

## B. Responses to Comment Letters

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**Comment Letter L50**  
**Shute, Mihaly & Weinberger**  
**February 3, 2014**



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February 3, 2014

**Via E-Mail and FedEx**

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Re: Esperanza Hills Draft Environmental Impact Report

Dear Mr. Canning:

On behalf of Hills For Everyone, we write to comment on the Esperanza Hills Project Draft Environmental Impact Report ("DEIR"). Hills For Everyone is a non-profit organization that strives to protect, preserve, and restore the environmental resources and natural environs of the Puente-Chino Hills and surrounding areas for the enjoyment of current and succeeding generations, and is closely following the County's processing of the proposed Esperanza Hills Project and the associated Cielo Vista Project.

As detailed below, the County has failed to comply with the California Environmental Quality Act, Public Resources Code sections 21000, et. seq. ("CEQA") and California Code of Regulations § 15000 et seq. ("Guidelines") in its review of the environmental impacts of the proposed Project. Further, approval of the Project would violate state Planning and Zoning Law, Government Code sections 65000 et seq. The County may not approve the Project until (1) it is revised to comply with state Planning and Zoning law, and (2) environmental review of the revised project fully complies with CEQA.

**I. The DEIR Fails to Satisfy CEQA's Requirements.**

The EIR is "the heart of CEQA." *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.*, 47 Cal. 3d 376, 392 (1988) (citations omitted). It is

an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached

L50-1

L50-2

**Response to  
Comment Letter L50  
Shute, Mihaly & Weinberger  
February 3, 2014**

- L50-1 The County acknowledges receipt of a letter from Gabriel Ross of Shute, Mihaly & Weinberger dated February 3, 2014. The information presented below responds to the comments presented in this and following comments asserting that the Draft EIR fails to comply with the California Environmental Quality Act.
- L50-2 The DEIR provides a complete and thorough analysis of all environmental impact topics identified in the CEQA Guidelines checklist. Contrary to the commenter's assertion, detailed information, including technical reports and studies prepared to assess project-level impacts as required by CEQA and the CEQA Guidelines, has been included to provide public agencies and the public in general with detailed information about the effects the Proposed Project is likely to have on the environment. The DEIR is adequate, and no recirculation is required.

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ecological points of no return. The EIR is also intended ‘to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.’ Because the EIR must be certified or rejected by public officials, it is a document of accountability.

*Id.* (citations omitted).

Where, as here, the DEIR fails to fully and accurately inform decisionmakers and the public of the environmental consequences of proposed actions, it does not satisfy the basic goals of the statute. *See* Pub. Res. Code § 21061 (“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment . . .”)

As a result of the DEIR’s numerous and serious inadequacies, there can be no meaningful public review of the Project. The County must revise and recirculate the DEIR in order to permit an adequate understanding of the environmental issues at stake.

## **II. The DEIR’s Flawed Project Description Does Not Permit Meaningful Public Review of the Project.**

In order for an EIR to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. “An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal. App. 4th 713, 730 (1994) (quoting *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 193 (1977)). As a result, courts have found that even if an EIR is adequate in all other respects, the use of a “truncated project concept” violates CEQA and mandates the conclusion that the lead agency did not proceed in the manner required by law. *San Joaquin Raptor*, 27 Cal. App. 4th at 729–30. Furthermore, “[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.” *Id.* at 730 (citation omitted). Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable.

Here, the DEIR does not come close to meeting these established legal standards. The DEIR fails to adequately describe three of the most critical components of the proposed Project: the adjacent Cielo Vista, Bridal Hills, and Yorba Linda Land

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L50-3

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- L50-3 Chapter 4 – Project Description provides a comprehensive description of the Proposed Project, including development acreages, proposed residential details, access options, recreation amenities, infrastructure, and provision of fuel modification zones due to the Proposed Project's location in a Very High Fire Hazard Severity Zone. Commenter does not provide specific information regarding the contention that the project description is flawed, and no further response is required.

With regard to the commenter's statement that the Proposed Project consists of three components, the Proposed Project, Bridal Hills LLC, and the proposed Cielo Vista project are owned by separate, private entities, requiring separate approvals and analyses. It was not anticipated that the Proposed Project and the proposed Cielo Vista project would be processed together and, in fact, the proposed Cielo Vista project was submitted to the County in April 2010 while the Esperanza Hills project was submitted in August 2012. However, the proposed Cielo Vista project was considered and analyzed in the Esperanza Hills DEIR. With regard to Bridal Hills LLC, the landowners were approached and declined to participate in development at this time. Commenter is referred to Chapter 7, Table 7-1-2 – Cumulative Impacts Summary (page 7-4) for cumulative impacts including the proposed Cielo Vista project. In addition to the analysis provided in Chapter 7 - Summary of Cumulative Impacts, assessment of impacts as they relate to the proposed Cielo Vista project was included in each topical environmental discussion in Chapter 5.

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developments. Environmental review of Esperanza Hills in isolation from these three components of the Project would represent improper segmentation of environmental review under CEQA.

**A. The Cielo Vista Development is a Component of the Project.**

The Cielo Vista residential development is proposed for the area located directly west of the proposed Esperanza Hills site. DEIR at 3-1. The County released the Draft Environmental Impact Report for Cielo Vista ("Cielo Vista DEIR," attached hereto as Exhibit A) on November 7, 2013. On January 22, 2014, we submitted comments on behalf of Hills For Everyone regarding the Cielo Vista Project Draft Environmental Impact Report ("Cielo Vista DEIR Comment Letter," attached hereto as Exhibit B). Cielo Vista would include the construction of 112 dwelling units and major grading activities on an 84-acre parcel adjacent to the Esperanza Hills Project site. Cielo Vista and Esperanza Hills will share water and sewer facilities, and at least one of the access corridors to the Esperanza Hills site may be constructed as part of Cielo Vista.

CEQA prohibits piecemealed review of two developments that are truly a single project. The statute defines a "project" as "the whole of an action, which has a potential for resulting in either a direct physical change" or "a reasonably foreseeable indirect change in the environment." CEQA Guidelines § 15378(a); *see also* CEQA Guidelines § 15378(c) (term "project" means the whole of the "activity which is being approved"). Thus, an agency must take an expansive view of any particular project as it conducts the environmental review for that project. *See McQueen v. Bd. of Directors*, 202 Cal. App. 3d 1136, 1143 (1988) (term "project" is interpreted so as to "maximize protection of the environment").

An "EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effect." *Laurel Heights*, 47 Cal. 3d at 394-96. *Laurel Heights* requires a project proponent to analyze future expansion and other such action in an EIR if there is "telling evidence" that the agency has either made decisions or formulated reasonably definite proposals as to future uses of a project in the future. *Id.* at 396-97.

Here, there is ample evidence that Cielo Vista is a foreseeable consequence of Esperanza Hills, and that the two are, under CEQA's definition, the same project. Most obviously, the Project will share water and sewer infrastructure. They are, in effect, a

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L50-4

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- L50-4 The commenter is correct that the Proposed Project DEIR and the Cielo Vista DEIR were released within weeks. Access will not be constructed as part of the proposed Cielo Vista project, but may traverse the property, which was thoroughly analyzed in the DEIR. The proposed Cielo Vista project disputes that access, which is why several access options were analyzed in the DEIR.
- L50-5 Esperanza Hills is seeking approval of a Specific Plan and a Tentative Map while the proposed Cielo Vista project is not. Therefore, there are significant differences in the process. Please refer to Topical Response 5 – Segmentation/Piecemealing.

The DEIR included study areas beyond the Proposed Project site footprint. However, the Proposed Project itself will not be built beyond what has been proposed and analyzed. Therefore, future expansion of the Proposed Project is not a reasonably foreseeable occurrence.

The proposed Cielo Vista project is not a foreseeable consequence of Esperanza Hills. As previously noted, in response to Comment L50-3 above, a span of years occurred between the submittal of an application for the proposed Cielo Vista project and the Proposed Project. At the time Cielo Vista applied for approval, there was no plan for infrastructure or access to the Proposed Project, since no development had been proposed. As noted in response to Comment L50-4 above, access through the proposed Cielo Vista project is currently disputed. Commenter states that “construction of the proposed Cielo Vista project access corridors and utility connections are the first steps toward the development of Esperanza Hills,” contradicting the earlier statement that the proposed Cielo Vista project is a foreseeable consequence of Esperanza Hills.

With regard to the provision of water services and facilities, the DEIR states that the 1200 Zone and 1390 Reservoirs proposed for the Proposed Project are sized to include storage for the Esperanza Hills project only unless agreements are reached with adjoining property owners and development agreements between adjoining property owners and YLWD are entered. No agreement has been entered between the Project Applicant and Cielo Vista to date.

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single project building houses on two adjacent and closely-related sites. Access to the Esperanza Hills site may be provided by access corridors to be constructed as part of the Cielo Vista Project. DEIR at 4-12. The Yorba Linda Water District has advised representatives of both development projects that water and sewer services and facilities must be planned and designed together. *See* Yorba Linda Water District, Comments Regarding the Notice of Preparation (NOP) of EIR for Proposed Cielo Vista Project (Project No. PA100004), August 2, 2012 (attached hereto as Exhibit C). Even if Cielo Vista and Esperanza Hills were separate projects, CEQA would still require the County to consider their environmental impacts together. Construction of the Cielo Vista access corridors and utility connections are the first steps toward development of Esperanza Hills.

Established CEQA case law holds that the analysis of environmental effects must occur at the earliest discretionary approval, even if later approvals will take place. *See, e.g., Bozung v. Local Agency Formation Comm.*, 13 Cal. 3d 263, 282 (1975) (expressing the importance of environmental review “at the earliest possible stage”). The environmental impacts associated with this additional development must be analyzed with those of Esperanza Hills. The Orange County Local Agency Formation Commission (“LAFCO”) has also requested that the County prepare a combined analysis of the environmental impacts of the Cielo Vista and Esperanza Hills projects. *See* Orange County LAFCO, Response to NOP for Cielo Vista Project, August 1, 2012 (attached hereto as Exhibit D).

In any event, because the two developments are so closely related, a single EIR would provide the most efficient and effective environmental review. A single EIR will provide a more comprehensive evaluation of environmental impacts and will also assist the County in crystallizing its analysis of alternatives to the development of widely dispersed, single-family homes in this portion of the Puente-Chino Hills.

**1. Segmenting Review of Esperanza Hills and Cielo Vista Conceals the Magnitude and Significance of the Project’s Impacts.**

By artificially segmenting its environmental review of the Cielo Vista and Esperanza Hills developments, the County has concealed the magnitude and significance of the Project’s environmental impacts. Certain impacts caused by Esperanza Hills that are deemed less than significant under the DEIR’s standards would be significant when combined with the impacts of Cielo Vista.

L50-5  
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L50-6

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L50-8

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- L50-6 Cielo Vista submitted an application for project approval long before Esperanza Hills was contemplated. However, an application was submitted to LAFCO to initiate the annexation process for Esperanza Hills. To date, LAFCO has declined to advance the application. With respect to LAFCO's request to analyze both projects together, it is important to note that each is a separate project, having different owners and/or applicants, and with different goals and objectives. Although individual project impacts have been analyzed separately, the DEIR fully contemplates the proposed Cielo Vista project cumulative impacts as required by CEQA. Please refer to responses to Comments L50-3 and L50-5 above.
- L50-7 Please refer to Topical Response 5 related to preparation of a single EIR.
- L50-8 Contrary to commenter's statement, the analysis is the DEIR has identified cumulative impacts if the Proposed Project and the proposed Cielo Vista project are constructed at the same time. The Proposed Project will contribute greenhouse gas emissions in excess of SCAQMD's advisory level. Because the South Coast Air Basin has been classified as a non-attainment area, the Proposed Project will result in cumulatively considerable incremental increases in air emissions. Refer to Chapter 7 - Summary of Cumulative Impacts.

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For example, Esperanza Hills's air quality impacts would be significant according to the threshold in the DEIR if the DEIR also accounted for the air pollutant contributions of Cielo Vista. The DEIR estimates that Esperanza Hills operations will generate 32.6 pounds of volatile organic compounds ("VOCs") per day. DEIR at 5-86. Using the South Coast Air Quality Management District's ("SCAQMD") threshold of significance, the County has determined that a Project would result in a significant impact related to VOCs emissions if it produces more than 55 pounds per day. DEIR at 5-86. Because Esperanza Hills would not exceed this threshold, the DEIR concludes that the Project would result in a less than significant impact with respect to VOCs emissions. DEIR at 5-89. The Cielo Vista DEIR, however, estimates that Cielo Vista operations will generate 22.7 pounds of VOCs per day. Cielo Vista DEIR at 4.2-27. Together, these two developments would exceed the County's significance threshold, and thus cause a significant impact requiring mitigation. The DEIR, by piecemealing review of the two developments, ignores that combined impact and offers no mitigation for it.

Nitrogen oxides ("NO<sub>x</sub>") emitted during construction of Esperanza Hills would also be significant according to the threshold in the DEIR if the DEIR also accounted for Cielo Vista's NO<sub>x</sub> emissions. Construction activities for Esperanza Hills, after mitigation, will emit 59.6 pounds of NO<sub>x</sub> per day in 2014. DEIR at 5-81. The SCAQMD threshold of significance for NO<sub>x</sub> is 100 pounds per day. Construction activities for Cielo Vista, with mitigation, will emit 56.21 pounds of NO<sub>x</sub> per day in 2014. Together, these two developments exceed the County's significance threshold. Again, the DEIR fails CEQA's mandate to analyze, disclose, and mitigate this significant impact.

Moreover, according to the DEIR's current analysis, the air quality impacts from Esperanza Hills are not even cumulatively considerable. DEIR at 5-90. At first, the DEIR appears to acknowledge that "[s]hort-term construction-related emissions are anticipated to remain below thresholds but could result in a cumulative net increase in pollutants if the adjacent proposed Cielo Vista project is constructed concurrently." DEIR at 5-89 to -90. Ultimately, though, the DEIR concludes that Esperanza Hills, "when combined with the proposed adjacent Cielo Vista project, is not anticipated to result in cumulative impacts to air quality, because the anticipated emissions, with mitigation, are well below the established thresholds." DEIR at 5-90. This conclusion is clearly incorrect: as shown above, the combined emissions of the two developments exceed the relevant threshold. The DEIR must disclose and provide mitigation for this significant impact.

The DEIR's claims that these categories of impacts are less than significant for Esperanza Hills create a misleading portrayal of the environmental impacts of the whole

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L50-9 Refer to response to Comment L50-8 above.

L50-10 Approximately 339 acres of the Project site will be disturbed for residential pads, roads, parks, and landscaping. The proposed Cielo Vista project consists of a total of 83 acres, and even if the entire site were graded, which it will not be, it can be assumed that the construction would result in fewer air quality impacts. As shown on page 5-81 (Table 5-2-8) and page 5-82 (Table 5-2-9), the mitigated construction impacts are far below the SCAQMD significance thresholds. However, in the unlikely event that there would be concurrent grading of both project sites, the addition of the proposed Cielo Vista project would result in a cumulative net increase as stated in Chapter 7 of the DEIR. The tables referenced above show that thresholds far exceed individual project impacts. The commenter is referred to Topical Response 5 regarding the preparation of a single DEIR for the proposed Project and the proposed Cielo Vista project.

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Project, which includes Cielo Vista. Only a single EIR would provide the complete environmental review that CEQA requires.

**B. The Bridal Hills and Yorba Linda Land Developments Are Components of the Project.**

Any developments planned for the Bridal Hills, LLC parcel and the Yorba Linda Land, LLC parcel are also reasonably foreseeable consequences of Esperanza Hills, and therefore must be considered part of the Esperanza Hills Project. These two parcels—located north and west of the Esperanza Hills site—are currently undeveloped, but significant development activity is planned for at least one of these areas. The DEIR explains that the proposed street design for Esperanza Hills provides access to both the Bridal Hills and Yorba Linda Land parcels. DEIR at 5-396. This access is designed “to accommodate future development of these properties.” DEIR at 5-433.

