



P.O. Box 54132
Irvine, CA 92619-4132

California Cultural Resource Preservation Alliance, Inc.

**An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.**

December 14, 2013

Ron Tippets
OC Planning Contract Planner

RE: Cielo Vista Project Draft Environmental Impact Report (EIR)

Upon review of Cultural Resources 4.4, we concur with the determination that the project has low archaeological sensitivity based on the hilltop terrain, lack of water, and lack of recorded cultural resources and surface expression based on a pedestrian archaeological survey. However, we also concur with the determination that it is possible that previously undiscovered buried archaeological resources exist within the project area at locations consisting of younger Quaternary Alluvium and support Mitigation Measure 4.4-1 archaeological monitoring.

Archaeological sites that are significant because they contain important scientific data are also significant and important to Native American descendants because they contain religious and cultural values. Unlike scientific data, religious and cultural values cannot be mitigated to a less than significant level with the implementation of data recovery excavations. Therefore we request that in the event significant buried archaeological resources are discovered, Mitigation Measure 4.4-2 be revised to focus on avoidance and preservation. This is consistent with the United Nations Declaration on the Rights of Indigenous Peoples which was adopted by the United States in 2010 (See www.achp.gov/undeclaration.html).

Sincerely,

A handwritten signature in dark ink, appearing to read "Patricia Martz", is written over a light-colored, textured background.

Patricia Martz, PhD.
President

LETTER: CCRPA

California Cultural Resource Preservation Alliance, Inc.
Patricia Martz, PhD., President
P.O. Box 54132
Irvine, CA 92619-4132
(December 14, 2013)

RESPONSE CCRPA-1

The comment is noted. No further response is required because this comment concurs with the archaeological sensitivity determination for the Project, and does not raise any new significant environmental issues or address the adequacy of the environmental analysis included in the Draft EIR.

RESPONSE CCRPA-2

The comment is noted. No further response is required because this comment concurs that possible previously undiscovered buried archaeological resources exist within the project area at locations consisting of younger Quaternary Alluvium and supports Mitigation Measure 4.4-1 archaeological monitoring, and does not raise any new significant environmental issues or address the adequacy of the environmental analysis included in the Draft EIR.

RESPONSE CCRPA-3

Per the provided comment, Mitigation Measure 4.4-2 will be revised to focus on avoidance and preservation as a first priority when archaeological resources are encountered during construction. The following revisions have been made to the Draft EIR and are also included in Chapter 3.0, *Corrections and Additions*, of this Final EIR:

Executive Summary**1. Page ES-15. Modify Mitigation Measure 4.4-2 with the following changes:**

Mitigation Measure 4.4-2 In the event that archaeological resources are unearthed during ground-disturbing activities, the archaeological monitor shall be empowered to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. Work shall be allowed to continue outside of the vicinity of the find. All archaeological resources unearthed by Project construction activities shall be evaluated by the archaeologist. The Applicant shall coordinate with the archaeologist and the County to develop an appropriate treatment plan for the resources to reduce impacts to any significant resources to a less than significant level. Treatment measures to be considered first shall be avoidance or preservation in place. If preservation or avoidance of the resource is not appropriate, as determined by the archaeologist and the County, then the resource shall be removed from its location and appropriate data recovery conducted to adequately recover information from and about the archeological resource. Treatment may include implementation of archaeological data recovery excavations to remove the resource or preservation in place. All archaeological resources recovered shall be documented on

California Department of Parks and Recreation Site Forms to be filed with the South Central Coastal Information Center. The landowner, in consultation with the archaeologist and the County shall designate repositories in the event that archaeological material is recovered.

Chapter 4.4, Cultural Resources

1. Page 4.4-11. Modify Mitigation Measure 4.4-2 with the following changes:

Mitigation Measure 4.4-2 In the event that archaeological resources are unearthed during ground-disturbing activities, the archaeological monitor shall be empowered to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. Work shall be allowed to continue outside of the vicinity of the find. All archaeological resources unearthed by Project construction activities shall be evaluated by the archaeologist. The Applicant shall coordinate with the archaeologist and the County to develop an appropriate treatment plan for the resources to reduce impacts to any significant resources to a less than significant level. Treatment measures to be considered first shall be avoidance or preservation in place. If preservation or avoidance of the resource is not appropriate, as determined by the archaeologist and the County, then the resource shall be removed from its location and appropriate data recovery conducted to adequately recover information from and about the archeological resource. Treatment may include implementation of archaeological data recovery excavations to remove the resource or preservation in place. All archaeological resources recovered shall be documented on California Department of Parks and Recreation Site Forms to be filed with the South Central Coastal Information Center. The landowner, in consultation with the archaeologist and the County shall designate repositories in the event that archaeological material is recovered.



Letter: FHBP1

November 18, 2013

Via E-Mail and U.S. Mail

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Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

Friends of Harbors, Beaches and Parks is writing to request an extension of the public comment period for the Cielo Vista Draft Environmental Impact Report (EIR). There are complex legal and technical issues surrounding the Cielo Vista Project and adequate time is needed to review the document. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is insufficient for a thorough review by the public that the California Environmental Quality Act proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, we respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your consideration of this request.

Sincerely,

Jean Watt
President
Friends of Harbors, Beaches and Parks

cc: The Honorable Todd Spitzer

Post Office Box 9256
Newport Beach, CA 92653
949-399-3669

www.FHBP.org

LETTER: FHBP1

Friends of Harbors, Beaches and Parks
Jean Watt, President
P.O. Box 9256
Newport Beach, CA 92653
(November 18, 2013)

RESPONSE FHBP1-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE FHBP1-2

The commenter is referred to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE FHBP1-3

Please refer to Response FHBP1-1.

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Letter: FHBP2

January 17, 2014

Via E-Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

Friends of Harbors, Beaches and Parks (FHBP) provides the following comments on the Cielo Vista Draft Environmental Impact Report (DEIR). We would like to first express our support for preservation of the entire property as opposed to its development. Additionally, the project's DEIR must be recirculated to provide more complete data and analysis especially as it relates to the following sections: GHGs, Hazards and Hazardous Waste, Traffic and Transportation, and Recreation.

Our specific comments are as follows:

Section 4.6 – GHGs

As you know, the state has passed two important laws related to greenhouse gas emissions—AB 32 (The Global Warming Solutions Act of 2006) and SB 375 (The Sustainable Communities Planning Act of 2008). AB 32 requires that we reduce our greenhouse gas (GHG) emissions to 1990 levels by 2020. SB 375 requires each region to create a Sustainable Communities Strategy (SCS) that reduces vehicle miles travelled (VMT) and meets the target of an 8% reduction in those VMT by 2020 and 13% reduction by 2035.

Currently, the site is sequestering carbon through vegetation and soil. If the development is approved it will generate carbon and GHG emissions as well as VMT. As noted in the DEIR, it will generate 2,283 metric tons per year of CO₂e. In June of 2011 the Orange County Council of Governments (OCCOG) adopted a sub-regional SCS. This document was incorporated into the Southern California Association of Governments (SCAG) SCS in April 2012. To actually meet the aforementioned targets, decision makers can no longer approve developments in the “business as usual” model. Instead they must consider how proposed developments, on the urban edge especially, will increase the number of VMT due to their distance from major roadways, freeways, transit opportunities, and amenities (grocery stores, office stores, cleaners, etc.); increase the need for and maintenance of new services (water, trash, sewer, roads, etc.); increase the risk of loss of life and property due to wildland fires by continuing to build in fire prone hills of Orange County; and decrease the quality of life for the existing community members due to increased traffic, larger classroom sizes in schools, etc.

Consequently, we disagree with the DEIR's statement 4.6-2. This project is in direct conflict with the SCS approved by the OCCOG and SCAG, and adds to the regional VMT instead of reducing it.

Further, OCCOG adopted the state's first carbon avoidance and sequestration strategy in the SCS, we believe under the circumstances, given these approved plans and standards the appropriate and logical mitigation measure is to transfer the rights to develop the property to a site located in a more urban setting adjacent to transportation corridors and transit. This would have multiple benefits, including: reducing VMT, creating vibrant communities in our urban areas through the use of infill development, and reducing the requisite additional, ongoing and permanent services the development proposal would have required.

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Audubon, Sea & Sage Chapter
Bolsa Chica Conservancy
Caspers Wilderness Park
Volunteers
Earth Resource Foundation
Equestrian Coalition of O.C.
Environmental Nature Center
Great Park Environmental
Coalition
Huntington Beach Wetlands
Conservancy & Wildlife
Care Center
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1

2

3

Continued development at the wildland-urban interface does not align with the legislation nor either SCS (OCCOG and SCAG) and clearly does not meet the regional targets set to reduce VMT by the California Air Resources Board. These hard facts must be squarely addressed in the DEIR.

3
(cont)

As a side note, Cielo Vista property has been included on the FHBP Green Vision Map as a property conservation groups' support for permanent preservation. The Map has been in existence since 2000 and is supported our 80+ member coalition.

4

Section 4.7 – Hazards and Hazardous Waste

FHBP works closely with a coalition of conservation organizations that each provides their own unique perspective on varying land use related conditions. As it relates to this section one partner; Hills For Everyone (HFE) recently completed a comprehensive Fire Study, which included the Cielo Vista site, in a scientific report called: "A 100 Year History of Wildfires Near Chino Hills State Park" (Fire Study) (**See Attachment 1**) and the other partner, the California Chaparral Institute similarly provides scientific information about chaparral ecosystems and wildfire. Based on the inaccurate information about the Wildlife Fire Hazards (page 4.7-16 of DEIR), the DEIR must be revised and recirculated with more accurate and complete information.

5

Specifically, the DEIR contends that lightning is a main source of wildfires in the region. While it is accurate that wildfires can be caused by lightning, it is not accurate to state that lightning is a main source of wildfire in this region. The HFE Fire Study, which documented 103 wildfires between 1914 and 2011, methodically demonstrates that only two (2) wildfires were caused lightning (**See Attachment 2**). The remainder (101 fires) was caused by humans—both intentionally and unintentionally. Further as additional roads were built, highways expanded or homes constructed at the wildland-urban interface the wildfires burning the hills tripled since the early 1980s.

6

The Chaparral Institute's research indicates that scrub and chaparral ecosystems should burn every 30 to 150 years (Halsey, Rick. Fire, Chaparral, and Survival in Southern California, pg. 3) (**See Attachment 3**). Further, based on the HFE Fire Study, this region is suffering from an increased, and therefore unnatural, fire frequency (**See Attachment 4**). The Study shows the area's ecosystems are actually burning every year. This increased fire frequency is actually type converting the scrub and chaparral habitats to non-native grasses (**See Attachment 5**). These grasses dry out earlier in the season, ignite easier, and spread fire faster especially in Santa Ana wind conditions. Therefore the greater risk, not addressed in the DEIR's assessment is the fine fuel load created by non-native grasses on the project site as opposed to the excess plant fuel.

7

Additionally, the HFE Fire Study is available online, as is the majority of the associated fire data in kmz format. The Fire Study is attached to this letter for your convenience (see again, Attachment 1). This Fire Study is a repository of fires from many different agencies, including CalFire. In addition to the two fires indicated in the DEIR that burned the Cielo Vista site, the property was also burned, in its entirety, by the November 8, 1943 Santa Ana Canyon fire, which burned 9,375 acres (**See Attachment 6**). Also, the cause of the Freeway Complex Fire, the first of the two fires that eventually merged together to form the complex fire, did NOT start in the riverbed of the Santa Ana River. There is no access to the Santa Ana River at that location (in Corona) for vehicles. The Orange County Fire Authority's (OCFA) After Action Report indicates the fire started on the westbound side of the 91 Freeway at the Green River exit (OCFA After Action Report, p. 6).

Research by fire scientists, including United States Geological Survey expert Jon Keeley, indicates that land use planning has largely been absent from the debate about home loss by wildfire. Keeley contends that the location of houses and their arrangement contribute to the likelihood of the homes being lost during a wildfire. His research indicates where fires have burned before they will burn again (**See Attachment 7**). Keeley states, "We're losing homes in fires because homes are being put into hazardous conditions" ... "The important thing is not to blame it on the fire event, but instead to think about planning and reduce putting people at risk" (**See Attachment 8**). The DEIR should address these facts.

8

The Freeway Complex Fire damaged or destroyed over 230 houses in Yorba Linda alone (more than 300 when looking at the region) (**See Attachment 9**). The homes that burned in the 2008 Freeway Fire are in the same type

of steep hillside communities as would be built by the developers of the Cielo Vista project. There is no defense against ember attacks during Santa Ana wind conditions, as witnessed in the Freeway Complex Fire where houses miles from the flame front burned down. Seventy six (76) houses were damaged or destroyed within ½ mile of the Cielo Vista project site (**See Attachment 10**). Had homes already been on the Cielo Vista property when the Freeway Complex Fire occurred many of those homes would likely have also been engulfed in flames, through exposure to radiant heat or ember attacks. CJ Fotheringham, a colleague of Keeley's notes, "There's really two types of fires: the ones we plan for, and the ones that do the damage" (quote from Attachment 8). The Freeway Complex Fire was the latter type of fire.

8
(cont)

Based on this current research, wind-drive fire events and fire history, the Cielo Vista site is not a site that should have houses on it. This project should be denied due to its public safety risks to both life and property.

Section 4.14 – Traffic and Circulation

The DEIR's transportation section underestimates traffic impacts for the proposed project. The projected total of only 84 weekday A.M. peak hour trips from the proposed 112 residential units (DU's) is unusually low for the type of project and remote location proposed. The DEIR must be revised and recirculated to demonstrate more realistic traffic projections.

9

The DEIR does not address existing-future and with-without project intersection analysis for Yorba Linda Boulevard at Esperanza Road and at the 91 freeway. Given the well-known congestion challenges for these locations as reported by Yorba Linda residents during the Cielo Vista NOP hearing, the project proponent should have included impact analysis and mitigation measures, as appropriate, for them. The DEIR must be revised and recirculated to demonstrate this more comprehensive analysis.

10

The DEIR proposes no alternative transportation measures, despite locating new residential development at an urban fringe location. Such planning would reduce travel options for the new residents and demonstrates a conflict with the County's SCS to pursue reductions in VMT. The DEIR must be revised and recirculated to detail more appropriate options for its future residents.

11

We also note that the existing intersection of Via del Agua at Yorba Linda Boulevard currently operates at LOS "F" during the A.M. peak hour (Cielo Vista Traffic Impact Analysis, pg. 8). The DEIR asserts the Project (112 DU's) is anticipated to generate a total of approximately 84 weekday A.M. peak hour trips and 113 weekday P.M. peak hour trips. We have serious questions about these figures being understated. The intersections are already operating at unacceptable levels. Therefore, the DEIR must be revised and recirculated to detail more appropriate options for its future residents.

12

Section 4.13 – Recreation

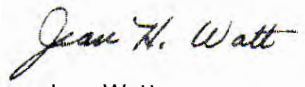
There are inconsistencies throughout the DEIR when reporting the acreage of Chino Hills State Park. According to the California Department of Parks and Recreation website, Chino Hills State Park is 14,102 acres (**See Attachment 11**). Additionally, the nearest accessible entrance to the State Park from the project site is not on Carbon Canyon Road as mentioned in the DEIR, it is the Quarter Horse/Rim Crest entrance in Yorba Linda (roughly 1.4 direct miles from the project site). However, due to the close proximity of this project to the State Park (roughly two-thirds of a mile) there are numerous impacts to the Park and its resources. These impacts, which must be studied in the DEIR, include edge effect, potential for fire ignition, loss of foraging habitat for golden eagles and other raptors, loss of habitat for the mountain lion, etc.

13

Additionally, Figure 4.13-1 and 4.13-2 on page 7 and 13 respectively of this section's PDF inaccurately shows the State Park boundaries. In 2006, 1,262 acres were added to the State Park in the hills of Yorba Linda (**See Attachment 12**). By excluding this parkland acreage, the project impacts are reduced because the State Park seems farther away than it actually is. The DEIR ignores impacts to State Park's natural resources which must be addressed in the DEIR.

To conclude, we find the DEIR for the Cielo Vista project is lacking in its analysis of GHGs, Hazards and Hazardous Waste, Traffic and Transportation, and Recreation and request the DEIR be at a minimum recirculated and revised for additional public comments.

Sincerely,



Jean Watt
President
Friends of Harbors, Beaches and Parks

cc: The Honorable Todd Spitzer

Attachments:

- 1 – HFE Report: “A 100 Year History of Wildfires Near Chino Hills State Park”
- 2 – HFE Fire Causes Map
- 3 – Halsey’s Excerpt from Fire, Chaparral, and Survival in Southern California
- 4 – HFE Fire Frequency Map
- 5 – HFE Type Conversion Photo
- 6 – HFE Map of the 1943 Santa Ana Canyon Fire
- 7 – Keeley, Jon, et al. “Housing Arrangement and Location Determine the Likelihood of Housing Loss Due to Wildfire” March 2012, Volume 7, Issue 3
- 8 – Oskin, Becky. “Fighting Fires: You’re Doing it Wrong.” LiveScience. 12 Jan 2013
- 9 – HFE Properties Damaged or Destroyed in the Freeway Complex Fire Map
- 10 – HFE Map of Properties Damaged or Destroyed within ½ Mile of the Cielo Vista Project Site
- 11 – California Department of Parks and Recreation webpage for Chino Hills State Park
- 12 – The Official Chino Hills State Park Map

LETTER: FHBP2

Friends of Harbors, Beaches and Parks

Jean Watt, President

P.O. Box 9256

Newport Beach, CA 92653

(January 17, 2014)

RESPONSE FHBP2-1

This comment in opposition to the Project is acknowledged and will be provided to the decision makers for review and consideration as part of the decision making process. Also, this comment provides a general introduction to the issues raised in this letter. Individual responses to this letter are provided below in Responses FHBP2-2 to FHBP2-14.

RESPONSE FHBP2-2

Sustainable Communities Strategies (SCS) targets are not project-specific and are achieved through region-wide vehicle miles traveled (VMT) reduction measures. These VMT reduction goals contained in the SCS may be achieved through other means such as mass transit or transit oriented development within the region. The commenter is incorrect in that the Project is in direct conflict with the SCS.

Per the comment, a discussion of the Orange County Council of Governments (OCCOG) SCS has been added to the Draft EIR. The following revisions have been made to the Draft EIR and are also included in Chapter 3.0, *Corrections and Additions*, of this Final EIR:

Section 4.6, Greenhouse Gas Emissions

1. **Page 4.6-26. Add the following text below the 1st paragraph in the discussion of “Consistency with Applicable GHG Plans”:**

Further, as discussed previously, SB 375 was enacted to reduce GHG emissions by requiring MPOs to develop an SCS as part of their RTP. As a result, SCAG has included an SCS element to their RTP which encompasses the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and Riverside. Each SCS must outline the strategies being undertaken in order to reduce GHG emissions from automobiles and light trucks in the region. SB 375 also allows for subregional council of governments to develop a subregional SCS. The Orange County Council of Governments (OCCOG) has developed a subregional SCS specific to Orange County. The subregional SCS is a collective regional effort to link transportation and land uses, and includes a variety of progressive measures undertaken by Orange County jurisdictions, agencies, and groups that lead to changes in the use of automobiles and light duty trucks, resulting in reductions in GHGs. These strategies and actions are Orange County’s contribution to the region’s efforts to achieve both 2020 and 2035 GHG thresholds established by CARB.¹ Thus, the subregional SCS is a planning level document which includes

¹¹ See Orange County Sustainable Communities Strategy, Executive Summary.

measures intended to be implemented on a countywide scale, not measures specifically applicable to individual projects.

The OCCOG subregional SCS contains goals (VMT reduction) identical to the regional SCAG SCS. However, goals of the SCS are not project specific. As stated in the OCCOG subregional SCS, “no subregional GHG emissions reduction targets were set by CARB or SCAG. GHG emission reduction targets are only calculated at the regional level.” Therefore, the SCS does not target specific projects, but reductions will be achieved on a regional level.

In order to achieve VMT and GHG reduction goals, the SCS contains several strategies and VMT reduction measures which are regional in nature. Such measures include transportation system efficiency improvements and transit oriented development. As these VMT reduction measures are more regional in nature, the Project would not be able to implement such measures. Therefore, the Project would not conflict with goals of the SCS.

RESPONSE FHBP2-3

Please refer to Response FHBP2-2 for a discussion of the Project’s consistency with the SCS. As discussed in Section 5.0, *Alternatives*, of the Draft EIR and Response POHH-Johnson2-7, relocating the site to a more urban setting is not feasible and would not meet the objectives of the Project, for example, implementing a land plan at a density compatible with adjacent single family residential neighborhoods and providing a balance of residential and open space land uses adequately served by public facilities, infrastructure, and utilities.

RESPONSE FHBP2-4

The comment is noted and will be provided to the decision makers for review and consideration as part of the decision making process. No further response is required because this comment does not raise any new significant environmental issues or address the adequacy of the environmental analysis included in the Draft EIR.

RESPONSE FHBP2-5

This comment provides a general introduction to fire-related comments raised in this letter and asserts that the Draft EIR should be re-circulated based on the report prepared by Hills For Everyone (HFE) titled “A 100-year History of Wildfires Near Chino Hills State Park.” This comment consists of mere argument and unsubstantiated opinion, and does not provide any specific evidence or a factual foundation. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.) Individual fire-related responses to this letter are provided below in Responses FHBP2-6 to FHBP2-8, below.

RESPONSE FHBP2-6

This comment states that the Draft EIR should be re-circulated because of inaccurate information provided in the EIR stated on page 4.7-16. This comment indicates that, based on the HFE report most fires near Chino Hills State Park are caused by humans (intentional or unintentional). The comment further implies that the Draft EIR states that lightning is the main source of wildfires in the region. This is not accurate. Rather, the Draft EIR acknowledges that the two main weather patterns associated with wildfires in Southern California are lightning and the Santa Ana winds. However, no statement is made that lightning is a

main source wildfires in the region. Accordingly, the Draft EIR does not conflict with the HFE report regarding the cause of wildfires. The comment does not otherwise raise any specific challenge to the analysis or conclusions contained in the Draft EIR.

RESPONSE FHBP2-7

This comment provides background information from the HFE “Fire Study” regarding non-native grasses in the region and how they are highly prone to fires. This information is acknowledged by the County. However, the analysis contained in Section 4.7, *Hazardous and Hazardous Materials*, in the Draft EIR assumes the project site is within a “Very High Fire Hazard Severity Zone” (VHFHSZ) and is very highly prone to wildland fire hazards. Thus, the information regarding non-native grasses presented in this comment would not change the analysis of wildland fire impacts presented in the Draft EIR. Moreover, the Draft EIR does describe the existence of non-native plant species on the site. As noted in Section 4.3, *Biological Resources*, non-native, invasive plant species pervade the project study area, a problem which was further promoted as a result of the Freeway Complex 2008 wildfire.

Additionally, this comment provides information regarding (1) an additional fire which burned the Project site and (2) the start of the Freeway Complex Fire. These comments are noted, but do not raise a substantive issue on the content of the EIR or the impacts of the Project on the environment. Thus, no further response is warranted.

RESPONSE FHBP2-8

The Draft EIR addressed wildland fire impacts in Section 4.7, *Hazards and Hazardous Materials*, with supporting data provided in Appendix G of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measures, in addition to the fire protection features (see project design features PDF 7-9 to 7-14) to be included as part of the Project. Further, the analysis was prepared understanding the site is within a VHFHSZ and has been subject to previous wildland fires. The commenter is also referred to Topical Response 3 regarding wildland fire impacts.

Also, the comment’s statement of opposition to the Project because of potential fire hazards is acknowledged and will be provided to the decision makers for review and consideration as part of the decision making process.

RESPONSE FHBP2-9

The number of traffic trips identified for the Project in Section 4.14 of the Draft EIR is based on industry standard trip generation rates utilized for similar residential project traffic studies prepared throughout the City of Yorba Linda and the County of Orange. Thus, the number of trips is typical of similar single-family residential projects and is not understated in any regard.

RESPONSE FHBP2-10

Per the County of Orange CMP guidance, a project study area is defined based on intersection locations where the contribution of project traffic results in the intersection capacity utilization (ICU) value increasing by one (1) percent or more. The City of Yorba Linda traffic study guidelines recommends the analysis of study area intersections where the project is anticipated to contribute 50 or more peak hour trips. Neither

of these thresholds was met for Yorba Linda Boulevard at Esperanza Road and at the 91 Freeway. Further, the extent of study area intersections were discussed with the City of Yorba Linda and County of Orange, which confirmed the locations of the study area intersections presented in the traffic analysis.

RESPONSE FHBP2-11

The Draft EIR was not required to propose alternative transportation mitigation measures because all potentially significant traffic impacts were found to either be less than significant or mitigated to a level that is less than significant. Moreover, the Draft EIR addressed whether the Project would conflict with adopted policies, plans, or programs regarding alternative transportation in Section 4.14, *Traffic/Transportation*, with supporting data provided in Appendix L of the Draft EIR. As discussed therein, impacts were concluded to be less than significant. Therefore, no mitigation measures regarding alternative transportation were necessary.

RESPONSE FHBP2-12

Please refer to Response FHBP2-9 for a discussion of the number of Project trips. Also, Section 4.14 of the Draft EIR concludes that the Project's addition of traffic at the intersection of Yorba Linda Boulevard and Via Del Agua and Yorba Linda Boulevard would be a potentially significant impact. Thus, Mitigation Measure 4.14-2 is prescribed to reduce this potentially significant impact to a less than significant level. The comment consists of unsubstantiated opinion and does not provide any evidence to support its assertions. "To constitute substantial evidence, comments by members of the public must be supported by an adequate factual foundation." (*Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.)

RESPONSE FHBP2-13

This comment asserts that there are inconsistencies regarding the acreage and access ways stated in the Draft EIR. The Draft EIR indicates that the Chino Hills State Park has over 14,000 acres, which is consistent with this comment which states that the Park has 14,102 acres. Regardless, any minor inconsistencies would not change the recreation analysis and findings presented in Section 4.13, *Recreation*, of the Draft EIR.

Also, the analysis included in the Draft EIR acknowledges the proximity of Chino Hills State Park, where applicable. The Draft EIR addressed biological resources, including golden eagles and raptors, in Section 4.3, *Biological Resources*, with supporting data provided in Appendix C of the Draft EIR. Wildland fire impacts were addressed in Section 4.7, *Hazards and Hazardous Materials*. As discussed therein, applicable impacts were concluded to be less than significant with implementation of the prescribed mitigation measures.

The Draft EIR addressed biological resources impacts in Section 4.3, *Biological Resources*, with supporting data provided in Appendix C of the Draft EIR. No large mammal species with the potential to occur within the project study area, i.e., mountain lion (*Puma concolor cougar*), coyote, mule deer and bobcat (*Lynx rufus californicus*), are included in the CDFW 2011 Special Animals List and are not considered to be special-status species. As is concluded on page 4.3-27 of the Draft EIR, impacts on common wildlife species are considered less than significant.

This comment further asserts that Figure 4.13-1 and 4.13-2 inaccurately show the boundaries of Chino Hills State Park. This comment is acknowledged by the County. Regardless, the Park's boundaries shown in Attachment 12 to the comment letter do not change the analyses presented in the EIR because the area

within the revised park boundaries was assumed to be open space as part of the Draft EIR analysis. Thus, the Draft's EIR's findings pertaining to indirect impacts regarding natural resources, particularly biological resources, would not change.

RESPONSE FHBP2-14

This comment provides a general conclusion regarding the issues raised in this letter. Individual responses to this letter are provided above in Responses FHBP2-2 through FHBP2-13. Based on the responses above, no recirculation of the Draft EIR is warranted.

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California Native Plant Society

ORANGE COUNTY CHAPTER

January 21, 2014

The California Native Plant Society is a statewide non-profit organization. Its membership is open to all.

CNPS is dedicated to the preservation and enjoyment of California's native plants and their habitats.

The Orange County Chapter of CNPS focuses that dedication on the native plants and natural vegetation of Orange County and adjacent Southern California.

Ron Tippetts, Planner
Current and Environmental Planning Section
OC Planning Services
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Cielo Vista Project Draft Environmental Impact Report (EIR No. 615)

Dear Mr. Tippetts:

The Orange County Chapter of the California Native Plant Society has long had an interest in preservation of the Chino-Puente Hills as natural open space. They are a refuge for native plants, which in turn provide habitat for wildlife that passes along the corridor sheltered by the Hills. The corridor in turn is essential to maintaining healthy native plant and animal populations throughout the greater Los Angeles area. The Cielo Vista Project would remove approximately 50 acres from that natural open space and correspondingly impact the corridor's functioning.

1

GENERAL COMMENTS:

A regional-level map that locates the project site in relation to Chino Hills State Park boundaries, with the Park labeled, should be included in Chapter 1, *Introduction*, and/or Chapter 2, *Project Description*. Figures 2-1 and 2-2 don't include that information. Figure 4.13-1 does, but isn't regional in scope.

The DEIR often mentions the "region" in which the Cielo Vista Project is located, in discussions of impacts and mitigations. But the "region" seems to have rather elastic boundaries. Sometimes it appears to be the area covered by Figure 3-1, or a smaller area. Elsewhere, the "region" appears to be much larger, perhaps including much of northern Orange County and adjacent portions of Riverside and San Bernardino Counties. OCCNPS finds that the "region" boundaries should be defined and be constant throughout, so that discussions of the Project's various impacts and proposed mitigations are all referring to the same place.

2

COMMENTS ON CHAPTER 4.3: BIOLOGICAL RESOURCES

Chapter 4.3 should include a map that shows the cumulative study area, including both the existing open space conservation reserves and the 18 proposed projects within the study area. The study area itself should be enlarged to include other current (e.g. Brea's Madroña Project) and long-

3

term (e.g. the Aera property) threats to the Puente-Chino Hills. The map should clearly show reserve, project, city and county boundaries--which Figure 3-1 does not.

3
(cont)

On p. 4.3-6 it is stated: "The Chino Hills State Park is a broad swath of open space that provides the same variety of habitat and wildlife found on the project study area but in less disturbed conditions due to the effect of the 2008 Freeway Complex fire that affected the property and the protected nature of the park." This is a confusing sentence. It seems to say that the Park's habitat is less disturbed due to the 2008 fire? Suggested rewording: "... Park ... is in less disturbed condition due to its protected status. The 2008 Freeway Complex Fire burned across the entire Cielo Vista property and 95% of the Park."

4

Figure 4.3-2 shows that most of the project site's Sensitive Natural Communities occur in Drainage A2. Figure 4.3-3 shows occupied Least Bell's Vireo habitat in the willow woodland there. Figure 4.3-4 shows that Drainage A2 is a Jurisdictional Wetland. Figures 4.3-5 through 4.3-8 show that almost all of Drainage A2's Sensitive Natural Communities, and the vireo habitat--i.e. all the best natural habitat and vegetation on the project site--will be removed to develop the 17 dwelling units of Planning Area #2.

Mitigation Measures 4.3-1 and 4.3-2 call for replacement of the willow woodland and the jurisdictional wetland at 2:1, at some other location, and/or the purchase of mitigation credits at an agency-approved off-site mitigation bank. The loss of 14.56 acres of the site's 19.69 acres of Sensitive Natural Communities "is not considered cumulatively significant and does not warrant mitigation due to the wide spread distribution of these natural communities within the cumulative impacts study area." (p. 4.3-45).

5

The Cumulative Impacts discussion (pp. 4.3-43 to -44) sees the Cielo Vista Project as a small bite out of the Puente-Chino Hills' natural open space, and that the Cielo Vista and "Related Project No. 1" together are a somewhat larger bite. The Cumulative Impacts analysis further sees that: "Common plant species present within the project study area occur in large numbers throughout the region, *particularly within the preserved open space areas of Chino Hills State Park*, (emphasis added) and their removal, in addition to their removal as a result of related projects would not be cumulatively considerable due to the abundance and wide spread distribution of such species in the region."

OCCNPS finds that the removal of common plant species by this and related projects would in fact be cumulatively considerable. We see that Chino Hills State Park is being increasingly surrounded by development, while at the same time the Park is being assumed to be the mitigation site for all the natural habitat that's being removed by the development. If that assumption and practice continues, eventually Chino Hills State Park will be the only place in or near northern Orange County where "common plant species" grow, which would be a considerable impact indeed to Southern California's native habitat.

COMMENTS ON CHAPTER 2: LANDSCAPE PLAN AND OPEN SPACE:

P. 2-10: "The Project would preserve 36.3 acres of the site as undeveloped open space, including fuel modification zones ... in the northern portion of the site. Environmental stewardship of the permanent open space would be provided for through offering dedication of open space areas to a public agency or an appropriate land conservation/trust organization. As an alternative, the open space would be owned and maintained by the Project Homeowner's Association (HOA)."

- OCCNPS recommends that the fuel modification zones be (re)vegetated with native plants, under OCFA guidelines. Native plants in the zones would provide home for native animals, in effect increasing the overall habitat area; non-native plants would not offer the same kind of complete wildlife habitat. Table B, attached, lists the many local native species that OCFA considers acceptable in fuel modification zones.
- OCCNPS recommends that environmental stewardship of the preserved area be settled before the Project is finalized. Otherwise, we fear that the area will become an orphan, to the detriment of its existing habitat value.

6

P. 2-22: “Private Homeowner Side Yard Slopes: Planting Plans for the private homeowner side yard slopes ... would be devoid of eucalyptus, juniper, cedar, cypress, *Washingtonia robusta* (mexican fan palm), *Acacia* (except for *Acacia* ‘Desert Carpet’) and pine trees, California sagebrush, chamise, buckwheat and black and white sage (*Salvia* spp.). ...” These species are all on OCFA’s “Target List”: plants considered to be highly fire-susceptible and that must be removed from (or not planted in) fuel modification zones. Thus it is puzzling that pines are included in the *Conceptual Plant Palette*, Table 2-2; see Table A, attached. Pines are fire-susceptible wherever they are: yard, street or common area. OCCNPS recommends that pines be removed from the plant palette of any place that’s in a fire corridor--which Cielo Vista is.

7

COMMENTS ON CHAPTER 2: THE PLANT PALETTE, See Table A, attached

PDF 1-5: “As shown in the *Conceptual Landscape Plan* (Figure 2-11 and Table 2-2) ... The plant palette would include native and appropriate non-native drought tolerant trees, groundcovers and shrubs that would be compatible with the existing native plant communities”

OCCNPS comment: Table 2-2 includes just three native species (and 2 genera that have some native species) out of 43. This is not what is implied by the above sentence: that the landscaping would use more natives than non-natives. We’d like to see all-native landscaping. See Table B; many of the OCFA-approved native plants therein are good landscaping subjects.

