serve as the template from which the HCP will be crafted. However, once the HCP is approved, it will supersede the HEP.

**Response to Comment M-32.** As discussed on page 4.4-34, the Slender-horned spineflower Enhancement and Relocation Plan (SLERP) is USFWS plan to enhance and relocate the slender-horned spineflower to maintain its integrity and viability within the Plan area. The SLERP will ultimately be folded into the HCP for the Wash Plan. As part of its issuance of a Section 10(a) incidental take permit, the USFWS is obligated to confirm that the District-prepared HCP will maintain the integrity and viability of the species. The CDFG will issue a California Endangered Species incidental take permit under Section 2081 of the CESA based on the HCP serving as the mitigation plan. The claim that the mitigation measure is ineffective has no merit.

**Response to Comment M-33.** The BTR quantifies the amount of suitable habitat preserved for each special-status species and evaluates the impacts to each species' habitat. Table 13 of the BTR identifies the percentages of suitable habitat that will be preserved for the special-status species within the Wash Plan area. Table 14 identifies the percent of suitable habitat that will be affected for the special-status species within the Wash Plan area. Table 16 identifies that quantity of habitat that will be gained for the special-status species within the Wash Plan area. The net outcome of the proposed project is expressed in the BTR in terms of *Gain*, *Loss*, and *No Change*. For most land uses that will change as a result of the project (Habitat Conservation, Aggregate Mining and Processing, and Roads and Highways), the calculation is a simple comparison of pre- and post-project acreages. For Water Conservation the calculation is complicated by the fact that under pre-project conditions, none of the Water Conservation area receives designated habitat protection. Under the proposed project, a minimum 69 percent portion, in a location yet to be determined, will receive habitat protection and the remaining 31 percent may be developed. These portions are allocated to *Gain and Loss*, respectively. The exception to this is the 240-acre existing borrow pit that represents the

majority of developed use within Water Conservation both under pre- and post-project conditions. This area will remain unchanged by the project and therefore is included under *No Change*.

Two additional tables were created to analyze this net change between the pre- and post-project land use activities. Tables 15 and 16 show the existing land use and the proposed land use in order to determine the net change between pre- and post-project conditions and determine the overall gain or loss of habitat areas and occurrences of special-status species within the Wash Plan area. Land uses listed in these tables include those that would substantially change with implementation of the project (Water Conservation, Habitat Conservation, Aggregate Mining and Processing, and Roads and Highways). Flood Control, Agriculture, and Undesignated Public Ownership are not considered in these tables due to the limited effect of the project on these land use areas (a total 10-acre change within the 4,467-acre plan area).

The biological resources analysis in the Draft EIR taken in concert with the supplemental information and analysis provided in the BTR is adequate to comply with CEQA. Additional analysis and documentation may be required by the resource agencies for the two NEPA documents to be prepared as part of the future BLM and HCP processes.

**Response to Comment M-34.** Refer to response M-33.

**Response to Comment M-35.** The Wash Plan EIR is not a NEPA document and the District has not received any comment from the USFWS. The discussion of alternatives in this comment fails to recognize that the alternatives pointed out by the commenter fail to achieve the goals of the Wash Plan, and were therefore rejected.

**Response to Comment M-36.** Refer to response M-5. The resource agencies will approve an HCP for the Upper Santa Ana River Wash as part of the subsequent NEPA document. As stated on page 4.4-31 of the Draft EIR, approval of the future HCP would lead to the issuance of an "incidental take" authorization from the USFWS for the identified impacts to the four listed species and loss of designated critical habitat.

**Response to Comment M-37.** Edge effects and other indirect impacts to species and habitats are thoroughly discussed in the BTR. The analysis in the BTR does not result in any changes to the conclusions made in the Draft EIR; therefore, no new mitigation is warranted. However, several measures will be incorporated into and implemented as part of the HEP, as described in the Mitigation Measures of the EIR. The HEP is generally intended to provide measures to improve the overall quality of the habitat supporting a number of special-status species. Overall, the analysis demonstrates that the proposed project will provide a more consolidated preserve design that will reduce edge effects and improve landscape connectivity, particularly with regard to the existing WSPA.

**Response to Comment M-38.** Section 7.3.1 of the BTR provides a thorough discussion of the beneficial aspects of the project regarding habitat fragmentation. Generally, the project would result in a net benefit by joining the proposed habitat conservation areas designated in the Wash Plan with the existing ACEC and WSPA areas.