Development of these two parcels will undoubtedly utilize infrastructure improvements, such as water treatment and delivery facilities, that are planned to accommodate Cielo Vista and Esperanza Hills. DEIR at 5-637 (explaining that water storage capacity of Esperanza Hills infrastructure can be increased to accommodate adjacent property).

In the DEIR, the County admits that the Bridal Hills, LLC parcel “is a reasonably foreseeable development.” Esperanza Hills DEIR at 4-2. For certain categories of impacts, such as air quality and traffic, the DEIR includes the Bridal Hills parcel as part of the project for purposes of analysis. DEIR at 7-1. But the DEIR fails to include the Bridal Hills parcel as part of the project when evaluating other impacts, such as aesthetics and biological resources. *See, e.g.*, DEIR at 5-176 (admitting failure to survey biological resources on Bridals Hills parcel); DEIR at 5-177 (admitting failure to determine whether Bridal Hills property supports special status plant species). This inconsistency demonstrates the EIR’s insufficiency.

Development of the Bridal Hills and Yorba Linda Land parcels therefore constitutes a reasonably foreseeable consequence of the Esperanza Hills Project, and must be considered part of the Esperanza Hills Project. *Laurel Heights*, 47 Cal. 3d at 394–96. The environmental effects of all of these developments, along with those of Esperanza Hills, should be collectively evaluated in a single EIR.

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L50-11

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- L50-11 Bridal Hills and Yorba Linda Land were considered for potential cumulative impacts. There will be no concurrent construction impacts, because neither Bridal Hills nor Yorba Linda Land will be constructed at the same time as the Proposed Project. Anticipated traffic impacts were included in the DEIR analysis since, if developed, both projects would likely take access through Esperanza Hills. As noted in the DEIR and herein, the Bridal Hills landowners declined to participate in development at the time the Project application was submitted to the County. Furthermore, no project plans have been developed for either property, making any analysis of potential impacts related to such development limited to a "programmatic" assessment based on the adopted land uses for those properties, which has been included in the DEIR. Any future development of those sites would require specialized surveys for the specific development proposed at that time. The biological resources surveys did extend into the Bridal Hills property as shown on study area exhibits in Section 5.3, Biological Resources. Without a specific development plan, it is difficult to assess aesthetics impacts on either property.

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**III. The DEIR Fails to Adequately Analyze the Project's Environmental Impacts.**

**A. The DEIR Fails to Accurately Analyze the Project's Aesthetic Impacts.**

L50-12

The DEIR fails to adequately analyze the Project's significant aesthetics impacts. Without further analysis, the DEIR cannot claim that these significant impacts have been reduced to a less than significant level. The DEIR also fails to acknowledge that the Project is inconsistent with policies of the Orange County General Plan ("OCGP"), the City of Yorba Linda General Plan ("YLGP") and Zoning Code, and the Chino Hills State Park General Plan regarding aesthetics. These plan inconsistencies constitute significant and unavoidable impacts.

**1. The DEIR Fails to Adequately Analyze Views From Chino Hills State Park.**

L50-13

Construction of Esperanza Hills will significantly change the aesthetic character of the project area by permanently altering portions of the site through landform modification and building. DEIR at 5-10, 5-27. Grading for the proposed project would involve the movement of 15-16 million cubic yards of soil and would consist of cutting, filling, and recontouring the natural terrain to create new roadways, residential lot areas, park areas, and landscaping. *Id.* The DEIR also admits that "[e]xposed grading surfaces, construction debris, construction equipment, truck traffic, and stockpiled materials may adversely impact views of the site on a temporary basis." DEIR at 5-26. The Project site can be viewed from multiple locations at Chino Hills State Park. DEIR at 5-2.

The DEIR explains that these impacts would be significant if the Project would (1) have a substantial adverse effect on a scenic vista; (2) substantially degrade the existing visual character or quality of the site and its surroundings; or (3) create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. DEIR at 5-9. There is clear potential for the project's aesthetics impacts to views from Chino Hills State Park to exceed these thresholds. CEQA thus demands a thorough investigation of these environmental impacts. *Berkeley Keep Jets Over the Bay v. Bd. of Port Comrs.*, 91 Cal. App. 4th 1344, 1370 (2001) (lead agency must use best efforts to analyze potentially significant impacts).

The DEIR provides and analyzes visual simulations to depict what the project will look like when viewed from 12 off-site locations. DEIR at 5-26. These sites "were chosen from near and distant viewpoints to represent the change in the visual quality of the site." *Id.* But the DEIR only includes one view—View 12—from Chino Hills State

L50-14

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- L50-12 A complete analysis of Proposed Project impacts to aesthetics is found in Aesthetics (Section 5.1) starting on page 5-1 of the DEIR. Project consistency with the Orange County General Plan, the Yorba Linda General Plan, the Yorba Linda Zoning Code, and the Chino Hills State Park General Plan is found in Land Use and Planning (Section 5.9) starting on page 5-395 of the DEIR. The commenter does not provide any evidence on how the project would result in unmitigated significant aesthetics impact or how the project is inconsistent with the policies of the Orange County General Plan, the Yorba Linda General Plan, the Yorba Linda Zoning Code, and the Chino Hills State Park General Plan; therefore, no further response can be provided.
- L50-13 A complete analysis of Project impacts to aesthetics is found in Aesthetics (Section 5.1) starting on page 5-1 of the DEIR. On page 5-9 is a discussion of thresholds of significance criteria from the Environmental Checklist found in Appendix G of the CEQA Guidelines used to determine the significant project impact to aesthetics. The methodology used to determine off-site views of the Proposed Project is discussed on page 5-26. The case law cited in the comment letter, *Berkeley Keep Jets Over the Bay v. Bd. of Port Comrs.*, 91 Cal. App. 4<sup>th</sup> 1344, 1370 (2001) (*Berkeley Keep Jets*) is not applicable to the analysis presented in Aesthetics (Section 5.1) of this DEIR concerning analysis of potential Proposed Project impacts to aesthetics. The DEIR is not deficient as was found in the *Berkeley Keep Jets* case, since the DEIR uses current information collected after the NOP, the DEIR makes no statements that aesthetics impacts are not known, and no significant information about potential Proposed Project or cumulative aesthetics impacts has been omitted from the analysis in Section 5.1 (Aesthetics) of the DEIR. Therefore, a complete investigation of significant environmental impacts to aesthetics is included in the DEIR, which concluded that no significant visual impacts would occur as a result of project implementation.
- L50-14 View 12, described on page 5-44 in Section 5.1 (Aesthetics) of the DEIR was chosen to simulate the off-site views from Chino Hills State Park because San Juan Hill Vista is a designated public scenic vista in the Chino Hills General Plan and because San Juan Hill's elevation at 1,781 feet is the highest elevation in CHSP. A portion of the Proposed Project is visible from the scenic outlook. This is an appropriate view to analyze based on threshold of significance criteria (a) listed on page 5-9 of Aesthetics (Section 5.1).
- A complete analysis of Project Impacts from View 12 is found on page 5-44 in Section 5.1 (Aesthetics) of the DEIR. The DEIR states; "With adherence to the proposed development regulations, aesthetics impacts related to this area of the project will be less than significant from this view location." Development regulations, standards, and design features concerning visual character of the Proposed Project are discussed on page 5-9 through 5-16 and on page 5-57 of the DEIR. The substantial evidence to support the DEIR's conclusion of less than significant aesthetics impacts from View 12 are discussed on page 5-57, Visual Character I Aesthetics (Section 5.1) of the DEIR. The evidence presented is: the view simulation from San Juan Hill (View 12 on page 5-55); the implementation of development standards and design guidelines of the Esperanza Hills Specific Plan; enforcement of CC&Rs by the HOA and the Design Review Committee; land use restrictions; low residential densities; building setbacks; building heights; site coverage; landscaping and screening; home colors consistent with the surrounding natural landscape with colors of homes visible from outside the Proposed Project to be earth tones such as browns, ochers, sepias, and grays (PDF 4); 62% of the Proposed Project is open space; consistency with existing surrounding single-family one- and two-story homes on large lots; and the proposed development would not extend above or obstruct views of important distance ridgelines features when viewed from the San Juan Hill location.

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Park. It appears that View 12, from the San Juan Hill Lookout, only views a main residence structure and a guesthouse on one of the project's estate lots. DEIR at 5-44. The DEIR contends that these structures do not "substantially degrade the existing visual character or quality of the site and its surroundings in that the existing landform of downward-trending slopes remains and the development of the project will not substantially block distant vistas." *Id.* Therefore, "[a]esthetics impacts related to this area of the project will be less than significant from this view location." *Id.*

The DEIR does not provide substantial evidence to support these conclusions. View 12 itself demonstrates that the Project will substantially degrade the visual character and quality of the site. The Project dominates the middleground of View 12, and provides the only sizeable man-made structures from that view. The Project's manufactured landscape would confront visitors to San Juan Hill, who arrive seeking the natural landforms characteristic of Chino Hills State Park. This is clearly substantial degradation.

Indeed, the project will be visible from at least three sites in Chino Hills State Park. DEIR at 5-2 ("Directly to the north and east is Chino Hills State Park with potential views of the Project Site from the South Ridge Trail, the Old Edison Trail, and the San Juan Hill lookout."). The Chino Hills State Park General Plan includes a guideline to discourage ridgeline developments that affect views from the Park and encourages cooperation with developers to protect views to the extent feasible. DEIR at 5-44. The Chino Hills State Park General Plan is attached hereto at Exhibit E.

The DEIR must evaluate aesthetic impacts to additional viewpoints from Chino Hills State Park. Because Chino Hills State Park permits overnight camping, DEIR at 5-511, the DEIR must also evaluate impacts to nighttime views from the Park. Until the County undertakes this additional analysis, the DEIR has simply failed to analyze the full range of aesthetics impacts facing the project. The DEIR therefore does not provide the substantial evidence necessary to claim that aesthetics, light, and glare impacts are less than significant as they relate to views from Chino Hills State Park. The County also cannot rely on Mitigation Measure AE-1, DEIR at 5-62, to reduce significant impacts regarding aesthetics to a less than significant level because the County cannot even be sure of the nature of those impacts until the additional analysis is completed.

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L50-15

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Project design features and mitigation measures are incorporated in to the project PDF 1 through PDF 10 and Mitigation Measure AE-1 to minimize visual impacts. Therefore, the DEIR concludes, based on substantial evidence, the Proposed Project's aesthetics impacts related to scenic vistas will be less than significant.

Off-site views from South Ridge Trail, public access via Rimcrest Park Entrance, and Old Edison Trail, public access will be provided via Blue Mud Canyon with implementation of the Proposed Project, are not included in the view simulations because these trails are located on lower ridgelines and along canyon bottoms until approaching San Juan Hill Trail to the San Juan Hill Vista.

A discussion of Proposed Project consistency with Chino Hills State Park General Plan is found on page 5-449, Land Use and Planning (Section 5.9) of the DEIR. A discussion of the feasibility of providing landscape screening of views from CHSP is found on page 5-446, Land Use and Planning (Section 5.9). The DEIR concludes that the Proposed Project is consistent the Chino Hills State Park General Plan. As discussed on page 5-450, the Chino Hills State Park General Plan includes an acquisition goal to establish guidelines for land acquisition to support the park's resource management goals by enhancing watershed protection and adding significant or unique resources, habitats, or features to the park, and to create buffer areas (areas between developments and park resources). No land acquisition is proposed by CHSP of the project site and the CHSP rejected a proposal to include the northeast portion of the Proposed Project into the park years ago.

- L50-15 The commenter requests the evaluation of additional viewpoints from CHSP because the park permits overnight camping. The CHSP is open from 8:00 a.m. to 5:00 p.m. October through March and 8:00 a.m. to 7:00 p.m. April through September. Therefore, nighttime use of the park outside of the campground is prohibited. Overnight camping is restricted to a designated campground located on the eastern side of CHSP accessed from the SR-71 Freeway in Chino Hills to Bane Canyon Road. The campground is located over three miles east of the Proposed Project site and several intervening ridgelines occur between the campground and the Project site. The Project site is located on a southwest trending slope away from CHSP. Therefore, there is not a view of the Project site from the campground and the view from the campground is not environmentally significant for the purpose of aesthetic impacts under CEQA.

The project impact on light and glare is discussed on page 5-57 and page 5-58, Aesthetics (Section 5.1) of the DEIR. The DEIR analyzes the project impact on the immediate vicinity as well as from distant vistas and states that the Proposed Project will incrementally increase the amount of light shed into the night sky. Mitigation Measure AE-1 on page 5-62 has been incorporated into the lessen impacts on exterior lighting by directing and confining light rays towards on-site structures and not illuminating areas outside property boundaries. In addition, the Proposed Project includes PDF 15 on page 5-163 Biological Resources (Section 5.3) of the DEIR to minimize lighting effects on natural habitats. The DEIR concludes on page 5-62 and 5-63 with the implementation of Mitigation Measure AE-1 and Project Design Features PDF 1 through PDF 10 that project aesthetics impact to CHSP is less than significant.

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**2. The DEIR Fails to Adequately Analyze the Project's Consistency with the Orange County General Plan, Yorba Linda General Plan, Yorba Linda Zoning Code, and Chino Hills State Park General Plan.**

L50-16

The DEIR analyzes the Project's inconsistencies with the Goals, Objectives, and Policies of the OCGP, YLGP, Yorba Linda Zoning Code, and Chino Hills State Park General Plan regarding aesthetic impacts. Such plan inconsistencies constitute significant and unavoidable impacts. The DEIR concludes that the Project is consistent with these policies regarding aesthetic impacts, but this conclusion is based on an incomplete and inadequate analysis.

The City of Yorba Linda Zoning Code recognizes the importance of the regional wildlands in the Chino Hills. The Zoning Code includes regulations for hillside development to protect visual resources, and specifically regulates development adjacent to Chino Hills State Park. DEIR at 5-6 (referencing Yorba Linda Zoning Code Chapter 18.30 - Hillside Development, Grading, and Fire Protection). Views of hillside sites, such as the Esperanza Hills site, from "off-site locations should be given careful consideration." *Id.* The major site design principles of Chapter 18.30 of the City's zoning ordinance are to consider views from off-site locations, preserve a more natural slope appearance, partially screen buildings on ridgelines with landscaping, preserve trees and other vegetation, and preserve the natural hillsides and ridgelines. DEIR at 5-445. Specifically,

Within viewscape of Chino Hills State Park for any proposed residential development that is determined to be viewed from any point within Chino Hills State Park, the grading and landscaping plans shall include . . . specific measures, including height limits, setbacks, landscaping, berms, and/or other measures which will assure that any structure built on the lot will not be viewed from Chino Hills State Park or otherwise be screened to the extent feasible."

Yorba Linda Zoning Code § 18.30.040.E. The DEIR appears to admit that the Project is not consistent with this requirement.

L50-17

"The Project is inconsistent with the portion of the ordinance concerning the height of retaining walls and views from Chino Hills State Park . . . Due to fuel modification requirements, the structure on Estate Lot 1

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L50-16 The Proposed Project's aesthetics impacts were evaluated consistent with the requirements of CEQA. A detailed analysis of Proposed Project consistency with the Orange County General Plan is found starting on page 5-413 in Land Use and Planning (Section 5.9) of the DEIR. A detailed analysis of Proposed Project consistency with the Yorba Linda General Plan is found starting on page 5-431 in Land Use and Planning (Section 5.9) of the DEIR. A detailed analysis of Proposed Project consistency with the Yorba Linda Zoning Code is found starting on page 5-445 of Land Use and Planning (Section 5.9) of the DEIR. A detailed analysis of Proposed Project consistency with the CHSP General Plan is found starting on page 5-449 of Land Use and Planning (Section 5.9) of the DEIR. For a discussion on the Proposed Project's consistency with the Yorba Linda General Plan and the Yorba Linda Zoning Ordinance, refer to page 5-59 and page 5-60 of Aesthetics (Section 5.1) in the DEIR. As described therein the Proposed Project would not result in any significant impacts under project or cumulative conditions.

The Proposed Project's biological resources impact, including riparian habitat (wetlands) is found in Biological Resources starting on page 5-139 (Section 5.3) of the DEIR. Project Design Features PDF 11 through PDF 16 and Mitigation Measures Bio-1 through Bio-11 have been incorporated into the Proposed Project to reduce Project impact on biological resources to a level of less than significant.