PDF 1-5: “... The landscape design would emphasize the planting of long-lived plant species that are native to the region or well adapted to the climatic and soil conditions of the area.”

OCCNPS comment: Table B lists about 40 native shrubs and 6 trees, mostly long-lived, all native to the region, and all well-adapted to our climate and soils. All would fulfill this PDF at least as well as the non-natives in Table 2-2, and add habitat value as well.

8

PDF 1-6: “... planting plan for streets shall include shrubs, grasses, and stands of native and non-native trees.”

OCCNPS comment: Table 2-2 contains no native trees, only three native shrubs and no grasses at all. Table B lists about 6 native trees, 40 native shrubs and 4 native grasses, all OCFA-approved for fuel modification zones and many appropriate for street-landscape use.

PDF 1-7: “Landscape treatment of all areas shall emphasize the planting of shade trees along streets to contrast with open space. ...”

OCCNPS comment: Seeking to contrast “landscape” with “open space” leads to landscaping that pretends it’s someplace else, not right here in OC, in a Mediterranean-climate, next to real native plants. That pretending requires use of water imported from someplace else to keep alive plants from someplace else, with long-term negative effects on both our scarce water supply and our native plants and habitats.

9

PDF 7-13: “... plant palette consisting of fire resistant plants, native and appropriate non-native drought tolerant species in accordance with OCFA guidelines.”

OCCNPS comment: See Table B for fire-resistant, drought-tolerant native plants that fulfill OCFA guidelines.

10

COMMENTS ON CHAPTER 4.7: FIRE PROTECTION FEATURES

Chapter 4.7 includes specific requirements for long-term continuance and maintenance of the OCFA-required fuel modification measures. It’s not clear whose responsibility it will be to see that these requirements are met in perpetuity.

11

The OCFA Guidelines (Figure 4.7-2b and p. 4.7-28) call for “undesirable species” to be removed from the fuel modification zones and replaced with OCFA-approved species. But doing such vegetation

modification doesn't take into account that native plants grow where they grow due to a synergy of soil chemistry and texture, ground water availability, slope, aspect, mycorrhizal flora, herbivory, and more. If the plants best adapted to a site are removed, the replacement plants may not be as well-adapted and the planting may fail. That leaves the site open to invasion by non-native weeds--which are apt to be more of a fire hazard than the original "undesirable" plants.

11
(cont)

Much of the specified fuel modifications' continuing effectiveness appears to rely on regular irrigation of the Fuel Modification Zones and especially the Special Maintenance Areas. In these days of drought and climate change, how can it be certain that water will be available to continue such irrigation into the perpetuity that seems implied? The DEIR does not appear to include any provision for bringing recycled water to the Zones that are mandated to be regularly irrigated. OCCNPS recommends that this lack be remedied.

12

Thank you for the opportunity to comment on the Cielo Vista Project DEIR.

Respectfully,

Celia Kutcher
Conservation Chair

attachments:

- Table A: Annotations On DEIR Table 2-2, Cielo Vista Conceptual Plant Palette
- Table B: OC Native Plants that are OCFA-Approved for Fuel Mod Zones



TABLE A

ANNOTATIONS ON DEIR TABLE 2-2, CIELO VISTA CONCEPTUAL PLANT PALETTE (DEIR Table 2.2 contains the same palette as Cielo Vista Area Plan Table 6.1)

“OC Native?” and “Invasive in OC?” information from F.M. Roberts Jr., 2008,
The Vascular Plants of Orange County, California, an Annotated Checklist

botanical name	common name	oc native?	invasive in oc?	occnps comments
TREES				
<i>Agonis flexuosa</i>	Peppermint Tree			
<i>Arbutus</i> ‘Marina’	Arbutus			
<i>Geijera parviflora</i>	Australian Willow			
<i>Lagerstroemia indica</i>	Crape Myrtle (mildew-resistant selections)			
<i>Lophostemon confertus</i>	Brisbane Box			
<i>Melaleuca</i> (= <i>Callistemon</i>) <i>viminalis</i>	Weeping Bottlebrush		Y	uncommon, persisting escape from cultivation
<i>Melaleuca</i> spp.	Melaleuca		Y	uncommon, persisting escape from cultivation
<i>Olea europaea</i> ‘Wilsonii’	Fruitless Olive		Y	known to occasionally fruit; bird-dispersed; Cal-IPC: limited
<i>Pinus</i> spp.	Pine	some	some	OCFA: prohibited in fuel-mod zones
<i>Quercus ilex</i>	Holly Oak		Y	uncommon, persisting escape from cultivation
<i>Rhus lancea</i>	African Sumac		Y	uncommon, persisting escape from cultivation
<i>Schinus molle</i>	“California” Pepper Tree		Y	bird-dispersed; Cal-IPC: limited
GROUNDCOVERS				
<i>Acacia redolens</i> ‘Lowboy’	Acacia		?	animal-dispersed

botanical name	common name	oc native?	invasive in oc?	occnps comments
<i>Aptenia cordifolia</i> 'Red Apple'	Aptenia		Y	Cal-IPC Watch List OCFA: prohibited in fuel mod zones adjacent to reserve lands
<i>Bougainvillea</i> spp. & cvs.	Bougainvillea		Y	uncommon, persisting escape from cultivation
<i>Carissa macrocarpa</i>	Natal Plum			
<i>Coprosma x kirkii</i>	Coprosma		?	<i>C. repens</i> is on Cal-IPC Watch List
<i>Lantana montevidensis</i> & cvs	Lantana		Y	uncommon, persisting escape from cultivation
<i>Myoporum parvifolium</i>	Myoporum		?	
SHRUBS				
<i>Agapanthus africanus</i> & cvs	Lily of the Nile			
<i>Agave</i> spp.	Agave		Y	uncommon, persisting escape from cultivation
<i>Aloe</i> spp.	Aloe		Y	uncommon, persisting escape from cultivation
<i>Alyogyne huegelii</i>	Blue Hibiscus			
<i>Coreopsis verticillata</i>	Coreopsis			
<i>Cotoneaster</i> spp.	Cotoneaster			Cal-IPC: moderate
<i>Dodonaea viscosa</i>	Hop Bush		Y	uncommon, persisting escape from cultivation
<i>Echium fastuosum</i> (= <i>E. candicans</i>)	Pride of Madeira		Y	Cal-IPC: limited
<i>Eleagnus x ebbingei</i>	Silverberry			
<i>Euryops pectinatus</i> 'Viridis'	Euryops			
<i>Hemerocallis</i> hybrids.	Daylily		Y	animal-dispersed
<i>Heteromeles arbutifolia</i>	Toyon	Y		

botanical name	common name	oc native?	invasive in oc?	occnps comments
<i>Kniphofia</i> spp.	Red-Hot Poker			Cal-IPC Watch List
<i>Leptospermum</i> spp.	Tea Tree			Cal-IPC: <i>L. laevigatum</i> is invasive
<i>Leucophyllum frutescens</i>	Texas Ranger			
<i>Myrtus communis</i> "Compacta"	Myrtle			
<i>Phormium</i> spp.	Flax			
<i>Pyracantha</i> spp.	Fire Thorn		Y	uncommon, persisting escape from cultivation; Cal-IPC: limited
<i>Rhamnus californica</i> (= <i>Frangula c.</i>)	Coffeeberry	Y		
<i>Rhus ovata</i>	Sugar Bush	Y		
<i>Rosmarinus officinalis</i> 'Huntington Carpet'	Dwarf Rosemary		Y	uncommon, persisting escape from cultivation
<i>Salvia</i> spp.	Sage	some		
<i>Senna</i> spp.	Cassia		Y	Cal-IPC Watch List
<i>Teucrium</i> spp.	Germander			



TABLE B

OC NATIVE PLANTS THAT ARE OCFA-APPROVED FOR FUEL-MOD ZONES, p. 1 of 3

common name	botanical name	type
Big Leaf Maple	<i>Acer macrophyllum</i>	tree
Southern Woolly Lotus	<i>Acmispon [=Lotus] heermannii</i>	perennial
Deerweed	<i>Acmispon [=Lotus] scoparius</i>	shrub
White Alder	<i>Alnus rhombifolia</i>	tree
Sand Bur	<i>Ambrosia chamissonis</i>	perennial
False Indigobush	<i>Amorpha fruticosa</i>	shrub
Nuttall's Snapdragon	<i>Antirrhinum nuttallianum</i> ssp. <i>nuttallianum</i>	subshrub
Eastwood Manzanita	<i>Arctostaphylos glandulosa</i> ssp. <i>glandulosa</i>	shrub
Mulefat	<i>Baccharis salicifolia</i>	shrub
Willow Baccharis	<i>Baccharis salicina</i> [= <i>B. emoryi</i>]	shrub
Coyote Bush	<i>Baccharis pilularis</i> ssp. <i>consanguinea</i>	shrub
California Brickellbush	<i>Brickellia californica</i>	shrub
California Brome Grass	<i>Bromus carinatus</i>	bunch grass
Beach Evening Primrose	<i>Camissoniopsis</i> [= <i>Camissonia</i>] <i>cheiranthifolia</i>	ground cover
Big Pod Ceanothus	<i>Ceanothus megacarpus</i>	shrub
Greenbark Ceanothus	<i>Ceanothus spinosus</i>	shrub
Punchbowl Clarkia	<i>Clarkia bottae</i>	annual
Bushrue	<i>Cneoridium dumosum</i>	shrub
Chinese Houses	<i>Collinsia heterophylla</i>	annual
Summer Holly	<i>Comarostaphylis diversifolia</i>	shrub
California Coreopsis	<i>Coreopsis californica</i>	annual
California Croton	<i>Croton californicus</i>	perennial
Bush Poppy	<i>Dendromecon rigida</i>	shrub
Blue Dicks	<i>Dichelostemma capitatum</i>	bulb
Lance-leaved Dudleya	<i>Dudleya lanceolata</i>	succulent
Chalk Dudleya	<i>Dudleya pulverulenta</i>	succulent
Giant Wild Rye	<i>Elymus</i> [= <i>Leymus</i>] <i>condensatus</i>	bunch grass
Coast Sunflower	<i>Encelia californica</i>	shrubby perennial
Hoary California Fuchsia	<i>Epilobium</i> [= <i>Zauschneria</i>] <i>canum</i>	perennial
Sapphire Woolly Star	<i>Eriastrum sapphirinum</i>	annual

TABLE B: OC NATIVE PLANTS THAT ARE OCFA-APPROVED FOR FUEL-MOD ZONES, p. 2 of 3

common name	botanical name	type
Yerba Santa	Eriodictyon trichocalyx	shrub
Thickleaf Yerba Santa	Eriodictyon crassifolium	shrub
Golden Yarrow	Eriophyllum confertiflorum	shrub
California Poppy	Eschscholzia californica	perennial
California Coffee Berry	Frangula [=Rhamnus] californica	shrub
Alkali Heath	Frankenia salina	ground cover
Globe Gilia	Gilia capitata	annual
Gum Plant	Grindelia stricta	ground cover
Rush Rose	Helianthemum scoparium	perennial
Salt Heliotrope	Heliotropium curassavicum	ground cover
Chaparral Yucca	Hesperoyucca [=Yucca] whipplei	shrub
Toyon	Heteromeles arbutifolia	shrub
Coastal Goldenbush	Isocoma menziesii	shrub
Bladderpod	Isomeris arborea	shrub
California Black Walnut	Juglans californica	tree
Spiny Rush	Juncus acutus	perennial
Yellow Bush Penstemon	Keckiella antirrhinoides	shrub
Heart Leaved Penstemon	Keckiella cordifolia	viny shrub
Blue Stemmed Bush Penstemon	Keckiella ternata	shrub
Coastal Goldfields	Lasthenia gracilis [=L. californica]	annual
Chaparral Honeysuckle	Lonicera subspicata	vining shrub
Miniature Lupine	Lupinus bicolor	annual
Coulter's Lupine	Lupinus sparsiflorus	annual
Chaparral Mallow	Malacothamnus fasciculatus	shrub
Monkeyflower	Mimulus species	perennial
Wishbone Bush	Mirabilis californica	perennial
Baby Blue Eyes	Nemophila menziesii	annual
Chaparral Nolina	Nolina cismontana	shrub
Yellow Evening Primrose	Oenothera elata ssp. californica [=O. hookeri]	perennial
Prickly Pear	Opuntia littoralis	cactus
Oracle Cactus	Opuntia oricola	cactus
Coastal Cholla	Opuntia prolifera	cactus

TABLE B: OC NATIVE PLANTS THAT ARE OCFA-APPROVED FOR FUEL-MOD ZONES, p. 3 of 3

common name	botanical name	type
California Plantain	Plantago erecta	annual
California Sycamore	Platanus racemosa	tree
Western Cottonwood	Populus fremontii	tree
Sticky Cinquefoil	Potentilla glandulosa	perennial
Holly Leafed Cherry	Prunus ilicifolia ssp. ilicifolia	shrub
California Everlasting	Pseudognaphalium [=Gnaphalium] californicum	short-lived perennial
Coast Live Oak	Quercus agrifolia	tree
Scrub Oak	Quercus berberidifolia	shrub/tree
Nuttall's Scrub Oak	Quercus dumosa	shrub
Spiny Redberry	Rhamnus crocea	shrub
Hollyleaf Redberry	Rhamnus ilicifolia	shrub
Lemonade Berry	Rhus integrifolia	shrub
Sugarbush	Rhus ovata	shrub
Golden Currant	Ribes aureum	shrub
White Flowered Currant	Ribes indecorum	shrub
Fuchsia Flowered Gooseberry	Ribes speciosum	shrub
Coulter's Matilija Poppy	Romneya coulteri	perennial
Mexican Elderberry	Sambucus mexicana	shrub/tree
San Miguel Savory	Satureja chandleri	perennial
Common Tule	Schoenoplectus [=Scirpus] acutus	perennial
California Bulrush	Schoenoplectus [=Scirpus] californicus	perennial
Blue Eyed Grass	Sisyrinchium bellum	perennial
White Nightshade	Solanum douglasii	shrub
Purple Nightshade	Solanum xantii	shrub
Foothill Needlegrass	Stipa [=Nassella] lepida	bunch grass
Purple Needlegrass	Stipa [=Nassella] pulchra	bunch grass
Creeping Snowberry	Symphoricarpos mollis	shrub
Woolly Blue Curls	Trichostema lanatum	shrub
California Bay Laurel	Umbellularia californica	shrub/tree
Western Verbena	Verbena lasiostachys	perennial
Desert Wild Grape	Vitis girdiana	vine

LETTER: OCCNPS

California Native Plant Society – Orange County Chapter
Celia Kutcher, Conservation Chair
P.O. Box 54891
Irvine, CA 92619-4891
(January 21, 2014)

RESPONSE OCCNPS-1

The Draft EIR addressed biological resources impacts in Section 4.3, *Biological Resources*, with supporting data provided in Appendix C of the Draft EIR. As discussed on page 4.3-40 of the Draft EIR, impacts on wildlife movement and the function of wildlife corridors were concluded to be less than significant. Please also refer to Response USFWS-5 which provides further discussion of wildlife movement impacts.

RESPONSE OCCNPS-2

Figure 2-1, *Regional Location and Project Vicinity Map*, in Section 2.0, *Project Description* of the Draft EIR provides the regional setting for the Cielo Vista Project. While the figure does not label “Chino Hills State Park,” the impact analyses conducted in Chapter 4.0, *Environmental Analysis*, all discuss and consider impacts to Chino Hills State Park, where necessary. As discussed on page 3-1 in Chapter 3.0, *Basis for Cumulative Analysis*, of the Draft EIR, the Draft EIR utilizes a “list” approach when considering cumulative impacts. This approach is consistent with the CEQA Guidelines for providing an adequate discussion of cumulative impacts. Figure 4.13-1, *Parks Near Project Site*, is not intended to provide a regional setting, but a vicinity depiction of the public parks facilities proximate to the project site. By the nature of the definition of the adjective “regional,” it does not specify a precise area but refers to the general character of a geographic region. For a discussion of the regional setting of the project site in relation to wildlife movement, the commenter is referred to page 4.3-45 in Section 4.3, *Biological Resources*, of the Draft EIR where the project location is placed in context with the regional open space areas such as Chino Hills State Park.

Commenter asserts that the “region” boundaries should be defined and constant throughout the Draft EIR so that impact discussions are all referring to the same place. This comment misunderstands the nature of environmental impacts, the area of which is necessarily defined by the resource area. Thus, a defined and constant area for aesthetics is not necessarily suitable for biological resources or traffic. As noted above, the regional setting for the Cielo Vista Project is described in Section 2.0, *Project Description*, while the areas used to assess individual resource areas are discussed in each resource area section.

RESPONSE OCCNPS-3

The Cumulative Impacts discussion on page 4.3-43 of Section 4.3, *Biological Resources*, of the Draft EIR clearly specifies the geographic extent of the analysis as being “the region from the City of Yorba Linda to the west, north to Chino Hills State Park, south to the Santa Ana River, and east beyond California State Route 71 into Prado Basin.” Between Figure 2-1, *Regional Location and Project Vicinity Map* and Figure 3-1, *Related Projects Map*, the area of the cumulative impact analysis is depicted. The cumulative impacts discussion in Section 4.3, *Biological Resources*, identifies the scope of the cumulative impact study area for purposes of biological resources. As discussed therein, “the biological CEQA assessment of the Project impacts considered past, present and reasonably foreseeable projects within the vicinity of the project study area.”

Please see Response POHH-Johnson2-4 for a discussion of the sufficiency of the cumulative projects analysis and why other projects, such as the Madrona Project, need not be included in the analysis. While the recently approved Madrona project in Carbon Canyon of the City of Brea and the adjacent Aera Energy project contribute to cumulative impacts in the greater regional setting, these projects are sufficiently distant from the Cielo Vista project site to be excluded from the cumulative biological analysis that focused on the southern Chino Hills and the Santa Ana River.

RESPONSE OCCNPS-4

The comment requests clarification on the discussion of the quality of habitat in Chino Hills State Park compared to the project site. Per the comment, the following revisions have been made to the Draft EIR and are also included in Chapter 3.0, *Corrections and Additions*, of this Final EIR:

Section 4.3, Biological Resources

1. Page 4.3-6. Modify 1st paragraph with the following changes:

The Chino Hills State Park is located to the north and east of the project study area and occupies 12,452 acres. The Chino Hills State Park is a broad swath of open space that provides the same variety of habitat and wildlife found on the project study area but in less disturbed conditions due to ~~the effect of the 2008 Freeway Complex fire that affected the property and~~ the protected nature of the park. The 2008 Freeway Complex Fire burned across the entire Cielo Vista site and 95% of the Park.

RESPONSE OCCNPS-5

As clarification to the references to Cielo Vista jurisdictional drainages, Drainage A2 is a tributary to Drainage A and does not support southern willow scrub, which is found principally within Drainage A1 but also near the confluence with Drainage A. The least Bell's vireo occupied habitat corresponds to the southern willow scrub in the west central portion of the project site and mule fat scrub in the southern portion of the project site, the latter plant community is not considered to be a sensitive natural community. The sensitive natural communities in the project site include 4.60 acres of blue elderberry woodland, about 2.3 acres of blue elderberry woodland/laurel sumac chaparral, 2.57 acres of blue elderberry woodland/laurel sumac chaparral/mixed coastal sage scrub, 1.5 acres of southern willow scrub, and about 8.1 acres of encelia scrub.

The Project would impact 14.56 acres of sensitive plant communities, blue elderberry woodland, blue elderberry woodland/laurel sumac chaparral, blue elderberry woodland/laurel sumac chaparral/mixed coastal sage scrub, encelia scrub and southern willow scrub. This loss is not considered cumulatively significant and does not warrant mitigation due to the wide spread distribution of these natural communities within the cumulative impacts study area and beyond. The blue elderberry communities are found within the South Coast ranges from Ventura County through San Diego County, with Orange County being the center for this distribution². The neighboring Esperanza Hills project site contains nearly 24 acres of blue

² Sawyer, J.O., T. Keeler-Wolf and J.M. Evens. 2008. *A Manual of California Vegetation, Second Edition*. California Native Plant Society in collaboration with the California Department of Fish and Game. Sacramento, CA.

elderberry woodland and 1.75 acres of blue elderberry woodland/laurel sumac chaparral. Blue elderberry is also a component of purple sage scrub and California sagebrush-monkeyflower scrub. Encelia scrub is reported from the southern outer Central Coast, South Coast (including Western Riverside and San Diego Counties), western Transverse Ranges (including Santa Monica Mountains), and the Channel Islands.³ There is no vegetation mapping resource documenting the various plant communities of the Chino Hills, so a quantitative assessment is not possible. The southern willow scrub habitat will be mitigated through implementation of Mitigation Measure 4.3-1, which will mitigate for its contribution to cumulative impacts to this biological resource.

With respect to sensitive plant species in the discussion of cumulative impacts, the impact conclusion is based on the Project construction after mitigation measures are implemented. Many of the sensitive plant species discussed may occur within the region, but are not expected to occur within the cumulative impact study area due to the lack of suitable habitat, the project study area being outside of the known geographical range or elevation range for these species, or due to the negative results of focused sensitive plant surveys within the project area. However, five sensitive plant species were documented on the Esperanza Hills project site, including Braunton's milk-vetch (*Astragalus brauntonii*), Catalina mariposa lily (*Calochortus catalinae*), intermediate (foothill) mariposa lily (*Calochortus weedii* var. *intermedius*), southern California black walnut (*Juglans californica*), and small flowered microseris (*Microseris douglasii* var. *platycarpa*), of which only southern California black walnut was documented as scattered on the Cielo Vista project site. Catalina mariposa lily, intermediate mariposa lily, and southern California black walnut are CNPS Rank 4 species, impacts to which are considered to be less than significant. The Esperanza Hills Draft EIR (page 5-171) concludes that impacts to Braunton's milk-vetch and intermediate mariposa lily would be less than significant after mitigation implementation. However, as no sensitive plants occur in the project area that would be significantly impacted by the Cielo Vista Project, the Project would make no contribution to cumulative impacts in this regard.

As mentioned on page 4.3-45 of the Draft EIR, implementation of Mitigation Measure 4.3-2 at a minimum 2:1 ratio would replace more than the jurisdictional acreage present on-site proposed to be impacted by the Project. Thus, this impact would not significantly contribute to cumulatively considerable impacts to jurisdictional resources within the region and would increase the acreage of jurisdictional resources in the cumulative impacts study area over that which exists today. Similarly, Mitigation Measure 4.3-1 would replace impacted least Bell's vireo habitat at a minimum 2:1 ratio and would increase the acreage of available habitat for this species. Also, the Cielo Vista Project is not proposing the Chino Hills State Park as mitigation for impacts to biological resources.

With respect to *common plant species*, although not required to be analyzed under the State CEQA Guidelines as there is no corresponding threshold of significance, the Draft EIR included a qualitative assessment of cumulative impacts to common plant and wildlife species. Common plant species are those species that do not qualify as "a sensitive or special status species" as they are not considered to be rare, threatened or endangered. Common plant species present within the project study area occur in large numbers throughout the region, particularly, but not exclusively, within the preserved open space areas of Chino Hills State Park, and their removal from the Cielo Vista project site, in addition to their removal as a result of

³ Klein, A. and J. Evens. 2005. *Vegetation Alliances of Western Riverside County, California*. Unpublished Report, Revised 2006, Prepared for California Department of Fish and Game, Habitat Conservation Division. California Native Plant Society, Sacramento, CA.

related projects, would not be cumulatively considerable due to the abundance and wide spread distribution of such species in the region. Loss of common plant or wildlife individuals from implementation of the Project would not threaten survival of regional populations of these common species in a cumulative impact context. These species would persist in available nearby large habitat areas in the surrounding area (e.g., within the preserved open space areas of Chino Hills State Park, where the preservation of native habitats and plant and wildlife populations is part of the mission of the public park). The project study area is approximately 0.7 percent the size of Chino Hills State Park and the proposed development footprint (58.88 acres) is only about 0.5 percent.⁴ When combined with the adjacent Esperanza Hills Project, the cumulative area is approximately 5 percent the size of Chino Hills State Park and the proposed cumulative development footprint of the two projects (about 400 acres) is approximately 3.3 percent. In context to the greater undeveloped Chino Hills area (of 21,152 acres or 85.6 square kilometers), the cumulative project area is approximately 2.8 percent of this large habitat block and the proposed cumulative development footprint of the two projects is approximately 1.9 percent. For these reasons, the Draft EIR concluded that cumulative impacts to common species are less than significant.

RESPONSE OCCNPS-6

This comment recommends that fuel modification zones be re-vegetated with native plants, under OCFA Guidelines. Please see Response USFS-2, which revises project design features PDF 1-5 and PDF 7-13 to prohibit the use of, and requires the removal of, any non-native species that appears on the California Invasive Plant Council list of invasive species. PDF 7-13 would be verified prior to issuance of building permits by the Manager, OC Development Services.

This comment also recommends that environmental stewardship of the preserved area be settled before the Project is finalized. The comment is also noted and will be provided to the decision makers for review and consideration as part of the decision making process. As required by project design feature PDF 1-4, the dedication of the open space area will precede the recordation of the subdivision map by the Manager of OC Development Services.

RESPONSE OCCNPS-7

This comment suggests removing pine trees from the Project's tree plant palette listed in Table 2-2 given that pines are fire-susceptible. Per comment, the following revisions have been made to the Draft EIR and are also included in Chapter 3.0, *Corrections and Additions*, of this Final EIR:

Section 2.0, Project Description

- 1. Pages 2-27. Modify Table 2-2, *Cielo Vista Conceptual Plant Palette*, with the following changes:**

⁴ The "project study area" is defined in Section 4.3, *Biological Resources*, of the Draft EIR to include 84.60-acres (83.90 acres on-site and 0.70 acre off-site) in unincorporated Orange County, California.

Table 2-2

Cielo Vista Conceptual Plant Palette

Scientific Species Name	Common Name
Trees	
Agonis Flexuosa	Peppermint Tree
Arbutus 'Marina'	Arbutus
Callistemon viminalis	Weeping bottlebrush
Geijera parviflora	Australian Willow
Lagerstroemia indica (mildew resistant hybrids)	Crape Myrtle
Lophostemon <u>Lophostemon confertus</u>	Brisbane Box
Melaleuca <u>Melaleuca</u> spp.	Melaleuca
Olea europaea 'Wilsonii'	Fruitless Olive
Quercus ilex	Holly Oak
Pinus spp.	Pine
Rhus lancea <u>lancea</u>	African Sumac
Schinus Molle	California Pepper Tree

RESPONSE OCCNPS-8

This comment pertains to the use of native plants as cited within PDF 1-5 and 1-6. The comment advocates for the use of native plantings to the maximum extent possible. All plantings provided by the Project will be subject to the plant palette requirements as prescribed by OCFA for very high fire hazard zones. Nonetheless, this comment is noted and will be provided to the decision makers for review and consideration as part of the decision making process.

RESPONSE OCCNPS-9

Please see Response OCCNPS-6, which explains that PDFs 1-5 and 7-13 have been modified to remove and/or exclude invasive species identified by the California Invasive Plant Council from the fuel modification zones and the landscape plant palette.

RESPONSE OCCNPS-10

This comment pertains to the use of native plants as cited within PDF 7-13. The comment advocates for the use of fire resistant, drought-tolerant native plantings to the maximum extent possible. This comment is noted and will be provided to the decision makers for review and consideration as part of the decision making process. Note that PDF 7-13 has been revised as described in Response USFS-2. In addition, refer to Response OCCNPS-7 and OCCNPS-8 which discuss the Project's plant palette and requirements prescribed by OCFA for very high fire hazard zones.

RESPONSE OCCNPS-11

The fuel modification zones would be maintained by the HOA. The “undesirable species” to be removed as part of the on-going future maintenance activities within the fuel modification zones would include non-native weeds that may grow on the site. Please see Response OCCNPS-6, which explains that PDFs 1-5 and 7-13 have been modified to remove and/or exclude invasive species identified by the California Invasive Plant Council from the fuel modification zones and the landscape plant palette.

RESPONSE OCCNPS-12

The Draft EIR addressed water supply impacts in Section 4.15, *Utilities and Service Systems*, with supporting data provided in Appendix J of the Draft EIR. As discussed therein, water supply impacts would be less than significant. As noted in the Draft EIR, drought-tolerant, native landscaping would be used in public common areas to reduce water consumption. Also, PDFs 1-5 and 7-13 further provide that native species shall be used in the fuel modification zones and the landscape plant palette. The analysis in the Draft EIR acknowledges the potential for multiple dry year scenarios. While it is speculative to predict the severity of future drought conditions, the Yorba Linda Water District (YLWD) has a Water Conservation Ordinance in place to impose water restrictions during drought conditions, as described below.

It is acknowledged that California has experienced several years of drought-level conditions, including a drought on the Colorado River. Governor Brown in January 2014 declared a State of Emergency due to Drought Conditions, which prompted the Metropolitan Water District of Southern California (MWD) to declare a Water Supply Alert condition to its 26 member agencies and the 19 million people they serve in six counties. With an understanding of the drought conditions, YLWD has made significant investments reducing reliance on imported water from 50% in 2000 to 30% in 2014, in addition to increasing storage, and investing in water conservation.⁵ On April 1, 2015, Governor Brown issued Executive Order B-29-15 that directs the State Water Board to impose restrictions on urban water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February 2016. In response to Governor Brown’s April 1st Executive Order issuing mandatory water allocations across the State, and the subsequent Regulations approved by the State Water Resources Control Board mandating a 36% reduction for Yorba Linda Water District, YLWD is in Stage Three of the District’s Conservation Ordinance (Ordinance No. 09-01) (described below) effective June 1, 2015. In order to comply with the Governor’s Executive Order, which requires water districts to develop rate structures and other pricing mechanisms, including surcharges, fees, and penalties, to maximize water conservation consistent with statewide restrictions, on May 28, 2015, Yorba Linda Water District adopted Emergency Ordinance 15-01. This Ordinance, implements water use restrictions and establishes and imposes administrative penalties upon customers who exceed those restrictions.⁶

The Water Conservation Ordinance imposes various water use restrictions depending on the severity of drought conditions. The ordinance consists of permanent year-round restrictions, focused on the prevention of water waste, and four “Water Supply Shortage” stages. These stages have increasing restrictions on water use in order to allow YLWD to meet all health and safety guidelines in the face of water shortages. While the permanent restrictions would be in effect all the time, the YLWD would change from stage to stage based on

⁵ Yorba Linda Water District website, <https://www.ylwd.com/> Accessed September 12, 2014.

⁶ Yorba Linda Water District website, <https://www.ylwd.com/> Accessed May 28, 2015.

MWD's declared "water condition alert." As the wholesaler of imported water, MWD not only directly affects 50% of YLWD's water supply, but as they provide "replenishment water" to the Orange County Ground basin, MWD Alert stages also affect the groundwater half of YLWD's water supply.

As MWD changes Alert stages, the YLWD will automatically change its Water Supply Shortage Stage. The YLWD Board of Directors may also change the Stage in the event of a local supply restriction that may or may not cause MWD to change its Alert stage. All Stages include the Permanent Water Restrictions. The stages are summarized below:

- **Stage 0:** No specific restrictions. Permanent restrictions remain in effect.
- **Stage 1:** Minimum Water Shortage - Reduce Usage by up to 10%.
- **Stage 2:** Moderate Water Shortage- Reduce Usage by 10%-20%.
- **Stage 3:** Severe Water Shortage- Reduce Usage by 20%-35%.
- **Stage 4:** Critical Water Shortage- Reduce Usage by more than 35%.

Based on YLWD's water supply forecasts provided in its Urban Water Management Plan (UWMP), as discussed in Section 4.15 of the Draft EIR, and with implementation of YLWD policies and water conservation efforts during drought conditions, water supply impacts would be less than significant. As noted in the UWMP, supply reliability was analyzed by projecting supply and demand conditions for the single and multi-year drought conditions. The analysis contained in the UWMP shows that the region can provide reliable water supplies not only under normal conditions but also under both the single driest year and the multiple dry year hydrologies. In addition, neither Emergency Ordinance 15-01 nor any Executive Order in effect at this time would prohibit new connections to the Cielo Vista Project.

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January 22, 2014

Ron Tippetts
OC Planning Services
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Phone: (714) 667-8856
Email: Ron.Tippetts@ocpw.ocgov.com

RE: Draft Environmental Impact Report (EIR No. 615) - Cielo Vista Project (the “Project”)

Dear Mr. Tippetts,

Orange County Coastkeeper (“Coastkeeper”) is an environmental organization with the mission to protect and promote sustainable water resources that are swimmable, drinkable, and fishable. As concerned Orange County residents and strong supporters of environmental quality and public health, we respectfully submit the following comments on behalf of our collective membership to express our reservations regarding the Draft Environmental Impact Report (DEIR) issued for the Cielo Vista Project by OC Planning Services. As we will discuss in detail below, the DEIR fails to provide adequate protections for water quality and subjects the general public, as well as both marine and freshwater ecosystems, to serious risk of harm. The DEIR is legally inadequate under the California Environmental Quality Act (“CEQA”) as it fails to provide adequate analysis and appropriate mitigation with respect to Project impacts on water quality, endangered species and habitat.

We urge for OC Planning Services to require that DEIR be modified in accordance with our comments submitted below.

I. INTRODUCTION - APPLICABLE LAW

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code, § 21100(b)(1); CEQA Guidelines, § 15126(a); *Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissioners of the City of Oakland*, 91 Cal. App. 4th 1344, 1354.) CEQA requires that an EIR must not only identify the impacts, but must also provide “information about how adverse the impacts will be.” (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring mitigation measures. (CEQA Guidelines, § 15002(a)(2) and (3); *Berkeley Keep Jets Over the Bay Committee*, supra, 91 Cal. App. 4th at p. 1354; *Citizens of Goleta Valley*, supra, 52 Cal.3d at p.564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (CEQA Guidelines,

§15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub. Res. Code, § 21081; CEQA Guidelines, § 15092(b)(2)(A) & (B).)

In general, mitigation measures must be designed to minimize, reduce, or avoid an identified environmental impact or to rectify or compensate for that impact. (CEQA Guidelines, § 15370.) Where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. (Id., at § 15126.4(a)(1)(B).) A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved. CEQA requires the lead agency to adopt feasible mitigation measures that will substantially lessen or avoid the Project’s potentially significant environmental impacts (Pub. Res. Code, §§ 21002, 21081(a)), and describe those mitigation measures in the CEQA document. (Pub. Res. Code, § 21100(b)(3); CEQA Guidelines, § 15126.4.)

A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County*, supra, 221 Cal.App.3d at p. 727.) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (CEQA Guidelines, § 15364.) To demonstrate economic infeasibility, “evidence must show that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.” (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181.) This requires not just cost data, but also data showing insufficient income and profitability. (See *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, 327.); *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 694.) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. (CEQA Guidelines, § 15126.4, subd. (a)(2).)