**Response to Comment M-39.** See response M-37.

**Response to Comment M-40.** With regard to domestic pets, the project does not include activities that would alter the number of pets that would reside adjacent to conservation areas (e.g., no housing is proposed). Pet control is a factor in the HEP with regard to trail management, as discussed in the BTR. However, no additional management would be proposed because, beyond trails, the project is not altering existing conditions with regard to pets.

**Response to Comment M-41.** Indirect impacts related to new roads and increased traffic are described in BTR Section 7.3 and include chemical pollution and noise. The BTR concludes that chemical pollution effects are addressed through the air quality portion of the EIR and, in order to address additional effects on biological resources, the HEP includes measures for long-term monitoring and adaptive management. The project would not result in substantial noise increases due to generated traffic or expanded roads. Noise is an existing condition on the site to which wildlife has likely acclimated. That said, the HEP includes measures to control noise during construction and monitoring protocols that would trigger adaptive management measures if noise or other road-related effects were determined to be detrimental to special-status species and/or habitat suitability.

**Response to Comment M-42.** The Draft EIR does address Global Climate Change; see Section 4.3, Air Quality, pages 4.3-68 through 72. However, the District disagrees with the speculative nature of the comment that suggests effects on species resulting from implementation of the Wash Plan be included in this EIR. Although there is much debate regarding Global Climate change, it is much too speculative to expect that this EIR conduct a species by species analysis of this subject as it relative to biological resources. Nonetheless, the Wash Plan mitigation measures prescribe an adaptive management process that would accommodate fluctuations in habitat should the effects of global climate change come to fruition.

**Response to Comment M-43.** See response M-2. Funding for the Wash Plan will be identified and agreed to as part of the HCP. There is no basis for requiring this detail as part of the Wash Plan EIR or HEP. This comment raises an economic issue rather than an environmental issue.

**Response to Comment M-44.** As demonstrated in the responses to CBD's comments and as contained in the Draft EIR, 1) an adequate baseline in accordance with CEQA has been included in this EIR; 2) best available information and data has been included in this EIR; 3) the EIR analyzes a reasonable range of alternatives; 4) analysis of direct, indirect, and cumulative impacts has been included in the EIR; 5) analysis of irreversible environmental effects has been included in the EIR; 6) feasible mitigation measures have been identified; and 7) the EIR has been prepared in accordance with CEQA and is adequate. No changes to the EIR are necessary based on this comment.

**Response to Comment M-45.** As contained in the Draft EIR, 1) an analysis of air quality impacts is contained in Section 4.3 of the Draft EIR; 2) an analysis of traffic impacts is contained in Section 4.15 of the Draft EIR; 3) an analysis of hydrology, water quality and water supply is contained in Sections 4.8 and 4.16 of the Draft EIR; 4) an analysis of recreational open space is contained in Section 4.14 of the Draft EIR; 5) an analysis of aesthetic impacts is contained in Section 4.1 of the Draft EIR; and 6) all 16 environmental topics (Sections 4.1 through 4.16) addressed in the Draft EIR provide an analysis of the cumulative effects. The commenter makes a broad assertion with no evidence on which to base this comment. The impacts of the project are properly disclosed in the EIR sections as stated above. No changes to the EIR are necessary based on this comment.

**Response to Comment M-46.** The General Plan policies are interpretive and implemented based on the judgment of the City. The Wash Plan was conceived and prepared with the City of Highland as a Task Force Participant. The Wash Plan will result in the ultimate preservation of substantial acreages

of biologically significant habitats, including designated Critical Habitat for the San Bernardino kangaroo rat. The Wash Plan seeks to avoid, link, and protect the most sensitive areas within the plan area and allowing development within areas of lesser quality habitat. It would also permanently preserve habitat areas adjacent to the WSPA, effectively increasing the habitat benefits of Wash Plan area in comparison to existing conditions. All significant impacts of the proposed Wash Plan would be mitigated to the greatest feasible level. No changes to the EIR are necessary based on this comment.

**Response to Comment M-47.** See response M-46. The Wash Plan was conceived and prepared with the City of Redlands as a Task Force Participant. The Wash Plan preserves valued habitat within the Plan Area. While the Plan allows for the potential expansion of development within the Plan Area, significant portions of the Plan Area are required to remain in permanent conservation and therefore would avoid any future disruption of the habitat areas as suggested by the Redlands General Plan.

**Response to Comment M-48.** See response M-46. The Wash Plan will provide an obvious and clear benefit to habitat conservation by adding large quantities of land to the existing habitat areas managed by BLM (ACEC) and the San Bernardino County Flood Control District (WSPA).

**Response to Comment M-49.** This comment summarizes the previous comments within the letter. Any revisions to the EIR based on the items listed in this comment have been addressed in the responses listed above.

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