A discussion of the Proposed Project's consistency with Yorba Linda Zoning Code Chapter 18.30 – Hillside Development, Grading and Fire Protection is found on pages 5-59 and 5-60 of Aesthetics (Section 5.1) of the DEIR. The standard specified in this Chapter 18.30 is "to the extent feasible" concerning views from CHSP. The Proposed Project complies with this standard because landscape screening of the Estate 1 Lot building site is contrary to the goals of wildland fire protection as discussed on page 5-60 of the DEIR and in Hazards and Hazardous Materials (Section 5.7) of the DEIR. The Proposed Project has incorporated project design features to restrict building height to 35 feet, require building colors to be consistent with the surrounding natural landscape, require the use on non-reflective glass, screening building's mechanical equipment and above ground utility equipment, and use non-reflecting wall and landscape materials with the intent to blend the building sites into the surrounding environment. Therefore, because Chapter 18.30 recognizes a standard of feasibility, the Proposed Project is consistent with Yorba Linda Zoning Code Chapter 18.30 – Hillside Development, Grading and Fire Protection.

L50-17 Project Alternative 5 - Yorba Linda General Plan discusses development of the Proposed Project using the Yorba Linda General Plan goals and policies, the Yorba Linda Zoning Code, and ordinances for development regulation. Because the City's regulatory documents include provision for the protection of views from Chino Hills State Park, the Project as proposed would be inconsistent. The alternative states that the proposed Project is inconsistent with the Hillside Management Ordinance concerning the height of retaining walls and views from Chino Hills State Park. However, to comply with the OCFA fuel modification requirements, the lot cannot be totally screened from view. Although screening through landscaping is infeasible due to the necessarily rigorous fuel modification requirements, all feasible measures are incorporated to minimize impacts (i.e., less than significant). It is unclear why the commenter considers this a contradiction. Section 5.9, Land Use and Planning, page 5-446, also analyzes the Proposed Project with respect to the Hillside Management Ordinance but notes that the Proposed Project is consistent with the General Plan in terms of preservation of the natural setting and the development design. CEQA requires the inclusion of "feasible measures which could minimize significant adverse impacts . . ." (§15126.4(a)(1)). The DEIR is adequate and complete with regard to the proposed mitigation and compliance with relevant County regulations.

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cannot be screened with landscaping. The driveway access, as designed, prevents construction of berms to screen the structure.

DEIR at 6-89 to -90. The DEIR contradicts itself elsewhere, claiming that the project is consistent with the Yorba Linda Ordinance, because the Project has incorporated all feasible measures to minimize this visual impact. DEIR at 5-446 to -447. The County must clarify its position and acknowledge the Project's inconsistency with the Ordinance as a significant impact. It then must either propose mitigation for this impact, such as redesigning the estate lot driveway to allow screening of the structure, or explain why such mitigation is infeasible.

In any event, as discussed above, the DEIR's analysis of the Project's consistency with the Yorba Zoning Code is inadequate to support its conclusions. The EIR must evaluate aesthetics impacts to additional viewpoints from Chino Hills State Park. Because Chino Hills State Park permits overnight camping, the DEIR must also evaluate impacts to nighttime views from the Park. Until the County undertakes this additional analysis, the DEIR cannot ensure that any structure "will not be viewed from Chino Hills State Park or otherwise be screened to the extent feasible." The County has therefore failed to analyze the full range of aesthetics impacts facing the project. The DEIR therefore does not provide the substantial evidence necessary to claim that the Project is consistent with the Yorba Linda Zoning Code.

The EIR must consider the Project's inconsistency with the Aesthetics section of the Chino Hills State Park General Plan, which establishes a goal to "[p]rotect scenic features from man-made intrusions and preserve the visitor's experience of the natural landscape by minimizing adverse impacts to aesthetic resources." DEIR at 5-6. To implement this goal the general plan includes the following guideline: "Ridgeline and knoll developments outside the park that adversely affect significant views will be discouraged. The Department will work with park neighbors and local government to review and plan adjacent developments in a manner that protects views." *Id.* The General Plan also includes guidelines to minimize the intrusion of artificial light. DEIR at 5-8. As discussed above, the Project would substantially degrade the existing visual character or quality of the site. The Project does not "preserve the visitor's experience of the natural landscape by minimizing adverse impacts to aesthetic resources," as required by the Chino Hills State Park General Plan

Moreover, until the County analyses additional views from the Park, including night views, the County cannot claim that it has reviewed and planned adjacent developments in a manner that protects views from the park. The County has therefore

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- L50-18 Concerning response to comment for additional viewpoint analysis from CHSP because of nighttime camping, refer to responses to Comments L50- 14 and L50-15 above. As discussed in response to Comment L50-14, View 12 provides adequate analysis of views from CHSP of the Proposed Project. Project Design Features PDF 1 through PDF 16 and Mitigation Measure AE-1 apply to all Proposed Project structures and therefore lessen any off-site view from anywhere within the CHSP of the Proposed Project.
- L50-19 The Proposed Project's aesthetics impacts on CHSP were evaluated consistent with the requirements of CEQA in Section 5.1 (Aesthetics) of the DEIR. As described therein, the project would not result in any significant impact under project or cumulative conditions as discussed in Section 5.9 (Land Use and Planning) on pages 5-449 and 5-450. Refer to response to Comment L50-14 for a complete discussion of response to consistency with CHSP General Plan and conclusion of less than significant visual impacts.
- L50-20 A complete analysis of project impact to light and glare is provided in Aesthetics (Section 5.1) on pages 5-57 and 5-58 of the DEIR. The DEIR concludes that Proposed Project aesthetics impact on light and glare with the implementation of Mitigation Measure AE-1 will be less than significant, because light would be confined to the property boundaries. A discussion of Proposed Project's consistency with CHSP General Plan concerning the Aesthetics Resources Goal including light and glare is found in Land Use and Planning (Section 5.9) on page 5-450 of the DEIR.
- L50-21 Refer to responses to Comments L50-14 and L50-15 regarding the adequacy of the analysis of aesthetics impacts of the Proposed Project concerning nighttime views from CHSP.

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failed to analyze the full range of aesthetics impacts facing the project. The DEIR therefore does not provide the substantial evidence necessary to claim that the Project is consistent with the Chino Hills State Park General Plan.

The Project would also be inconsistent with OCGP policies, though the EIR ignores such inconsistencies. Land Use Element Policy 8 is “[t]o guide development so that the quality of the physical environment is enhanced.” Resources Element, Natural Resources Policy 5 “is “[t]o protect the unique variety of significant landforms in Orange County through environmental review procedures and community and corridor planning activities.” The Project will have significant impacts to views from Chino Hills State Park, and is therefore inconsistent with these policies. Until the County analyzes additional views from the Park, including night views, the County also cannot claim that the Project enhances the quality of the physical environment or protects significant landforms. The DEIR has failed to analyze the full range of aesthetics impacts facing the project. The DEIR therefore does not provide the substantial evidence necessary to claim that the Project is consistent with these OCGP policies.

The Project substantially degrades the existing visual character or quality of the site, and thereby degrades the quality of views from Chino Hills State Park. The Project is therefore inconsistent with the following Yorba Linda General Plan goals and policies related to aesthetics and light and glare:

- Land Use Element Goal 3: Compatible relationships between land uses provided in the community.
- Land Use Element Policy 3.4: Provide land use compatibility through appropriate community design and development policies.
- Land Use Element Goal 9: Preservation and enhancement of the natural setting of the City.
- Land Use Element Policy 9.2: Protect the scenic and visual qualities of hillside areas and ridgelines.
- Land Use Element Policy 9.3: Ensure that land uses within designated and proposed scenic corridors are compatible with scenic enhancement and preservation.

The Project’s aesthetic impacts make it simply incompatible with the adjacent Chino Hills State Park. And until the County analyses additional views from the Park, including

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- L50-22 The DEIR provides detailed analyses of consistency with the Orange County General Plan, particularly Land Use Element Policy 8 on page 5-415 of Land Use and Planning (Section 5.9) and Natural Resources Policy 5 on page 5-422 of the DEIR. A detailed discussion of views from CHSP is found on page 5-44, View 12 in Section 5.1 (Aesthetics) of the DEIR. As described therein, view simulations were presented in the DEIR from 12 view locations, including San Juan Hills within the CHSP, which depicted the pre-development and post-development character of the site and beyond the project site. The analysis concluded that the Proposed Project would not result in any significant visual impact under Proposed Project or cumulative conditions to views from within the viewshed, including CHSP, based on the established CEQA significance criteria. As depicted on Exhibit 5-5, Esperanza Hills Option 1 on page 5-17 and Exhibit 5-6, Esperanza Hills Option 2 on page 5-19 of the DEIR, the Proposed Project grading follows the existing landform. Furthermore, the view through the project in the post-development condition from the San Juan Hill vantage clearly illustrates that the Proposed Project would not interrupt the line of sight views from that location to the important ridgeline features in the distance (Exhibit 5-22 on page 5-56). The commenter does not offer any evidence on how the Proposed Project would result in significant aesthetics impacts to CHSP or how the Proposed Project is inconsistent with these Orange County General Plan policies; therefore, no further response can be provided.
- L50-23 The Proposed Project's consistency with the Yorba Linda General Plan is provided in Land Use and Planning (Section 5.9) stating on page 5-431 of the DEIR. Project consistency with Yorba Linda Land Use Element Goal 3 and Land Use Policy 3.4 are discussed on page 5-435, Yorba Linda Land Use Element Goal 9 and Land Use Policy 9.2 and 9.3 are discussed on page 5-437. The DEIR concludes that the Proposed Project is consistent with the Yorba Linda General Plan goals and policies related to land use, aesthetics, and light and glare for the reasons stated in the analysis for each of the topics noted in this comment. For example, the Proposed Project would result in the same land uses (i.e., single-family residential at a density lower than the existing density in the project area (Goal 3); compatible design through the incorporation of project design features (Goal 3.4); preservation of the natural setting through the provision of extensive open space and contour grading techniques that retain the integrity of the topographic features (Goal 9); and preservation of the important ridgeline features by ensuring that development does not encroach above them (Goal 9.2). It is important to note that the General Plan does not identify any important scenic corridors within or near the project area (Goal 9.3). The commenter does not offer any evidence on how the Proposed Project substantially degrades the existing visual character or quality of the site to support a conclusion that the Proposed Project degrades the quality of views from CHSP; therefore, no further response can be provided.

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night views, the DEIR cannot claim these adjacent land uses are compatible. The DEIR has failed to analyze the full range of aesthetics impacts facing the project, and the DEIR therefore does not provide the substantial evidence necessary to claim that the Project is consistent with these YLGP policies.

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**B. The DEIR Fails to Accurately Analyze the Project's Geology and Soils Impacts.**

The DEIR fails to adequately analyze the Project's significant geologic hazards. The DEIR's proposed mitigation measures are vague and incapable of reducing these significant impacts to a less than significant level. The DEIR also fails to acknowledge that the Project is inconsistent with policies of the OCGP and the YLGP regarding geologic hazards. These plan inconsistencies constitute significant and unavoidable impacts.

L50-25

**1. The DEIR Fails to Thoroughly Analyze the Seismic Hazards Facing the Project.**

The active Whittier Fault crosses the southerly portion of the Project site. DEIR at 5-214. The DEIR explains that geologic hazards to the Project would be significant if the Project would expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death, involving fault rupture, strong seismic ground shaking, seismic-related ground failure, including liquefaction, and landslides. DEIR at 5-220. The hazards associated with the Whittier Fault plainly exceed this threshold.

A major earthquake along the segment of the Whittier Fault crossing the Project site could subject the site to severe ground shaking involving Peak ground accelerations in excess of 1.8 g. DEIR at 5-214. Shaking of such an extreme nature can cause even well-built structures to be destroyed, to collapse, or to be moderately to severely damaged or shifted off their foundations. *Id.* Such shaking could also cause localized slope deformation and/or trigger slope failures in graded and natural slope areas, potentially leading to structural damage itself. *Id.* The integrity of side-hill fills and retaining walls could also be impacted in the event of any related slope deformation. *Id.* The DEIR concedes that impacts due to strong ground shaking could be significant. *Id.*

Moreover, ground surface rupture could occur in the area where active strands of the Whittier Fault are present. DEIR at 5-206. Surface rupture due to a nearby earthquake on the Whittier Fault could damage structures or facilities. *Id.* The DEIR

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L50-24 Refer to responses to Comments L50-14 and L50-15.

L50-25 Refer to responses to Comments L50-1 and L50-2. Section 5.5 (Geology and Soils) provides an extensive discussion of the seismic hazards, including ground surface rupture related to the Whittier Fault. This discussion not only characterizes the site's geologic and seismic characteristics but also evaluates the "... serious potential for hazard for the Project" resulting from seismic ground shaking and fault rupture. Extensive and detailed geotechnical and seismic analyses have been conducted (Appendix G, Geotechnical Report, and Appendix H, Fire Protection and Emergency Evacuation Plan, in the DEIR), which have been summarized and presented in the DEIR. Potential impacts (i.e., hazards to the Project) are discussed in Section 5.5.3 beginning on page 5-223 and ending on page 5-251 of the DEIR. The Fault Hazard Assessment Report, which assessed the portion of the fault extending through the project site, thoroughly assessed the potential for ground rupture. The site has been designed and will be subject to mitigation (refer to page 5-251 through page 5-254 of the DEIR) and regulatory requirements in a manner that are intended to reduce potential seismic and geologic impacts to a less than significant level. As indicated in Section 5.5.5 (page 5-254 in the DEIR), implementation of the mitigation measures will reduce the potential impacts to a less than significant level.

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also concedes that active secondary faults, or splay faults, exist within on the Project site north of the main Whittier Fault trace. DEIR at 5-238.

Overall, then, the EIR explains that the Whittier Fault creates a serious potential hazard for the Project. CEQA thus demands a thorough investigation of these environmental impacts. *Berkeley Keep Jets Over the Bay*, 91 Cal. App. 4th at 1370.

The EIR, however, fails to perform such an investigation, instead deferring the required analysis. As discussed below, understanding the location of secondary faults is crucial to thoroughly disclosing and mitigating the Project's seismic vulnerabilities and impacts. However, neither the DEIR nor its appendices provide a map demonstrating the location of active secondary faults. The County has therefore not given the public sufficient information to evaluate these key claims regarding the location of active fault traces.

The DEIR's description of the County's investigation of these hazards is insufficient. The DEIR states:

The Fault Hazard Report concludes that the fault trenches and review by professional geologists *suggest* that the location of the principal Whittier Fault trace and secondary fault strands have been accurately mapped. The study confirmed that there was no evidence of active faulting beyond the limits of the established seismic setback zone.

DEIR at 5-239 (emphasis added). In the absence of detailed maps or other data, this *suggestion* that the active secondary faults have been accurately mapped is not sufficient to demonstrate that the County has accurately investigated their risks. Without more, the County cannot definitively state that active faults do not extend into areas designated for habitable structures. Until these hazards are determined, the DEIR has simply failed to analyze the full range of geologic hazards facing the Project or to support its claim that risks related to surface ruptures are not significant. Without this information, the County has also failed to provide substantial evidence to support its claims that risks from surface rupture to non-habitable improvements within the seismic setback zone have been reduced to less than significance.

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L50-26

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- L50-26 Please refer to the American Geotechnical, Inc. "Summary of Geotechnical Exploration and Engineering Analysis" dated March 12, 2014. The report summarizes the explorations performed by American Geotechnical, as well as other geotechnical professionals, and supports the conclusions found in the DEIR Section 5.5 - Geology and Soils. Conclusions were based on studies that were completed and approved by the County of Orange.

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**2. The DEIR Does not Adequately Mitigate the Project's Geologic Safety Hazards.**

In an attempt to mitigate these significant seismic impacts, the DEIR proposes a series of mitigation measures. DEIR at 5-251. The DEIR claims that the prescribed mitigation measures would reduce geologic hazards to less than significance. DEIR at 5-254. But it does not provide the substantial evidence to support this conclusion.