II. THE DEIR FAILS TO ANALYZE AND MITIGATE ALL POTENTIALLY SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES.

A. The DEIR Fails to Adequately Analyze Project Impacts on Sensitive Biological Resources.

The Project May Result in Serious Harm to Wildlife and fails to apply appropriate measures to mitigate this harm.

The Threshold applied to the analysis of project impacts for these sensitive and special status species is as follows:

Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Wildlife Service?

During biological surveys conducted from April to July of 2012, four special status wildlife species were observed on-site: (1) the least Bell's vireo, a species listed as Endangered under both the California and Federal Endangered Species Acts, (2) the yellow-breasted chat, (3) the yellow warbler, and (4) the red-diamond rattlesnake, all three of which are classified as California Department of Fish and Wildlife (CDFW) Species of Special Concern. Additionally, the golden eagle, a State Fully Protected Species, utilizes identical habitat to that of the project area. The Project will directly and adversely impact habitat supporting all of five of these sensitive species and these on-site impacts to habitat are potentially significant.

DEIR Mitigation Measure 4.3-1 is the only mitigation measure that mitigates impacts to wildlife and calls for the Project Applicant, "to obtain regulatory permits by way of an authorization pursuant to FESA and CESA. On- and/or off-site replacement and/or enhancement of **least Bell's vireo habitat** shall be provided by the Project Applicant at a ratio no less than 2:1, in coordination with the regulatory permitting processes of the United States Fish and Wildlife Service (USFWS) and CDFW. Off-site replacement may include, but is not limited to, the purchase of mitigation credits in an agency-approved off-site mitigation bank supporting **least Bell's vireo**. A Mitigation Plan for the least Bell's vireo will be approved by the USFWS and/or CDFW shall be provided to the Manager, OC Planning prior to issuance of a grading permit.

The DEIR goes on to explain that given the small amount of acreage that would be impacted by the Project in relation to the "regional habitat available in the immediately adjacent open space," any loss of individuals or habitat, as a result of Project impacts would not be expected to reduce regional population numbers, thereby making impacts to these wildlife species less than significant. This analysis is inadequate as it is conclusory given that the DEIR gives no indication of how large the on-site habitat area is for these species. If there is a large substantial amount of native habitat for these species on-site, the Project will result in significant impacts to the habitat of all five of the above listed sensitive species thereby having a substantial adverse effect on those species. The DEIR should recognize the impacts to these species as significant or provide an analysis supported by facts that show the impacts on habitat to not substantially adversely affect these sensitive species.

Therefore, the DEIR fails to properly analyze impacts under the applicable threshold mandated by CEQA in that it does not recognize significant impacts the Project will have on the sensitive species observed at the Project site, other than the least Bell's vireo, as well as those with the great potential to utilize the Project site as its habitat.

B. The DEIR Fails to Adequately Analyze Mitigation Measures for Substantially Adverse Project Impacts on Sensitive Biological Resources.

The DEIR concludes that only a mitigation measure specifically for the least Bell's vireo and its habitat but fails to afford any other species classified as sensitive or special any mitigation despite substantial adverse impacts to their on-site habitat. While Mitigation Measure 4.3-1 could be considered adequate insofar as the least Bell's vireo, given the four additional sensitive wildlife species observed onsite, aside from the least Bell's, on-site prone to forage and nest in the Project's habitat, a mitigation measure addressing significant impacts to these sensitive species should be established for the DEIR as required under CEQA. These sensitive species will be affected by Project impact the same as the least Bell vireo, depending on the amount of native habitat there is on-site, and, while not being listed as Endangered, are classified as special

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(cont)

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status sensitive species under by CDFW. An additional mitigation measure should be added to a revised DEIR given the potential for additional sensitive species other than the least Bell vireo to be nesting or foraging on-site.

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(cont)

This same mitigation measure could also protect any additional sensitive or protected species are found in the project area when the project is further along. The DEIR is deficient in that it fails to establish a mitigation measure to guard against Project impacts that have a substantially adverse effect on a sensitive species observed during recent on-site biological surveys. Furthermore, the DEIR does not seek to establish that such a measure would be infeasible. Therefore, additional mitigation measures for Project impacts on Biological Resources should be required as mandated by CEQA.

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Furthermore, additional mitigation measures should be set for any additional sensitive wildlife species with moderate potential to occur on-site but not observed during field surveys; such species include the coast patch-nosed snake, two-striped garter snake, coast horned lizard, orange-throated whiptail, western mastiff bat, white-tailed kite, long-eared owl, pallid bat, western yellow bat, northwestern San Diego pocket mouse, and San Diego desert woodrat. This measure should be established by the DEIR to deal with any of these additional species in case any are impacted by the Project once it commences.

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These mitigation measures should be established in a revised DEIR to ensure that all applicable and feasible measures will be implemented to reduce the Project's impacts to classified sensitive wildlife species.

C. The Project May Result in Serious Harm to Sensitive Natural Communities and the DEIR Fails to Apply Appropriate Measures to Mitigate this Harm.

The Threshold applied to the analysis of project impacts on riparian habitat or other sensitive natural communities is as follows:

Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?

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The project study area supports sensitive natural communities that are considered to be sensitive by the CDFW Natural Heritage Division. The Project would impact 4.60 acres of Blue elderberry woodland, 1.25 acres of southern willow scrub, 0.51 acre of blue elderberry woodland/laurel sumac chaparral, 2.57 acres of blue elderberry woodland/laurel sumac chaparral/mixed coastal sage scrub, and 5.63 acres of encelia scrub which are each considered sensitive natural communities by CDFW. Yet, the DEIR concludes that impacts on the on-site sensitive natural communities will be less than significant because they have "diminished functions and values as habitat and the relative abundance of these vegetation throughout the region." The DEIR goes on the claim that due to the relative abundance of these species in the area outside the project site, the impacts will be less than significant. For these reasons, the DEIR concludes that no mitigation measures are required.

The DEIR fails to adequately analyze Projects impacts to the aforementioned on-site sensitive natural communities under the threshold as mandated by CEQA. The fact that the function and value of the habitat is claimed to have been diminished, or the fact that these species have "relative abundance of these

vegetative communities throughout the region” is irrelevant given the threshold of the analysis to be conducted under CEQA. Furthermore, these sensitive natural communities function as cover for the least Bell’s vireo, an Endangered Species, as well as two other sensitive species classified by CDFW: the yellow breasted chat, and the yellow warbler; therefore, the DEIR’s claim that these sensitive natural have diminished functions is unfounded and without merit.

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(cont)

Furthermore, additional mitigation measures should be required in a revised DEIR for any additional sensitive natural communities that are found once, and if, the Project begins. This measure should be established by the DEIR to address any unanticipated impacts to species that were not observed during the biological surveys if any of these species are indeed impacted by the Project’s construction or operation.

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Mitigation measures should be required in a revised DEIR to ensure that all applicable and feasible measures will be implemented to reduce the Project’s impacts to species classified as sensitive natural species by CDFW.

III. THE DEIR FAILS TO ADEQUATELY ANALYZE THE PROJECTS IMPACT TO HYDROLOGY AND WATER QUALITY.

A. Hydrology And Water Quality May Be Seriously Affected By The Impacts Resulting From Project Construction.

Project construction will require extensive grading, vegetation removal, and excavation. Use of heavy equipment and construction-related chemicals, such as fuels, oils, grease, solvents and paints will be used and stored on-site throughout the construction process. These construction activities could result in accidental spills or disposal of potentially harmful materials used during construction that could wash into and pollute surface or ground waters. During construction activities, stormwater runoff and ground-disturbing activities such as grading that lead to erosion facilitating the transportation of trace metals such as zinc, copper, lead, cadmium, iron and other pollutants into adjacent waterways.

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Receiving waters from drainage within the project area include the Santa Ana River (Orange County channel E-06 to E-01.) The DEIR identifies that the Santa Ana River is listed under the California Regional Water Quality Control Board’s 303(d) List of Impaired Water Bodies for excessive heavy metals and pathogen pollution. If rainfall washes over disturbed soil stockpiled on site during Project construction, contaminated sediment and runoff can eventually drain to the Santa Ana, further degrading water quality. Given the Santa Ana River already polluted with heavy metals and pathogens, the Project will negatively affect water quality in Santa Ana harming not only the river but biological resources and recreation opportunities for the watershed.

The DEIR states that a SWPPP will be prepared and identifies measures that will be implemented to reduce impacts from soil erosion. The DEIR does lists best management practices (BMPs) that will be implemented to reduce water quality impacts; however, no measures or BMPs are provided that specifically identify that pollutants which may exist from previous uses of the site, including oil production. To ensure that Project construction will not result in significant impacts to hydrological resources, the SWPPP should be prepared prior to Project construction to include BMPs such as erosion control and treatment measures specifically designed to address specific site issues.

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B. The DEIR Fails to Adequately Analyze and Mitigate Cumulative Impacts to Hydrology and Water Quality.

The DEIR fails to provide any analysis on how the Project, in combination with all relevant past, present and potential future projects, can cause cumulative impacts to biological resources.

A DEIR must discuss significant cumulative impacts. (CEQA Guidelines, § 15130(a). *Friends of Eel River v. Sonoma County Water Agency*, (2003) 108 Cal. App. 4th 859). This requirement flows from Pub. Res. Code section 21083, which requires a finding that a project may have a significant effect on the environment if “the possible effects of a project are individually limited but cumulatively considerable... ‘Cumulatively considerable’ means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.”

“Cumulative impacts” are defined as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (CEQA Guidelines, § 15355(a).) “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.” (CEQA Guidelines, § 15355(a).) “The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” (*CBE v. CRA*, *supra*, 103 Cal.App.4th at p. 117.) A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand; “cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, § 15355(b).)

In sum, an EIR’s cumulative impacts analyses are critical in taking a project out of its artificial vacuum. By evaluating the true extent of a project’s environmental impacts, taking into consideration all relevant past, present, and probable future projects in the project’s vicinity, the EIR could serve its informational purpose adequately.

The DEIR provides virtually no analysis of the Project’s contribution to cumulative impacts to sensitive biological resources. It states:

Similar to the Project, per applicable regulatory requirements, Related Project No. 1 would be required to ensure that it does not increase flows or alter the drainage pattern such that substantial erosion or flooding would not occur on- and off-site. As part of the site-specific hydrology analysis for the Esperanza Hills project, runoff quantities would also need to be within the capacity of the storm drain system serving that site and if not, appropriate infrastructure upgrades would need to be provided by that Project. As Esperanza Hills would be required to comply with the same hydrology-related regulatory requirements as the Project, the cumulative impact of these projects on downstream drainage facilities, flooding and erosion would be less than significant.

The DEIR’s cumulative impacts analysis fails to consider other related present and reasonably foreseeable future projects. Furthermore, it fails to adequately analyze the cumulative impacts of other past and

present projects because it does not consider the incremental effects of each individual project when viewed in connection with the effects. As explained in the section above, an increase in pathogens and pesticides has the potential to substantially harm not only the Santa Ana River, a body of water that is already polluted with heavy metals and pathogens, but harming biological resources and recreation opportunities for the watershed as well.

Proper cumulative impacts analysis is absolutely critical to meaningful environmental review. The DEIR's cumulative impact analyses for hydration and water quality are inadequate in their entirety because they do not take into account the environmental impacts of other past, present and reasonably foreseeable projects in the Project's vicinity. As a result, the cumulative impacts analyses are underinclusive and misleading. The DEIR must revise its cumulative impacts analyses for each and every environmental issue using updated and accurate growth projections or a list-of-projects approach, or a combination of both. (CEQA Guidelines, § 15130(b))

III. THE DEIR FAILS TO ACCURATELY IMPLEMENT LOW IMPACT DEVELOPMENT PRIORITIZATION FOR PRIORITY PROJECTS IN THE NORTH ORANGE COUNTY MS4 PERMIT

Project proponents are required to incorporate Low Impact Design (LID) principles to reduce runoff to the maximum extent practicable during each phase of the development process for this priority project. Order No. R8-2009-0030, § XII.C.3. LID principles are prioritized so that the highest priority are preventative measures and then, if necessary, mitigation. Order No. R8-2009-0030, § XII.C.4. Mitigation or structural site design measures are further prioritized, from highest to lowest priority, as follows: "(1) Infiltration; (2) Harvesting and Re-use (cisterns and rain barrels); and (3) Bio-treatment such as bio-filtration/bio-retention." Id. Only after a feasibility analysis can a project proponent shift from Infiltration to Harvesting and Re-use to Bio-treatment BMPs and then, if necessary, to regional or sub-regional alternative. Said another way, "[a] properly engineered and maintained bio-treatment system may be considered only if infiltration, harvesting and reuse and evapotranspiration cannot be feasibly implemented at the project site." Order No. R8-2009-0030, § XII.C.2 fn 56.

Assuming, arguendo, that Infiltration is infeasible at the Cielo Vista location, then the next LID mitigation principle would be Harvesting and Reuse. The DEIR failed to adequately conduct a feasibility analysis justifying the DEIR's classification of this LID BMP principle as "not feasible." Currently, the DEIR's analysis is based on the assertion that the "California Plumbing Code does not currently provide standards for the stormwater harvesting systems for indoor residential use." DEIR, Section IV.3.3. Additionally, the DEIR states that "reclaimed water is not available onsite." Id. This conclusion is the result of a selective and unreasonably narrow interpretation of criteria found in the Technical Guidance Document. Cisterns and underground storage tanks act as storage to reduce runoff volume and rate and can be used as a component of a treatment train. Technical Guidance Document, Appendix XIV-50. This system is described as a BMP utilized prior to stormwater discharge into biotreatment BMPs. Id. Project proponents must perform an analysis of the Project's water demand to determine draw down, which may require additional consideration of irrigated landscaping choices. If Harvesting and Reuse is feasible to capture a portion of the Design Capture Volume (DCV), then the utilization of targeted Harvesting and Reuse BMPs could benefit the thirty three proposed Filterra units and the Contech Stormfilter which may be required to treat the remaining DCV. Storage of stormwater, especially first flow events, would allow stormwater discharges to be adequately treated before discharge. Underground storage could result in fewer Contech Stormfilter and Filterra bypass events where stormwater would be discharged into the MS4

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system untreated. In sum, additional analysis by the Project proponents must be conducted before Harvesting and Reuse LID BMPs can be found to be infeasible.

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(cont)

IV. THE DEIR INCORRECTLY CLAIMS THE CIELO VISTA DEVELOPMENT IS NOT LOCATED IN A FIRE ZONE.

The location of the Cielo Vista development is a known wildfire zone with a recent history of activity necessitating effective planning to mitigate fire risk. The DEIR states that firescaping will not be incorporated into the Vegetative Protection, Selective Revegetation, and Soil Stockpiling after the conclusion of the Project's construction because "the Project is not located in a high risk wildfire zone." The Project is located on and near the site of the 2008 Freeway Complex Fire, also known as the Triangle Complex Fire, which burned over 30,000 acres and destroyed nearly 200 residential structures. Coastkeeper strongly believes the use of appropriate landscaping, perhaps firescaping, should be considered for the Project. The containment of water from underground or above ground cisterns that collect and retain stormwater could be a component of fire suppression that could be considered when addressing cistern draw down or capacity.

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CONCLUSION

In conclusion, after a thorough review of the Project DEIR, Coastkeeper is concerned that the Project fails to adequately implement the requirements of LID BMPs in the development of their Conceptual WQMP, that the DEIR fails to adequately analyze and mitigate for the Project's cumulative impacts to hydrology and water quality, that the DEIR fails to analyze and mitigate for all of the Project's potentially significant impacts to biological resources, and that the project incorrectly minimizes fire threats posed by and to this development by its location.

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Coastkeeper thanks OC Planning Services for its consideration of our comments on the Cielo Vista development. If you have any questions regarding our comments please feel free to call me directly at 714-850-1965 ext. 307 or email me at colin@coastkeeper.org.

Regards,

Colin Kelly
Staff Attorney
Orange County Coastkeeper

LETTER: OCC

Orange County Coastkeeper
Colin Kelly, Staff Attorney
3151 Airway Avenue, Suite F-110
Costa Mesa, CA 92626
(January 22, 2014)

RESPONSE OCC-1

This comment provides a general introduction regarding the issues raised in this letter. Individual responses to this letter are provided below in Responses OCC-2 through OCC-12.

RESPONSE OCC-2

Impacts on yellow breasted chat and yellow warbler, both of which utilize riparian woodlands with a thick understory, are considered less than significant due to the small amount of acreage that would be impacted (i.e., 1.25 acres of southern willow scrub and 0.60 acre of mule fat scrub)], both project specific as well as by the cumulative projects, in relation to the regional riparian habitat available in the surrounding area that would be available for these species to utilize (particularly within the preserved open space areas of Chino Hills State Park).. Additionally, impacted habitat would be replaced at a minimum mitigation ratio of 2:1 for jurisdictional resources under Mitigation Measure 4.3-2, which is specific to jurisdictional resources but would equally benefit these two special-status species, which utilize the riparian jurisdictional habitats.

As the Draft EIR states on page 4.3-23, the determination of impacts in this analysis is based on both the features of the Project and the biological functions and values of the occupied habitat and/or sensitivity of wildlife species to be affected. The biological values and functions of wildlife resources within, adjacent to, and outside the immediate project area and into the regional area to be affected directly and indirectly by the Project were determined by consideration of multiple factors. These factors include the overall size of habitats to be affected, the quality of the affected habitats, the project study area's historic land uses, disturbance history, the project study area's surrounding environment and impacts of the surrounding areas on the project study area, regional relation to existing preservation areas and programs, the quality of on-site floral and faunal abundance and species diversity, the presence of sensitive and special-status wildlife species, the project study area's importance or lack of importance to regional preserved populations of those species found on the project study area, and the extent to which on-site habitats and species are unique, limited, or restricted in distribution on a regional basis. The CEQA analysis is comprehensive in its biological assessment and therefore has as its essential focus the on-site sensitive natural communities and occupied habitats found on site in the context of their surroundings. That is, the analysis recognizes and considers on-site biological resources and their inter-relationships with area-wide and regional biological systems. The CEQA analysis evaluates the role of the on-site biological resources, that is, whether they contribute a significant or *de minimis* role in the regional biological systems and the relative impacts on special-status species and their long term survival throughout the region. Based on the above methodology, impacts to these sensitive wildlife species are considered adverse but less than significant (refer to page 4.3-28 in the Draft EIR).

Red-diamondback rattlesnake inhabits arid scrub, coastal chaparral, oak and pine woodlands, and rocky grassland areas (see Appendix C, *Sensitive Wildlife Species Table*, of the Draft EIR Appendix C, *Biological*

Resources Assessment). The Cielo Vista project study area supports approximately 26.3 acres of scrub habitat and approximately 8 acres of ruderal/scrub habitat. The project study area also supports approximately 12 acres of chaparral and approximately 0.4 acres of ruderal/chaparral habitat. Combined, these habitats comprise approximately 56 percent of the Cielo Vista project study area. Of the proposed 25.72 acres of open space, the scrub habitat comprises approximately 12.5 acres or 49 percent. Conservatively assuming that scrub and chaparral habitats comprise 56 percent of the more than 14,000 acre Chino Hills State Park, the impacted scrub and chaparral habitats resulting from implementation of the Cielo Vista Project would represent approximately 0.4 percent of the comparable habitat of Chino Hills State Park. It can also be concluded that the Cielo Vista project study area supports marginally suitable habitat for red-diamondback rattlesnake as the species was not detected on the adjacent Esperanza Hills project site (page 5-119 of the November 2013 Esperanza Hills Project Draft EIR). For these reasons, the Draft EIR concluded that impacts to red-diamond rattlesnake individuals from implementation of the Project would not threaten regional populations due to the large areas of habitat in the surrounding area that would be available for this species to utilize and would be a less than significant impact.

RESPONSE OCC-3

Please see Response OCC-2 above. As noted in Section 4.3, *Biological Resources*, of the Draft EIR, the only sensitive species that were observed on the site and which are not designated as threatened or endangered include the yellow-breasted chat, yellow warbler, and red-diamond rattlesnake. Response OCC-2 provides a detailed discussion of each of those species. With respect to sensitive species that are listed as either threatened or endangered and, due to the presence of suitable habitat, could be present at the site, the Draft EIR includes a detailed discussion of those species. Of those species, only the Least Bell's Vireo was observed on-site. Thus, mitigation was provided to minimize impacts to that species.

For sensitive species that were not observed on the site, the Draft EIR determined that the Project would not result in a significant impact to those species. CEQA does not require mitigation measures for impacts that are considered to be less than significant [CEQA Guidelines § 15126.4 (a)(3)] , as is concluded in the Draft EIR starting on page 4.3-27 and is explained above in Response OCC-2, since avoidance of impacts is the preferred mitigation.

RESPONSE OCC-4

Please see Response OCC-2 above. CEQA does not require mitigation measures for impacts that are considered to be less than significant [CEQA Guidelines § 15126.4 (a)(3)], as is concluded in the Draft EIR starting on page 4.3-27 and is explained above in Response OCC-2. However, as discussed in the above Response OCC-2, Mitigation Measure 4.3-2 for impacts to jurisdictional resources would benefit the special-status species yellow breasted chat and yellow warbler, both of which may use southern willow scrub and mule fat scrub.

RESPONSE OCC-5

Section 4.3, *Biological Resources*, and Appendix C, *Biological Resources Assessment*, in the Draft EIR both outline the study conducted to assess the potential biological impacts of the Project. As discussed therein, the assessment of existing biological resources included literature review and field investigations. In addition to a general biological survey and vegetation mapping conducted in May 2012, numerous additional surveys were conducted by biologists between April and July 2012 as described on page 4.3-6 of the Draft EIR. A list of all of the wildlife species observed within the project site is included in the Floral and Faunal

Compendium attached to Appendix C in the Draft EIR. All of the sensitive species that were observed on the site are discussed in the Draft EIR, and for those that would result in a significant impact, mitigation was prescribed.

Moreover, , any loss of individuals or habitat, if it were to occur, for species that were not observed, including coast patch-nosed snake, coast range newt, coast horned lizard, orange-throated whiptail, long-eared owl, western yellow bat, western mastiff bat, pallid bat, San Diego black-tailed jackrabbit, and northwestern San Diego pocket mouse as a result of the Project would not be expected to reduce regional population numbers due to the small amount of acreage that would be impacted by the Project in relation to the regional habitat available in the immediately adjacent open space. None of these species were observed during the field studies but are conservatively concluded as having the potential to occur on the project site. Coast range newt has potential to occur within the project site because potentially suitable habitat is present. However, this stream course is disturbed; therefore, the likelihood of this species occurring within the study is low. Coast patch-nosed snake has potential to occur within the project site because potentially suitable habitat is marginally present. Coast horned lizard and orange-throated whiptail have the potential to occur within the project site because potentially suitable habitat is present but these species were not found during appropriately timed site surveys. Long-eared owl has potential to occur within the project site because potentially suitable habitat is marginally present; however, the species prefers dense vegetation such as riparian and forest woodlands. Western yellow bat, western mastiff bat, and pallid bat maybe observed foraging over the project site due to the presence of suitable foraging habitat; however, these species are not expected to roost on-site due to the lack of suitable roosting habitat. Northwestern San Diego pocket mouse has the potential to occur within the project site because potentially suitable habitat is present but these species was not observed during site surveys. Consequently, impacts to sensitive wildlife species with a potential to occur on the project site are considered adverse but less than significant and therefore, mitigation is not required.

RESPONSE OCC-6

Analysis of Project impacts to sensitive plant communities is provided under Impact Statement 4.3-2, beginning on page 4.3-32 of the Draft EIR and depicted in Figure 4.3-7, *Impacts on Sensitive Natural Communities*. The Project would impact 4.60 acres of blue elderberry woodland [23.88 acres are on the Esperanza Hills project site], 1.25 acres of southern willow scrub, 0.51 acre of blue elderberry woodland/laurel sumac chaparral [1.75 acres are on the Esperanza Hills project site], 2.57 acres of blue elderberry woodland/laurel sumac chaparral/mixed coastal sage scrub, and 5.63 acres of encelia scrub, all of which are considered sensitive natural communities by the California Department of Fish and Wildlife (CDFW). As noted in the Draft EIR, a “substantial adverse effect” means loss or harm of a magnitude which, based on current scientific data and knowledge would (1) substantially reduce population numbers of listed, candidate, sensitive, rare, or otherwise special status species, (2) substantially reduce the distribution of a sensitive natural community/habitat type, or (3) eliminate or substantially impair the functions and the interrelated biological components and systems of the Chino Hills State Park, the Orange County NCCP, and the Prado Dam Basin. The determination of impacts in the biological analysis was based upon both features of the Project and the biological functions and values of the occupied habitat and/or sensitivity of plant and wildlife species to be affected. The biological values and functions of resources were determined by looking at the overall size of the habitat to be affected, the quality of the affected habitat, the project study area’s historic land uses, disturbance history, regional relation to existing preservation areas and programs, and the project study area’s importance or lack of importance to regional preserved populations of those species found on the project site. The analysis evaluated the role of the on-site biological resources, that is, whether

they contribute to a significant or *de minimis* role in the regional biological system and the relative impacts on special-status species and their long-term survival throughout the region. Thus, the analysis considered factors such as the quality of the affected habitat and the habitats' regional context.

Impacts on sensitive natural communities are considered less than significant given their diminished functions and values as habitat as a consequence of natural (i.e., fire) and human disturbances and the relative abundance of these vegetation communities throughout the region. The 2008 Freeway Complex wildfire burned the project site and most of the natural vegetation communities within the site continue to exhibit signs of the fire damage and subsequent encroachment by invasive species. Although some of these communities have markedly recovered from the fire, all of the sensitive natural communities found within the project study area have a component of non-native invasive exotic species as well. These natural communities are considered to be of low to moderate quality (rather than high quality) because they still retain an ability to provide cover and resources for limited wildlife species. The commenter does not provide any specific evidence or a factual foundation that in support of his or her argument that the analysis provided in the Draft EIR is erroneous. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.)

Blue elderberry (*Sambucus nigra* ssp. *caerulea*) is a widespread species within California and especially well distributed in southern California (see Calflora http://www.calflora.org/cgi-bin/species_query.cgi?where-calrecnum=10348, for distribution map). The species is quite common on the adjacent Esperanza Hills project site, being a representative species in 13 of the 16 natural communities (totaling at least 165 acres) identified within the Esperanza Hills project site (Plant Communities of Section 5.3, *Biological Resources*, of the Esperanza Hills Draft EIR, beginning on page 5-97). While not as common as blue elderberry, California encelia (*Encelia californica*) is similarly well-distributed in southern California (see Calflora http://www.calflora.org/cgi-bin/species_query.cgi?where-calrecnum=2963, for distribution map). California encelia is present within the California sagebrush scrub and the disturbed California sagebrush scrub (totaling 34.5 acres) within the Esperanza Hills project site. Given the diminished functions and values as habitat of the on-site natural communities categorized as sensitive communities and the relative abundance of these vegetation communities or their dominant species throughout the region, impacts to natural communities, both common and sensitive, are concluded to be less than significant. With less than significant impacts, mitigation measures are not considered to be warranted.

Contrary to the comment, the natural communities of southern willow scrub, a sensitive plant community, and mule fat scrub that support least Bell's vireo, in addition to yellow breasted chat and yellow warbler, would be mitigated under Mitigation Measures 4.3-1 (beginning on page 4.3-26 of the Draft EIR, under Impact Statement 4.3-1) and Mitigation Measure 4.3-2, as discussed under Impact Statement 4.3-3 (impacts to wetlands and "Waters of the U.S.") starting on page 4.3-36 of the Draft EIR. See Response OCC-2 for additional discussion on yellow breasted chat and yellow warbler, both of which utilize riparian communities similar to least Bell's vireo.

RESPONSE OCC-7

Discussion of potential Project impacts to sensitive plant and wildlife species begins on page 4.3-26, under Impact Statement 4.3-1 of the Draft EIR. As discussed therein, numerous field investigations were conducted to determine plant and wildlife species, and extensive literature review was undertaken to assist in the identification of species and suitable habitats with potential to occur on the Project site. Moreover, focused

sensitive plant surveys were conducted in April and July 2012 for those sensitive species with the potential to occur within the project study area. However, no sensitive plant species were observed. Because no sensitive plant species were observed during the focused surveys, no sensitive plant species are expected to occur on-site. It is concluded that the Project would have no impacts on sensitive plants species and no mitigation measures are required. Impacts to sensitive wildlife species are considered to be less than significant after the implementation of Mitigation Measure 4.3-1 for impacts to least Bell's vireo. There are no reasons provided in the comment why additional mitigation measures are necessary for additional sensitive natural communities that could speculatively be found in the future. It is not clear what additional mitigation measures may be needed to address unanticipated impacts to species that were not observed. Because it would be speculative to assume that additional species may occur within the project study area, there is no need to add an additional mitigation measure(s).

Likewise, with respect to sensitive natural communities, the extensive field investigations and literature research done as part of the biological assessment were sufficient to identify all the natural communities existing on the site. Thus, it is not anticipated that sensitive natural communities could be discovered during construction and operation and no additional mitigation measures are required.

RESPONSE OCC-8

The Draft EIR addressed construction-related water quality impacts in Section 4.8, *Hydrology and Water Quality*, with supporting data provided in Appendix H of the Draft EIR. As discussed therein, impacts were concluded to be less than significant. Also, please see revisions in Chapter 3.0 of this Final EIR which provides corrections and additions to Section 4.8 of the Draft EIR based on the Project's updated Conceptual Drainage Study and Conceptual Water Quality Management Plan (included in Appendix D of this Final EIR). The commenter does not provide any specific evidence or a factual foundation that the analysis provided in the Draft EIR is erroneous. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.)

RESPONSE OCC-9

Consistent with this comment, the SWPPP to be prepared for the Project would be prepared prior to Project construction to include BMPs such as erosion control and treatment measures. The site specific issues related to pollutants that may be on the site from oil-related uses and facilities are addressed in Section 4.7, Hazards and Hazardous Materials, in the Draft EIR. As discussed under Impact Statement 4.7-2 beginning on page 4.7-20, a Soils Management Plan (SMP) and a Health and Safety Plan (HASP) would be implemented by the Project when handling suspected contaminated soils. These plans establish the protocol for the safe handling and disposal of impacted soils that could be potentially encountered during construction activities. Additional soil testing would be implemented to ensure soils are accurately characterized prior to excavation and earth moving activities. Mitigation Measures 4.7-1 to 4.7-3 require these plans to be prepared and implemented during construction activities.

RESPONSE OCC-10

The commenter asserts that the cumulative hydrology and water quality analysis is insufficient because it does not account for the environmental impacts of other past, present, and reasonably foreseeable future projects. Cumulative impacts pertaining to biological resources and hydrology/water quality were addressed in Section 4.3, *Biological Resources*, and Section 4.8, *Hydrology and Water Quality*, of the Draft EIR, respectively. Chapter 3.0, *Basis for Cumulative Analysis*, identified 18 related projects in the Project area. In

addition, cumulative impacts are addressed for each environmental issue area analyzed in Chapter 4.0 of the Draft EIR within each section of Chapter 4 (Sections 4.1 to 4.15). The assessment of cumulative impacts utilizes a list-of-projects approach as discussed in Chapter 3.0 in the Draft EIR. This approach is consistent with CEQA Guidelines Section 15130 for an adequate discussion of cumulative impacts. Commenter does not specify what additional projects should have been considered in the cumulative projects analysis, or exactly how the analysis is “underinclusive and misleading.” Rather, the comment consists of unsubstantiated opinion and does not provide any evidence to support its assertions. “To constitute substantial evidence, comments by members of the public must be supported by an adequate factual foundation.” (*Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.) Where a general comment is made, a general response is appropriate. (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 401.)

RESPONSE OCC-11

As part of the LID hierarchy contained in the 2011 Technical Guidance Document, harvest and reuse must be evaluated when infiltration is not feasible for the Project. As stated in the Project’s Conceptual WQMP in Appendix H of the Draft EIR, infiltration is considered feasible for the north portion of the project site while it is not considered feasible for the south portion of the project site due to differences in soil conditions. If infiltration is only partially feasible, harvest and reuse must be considered for the remaining volume of the Design Capture Volume (DCV). If harvest and reuse is not feasible, then biotreatment BMPs may be utilized for the remainder of the DCV.

Harvest and reuse is typically evaluated for outdoor irrigation demand and indoor toilet flushing demand. Outdoor landscape area irrigation associated with single-family detached housing may be a candidate for harvest and reuse. However, single-family detached housing with drought tolerant and limited interconnected common area landscaping, as is the case with this Project, does not lend itself to a centralized harvest and reuse system. All the storm water must be collected at the downstream end of the project site and then pumped back up to each individual house through separate irrigation systems and separate storage systems. Based on the proposed site plan (lack of contiguous large area landscaping with emphasis on drought tolerant vegetation) and the proposed terraced grading requiring dedicated areas for storage and pumping, such a system is not practicable. Such systems are more practicable when there are common area landscape facilities within a small footprint (i.e. commercial/retail or high density apartments). However, the feasibility of incorporating rain barrels to collect rainfall and its use via passive gravity flow following a rain event will be evaluated in the design of individual homes.

Indoor toilet flushing may also be a candidate for harvest and reuse but is determined to be infeasible for the Project based on the required infrastructure and the indoor treatment requirements which far exceed stormwater treatment requirements. The water must be collected at the downstream end, treated to indoor plumbing standards and then pumped up to each house in a separate water line. In the alternative, designing and building water a treatment system for each house is infeasible because of cost and limited water availability on a lot by lot basis. Similar to landscaping irrigation demand, these systems are more practicable when there are a high number and density of fixtures within a small footprint (i.e. commercial/retail or high density apartments). Based on these constraints, indoor toilet flushing is not considered feasible or practicable for the Project.

RESPONSE OCC-12

Contrary to the comment, the Draft EIR does acknowledge that the site is within a “Very High Fire Hazard Severity Zone” (VHFHSZ) and has been subject to previous wildland fires. The Draft EIR addressed wildland fire impacts in Section 4.7, *Hazards and Hazardous Materials*, with supporting data provided in Appendix G of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measures, in addition to the fire protection features (see project design features PDF 7-9 to 7-14) to be included as part of the Project.

This comment’s suggestion that water from cisterns could be a component of fire suppression is acknowledged.

RESPONSE OCC-13

This comment provides a general conclusion regarding the issues raised in this letter. Individual responses to this letter are provided above in Responses OCC-2 through OCC-12.