For example, regarding risks from fault rupture, the DEIR establishes a "fault hazard setback zone" that is "based on the mapped locations of principal and secondary branch faults." DEIR at 5-238. The DEIR then proposes Mitigation Measure GEO-11, which requires that "the Project Applicant and the County shall ensure that no lots are designed with habitable structures within the fault hazard setback zone." DEIR at 5-252 to -253. But, as described above, the EIR provides no information on the location of secondary faults. Without that information, the mitigation measure is useless, and the EIR's conclusion that it will reduce impacts to a less than significant level is unsupported.

At the same time, the DEIR admits that earthquake-induced ground shaking on the Whittier Fault could result in damage to the Project, but claims that "[t]here is no feasible way to avoid earth shaking from seismic events," and that "the seismic shaking expected to occur at the Project Site is not significantly greater than the surrounding areas or other hillside areas in southern California." DEIR at 5-241. But the DEIR provides no evidence for the claim that seismic shaking at Project site is not significantly greater than surrounding areas or other hillside areas. The available evidence suggests otherwise. After all, the Whittier Fault, which the DEIR calls "one of the most prominent actively seismic hazards within southern California," DEIR at 5-214, runs directly across the Project site. *Id.*

The DEIR nevertheless contends that "[a]dherence to the current Uniform Building Code and Mitigation Measure Geo-11 will result in earthquake resistance as stated above, and will reduce impacts from ground shaking *to the maximum extent practicable.*" DEIR at 5-245 (emphasis added). As discussed above, until the active secondary faults in the Project area have been convincingly mapped, Mitigation Measure GEO-11, which prohibits habitable structures within the fault hazard setback zone, does not ensure that geologic hazards are less than significant.

Moreover, reducing impacts "to the maximum extent practicable" is not a substitute for reducing impacts to a less than significant level, as CEQA requires.

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- L50-27 The Fault Study prepared for the Proposed Project has been reviewed by County and State Geologists. The report findings were also reviewed by geologists on staff with the California Geologic Survey. The County approved the study in March 2013, including the mitigation recommended therein. The active fault study prepared by American Geotechnical included excavation and detailed logging of approximately 2,500 lineal feet of exploratory trenches within the southern portions of the Project site. As noted, the proposed Project construction will comply with the setback zones required by state law. The conclusions in the DEIR are adequate and complete.

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Compliance with applicable building codes, alone, is not sufficient to reduce seismic ground shaking impacts to less than significant levels. These measures cannot correct for the Project's unwise and uninformed placement of residential buildings in an area of significant seismic hazards. If, as the EIR essentially admits, the available mitigation cannot reduce the Project's impacts to a less than significant level, then the EIR must conclude that the impact is significant and unavoidable.

The Project would increase the potential for structural damage and expose Project residents to substantial adverse effects, including the risk of loss, injury, or death from seismic ground shaking and fault rupture. The County has not provided substantial evidence to support its claim that these impacts would be less than significant. The EIR is fundamentally flawed.

Moreover, further investigation of active secondary faults will provide essential information regarding the risk of geologic hazards on the Project site that could significantly alter the Project site design. Significantly altered to address these unknown geologic hazards, the Project could create a host of new environmental impacts that the County has not yet analyzed.

**3. The DEIR Fails to Adequately Analyze the Project's Consistency with the Orange County General Plan and Yorba Linda General Plan Regarding Geologic Hazards.**

The Project is inconsistent with the Goals and Objectives of the OCGP and YLGP regarding geologic hazards. These plan inconsistencies constitute significant and unavoidable impacts. The DEIR concludes that the Project is consistent with these policies regarding geologic hazards, but this conclusion is based on an incomplete and inadequate analysis.

OCGP Safety Element Goal 1 is to "[p]rovide for a safe living and working environment consistent with available resources." OCGP Public Safety Objective 1.1 is "[t]o identify natural hazards and determine the relative threat to people and property in Orange County." The Project is inconsistent with both of these requirements. The Project would not create a safe living environment because it would expose people and structures to the risk of loss, injury or death, involving fault rupture and strong seismic ground shaking. In any event, the DEIR must provide additional information regarding active secondary fault traces to adequately describe the geologic risks facing residents in the Project area. At the very least, the County has not identified the relevant natural

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L50-28

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- L50-28 See responses to Comments L50-25, L50-26, and L50-27 above. The commenter provides no factual evidence to support the contention that the County has not convincingly mapped the active secondary faults in the Project area. The commenter is referred to the Fault Hazard Assessment Report (Appendix H in the DEIR), which contains the results of more than 2,500 feet of continuous fault trenching on the Project site.

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hazards or threats until such a report is completed. The DEIR therefore lacks substantial evidence to support its conclusion that the Project is consistent with this objective.

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The Project is also inconsistent with OCGP Public Safety Goal 2, to “[m]inimize the effects of natural safety hazards through implementation of appropriate regulations and standards which maximize protection of life and property.” The County cannot possibly know how new information regarding active secondary fault traces will change the Project or affect the implementation of relevant safety standards. Nor does the DEIR “create and maintain plans and programs which mitigate the effects of natural hazards,” as required by OCGP Objective 2.1.

L50-29

Because the Project exposes residents to significant risks from ground shaking and fault rupture, it is also inconsistent with the YLGP Safety Element Goal 1, to “[p]rotect the community from hazards associated with geologic instability, seismic hazards.” And because the County has not convincingly mapped the active secondary faults in the Project area, the DEIR does not even identify the full scope of hazards associated with geologic instability and seismic events, much less protect the community from them.

L50-30

YLGP Policy 1.1 is to “[r]equire “review of soil and geologic conditions to determine stability and relate to development decisions, especially in regard to type of use, size of facility, and ease of evacuation of occupants,” but the Project Applicant has not undertaken the required investigation. The County has not performed a complete “review of soil and geologic conditions” until it has completed the further investigation of active secondary faults discussed in part III.B.2. above. The County does not yet know how this information will change the Project or affect the implementation of relevant safety standards. It therefore cannot accurately evaluate decisions regarding the Project’s “type of use, size of facility, and ease of evacuation of occupants.” Until it completes the geologic analysis that the YLGP requires, the County cannot support the claim that geologic hazards to the Project are less than significant.

L50-31

YLGP Safety Element Policy 1.6 prohibits the location of habitable facilities within an Alquist-Priolo Special Study Zone (APSSZ) or within 50 feet of either side of the centerline of an active or potentially active fault. Until it has completed the further investigation of active secondary faults discussed in part III.B.2. above, the County lacks substantial evidence to claim that the Project is consistent with this policy.

L50-32

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- L50-29 See responses to Comments L50-25, L50-26, L50-27, and L50-28 above.
- L50-30 Commenter is referred to Section 5.9 - Land Use and Planning, Table 5-9-15 - Yorba Linda General Plan Public Safety Element Consistency for analysis regarding the Proposed Project's consistency with Goal 1. The commenter provides no factual evidence to support the contention that the County has not convincingly mapped the active secondary faults in the Project area. The commenter is referred to Appendix H - Fault Hazard Assessment Report, which contains the results of more than 2,500 feet of continuous fault trenching on the Project site.
- L50-31 See responses to Comments L50-25, L50-26, and L50-27 above. In addition, the Proposed Project is within the jurisdiction of the County of Orange and is consistent with the Orange County General Plan as evidenced by the County's approval of the fault study prepared for the Proposed Project.
- L50-32 As previously indicated, the Proposed Project has been designed to comply with all Alquist-Priolo mandates applicable to development in proximity to such designated fault zones. Specifically, no habitable structure will be located within 50 feet of either side of the centerline of an active or potentially active fault. See response to Comment L50-27 above.

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**C. The DEIR Fails to Accurately Analyze the Project's Wildland Fire Hazards.**

The DEIR fails to adequately analyze the Project's significant wildland fire hazards. The DEIR's proposed mitigation measures—particularly its unsubstantiated reliance on an untested community evacuation plan—do not reduce these significant impacts to a less than significant level. The DEIR also fails to acknowledge that the Project is inconsistent with the OCGP and YLGP policies regarding fire hazards. These plan inconsistencies constitute significant and unavoidable impacts. *See* CEQA Guidelines, Appendix G.

L50-33

**1. The Project Would Create Significant Wildland Fire Hazards.**

The fire hazards caused by and affecting development in the Puente-Chino Hills area cannot be overstated, a fact made abundantly clear by the devastation of the 2008 Freeway Complex Fire. *See* Orange County Fire Authority, Freeway Complex Fire After Action Report (2009) (attached hereto as Exhibit F). The Project site is located in a Very High Fire Hazard Severity Zone and has burned regularly: in addition to the Freeway Complex Fire, it was subject to fires in 1943 and 1980. *Id.* at 15; *see also* Hills For Everyone, A 100 Year History of Wildfires Near Chino Hills State Park (2012) (attached hereto as Exhibit G) at 10, 12. The Project will increase the size of the area's wildland-urban interface.

L50-34

The DEIR explains that the Project would result in a significant impacts if it would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. DEIR at 5-296.

Contrary to the DEIR's conclusions, however, the Project would clearly expose current and future residents in the area to a significant risk of injury or death involving wildland fires. The DEIR determined that given the site's climate, topography, and location in the wildland-urban interface, the Project has a potential to expose people to a significant risk of loss, injury, or death involving wildfire. DEIR at 5-338. The Project's proposed residents would clearly be threatened by fire. They would reside adjacent to and intermixed with wildlands that have burned regularly. Despite the Project's location in an area of severe fire hazards, the Project has been designed so that certain areas of the Project do not conform to the Orange County Fire Authority's fuel modification standards. DEIR at 5-307.

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L50-33 Generally, the commenter is referred to response to Comment L43 for information regarding fire hazards, analysis, and mitigation related thereto. Also please refer to Topical Response 1 – Fire Hazard and Topical Response 2 – Evacuation Plan for additional information. The proposed community evacuation plan works in conjunction with the OCFA/OCSD plan. The Proposed Project impact to wildland fire hazards was evaluated consistent with the requirements of CEQA in Section 5.7 (Hazards and Hazardous Materials) starting on page 5-275 of the DEIR. As described therein, the Proposed Project would not result in any significant impact under project or cumulative conditions (refer to pages 5-336 through 5-340 of the DEIR). The commenter does not offer any evidence on how the Proposed Project would result in significant wildland fire hazard impacts, because the Proposed Project will not, in and of itself, create increased potential for wildfires due to the extensive fuel modification and building construction features incorporated into the project. Therefore, no further response can be provided.

A complete discussion of Proposed Project's consistency with County of Orange goals and policies concerning fire hazards is found on page 5-419 of Land Use and Planning (Section 5.9) of the DEIR. A complete discussion of the Proposed Project's consistency with the Yorba Linda General Plan goals and policies concerning fire hazards is found on page 5-443, Land Use and Planning (Section 5.9) of the DEIR. The DEIR concludes that the Proposed Project is consistent with the County of Orange General Plan and the Yorba Linda General Plan. The commenter does not offer any evidence on how the Proposed Project is not consistent with the County of Orange General Plan or the Yorba Linda General Plan concerning wildfire and fire hazards; therefore, no further response can be provided.

L50-34 Refer to Topical Response 1 – Fire Hazard and Topical Response 2 - Evacuation Plan for additional information. The Proposed Project will result in an increase in the size of the area's wildland urban interface; however, with implementation of the Proposed Project and incorporation of Project Design Features PDF 17 through PDF 28 and Mitigation Measures Haz-1 through Haz-14, the Proposed Project's wildland urban interface will be mitigated to a level of less than significant. Specifically, fuel modification zones will surround the Proposed Project, the Proposed Project shall implement a Community Evacuation Plan, and the structures will be built to the most stringent California Building Codes and Fire Codes adopted in 2010 after the 2008 Freeway Complex Fire that burned the area. In addition to code requirements, the Proposed Project structures will have interior fire sprinklers.

As discussed on page 5-338 of Hazards and Hazardous Materials (Section 5.7) of the DEIR, the Proposed Project has the potential to expose people or structures to significant risk of fire. The DEIR states that the Proposed Project will greatly reduce the fire potential because the Proposed Project is subject to the 2010 California Building Codes and the 2010 Fire Code, which require strict regulations for ember- and ignition-resistant structure construction as well as FMZs, interior automatic fire sprinklers, firefighting staging areas, emergency access, and water flow and supply to provide protection of structures. Therefore, the potential to expose people or structures to significant risk of fire is reduced to a level of less than significant.

As discussed on page 5-306 through 5-310 of Hazards and Hazardous Materials (Section 5.7) of the DEIR, alternative FMZs for Zones C and D are proposed for Lots 7, 8 and 9 of Option 1 and Lots 8, 9 and 10 of Option 2 as depicted on Exhibit 5-72, Lots with Off-Site Fuel Modification Zones Option 1 on page 5-308 and Exhibit 5-73, Lots with Off-Site Fuel Modification Zones Option 2 on page 5-309 of the DEIR. OCFA regulations allow Alternative Materials and Methods. In this case the alternative method will be a heat-deflecting landscape wall at the top of the slope and a series of retaining walls to provide vertical separation from off-site native fuels. Also, these three lots will include the addition of dual-pane tempered windows, focused homeowner education, and annually inspected FMZs in compliance with OCFA requirements. With the inclusion of these project design features and mitigation measures, the Proposed Project is consistent with OCFA fuel modification standards.

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The DEIR nonetheless concludes that wildland fire risks will be less than significant. *Id.* (finding that “[w]ith implementation of project design features and mitigation measures the likelihood of exposing people or structures to fire hazards will be reduced to a level of less than significant.”). The evidence, however, does not support the DEIR’s conclusions. As discussed below, even with mitigation measures, the DEIR does not demonstrate that Project residents will be able to safely evacuate the Project in the event of a wildland fire.

L50-35

The DEIR also implies that the Project, a residential development located in the urban-wildland interface, will actually *reduce* wildland fire risk. The DEIR argues that the existing Project site provides no fuel modification benefits, and claims that the Project’s fuel modification features would reduce the risk of wildland fires in the general vicinity. DEIR at 5-326.

L50-36

This argument is misleading. Even if the Project reduced the risk of fire to nearby residences, the Project would add more than 300 new residences to an area of severe fire risks. All residences, new and old, are potential ignition sources. It is very unlikely that the benefits of fuel modification outweigh the added risk, and the EIR does nothing to support that claim. And, of course, those benefits do not inure to the residents of the Project, for whom the risk of wildfire is direct and new.

The DEIR also fails to evaluate the impacts of increased risk of fire originating in the Project to the surrounding environment, specifically the adjacent Chino Hills State Park. Such risk constitutes a potentially significant impact to the Park’s recreational and biological resources, but the EIR ignores it. The EIR must analyze, disclose, and, if necessary, mitigate these additional impacts.

L50-37

## **2. The DEIR Does Not Identify Adequate Mitigation for the Wildland Fire Hazards.**

The DEIR concludes that “[w]ith implementation of project design features and mitigation measures the likelihood of exposing people or structures to fire hazards will be reduced to a level of less than significant.” DEIR at 5-337. The EIR’s reliance on fuel reduction and evacuation mitigation is misplaced. Initially, as recent study has found, the location of structures is a crucial aspect of fire hazard, deserving at least as much attention as fuel reduction: “the problem isn’t fires; the problem is people in the wrong places.” Syphard et al., *Land Use Planning and Wildfire: Development Policies Influence Future Probability of Housing Loss*, PLoS One, Vol. 8 e71708 (2013) (attached

L50-38

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- L50-35 Refer to Topical Response 1 – Fire Hazard and Topical Response 2 – Evacuation Plan for additional information. Concerning the safe evacuation of Proposed Project residents in the event of a wildlands fire, refer to the discussion of the Proposed Project's emergency plan on page 5-317 through 5-325 of Hazards and Hazardous Materials (Section 5.7) of the DEIR. Due to the Proposed Project's compliance with California Building Codes and 2010 Fire Code, law enforcement and fire officials will be able to evaluate partial evacuation of Proposed Project structures closest to the fire to fire safe structures within the Proposed Project, thus eliminating the need to evacuate the community (refer to pages 5-317 and 5-318). The Proposed Project's impact to emergency evacuation due to wildland fires is evaluated consistent with the requirements of CEQA in Section 5.7 – Hazards and Hazardous Materials of the DEIR. As described therein, the Proposed Project would not result in any significant impacts under Proposed Project or cumulative conditions. The commenter does not offer any evidence on how the Proposed Project would result in significant emergency evacuation impacts due to wildland fires; therefore, no further response can be provided.
- L50-36 As discussed on page 5-325 and 5-326, Fire Risk Assessment, Hazards and Hazardous Materials (Section 5.7) of the DEIR the implementation of the Proposed Project will reduce on-site fire potential since all fuels within the development portion of the Proposed Project will be converted to non-burnable fuel and non-combustible land uses as depicted in Table 5-7-7 on page 5-325. As stated on page 5-326, the location of fuel breaks in Blue Mud Canyon will reduce the fire risk in the general vicinity of the Proposed Project, especially to the south, east, and west. Although the Proposed Project introduces 1,088 new people to the area (refer to page 5-491 Population and Housing, Section 5.11 of the DEIR), Mitigation Measure Haz-6 (pages 5-334 and page 5-335) requires a Community Evacuation Plan that includes fire prevention and annual evacuation training of homeowners within the Proposed Project. In addition to FMZs (PDF 18), adherence to current California Building Codes and Fire Codes, implementation of the Community Evacuation Plan (Mitigation Measure Haz-6) with fire prevention and evacuation training, the risk to the added population is reduced to a level of less than significance.
- L50-37 A discussion of Proposed Project impacts of originating a fire within the Proposed Project is found on pages 5-325 and 5-326 of Hazards and Hazardous Materials (Section 5.7) of the DEIR. Refer to response to Comment L50-36 above for a discussion of how the Proposed Project reduces sources of ignition and implements inclusion of fire breaks in Blue Mud Canyon to significantly reduce fire spread in the general vicinity of the Proposed Project, including CHSP when compared to the existing condition. Refer to Fuel Modification Plan PDF 18, which includes roadside FMZ as discussed on page 5-313. The Proposed Project's impact on CHSP recreational and biological resources due to a source of fire ignition is significantly reduced when compared to the existing condition (refer to page 5-285 through 5-287 and page 5-339) with the implementation of the Proposed Project as discussed above.
- L50-38 The DEIR is not relying solely on fuel reduction and evacuation as mitigation for wildland fire hazards as presented by the commenter. As discussed on page 5-315 of Hazards and Hazardous Materials (Section 5.7) of the DEIR, project design features and mitigation measures include compliance with current California Building Codes and Fire Codes that require fire-resistant and fire-hardened structures, minimum one-hour-rated exterior walls and doors, multi-pane glazing with a minimum of one tempered (both panes for lots with alternative FMZ), ember-resistant vents, interior automatic fire sprinklers, infrastructure, access roads, a water delivery system that meet current standards, 170 feet of FMZs (alternative methods for three lots), fire apparatus access roads, three strategic fire apparatus staging areas, emergency egress and ingress plans, and implementation of a Community Evacuation Plan with annual training and inspections by the OCFA.

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hereto as Exhibit H), at 10-11. Where fire is inevitable, as at the Project site, mitigation can only do so much to reduce hazards: fire is inevitable. *Id.* at 1-2.

But the DEIR does not ensure that current and future residents of the Project and surrounding developments will be able to safely evacuate the area in the event of a fire emergency. The Project will therefore expose people to a significant risk of injury or death involving wildland fires. The Project's wildland fire hazards remain significant.

The DEIR admits that during the 2008 Freeway Complex Fire, residents experienced gridlock on major streets when they attempted to evacuate the area. DEIR at 5-288. The Project, combined with other proposed developments nearby, will only exacerbate this problem. Yet the DEIR does not discuss cumulative impacts associated with emergency evacuation requirements. DEIR at 5-338 to -340. This omission plainly violates CEQA and puts current and future residents at risk.

Instead of analyzing the overall evacuation scenario, the DEIR relies on project-specific measures that it claims will reduce traffic congestion during community evacuation events. The DEIR requires preparation of the Esperanza Hills Community Evacuation Plan, but does not require that plan to evaluate roadway capacity in the event of an emergency evacuation. DEIR at 5-339. The DEIR also admits that Yorba Linda has not completed its Community Evacuation Plan. DEIR at 5-289. Instead, the DEIR relies on an area evacuation plan prepared by the Orange County Sheriff's Department designed to move traffic off Yorba Linda Boulevard and through local neighborhoods. DEIR at 5-289, 5-339. But the DEIR does not provide this plan and does not evaluate its effectiveness. Without this information, the EIR cannot support its conclusion that evacuation can mitigate fire hazards to a less than significant level.

The DEIR provides no traffic analysis or modeling to support the argument that these evacuation plans will somehow allow residents of the Project and the surrounding areas to escape from a fire emergency. Past evidence points to the opposite conclusion. The DEIR even notes that during an evacuation, law enforcement would close some roads to preserve access for emergency services. DEIR at 5-289. If this is the case, it would only reduce the road capacity that evacuees could use.

The DEIR also fails to ensure that local and state fire and emergency service providers will be able to access the Project during a wildland fire emergency. The DEIR provides no traffic analysis or modeling to support that claim. Therefore, the DEIR does not provide substantial evidence supporting its conclusion that the street system would

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L50-41

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The commenter's presentation of the conclusion that "the problem isn't fires; the problem is people in the wrong places" from *Land Use Planning and Wildfire: Development Policies Influence Future Probability of Housing Loss, 2013* (Syphard) and attached as Exhibit H to the commenter's letter, does not include Syphard's assumption that the use of fire-safe building materials or creating defensible space around structures is not assumed in his analysis because of cost of building and retrofitting homes to be fire-safe. But Syphard states that the use of fire-safe building materials or creating defensible space is an alternative in fire-prone areas. As discussed above, the Proposed Project includes fire-hardened and fire-resistant buildings as well as fuel modification zones for defensible space. A complete discussion of improvements to the area water storage and delivery system for firefighting is found on pages 5-631 through 5-643 in Utilities and Service Systems (Section 5.15) of the DEIR and Topical Response 3 – Water Provision/Capacity.

A complete discussion of emergency evacuation is found on pages 5-315, 5-316, and 5-317 through 5-325 of Hazard and Hazardous Materials (Section 5.7) of the DEIR and Topical Response 1 – Fire Hazard and Topical Response 2 – Evacuation Plan. The Proposed Project's emergency evacuation impact was evaluated consistent with the requirements of CEQA. As described therein, the Proposed Project would not result in any significant impact under project or cumulative conditions (refer to pages 5-336 through 5-340 of the DEIR). The commenter does not offer any evidence on how the project would result in significant emergency evacuation impacts; therefore, no further response can be provided.

- L50-39 Refer to response to Comment L50-38 concerning emergency evacuation analysis both for the Proposed Project and cumulative impacts. As discussed on page 5-317, Project Emergency Plan, in Hazards and Hazardous Materials (Section 5.7) of the DEIR, the Proposed Project will include a Community Evacuation Plan that utilizes information from the Orange County and San Diego Offices of Emergency Services. The Proposed Project will comply with an update of Orange County's Community Evacuation Plan and eventually Yorba Linda's Community Evacuation Plan when it is completed, and therefore, does not solely rely on the area evacuation plan prepared by Orange County Sheriff's Department as incorrectly stated in the comment.

The DEIR discusses and evaluates the Community Evacuation Plan and as stated on page 5-317. A key factor in the Proposed Project's Community Evacuation Plan is allowance for adequate time to evacuate so that the roads do not become congested and the OCFA's "Ready, Set, Go!" approach, which includes distributing educational materials to area residents, holding evacuation planning meetings, and creating a resident notification system to distribute information about wildfire and emergency procedures (refer to page 5-316). The DEIR provides an analysis of Project and cumulative impacts on emergency response plans or emergency evacuation plans on pages 5-336 through 5-340 of Hazards and Hazardous Materials (Section 5.7). As described therein, the Proposed Project would not result in any significant impacts under Project or cumulative conditions to emergency evacuation plans or emergency response plans, because, not only does the Proposed Project address emergency planning in the CEP, but existing and future development of the project area would be covered by and subject to the OCFA's and the County's efforts to effect adequate emergency evacuation planning to minimize potential impacts.

- L50-40 The commenter is referred to Topical Response 2 – Evacuation Plan.

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provide available capacity to accommodate traffic volumes during a fire emergency. The Project creates risks of injury or death involving wildland fires that remain significant.

L50-41  
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The DEIR's failure to include an effective emergency evacuation plan also threatens the safety of Project and nearby residents in the case of an emergency related to oil production facilities on site. The DEIR simply does not ensure that current and future residents of the Project and surrounding developments will be able to safely evacuate the area in the event of an emergency related to on site oil facilities.

L50-42

Existing oil drilling operations will continue on the Project site. DEIR at 2-1. The hazardous emissions of combustible gas from these oil well operations would be significant without mitigation, because it could "create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment." DEIR at 5-296, 5-337. But the DEIR concludes that applicable mitigation measures would reduce this hazard to less than significance. *Id.*

The DEIR relies on Mitigation Measures Haz-1, Haz-2, and Haz-3. *Id.* These measures include preparation of a Combustible Gas/Methane Assessment Study to assess release of combustible gas/methane, implementation of a Methane Control Plan if a measurable quantity of methane is detected, and preparation of Remedial Action Plan prior to any oil well closure. *Id.* Until the Assessment Study is completed, the DEIR has simply failed to analyze the full range of hazards facing the Project. *See Sundstrom v. Cnty. of Mendocino*, 202 Cal. App. 3d 296 (1988) (deferral of environmental analysis until after project approval violates CEQA). In any event, these measures do not remove the risk that Project and nearby residents will need to evacuate the area in the event of an oil-related emergency.

A release of combustible gas, or some other oil-related emergency, such as a fire or spill, could still occur, despite implementation of these measures. Despite this fact, the DEIR provides no traffic analysis or modeling to support any claim that the street system would provide available capacity to accommodate traffic volumes during an oil-related emergency. The DEIR therefore provides no substantial evidence to support its claim that operation of oil facilities would not create a significant hazard to the public or the environment and that a less than significant impact would occur with regard to future oil operations.

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- L50-41 In addition to providing designated emergency access roads under each of the four Options included in the DEIR, fire department staging areas have been designed at appropriate locations within the community as discussed on page 5-339 in the DEIR. The commenter is referred to Topical Response 2 - Evacuation Plan for additional information that describes emergency access roads and emergency vehicles, evacuation notification, and other relevant aspects of emergency evacuation planning.
- L50-42 A complete analysis of the existing oil wells is found on pages 5-290 through 5-295 of Hazards and Hazardous Materials (Section 5.7) of the DEIR. As detailed in Table 5-7-5, Oil Well Observations for Contaminants on page 5-294, petroleum odors were noted in the vicinity of the oil wells, piping, and storage tanks. A complete discussion of hazard impacts associated with the existing oil well operation is found on pages 5-331 and 5-332 of Hazards and Hazardous Materials (Section 5.7) of the DEIR. The California Department of Conservation, Division of Oil, Gas and Geothermal (Division) and OCFA have adopted guidelines for structures adjacent to oil wells that have been implemented into the Project design. The standard requires that no structure be located within 100 feet of a well. The Proposed Project will be consistent with this standard. In addition, the Division oversees drilling, operation, maintenance, plugging, and abandonment of wells. Mitigation Measures Haz-1, Haz-2, Haz-3, and Haz-4 have been incorporated into the Proposed Project to reduce risk of upset and accident conditions involving release of hazardous materials into the environment during grading operations.

The Combustible Gas/Methane Assessment Study is to provide further detailed analysis prior to grading operations of the area to be graded near the oil wells. The Proposed Project provides full mitigation for impacts from oil well operations and abandonment and, therefore, does not result in segmenting the project to avoid mitigating environmental impacts. The Community Evacuation Plan does not require inclusion of an emergency evacuation due to the oil wells because an emergency would be isolated and not impact the community as a whole. Proposed Project structures are required to be set back 100 feet, thus reducing potential hazards from oil related emergency.

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**3. The DEIR Fails to Adequately Analyze the Project's Consistency with the Orange County General Plan and Yorba Linda General Plan Regarding Public Safety and Fire Hazards.**

Because the Project would expose current and future residents in the area to a significant risk of injury or death involving wildland fires, the Project is inconsistent with the Goals, Objectives, and Policies of the OCGP and YLGP regarding public safety and fire hazards. These plan inconsistencies constitute significant and unavoidable impacts that the DEIR has failed to recognize. The DEIR concludes that the Project is consistent with these policies regarding public safety and fire hazards, but this conclusion is based on an incomplete and inadequate analysis.

L50-43

As described above, the Project's wildland fire hazards remain significant even with the identified mitigation. The Project is therefore inconsistent with OCGP Public Services and Facilities Element - Orange County Fire Authority Goal 1, to "[p]rovide a safe living environment ensuring adequate fire protection facilities and resources to prevent and minimize the loss of life and property from structural and wildland fire damages." The Project puts residents of the Project and nearby areas at significant risk of losing their life to wildland fire. For the same reasons, the Project is inconsistent with YLGP Safety Element Goal 4, to "[p]rotect people and property from brush fire hazards."

In the absence of a proven emergency evacuation plan, the Project is also inconsistent with OCGP Public Services and Facilities Element - Orange County Fire Authority Goal 2, to "[m]inimize the effects of natural safety hazards through implementation of appropriate regulations and standards which maximize protection of life and property," and OCGP Public Services and Facilities Element - Orange County Fire Authority Objective 2.1, "[t]o create and maintain plans and programs which mitigate the effects of public hazards."

L50-44

The DEIR must provide additional analysis and modeling of traffic and transportation during a fire-related emergency in order to adequately describe the fire risks facing residents in the Project area. At the very least, the County has not identified the relevant natural hazards until such a report is completed. The DEIR therefore lacks substantial evidence to support its conclusion that the Project is consistent with these OCGP and YLGP policies.

L50-45

The EIR must acknowledge that the Project's wildland fire hazards remain significant and grapple with the fact that Project is inconsistent with the OCGP and

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- L50-43 The commenter is referred to Topical Response 1 - Fire Hazard and Topical Response 2 – Evacuation Plan for a summary of the design features and evacuation planning that will address safety, not only for residents of Esperanza Hills but also adjacent residential areas. The Proposed Project is consistent with County and Yorba Linda General Plans for providing adequately for the safety of residents.
- L50-44 Commenter is referred to Topical Response 2 - Evacuation Plan.
- L50-45 See response to Comment L50-43 above and Topical Response 2 – Evacuation Plan.

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YLGP. Until it includes this analysis, the EIR's analysis of land use impacts is incomplete and invalid.

**D. The DEIR Fails to Accurately Analyze the Project's Recreation Impacts.**

The DEIR fails to adequately analyze the Project's significant recreation impacts because it fails to adequately describe the Project's impacts on Chino Hills State Park. Without further analysis, the DEIR cannot claim that these significant impacts are less than significant.

**1. The DEIR Fails to Adequately Analyze the Project's Impacts on Chino Hills State Park.**

The DEIR finds that the Project would have significant recreation impacts if it would increase the use of existing regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. DEIR at 5-514. There is clear potential for the project's impacts on Chino Hills State Park to exceed these thresholds. CEQA thus demands a thorough investigation of these environmental impacts. *Berkeley Keep Jets Over the Bay*, 91 Cal. App. 4th at 1370.

The DEIR argues that the Project would only minimally increase the use of regional parks, and would not result in substantial physical deterioration of those facilities. DEIR at 5-542. According to the DEIR, this is because the Project provides a number of on-site parks, and people are largely anticipated to recreate at those parks. *Id.* The DEIR even claims that these on-site parks provide "trails and natural wilderness areas" similar to those of Chino Hills State Park and other regional parks. *Id.*

The DEIR does not provide substantial evidence to support these claims. The Project will clearly increase the use of Chino Hills State Park such that substantial physical deterioration would occur or be accelerated. Chino Hills State Park extends over more than 14,000 acres of parkland and provides a wide range of natural landscapes and unique recreational opportunities. *See generally* Chino Hills State Park General Plan (attached hereto as Exhibit E). The Park provides recreation opportunities that cannot be found in the Project's on-site parks or open space.