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November 8, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippets
300 N. Flower Street
Santa Ana, CA 92702-4048
E-Mail: Ron.Tippets@ocpw.ocgov.com

Re: Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippets:

On behalf of Hills For Everyone, we write to request an extension of the public comment period for the Cielo Vista Project Draft Environmental Impacts Report. 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 Cielo Vista Project and the associated Esperanza Hills Project.

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Complex legal and technical issues surround the Cielo Vista Project and the County's Draft EIR. At the same time, the County is also in the process of evaluating the proposed Esperanza Hills Project on the parcels directly east of the proposed Cielo Vista site. Cielo Vista and Esperanza Hills will share access corridors and utility connections. Development of Esperanza Hills is therefore reasonably foreseeable consequence of the Cielo Vista Project, and must be evaluated as part of the Cielo Vista Project. Alternately, the two projects should be evaluated together. In any event, the interaction between these projects significantly expands and complicates the scope of the issues raised by the Cielo Vista Draft EIR.

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The offered six-week comment period is therefore insufficient for the thorough public review that CEQA mandates. Furthermore, the Public Comment Period is slated to close in the midst of the winter holiday season, placing additional pressure on members of the public that wish to comment on the Cielo Vista Draft EIR and potentially

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Orange County Planning
Attn: Ron Tippetts
November 8, 2013
Page 2

reducing public engagement in these important issues. The County should strive to maximize public participation in the environmental review process.

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In light of the complexity of technical and legal issues surrounding the Cielo Vista Project, and the upcoming holiday season, Hills For Everyone respectfully requests that the County lengthen the public comment period by 30 days, extending it to January 22, 2014. Thank you for considering this request.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross

543537.1

543537.2

LETTER: HFE1

Hills For Everyone
Shute, Mihaly & Weinberger LLP Gabriel M.B. Ross
396 Hayes Street
San Francisco, CA 94102
(November 8, 2013)

RESPONSE HFE1-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE HFE1-2

Comment HFE1-2 alleges that the Esperanza Hills development is a component of the Project because both it and the Project would share certain infrastructure facilities and because it is (allegedly) a foreseeable consequence of the Project's development. The Commenter is referred to Topical Response 1 for a detailed discussion of this issue.

RESPONSE HFE1-3

Please refer to Topical Response 1.

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January 22, 2014

Via E-Mail and FedEx

OC Planning
Attn: Ron Tippets
300 N. Flower Street
Santa Ana, CA 92702-4048
E-Mail: Ron.Tippets@ocpw.ocgov.com

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippets:

On behalf of Hills For Everyone, we write to comment on the Cielo Vista 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 Cielo Vista Project and the associated Esperanza Hills 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 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.

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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.

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Here, the DEIR does not come close to meeting these established legal standards. The DEIR fails to describe four of the most critical components of the proposed Project: (1) the adjacent Esperanza Hills development; (2) the nearby Bridal Hills and Yorba

Linda Land developments; and (3) new oil drilling operations on the Project site. Environmental review of Cielo Vista in isolation from these four components of the Project would represent improper segmentation of environmental review under CEQA.

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A. The Esperanza Hills Development is a Component of the Project.

The Esperanza Hills Project, a significant residential development, is proposed for the area located directly east of the proposed Cielo Vista Project site. DEIR at 2-1. The County released the Draft Environmental Impact Report for Esperanza Hills (“Esperanza Hills DEIR,” attached hereto as Exhibit A) on December 2, 2013. Esperanza Hills would include the construction of 340 dwelling units and major grading activities on a 469-acre parcel adjacent to the Cielo Vista 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”).

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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 the Esperanza Hills project is a foreseeable consequence of Cielo Vista, and that the two are, under CEQA’s definition, the same project. Most obviously, the Cielo Vista Project will provide Esperanza Hills with required access corridors and water and sewer connections. They are, in effect, a 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 4.10-11. 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 B). 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 the Cielo Vista Project. 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 C).

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 Cielo Vista and Esperanza Hills 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 Cielo Vista that are deemed less than significant under the EIR’s standards would be significant when combined with the impacts of Esperanza Hills.

For example, the Project’s greenhouse gas emissions and impacts on global climate change would be significant according to the threshold in the DEIR if the DEIR also accounted for the greenhouse gas emissions from Esperanza Hills. The DEIR estimates that Cielo Vista will generate 2,283 metric tons of carbon dioxide equivalent (“MTCO₂e”) per year. DEIR at 4.6-24. The County’s threshold for determining whether a Project would result in a significant impact is 3,000 MTCO₂e per year. *Id.* Because

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Cielo Vista would not exceed the County's threshold, the DEIR concludes that the Project would result in a less than significant impact with respect to greenhouse gas emissions. *Id.* The Esperanza Hills DEIR estimates that Esperanza Hills will generate nearly 7,000 MTCO₂e per year. Esperanza Hills DEIR at 5-272. Together, these two developments greatly exceed the County's significance threshold.

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But according to the DEIR's current analysis, the greenhouse gas emissions and impacts on global climate change from Cielo Vista are not even cumulatively considerable. DEIR at 4.6-27. Yet the Esperanza Hills DEIR admits that the greenhouse gas emissions and impacts on global climate change, as well as noise impacts, from that development alone are significant and unavoidable. Esperanza Hills DEIR at 10-1. The DEIR's claims that these categories of impacts are less than significant for Cielo Vista create a misleading portrayal of the environmental impacts of the whole Project. 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 the Cielo Vista Project, and therefore must be considered part of the Cielo Vista Project. These two parcels—located north and east of the Cielo Vista Project site—are currently undeveloped, but it appears that significant development activity is planned for at least one of these areas. In the Esperanza Hills DEIR, the County admits that the Bridal Hills, LLC parcel “is a reasonably foreseeable development” and includes it in that document's analysis. Esperanza Hills DEIR at 4-2.

The Notice of Preparation for the Esperanza Hills Project explains that access to both the Bridal Hills and Yorba Linda Land parcels will be provided for in the proposed Esperanza Hills lot layout and street design. Esperanza Hills NOP at 1. The Esperanza Hills DEIR also admits that the Esperanza Hills development will provide the access corridor for the Bridal Hills development. Esperanza Hills DEIR at 4-2. In fact, the Esperanza Hills NOP contains a Vegetation/Biological Resources Map for the “Esperanza Hills Specific Plan Area” that includes the Bridal Hills and Yorba Linda Land parcels within the project boundary. Esperanza Hills NOP at 11, Exh. 5.

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

C. Oil Drilling on the Project Site is a Component of the Project.

As part of the Project, a 1.8-acre parcel located in Planning Area 1 (the “drilling pad”) is proposed to be zoned R-1(O) and may be the site of new and continued oil operations—including consolidation of oil wells relocated from the rest of the project site and slant drilling of new wells below ground. DEIR at 2-28. These new and continued oil operations constitute a reasonably foreseeable consequence of the Cielo Vista Project, and therefore must be considered part of the Cielo Vista Project. An operating well is currently located within the drilling pad area, DEIR at 2-29, and the Project maintains access to the drilling pad.

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Nevertheless, the DEIR fails to adequately evaluate the impacts of these continued operations. Instead, the County declines to analyze the impacts of these continued oil operations because “permitting and site planning [will] be pursued by the oil operators” and “the oil drilling pad would be developed for future oil operations as a separate project should the oil operators choose to relocate to this area of the project site.” DEIR at 2-29. But CEQA requires the County to analyze impacts at the earliest discretionary approval, even if later approvals will take place. *See Bozung*, 13 Cal. 3d at 282. The County must evaluate the environmental impacts associated with new and continued oil operations as part of the Cielo Vista Project.

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

A. The DEIR Fails to Accurately Analyze the Project’s Geology and Soils Impacts.

The DEIR fails to adequately analyze the Project’s significant earthquake safety risks. 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 Orange County General Plan (“OCGP”) and the City of Yorba Linda General Plan (“YLGP”) regarding geologic hazards. These plan inconsistencies constitute significant and unavoidable impacts.

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1. The Project Creates Significant Geologic Safety Hazards.

The Whittier Fault—an active fault with a Fault-Rupture Hazard Zone that is approximately 1,000 feet wide—bisects the Project site. DEIR at 4.5-10. Residential lots are proposed within the fault rupture hazard zone. DEIR at 4.5-14. There is potential for significant ground shaking at the Project site during a strong seismic event on the Whittier Fault, as well as fault rupture, liquefaction, landslides, slope instability, dangerous soil expansion, and severe damage to nearby buildings. DEIR at 4.5-9 to -11.

The DEIR explains that these impacts 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, and landslides. DEIR at 4.5-13. The hazards associated with the Whittier Fault clearly exceed this threshold.

Indeed, the DEIR admits that the Project could expose people or structures to such adverse effects. *Id.* The DEIR concedes that the Whittier Fault could generate an earthquake of Mw6.0 to 7.2 on the moment magnitude scale. DEIR at 4.5-10. An earthquake of that magnitude can lead to “Major” earthquake effects, including “damage to most buildings, some to partially or completely collapse or receive severe damage.” Even “[w]ell-designed structures are likely to receive damage.” *Id.*

According to the 2013 Geotechnical Feasibility Study¹, a seismic event at the Project site could result in “severe” shaking and could lead to “moderate to heavy” damage. DEIR at 4.5-10.

Moreover, ground surface rupture could occur along the Whittier Fault trace. DEIR at 4.5-9. But the DEIR admits that the precise location of the Whittier Fault trace is unknown. DEIR at 4.5-14. The 2006 Geotechnical Evaluation estimates that the Whittier Fault trace is located along the mid-point of the Whittier Fault Zone, but concedes that a previous investigation determined that multiple branches of the fault exist in the Project area. 2006 Geotechnical Evaluation 4. Active fault splays could occur outside of the “likely” location of the main fault trace. *Id.*

Liquefaction, as well as other ground failure hazards can lead to ground failure that can result in property damage and structural failure. DEIR at 4.5-15. The DEIR determines that a potentially significant impact would occur if any structures are located in areas potentially susceptible to ground failure hazards. *Id.* The DEIR admits that a portion of the Project site clearly has the potential for liquefaction, and that other areas may also be susceptible to liquefaction and seismic settlement. *Id.*

¹ Appendix E to the DEIR includes two preliminary geotechnical reports to support its conclusions: (1) Pacific Soils Engineering, Inc., Geologic and Geotechnical Evaluation (2006) (“2006 Geotechnical Evaluation”); and (2) LGC Geotechnical, Inc., Geotechnical Feasibility Study, Proposed Development of Tentative Tract Map No. 17341, County of Orange, California (2013) (“2013 Geotechnical Feasibility Study”).

The DEIR further admits that available information indicates the presence of landslides and other gross slope instability conditions on a portion of the Project site. DEIR at 4.5-15. The proposed grading for the Project is avoids “most areas suspected to be underlain by landslides or susceptible to slope stability hazards,” but not all of those areas *Id.* In any event, the 2013 Geotechnical Feasibility Study admits that landslides and other slope instability issues at the Project site have only been subject to a “ cursory review.” 2013 Geotechnical Feasibility Study at 5. No site-specific investigation has been performed to determine the existence, depth, geometry and other characteristic of landsliding. 2006 Geotechnical Evaluation at 10.

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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 v. Bd. of Port Comrs.* (2001) 91 Cal. App. 4th 1344, 1370 (lead agency must use best efforts to analyze potentially significant impacts).

2. The DEIR’s “Mitigation” of the Project’s Geologic Hazards Actually Represents Impermissible Deferral of the Analysis of These Hazards.

In an attempt to mitigate these significant seismic impacts, the DEIR proposes Mitigation Measure 4.5-1, which requires the Project Applicant to prepare an additional geotechnical report and receive further County approval prior to the issuance of grading permits, but after Project approval. *Id.* The DEIR claims that the prescribed mitigation measure, and compliance with applicable regulatory requirements, such as the California Building Code, would reduce geologic hazards to less than significance. DEIR at 4.5-13. But the DEIR provides no actual evidence to support this conclusion. The DEIR, and its two supporting geotechnical reports, contain only bare assertions that these geologic hazards will be mitigated.

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For example, regarding seismic ground shaking, the future geotechnical report would “determine structural design requirements as prescribed by the most current version of the California Building Code . . . to ensure that structures and infrastructure can withstand ground accelerations expected from known active faults.” DEIR at 4.5-18. The DEIR states that the Project would implement these design recommendations to reduce the potential for structural damage and exposure to potential substantial adverse effects, including the risk of loss, injury, or death, but only “to the maximum extent practical.” DEIR at 4.5-15. The DEIR asserts that this would reduce potentially significant seismic-related impacts to a less than significant level. Similarly, the 2006 Geotechnical Evaluation states:

Southern California, in general, is a seismically active region and the proposed improvements are likely to be subjected to significant ground motion during the design life of the project. Remedial grading in conjunction with the design of structures in accordance with prevailing seismic codes is held to be an appropriate mitigation for this condition.

2006 Geotechnical Evaluation at 8. But the document provides no further analysis or evidence to support the conclusion these risks will be mitigated.

In fact, the 2013 Geotechnical Feasibility Study plainly contradicts this conclusion. That later analysis concludes:

New improvements will need to be designed for seismic forces in accordance with current building codes and regulations. *However, there is still a risk that the proposed residential structure could be damaged as a result of an earthquake.*

Geotechnical Feasibility Study at 9 (emphasis added). The analysis thus makes clear that compliance with applicable building codes, regulations, and ordinances, alone, are 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.

Regarding risks from fault rupture, the DEIR proposes that residential structures would be located at a distance of greater than approximately 100 feet from the Whittier Fault trace, in order to be consistent with the 50-foot setback requirement of the Alquist Priolo Earthquake Fault Zoning Act. DEIR at 4.15-14. However, as discussed, above, the DEIR admits that the specific location of the fault trace has not even been determined yet. Instead of performing this essential investigation before the County considers the Project, the DEIR would only require the future geotechnical report to later identify the location of the Whittier Fault trace. The Project Applicant would then alter the Project site plan so that proposed residences would be set back from the fault trace. *Id.* But until these hazards are determined, the DEIR has simply failed to undertake the analysis required to support its claim that risks related to surface ruptures are not significant. The County must insist that the Project Applicant prepare the site-specific geotechnical report and locate the fault trace *before* Project approval.

The DEIR also proposes to defer meaningful analysis of ground failure hazards until after Project approval. The DEIR explains that the Project would implement a complex set of design recommendations identified in the future geotechnical report. DEIR at 4.5-15 (Mitigation Measure 4.5-1). Together with compliance with California

Geological Survey Guidelines and applicable building codes, the DEIR claims that the Project would reduce the potential for significant liquefaction and other ground failure hazard impacts “to the maximum extent feasible.” *Id.*

The DEIR also defers investigation of the stability of the Project’s existing and proposed slopes until completion of the geotechnical report required by Mitigation Measure 4.5-1. DEIR at 4.5-16. That Mitigation Measure requires an engineering analysis to determine any necessary stabilization measures, and requires the developer to remediate the project site pursuant to the County Grading Code. *Id.* The developer must also design foundations and structures to meet Building Code requirements “to ensure the safety of the physical site and structures for future residents.” *Id.* The DEIR concludes that potentially significant impacts regarding landslides and slope stability would be reduced to a less than significant level. *Id.*

But until the additional geotechnical report is completed, the DEIR has simply failed to analyze the full range of geologic hazards facing the Project. The DEIR therefore has not provided substantial evidence to support its determination that risks related to fault rupture, seismic ground shaking, ground failure, and landslides are less than significant. The County cannot rely on this “mitigation measure” to reduce significant impacts regarding fault rupture and other geologic hazards to a less than significant level, because the County cannot even be sure of the nature of those hazards until the additional analysis is completed. The County must insist that the Project Applicant prepare the site-specific geotechnical report and locate the fault trace *before* Project approval. *See Sundstrom v. Cnty. of Mendocino*, 202 Cal. App. 3d 296 (1988) (deferral of environmental analysis until after project approval violates CEQA’s policy that impacts must be identified before project momentum reduces or eliminates the agency’s flexibility to change its course of action). Fully disclosing this type of hazard is not only a core purpose of CEQA, but it is the plainly the responsible approach: the County cannot reasonably approve a project without a complete understanding of the hazards its residents may face.

Moreover, the geotechnical report 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.

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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 Geologic Hazards.

The Project is inconsistent with the Goals, Objectives, and Policies of the OCGP and YLGP regarding geologic hazards. These plan inconsistencies constitute significant and unavoidable impacts.

OCGP Public Safety Goal 1 is to "Provide for a safe living and working environment consistent with available resources." OCGP Public Safety Objective 1.1 is "To 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, strong seismic ground shaking, seismic-related ground failure, and landslides. The DEIR also acknowledges that an additional geotechnical report must be prepared simply to understand the geologic risks facing residents in the Project area. At the very least, the County has not identified the relevant natural hazards or threats until this report is completed.

The Project is also inconsistent with OCGP Public Safety Goal 2, to "Minimize 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 the information from the additional geotechnical report 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.

The Project is also inconsistent with the YLGP Safety Element Goal 1, to "Protect the community from hazards associated with geologic instability, seismic hazards." 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. 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 additional geotechnical report discussed in part III.A.2. above. The County does not yet know how the information from the geotechnical report 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.

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B. 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 emergency 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.*

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 D).* 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. The Project will increase the size of the area's wildland-urban interface.

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Contrary to the DEIR's conclusions, the Project would clearly expose current and future residents and structures in the area to a significant risk of loss, injury or death involving wildland fires. DEIR at 4.7-26. The DEIR nonetheless claims that wildland fire risks will be less than significant. DEIR at 4.7-26 (finding that "compliance with applicable regulatory requirements and implementation of the project features and prescribed mitigation measures would reduce potentially significant impacts in these regards to a less than significant level").

The evidence, however, does not support the DEIR's conclusion. The Project's proposed residences would clearly be threatened by fire. They would be 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 will not benefit from the typical 170-foot fuel modification zone. DEIR at 4.7-33.

In fact, the DEIR 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, which exposes the existing single-family residential uses to the west and south of the Project to substantial risks of wildland fires. The DEIR claims that the Project's fuel modification features would substantially reduce the risk of wildland fires to these existing single-family residences. DEIR at 4.7-34; 4.14-70 to -73.

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This argument is misleading. Even if the Project reduced the risk of fire to nearby residences, the Project is adding 112 new residences to an area of severe fire risks. All residences, new and old, are potential ignition sources. 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; the EIR must analyze, disclose, and, if necessary, mitigate these additional impacts.

2. The DEIR Does Not Adequately Mitigate the Wildland Fire Hazards.

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 DEIR claims that in the event of a fire emergency, "the function of the street system would remain and there would be available capacity to accommodate the projected traffic volumes, in addition to emergency service vehicles." DEIR at 4.7-26. As discussed below, however, the DEIR does not demonstrate that the Project will have an effective emergency evacuation plan. The Project's wildland fire hazards therefore remain significant.

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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 4.14-70. The Project, combined with other proposed developments nearby, will only exacerbate this problem. Yet the DEIR does not adequately discuss cumulative impacts associated with emergency evacuation requirements. Rather, the DEIR explains that the County will evaluate all other developments "on a project-by-project basis" to determine consistency with applicable emergency response and evacuation plans. DEIR at 4.7-39 to -40.

The DEIR relies on Yorba Linda's October 2013 evacuation plan to prevent the evacuation gridlock that has occurred during past emergencies. DEIR at 4.14-70. But the DEIR provides no traffic analysis or modeling to support the argument that Yorba Linda's evacuation plan 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, residents would be diverted by deputies and barricades from some main streets so that law enforcement and firefighting vehicles could use them. *Id.* 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 claims that “the function of the street system would remain and there would be available capacity to accommodate the projected traffic volumes, in addition to emergency service vehicles.” DEIR at 4.12-11. But 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 provide available capacity to accommodate traffic volumes during a fire emergency. The Project’s fire-related impacts remain significant.

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.

The DEIR admits that new and continued oil drilling operations, including consolidation of oil wells relocated from the rest of the project site and slant drilling of new wells below ground, may occur on the Project site. DEIR at 2-28. But the DEIR concludes that with compliance with applicable regulatory requirements and implementation of certain Project Design Features (“PDFs”), operation of oil facilities would not create a significant hazard to the public or the environment. DEIR at 4.7-23.

The DEIR relies on PDFs 7-2 to 7-7 to support this conclusion. But these PDFs do not remove the risk that Project and nearby residents will need to evacuate the area in the event of an oil-related emergency. PDFs -2 and 7-3 simply require buffer zones between wells and new residences. PDF 7-4 restates the requirements that all new wells must comply with applicable law and regulations. PDF 7-5 prohibits public access to the oil drilling pad, and PDF 7-6 prohibits new service roadways through open space areas. PDF 7-7 requires the Project developer to notify homeowners regarding the previous use of the site as an oilfield and the extent of continued oil production activities in the area.

An oil-related emergency, such as a fire or spill, could still occur, despite implementation of these PDFs. Despite this fact, the DEIR provides no traffic analysis or modeling to support any claim that the street system would provide available capacity to

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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 regards to future oil operations.

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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 and structures in the area to a significant risk of loss, 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.

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 "Provide 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."

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For the same reasons, the Project is inconsistent with YLGP Safety Element Goal 4, to "Protect 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 "Minimize 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, "To create and maintain plans and programs which mitigate the effects of public hazards." 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 YLGP. Until it includes this analysis, the EIR's analysis of land use impacts is incomplete and invalid.

C. The DEIR Fails to Accurately Analyze the Project's Water Supply Impacts.

The DEIR fails to accurately analyze the Project's water supply impacts because it does not determine the extent of new water infrastructure facilities required for the Project nor analyze the impacts of those facilities.

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1. The DEIR Fails to Ensure That the Project Will Have Sufficient Water Supplies and Wastewater Treatment Facilities.

The DEIR makes unsupported assumptions about the availability of water facilities for the Project. CEQA requires the County to perform a thorough analysis of the Project's planned water supply. The DEIR must determine whether the proposed water source is adequate to meet the Project's needs and whether tapping it will cause adverse environmental impacts. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 432 (2007). If a project's proposed water supply is uncertain or unreliable, the DEIR must identify an alternative water source and consider the environmental impacts of using that source. *Id.*

The Yorba Linda Water District ("YLWD") completed the Northeast Area Planning Study in March 2013 to evaluate the capacity of existing distribution system facilities and describe new infrastructure required to provide water services to the Project. The Planning Study identified improvements that will be necessary to meet the anticipated water service and infrastructure demands within the YLWD's northeast area, including both the Cielo Vista and Esperanza Hills developments. DEIR at 4.15-17 to -18. Among these needed improvements, the Planning Study identified new pump stations, a pressure reducing station, pipeline upgrades, an increase in the capacity of existing pump stations, and other potential improvements. DEIR at 4.15-18.

But the DEIR fails to ensure construction of the necessary water facilities for the Project. The DEIR concludes that "final planning, buildout, and timing" of Cielo Vista and Esperanza Hills "cannot be accurately ascertained at this time." DEIR at 4.15-18. So the DEIR simply proposes a mitigation measure that would require the Project Applicant to work with the Yorba Linda Water District to ensure an adequate water supply for the area's future residents and for fire safety purposes. *Id.* (Mitigation Measure 4.15-1). This mitigation measure is simply too vague to ensure that existing and proposed infrastructure will accommodate the Project's estimated water demand, wastewater generation, and solid waste generation. The DEIR's analysis of the Project's water supplies is therefore inadequate. In fact, during the Freeway Complex Fire, YLWD facilities did not provide adequate firefighting water flow to effectively combat the spreading blaze. Freeway Complex Fire After Action Report, Exh. D, at 64-65. Until the County provides a detailed description of the water facilities that will serve the Project, neither the County nor the public can evaluate whether this infrastructure will be sufficient during a fire emergency. The DEIR therefore lacks the substantial evidence necessary to support its claim that there will be an adequate water supply for the area's residents and for fire safety purposes.

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2. The DEIR Fails to Adequately Analyze the Impacts of New Water Infrastructure That Must Be Built to Serve the Project.

The DEIR also fails to adequately describe or mitigate the impacts of new water infrastructure that must be built to serve the Project. Under CEQA, the “ultimate question” is whether an EIR adequately addresses the reasonably foreseeable impacts of supplying water to the project. *Vineyard Area Citizens*, 40 Cal. 4th at 434. The EIR must give decision makers sufficient facts to evaluate the pros and cons of supplying the amount of water that the Project will need. *Id.* at 430–31. This must include a description of the environmental impacts of necessary water facilities. *Id.* at 432.

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The DEIR includes no analysis of the potential environmental impacts of the improvements necessary to meet the Project’s anticipated water service and infrastructure demands. This is impermissible. Construction and operation of the improvements necessary to meet the Project’s anticipated water service and infrastructure demands would cause potentially significant environmental impacts. The DEIR must address the impacts of likely future water facilities. Unless and until it does so, it will remain incomplete and invalid. *See id.*

D. 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 required analysis of transportation system management and demand management for the Project, and because it interferes with implementation of the Orange County Transportation Authority Commuter Bikeways Strategic Plan (2009) (“Bikeways Strategic Plan”). The DEIR also fails to acknowledge that the Project is inconsistent with the policies of the Orange County General Plan, Yorba Linda General Plan, and Bikeways Strategic Plan regarding transportation management and alternative transportation. These plan inconsistencies constitute significant and unavoidable impacts.

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1. The DEIR Interferes With Implementation of the Bikeways Strategic Plan.

The DEIR mentions the Bikeways Strategic Plan, but at the same time prevents implementation of that plan. The Bikeways Strategic Plan includes an “Action Plan” that identifies the tasks that the Orange County Transportation Authority (“OCTA”) will undertake to ensure the implementation of the Bikeways Strategic Plan.” OCTA Bikeways Plan at 15. These tasks include:

- Promote that local jurisdictions to emphasize [sic] their consideration of bicyclists within environmental and planning documents;
- Facilitate bikeway planning coordination efforts between jurisdictions and other involved entities;
- Ensure that the needs for bicyclists and bikeways are considered in the development of projects and programs within OCTA; and
- Review development plans and environmental documents and provide comments, 1) to ensure that developers and local jurisdictions are complying with the [Plan]], and 2) to encourage these entities to add local supplemental routes that may not be on the regional bikeways plan, but would enhance the overall connectivity of the bikeway system.

The DEIR does nothing to facilitate these tasks. The Project does not include the addition of supplemental cycling routes to serve the Project or enhance the overall connectivity of the bikeway system. There is no evidence in the record to suggest that the County has encouraged the Project developers to do so. The DEIR even notes that no bicycling facilities are currently located or proposed adjacent to the Project site, but fails to encourage their incorporation into the Project. DEIR at 4.14-16. By failing to even discuss these elements of the Bikeways Strategic Plan, the DEIR gives OCTA nothing to work with as it seeks to represent the needs of cyclists and bikeways as part of the Project. Without more information about opportunities for cycling infrastructure and demand for such alternative transportation, the OCTA cannot fulfill its task of ensuring that the needs of bicyclists and bikeways are considered in the development of projects.

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The County is required to ensure that OCTA can undertake the tasks included in the Action Plan discussed above. OCGP Transportation Element Policy 2.4 requires the County to “[a]pply conditions to development projects to ensure compliance with OCTA’s transit goals and policies.” Unless the County does more to assist the OCTA to implement the Bikeways Strategic Plan, the Project will be inconsistent with this policy.

2. 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 a Transportation System Management/Transportation Demand Management plan that

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“includes strategies, implementation programs and an annual monitoring mechanism to ensure a reduction of single occupant automobile travel associated with development.” DEIR at 4.14-76.

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 “Maximize 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.

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E. The DEIR Fails to Accurately Analyze the Project’s Noise Impacts.

The DEIR fails to accurately analyze the Project’s noise impacts because it employs an impermissible standard of significance that conceals significant noise impacts. The DEIR acknowledges that there are 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?

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DEIR at 4.10-14. Appendix G of the CEQA Guidelines echoes these standards. But the DEIR later states repeatedly that the Project would result in a significant noise impact only if the noise level exceeds the 65 dBA CNEL limit in the Orange County Noise Ordinance *and* the Project generates a noise level increase of greater than 3.0 dBA. DEIR at 4.10-18. This actually represents a combination of the multiple separate thresholds of significance that conceals significant noise impacts.

Many of the Project’s noise impacts would clearly exceed one of the three relevant significance thresholds. For example, the Project would increase the off-site traffic noise levels by 3.5 dBA CNEL on the segment of Via Del Agua south of “A” Street. DEIR at

4.10-18. And Project-related traffic noise impacts would exceed the Orange County Noise Ordinance's 65 dBA CNEL limit in numerous places. *See* DEIR at Table 4.10-6 and 4.10-7.

But by evaluating noise impacts using a combination of these separate thresholds of significance, the DEIR concludes that these impacts are not significant. According to the DEIR, the 3.5 dBA noise increase on Via Del Agua south of "A" Street is not significant because the ultimate noise level will not exceed 65 dBA. DEIR at 4.10-19. And noise levels that exceed 65dBA are not significant because they do not involve increases of 3.0 dBA. *See, e.g.*, DEIR at 4.10-19 ("since the noise levels would not be increased by greater than 3.0 dBA, off-site traffic noise impacts under Opening Year (2015) traffic conditions would be less than significant").

The amalgamated significance threshold paints a misleading picture of noise impacts. As shown above, many of the Project's noise impacts would be significant under the separate thresholds provided in Appendix G and articulated in the DEIR itself. This combined standard appears to have been invented solely to ensure that these impacts appear to be less than significant. Notably, the Esperanza Hills DEIR, also prepared by the County, uses separate thresholds as Appendix G intends. *See* Esperanza Hills DEIR at 5-470. It determines that certain noise impacts are significant solely because they result in an increase greater than 3.0 dBA CNEL. *Id.* at 5-482. The present Project's impacts would be significant, and would require mitigation, under the Esperanza Hills standards. The Cielo Vista DEIR has no explanation for the difference between the two documents' treatment of noise impacts. It is apparent that the DEIR's noise impact thresholds are not supported, or supportable, by substantial evidence. The Supreme Court recently emphasized that, although agencies have some discretion in choosing how to measure the significance of a project's impacts, they must select an approach "that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts." *Neighbors for Smart Rail v. Exposition Metro Line*, 57 Cal. 4th 439, 449 (2013). An agency may not use compliance with a threshold as a shield to foreclose consideration of substantial evidence of an impact's significance. *See Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal. App. 4th 1099, 1109 (2004); *see also Mejia v. City of Los Angeles*, 130 Cal. App. 4th 322, 342 (2005). The County must use the thresholds of significance contained in the Esperanza Hills DEIR to evaluate Cielo Vista's noise impacts.

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F. The DEIR Fails to Accurately Analyze the Project's Consistency with the Orange County General Plan and the Yorba Linda General Plan.

The Project is inconsistent with applicable City of Yorba Linda General Plan land use designation for the site. As discussed above, the Project is also inconsistent with

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applicable OCGP and YLGP goals, objectives, and policies regarding geologic hazards, public safety, fire hazards, 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.

1. The DEIR Violates CEQA Because the Project is Inconsistent with the Orange County General Plan and the Yorba Linda General Plan and Would Result in Significant Physical Impacts on the Environment.

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 4.9-7. As discussed above, the Project is inconsistent with applicable OCGP and YLGP goals, objectives, and policies regarding geologic hazards, public safety, fire hazards, and traffic and transportation. The impacts in these substantive categories remain significant despite the DEIR’s proposed mitigation measures.

The DEIR evaluates the Project’s consistency with the YLGP because the Project may be annexed by the City of Yorba Linda. DEIR at 4.9-16. The annexation process would require the City to make certain discretionary approvals, including changes to the City’s zoning designation for the Project area. The County’s EIR would serve as the foundation for the City’s required analysis of environmental project impacts resulting from such changes. *Id.* Even without the potential annexation, the Project is within the City’s Sphere of Influence. The YLGP is thus an applicable land use plan, and the EIR must evaluate the Project’s consistency with the plan.

The Project’s proposed density is greater than the maximum density allowed for the Project site under Policies 1.2 and 7.4 of the Yorba Linda General Plan Land Use Element. The YLGP Land Use Element designation for the project site is Low Density residential with a range of 0-1.0 dwelling unit per acre. DEIR at 4.9-4. Including both Planning Areas, the Project’s residential land uses would occur at a density of 1.3 dwelling units per acre. The gross density of the Project exceeds the City’s permissible density range.

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

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inconsistency with the General Plans is itself a significant and unavoidable impact. *See* Pub. Resources 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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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).

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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, and transportation.

The Project conflicts with clear, fundamental general plan directives regarding public safety. Section III.A. of this letter discuss these inconsistencies in detail. OCGP Public Safety Goal 1 is to “Provide for a safe living and working environment consistent with available resources.” OCGP Public Safety Objective 1.1 is “To 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 “Minimize the effects of natural safety hazards through implementation of appropriate regulations and standards which maximize protection of life and property.” These core 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.B. of this letter discuss 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.D. of this letter discuss 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.

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. Resources Code § 21002. As such, a major function of the EIR “is to ensure 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 geologic hazards, public safety and fire hazards, 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 two meaningful alternatives—a Planning Area 1 Only Alternative and a Large Lot/Reduced Grading Alternative—in addition to the No Project Alternative.

The Contested Easement Alternative is not a meaningful alternative because it is virtually identical to the proposed Project. The only differences between this Alternative and the Project would be the addition of a narrow access easement in Planning Area 1 and a slight change to the lot configurations in Planning Area 1. DEIR at 5-29. All other aspects of this Alternative would be the same as the Project. *Id.* The DEIR admits that all of the impacts of the Contested Easement Alternative would be the same as those of the Project, or closely similar. DEIR at 5-29 to -37. Therefore, it would not reduce or avoid any of the Project's significant impacts and 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.”).

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 geologic hazards, public safety, noise, fire hazards, 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 Esperanza Hills development. An accurate 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 Large Lot/Reduced Grading Alternative is the environmentally superior alternative. Further geotechnical analyses could determine that construction in Planning Area 2 will lead to significant and unavoidable geologic hazards. The EIR could then determine, in light of these impacts, that the a Planning Area 1 Only Alternative, rather than the Large Lot/Reduced Grading Alternative, is actually environmentally superior. This revision could be necessary if additional analysis shows that Planning Area 2 will suffer from greater impacts related to fire hazards or obstacles to emergency evacuation.

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 EIR's consideration, a reasonable range of alternatives plainly includes an alternative that does not allow new oil drilling or one that does not provide access to the Esperanza Hills site. The EIR must be revised to analyze such alternatives.

Moreover, without sufficient analysis of the underlying environmental impacts of the entire Project, the EIR'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 Narrow Project Objectives Prevent Consideration of Reasonable Alternatives.

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

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Guidelines § 15124(b). Here, the County has identified eleven Project objectives. DEIR at 5-3.

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 "[p]rovide a single family residential project with a sufficient number of units allowing for necessary infrastructure and open space in separate but related planning areas so that the property cannot be further subdivided." DEIR at 5-3. Another objective is to "[c]reate two planning areas that are responsive to the site's topography and that are consistent with adjacent single family neighborhoods." *Id.* Still another objective is to "[p]rovide for 36 acres of contiguous open space which can be offered for dedication to a public agency or to be maintained as private open space." *Id.* These objectives echo the design of the proposed Project so closely that the objectives of the Project are essentially *the Project itself*. CEQA forbids the use of this sort of circular logic to justify a project. *Watsonville Pilots Ass'n.*, 183 Cal. App. 4th at 1089.

Additionally, the Project objectives specify criteria that are essentially unique to the Project site. In this way, the DEIR ensures that only a limited range of alternatives could possibly satisfy all Project objectives. The DEIR's pursuit of these objectives is impermissible because it foreordains approval of the Project, or possibly the Planning Area 1 Only Alternative. This is because the Large Lot/Reduced Grading Alternative would fail to meet two of the Project's basic objectives and would only partially fulfill two others. DEIR at 5-28.

This one alternative alone does not constitute the "reasonable range" of alternatives that CEQA requires. By designing its objectives to make selection of the Project's site a foregone conclusion, the DEIR fails to proceed according to law.

3. 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

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No Project alternative, the DEIR offers only two meaningful alternatives: the Planning Area 1 Only Alternative and the Large Lot/Reduced Grading Alternative.

The DEIR itself concedes that both the Planning Area 1 Only Alternative and the Large Lot/Reduced Grading Alternative would have environmental impacts similar to, or even greater than, those of the Project. The Planning Area 1 Only Alternative would actually result in *greater* impacts than the Project in several areas, including air quality, geologic hazards, greenhouse gas emission, fire hazards, water quality, plan consistency, public services, traffic, and utilities. Many other environmental impacts would be the same under the Project and the Planning Area 1 Only Alternative.

The Large Lot/Reduced Grading Alternative might potentially reduce some impacts relative to the Project due to a decreased number of dwelling units. But the Large Lot/Reduced Grading Alternative would result in *greater* impacts than the Project in several areas, including aesthetics, biological resources, land use and planning, and wildland fire hazards. This Alternative would also result in less dedicated public open space on the Project site. In fact, paradoxically, the Large Lot/Reduced Grading Alternative would actually result in more extensive grading than the Project. DEIR at 5-23. The Large Lot/Reduced Grading Alternative would result in impacts that are similar to the Project's air quality, hazards and hazardous materials, hydrology, noise, and traffic impacts.

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 Large Lot/Reduced Grading Alternative is environmentally superior, but this option still yields similar or greater impacts in many impact issue areas. DEIR at 5-37 to -38. 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). None of the DEIR's alternatives meet this requirement.

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.

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

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, as well as alternatives that reduce a majority of the Project's significant impacts.

The Notice of Preparation explicitly identified an "Alternative Location" as one of the alternatives to the Project, NOP at 13, but the DEIR does not include this alternative. 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:

"Selection of another parcel in the general vicinity of the project site would likely result in similar or greater impacts than the Project . . . [b]ecause it is likely that another site would not substantially reduce significant environmental effects, this alternative was rejected from further consideration."

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The EIR, however, is perfectly willing to consider other alternatives that do not substantially reduce significant environmental effects—the Planning Area 1 Only Alternative and the Large Lot/Reduced Grading Alternative. The EIR's dismissal of the concept of an alternative site effectively dismisses these alternatives as well, reducing its range well beyond the point of reasonableness.

Furthermore, the DEIR's basis for its dismissal is based on a faulty premise: contrary to the DEIR's implication, it need not limit its consideration to alternative locations "in the general vicinity of the project site." 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 subdivision model presented by the Project. Infill sites and other non-sprawling solutions must be considered as alternatives.

The DEIR also justifies its failure to consider alternative locations because "the Project proponent does not own any other properties in the nearby local vicinity." The CEQA Guidelines do not support this reasoning. CEQA Guidelines section 15126.6

(f)(1) lists many factors that may be considered when addressing the feasibility of alternatives, including “whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent).” The DEIR does not discuss whether or not the Project Applicant can reasonably acquire an alternative site, leaving its dismissal without the support of substantial evidence. And importantly, “[n]o one of these factors establishes a fixed limit on the scope of reasonable alternatives.” *Id.* The Project Applicant’s property portfolio, alone, cannot justify the DEIR’s failure to consider alternative locations for the Project.

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(cont)

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); *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). 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.

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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. 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. The DEIR completely fails to analyze the extent or environmental impacts of such growth-inducing impacts.

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.

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

Mr. Ron Tippets
January 22, 2014
Page 30

the Cielo Vista 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.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross

cc: Claire Schlotterbeck, Hills For Everyone
Todd Spitzer, Orange County Board of Supervisors
Steve Harris, Community Development Director, City of Yorba Linda

List of Exhibits:

Exhibit A: Esperanza Hills Draft Environmental Impact Report (December 2013)

Exhibit B: Yorba Linda Water District, Comments Regarding the Notice of Preparation (NOP) of EIR for Proposed Cielo Vista Project (Project No. PA100004), August 2, 2012

Exhibit C: Orange County LAFCO, Response to NOP for Cielo Vista Project, August 1, 2012

Exhibit D: Orange County Fire Authority, Freeway Complex Fire After Action Report (2009)

LETTER: HFE2

Hills For Everyone

Shute, Mihaly & Weinberger LLP Gabriel M.B. Ross

396 Hayes Street

San Francisco, CA 94102

(January 22, 2014)

RESPONSE HFE2-1

Comment HFE2-1 consists of introductory remarks and refers generally to the EIR's inadequacy. The comment is noted and will be provided to the County decisionmakers for their consideration. The specific concerns raised in Comment HFE2-1 are addressed throughout the followings responses to Letter HFE2.

RESPONSE HFE2-2

Comment HFE2-2 suggests that the Esperanza Hills development is a component of the Project. The commenter is referred to Topical Response 1, which addresses this concern in detail. This comment also refers to the Bridal Hills and Yorba Linda Land projects and new oil drilling operations, which are addressed in Responses HFE2-5 and HFE2-6.

RESPONSE HFE2-3

In Comment HFE2-3, the commenter alleges that the Esperanza Hills development is a component of the Project because both it and the Project would share certain infrastructure facilities and because it is (allegedly) a foreseeable consequence of the Project's development. The commenter is referred to Topical Response 1, which addresses this concern in detail.

RESPONSE HFE2-4

The commenter alleges that the "the County has concealed the magnitude and significance of the Project's environmental impacts" because Esperanza Hills was not included as part of the Project analyzed in the Draft EIR. Because the County rejects the assertion that Esperanza Hills' impacts should have been analyzed as part of the Project (see Topical Response 1), the County also rejects the premise of Comment HFE2-4. The commenter is referred to Topical Response 1, which explains why the Esperanza Hills development is not a component of the Project. The commenter is also referred to the cumulative impact discussions in Chapter 4, *Environmental Impact Analysis*, of the EIR, which account for the potential cumulative impact associated with 18 related development projects, including Esperanza Hills. Please refer to Response POHH-MacKinnon3-5 for a discussion of greenhouse gas cumulative impacts.

RESPONSE HFE2-5

Comment HFE2-5 alleges that the Bridal Hills and Yorba Linda Land projects are components of the Project because they are reasonably foreseeable consequences of the Project's development. The County disagrees for the reasons set forth in Response HFE1-2, above, which discusses a similar claim in the context of the two part *Laurel Heights* test. The commenter is also referred to Topical Response 1, which addresses the Project in context with nearby cumulative projects. The facts surrounding development at Bridal Hills and Yorba Linda Land are arguably even stronger than Esperanza Hills (discussed in Response HFE1-2) because while

Esperanza Hills was recently approved by the County Board of Supervisors on June 2, 2015, any development at Bridal Hills or Yorba Linda Land is speculative at this point as no applications are pending. Additionally, the commenter's analysis relies on the fact that both the Bridal Hills and Yorba Linda Land projects were discussed in the Esperanza Hills NOP and EIR. That fact does not make either project a reasonably foreseeable component of the Project.

RESPONSE HFE2-6

Comment HFE2-6 alleges that the zoning of a 1.8-acre parcel within the Project as R-1(O) means that new and continued oil operations are a reasonably foreseeable consequence of the Project. As explained in the EIR's project description, the Project does not propose new oil wells and would not drill new oil wells. Per PDF 7-1, the existing on-site oil wells and facilities would be abandoned or re-abandoned, as necessary, in accordance with applicable DOGGR standards. Mitigation Measure 4.7-4 also requires that after decommissioning of the oil facilities on the project site, a qualified environmental consultant shall inspect the abandoned wells and perform a review of well decommission documentation to ensure the on-site oil wells and facilities have been properly abandoned to current regulatory standards. The drilling pad would be made available to the current oil operators following the Project's construction activities for continued oil operations with permitting and site planning to be pursued by those oil operators at that time. Thus, the oil drilling pad would be developed for future oil operations as a separate project should the oil operators choose to relocate to this area of the project site. As a result, and contrary to the commenter's suggestion, future oil operations on the Project site are not a reasonably foreseeable consequence of the Cielo Vista Project. Approval of Cielo Vista does not commit the County or any other body to the approval of such oil operations. (*Lake County Energy Council v. County of Lake*, (1977) 70 Cal.App.3d 851, 856.) Any future oil operations at Cielo Vista are thus speculative, like the project in *Lake County Energy Council* discussed in Response HFE1-2. The commenter is also referred to Topical Response 1, which addresses the Project in context with nearby cumulative projects.

RESPONSE HFE2-7

Comment HFE2-7 raises questions regarding potential ground shaking (earthquake), fault rupture, liquefaction, landslides, slope stability, soil expansion, ground surface rupture, and seismic settlement hazards. The commenter is referred to Topical Response 4, which comprehensively addresses these issues.

RESPONSE HFE2-8

Comment HFE2-8 asserts that Mitigation Measure 4.5-1, which requires the applicant to prepare an additional geotechnical report and receive further County approval prior to the issuance of grading permits, constitutes impermissible deferral of mitigation. As a result, the commenter concludes that the Draft EIR has not provided substantial evidence to support its determination that risks related to fault rupture, seismic ground shaking, ground failure, and landslides are less than significant. The commenter is referred to Topical Response 4, which comprehensively addresses these issues, and includes a revision of Mitigation Measure 4.5-1.

RESPONSE HFE2-9

Comment HFE2-9 alleges that shortcomings in the Draft EIR's geology/soils analysis create inconsistencies between the Project and goals/objectives/policies in the City and County's General Plans regarding geologic hazards and public safety. The additional geotechnical analysis and revision to Mitigation Measure 4.5-1

shown in Topical Response 4 ensure that all geology/soils impacts can be mitigated to less than significant levels, therefore the alleged shortcomings and inconsistencies cited in Comment HFE2-9 do not exist. The commenter is referred to Topical Response 4 which provides the revised Mitigation Measure 4.5-1.

RESPONSE HFE2-10

Comment HFE2-10 alleges that the Draft EIR fails to adequately analyze the Project's significant wildland fire Hazards and that the Project would expose current and future residents and structures in the area to a significant risk of loss, injury or death involving wildland fires. This comment consists of mere argument and unsubstantiated opinion, and does not provide any specific evidence or a factual foundation. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.) The Draft EIR addressed wildland fire impacts in Section 4.7, *Hazards and Hazardous Materials*, with supporting data provided in Appendix G of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measures (refer to Mitigation Measures 4.7-7 to 4.7-11), in addition to the fire protection features (see project design features PDF 7-9 to 7-14) to be included as part of the Project. The Commenter is also referred to Topical Response 3 for a detailed evaluation of the Project's fire evacuation plan and the potential traffic impacts associated with wildfire evacuation events.

RESPONSE HFE2-11

The Commenter is referred to Topical Response 3 for a detailed evaluation of the Project's fire evacuation plan and the potential traffic impacts associated with wildfire evacuation events. The commenter is also referred to Response HFE2-6, which discusses why future oil operations on the project site are not a reasonably foreseeable consequence of the Cielo Vista Project. Thus, as the Project does not include new or continued oil operations, there would be no increased fire hazards associated with new or continued oil-related operations.

RESPONSE HFE2-12

Comment HFE2-12 alleges that shortcomings in the Draft EIR's hazards analysis creates inconsistencies between the Project and goals/objectives/policies in the City and County's General Plans regarding fire hazards and public safety. This allegation is premised upon the inadequacy of the Project's fire evacuation plan and the significance of its wildland fire impacts. As discussed in Topical Response 3 and Response HFE2-10, no such impacts exist, therefore the Project will not be inconsistent with the Orange County General Plan or Yorba Linda General Plan goals/objectives/policies cited in Comment HFE2-12.

RESPONSE HFE2-13

The commenter is referred to Topical Response 2 for a detailed discussion of the Project's proposed water supply infrastructure.

RESPONSE HFE2-14

The commenter is referred to Topical Response 2 for a detailed discussion of the Project's proposed water supply infrastructure.

RESPONSE HFE2-15

Comment HFE2-15 alleges that the Draft EIR prevents implementation of the Bikeways Strategic Plan. However, as the Commenter correctly notes, the obligations of the Bikeways Strategic Plan reside with OCTA, not private developers or the County. The Bikeways Strategic Plan's "Action Plan" mentioned by the Commenter is very clear on this point, and reads as follows: "The following Action Plan identifies the tasks OCTA will undertake to ensure the implementation of the [Commuter Bikeways Strategic Plan], as well as OCTA's support for bicycle commuting." (OCTA Commuter Bikeways Strategic Plan, p. 15.) Neither the Applicant nor the County has an obligation under the Strategic Plan to facilitate or implement these tasks, as the Commenter claims. In addition, the Project ensures compliance with OCTA's transit goals and policies, per Transportation Element Policy 2.4, as discussed in Draft EIR Table 4.14-20.

RESPONSE HFE2-16

Comment HFE2-16 alleges that the Draft EIR fails to provide the required analysis of transportation system management and demand management for the Project. Transportation Element Objective 6.7, which the Commenter cites, states in relevant part as follows:

Require developers of more than 100 dwelling units, or 25,000 square feet of non-residential uses to:

- a) demonstrate consistency between the local transportation facilities, services, and programs, and the regional transportation plan; and
- b) submit, as part of their development proposal (***nonresidential***), a Transportation System Management/Transportation Demand Management (TSM/TDM) plan.

(Emphasis added.) The Transportation System Management/ Transportation Demand Management requirement therefore only applies to ***nonresidential*** projects, and is inapplicable to Cielo Vista. Nonetheless, it is acknowledged that the Project would result in less than significant traffic impacts after implementation of the prescribed mitigation measures, based on the County and City of Yorba Linda traffic impact thresholds, as discussed in Section 4.14, *Traffic/Transportation*, of the Draft EIR. Further, as discussed therein, the Project would not conflict with any applicable adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities as discussed under Impact Statement 4.14-5 beginning on page 4.14-73 of the Draft EIR.

RESPONSE HFE2-17

Comment HFE2-17 alleges that the Draft EIR's threshold of significance for noise impacts is improper. According to the Draft EIR, the Project would result in a significant noise impact only if the noise level exceeds the 65 dBA CNEL limit in the Orange County Noise Ordinance and the Project generates a noise level increase of greater than 3.0 dBA. The Commenter objects to the combined nature of this threshold, and points out that the Esperanza Hills EIR found significant impacts if that project either exceeded 65 dBA CNEL or generated a noise level increase of greater than 3.0 dBA.

First, contrary to the Commenter's claims, the EIRs for both Esperanza Hills and Cielo Vista used the same "two parameter" noise threshold, finding a significant impact only if a project would cause a noise level increase of greater than 3.0 dBA *and* result in 65 dBA CNEL or greater.

Cielo Vista (Two Parameter): "In order for a transportation related noise impact to be considered a significant impact, the Project traffic must create a noise level increase of 3.0 dBA or greater ***and***

exceed the County of Orange 65 dBA CNEL exterior noise level standard.” (Cielo Vista Draft EIR, p. 4.10-13, emphasis added.)

Esperanza (Two Parameter) – “As analyzed in the Giroux Noise Analysis, a +3 dB increase was considered a significant increase ***if it causes the most stringent residential noise/land use guidelines of 65 dBA CNEL to be exceeded on a temporary or permanent basis.*** The following noise impacts due to project-related traffic would be considered significant ... If project traffic noise were to cause an increase by a perceptible amount (+3 dB CNEL) ***and expose receiver to levels exceeding the Orange County compatibility noise standards [i.e., 65 dBA CNEL exterior noise level.]***” (Esperanza Hills Draft EIR, p. 5-470, emphasis added.)

Second, contrary to the Commenter’s suggestion, the “two parameter” noise threshold used in both the Cielo Vista and Esperanza Hills EIRs does not represent a departure from past County practice. One need look only as far back as the June 2012 St. Michaels Abbey Project Draft EIR (SCH 2012031013), which found that both of the following criteria must be met for a significant impact to be identified: Project traffic must cause a substantial noise level increase of 3 dBA or more on a roadway segment adjacent to a noise-sensitive land use and the “With-Project” noise level must exceed the criteria level established by the Noise Element for noise-sensitive land uses (i.e., 65 CNEL exterior noise levels). (St. Michaels Abbey Project Draft EIR p. 4.12-12.)

Third and finally, the use of a “two parameter” noise threshold is supported by case law. In *Mount Shasta Bioregional Ecology Center v. County of Siskiyou*, petitioners challenged the EIR’s reliance on a noise threshold that identified an impact where project-related noise was in excess of 3.0 dBA and where existing noise at those locations exceeded the City of Weed and Siskiyou County General Plan Noise Element standards. (*Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184.) In its decision, the Court wrote that “Plaintiffs assert the applicable noise threshold under the EIR does not require both an increase of at least 3.0 dB and an existing noise level that exceeds the applicable standard. They assert instead that either one or the other will suffice. However, plaintiffs rely for this argument on a reference to general State CEQA Guidelines, not the threshold established for this Project. *Plaintiffs conveniently ignore the threshold language quoted in the preceding paragraph, which immediately follows the discussion of the general CEQA Guidelines.*” (*Mount Shasta Bioregional Ecology Center* 210 Cal.App.4th at 205; emphasis added.) The Court therefore rejected plaintiff’s argument that a one-parameter test was appropriate, and validated the use of a two-parameter threshold.

RESPONSE HFE2-18

Comment HFE2-18 alleges that the Project’s proposed density is greater than the maximum density allowed for the Project site under Policies 1.2 and 7.4 of the Yorba Linda General Plan Land Use Element (i.e., 0-1.0 dwelling unit per acre). Since the Project site is within the County’s jurisdiction, it is governed by the County’s General Plan. That fact that the Yorba Linda General Plan includes the Project site (which is within its sphere of influence) does not mean that the Project must be consistent with all the policies associated with that General Plan. A project is consistent with the general plan “if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719.) “A given project need not be in perfect conformity with each and every general plan policy.” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.) As evidenced by Table 4.9-2 of the Draft EIR and the preceding discussion regarding

the Yorba Linda General Plan, the Draft EIR appropriately analyzed consistency with the Yorba Linda General Plan, looking at both specific policies and general consistency. As noted therein, the Project would be potentially consistent with the Yorba Linda General Plan. A lead agency's determination that a project is consistent with a general plan carries a strong presumption of regularity. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.)

Moreover, the Final EIR includes a new alternative – the Modified Planning Area 1 Only Alternative (Alternative 5) – which proposes 83 residential units, consistent with the Yorba Linda General Plan. This alternative was determined to be the environmentally superior alternative, and may be adopted by the County Board of Supervisors.

It should also be noted that the Project's 1.3 units per acre density—while greater than the density that would be allowed if the Project were governed by the Yorba Linda General Plan—nevertheless represents a clustered land plan that is intended to respond to topographic constraints, as allowed for the by Yorba Linda General Plan. (Yorba Linda General Plan, p. LU-45, see also Appendix One: "Residential uses will be clustered for provision of open space and recreation/golf course facilities, and in response to the topography of the property.") Additionally, 36.3 of the Project site's 84.0 acres will be set aside as open space.

RESPONSE HFE2-19

Comment HFE2-19 reiterates and summarizes the commenter's prior General Plan consistency arguments, all of which are addressed above. The Commenter is referred to the County's prior responses to HFE2, and specifically HFE2-16 and HFE2-12.

RESPONSE HFE2-20

Comment HFE2-20 alleges that the Draft EIR does not include a range of reasonable alternatives to the Project, but stops short of actually suggesting any new alternatives. CEQA requires that EIRs describe a range of reasonable alternatives to a project, or to the location of a project, which would feasibly attain most of the project's basic objectives but would avoid or substantially lessen any of its significant effects. (CEQA Guidelines § 15126.6(a).) Other than the mandatory "No Project" alternative, there "is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason." (CEQA Guidelines § 15126.6.) An agency must select a reasonable range of alternatives for consideration, and that range must include information "sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029 [EIR need not analyze alternatives that do not constitute a different version of an alternative already presented in the EIR].) An "array of alternatives" is sufficient if it "represent[s] enough of a variation to allow informed decision making." (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 419.)

The Draft EIR concludes that, following incorporation of mitigation measures and project design features, the Project would not result in any significant environment impacts. Nevertheless, consistent with CEQA, the Draft EIR identified four alternatives to the Project, including the required No Project Alternative, and rejected two additional alternatives. Therefore, a total of six alternatives were considered in the Draft EIR. This is undoubtedly a "reasonable range." Each of the alternatives analyzed in the Draft EIR was identified because of its potential to feasibly attain most of the basic objectives and avoid or substantially lessen one or

more of the Project's environmental impacts, even though all such impacts were found to be less than significant in the Draft EIR.

In addition, this Final EIR includes evaluation of a Modified Planning Area 1 Only Alternative in Chapter 3.0. Please refer to Topical Response 5 for a discussion of the Modified Planning Area 1 Only Alternative.

Finally, with respect to Alternative 4, the Contested Easement Alternative, the Commenter is referred to Response POHH-JOHNSON2-5.

RESPONSE HFE2-21

Comment HFE2-20 states that the Alternatives analysis would be altered if the Project would result in new or more severe impacts than those analyzed in the Draft EIR. Given that this Final EIR does not identify any new or more severe impacts than those analyzed in the Draft EIR, this comment is noted and will be provided to the decision makers for review and consideration as part of the decision making process.

RESPONSE HFE2-22

Comment HFE2-22 alleges that the Project objectives are so narrow that they effectively describe the Project, thereby limiting the range of alternatives that would meet CEQA's requirement to feasibly attain most of the Project's basic objectives. It cites *Watsonville Pilots Assn. v. City of Watsonville* ((2010) 183 Cal.App.4th 1059)—and no other statutory or common law authority—for this position. *Watsonville Pilots Assn.* does not forbid a narrowly constructed set of project objectives, as Comment HFE2-22 asserts. The decision does not even touch upon the substance of the objectives, instead emphasizing CEQA's requirement that an EIR is to consider alternatives that obtain most of the project objectives. Additionally, the Project objectives set forth in the Draft EIR are consistent with CEQA Guidelines Section 15124 in that they set forth the underlying purpose of the Project.

RESPONSE HFE2-23

Comment HFE2-22 effectively restates the assertion in Comment HFE2-20 that the Draft EIR does not include a range of reasonable alternatives to the Project. The Commenter is referred to Response HFE2-20.

RESPONSE HFE2-24

Comment HFE2-24 effectively restates the assertion in Comment HFE2-20 that the Draft EIR does not include a range of reasonable alternatives to the Project. The Commenter is referred to Response HFE2-20. The Commenter is also referred to Response POHH-Johnson2-7 for a discussion of off-site alternatives.

RESPONSE HFE2-25

Comment HFE2-25 alleges that the Draft EIR fails to discuss the Project's growth-inducing impacts, as required by Public Resources Code Section 21100(b)(5) and CEQA Guidelines Section 15126.2(d). Contrary to Comment HFE2-25, access to the Bridal Hills and Yorba Linda Land parcels would not be provided as a result of the Cielo Vista Project. The Commenter is referred to Topical Response 2 for a detailed discussion of the Project's proposed water supply infrastructure and its potential growth inducing impacts.

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Letter: YLCR

From: D2bRiDn@aol.com [<mailto:D2bRiDn@aol.com>]

Sent: Thursday, January 16, 2014 1:30 PM

To: Spitzer, Todd [HOA]; Tippetts, Ron

Cc: D2BRIDN@aol.com

Subject: Yorba Linda Star Letter to the Editor

Dear Mr. Spitzer & Mr Tippetts,

Thank you for the opportunity to discuss the Cielo Vista Development as I have some major concerns regarding this project. I was very involved in the 2008 fires as my husband and I evacuated horses until the flames were at our trucks doors. I am the President of the Yorba Linda Country Riders and therefore I was contacted by several members that needed help getting their horses and other barn animals to safety. I was there to see the danger and the chaos of the current residents trying to flee the area. It was a very scary situation and my husband and I, in 2 different trucks, almost stayed too long and were then met by YL Blvd gridlock. One of my members on Willow Tree Lane lost her beautiful home and left with the clothes on her back, ALL of her animals and a handful of personal items. I would hate to see this repeated and exaggerated with the addition of these new homes.

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I know there are water issues, ingress and egress issues and without those issues along with the fire danger mitigated I would like to see this project turned down.

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Thank you for your time,

Dee Dee Friedrich
President/Yorba Linda Country Riders
Serving Yorba Linda for 44 Years
714-401-4215 714-996-6321

<____ ~~
(())

LETTER: YLCR

Yorba Linda Country Riders
Dee Dee Friedrich, President
(January 16, 2014)

RESPONSE YLCR-1

As set forth on page 4.7-34, in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR, “With implementation of the prescribed mitigation measures and the PDFs described above, which are consistent with the applicable regulatory requirements, the Project would minimize to the maximum extent practical the potential for wildland fires. In addition, under existing conditions, no fuel modification exists on the project site, which exposes the existing single-family residential uses to the west and south of the site to substantial risks of wildland fires. Accordingly, with the Project’s fuel modification features, the risk of wildland fires to the existing single-family residential uses to the west and south of the site would be substantially reduced when compared to existing conditions.”

RESPONSE YLCR-2

Please refer to Topical Response 2 regarding water infrastructure, Topical Response 3 regarding fire evacuation, and response YLCR-1 regarding fire hazards generally.

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Letter: YLL

From: Jeff Shepard [<mailto:JShepard@cresa.com>]
Sent: Wednesday, January 22, 2014 4:19 PM
To: Tippetts, Ron; Canning, Kevin
Cc: Wayne Lamb
Subject: Cielo Vista - Esperanza Hills Comment letter

Kevin Canning

Ron Tibbets

Contract Planners

County of Orange

300 N. Flower

Santa Ana, CA

Re: Cielo Vista and Esperanza Hills Proposed Developments

Dear Sirs:

I am a member of Yorba Linda Land, LLC, which owns approximately 40 acres located directly north of the 44 acres owned by Bridal Hills, LLC property and east of the proposed Esperanza Hills property. Chino Hills State Park borders our property to the north.

Historical access to our site has come from both the Cielo Vista and the Esperanza Hills sites, over roads that still exist today, as well as roads coming through Chino Hills State Park. We believe that the County should ensure that our site will have continued access over these roads, or roads to be constructed in the future as set forth in the various options to the Esperanza Hills proposed project. According to the City of Yorba Linda general plan, proper planning principles and the overall welfare of the neighborhood, access and utilities to our site should be mandated in the designs of both projects.

We have worked with the Esperanza Hills developers on their project design, and they have accommodated our request for access and utilities to be run to eastern boundaries of our site. We have approved their current design, but want to ensure that if there are any design changes it does not adversely affect access or utility service to our land. We do not have any agreements in place with them at the present time for fuel modification, and are in the midst of litigating a partnership dispute that needs to be resolved prior to our entity entering into any agreements with any third parties. However, their present design does not require any fuel modification or other easement access to our site.

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It is our understanding that the Cielo Vista project has included a potential access corridor in their Area Plan, on page 33, and that the Esperanza Hills project has designed two access options, 2A and 2B over this area, and that Esperanza Hills has also identified two other access options, Options 1 and 2, which provide for primary access from Stonehaven and Aspen Way, respectively.

It is our belief that all of these options are consistent with the City of Yorba Linda General Plan, which was adopted in 1993. It provides that access to our property and the properties owned by the Nicholas Long family, which is currently part of the proposed Esperanza Hills project and the Yorba Linda Land, LLC property, which lies to the north of our land, are to be served by access from the south and west, via easements to be given by the property owners to the south and west of us, which would include land included in the Cielo Vista and Esperanza Hills projects.

We also agree with the August 2, 2012 NOP comment letter issued by the Yorba Linda Water District on the Cielo Vista project, which is the sewer and water utility provider for this area, that the Cielo Vista project should provide an easement for gravity flow sewer through the Cielo Vista project for both the Cielo Vista and Esperanza Hills project, and we further request that accommodation be made for extension of this sewer service to our property, as is currently provided for in the Esperanza Hills project.

We further understand that the Yorba Linda Water District has completed its Northeast Area Planning Study, which provides for the installation of underground water reservoirs on sites located on the Esperanza Hills project site, at the 1200' and 1390' elevations, which will eventually provide water gravity fed water storage for our property, and we will, at some point, enter into an agreement with the Yorba Linda Water District and/or the Esperanza Hills developers for the water storage necessary to serve our property should we decide to develop it in the future.

We oppose any effort by the Cielo Vista developers or property owners to entitle their land without providing access to our property through the Esperanza Hills property, as they have stated they would do in their NOP public meeting, and request that the County require that they provide access as part of the approval for their Area Plan. If Cielo Vista is denied approval of their entitlement request, we request that the County use its eminent domain powers to obtain a right of way easement over the Cielo Vista project for use by our property and the Esperanza Hills development as currently designed, which provides access to both our property and the Bridal Hills property.

We believe that the County has a responsibility under the Subdivision Map Act to ensure that Cielo Vista and Esperanza Hills provide access and utility access through their properties to all of the unincorporated areas east of the City of Yorba Linda and west of Chino Hills State Park, so that future development of our property and any other properties are properly planned, taking into account future development. The Esperanza Hills developers have agreed to make this access part of their existing design and the Cielo Vista owners and developers should be required to as well.

Finally, we support the fire staging areas, emergency ingress and egress plan, fuel modification and trail system designs for the Esperanza Hills project, which we believe benefit our property and the surrounding existing neighborhood, particularly from a fire safety standpoint.

Should you have any questions, please contact me directly.

Respectfully Submitted,

Jeffrey G. Shepard

Member

Yorba Linda Land, LLC

LETTER: YLL

Yorba Linda Land, LLC
Jeffrey G. Shepard, Member
(January 22, 2014)

RESPONSE YLL-1

The comment raises an issue of continued access to specific property owned by the commenter, Yorba Linda Land, LLC, but does not raise any significant environmental issue related to the analysis or the conclusions contained in the Draft EIR. A lead agency has an independent duty to evaluate and adequately respond to comments that raise significant environmental issues. (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 391.) There is no affirmative duty to respond to comments that do not raise significant environmental issues such as YLL-1. (CEQA Guidelines § 15204.) Nevertheless, the County does note that, according to the certified Esperanza Hills FEIR, the Bridal Hills property will gain access through the Esperanza Hills Project site from the proposed collector roadway.

RESPONSE YLL-2

The comment refers to negotiations with the developers of the Esperanza Hills Project, which is separate and distinct from the Project. The commenter does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR.

RESPONSE YLL-3

The comment specifically discusses future access to a specific property, but does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR. To the extent the comment addresses aspects of the Esperanza Hills Project, those comments do not relate to the Project or this Draft EIR.

Exhibit 4-1, *Master Circulation Plan*, of the Cielo Vista Area Plan did, in fact, include a potential access corridor. However, the Cielo Vista Area Plan is a conceptual document that has subsequently been refined during the environmental review process.

The Orange County Board of Directors approved the Esperanza Hills Project on June 2, 2015. With that approval, the Board of Supervisors approved two access options – Option 2B and Modified Option 2. The Esperanza Hills Project is separate and distinct from the Project.

For a discussion of future access to the commenter's property, please see Response YLL-1. As noted in Response YLL-1, the General Plan policies referenced by the commenter are from the City of Yorba Linda's General Plan. The Cielo Vista Project is located in unincorporated Orange County and the applicable General Plan is the County's General Plan. Nevertheless, the Draft EIR analyzed general consistency with the Yorba Linda General Plan, as is required by CEQA. (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719.) Moreover, the commenter does not specifically reference the City of Yorba Linda General Plan policies regarding these access provisions for which a response can be provided.

RESPONSE YLL-4

The comment does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR, but rather requests that the Project provide an easement for sewer service to the Esperanza Hills Project and the commenter's property. Please see Topical Response 1, which discusses how the Esperanza Hills Project is not part of the Project. The Draft EIR fully and appropriately evaluated the potential environmental impacts on utilities and services systems associated with development and operation of the Project. Moreover, as required by Mitigation Measure 4.15-1 and discussed in Topical Response 2, the Project Applicant would work with the Yorba Linda Water District to ensure that required storage water facilities, supporting infrastructure, and other related improvements would adequately deliver water and the necessary fire flow to the Project site. To the extent the comment requests the extension of sewer services to the commenter's property, the comment is outside the scope of the Draft EIR.

RESPONSE YLL-5

The comment raises issues outside the scope of the Draft EIR, specifically future agreements between the commenter and the Yorba Linda Water District and/or the Esperanza Hills Project developers. The comment does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR, therefore no further response is required.

RESPONSE YLL-6

The commenter raises issues regarding future access to its property, which are noted, but which fall outside the scope of the issues discussed in the Draft EIR. The Draft EIR was prepared in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines to analyze the potential environmental impacts of the Project. The comment does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR, therefore no further response is required. See Responses YLL-1 and YLL-3 regarding the provision of access.

RESPONSE YLL-7

The commenter expresses support for certain aspects of the Esperanza Hills Project. The Esperanza Hills Project is a separate project which has been analyzed in a separate EIR. See Topical Response 1. The commenter does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR, therefore no further response is required.

Letter: YLE

January 22, 2014

Ron Tippets
Contract Planner
County of Orange
300 N. Flower
Santa Ana, CA

Re: Comment on Cielo Vista DEIR

Dear Mr. Tippets:

We are the developers of the Esperanza Hills project that is located to the east and north of the Cielo Vista project, and own the 277 acres to the east of the Cielo Vista project and have the following comments on the Cielo Vista Draft EIR.