The Project is specifically designed to take advantage of the Park's proximity: it would create and enhance a network of riding, hiking, and cycling trails "in order to provide access to the larger wildland areas within Chino Hills State Park." DEIR at 5-

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L50-46

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L50-46 The DEIR, in Section 5.13 - Recreation, acknowledges that the Proposed Project will result in additional use of local parks by residents. The provision of open space, including multi-use trails, is similar to the amenities found in Chino Hills State Park and, therefore, it can be reasonably assumed that local residents will avail themselves of the Proposed Project's amenities, reducing impacts to CHSP. Simply assuming, as the commenter does, that the presence of trail connections will result in deterioration of parks is not substantiated, and there is no reason to believe that increased use of CHSP by future project-residents would result in such deterioration. Attempting to identify the nature and extent of deterioration would be speculative at best; such assessments are discouraged by CEQA. Both the County of Orange and the City of Yorba Linda have goals of expanding and connecting existing trail systems. The commenter's statement that "The DEIR's conclusion that residents would largely ignore the Park thus seems to assume that this aspect of the Proposed Project would be unsuccessful" misinterprets the relationship between Proposed Project amenities and CHSP amenities, which are a benefit to both. It is also fair to conclude that not all residents of the Proposed Project will avail themselves of those amenities.

Clearly, the CHSP has the authority to govern and determine access points to the Park. However, as noted above, both the County and the CHSP encourage trail system connectivity. CHSP is a state park and is, therefore, open and available to the general public. The commenter is referred to the Land Use and Planning (Section 5.9) consistency analysis regarding the Proposed Project and Chino Hills State Park General Plan.

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536. In fact, one of the Project's objectives is to "[p]rovide recreational opportunities for residents in the project vicinity for access to Chino Hills State Park from the south and west to the Old Edison Trail." DEIR at 4-27. The DEIR's conclusion that residents would largely ignore the Park thus seems to assume that this aspect of the Project would be unsuccessful. This is an unwarranted assumption—the EIR must assume that, as the Project intends, residents will make significant use of Chino Hills State Park. *See San Franciscans for Reasonable Growth v. City & Cnty. of S. F.* (1984) 151 Cal. App. 3d 61, 75 (requiring EIR to assume success of project). The DEIR further fails to acknowledge that the Project will enhance access to, and thus increase use of, the Park by non-residents.

This increased use of Chino Hills State Park could cause or accelerate substantial physical deterioration. The Chino Hills State Park General Plan recognizes the nature of these potential impacts. That Plan requires the Park to create appropriate pedestrian access points, and to seek the input and cooperation of local jurisdictions to develop this access. Chino Hills State Park General Plan at 71. But the Plan cautions that designated access points should satisfy a number of important conditions. They should avoid adverse impacts to sensitive resources, and be spaced so that resources and visitor experiences are not adversely affected by overuse of an area. *Id.* They should also minimize effects on significant viewsheds and aesthetic resources, and should be manageable with available park staff and reasonably accessible to park patrol and emergency vehicles. *Id.* potential impacts. It must do so. Until the County undertakes this additional analysis, the DEIR has simply failed to analyze the full range of recreation impacts facing the project.

As discussed in Section III.C, the DEIR also fails to evaluate the impacts of increased risk of fire originating in the Project to Chino Hills State Park. The EIR must analyze, disclose, and, if necessary, mitigate these additional impacts.

**E. The DEIR Fails to Adequately Analyze the Project's Traffic and Transportation Impacts.**

The DEIR fails to adequately analyze the Project's traffic and transportation impacts because it does not include the analysis of transportation system management and demand management for the Project required by the Orange County General Plan and Yorba Linda General Plan. The DEIR also fails to acknowledge that the Project is inconsistent with the policies of the Orange County General Plan and Yorba Linda General Plan regarding transportation management and alternative transportation. These plan inconsistencies constitute significant and unavoidable impacts.

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- L50-47 Commenter is referred to Table 5-9-3 - Orange County General Plan Transportation Element Consistency in Section 5.9 (Land Use and Planning) for analysis of Proposed Project's consistency with applicable policies (refer to Policy 6.7 in Table 5-9-3; and page 5-447 in Chapter 9, Consistency with Regional Planning Programs). The commenter is referred to Table 5-9-12 – Yorba Linda General Plan Public Services and Facilities Element Consistency for analysis of Proposed Project consistency with applicable policies related to transportation. As shown, the Proposed Project is consistent with all policies.

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**1. The DEIR Fails to Adequately Analyze the Project's Consistency with the Orange County General Plan and Yorba Linda General Plan Regarding Traffic and Transportation.**

The DEIR fails to provide the required analysis of transportation system management and demand management for the Project. OCGP Transportation Element Objective 6.7 requires developers of more than 100 dwelling units to submit, as part of their development proposal, a Transportation System Management/Transportation Demand Management plan that "includes strategies, implementation programs and an annual monitoring mechanism to ensure a reduction of single occupant automobile travel associated with development." DEIR at 5-417. The DEIR does not include this required plan because "[t]he Proposed Project is a residential development with no through traffic connections to surrounding uses beyond the Project access options included in the DEIR." DEIR at 5-417. The DEIR argues that as a result, "[a]ccess points will connect to existing street systems and will not conflict with transportation facilities, services, programs, or the regional transportation plan." *Id.* Policy 6.7 is expressly applicable to *all* proposed residential developments that include more than 100 dwelling units. The Project's residential character does not excuse the developer from preparing a Transportation Demand Management plan.

Due to the failure to prepare this plan, the Project is also inconsistent with OCGP Land Use Element Policy 4: "Land Use/Transportation Integration - To plan an integrated land use and transportation system that accommodates travel demand."

The Yorba Linda General Plan also requires analysis of transportation system management and demand management for the Project. YLGP Circulation Element Goal 3 is to "[m]aximize the efficiency of the City's circulation system through the use of transportation system management and demand management strategies." YLGP Circulation Element Policy 3.7 requires "that new developments provide Transportation Demand Management Plans, with mitigation monitoring and enforcement plans, as part of required Traffic Studies, and as a standard requirement for development processing." The DEIR does not provide this analysis, and without it, the Project is inconsistent with these YLGP requirements.

**F. The DEIR Fails to Provide Mitigation For the Project's Significant Noise Impacts.**

The DEIR fails to mitigate the significant impacts related to Project's substantial increase in traffic-related noise. The DEIR acknowledges that CEQA Appendix G

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L50-48 Refer to response to Comment L50-47 above.

L50-49 The DEIR recognizes and acknowledges that short-term construction noise impacts will not exceed the County's exterior noise threshold with compliance to the County Noise Ordinance. Overall operational noise levels with the Proposed Project will be within the County threshold of 65 dB CNEL. However, when noise is analyzed under CEQA Guidelines thresholds, there are no numeric values to determine temporary and permanent noise increases. Rather, the generally accepted threshold of "perceptible" (3 dB) is applied. The DEIR notes that a significant and unavoidable impact will occur under operational and cumulative conditions. There is no contradiction in the analysis. Also refer to Topical Response 8 – Noise Impacts (beginning on page 47) for additional clarification regarding noise impacts under each access option.

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provides three appropriate standards by which to judge the significance of noise impacts from the Project:

- Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- Would the project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

DEIR at 469. But the DEIR later states that the Project would result in a significant noise impact only if the Project generates a noise level increase of greater than 3.0 dBA *and* the noise level exceeds the 65 dBA CNEL limit in the Orange County Noise Ordinance. DEIR at 5-470.

The County reverts to using the appropriate, separate thresholds of significance found in Appendix G. The DEIR determines that many of the Project's noise impacts would exceed one of the three relevant significance thresholds. For example, the Project would cause a *substantial* noise increase from Project-related traffic on Aspen Way and Stonehaven Drive under Project Option 2 for both existing and future time periods. DEIR at 5-479; *see also* DEIR at Table 5-10-10, 5-10-11, and 5-10-12. "This increase is a significant impact based on CEQA thresholds, because a 3dB increase is a perceptible increase in noise levels." DEIR at 5-482.

CEQA requires the County to describe feasible mitigation measures that can minimize the project's significant environmental effects. CEQA Guidelines § 15121(a), 15126.4(a); *Environmental Council of Sacramento v. City of Sacramento*, 142 Cal. App. 4th 1018, 1039. Curiously, however, the DEIR fails to mitigate the Project's significant noise impacts. Instead, the DEIR determines that these impacts are significant and unavoidable. DEIR at 5-482. The DEIR's only explanation is that "[t]here are no feasible mitigation measures, such as sound walls, to reduce the 3 dB perceptible increase in noise, because such walls are not typically used in residential neighborhoods." The County provides no support for this determination. A mitigation measure to reduce noise impacts, such as a sound wall, is not infeasible simply because it is not typically employed. "'Feasible' means capable of being accomplished in a successful manner

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- L50-50 Because the noise impacts are due to traffic noise at existing intersections and along existing roadway segments in existing residential neighborhoods (within the City of Yorba Linda) or the proposed Cielo Vista project, the installation of sound walls is not only infeasible, as discussed on page 5-479 of the DEIR, but beyond the jurisdiction or control of the County or the Project Applicant. Therefore, the impact remains significant and unavoidable. Refer to Topical Response 8 – Noise Impacts (beginning on page 47) regarding noise impacts under each access option.

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within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” CEQA Guidelines § 15364. The “typicalness” of a proposed measure is not one of these factors. The County must consider implementing mitigation for the Project’s significant noise impacts, including sound walls.

The DEIR also determines that the combined substantial noise increases from Esperanza Hills and Cielo Vista will be cumulatively considerable and significant impacts. DEIR at 7-7. Nonetheless, the DEIR fails to propose mitigation for these significant impacts. CEQA requires the County to examine options for avoiding or mitigating the Project’s contribution to significant cumulative impacts. CEQA Guidelines § 15139(b)(3); *Fort Mojave Indian Tribe v. Dep’t of Health Servs.*, 38 Cal. App. 4th 1574, 1603 (1995). The DEIR must provide this analysis or it will remain legally inadequate.

**G. The DEIR Fails to Accurately Analyze the Project’s Impacts to Biological Resources.**

The DEIR fails to adequately analyze the Project’s significant impacts to biological resources, because it fails to account for the Project’s impacts on regional wildlife movement. Without further analysis, the DEIR cannot claim that these significant impacts have been reduced to a less than significant level.

The Project site lies directly between open space areas in Chino Hills State Park to the northwest, north, east, and southeast. It is no surprise, then, that the site is part of a regional wildlife movement corridor. For example, mountain lions traverse the Project site during their movement between open space habitat areas in the Puente-Chino Hills. The map attached hereto as Exhibit I depicts movement corridors for mountain lions that cross the Project site. This map is based on data contained in Beier et al., *The Cougar in the Santa Ana Mountain Range, California* (1993), which is attached hereto as Exhibit J.

By dramatically altering the site’s topography and adding a large residential development and associated roadways, construction of Esperanza Hills will interfere significantly with the ability of regional wildlife, such as mountain lions, to use the existing movement corridor across the Project site. The DEIR explains that the Project would result in a significant impact if it would interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors. DEIR at 5-138. There is clear potential for the Project’s impacts to exceed these thresholds by interfering with mountain lion movement.

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L50-51 As noted in response to Comment L3-18, USFWS does not suggest that the Project site is located within a regional wildlife corridor and consequently would not affect such movement. USFWS notes that the Proposed Project would potentially affect live-in habitat for common mammals such as bobcat, coyote, mule deer, and gray fox, which would potentially affect local movement by these species. Paragraph D of Appendix G of the CEQA Guidelines states the following regarding wildlife corridors:

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

Relative to the potential for the Proposed Project to affect movement by cougars a number of points need to be addressed. First, it is clear from “Exhibit I, M6 Cougar Corridor Movement Study” that the majority of east-west movement depicted on the exhibit occurred to the north of the site and, as such, the Proposed Project under this depiction would not interfere substantially with cougar movement. However, and very importantly, the figure is highly misleading for a number of reasons, which when fully understood show that this figure is at best specious and at worst intentionally misleading.

The exhibit connects GPS points, which in some cases were as much as 10 miles apart, by drawing straight lines between points. The commenter inappropriately represents that such lines are actual cougar movement paths. In fact, two of the three lines that cross the northeast corner of the site are based on GPS points that are 10.2 miles apart, while the third straight-line route connects GPS data points that are a mere 3.5 miles apart. GPS collar data for cougars actually depict far more “wandering” routes that do not in any way follow such straight lines. The original purpose of Figure 6 on page 21 of the study by Beier and Barrett was to show the home range extension of a single cougar during a segment of time during 1991 and 1992, and not regular dispersal routes by a variety of cougars over a period of time. Furthermore, the lines between data points cannot be interpreted as actual travel routes, even for the single Cougar M6. The exhibit is also misleading in that it fails to show that Cougar M6, for the most part ranged over central and south Orange County and that the GPS data points depicted on Exhibit I represent a limited incursion into this area by this single Cougar M6 during a brief period in the early 1990s. Beier and Barrett note on page 30 of their report that without a corridor linking the Santa Ana Mountains with the Chino Hills the Chino Hills are not viable cougar habitat:

A wildlife corridor for cougars between the Santa Ana Mountain Range and the Chino Hills will allow cougars to use an area (the Chino Hills) that cannot support a population of cougars if it were to become isolated (Beier 1993). Quite simply, if there is no corridor, then there will be no cougars in the Chino Hills. To be effective, such a corridor must not simply be a freeway underpass, but must reach from Trabuco Ranger District and the adjacent Tecate Cypress Reserve in upper Coal Canyon (the northernmost protected parcels in the Santa Ana Mountain Range) to Chino Hills State Park (the southernmost protected parcel in the Chino Hills).

No corridor has been established linking areas on opposite sides of the SR-91 Freeway, and only an undercrossing at Coal Canyon is in place with essentially no use by cougars since the use by Cougar M6 in the early 1990s. To represent that that the site is potentially important for cougar dispersal is highly misleading and is based on a single cougar that managed to use the undercrossing at Coal Canyon 22 years ago.

Regarding other potential impacts to wildlife movement see responses to Comment Letter L3 (U.S. Fish and Wildlife Service) and Comment Letter L5 (California Department of Parks and Recreation).

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CEQA thus demands a thorough investigation of these environmental impacts. *Berkeley Keep Jets Over the Bay.*, 91 Cal. App. 4th at 1370.

The DEIR, however, concludes that the Project site “does not function as a regional wildlife movement corridor, because it does not connect two or more habitat patches due to the surrounding development.” DEIR at 5-121. “[U]se of the Study Area as a movement corridor is constrained by urban development south and west of the Study Area.” DEIR at 5-152. This reasoning ignores the fact that the Project site, particularly Planning Area 2, lies directly between open space areas that provide wildlife habitat and are preserved in perpetuity. The DEIR discusses three important wildlife corridors that connect Chino Hills State Park with adjacent open space, but completely fails to discuss the regional wildlife corridor that exists on the Project site. *Id.* On this flawed basis, the DEIR concludes that the Project “would not substantially interfere with the movement of native wildlife on a regional basis due to the lack of connectivity to other habitat areas,” and impacts to wildlife movement would be less than significant. DEIR at 5-180.

The DEIR does not provide substantial evidence to support these conclusions. The Project would sever the wildlife movement corridor between open space habitat in the Puente-Chino Hills. This would interfere substantially with the movement of wildlife species and wildlife corridors. Until the DEIR analyzes this significant impact, the County has simply failed to analyze the full range of impacts to biological resources facing the project. The DEIR therefore does not provide the substantial evidence necessary to claim that biological resources impacts are less than significant as they relate to wildlife movement.

**H. The DEIR Fails to Accurately Analyze the Project’s Consistency with the Orange County General Plan, the Yorba Linda General Plan, Yorba Linda Zoning Code, and Chino Hills State Park General Plan.**

As discussed above, the Project is inconsistent with applicable goals, objectives, and policies of the OCGP, YLGP, Yorba Linda Zoning Code, and Chino Hills State Park General Plan regarding aesthetics, geologic hazards, public safety, fire hazards, noise, recreations, and traffic and transportation.