I. Geology

The Alquist-Priolo Earthquake Fault Zoning Act, Public Resources Code 2623(a) states: "Cities and counties shall require, prior to the approval of a project, a geologic report defining and delineating any hazard of surface fault rupture." A project is defined in Public Resources Code 2621.6 as any subdivision of land subject to the Subdivision Map Act. No fault study has been completed or approved, although fault trenching was performed on the site, and it revealed the existence of a fault on site south of the Whittier Fault, which requires additional study to determine whether or not it is an active fault. The location of this fault was put onto a sketch and sent to County Geologist Nick Bebek by the geological firm conducting the study. The email is attached to this letter. Figure 4.5-1 of the EIR shows that the Cielo Vista project has lots designed in the AP Zone, and the sketch for the additional fault which its geologist consider older lies south of the Whittier Fault. Until the fault study is properly completed and approved, even an illustrative lot design cannot be properly analyzed, and the effects of this project on the environment cannot be established. The fault study needs to be completed and approved, and then those findings should be incorporated into a new EIR, which should then be recirculated.

1

The location of the Whittier Fault as discussed in the report, dated June 3, 2006 completed by Pacific Soils Engineering, is based only on cited references and "PSE's experience with the project vicinity." (Appendix E) The Pacific Soils report shows the approximate location of the Whittier Fault not only the Cielo Vista property but a portion of the Esperanza Hills project owned by Yorba Trail, LLC. This report is inaccurate and conflicts with the Fault Study report completed by American Geotechnical for the Esperanza Hills project, which was completed after extensive study, nearly one half mile of trenching on the Esperanza Hills project, and subsequent logging and photography of all trenching. The Esperanza Hills trenches were also reviewed by the State Geologist's office, as was the report, and the fault report was approved by the County on March 31, 2013. The location of the Whittier Fault as reflected in the Esperanza Hills Fault Study establishes the location of the fault, and this location should be substituted

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for the estimate contained in the Pacific Soils Engineering Report insofar as it relates to the Yorba Trail LLC parcel.

2 (cont)

In addition, the report dated March 1, 2013 by LGC Geotechnical, also in Appendix E, fails to take into account or otherwise reference the approved Esperanza Hills Fault Study report dated March 31, 2013. It also fails to disclose the work that was completed for purposes of the fault study, and fails to include any reference to the potential fault south of the Whittier Fault contained in the sketch completed by LGC and sent to Nick Bebek in the email attached to this email. The AP Act requires study, analysis, disclosure and approval of any fault or AP Zone that occurs on site where residential construction might occur, and until this fault study is completed and approved, the project cannot be approved. The fault trace for the Whittier Fault shown on Figure 4.5-1 of the EIR located on the Esperanza Hills project is inaccurate and should be revised to be consistent with the approved Esperanza Hills Fault Study.

3

II. Water

The analysis for the water storage facilities is inconsistent and erroneous. There is insufficient elevation to locate gravity flow water storage facilities on the Cielo Vista site which will be required by Orange County Fire Authority (OCFA) and YLWD. Therefore the water storage facilities will have to occur offsite, and according to the Northeast Area Planning Study (NEAPS) adopted by YLWD in March, 2013, there is insufficient existing capacity offsite so new storage facilities must be constructed for both the Esperanza Hills and Cielo Vista projects, as well as any other projects in this area. Figure 3.4.1 of the NEAPS shows that these water storage facilities must be constructed on the Esperanza Hills project site. At the present time, there is no agreement between the Cielo Vista project owners and developers to upsize the water storage facilities for the Cielo Vista project. As evidenced by the EIR comment letter from YLWD on the Cielo Vista EIR dated January 13, 2014, which is incorporated herein, the discussion regarding an alternate water storage method should be removed from the EIR and a new analysis showing the location and potential environmental effect of these water storage facilities should be included in the EIR. It should also be noted that the Cielo Vista project has no independent right to grade on or construct water storage facilities on the Esperanza Hills project site. It should also be noted that without gravity fed water storage the Cielo Vista project cannot comply with the requirements for fire flow as required by OCFA, unless and until the water storage facility to be located at the 1200 foot elevation is constructed on the Esperanza Hills project.

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It should also be noted that the Cielo Vista project is not currently annexed into the YLWD, and that it must pay fees and comply with other requirements to be annexed.

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III. Oil Well Relocation Conditions and Pad Construction

There is no disclosure in the EIR that a settlement agreement exists between the developers and property owners for the land involved in the Cielo Vista project and Santa Ana Canyon Development which provides for the relocation of wells, costs of abandonment of wells both onsite and offsite from the Yorba Trail LLC property, upon the occurrence of certain events by certain dates, and that if the contingencies do not occur the oil wells will not be required to be removed. There is only a cursory discussion of the applicable regulations regarding the location of the wells, the potential effects on the

6

environment for new drilling of wells, and the permits and other studies that will be necessary to enact the provisions of the settlement agreement. There is no discussion of the potential environmental effect of the potential relocation of wells from the Yorba Trail LLC property to the Cielo Vista property, or whether this relocation will be permitted under existing regulation.

6
(cont)

To construct the oil well drilling pad, Exhibit 5 – 1 of the Cielo Vista Area Plan calls for manufactured slopes on the property owned by Yorba Trail, LLC, which lies directly north of the land owned by the Virginia Richards Intervivos Trust. This land is part of the proposed Esperanza Hills project and is under option to Yorba Linda Estates, LLC. The present owner has refused to give permission for this grading at the present time. An alternative design needs to be examined that does not include grading off site, as this design will affect the lot layout, density for the project, size of lots, and the overall configuration of the land available for use as an oil drilling pad.

7

The discussion of the relocation of the oil wells to the pad is contained on page 4.9-17 of the EIR.

IV. WQMP Designs

The BMP Exhibit following page 30 of the WQMP plan shows that, in addition to the offsite grading, debris basin/storm drain inlets are located offsite to the north of the property owned by Cielo Vista and to the east of the property owned by Cielo Vista, in Blue Mud Canyon. There is no permission given by either of the property owners for location of debris basins offsite, and particularly not in Blue Mud Canyon, which is an environmentally sensitive drainage area. Neither of these offsite facilities have been analyzed for any potential environmental effects, including any potential effect on the waters of the United States, biological impacts, or necessary mitigation.

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The limits of grading as shown on the BMP Exhibit stretch north several hundred feet into the Yorba Trail property, west to property owned by individual lot owners in the City of Yorba Linda, southwest onto land owned by individual lot owners in the City of Yorba Linda, and west onto property owned by Yorba Linda Estates, LLC. No permission has been sought or given for the encroachment on the Yorba Linda Estates, LLC property or the Yorba Trail, LLC property, and there is no discussion in the EIR as to the requirement for permission for offsite grading from the other individual lot owners in the City of Yorba Linda. Further, none of the biology studies assess any impacts to the environment for this off site grading or construction of offsite debris basins or storm drain inlets. Further, there is no discussion or study of the jurisdictional features associated with offsite construction and impact on Blue Mud Canyon in Figure 4.3-4 of the EIR section on jurisdictional features. These studies must be completed in order for the potential environmental effects to be analyzed for the project to be approved with the condition that this permissions be granted. If the project is not approved subject to these off site permissions then new designs must be analyzed, as well as their effects on the lot design. The additional studies necessary for the offsite facilities would need to be incorporated into the environmental effects on natural communities, sensitive wildlife species, plant communities, and would also have to account for the mitigation designs of the proposed Esperanza Hills project. In addition to USACE jurisdiction, effects on CDFW jurisdiction would also have to be analyzed, as would compliance with regulations and

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requirements for the Santa Ana Waterboard, particularly for the debris basins to be located in Blue Mud Canyon.

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(cont)

V. Sewer Study

The study on the sewer is incorrect. First, Figure 1 of the study conducted by Hunsaker & Associates in June, 2006 (Appendix K) identifies not only the Cielo Vista project, but the Yorba Trail LLC property as well, and identifies the sewer system as being owned and operated by the City of Yorba Linda, although it is now owned and operated by the Yorba Linda Water District ("YLWD"). It does not include any provision for upsizing the sewer lines for the Esperanza Hills project, as required by the YLWD in its NOP Comment letter dated August 2, 2012, which required that "the District will require gravity-sewer service from all areas of the Yorba Linda Estates Project, with such service extending southerly and westerly downward to and through the Cielo Vista project to connect to existing District sewers." The EIR does not include any analysis of the size or effect of this requirement.

12

VI. Easement On Virginia Richards Trust Property

The Yorba Trail LLC property has an easement as the result of a partition judgment entered by the Orange County Superior Court dated May 26, 1958, a certified copy of which was recorded in the Official Records of Orange County Recorder, California at Book 4297, Pages 93-116 on May 26, 1958 (hereinafter the "Partition Judgment"). The partition judgment granted to the Yorba Trail LLC property a 50 foot easement running from the northern border to the southern border of the Richards Trust property. It is anticipated that the sewer service and water connections to and from both the Esperanza Hills and Cielo Vista projects to the YLWD facilities will run across this easement. The EIR needs to identify this easement and amend its conceptual lot design around this easement.

13

The EIR also needs to identify the fact that the Esperanza Hills project has the right to utilize the easement for emergency road ingress and egress for its Option 1.

VII. Easements for Access

The Cielo Vista Area Plan has included a potential access corridor on page 33, and the Esperanza Hills project has designed two access options, 2A and 2B over this potential access corridor, and that Esperanza Hills has also identified two other access options, Options 1 and 2, which provide for primary access from Stonehaven and Aspen Way, respectively. No provision is made for access in the Cielo Vista plan for Esperanza Hills Option 2, or in the event that option 2 is not approved, for a potential fire evacuation route that connects into Aspen Drive.

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These access option are consistent with good planning principles and the General Plan for the City of Yorba Linda, which provides for these access easements in the Murdock Appendix to the General Plan, stating: "Future access will be provided by San Antonio Road, located approximately ½ mile to the west, and Via De La Agua, located 700 feet to the west. Access easements or development in conjunction with adjacent properties (labeled 21, 20, and 19 on the attached exhibit) will be required."

These access options need to be analyzed in the EIR. Currently, there is no analysis relating to the Potential Access Corridor, even though it is identified and discussed in the Area Plan.	14 (cont)
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VIII. Failure to Identify Significant Impacts

The Esperanza Hills DEIR identifies potential significant and unavoidable impacts in the areas of Greenhouse Gas Emissions, and details the reasons therefore. The Cielo Vista EIR incorrectly states that there are no significant and unavoidable impacts.	15
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The Esperanza Hills DEIR identifies the fact that the South Coast Air Basin has been classified as a non-attainment air basin, so any project will have a cumulatively considerable incremental increase in air emissions. The Cielo Vista EIR fails to recognize or analyze this fact.	16
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The Esperanza Hills DEIR identifies the fact that erosion from grading and wind related soil disturbance could occur during construction if the Cielo Vista and Esperanza Hills projects are built simultaneously. The Cielo Vista EIR fails to recognize or properly analyze this.	17
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The Esperanza Hills DEIR identifies the fact that when combined with the Cielo Vista project additional noise from traffic will exceed the 3 dB perceptible noise threshold and will be cumulatively considerable and significant.	18
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Overall the Cielo Vista analysis of impacts should be amended and reanalyzed to be consistent with the Esperanza Hills DEIR.	19
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IX. Inconsistency with Jurisdictional Delineation for Waters of the US

The Esperanza Hills project has received a preliminary jurisdictional delineation for waters of the United States from the Army Corps of Engineers, and it is difficult if not impossible to determine whether or not the jurisdictional delineation discussed in the Cielo Vista DEIR is consistent with that preliminary determination by the Corps.	20
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X. Recirculation of EIR

Because each one of the items set forth above will add significant new information to the EIR, and may change mitigation measures and analysis, in addition to changing the level of significance of some environmental impacts to potentially significant, the DEIR should be amended and recirculated. In addition, the additional analysis should lead to a change in preliminary design of the project, which again, should require it to be recirculated. Finally, until a fault study is completed and approved, the DEIR should not be recirculated, as this is a requirement that is mandatory, and without completion of the fault study the feasibility of the existing design cannot be properly analyzed.	21
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Please contact me should you have any questions.

Yorba Linda Estates, LLC

By: Wedge Partners, LLC

Its: Manager

/s/ Douglas G. Wymore

Managing Member

Douglas Wymore

From: Bebek, Nick <Nick.Bebek@ocpw.ocgov.com>
Sent: Thursday, October 18, 2012 10:42 AM
To: Jeff Hull (hullj@amgt.com); dwymore@q.com
Subject: FW: Fault Trench Extension
Attachments: Sketch Map for Fault Trench Extension.pdf

From: Kevin Colson [<mailto:kcolson@lgcgeotechnical.com>]
Sent: Wednesday, October 10, 2012 2:54 PM
To: Bebek, Nick
Subject: Fault Trench Extension

Hi Nick,

Attached is a sketch of the additional length of off-site fault trench we believe we will need.

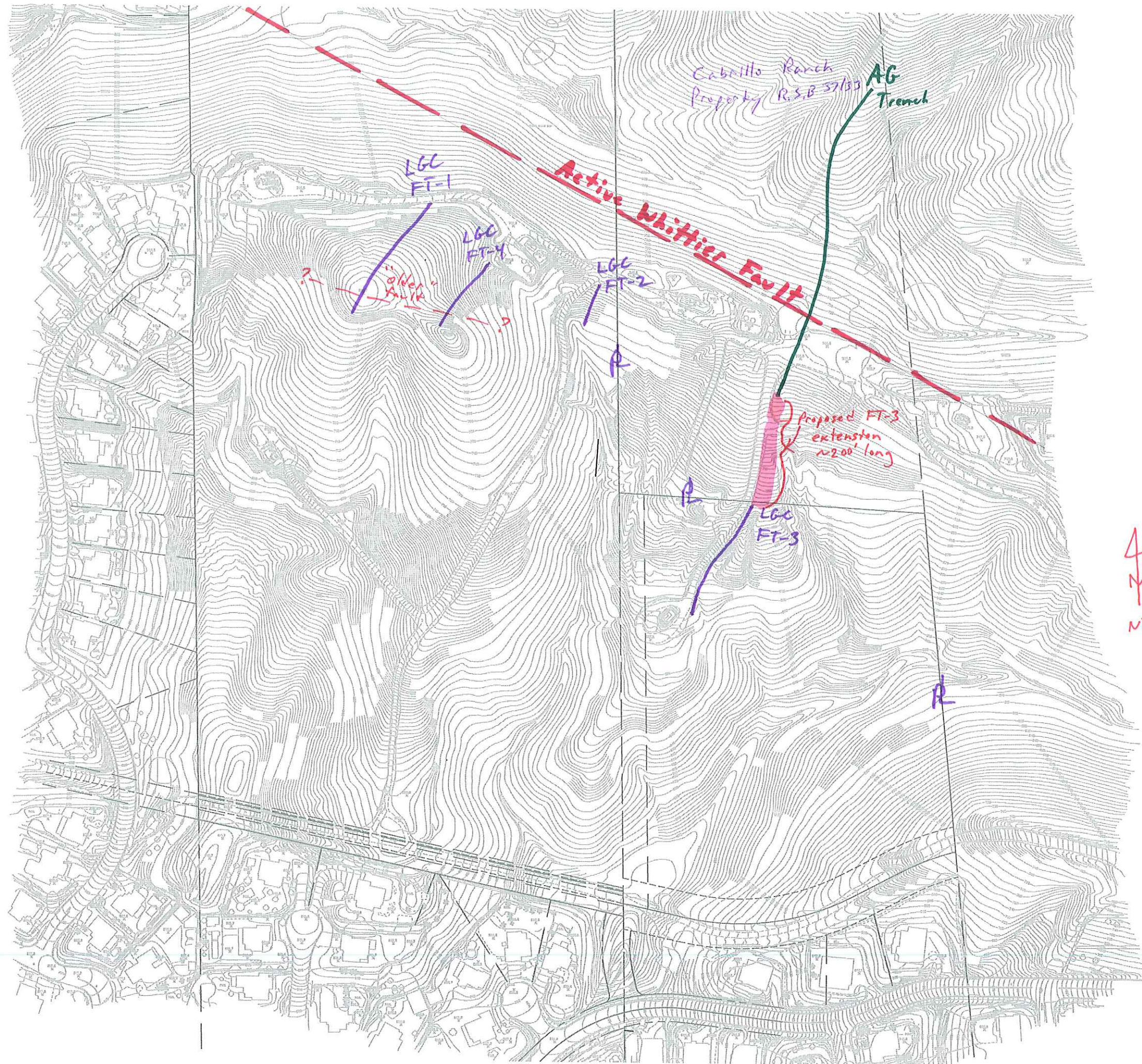
Thank you for your assistance.

Best regards,

Kevin B. Colson
Vice President



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LETTER: YLE

Yorba Linda Estates

Douglas G. Wymore, Managing Member

(January 22, 2014)

RESPONSE YLE-1

The commenter asserts that a geologic report must be completed and incorporated into a new Draft EIR, which should then be recirculated. The Alquist-Priolo Act is intended to prevent the construction of buildings used for human occupancy on the surface trace of active faults. As noted in the comment, before a Project can be permitted, a geologic report defining and delineating any hazard or surface fault rupture is required. A geologic and geotechnical evaluation which presents a summary of the major geologic and geotechnical issues present at the project site was prepared and included in the Draft EIR as Appendix E, *Geology Study*. The Geologic and Geotechnical Evaluation, prepared by Pacific Soils Engineering, specifically discusses seismic hazards relating to the Alquist-Priolo Act. Moreover, a Geotechnical Feasibility Study was also prepared for the Project and is included in Appendix E. These studies contain information regarding the pertinent geotechnical conditions impacting the project site. LGC Geotechnical, Inc. has prepared two letter reports refining the Geotechnical Feasibility Study, dated March 1, 2013 that was cited in Section 4.5 of the Draft EIR. Those letter reports are as follows (and included in Appendix B of this Final EIR):

Letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton, re Location of Whittier Fault, Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, July 31, 2014 ("2014 Fault Location Report"); and

Letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton, re Discussion of Potential Implications of Subsurface Geological Features in the Southern Portion of Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, August 1, 2014 ("2014 Geological Features Report") (collectively "2014 Geotechnical Reports").

The potential impacts associated with fault rupture, and the requirements of the Alquist-Priolo Act, are discussed at length in Section 4.5, *Geology and Soils*, of the Draft EIR, and further clarified in the 2014 Geotechnical Reports. As discussed therein, the Whittier Fault trace traverses through the central portion of the site in a northwest-southeast direction. The Draft EIR further recognizes the prohibitions on construction of buildings within certain distances from known faults, but also notes that potential residential structures would be located at a distance which complies with the requirements of the Alquist-Priolo Act. The Draft EIR provides information sufficient to ensure that the decisionmakers and the public are adequately informed of the potential impacts of the Project. Mitigation Measure 4.5-1 mandates that, prior to issuance of grading permit, the Project Applicant shall submit a final site specific, design-level geotechnical investigation to the County Public Works Manager. Mitigation Measure 4.5-1 has been revised to reflect the metrics and standards set forth in the August 1st, 2014 letter from Tim Lawson. Please refer to Response City2-111 for a discussion and text of the revised mitigation measure. Also, as discussed in Response City2-111, given the specificity of Mitigation Measure 4.5-1, it does not constitute an impermissible deferral of mitigation.

Per Mitigation Measure 4.5-1, the site specific, design-level report will include a subsurface investigation consisting of boring and trenching activities to identify the specific Whittier Fault trace location. The Project's residences would be set back a minimum of 50 feet from the fault trace, as required by the Alquist-Priolo Act, or as otherwise determined appropriate in accordance with regulatory requirements.

RESPONSE YLE-2

Please refer to Topical Response 4, which includes additional analysis regarding the location of the primary trace of the Whittier Fault.

RESPONSE YLE-3

Please refer to Topical Response 4 regarding geology and faulting.

RESPONSE YLE-4

Please refer to Topical Response 2 regarding water infrastructure.

RESPONSE YLE-5

Please refer to Topical Response 2 regarding water infrastructure.

RESPONSE YLE-6

The commenter asserts that the Draft EIR should have included a discussion of a settlement agreement. However, any such settlement agreement is independent of the proposed Project, which is accurately and appropriately described in the Draft EIR. An EIR must provide a "project description that is sufficient to allow an adequate evaluation and review of the environmental impact" of the proposed Project. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655.) The Draft EIR complies with this directive and makes an extensive effort to provide meaningful information about the Project. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036.) As discussed in Section 2.0, *Project Description*, of the Draft EIR, the project site was used for oil operation and still contains both operating and abandoned oil wells. Prior to grading, existing on-site wells and facilities would be either abandoned or re-abandoned, as necessary, in accordance with the standards of the State of California. Additionally, a 1.8-acre parcel located in Planning Area 1 is proposed and could be designated for continued oil operations, with permitting and site planning to be pursued by oil operators. The Project does not propose any new wells. Thus, the oil drilling pad would be developed for future oil operations as a separate project should the oil operators choose to relocate to this area of the project site. An EIR need not resolve all hypothetical details prior to approval, nor must it describe in detail each and every conceivable development scenario. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036.) What is required is that the environmental document provide sufficient information about the project to permit evaluation and review of its environmental impacts. The Draft EIR fulfills these requirements.

The Draft EIR fully and appropriately analyzed the impacts of oil activities – abandonment or re-abandonment of oil wells and associated facilities – associated with the Project. As noted in Section 4.7, *Hazards and Hazardous Materials*, Phase I and Phase II Environmental Site assessments were prepared for the project site. Moreover, with implementation of Mitigation Measure 4.7-4 and PDF 7-1, which provide for

the safe abandonment or re-abandonment of oil wells on the project site, potential impacts associated with contaminated soil from past and current oil activities would be reduced to a less than significant level. The commenter does not challenge the conclusions in the Draft EIR, or provide any evidence that suggests the conclusion are erroneous. To the extent oil operators choose to relocate oil operations to the designated 1.8-acre parcel in Planning Area 1, the impacts of that potential future, separate project would be evaluated prior to development and in conjunction with permitting and site planning. (See Draft EIR page 2-14.) An EIR is not required to speculate about the environmental consequences of future development that is unspecified or uncertain. (*Environmental Protection Info. Ctr. v. Department of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 502; *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036 [a potential change in use need not be analyzed because it was unforeseeable and would be subject to further discretionary review].)

RESPONSE YLE-7

Comment YLE-7 relies on Exhibit 5 – 1 of the Cielo Vista Area Plan, which does not represent the proposed Project's current grading plan. Please refer to Figure 2-10 in Section 2.0, *Project Description*, of the Draft EIR, which shows the current grading cut and fill plans for the Project. As identified therein, the Project does not include any off-site grading on land owned by Yorba Trail, LLC. Moreover, as seen on Figures 2-4 and 2-5, the oil drilling pad area is entirely within the project site. Thus, no alternative design that does not include off-site grading needs to be considered.

RESPONSE YLE-8

Please see revisions in Chapter 3.0 of this Final EIR which provides corrections and additions to Section 4.8 of the Draft EIR based on the Project's updated Conceptual Drainage Study and Conceptual Water Quality Management Plan (included in Appendix D of this Final EIR). As shown therein, Figure 4.8-2 has been updated to include the Project's proposed BMP features as described in the updated Conceptual Drainage Study and Conceptual Water Quality Management Plan. Contrary to the comment, the BMP exhibit does not include any offsite grading, debris basins, or storm drain inlets to the north or east of the Cielo Vista project site. All of the Project's proposed drainage-related features have been assumed within the Project "impact" area regarding impacts to jurisdictional features, as shown in Figure 4.3-8 in Section 4.3, *Biological Resources*, of the Draft EIR. The BMP Exhibit referenced by commenter is part of a conceptual Water Quality Management Plan. As noted in Section 4.8, *Hydrology and Water Quality*, of the Draft EIR, which thoroughly evaluates any potential environmental impacts associated with water quality and hydrology, the approval of a Final Priority Project WQMP or Final Non-Priority WQMP will be required prior to grading or building permit issuance. A final, design-level WQMP will be prepared to reflect up-to-date conditions on the site consistent with the current County of Orange Planning Department discretionary planning application submittal requirements, the Orange County Drainage Area Management Plan (DAMP), and the intent of the non-point source NPDES Permit for Waste Discharge Requirements. Importantly, the information and analysis contained in Section 4.8, *Hydrology and Water Quality*, is based upon two documents/studies, including the Project's updated Conceptual Drainage Study and Conceptual Water Quality Management Plan (included in Appendix D of this Final EIR). The commenter does not raise any significant environmental issue with the analysis of the Project's potential hydrological or water quality impacts.

RESPONSE YLE-9

The commenter makes numerous assertions about grading extending onto property not owned by the applicant. Figure 2-10 in Section 2.0, *Project Description*, of the Draft EIR illustrates the grading activities

proposed by the Project. As shown therein, grading would be confined to within the project site boundaries. While grading would be necessary south of the site for the Project's access way off of Via Del Agua, as part of the approval of an existing adjacent residential development to the south of the project site, right-of-way was dedicated to allow for construction of a future street connecting the project site with Via Del Agua.

RESPONSE YLE-10

Please refer to Responses YLE-8 and YLE-9, above, for a discussion of impacts to biological resources and off-site grading impacts.

RESPONSE YLE-11

Please refer to Responses YLE-8 and YLE-9, above, for a discussion of impacts to biological resources and off-site grading impacts.

RESPONSE YLE-12

The commenter is correct in noting that Figure 1 of the 2006 Report of the Evaluation of the City of Yorba Linda Sewer System for the Proposed Development Travis Property (2006 Report) also shows a portion of the Yorba Trails LLC property, and the commenter also correctly notes that the Yorba Linda Water District (YLWD) is responsible for providing wastewater service to the project site. The 2006 Report does not discuss the development of the Esperanza Hills Project because, at the time, no development was contemplated for that property to the east of the Cielo Vista Project.

The Project's Sewer Master Plan is depicted in Figure 4.15-1 on page 4.15-13 of Draft EIR Section 4.15, *Utilities and Service Systems*. Adequate conveyance capacity exists within the YLWD sewer lines connecting to the project site, with adequate treatment capacity available at either the Orange County Sanitation District treatment plants in Fountain Valley or Huntington Beach as discussed on pages 4.15-12 through 4.15-14 of the Draft EIR. This capacity is confirmed in a conditional will serve letter with the provision that the Project is responsible for all connections and connection fees.

The developer's project responsibility will include the payment of sewer connection fees to the YLWD, in-tract sewer lines, as depicted in Figure 4.15-1, and connections to the YLWD sewer trunk lines. These will be determined and applied as improvements associated with the Project's vesting tentative tract map.

YLWD will also determine any facilities that may be required across the project site to serve and be provided by Esperanza Hills. The need for upsizing, if any, arising from the Esperanza Hills Project would be determined by YLWD. Esperanza Hills would be responsible for their share of these facilities.

However, the requirement of the Draft EIR is to evaluate Project impacts on sewer service, which is shown to be less than significant with sufficient sewer line and treatment capacity to serve the project site. The commenter does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR, but rather identifies an alternative sewer service connection for Esperanza Hills which must be analyzed in the Esperanza Hills Draft EIR and not in the Cielo Vista Draft EIR. Please see Topical Response 1 for a discussion of how the proposed Cielo Vista Project and the Esperanza Hills Project are separate and not required to be analyzed together.

RESPONSE YLE-13

The commenter asserts that the Draft EIR must identify a potential easement and amend its lot design. The subject easement was recently found to be valid by the Orange County Superior Court, although the Court's decision did not identify the uses, scope, or beneficiaries of the easement, and that decision is still subject to appeal. The potential impacts associated with the easement have already been analyzed in the Draft EIR. Specifically, the Draft EIR included an alternative – the Contested Easement Alternative – that analyzed the Project with the easement. Please see Section 5.0, *Alternatives*, for a detailed analysis of the Contested Easement Alternative.

RESPONSE YLE-14

Please see Response YLL-3 for a discussion of the potential access corridor as shown on the Cielo Vista Area Plan. The comment does not raise any significant environmental issues related to the analysis or the conclusions contained in the Draft EIR, but rather discusses access options for the Esperanza Hills Project. Please see Topical Response 1 for a discussion of how the proposed Project and the Esperanza Hills Project are separate and not required to be analyzed together, except to the extent that both projects may contribute to certain cumulative impacts, as addressed throughout the Draft EIR.

Moreover, while commenter asserts that the access options discussed in the Esperanza Hills EIR are “consistent with good planning principles” and should be analyzed in the Draft EIR, such assertions are not comments on the environmental analysis contained in the Draft EIR. With respect to the General Plan, Section 4.9, *Land Use and Planning*, of the Draft EIR contains a thorough analysis of the Project's consistency with the applicable goals, objectives and policies within the County's General Plan and Zoning Code, as well as with the Yorba Linda General Plan.

RESPONSE YLE-15

The commenter asserts that the Esperanza Hills EIR determined that project would have significant and unavoidable impacts in the area of greenhouse gas emissions, and that the Cielo Vista EIR must do the same. This assertion is incorrect. The Esperanza Hills Project is distinct from Cielo Vista, and is actually substantially larger than Cielo Vista. Thus, the analysis contained in the Esperanza Hills EIR is limited to that project and is not applicable to the Project.

The commenter's assertion that the Draft EIR incorrectly concludes that there would be no significant impacts with respect to greenhouse gas emissions is general and unsubstantiated. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384 [a comment that consists of mere argument and unsubstantiated opinion does not constitute substantial evidence].) Section 4.6, *Greenhouse Gas Emissions*, of the Draft EIR thoroughly and appropriately analyzed the Project's potential effect on global climate change due to generation of greenhouse gas emissions. Further, such impacts were measured against the same threshold of significance in both the Cielo Vista Draft EIR and Esperanza Hills Draft EIR.

RESPONSE YLE-16

The commenter asserts that because the Esperanza Hills EIR identifies that the South Coast Air Basin has been classified as non-attainment, any project would have a cumulatively considerable impact on air emissions. This assertion is incorrect. The Draft EIR addressed air quality impacts in Section 4.2, *Air Quality*,

with supporting data provided in Appendix B of the Draft EIR. Table 4.2-2, *Attainment Status of Criteria Pollutants in the South Coast Air Basin*, indicates the attainment designations for the Basin. Non-attainment pollutants and Project related emissions were addressed on page 4.2-16 and 4.2-21. As stated on page 4.2-21, “If Project emissions exceed the SCAQMD thresholds for NO_x, VOC, PM₁₀ or PM_{2.5}, it follows that the emissions could contribute to a cumulative exceedance of a pollutant for which the Air Basin is in nonattainment.....”. The numerical thresholds established by the South Coast Air Quality Management District (SCAQMD) for criteria pollutants are intended to improve air quality conditions throughout the South Coast Air Basin. The SCAQMD does not recommend quantified analysis of emissions generated by a set of cumulative development projects and does not provide thresholds to be used to assess potential cumulative impacts. Rather, the SCAQMD recommends that project-specific emissions thresholds be used as cumulative thresholds. As the Project would not result in exceedance of SCAQMD regional significance thresholds, the Project would not contribute towards a cumulative air quality impact.

RESPONSE YLE-17

The commenter conflates the analysis in the Esperanza Hills EIR with that contained in the Draft EIR. As discussed in Topical Response 1, the Esperanza Hills Project is separate and distinct from the Project. The Draft EIR addressed geology and soils impacts in Section 4.5, *Geology and Soils*, with supporting data provided in Appendix E of the Draft EIR. Also, Section 4.8, *Hydrology and Water Quality*, in the Draft EIR addressed water quality impacts from grading and soil disturbance. Please see revisions in Chapter 3.0 of this Final EIR which provides corrections and additions to Section 4.8 of the Draft EIR based on the Project’s updated Conceptual Drainage Study and Conceptual Water Quality Management Plan (included in Appendix D of this Final EIR). As discussed in both sections, the Project would implement a Storm Water Pollution Prevention Plan (SWPPP) during construction activities to minimize the potential for soil erosion impacts. The SWPPP would incorporate Best Management Practices (BMPs) in accordance with County of Orange regulations to control erosion during the Project’s construction period. BMPs included in the Project’s Water Quality Management Plan (WQMP), as described in detail in Section 4.8 of the EIR, would be implemented to ensure that potential development erosion and runoff impacts remain less than significant. Project design feature (PDF) 8-1 requires the Project to implement a WQMP and SWPPP consistent with applicable regulatory requirements. Compliance with standard County erosion controls and requirements, as well as implementation of the Project’s PDF’s described above, including a SWPPP and WQMP, would ensure that Project impacts related to erosion and soil disturbance are less than significant. Contrary to this comment, the Cielo Vista Draft EIR addresses cumulative soil erosion/loss of topsoil impacts on page 4.5-22 of the Draft EIR. The cumulative impacts analysis in Section 4.5 provides specifically: “All planned projects in the vicinity of the Project, *including the Esperanza Hills Project*, are subject to review under separate environmental documents that would require compliance to the local grading and building code requirements, which provide mitigation of erosion and seismic hazards to less than significant levels.” Also, the cumulative analysis on page 4.8-33 addresses cumulative erosion impacts associated with the Esperanza Hills Project. The Esperanza Hills will be required to comply with standard erosion control requirements and prepare a SWPPP and WQMP consistent with applicable regulatory requirements similar to the Project. Regardless if the Cielo Vista and Esperanza Hills Projects are constructed simultaneously or not, compliance with applicable hydrology and water quality regulatory requirements, implementation of project-specific SWPPP and WQMP plans, as well as hydrology-related features for each project, would ensure that cumulative erosion and soil disturbance impacts are less than significant. The commenter opines that the Draft EIR’s analysis of potential erosion impacts is inappropriate, but fails to identify any specific inadequacies or provide any evidentiary support.

RESPONSE YLE-18

The commenter conflates the analysis in the Esperanza Hills EIR with that contained in the Draft EIR. As discussed in Topical Response 1, the Esperanza Hills Project is separate and distinct from the Project.

As discussed in Section 4.10, *Noise*, of the Draft EIR, the Project, when considered with other cumulative projects, including the Esperanza Hills Project, would not result in a cumulative impact. When conducting a cumulative impacts analysis, the question is not whether there is a significant impact, but whether the effects of the individual project – the project's contribution to a significant impact – are themselves significant. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 623-624.) The analysis contained in the Draft EIR complies with this mandate. In its cumulative noise impact analysis, the Draft EIR properly notes that although there may be a significant cumulative noise increase, a significant portion of the noise increase must be due to the Project. Conducting this analysis, the Draft EIR appropriately concluded that the Project, when considered together with the cumulative projects, would not result in a significant impact.

RESPONSE YLE-19

This comment provides a general conclusion regarding inconsistencies of impact conclusions between the Cielo Vista Draft EIR and the Esperanza Hills EIR and a request for reanalysis consistent with that document. Please refer to Responses YLE-15 to YLE-18 above. Also, please refer to Topical Response 1. Based on these responses, re-analysis of impacts within the Cielo Vista EIR is not necessary.

RESPONSE YLE-20

The Draft EIR addressed potential biological resources impacts in Section 4.3, *Biological Resources*, with supporting data provided in Appendix C, inclusive of a *Biological Resources Assessment* and an *Investigation of Jurisdictional Waters and Wetlands*, of the Draft EIR. Impacts to wetlands and "Waters of the U.S." are discussed under Impact Statement 4.3-3 starting on page 4.3-36 of the Draft EIR. Please see Topical Response 1, which discusses how the Esperanza Hills Project is separate and distinct from the Project. Nevertheless, for informational purposes, a comparison of the jurisdictional delineation between Cielo Vista and Esperanza Hills indicates that the Cielo Vista drainages A, A1, A3 and B correspond to the Esperanza Hills drainages D, G, E and F, respectively. The methodology used for the Cielo Vista jurisdictional investigation is explained beginning on page 15 of the *Investigation of Jurisdictional Waters and Wetlands* in Appendix C of the Draft EIR.

RESPONSE YLE-21

The commenter asserts that recirculation of the Draft EIR is required because the commenter identified items that will add significant new information to the Draft EIR, or which otherwise require recirculation. As discussed in Responses YLE-1 through YLE-20, the Draft EIR appropriately analyzed the potential impacts of the Project. The commenter has not identified any deficiencies in the Draft EIR's analysis or the design of the Project which warrant recirculation.

With respect to a fault study, please see Responses YLE-1 and YLE-2, which explain that the Draft EIR's analysis complies with the requirements of the Alquist-Priolo Act.

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Letter: POHH-Allen

Tara Allen
4100 San Antonio Rd
Yorba Linda, CA 92886

November 13, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippets
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippets:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

Tara Allen, Member
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-ALLEN

Protect Our Homes and Hills
Tara Allen, Member
4100 San Antonio Road
Yorba Linda, CA 92886
(November 13, 2013)

RESPONSE POHH-ALLEN-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-ALLEN-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-ALLEN-3

Please refer to Response POHH-ALLEN-1.

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Letter: POHH-Anderson

From: Steve Anderson [<mailto:sanderson7667@gmail.com>]
Sent: Saturday, November 16, 2013 4:11 PM
To: Tippetts, Ron; Spitzer, Todd [HOA]
Cc: mnelson76.mn@gmail.com; Steve Anderson
Subject: Cielo Vista Project Draft Environmental Impact Report

Steve and Carolyn Anderson

21270 Twin Oak

Yorba Linda, Ca

November 16, 2013

Orange County Planning

Attn: Ron Tippetts

300 N. Flower Street

Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be

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evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

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A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

Steve and Carolyn Anderson Member

Protect Our Homes and Hills

Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor

Third District, County of Orange

10 Civic Center Plaza

Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com

Todd.Spitzer@ocgov.com

LETTER: POHH-ANDERSON**Steve and Carolyn Anderson, Members**

21270 Twin Oak
Yorba Linda, CA
(November 16, 2013)

RESPONSE POHH-ANDERSON-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-ANDERSON-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-ANDERSON-3

Please refer to Response POHH-ANDERSON-1.

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Letter: POHH-Bent

From: YLBOOKIE@aol.com [<mailto:YLBOOKIE@aol.com>]
Sent: Tuesday, November 12, 2013 7:59 PM
To: Tippetts, Ron; Spitzer, Todd [HOA]
Subject: Cielo Vista Project Draft Environmental Impact Report

James and Anita Bent
5035 Via Del Cerro
Yorba Linda, CA 92887

November 12, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent

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parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

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A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

James and Anita Bent, Members

Protect Our Homes and Hills

Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor

Third District, County of Orange

10 Civic Center Plaza

Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com

Todd.Spitzer@ocgov.com

LETTER: POHH-BENT**James and Anita Bent, Members**

5035 Via Del Cerro
Yorba Linda, CA 92887
(November 12, 2013)

RESPONSE POHH-BENT-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-BENT-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-BENT-3

Please refer to Response POHH-BENT-1.

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Letter: POHH-Buie

Charles and Dawn Buie
4080 View Park Drive
Yorba Linda, CA 92886

November 18, 2013

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

We are writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.


A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.


In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season,

we respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

3 (cont)

Very truly yours,





Charles Buie, Dawn Buie

Protect Our Homes and Hills

Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

LETTER: POHH-BUIE**Charles and Dawn Buie, Members**

4080 View Park Drive
Yorba Linda, CA 92886
(November 18, 2013)

RESPONSE POHH-BUIE-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-BUIE-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-BUIE-3

Please refer to Response POHH-BUIE-1.

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Letter: POHH-Carrillo

Robert & Linda Carrillo
21100 Ridge Park Dr.
Yorba Linda, CA 92886

November 16, 2013

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

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(cont)

Very truly yours,

Robert & Linda Carrillo, member
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-CARRILLO**Rob Carillo**

211100 Ridge Park Drive
Yorba Linda, CA 92886
(November 16, 2013)

RESPONSE POHH-CARRILLO-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-CARRILLO-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-CARRILLO-3

Please refer to Response POHH-CARRILLO-1.

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Letter: POHH-Gass

From: Brian Gass :: Sandbox Marketing [<mailto:bgass@sandboxmarketing.com>]

Sent: Tuesday, November 12, 2013 9:33 PM

To: Tippets, Ron

Cc: Spitzer, Todd [HOA]

Subject: Please extend to comment period for Cielo Vista by 30 days

Dear Mr. Tippets and Mr. Spitzer-

As a resident in your district, I respectfully ask that you extend the comment period by 30 days on the Cielo Vista project.

We are working with legal counsel and the City Council to prepare our comments that mainly address the lack of information regarding ingress and egress on San Antonio Road/Aspen Way and Via del Agua/Stonehaven. Both are city roads that are 2 lane and cannot handle the additional traffic caused by the additional homes from Cielo Vista and Esperanza Hills.

Both roads were jammed during the last fire and the builders/county representatives have not thoroughly addressed how you plan to create wider city roadways to access your proposed projects. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

Brian Gass, Member
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

LETTER: POHH-GASS**Brian Gass**

No Address Provided

(November 12, 2013)

RESPONSE POHH-GASS-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-GASS-2

The comment is noted and will be included in the Final EIR, and will therefore be before the decisionmakers for their consideration prior to taking any action on the Project or Draft EIR. However, the comment is general, without any specific evidence that the analysis contained in the Draft EIR is inadequate, and no further response is required. (Public Resources Code § 21091(d); CEQA Guidelines § 15204(a); *City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 401.) However, to the extent the comment can be construed to make a specific comment, the Draft EIR fully and adequately analyzed the traffic impacts of the Project. The commenter does not provide any specific evidence to contradict the analysis in the Draft EIR, and a comment that consists of mere argument and unsubstantiated opinion does not constitute substantial evidence. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.)

RESPONSE POHH-GASS-3

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts. Also, please refer to Topical Response 3 regarding fire evacuation.

RESPONSE POHH-GASS-4

Please refer to Response POHH-GASS-1.

KEVIN K. JOHNSON, APLC

KEVIN K. JOHNSON
JEANNE L. MacKINNON
HEIDI E. BROWN

A PROFESSIONAL LAW CORPORATION
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600 WEST BROADWAY, SUITE 225
SAN DIEGO, CALIFORNIA 92101

TELEPHONE (619) 696-6211
FAX (619) 696-7516

January 22, 2014

SENT VIA EMAIL AND U.S. MAIL

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Comments on DEIR Population and Housing Section 4.11

Dear Mr. Tippets:

This firm represents Protect Our Homes and Hills, an unincorporated citizens group consisting of residents and taxpayers in the City of Yorba Linda. We submit this comment letter on the deficiencies in the Draft Environmental Impact Report (“DEIR”) prepared for the Cielo Vista development project (“Cielo”). Specifically, the DEIR fails to adequately analyze the potential of the project to result in housing and population impacts and fails to accurately describe the existing housing and projected population in the County of Orange.

The DEIR makes reference to and is premised on the Regional Housing Needs Assessment (RHNA) “most recently adopted and approved” by the SCAG Regional Council on July 12, 2006, for the planning period from January 2006 through June 2014. However, in spite of the fact that the DEIR was issued in November 2013, it contains no report or analysis of the extent to which those needs have been met by projects completed or approved between 2006 and 2013 or proposed projects other than Esperanza Hills. In fact, the DEIR does not mention or factor into its analysis a number of pending projects in the immediate project vicinity. A list of these related projects is attached as Exhibit A. These omissions render the DEIR Population and Housing component outdated and incomplete.

Relevant, current information can be found with the County of Orange which is, by state law, required to periodically update the Housing Element of its General Plan. Importantly, the County utilizes the SCAG Regional Council’s RHNA as a starting point for its analysis. On March 22, 2011, the Housing Element was amended and thereafter certified by the California Department of Housing and Community Development on April 15, 2011.

The 2011 Housing Element update was supported by a table of “Net Remaining RNHA, 2010-2014-Orange County Unincorporated Area” that took into account projects that had been

January 22, 2014

completed or approved between 2006 and 2009. Based on SCAG's RHNA figures relied upon in the DEIR, the table demonstrated that there were no "net remaining" housing needs for the above-median income category – in fact, there was a surplus of 2975 homes in that category. A second table of "Land Inventory vs. Net Remaining RHNA – Orange County Unincorporated Areas" indicated a surplus in both housing for both lower and above moderate income categories. The report concluded: "A comparison of these estimates with the County's remaining 2008-2014 RHNA need shows there is a significant amount of surplus capacity to meet the remaining need in the Lower and Above Moderate categories but there is a shortfall in the Moderate category." Copies of relevant portions of the Housing Element Final Draft January 27, 2011, are attached hereto as Exhibit B. The complete document can be found at http://cams.ocgov.com/Web_Publisher/Agenda03_22_2011_files/images/O00811-000249E.PDF.

The DEIR states that "[b]ecause Project housing price points are yet to be defined, the income subcategory for the Project's residences is to be determined." See p. 4.11-6 and -7 under findings of consistency. However, under SCAG 2012 RHNA standards cited in the agenda staff report for the Dec. 10, 2013, Orange County Board of Supervisors meeting, "Above Moderate" is calculated at over 120 percent of the Area Median Income which in 2013 for Orange County was \$87,200.
http://cams.ocgov.com/Web_Publisher/Agenda12_10_2013_files/images/O01413-001402E.PDF

In other words, the "Above Moderate" income housing category requires a household income of \$104,640. Given home values in the areas adjacent to the proposed development as well as lot sizes, the subject residences will in all likelihood be priced for sale to the buyers in the "Above Moderate" income category, a category which as of 2011 had a surplus of homes.

Orange County updated its Housing Element again in December 2013 and discussed housing inventory and projections. Relevant documents can be found at http://cams.ocgov.com/Web_Publisher/Agenda12_10_2013_files/images/O01113-001402E.PDF and http://cams.ocgov.com/Web_Publisher/Agenda12_10_2013_files/images/A13-001402.HTM. This updated analysis noted that certain projects anticipated in 2011 had been held up by the slow housing market. The largest of these was "The Ranch Plan" planned community. As noted in the 2013 information, the slow housing market led to delays in planned construction so it remains unclear the extent to which the projections for Above Moderate housing are impacted on an ongoing basis.

To be adequate under CEQA, the DEIR should provide data and analysis of housing projects completed and approved since the initial figures upon which the document relies were issued. To the extent the DEIR relies on the Regional Housing Needs Assessment (RHNA) approved by the SCAG Regional Council on July 12, 2006, for the planning period from January 2006 through June 2014, updated information should be included in the DEIR. The changes between data used by the County for its 2011 amendments and its 2013 amendments to the Housing Element of its General Plan require an analysis of the status of approved but delayed projects. An evaluation of whether the Cielo Vista project is necessary to meet regional

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(cont)

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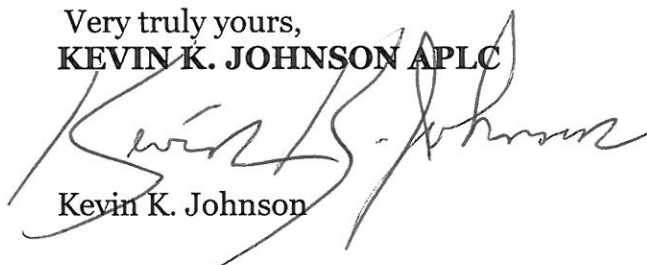
January 22, 2014

housing needs must focus on both 1) approved, completed and planned developments since the 2006 RHNA relied upon in the DEIR and 2) inclusion of the project in the Above Moderate housing category. Based on information relied on by the County in its Housing Element update processes, it seems likely that the project is not necessary to meet regional housing needs and conclusions in the DEIR to the contrary, including consistency conclusions (DEIR pp. 4.11-6, 7), are not supported by substantial evidence.

3
(cont)

Very truly yours,

KEVIN K. JOHNSON APLC

A handwritten signature in dark ink, appearing to read "Kevin K. Johnson", written over the printed name.

Kevin K. Johnson

Cc: Supervisor Todd Spitzer via email

EXHIBIT A

Projects within 5 miles of Cielo Vista/Esperanza Hills

Oakcrest Terrace

Project Type: 69 affordable residential units
Location: 22744 Eastpark Drive, Yorba Linda
Lead Agency: City of Yorba Linda
CEQA Status: MND
Last Action: Comment period ended March 26, 2012

Learn More: <http://ci.yorba-linda.ca.us/index.php/city-departments/community-development?id=582:oakcrest-terrace-mitigation&catid=1>

Mountain Park

Project Type: 2500 homes on 3000 acres
Location: South of the 91 / East of the 241
Lead Agency: City of Anaheim
CEQA Status: EIR
Last Action: Approved in 2005

Learn More: <http://www.anaheim.net/article.asp?id=1225>

Madrona (Canyon Crest)

Project Type: 162 homes on 367 acres
Location: Eastern Brea (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Brea
CEQA Status: FEIR released November 2012

Last Action: Appeal Hearing 1/21/14

Learn More: <http://www.ci.brea.ca.us/index.aspx?NID=180>

La Floresta

Project Type: 398 SFD and 712 Multi-family on 120 acres
Location: Imperial Highway and Valencia
Lead Agency: City of Brea
CEQA Status: FEIR released August 2008
Last Action: Approved May 2010, Construction Occurring

Learn More: <http://www.ci.brea.ca.us/index.aspx?NID=180>

Foremost Community (Canyon Hills)

Project Type: 76 homes on 141 acres
Location: Western Chino Hills (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Chino Hills
CEQA Status: EIR approved 1987
Last Action: Awaiting Tract Home Design Review by Planning Commission

Learn More: <http://www.chinohills.org/index.aspx?NID=847>

Pine Valley Estates

Project Type: 98 homes on 192 acres
Location: Western Chino Hills (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Chino Hills
CEQA Status: Final Map Recorded 2009
Last Action: Revised Design Review by Planning Commission approved 2009

Learn More: <http://www.chinohills.org/index.aspx?NID=847>

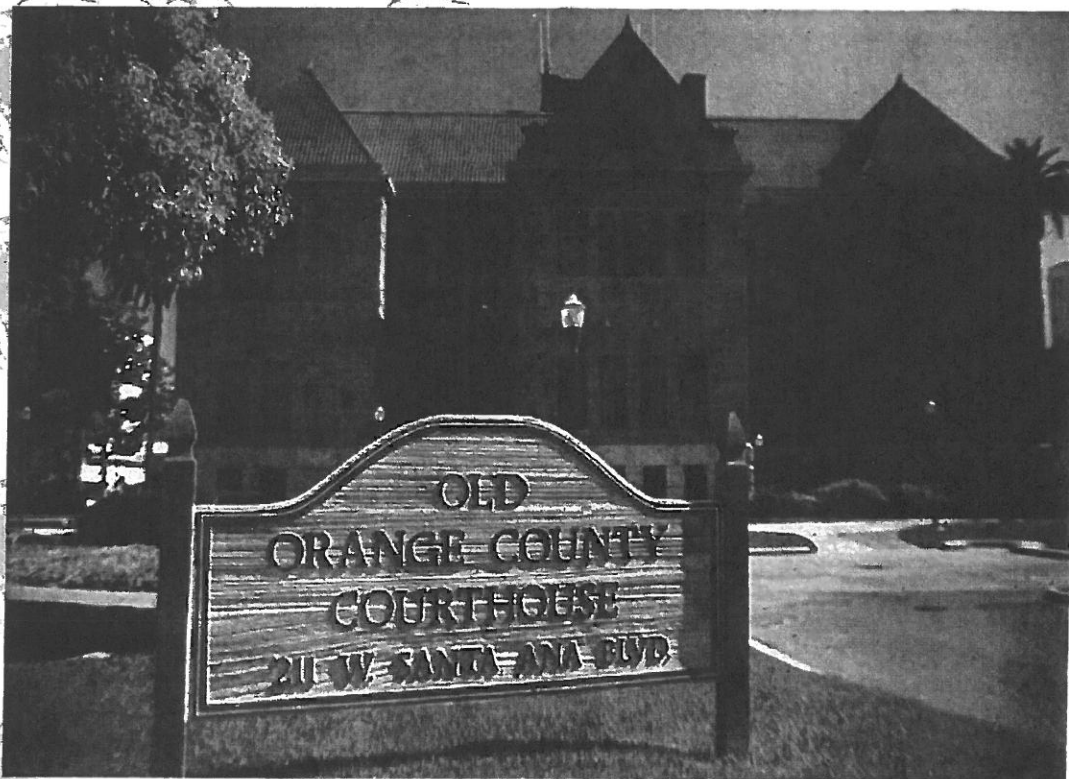
Stonefield Development

Project Type: 28 homes on 34 acres
Location: Western Chino Hills (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Chino Hills
CEQA Status: Website is unclear
Last Action: Website is unclear

Learn More: <http://www.chinohills.org/index.aspx?NID=853>



County of Orange



HOUSING ELEMENT

Final Draft

January 27, 2011

CHAPTER X – HOUSING ELEMENT

Table X-42
Net Remaining RHNA, 2010-2014 –
Orange County Unincorporated Area

	Income Category				
	VL	Low	Mod	Above	Total
RHNA (total)	1,777	1,445	1,597	3,159	7,978
Units Completed or Approved 2006-2009	265	316	27	7,347	7,955
RHNA (net remaining)	1,512	1,129	1,570 1,546	0 2,975	4,211

Sources:

SCAG 7/2007

Appendix A, Table A-2; County of Orange/OC Planning, 5/2010

b. Inventory of Vacant & Underutilized Land

NEW MASTER-PLANNED COMMUNITIES

During the past 40 years the majority of development in unincorporated Orange County has occurred in major landholdings under the planned community concept. Most of these areas were incorporated into new cities between 1988 and 2001, including Mission Viejo (1988), Dana Point (1989), Laguna Niguel (1989), Lake Forest (1991), Laguna Hills (1991), Laguna Woods (1999), Rancho Santa Margarita (2000), and Aliso Viejo (2001). Most of these areas were originally approved as planned communities in unincorporated Orange County.

Only one planned community in the unincorporated area – The Ranch Plan – has a significant amount of land remaining to be developed during this Housing Element timeframe. Located in southeastern portion of the County east of Rancho Santa Margarita, Mission Viejo and San Juan Capistrano, The Ranch Plan was approved in 2004 with a maximum of 14,000 residential units. It is expected to be the final large landholding that will be developed in unincorporated Orange County since all other significant undeveloped parcels are located within cities, regional parks or the Cleveland National Forest.

As part of the General Plan amendment, Planned Community (zone change) and development agreement for The Ranch Plan, the property owner is required to dedicate 60 acres of land to the County for affordable housing development. Based on a typical density of 30 units per acre, it is anticipated that 1,800 lower-income units will ultimately be produced in The Ranch Plan Planned Community. Additional discussion of The Ranch Plan is provided in Appendix B – Land Inventory.

Table X-43
Land Inventory vs. Net Remaining RHNA –
Orange County Unincorporated Area

Category	Total Units	Income Category		
		Lower	Moderate	Above Moderate
Completed and approved projects (see Tables A-2 and B-1)	1,795	581	27	1,187
The Ranch Plan Planned Community	6,952*	792*	0	6,160*
Housing Opportunities Overlay Zone**	2,039	2,039	0	0
Other underutilized sites	824		824	
Total Land Inventory	11,610	3,412	851	7,347
RHNA Need (2006-2014)	7,978	3,222	1,597	3,159
Surplus (Deficit)	3,632	190	(746)	4,188

*Totals reflect approved RHNA assumptions for the current planning period (44% of approved zoning entitlements).

**Including both the original Overlay Zone and the Arterial Highway Expansion Area (see Appendix B)

Sources: OC Planning (5/2010); SCAG (7/2007)

A comparison of these estimates with the County's remaining 2008-2014 RHNA need shows that there is a significant amount of surplus capacity to meet the remaining need in the Lower and Above Moderate categories but there is a shortfall in the Moderate category. The Housing Action Plan (Section 5) contains a discussion of programs and policies to encourage and facilitate housing production, with particular emphasis on the lower-income categories.

Financial Resources

a. Federal Resources

HOME FUNDS

The Home Investment Partnership (HOME) Program is a federal program, created as a result of the National Housing Affordability Act of 1990. Under HOME, HUD awards funds to localities on the basis of a formula that takes into account tightness of the local housing market, inadequate housing, poverty and housing production costs. Localities must qualify for at least \$500,000, based on HUD's distribution formula, to receive direct allocation of funds, or can apply to the state or combine with adjacent jurisdictions.

HOME funding is provided to jurisdictions to assist either rental housing or home ownership through acquisition, construction, reconstruction, and/or rehabilitation of affordable housing. Also possible is tenant based rental assistance, property

LETTER: POHH-JOHNSON1

Protect Our Homes and Hills

K. Johnson, APLC A Professional Law Corporation, Attorneys at Law

600 West Broadway, Suite 225

San Diego, CA 92101

(January 22, 2014)

RESPONSE POHH-JOHNSON1-1

Between 2006 and 2014, the Regional Housing Needs Allocation (RHNA) for unincorporated Orange County was 1,597 dwelling units and 3,159 dwelling units in the Moderate Income and Above Moderate Income categories, respectively. The County has two indicators on progress toward meeting the 2006-2014 RHNA needs which likely included the projects listed in Appendix A of the commenter's letter. In 2013, the Board of Supervisors received a General Plan Progress Report and Housing Element Implementation which shows that as of December 31, 2013, the County had issued 1,188 building permits for dwelling units in these two income categories. The General Plan Housing Element adopted on December 10, 2013 (2013 Housing Element) shows in Table A-4 of Appendix A that between 2006 and 2012, a total of 668 dwelling units were built in the two income categories. Either benchmark shows that at the end of the 2006-2014 RHNA period, the County was still short of the RHNA target of 4756 new dwelling units on the ground in these two income categories for the RHNA period.

RESPONSE POHH-JOHNSON1-2

For the 2014-2021 period, the Regional Housing Needs Allocation (RHNA) for the unincorporated county is 979 dwelling units and 2,174 dwelling units in the Moderate Income and Above Moderate Income categories, respectively.

With the 2014 to 2021 RHNA period having started on January 1, 2014, countywide housing construction has likely not been met for any of the RHNA categories. Even if the targets had been met, they represent goals to be achieved and are not regulatory, with the ideal goal for the number of dwelling units in each category to be met or exceeded. Arithmetically, Table B-3 of Appendix B of the 2013 Housing Element shows that by 2021, the unincorporated county is expected to have a shortfall of 229 units in the Moderate income category and a surplus of 2,989 dwelling units in the Above Moderate income category. The substantial reduction in need for the Moderate income category is based on the potential for 750 dwelling units being added from development on "Other Underutilized Parcels." However, because the County government itself does not build housing, whether this number is even achieved or exceeded cannot be determined at this time. The identified surplus for the Above Moderate income category is based on the expected addition of 5,160 dwelling units by the new Ranch Plan planned community in south Orange County by 2021. However, construction of Above Moderate income units at a driving distance of approximately 35 miles from the project site does not meet housing needs in the northeast Orange County area of the project site. In any event, the Project adds a total of 112 units in these two income categories which is within the total of 3,153 dwelling units identified for the two income categories for the unincorporated county for the 2014 to 2021 RHNA period.

RESPONSE POHH-JOHNSON1-3

Please see response to comments POHH-Johnson1-1 and POHH-Johnson1-2.

KEVIN K. JOHNSON, APLC

KEVIN K. JOHNSON
JEANNE L. MacKINNON
HEIDI E. BROWN

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TELEPHONE (619) 696-6211
FAX (619) 696-7516

January 22, 2014

SENT VIA EMAIL AND U.S. MAIL

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Comments on Inadequate Alternatives Section

Dear Mr. Tippets:

This firm represents Protect Our Homes and Hills, an unincorporated citizens group consisting of residents and taxpayers in the City of Yorba Linda. We submit this comment letter on the Alternatives Section of the Draft Environmental Impact Report.

By way of brief summary, the Alternatives Section is woefully inadequate and needs to be completely revised and expanded in scope. The inadequacy of the Alternatives Section arises in substantial part from artificially narrow project objectives and reliance upon multiple unsupportable conclusions from the body of the entire DEIR.

ALTERNATIVES SELECTION

The fundamental purpose of the Alternatives Section of an EIR is to look at alternative project designs, and in appropriate cases, alternative project locations that avoid and/or mitigate significant project impacts.

Here, the unreasonably limited and largely contrived project alternatives do not include a single off-site alternative, under circumstances where there are compelling reasons to look to build the project elsewhere. The wildfire, geologic, contamination, and methane risks at the site, individually, and certainly cumulatively, virtually require a good faith look at alternative locations.

SPECIFIC ALTERNATIVES

The **No Project Alternative** is functionally rejected based upon the unsupported assumption that it is sound wildfire protection strategy to buffer existing homes with new

January 22, 2014

homes placed in the path of advancing walls of flame. Nowhere in the document is there evidence or analysis supporting this unique assumption.

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(cont)

Alternative 2, Planning Area 1 Only Alternative, is fundamentally inadequate from both a legal and a common sense standpoint, because, while it changes the project footprint, it increases the number of units to be built by 47 % compared to the project. This approach is anything but a good faith proposal to reduce the major negative impacts from the Project. The alternative in fact materially increases impacts almost across the entire range of impact areas. By apparent design, it is put forward to be easily rejected.

3

Alternative 3, Large/Reduced Grading Alternative , is also designed to fail as a viable alternative with, for example, a “poison pill” in the form of reduced open space. Clearly the alternative could be designed to include 36.3 acres of permanent open space.

On the positive side, it is appropriate that the alternative does present the impact reduction features of reducing grading and the number of lots. However, when the alternative also wrongfully posits the apparent inalienable rights of homeowners to make “improvements” over the entire width and breadth of lands between their property boundaries and then concludes that this will result in more severe, negative visual impacts, it is clear that the alternative is constructed with the intent of creating negative impacts. Obviously landowners can be deed restricted to stay away from sensitive areas.

4

Another example of creating negative impacts comes with the convenient conclusion that the Alternative will have greater biological impacts than Alternative two. There is no basis to conclude that 65 lots, compared to 112, could not be placed on the site in a more biologically sensitive manner.

Alternative 4, Contested Easement Alternative, is grossly deficient as a matter of law because it does not offer up any meaningful impact reducing designs or mitigation measures.

5

The **Environmentally Superior Alternative** section is deficient for several reasons including its reliance upon the absence of substantial evidence and flawed analysis in each of the preceding alternatives sections.

Perhaps the most egregious example of incorporating flawed analysis comes with the conclusion that Alternative Three will result in greater wildland fire hazards. This conclusion is simply unsupportable. Among other factors in this regard is the critical fact that evacuating residents from 65 homes would be much easier than evacuating residents from 112 homes.

6

Off Site Alternatives

Because of the compelling need to examine possible off-site project locations, the DEIR should be revised to include 1) identification of a reasonable range of off-site properties suitable for similar density development, and 2) detailed discussion of at least one or two sites as actual project alternatives.

7

January 22, 2014

As one example of off-site properties to be identified, and possibly adopted and analyzed in the DEIR as an off-site alternative location, please see the attached Google Earth view (Exhibit "A") which shows vacant properties at and near the intersection of Los Angeles Street and Imperial Highway. The parcels are also identified on the Land Use Map for the Yorba Linda General Plan. The map is attached hereto as Exhibit "B". These parcels are a logical alternative location that should be considered.

7
(cont)

Realistic and Reasonable Onsite Alternatives

The choice of alternatives reflected in the DEIR is artificially narrowed and constrained by the unusually narrow and therefore inappropriate project objectives. The objectives collectively and automatically limit the project to the subject site and provide artificial and bad faith grounds for rejecting everything but the project as proposed by the applicant.

8

The project objectives need to be fairly restated and a choice of new alternatives should be made based upon the new objectives and complete, well reasoned assessment-- based upon substantial evidence-- of project impacts, available avoidance measures and appropriate mitigation measures.

The choice of Offsite Alternative should be guided by the same standards.

9

In sum, the Alternatives Section is completely deficient on multiple levels. This is, in large part, due to the myriad of deficiencies throughout the DEIR that have been addressed in other comment correspondence from this office as well as a multiplicity of comment letters from experts, residents, non-profits, law firms and government entities.

10

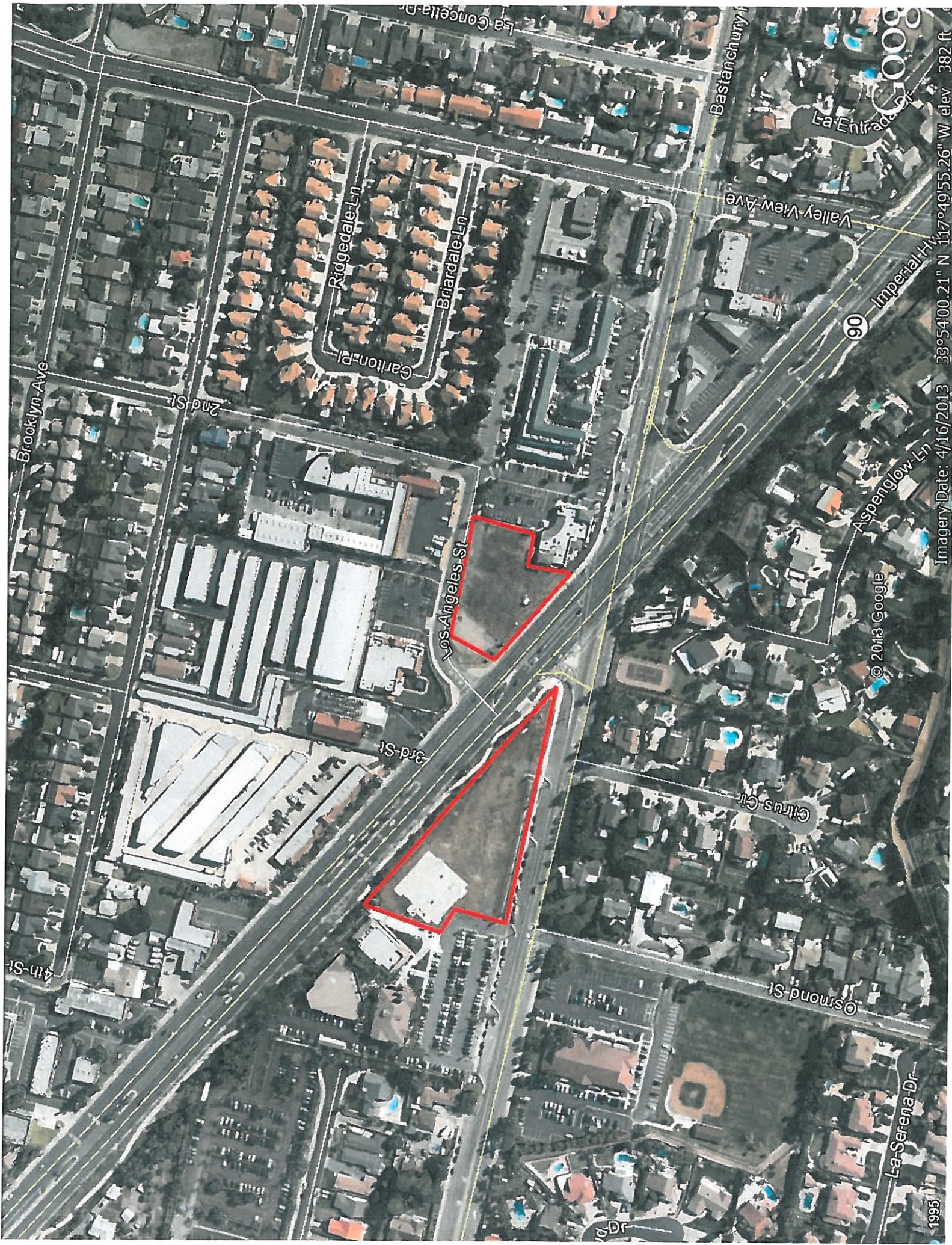
The DEIR needs to be completely revised and recirculated.