Contrary to the claims made in the DEIR, and despite implementation of the prescribed mitigation measures, the Project would result in significant physical impacts on the environment. Therefore, significant impacts would occur due to inconsistencies with applicable land use plans and policies.

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- L50-52 The topography with and immediately west of Planning Area 2 is characterized by a series of steep northeast to southwest trending ridgelines and canyons, which would be the typical travel routes by wildlife. Use of these canyon bottoms or ridgelines would lead wildlife originating in CHSP into a dead-end cul-de-sac completely surrounded by development. As such, regional movement in the general north-south direction is precluded and would not be affected by the Proposed Project. Animals moving east to west would be pushed to the north of the site by the steep canyons and ridgelines noted above and would follow the "South Ridge Trail" or would move down into Telegraph Canyon, while animals moving west to east would be pushed to the north by the existing residential development that follows San Antonio Road, which would also have the animals take the South Ridge Trail or Telegraph Canyon. The project would not substantially interfere with regional wildlife movement, as the site does not have the potential for this function.
- L50-53 The Proposed Project is under the jurisdiction of the Orange County General Plan. The Proposed Project is consistent with the OCGP as detailed in Section 5.9 - Land Use and Planning. In addition, consistency with the Yorba Linda General Plan, the Yorba Linda Zoning Code, and the Chino Hills State Park General Plan are detailed in Section 5.9. Potential impacts were fully analyzed under each topical category listed by commenter. The Proposed Project was also analyzed under Project Alternative 5 - Yorba Linda General Plan (Chapter 6, Section 6.9 of the DEIR).

More specifically, following is information regarding topical consistency analyses as presented in Section 5.9 of the DEIR:

- Orange County General Plan
  - Land Use Element Consistency – Table 5-9-2 (beginning on page 5-413)
  - Transportation Element Consistency – Table 5-9-3 (beginning on page 5-416)
  - Public Services and Facilities Element Consistency – Table 5-9-4 (beginning on page 5-418)
  - Resources Element Consistency – Table 5-9-5 (beginning on page 5-421)
  - Recreation Element Consistency – Table 5-9-6 (beginning on page 5-424)
  - Noise Element Consistency – Table 5-9-7 (beginning on page 5-425)
  - Safety Element Consistency – Table 5-9-8 (beginning on page 5-426)
  - Housing Element Consistency (page 5-427)
  - Growth Management Element – Table 5-9-9 (beginning on page 5-427)
- Orange County Zoning Code Consistency (page 5-428)
- Esperanza Hills Specific Plan (page 5-429)
- City of Yorba Linda General Plan
  - Land Use Element Consistency – Table 5-9-11 (beginning on page 5-434)
  - Circulation Element Consistency – Table 5-9-12 (beginning on page 5-439)
  - Recreation and Resources Element Consistency – Table 5-9-13 (beginning on page 5-440)
  - Noise Element Consistency – Table 5-9-14 (beginning on page 5-442)
  - Public Safety Element Consistency – Table 5-9-15 (beginning on page 5-442)
  - Growth Management Element Consistency – Table 5-9-16 (beginning on page 5-443)
  - Housing Element Consistency – Table 5-9-17 (beginning on page 5-444)

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**1. The DEIR Violates CEQA Because the Project is Inconsistent with the Orange County General Plan, Yorba Linda General Plan, Yorba Linda Zoning Code, and Chino Hills State Park General Plan and Would Result in Significant Physical Impacts on the Environment.**

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The DEIR explains that the Project would have a significant impact if it would conflict with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. DEIR at 5-411. The DEIR concludes that the Project “does not conflict with any applicable land use policy or regulation of any agency with jurisdiction over the project.” DEIR 5-455. But as discussed above, the Project is inconsistent with applicable OCGP, YLGP, Yorba Linda Zoning Code, and Chino Hills State Park General Plan goals, objectives, and policies regarding aesthetics, geologic hazards, public safety, fire hazards, noise, recreations, and traffic and transportation. These agencies all have jurisdiction over portions of the Project. DEIR 4-9 (listing responsible agencies); 5-536 (noting that State Parks has authority over portion of Project’s proposed trail system). The impacts in these substantive categories remain significant despite the DEIR’s proposed mitigation measures.

The County intends the “to provide complete and adequate CEQA coverage for all actions and approvals associated with ultimate development of the Proposed Project, including but not limited to . . . Anticipated possible future annexation to City of Yorba Linda.” DEIR at 2-3. The DEIR therefore evaluates the Project’s consistency with the YLGP. The Project is located within the City of Yorba Linda Sphere of Influence DEIR at 5-396. Even without the potential annexation, the YLGP is thus an applicable land use plan, and the EIR must evaluate the Project’s consistency with the plan.

Because the Project conflicts with applicable land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect, the Project’s inconsistency with the General Plans is itself a significant and unavoidable impact. See Pub. Res. Code § 21100(b)(2)(A); CEQA Guidelines § 15126(b) (describing consequences of significant and unavoidable impacts). No amount of mitigation can change the fact that the Project is inconsistent with the Orange County and Yorba Linda General Plans. As discussed below, this inconsistency means that the Project also violates state planning and zoning law.

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- Yorba Linda General Plan Update: Community Vision Statements (page 5-444)
- Yorba Linda Zoning Ordinance (page 5-445)
- Yorba Linda Hillside Development/Grading/Fire Protection Ordinance (page 5-445)
- SCAG 2012-2035 RTP/SCS Goals
  - Table 5-9-18 (beginning on page 5-447)
- Chino Hills State Park General Plan Consistency
  - Table 5-9-19 (beginning on page 5-449)
- Sphere of Influence Guidelines Consistency
  - Table 5-9-20 (beginning on page 5-451)

Since the commenter does not provide specific goals and policies to support the contention of inconsistency, and since a very thorough analysis was conducted for each policy and plan, the analysis in the DEIR remains complete.

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**2. The Project Violates State Planning and Zoning Law Because it is Inconsistent with the Orange County General Plan.**

The California Supreme Court has described the General Plan as “the constitution for all future developments within the city or county.” *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 570–71 (1990). To effectively guide development, state law requires that general plans must “comprise an integrated, internally consistent and compatible statement of policies . . . .” Gov. Code § 65300.5. It also mandates that all subordinate land use decisions, including specific plans, must be consistent with the general plan. This requirement is known as the “consistency doctrine.” *FUTURE v. El Dorado County*, 62 Cal. App. 4th 1332, 1336 (1998). It has been described as “the linchpin of California’s land use and development laws” and “the principle which infuses[s] the concept of planned growth with the force of law.” *Napa Citizens for Honest Government v. Napa County*, 91 Cal. App. 4th 342, 355 (2001); *Garat v. City of Riverside*, 2 Cal. App. 4th 259, 285 (1991) (disapproved on other grounds by *Morehart v. County of Santa Barbara*, 7 Cal. 4th 725, 743 fn. 11 (1994)) (general plan must be internally consistent).

A project cannot be found consistent with a general plan if it conflicts with a plan policy that is fundamental, mandatory, and clear, regardless of whether the project is consistent with other general plan policies. *FUTURE*, 62 Cal. App. 4th at 1341–42. Even in the absence of a direct conflict, a local agency may not approve a development project if it frustrates the general plan’s policies and objectives. *Napa Citizens*, 91 Cal. App. 4th at 378–79. Amendments to the General Plan must maintain its internal consistency. Gov’t. Code § 65300.5.

The Project violates these state law requirements because it conflicts with and frustrates clear policies within the Orange County General Plan regarding public safety, fire hazards, geologic hazards, transportation, and aesthetics.

The Project conflicts with clear, fundamental general plan directives regarding public safety. Section III of this letter discuss these inconsistencies in detail. OCGP Public Safety Goal 1 is to “[p]rovide for a safe living and working environment consistent with available resources.” OCGP Public Safety Objective 1.1 is “[t]o identify natural hazards and determine the relative threat to people and property in Orange County.” The Project is also inconsistent with OCGP Public Safety Goal 2, to “[m]inimize the effects of natural safety hazards through implementation of appropriate regulations and standards which maximize protection of life and property.” These core

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L50-54 Please refer to responses to Comments L50-27 through L50-32 related to geology/soils and safety.

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principles of the County's General Plan articulate the County's fundamental duty to promote the safety of its residents during the land use planning process.

The Project is also inconsistent with important OCGP goals and objectives regarding public safety and fire hazards. Section III.C. of this letter discusses these inconsistencies in detail. OCGP Public Services and Facilities Element - Orange County Fire Authority Goal 1 requires the County to ensure adequate fire protection facilities to prevent and minimize the loss of life and property from structural and wildland fire damages. OCGP Public Services and Facilities Element - Orange County Fire Authority Goal 2 and Objective 2.1 require the County to minimize natural safety hazards and mitigate the effects of those hazards. These are clear, basic directives to protect the public from natural hazards, including fires.

Finally, the Project is also inconsistent with OCGP objectives regarding transportation system management and demand management. Section III.E. of this letter discusses these inconsistencies in detail. OCGP Transportation Element Objective 6.7 requires the Project Applicant to analyze transportation system management and demand management for the Project. This requirement is unambiguous and clearly applicable to the Project. It also represents an essential component of land use planning in a County that suffers from some of the worst traffic congestion in the country. But the DEIR simply fails to provide this analysis.

The Project may also conflict with clear, fundamental general plan directives regarding aesthetics. Section III.A of this letter discusses these inconsistencies in detail. OCGP Land Use Element Policy 8 requires the County "[t]o guide development so that the quality of the physical environment is enhanced." Resources Element, Natural Resources Policy 5 requires the County "[t]o protect the unique variety of significant landforms in Orange County through environmental review procedures and community and corridor planning activities." These OCGP policies are particularly important in the unincorporated areas surrounding the Project site, where undeveloped, rolling hillsides are the defining landform and contribute significantly to the area's aesthetic character.

#### **IV. The DEIR's Analysis of Project Alternatives is Inadequate.**

The DEIR does not comply with the requirements of CEQA because it fails to undertake a legally sufficient study of alternatives to the Project. CEQA provides that "public agencies should not approve projects as proposed if there are feasible alternatives . . . which would substantially lessen the significant environmental effects of such projects." Pub. Res. Code § 21002. As such, a major function of the EIR "is to ensure

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- L50-55 Please refer to responses to Comments L50-33 through L50-42 and Topical Response 1 and Topical Response 2 related to fire hazards and evacuation plans.
- L50-56 Please refer to responses to Comments L50-47 and L50-48 regarding transportation systems.
- L50-57 CEQA Guidelines §15126.6 related to Alternatives states: "An EIR need not consider every conceivable alternative to a project. Rather is must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible." The DEIR has adequately analyzed potential impacts and provided five Alternatives (Chapter 6 of the DEIR) that potentially reduce significant impacts and achieve most of the basic project objectives as noted in the CEQA Guidelines. The analysis presented in Chapter 6 of the DEIR also compared impacts of each Alternative with the Proposed Project impacts.

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that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” To fulfill this function, an EIR must consider a “reasonable range” of alternatives “that will foster informed decision making and public participation.” CEQA Guidelines § 15126.6(a). “An EIR which does not produce adequate information regarding alternatives cannot achieve the dual purpose served by the EIR . . . .” *Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692, 733 (1990).

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As discussed above, the DEIR fails to adequately analyze the Project’s environmental impacts. Had the County performed an adequate analysis, there is no doubt that the document would have determined that the Project would result in numerous significant environmental impacts, including impacts related to aesthetics, fire hazards, geologic hazards, noise, public safety, recreation, traffic and transportation, and land use incompatibility. In light of the Project’s extensive significant impacts, it is incumbent on the County to carefully consider a range of feasible alternatives to the Project. The DEIR fails to do so. In fact, it analyzes only one meaningful alternative—a Lower/Reduced Density Alternative—in addition to the No Project Alternative.

To ensure that the public and decisionmakers have adequate information to consider the effects of the proposed Project, the County must prepare and recirculate a revised EIR that considers additional meaningful alternatives to the Project.

**1. The DEIR’s Failure to Adequately Describe the Project and Analyze Project Impacts Results in an Inadequate Range of Alternatives.**

As a preliminary matter, the DEIR’s failure to disclose the severity of the Project’s wide-ranging impacts or to accurately describe the Project necessarily distorts the document’s analysis of Project alternatives. As a result, the alternatives are evaluated against an inaccurate representation of the Project’s impacts. The County may have identified additional or different alternatives if the Project impacts had been fully disclosed and Project setting had been accurately described.

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The DEIR fails to adequately evaluate the severity and extent of impacts related to aesthetics, fire hazards, geologic hazards, noise, public safety, recreation, traffic and transportation, and land use incompatibility at the Project site. The DEIR’s conclusions that the Project’s impacts on these resources would be less than significant are erroneous. Proper analysis would have revealed that far more impacts were significant and unavoidable. The DEIR also fails to describe three of the most critical components of the proposed Project, including the adjacent Cielo Vista development. An accurate

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L50-58 The commenter offers no specific information to support the opinion that an accurate accounting of the Proposed Project's impacts could significantly alter the substance and conclusions of the DEIR's alternatives analysis. As identified and described in the DEIR, potential impacts, mitigation measures, and conclusions presented in the analysis are supported by the findings and recommendations contained in more than 15 detailed technical studies prepared for the project. In addition, cumulative impacts were fully analyzed, including impacts from the proposed Cielo Vista project. As a result, based on the analysis prepared for the Proposed Project, an adequate range of Alternatives has been presented to allow informed decision making. Alternative 4 - Lower/Reduced Density, which was noted by commenter, has been included as Section 6.8 in Chapter 6 and is one of five Alternatives. Commenter provides no factual support regarding the contention that the Alternatives presented are not adequate for analysis and decision making. The DEIR has adequately presented the Proposed Project and all reasonable and feasible alternatives as required by CEQA.

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accounting of the Project's impacts could significantly alter the substance and conclusions of the DEIR's alternatives analysis.

For example, a more accurate representation of the Project's impacts could change the DEIR's conclusion that the Lower/Reduced Density Alternative is the environmentally superior alternative. The revised DEIR could conclude, for example, that the Project results in significant wildland fire hazards. The Lower/Reduced Density Alternative does not include construction of the 1,390-foot elevation water reservoir, which would impair firefighting capabilities. DEIR at 6-81. The DEIR might conclude, in light of this impact, that a different, more protective alternative is actually environmentally superior. (Such an analysis would additionally require that the EIR expand the range of alternatives considered, in keeping with the rule of reason as discussed below.

The DEIR's failure to adequately describe the Project and its impacts also necessitates consideration of additional alternatives. Accounting for the various aspects of the Project left out of the DEIR's consideration, a reasonable range of alternatives plainly includes an alternative that does not provide access to the Bridal Hills or Yorba Linda Land parcels. The EIR must be revised to analyze such alternatives.

Moreover, without sufficient analysis of the underlying environmental impacts of the entire Project, the DEIR's comparison of this Project to the identified alternatives is utterly meaningless and fails CEQA's requirements. If, for example, the DEIR concluded that the Project resulted in significant wildland fire hazards, as it should have, the DEIR would be required to evaluate additional alternatives that did not pose these risks. These additional alternatives would necessarily be off-site locations away from the urban-wildland interface.

**2. The DEIR's Range of Alternatives is Not Reasonable Because None of the Alternatives Would Actually Reduce the Project's Impacts Overall.**

The alternatives analyzed in the DEIR represent a false choice, because none reduces a majority of the Project's significant environmental impacts. In addition to the No Project alternative, the DEIR offers only one meaningful alternative: the Lower/Reduced Density Alternative. This one alternative alone does not constitute the "reasonable range" of alternatives that CEQA requires.

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- L50-59 The DEIR has included consideration of the Bridal Hills and Yorba Linda Land parcels related to those parcels gaining access via the Proposed Project. Commenter is referred to Topical Response 5 - Segmentation/Piecemealing, for information relating to the status of the aforementioned parcels as they relate to future development and the need for further analysis.
- L50-60 Commenter's opinion regarding the Alternative presented is noted, and the commenter is referred to Table 6-4-1, page 6-5 of the DEIR, which provides a topic-by-topic summary of the analysis of the impacts of each alternative identified in Chapter 6 as compared to the Proposed Project. Further detail is provided under each Alternative discussion in Chapter 6. A review of Table 6-4-1 shows that there are clear differences in the level of impacts under each Alternative, and it is unclear why commenter has not adequately distinguished the differences. As noted in CEQA §15126.6, "There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason." Given the site's location, topography, and surrounding development, the range of Alternatives presented fulfills the intent of §15126.6. Alternatives 2A and 2B are feasible access routes, and during public scoping meetings members of the public requested analysis of more options for roads.

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The DEIR itself concedes that both the Access Option 2A Access Alternative (“Option 2A Alternative”) and the Access Option 2B Access Alternative (“Option 2B Alternative”) would have environmental impacts similar to, or even greater than, those of the Project. DEIR at 6-12 to -77.

The Option 2A Alternative is not a meaningful alternative because it is virtually identical to the proposed Project. The only difference between this Alternative and the Project is that access to the site would be provided by a roadway connected to San Antonio Road through City of Yorba Linda open space south of Aspen Way. DEIR at 6-4. All other aspects of this Alternative would be the same as the Project. *Id.* The DEIR admits that the impacts of the Option 2A Alternative would be identical to those of the Project, or very similar. DEIR at 6-12 to -49.

The DEIR claims that Option 2A is superior to Project in two impact areas: air quality and noise. DEIR at 6-5. But this difference is vanishingly slight. Option 2A is only “marginally superior with respect to proximity to sensitive receptors extending from 50 feet to 250 feet, but identical with respect to all other air quality impacts.” DEIR at 6-17. Long-term traffic noise impacts under Option 2A “would be slightly less than long-term noise impacts under [the Project].” DEIR at 6-33. And in fact, Option 2A would result in greater impacts to biological resources than the Project. DEIR at 6-49. Because it fails to meaningfully reduce or avoid any of the Project’s significant impacts, Option 2A is not an effective alternative. *See, e.g., Watsonville Pilots Ass’n v. City of Watsonville*, 183 Cal. App. 4th 1059, 1089–90 (2010) (EIR was deficient for failing to include alternative that would avoid or lessen the project’s primary growth-related significant impacts); *see also Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 566 (1990) (“[A]n EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project . . . [that] offer substantial environmental advantages over the project proposal.”).

The Option 2B Alternative is also not a meaningful alternative because fails to offer substantial environmental advantages over the proposed Project. *Citizens of Goleta Valley*, 52 Cal. 3d at 566. The only difference between the Option 2B Alternative and the Project is that primary access to the site would be provided via San Antonio Road south of Aspen Way, and secondary access would connect to Stonehaven Drive. DEIR at 6-4. All other aspects of this Alternative would be the same as the Project. The DEIR demonstrates that the impacts of the Option 2B Alternative would be identical or very similar to those of the Project. DEIR at 6-50 to -77.

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The DEIR claims that the Option 2B Alternative results in fewer impacts than the Project related to geology, noise, fire hazards, public services, and transportation. DEIR at 6-5. But these claims are misleading. The Option 2B Alternative will require only slightly less grading and lower retaining walls in one area of the Project. DEIR at 6-56. The DEIR fails to explain how those changes will substantially reduce impacts. The Option 2B Alternative would provide only slight reductions in noise in one area, but would actually increase noise impacts in another. DEIR at 6-64. The DEIR claims that the Option 2B Alternative will reduce hazards, public services, and traffic impacts compared to the Project because it provides two routes for emergency ingress and egress. DEIR at 6-58, 6-64, 6-75. But the Project itself already includes a second emergency access route for evacuees and responding emergency personnel. The DEIR does not describe how the secondary access included in the Option 2B Alternative is superior to the emergency access route already provided by the Project. Other impacts would be the same under the Project and the Option 2B Alternative. Because it fails to meaningfully reduce or avoid the Project's primary significant impacts, Option 2B is not an effective alternative.

The Lower/Reduced Density Alternative might potentially reduce some impacts relative to the Project due to a decreased number of dwelling units. But the Lower/Reduced Density Alternative would result in *greater* impacts than the Project in some fundamental impact categories, including recreation and wildland fire hazards. These impacts are some of the most significant resulting from the Project, as discussed above. The Lower/Reduced Density Alternative would result in impacts that are similar to the Project's air quality, cultural resources, greenhouse gas emissions, and hydrology impacts.

The Yorba Linda General Plan Alternative is also not a meaningful alternative because it fails to offer substantial environmental advantages over the proposed Project. In fact, compared to the proposed Project, this alternative actually *increases* impacts related to air quality, biological resources, noise, public services, recreation, traffic, and utilities. DEIR at 6-86 to -92. The DEIR only claims that this alternative reduces impacts in two categories: land use/planning, and population/housing. DEIR at 6-89 to -90. Other environmental impacts would be the same under the Project and the Yorba Linda General Plan Alternative.

The DEIR thus requires County decisionmakers to choose between alternatives that, according to the DEIR, largely share the Project's environmental impacts. The County claims that the Lower/Reduced Density Alternative is environmentally superior, but this option still yields similar or greater impacts in many impact key issue areas,

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- L50-62 Please refer to response to Comment L50-60 above. Alternative 4 was included for consideration as an alternative that reduces the total number of residences. The other four alternatives assume the same or greater density/residential units.
- L50-63 Please refer to response to Comment L50-60 above. Commenter opines throughout the letter that the Proposed Project must provide consistency with the Yorba Linda General Plan yet finds fault with an Alternative that analyzes the Proposed Project as developed in accordance with Yorba Linda General Plan.
- L50-64 Please refer to responses to Comment L50-57 through -60 above. Contrary to commenter's opinion, the Proposed Project does not result in "truly extensive impacts." All impacts have been mitigated to a less than significant level, with the exception of greenhouse gas emissions, traffic noise for Option 2 only, and traffic only if the installation of traffic mitigation measures are not implemented, because the County cannot compel the installation of traffic improvements within the City of Yorba Linda (see Topical Response 8 – Noise Impacts beginning on page 47). The DEIR presents a reasonable range of alternatives, but it is unrealistic to assume that all alternatives have fewer impacts in all environmental areas. The decision makers have discretion to choose the best alternative, or a combination of potential designs.

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including fire hazards and recreation. DEIR at 6-78 to 6-85. CEQA requires that “the discussion of alternatives shall focus on alternatives to the project or its location which *are capable of avoiding or substantially lessening any significant effects* of the project . . .” CEQA Guidelines § 15126.6(b) (emphasis added). None of the DEIR’s alternatives meet this requirement.

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Given the truly extensive impacts that this Project would have on the environment, the DEIR must include a rigorous, honest assessment of additional, less impactful, alternatives. Without this opportunity, the DEIR asks the public to accept on “blind trust” that the proposed Project is the best alternative. This approach is unlawful “in light of CEQA’s fundamental goal that the public be fully informed as to the consequences of action by their public officials.” *Laurel Heights*, 47 Cal. 3d at 494. Other feasible alternatives are discussed below.

**3. Other Feasible Alternatives are Available and Must be Included in a Reasonable Range.**

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The DEIR’s analysis of alternatives is inadequate, and necessitates development of additional alternatives for the Project. As discussed above, these alternatives must actually reduce or eliminate the bulk of the Project’s significant environmental impacts. For instance, the DEIR should identify and evaluate an off-site alternative, an alternative that does not include access across the Cielo Vista property, as well as alternatives that reduce a majority of the Project’s significant impacts.

**a. The DEIR Must Evaluate an Off-Site Alternative.**

L50-66

The DEIR’s reasons for determining that an alternative location is not a feasible alternative are unconvincing. The CEQA Guidelines advise that “only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.” CEQA Guidelines §15126.6(f)(2)(A). The DEIR contends that an alternative location for the Project is infeasible because “[t]he surrounding area is nearly built-out, and few larger tracts of vacant land remain for development within this area of unincorporated Orange County.” DEIR at 6-3. This basis for dismissal is based on a faulty premise: Contrary to the DEIR’s implication, it need not limit its consideration to alternative locations “in the surrounding area that contain large tracts of vacant land. In fact, the County should not restrict its identification and evaluation of alternative sites to Orange County itself; it must assess alternative locations across the state. The revised alternatives analysis must also evaluate various other options for meeting housing demands, looking beyond the large-lot

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- L50-65 An off-site alternative is neither reasonable nor feasible under CEQA as the Project Applicant is the owner of the Project site and does not own a similar parcel in Orange County. Option 1 provides access that does not include crossing the proposed Cielo Vista property, and is one of four access options. Finally, each of the Alternatives presented reduce impacts compared to the Proposed Project.
- L50-66 Commenter's statement that alternative locations across the state should be analyzed is unreasonable. CEQA does not require that analysis go beyond what is feasible and reasonable. One of the measures of feasibility is whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site. The Project Site is owned by the identified entities, and there are no other properties under their ownership that can be analyzed. The Proposed Project is not the type of project that warrants state-wide analysis. The DEIR has presented a reasonable and feasible range of alternatives which can reduce identified project impacts.

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subdivision model presented by the Project. Infill sites and other non-sprawling solutions must be considered as alternatives.

The DEIR also argues that an alternative location for the Project is infeasible because it would fail to carry out the goals and objectives of the Proposed Project. DEIR at 6-3. But the DEIR cannot rely on overly-narrow project objectives to dismiss consideration of an off-site alternative.

The first step in conducting an alternatives analysis under CEQA is to define the project's objectives. This step is crucial because project objectives "will help the Lead Agency develop a reasonable range of alternatives to evaluate in the EIR." CEQA Guidelines § 15124(b). Here, the County has identified eleven Project objectives. DEIR at 6-2.

The County may not define the Project's objectives so narrowly as to preclude a reasonable alternatives analysis. *Watsonville Pilots Ass'n*, 183 Cal. App. 4th at 1089. The "key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts," rather than to identify alternatives that meet few of the project's objectives so that they can be "readily eliminated." *Id.*

The Project objectives listed in the DEIR violate this core CEQA principle. The DEIR states that one of the Project's objectives is to "create a low-density single family development." DEIR at 6-1. Another objective is to "[p]rovide recreational opportunities for residents in the project vicinity for access to Chino Hills State Park from the south and west to the Old Edison Trail." DEIR at 6-2. Still another objective is to "[e]nhance the visual quality of the areas around the oil extraction operations to the extent that extraction operations are continued." *Id.* If the DEIR is correct that the immediately surrounding area contains no alternative locations, these objectives specify criteria that are essentially unique to the Project site. In this way, the DEIR ensures that only a limited range of on-site alternatives could possibly satisfy all Project objectives. The DEIR's pursuit of these objectives is impermissible. *Watsonville Pilots Ass'n*, 183 Cal. App. 4th at 1089. The DEIR must evaluate off-site alternatives.

**b. The DEIR Must Evaluate An Alternative Without Access Across Cielo Vista.**

Esperanza Hills may not be able to secure access across the Cielo Vista property. The DEIR must evaluate an alternative that provides access to the Project across a

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- L50-67 As noted, Option 1 in the DEIR provides primary access via Stonehaven Drive and does not enter the Cielo Vista property. Option 1 also proposes an emergency access road that would utilize an existing roadway and utility easement across the Cielo Vista property. Emergency access will be coordinated with the Orange County Fire Authority for both the Proposed Project and the proposed Cielo Vista project. However, as noted, this Option does provide ingress/egress that does not require Cielo Vista property. The Alternatives analysis remains adequate and provides a feasible range of Alternatives for an informed decision.

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different property. The Esperanza Hills property owners have asserted easement rights across the Cielo Vista project site, but the parties are currently contesting that matter in litigation. Cielo Vista DEIR at ES-8. Esperanza Hills relies on the contested easement for secondary emergency ingress and egress in Project Option 1 and the Option 2A Alternative. Depending on the outcome of the litigation between the parties, Esperanza Hills may not be able to use an emergency access route over the contested easement. In fact, every Project Option and Alternative, except the No Project Alternative, rely on primary, secondary, or emergency access routes that cross the Cielo Vista property. These routes will all require Esperanza Hills to secure easements across Cielo Vista.

Esperanza Hills may be unable to secure the necessary easements to permit access to the Project across the Cielo Vista property. If this occurs, and the Project is still constructed, the Project will require construction of an access route that has not yet been designed or analyzed. This currently-unknown access route could have significant impacts related to geology, biological resources, traffic, and other impact categories that have not yet been evaluated by the County. The DEIR must include an alternative that accounts for this possible future circumstance. The County must prepare and recirculate a revised EIR that considers this additional alternative to the Project. CEQA Guidelines § 15088.5.

**V. The DEIR Fails to Accurately Analyze the Project's Growth-Inducing Impacts.**

CEQA requires an EIR to include a "detailed statement" setting forth the growth-inducing impacts of a proposed project. Pub. Res. Code § 21100(b)(5); CEQA Guidelines § 15126.2(d); *City of Antioch v. City Council of Pittsburg*, 187 Cal. App. 3d 1325, 1337 (1986). The statement must "[d]iscuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." CEQA Guidelines § 15126.2(d). This includes the project's ability to "remove obstacles to population growth." CEQA Guidelines § 15126.2(d). It must also discuss how projects "may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively." *Id.* The DEIR here does not meet these requirements in analyzing the impacts of the Project.

To the extent that the Bridal Hills and Yorba Linda Land parcels are not already planned for development and the County does not consider them part of the Project, the Project will induce growth on these parcels. Access to these parcels will be provided through Cielo Vista and Esperanza Hills. DEIR at 5-433. Development of these two

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L50-68 Potential development of Bridal Hills and Yorba Linda Lands for access and infrastructure improvements is analyzed in Hydrology/Water Quality and Transportation and Traffic sections of the DEIR. Refer to Topical Response 5, which describes the development status of the adjacent properties. As noted in Chapter 8, potential growth associated with Bridal Hills and Yorba Linda Lands was considered in the City's General Plan. However, infrastructure for the Proposed Project has been designed for the Project only, and therefore will not serve as an inducement to growth. Refer to response to Comment L50-69 following.

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parcels will undoubtedly utilize infrastructure improvements, such as water treatment and delivery facilities, that are planned to accommodate Cielo Vista and Esperanza Hills. DEIR at 5-637 (explaining that water storage capacity of Esperanza Hills infrastructure can be increased to accommodate adjacent property). The DEIR fails to adequately analyze the extent or environmental impacts of such growth-inducing impacts.

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The DEIR claims that the Project's proposed water facilities improvements will not induce growth, "unless adjacent planned developments extend such facilities to serve the development area." DEIR at 8-1. But "[t]he Proposed Project, in itself, will not extend infrastructure improvements into adjacent areas." *Id.* The possibility of extending facilities already built for the Project to serve other developments is precisely why the Project's improvements will induce growth. The Project's infrastructure would facilitate construction of additional development that could significantly affect the environment. The DEIR must evaluate the impacts of this growth.

At a minimum, the DEIR must analyze the additional population growth, new residential units, and other development that the Project would facilitate on the Bridal Hills and Yorba Linda Land parcels, as well as any other nearby development areas. The DEIR should identify the location and intensity of any such new development, and the environmental impacts resulting from that development.

L50-69

#### **VI. Conclusion.**

The DEIR for the Project fails to satisfy CEQA's requirements, and the Project violates state Planning and Zoning law. For these reasons, the County must not consider the Esperanza Hills Project further. The County must substantially revise the DEIR and incorporate the Esperanza Hills development, along with the other omitted aspects of the Project, into the Project and its environmental analysis. The County must then recirculate the DEIR for public review.

L50-70

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- L50-69 Based on the development constraints for both Bridal Hills and Yorba Linda Lands, it is not anticipated that substantial growth will occur. The DEIR included analysis for a potential of 38 units for Bridal Hills. Development potential for Yorba Linda Lands is very limited due to topographic constraints. However, the Proposed Project includes access points to both properties in order to avoid illegally “land-locking” the parcels. There is no significant growth-inducing potential created by the Proposed Project beyond what has been analyzed in the DEIR. Cumulative impacts for 18 related projects are fully analyzed in Chapter 7 of the DEIR.
- L50-70 Environmental impacts due to the development of Esperanza Hills have been fully analyzed in the DEIR and mitigation has been included to reduce identified impacts. The analysis provided in the DEIR remains adequate and recirculation is not required.