Very truly yours,
KEVIN K. JOHNSON APLC


Kevin K. Johnson

cc: Supervisor Todd Spitzer via email

EXHIBIT A

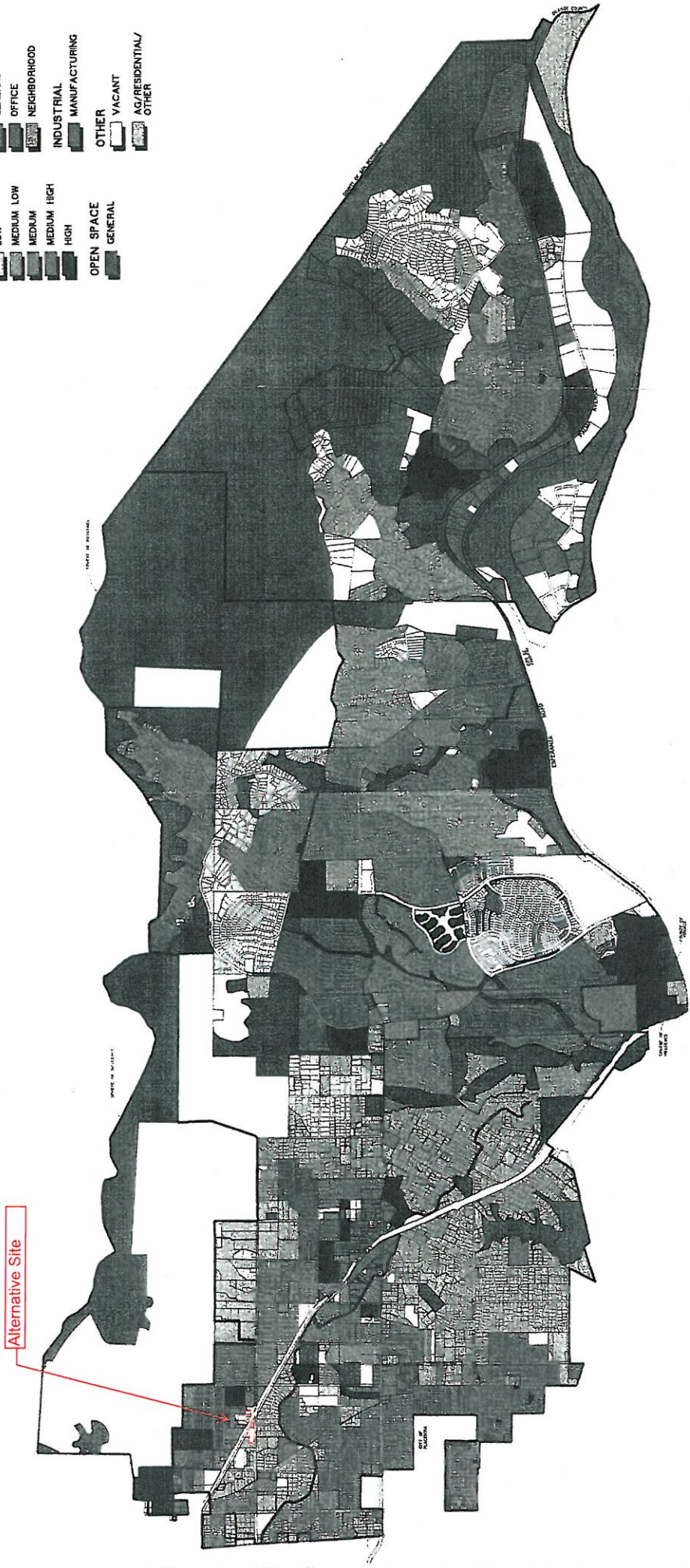
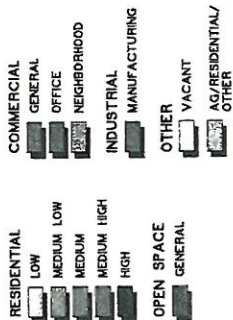


© 2013 Google

Imagery Date: 4/16/2013 33°54'00.21" N 117°49'55.26" W elev 382 ft

EXHIBIT B

EXISTING LAND USE



The City of

YORBA LINDA

Note: Existing Land Use Exhibit reflects status of City in 1991. Present conditions may vary.

LETTER: POHH-JOHNSON2

Protect Our Homes and Hills

K. Johnson, APLC A Professional Law Corporation, Attorneys at Law

600 West Broadway, Suite 225

San Diego, CA 92101

(January 22, 2014)

RESPONSE POHH-JOHNSON2-1

This comment first provides a general summary regarding the issues raised in this letter. Individual responses to this letter are provided below in Responses POHH-JOHNSON2-2 through POHH-JOHNSON2-10. The commenter then asserts that the Draft EIR should have evaluated off-site alternatives, but does not provide any evidentiary support. While the Draft EIR must evaluate a reasonable range of alternatives to the project, CEQA does not contain a categorical imperative requiring the consideration of off-site alternatives. (Pub. Res. Code §§ 21001(g), 21002.1(a), 21061; *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 491.) To the extent commenter identifies specific off-site locations, those locations are addressed in Response POHH-Johnson2-7.

RESPONSE POHH-JOHNSON2-2

The commenter suggests that the Draft EIR contains no support for the conclusion that the No Project Alternative would have greater wildfire impacts than the Project. The commenter ignores the substantial discussion of wildfire impacts associated with the Project contained in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR. As discussed therein, the existing project site is highly susceptible to wildfires, due primarily to an abundance of predominantly scrub vegetation communities. An excess of plant fuel may increase the severity of wildfire and threaten native habitat and neighboring development, and because of the project site's vulnerability to wildfires, the County of Orange designated it as a very high fire hazard severity zone (VHFHSZ). The Project would incorporate mitigation measures and project design features that would minimize the potential for wildfires on the project site, including extensive fuel modification and fire-resistant construction. Please see Section 4.7, *Hazards and Hazardous Materials*, for a detailed discussion of the mitigation measures and project design features associated with the Project, and which would serve to minimize existing fire risk. For example, the Project would include fuel modification/management zones to help suppress wildland fires in accordance with Orange County Fire Authority guidelines, and would incorporate a landscape plan that utilizes a plant palette consisting of fire resistant plants. Accordingly, with such features, the risk of wildland fires to the existing single-family residential uses to the west and south of the project site would be substantially reduced when compared with existing conditions. (Draft EIR page 4.7-34.)

In addition to disregarding the robust discussion of wildfire susceptibility of the project site and potential impacts of the Project, commenter also does not provide any factual evidence that the discussion is erroneous. (CEQA Guidelines § 15384; *Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580 [a comment letter that consists of mere argument and unsubstantiated opinion does not constitute substantial evidence].)

RESPONSE POHH-JOHNSON2-3

The commenter asserts that Alternative 2, the Planning Area 1 Only Alternative, is inadequate because it increases the number of units and would increase some of the impacts of the Project. First, the commenter is advised that this Final EIR includes evaluation of a Modified Planning Area 1 Only Alternative in Chapter 3.0. The Modified Planning Area 1 Only Alternative does not include Planning Area 2 and reduces the density in Planning Area 1 as compared to the Project. Please refer to Topical Response 5 for a discussion of the Modified Planning Area 1 Only Alternative. Second, regardless of the Modified Planning Area 1 Only Alternative, the commenter's assertion is not in accord with CEQA, which specifies that there "is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason." (CEQA Guidelines § 15126.6.) An agency must select a reasonable range of alternatives for consideration, and that range must include information "sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned." (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029 [EIR need not analyze alternatives that do not constitute a different version of an alternative already presented in the EIR].) An "array of alternatives" is sufficient if it "represent[s] enough of a variation to allow informed decision making." (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 419.) Alternative 2 was appropriately considered because it contributes to a reasonable range of realistic alternatives from which the decisionmakers can adequately account for environmental aspects of the Project and alternatives. Alternative 2 increases the density of the Project in Planning Area 1 to the density allowed by the County General Plan. An increased density alternative is appropriately considered so long as it would be environmentally superior to the Project in some respects. (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 547; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029.) As discussed below, Alternative 2 is environmentally superior to the Project in certain resource areas. Moreover, increasing the intensity of possible development in Planning Area 1 and leaving Planning Area 2 undeveloped represents a reasonable and realistic alternative to the Project. When crafting alternatives for consideration in the Draft EIR, the County endeavored to include realistic alternatives which varied from the Project enough to permit informed decisionmaking. The commenter has not provided any evidence why this alternative does not contribute to a reasonable range of alternatives.

As discussed above, an alternative need only be environmentally superior to the Project in some respects. (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 547.) The Project would not result in any significant and unavoidable impacts. The commenter contends that Alternative 2 is inadequate because it "materially increases" a number of impacts of the Project. As discussed in Table 3-1 in Chapter 3.0 of this Final EIR, Alternative 2 would lessen impacts of the Project in the following resource areas: biological resources, cultural resources, noise, and utilities. Moreover, to the extent that Alternative 2 results in greater impacts than the Project, those impacts are not "materially" increased "across the entire range of impact areas," as commenter argues, but mostly limited increases which remain below the level of significance. As discussed above, Alternative 2 reduces some of the impacts of the Project, adds to the reasonable range of alternatives, and permits informed decisionmaking by the County. Thus, Alternative 2 was appropriately considered as an alternative to the Project.

RESPONSE POHH-JOHNSON2-4

Alternative 3, the Large/Reduced Grading Alternative, was appropriately analyzed in the Draft EIR. The commenter does not provide any evidence demonstrating that its inclusion was unreasonable, or that it does not contribute to a reasonable range of alternatives as is required by CEQA. CEQA specifies that the range of alternatives analyzed is governed by the rule of reason, and that the alternatives chosen must present

“enough of a variation to allow informed decision making.” (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 419.) Alternative 3, which would develop the project site with one-acre lot sizes and include less mass-grading and less open space than the Project, contributes to a reasonable choice of alternatives as far as environmental aspects are concerned. (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029.) Commenter provides no evidence to the contrary.

Commenter argues that Alternative 3 could have been designed to include 36.8 acres of permanent open space. However, an EIR need not consider every conceivable alternative to the Project. (CEQA Guidelines § 15126.6(a); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1163.) Moreover, to the extent a version of Alternative 3 that includes 36.8 acres of open space warrants consideration, [i]t is not unreasonable to conclude that an alternative not discussed in the EIR could be intelligently considered by studying the adequate descriptions of the plans that are discussed.” (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029 [an EIR should “not become vulnerable because it fails to consider in detail each and every conceivable variation of the alternatives stated”].)

Commenter argues that Alternative 3 could have been designed to ensure landowners are deed restricted to stay away from sensitive areas to ensure lesser visual impacts. Like the discussion above regarding 36.8 acres of open space, Alternative 3 appropriately identifies an alternative that contributes to a reasonable range. While commenter would have another version of Alternative 3 analyzed, a version of an alternative that is already analyzed need not be separately analyzed in the EIR and doesn’t contribute to a reasonable range of alternatives. (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 316, 355 [EIR need not consider in detail every conceivable variation of alternatives stated].) To the extent a deed restriction is possible, the decisionmakers can consider such an alternative within the confines of Alternative 3 as described in the Draft EIR.

Commenter again asserts that a change to Alternative 3 is warranted, specifically that the 65 lots be placed in a manner that is more biologically sensitive. First, commenter does not provide any evidence that such a design is possible. A comment that consists exclusively of mere argument and unsubstantiated opinion does not constitute substantial evidence. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.) Commenter erroneously asserts that the 65 one-acre lots in Alternative 3 could be designed in a manner to result in a lesser biological impact than Alternative 2, which includes 112 lots. However, with this assertion, commenter presents a fundamental misunderstanding of the two alternatives – that Alternative 3 covers more land than Alternative 2. Even if the one-acre lots were to be reconfigured, the new design would still result in more lot coverage than Alternative 2. Please refer to Figures 5-1 and 5-2 for site plans for Alternatives 2 and 3. Also, as with commenter’s other suggested changes, commenter fails to provide any evidence that Alternative 3, as described, fails to contribute to a reasonable range of alternatives or that the proposed change is not simply a variation on an alternative already considered.

RESPONSE POHH-JOHNSON2-5

The commenter asserts that Alternative 4, Contested Easement Alternative, is deficient as a matter of law. As described in Section 5.0, *Alternatives*, of the Draft EIR, the developer of the adjacent property, Esperanza Hills, has asserted easement rights across the project site. Alternative 4 was necessarily included in the Draft EIR to account for the Esperanza Hills Project Applicant’s easement rights across the project site, which were

recently found to be valid by the Orange County Superior Court, although the Court's decision did not identify the uses, scope, or beneficiaries of the easement, and that decision is still subject to appeal. Because such rights impact the scope of the Project and environmental impacts, as described in Section 5.0 of the Draft EIR, the County responsibly chose to include it for analysis in the Draft EIR. Thus, Alternative 4 constitutes a realistic and feasible alternative which contributes to the reasonable range of alternatives contained in the Draft EIR. Importantly, CEQA does not preclude the analysis of alternatives that do not reduce environmental impacts of the Project (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 490) and CEQA does not establish a categorical imperative as to the scope of alternatives to be analyzed in an EIR. (*Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 199.) However, what is required, is that the range of alternatives comply with the statutory purpose of CEQA, which include to "foster informed decisionmaking and public participation." (CEQA Guidelines § 15126.6(a).) The inclusion of Alternative 4 in the Draft EIR accomplishes this purpose by analyzing a realistic and feasible alternative that would meet the basic project objectives and would not increase any of the Project's significant impacts. Even if Alternative 4 was not included in the Draft EIR, the remaining alternatives would present a reasonable range of alternatives to satisfy the requirements of CEQA. The reasonable range of alternatives is further discussed in Responses POHH-Johnson2-3, -4, -7 and -8.

RESPONSE POHH-JOHNSON2-6

The commenter asserts that the Environmentally Superior Alternative section is deficient for several reasons. Aside from the commenter's assertion about wildland fires, which is addressed below, the commenter does not specify any of the reasons upon which the assertion is based. Moreover, the comment fails to articulate any factual support for that contention. A comment that consists exclusively of mere argument and unsubstantiated opinion does not constitute substantial evidence. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.) To constitute substantial evidence, comments by members of the public must be supported by an adequate factual foundation. (*Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.)

As to the Draft EIR's conclusion that Alternative 3 would result in greater wildland fire hazards, that conclusion is supported by substantial evidence. As discussed in Section 5.0, *Alternatives*, of the Draft EIR, Alternative 3 would result in lesser fuel modification than the Project because residential structures would be located farther from adjacent existing properties. Thus, natural vegetation, which is more susceptible to wildland fire hazards than land within modified zones, would persist to a greater extent than the Project. Section 4.7, *Hazards and Hazardous Materials*, provides a detailed discussion of the existing site, its susceptibility to wildfires, and the impact reductions expected with a fire protection plan and fuel modification. The project site is within an area of very high fire risk, due in large part to the fuel loading currently existing on the project site. An excess of plant fuel may increase the severity of a wildfire and threaten native habitat and neighboring development. To alleviate such impacts, the Project incorporates project design features and mitigation measures such as fuel modification and management zones (PDF 7-12) that would help suppress wildland fires in accordance with Orange County Fire Authority. (Draft EIR pages 4.7-19 – 4.7-35.) Since fuel modification would occur to a lesser extent under Alternative 3, the wildfire risks associated with Alternative 3 are greater than with the Project. Moreover, as discussed above, the commenter does not provide any factual support for the assertion that Alternative 3 would result in lesser wildland fire hazards. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.)

Also, this Final EIR includes evaluation of a Modified Planning Area 1 Only Alternative in Chapter 3.0. The Modified Planning Area 1 Only Alternative does not include Planning Area 2 and reduces the density in Planning Area 1 as compared to the Project. Please refer to Topical Response 5 for a discussion of the Modified Planning Area 1 Only Alternative.

RESPONSE POHH-JOHNSON2-7

The commenter asserts that the Draft EIR should include a discussion of off-site alternatives to the proposed Project. The Draft EIR considered and discussed off-site alternatives in Chapter 4.0, *Alternatives*, under the heading 2, Alternatives Considered and Rejected, on page 5-4. The primary reasons stated for not evaluating an off-site alternative were that the Project was developed specifically for the site's geographic location, and that another site in the vicinity would have similar impacts. Furthermore, it was noted that the Project proponent does not own any other properties in the nearby vicinity.

CEQA requires the consideration of a reasonable range of alternatives, but it does not mandate the consideration of off-site alternatives. (Pub. Resources Code §§ 21001(g), 21002.1(a), 21061; *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 491.) However, if the circumstances make it reasonable to consider an off-site alternative, an EIR should conduct such an analysis. The key questions are whether there are any feasible alternative sites and whether any of the "significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need to be considered for inclusion in the EIR." (CEQA Guidelines § 15126.6(f)(2).) Like all alternatives, only those that will attain most of the basic objectives of the project need be discussed in an EIR. (*Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 199 ["it is these objectives that a proposed alternative must be designed to meet"]; *Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.) Among the factors that should be accounted for when considering feasibility including "site suitability, economic viability, availability of infrastructure ... jurisdictional boundaries ... and whether the proponent can reasonably acquire or have access to the alternative site." (Guidelines § 15126.6(f)(1); *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 522 [an alternate site which was not within the agency's jurisdiction and was owned by a private party was infeasible].)

The off-site alternative which commenter proposes, specifically the vacant properties at and near the intersection of Los Angeles Street and Imperial Highway in the City of Yorba Linda, is not a feasible alternative for a number of reasons. First and foremost, the commenter's proposed alternative site is much smaller than the Cielo Vista Project site and would appear to support approximately 10 single-family residential estate properties, possibly fewer given the site boundary/shape constraints. Such a dramatic reduction in the size of the Project would not be economically viable for the Project Applicant, particularly in light of the substantial investment in development of the Cielo Vista property since 2005, including technical studies, architectural plans and engineering, as well as costs associated with the CEQA process. Even without such a substantial reduction in the size of the Project, the economic and time constraints involved in developing an off-site alternative would make it infeasible for the Project Applicant to abandon such plans and investigate, acquire, control or otherwise gain access to the property in question considering the applicant already owns and has invested significant resources in development of the site.

In addition to economic infeasibility, the alternative at the proposed location would not meet a significant number of the Project's objectives. For instance, the site proposed by commenter is substantially smaller]

than the proposed project site, which would not allow for 36 acres of open space or provide a balance of open space and residential land uses (Objectives 2 and 1, respectively). The alternative site would also not permit the County to implement a land plan that optimizes view potential for the community's residents (Objective 9), or create a project perimeter open space setting for the residents through dedicated or private open space (Objective 10(b)). Therefore, because the project site proposed by commenter would not be economically viable and would not achieve a large number of the Project's objectives, it need not be further considered in the EIR.

RESPONSE POHH-JOHNSON2-8

The commenter asserts that the project objectives are artificially narrow, thus resulting in an flawed alternatives analysis. First, the commenter does not provide any evidentiary support for this broad assertion. To constitute substantial evidence, comments by members of the public must be supported by an adequate factual foundation. (*Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.) Second, as discussed above in Responses 114-2 through 114-7, the Draft EIR appropriately analyzed a reasonable range of alternatives which present "enough of a variation to allow informed decision making." (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 419.) As to the project objectives, an EIR must include a clear statement of "the objectives sought by the proposed project...." (CEQA Guidelines § 15124(b).) CEQA does not restrict an agency's discretion to identify and pursues a particular project designed to meet a particular set of objectives and objectives can be broadly stated. (*California Oak Found. v. Regents of Univ. of Cal.* (2010) 188 Cal.App.4th 227, 276-277; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 947 [alternative would not have satisfied project's objective of providing mix of retail and restaurant tenants].) Here, 11 particular project objectives were reasonably crafted to guide project design and to develop the range of alternatives to be considered in the Draft EIR. The objectives outlined in the Draft EIR do not preclude the development of a reasonable range of alternatives, as evidenced by the alternatives which are included and analyzed in the Draft EIR. This type of analysis is appropriate under CEQA.

In addition, this Final EIR includes evaluation of a Modified Planning Area 1 Only Alternative in Chapter 3.0. Please refer to Topical Response 5 for a discussion of the Modified Planning Area 1 Only Alternative.

RESPONSE POHH-JOHNSON2-9

The commenter argues that new objectives should be crafted and that off-site alternatives should be evaluated under those objectives. Please see Response POHH-Johnson2-8 for a discussion of why the project objectives comply with CEQA.

RESPONSE POHH-JOHNSON2-10

This comment provides a general conclusion regarding the issues raised in this letter. Individual responses to this letter are provided above in Responses POHH-Johnson2-1 through POHH-Johnson2-9.

KEVIN K. JOHNSON, APLC

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January 22, 2014

SENT VIA EMAIL AND U.S. MAIL

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Comments on Cumulative Impacts, Noise Impacts and Oil Production Impacts

Dear Mr. Tippets:

This firm represents Protect Our Homes and Hills, an unincorporated citizens group consisting of residents and taxpayers in the City of Yorba Linda. We submit this comment letter on the deficiencies in the Draft Environmental Impact Report (“DEIR”) prepared for the Cielo Vista development project (“Cielo”). Specifically, the DEIR fails to include related projects in the cities of Brea and Chino Hills in the cumulative impacts analysis and contains an inadequate discussion and analysis of cumulative impacts and impacts from the proposed drilling pad, including noise impacts.

Cumulative Impacts Analysis

The cumulative impacts analysis is divided among the various impact subchapters making it difficult for the public and ultimately the decisionmaker to comprehensively grasp the full cumulative impact of the Cielo Project and other past, present and reasonably foreseeable future projects. The DEIR should provide a “**summary** of the expected environmental effects to be produced by those projects with **specific reference** to additional information stating where that information is available, and...A **reasonable analysis** of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.” CEQA Guideline 15130(b)(4-5). The DEIR fulfills none of these CEQA informational roles.

The DEIR identifies other projects in Section 3.0 but makes no effort to reasonably analyze the impacts of the identified projects in the cumulative impacts discussion and makes no reference to additional information and where that information is available. This analytical and informational omission renders the DEIR insufficient as an informational document.

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Clearly, many of these projects have reached the level of permit processing or environmental review such that information concerning their specific impacts is readily available and should properly be part of the cumulative impacts analysis. If it is “reasonable and practical to include the projects” in the cumulative impacts analysis, they should be included. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 723.

Instead, the DEIR relies on conclusions of significance or insignificance of impacts devoid of any reasoned analysis. This is not permissible under CEQA. *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397 (Discussion lacking even a “minimal degree of specificity or detail” is inadequate and the discussion must be more than a conclusion “devoid of any reasoned analysis.” 88 Cal.App.3d at 411. Similarly, in *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, EIR’s analysis of significant cumulative impacts was legally inadequate because it simply asserted that nonspecific cumulative development would have community character, agricultural and visual impacts. These analytical deficiencies must be corrected.

In addition, the DEIR fails to include projects in the nearby incorporated cities of Brea and Chino Hills. These projects are within 5 miles of the Cielo project and should be included in any cumulative impacts analysis:

Madrona (Canyon Crest)

Project Type: 162 homes on 367 acres
Location: Eastern Brea (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Brea
CEQA Status: FEIR released November 2012
Last Action: Appeal Hearing 1/21/14

Information available at: <http://www.ci.brea.ca.us/index.aspx?NID=180>

Foremost Community (Canyon Hills)

Project Type: 76 homes on 141 acres
Location: Western Chino Hills (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Chino Hills
CEQA Status: EIR approved 1987
Last Action: Awaiting Tract Home Design Review by Planning Commission

Information available at: <http://www.chinohills.org/index.aspx?NID=847>

Pine Valley Estates

Project Type: 98 homes on 192 acres
Location: Western Chino Hills (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Chino Hills
CEQA Status: Final Map Recorded 2009

January 22, 2014

Last Action: Revised Design Review by Planning Commission approved 2009

Information available at: <http://www.chinohills.org/index.aspx?NID=847>

Stonefield Development

Project Type: 28 homes on 34 acres
Location: Western Chino Hills (off Carbon Canyon Road – Hwy 142)
Lead Agency: City of Chino Hills
CEQA Status: Website is unclear but appears project is approved
Last Action: Website is unclear, but appears project is approved

Information available at: <http://www.chinohills.org/index.aspx?NID=853>

Note that information on other projects, including those listed in section 3.0, is generally readily available on the websites of the relevant agency. The DEIR should be revised to include this information in order to be compliant with the CEQA guidelines.

Drilling Pad and Noise Impacts

The approval of a contingent 1.8 acre “oil drilling pad” is inappropriate. Under CEQA, what will or could be built on the pad needs to be discussed in detail in the DEIR and all expected or reasonably foreseeable impacts from the proposed drilling pad need to be identified. Avoidance measures need to be analyzed and where avoidance is not possible, mitigation measures need to be identified and adopted.

Of particular concern to area residents is whether the new drilling pad will support horizontal drilling or fracking.

Reasonably foreseeable impacts include, but are not limited to: 1) pre-construction subsurface investigations on, near or from the pad; (2) construction impacts, including noise, air pollution, lighting and vegetation/soils impacts from vehicles and construction equipment; 3) visual impacts, air quality impacts, drilling apparatus noise and lighting and maintenance procedures associated with a fully operational drilling pad; 4) seismic impacts, including vibrations affecting wildlife and residents; and 5) impacts upon surface and groundwater resources.

Impacts associated with closing down existing wells and moving infrastructure to the new drilling pad need to be addressed and the expected operational life of an operational drilling pad as well as close down protocols need to be identified and analyzed.

On the specific subject of noise, residents report that poorly maintained oil drilling rigs can be heard squeaking throughout the canyon area. The squeaking can continue for days before maintenance is performed. The canyon walls and other topographic characteristics provide unique sound channeling features and need to be considered in the DEIR, along with

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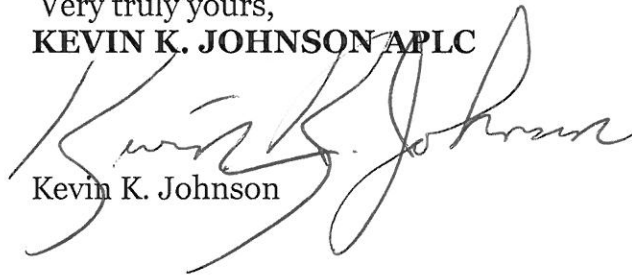
the oil rigs noise impacts, as noise enhancing features requiring appropriate mitigation.

In view of the foregoing deficiencies in the DEIR, the document should be revised and recirculated for public review.

9 (cont)

Very truly yours,

KEVIN K. JOHNSON APLC

A handwritten signature in black ink, appearing to read "Kevin K. Johnson", written over the typed name.

Kevin K. Johnson

Cc: Supervisor Todd Spitzer via email

LETTER: POHH-JOHNSON3

Protect Our Homes and Hills

K. Johnson, APLC A Professional Law Corporation, Attorneys at Law

600 West Broadway, Suite 225

San Diego, CA 92101

(January 22, 2014)

RESPONSE POHH-JOHNSON3-1

The commenter takes issue with the organizational structure of the cumulative impacts analysis contained in the Draft EIR, and generally asserts that the analysis is inadequate. The Draft EIR, however, analyzes the Project's potential cumulative impacts in compliance with CEQA. An EIR must contain an evaluation of the cumulative impacts of a project, which discussion should be guided by the standards of practicality and reasonableness. (*Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 525.) The "discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone...." (CEQA Guidelines § 15130(b).) As noted in Chapter 3.0, *Basis for Cumulative Analysis*, while the Draft EIR primarily used the list method for evaluating cumulative impacts, as permitted by CEQA Guidelines Section 15130, the approach to these analyses varies for certain environmental issues. The cumulative analysis for each environmental issue is presented in the applicable resource area section in Chapter 4, *Environmental Analysis*, of the Draft EIR. Though the commenter takes issue with this organizational structure, the commenter provides no specific evidence that it is inappropriate.

As noted above, potential cumulative impacts were evaluated in specific resource sections. For each resource area, the cumulative impacts analysis complies with CEQA by analyzing the potential cumulative impacts of the proposed Project in light of past, present, and reasonably foreseeable future projects. For instance, Section 4.3, *Biological Resources*, assesses the cumulative impacts of the Project in relation to other past, present, or reasonably foreseeable future projects. In compliance with CEQA Guidelines Section 15130, the section defines the geographic scope and identifies the cumulative projects (from the list provided in Chapter 3.0) which could, combined with the proposed Project, result in cumulative impacts. The biological cumulative impacts analysis then identifies the environmental effects that could be produced by the cumulative project (Related Project No. 1) and the proposed Project, and analyzes potential cumulative impacts. (CEQA Guidelines § 15130(b)(4).) This analysis is consistent with CEQA, which requires that a cumulative discussion should "be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 398.) Thus, the Draft EIR satisfies the informational and cumulative analysis requirements of CEQA. As previously discussed, the commenter makes only a general comment as to the cumulative analysis, but does not provide any specific deficiency with the analysis.

RESPONSE POHH-JOHNSON3-2

As discussed in Response POHH-JOHNSON3-1, the Draft EIR includes specific information about the Project's potential project and cumulative environmental impacts. Moreover, the commenter is referred to Response POHH-JOHNSON3-1 regarding the Draft EIR's cumulative impacts analysis compliance with CEQA.

RESPONSE POHH-JOHNSON3-3

The commenter generally asserts that the Draft EIR's cumulative impacts analysis is inadequate, but fails to provide any factual evidence or identify any specific deficiency. A comment that consists exclusively of mere argument and unsubstantiated opinion does not constitute substantial evidence. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.) Comments by members of the public must be supported by an adequate factual foundation. (*Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.) As discussed in Response POHH-JOHNSON3-1, the cumulative impacts analysis was "prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 398.) Moreover, although commenter generally suggests otherwise, the analysis includes specific details about the potential cumulative impacts, their severity, and their likelihood of occurrence. (Guidelines § 15130(b).)

RESPONSE POHH-JOHNSON3-4

As noted in Chapter 3.0, *Basis for Cumulative Analysis*, of the Draft EIR, the County created the list of past, present, and probable future projects by reviewing County applications and records. The cities of Anaheim, Brea, and Yorba Linda were also contacted to inquire about projects that should be included on the list of cumulative projects. Under CEQA, a cumulative impacts analysis should be guided by the standards of practicality and reasonableness. (CEQA Guidelines § 15130(b); *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 902 ["when review[ing] the agency's decision to include information in the cumulative impacts analysis[,] ... [w]e determine whether inclusion was reasonable and practical."].) The factors to consider in determining which projects to include in the list of cumulative projects include the nature of the resource in question, the location of the project, and the type of project. (CEQA Guidelines § 15130(b)(2).) The City of Brea did not identify the Madrona (Canyon Crest) project as a probable future project, and, therefore, it was not included in the list of cumulative projects in the Draft EIR. Moreover, the Madrona project is located in the far northeast corner of Brea in Carbon Canyon, nearly in Los Angeles County. In addition to the large distance between the project site and the Madrona project, there is a significant mountainous area intervening between the proposed project and the Madrona project. Based upon these project characteristics, it was reasonable not to include the Madrona project in the Draft EIR's list of cumulative projects. Like the Madrona project, the other projects identified by commenter are located a significant distance from the project site, and are separate from the project site by natural mountainous conditions. Each of the other projects cited by commenter are located in the City of Chino Hills, which is located northeast of the project site across the Chino Hills and Chino Hills State Park.

Commenter has not provided any evidence that, without the addition of the projects identified in the comment letter, the cumulative impacts were inappropriately addressed in the Draft EIR. As discussed above, commenter's suggested projects are separated from the project site by both substantial distance and mountains. Moreover, the nature of the project – a residential development – and the nature of the impacts likely to result from the project and the projects identified by commenter – impacts also associated with residential development – are not likely to result in cumulative impacts. For instance, aesthetic impacts associated with commenter's suggested projects, when coupled with the proposed project, would likely not have any cumulative impact because they are located a significant distance away from each other and together the projects would not substantially degrade any notable public scenic views. Again, commenter has not provided any evidence that the list of cumulative projects is insufficient, or that addition of identified projects is necessary.

RESPONSE POHH-JOHNSON3-5

Contrary to Comment POHH-Johnson3-5, there is no approval for oil operations on a 1.8 acre site portion of the project site. This portion of the project site is proposed to be rezoned to “R-1” Single Family Residence and “R-1 (O)” Single Family Residence with an Oil Production Overlay for a 1.8 acre portion in the event that applications are filed with the County to consolidate the existing on site oil wells on the 1.8 acre site with drilling permits to be issued by the County and the state Department of Oil, Gas and Geothermal Resources (DOGGR).

As the Project is developed, oil operations on the areas to be developed will cease with existing operational and abandoned oil wells permanently closed and capped. Project design feature (PDF) 7-1 on page 2-33 of Chapter 2.0, *Project Description*, and repeated on page 4.7-18 of section 4.7, *Hazards and Hazardous Materials*, provides the requirements for closure and abandonment of oil wells. PDFs 7-2 through 7-8 on pages 2-33 and -34 as well as on page 4.7-18 provide for oil well setback requirements, operational requirements, and that any future operations would be required to be consolidated on a 1.8 acre parcel. Mitigation Measure 4.7-4 provides a listing of the agencies which would be required to participate in decommissioning and abandonment of oil facilities and confirming that such activities have been conducted according to current standards. PDFs which address setback requirements and access prohibitions applicable to future wells provide the context, framework and known operational requirements should the reserved 1.8 acre site be used for consolidated oil operations. The Project does not propose any oil drilling or extraction activities on the 1.8 acre site and none can be presumed in the absence of an oil drilling and operations plan which has not been proposed or contemplated as of the preparation of the Draft EIR. Should such a plan be proposed by existing site operators or other potential operators, this EIR would have to be addended or supplemented or a new document would be prepared for compliance with CEQA to evaluate the impact of any proposed plan with such impacts mitigated to ensure the safety of residents in the area of the new oil operations building upon the PDFs provided in the Draft EIR.

RESPONSE POHH-JOHNSON3-6

As stated in Response POHH-Johnson3-5, approval for any new oil wells to be drilled on the 1.8 acre site will be through permits from the County and DOGGR. Applications for those permits would be required to describe well operations, including whether or not horizontal drilling or fracking is being proposed, which would then be considered by these agencies in evaluating whether or not such operations can be conducted on this particular site in determining whether to issue the drilling permits. In the absence of an application, it would be speculative to evaluate any hypothetical oil development.

RESPONSE POHH-JOHNSON3-7

Please refer to Response POHH-Johnson3-5.

RESPONSE POHH-JOHNSON3-8

Requirements for the closure of existing of oil operations on the project site are provided in PDF 7-1 and Mitigation Measure 4.7-4, as discussed in Response POHH-Johnson3-5.

RESPONSE POHH-JOHNSON3-9

Operational concerns with existing oil wells should be reported to code enforcement staff in the Division of Building, Grading, and Subdivision of the County’s Public Works Department. Permits for future oil wells will

be considered by the County and DOGGR using the latest technology for noise dampening and other operational characteristics.

Letter: POHH-Keuilian

Troy & Katrina Keuilian
4640 San Antonio Rd
Yorba Linda, Ca 92886

November 14, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

3 (cont)

Very truly yours,

Troy & Katrina Keuilian
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-KEUILIAN**Troy and Katrina Keulian, Members**

4640 San Antonio Road
Yorba Linda, CA 92886
(November 14, 2013)

RESPONSE POHH-KEUILIAN-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-KEUILIAN-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-KEUILIAN-3

Please refer to Response POHH-KEUILIAN-1.

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January 22, 2014

SENT VIA EMAIL AND U.S. MAIL

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Comments on Annexation and Failure of DEIR to Adequately Analyze Annexation
Scenario

Dear Mr. Tippets:

This firm represents Protect Our Homes and Hills, an unincorporated citizens group consisting of residents and taxpayers in the City of Yorba Linda. We submit this comment letter on the deficiencies in the Draft Environmental Impact Report (“DEIR”) prepared for the Cielo Vista development project (“Cielo”). Specifically, the DEIR fails to adequately discuss the annexation scenario, associated environmental impacts upon project annexation to the City of Yorba Linda, all jurisdictional changes involved and the discretionary approvals by LAFCO and the City of Yorba Linda. 1

The project site is within the City of Yorba Linda sphere of influence and according to the Project Description, “[t]he Project Applicant intends to seek annexation to the City through an annexation agreement to be negotiated with the City of Yorba Linda prior to the issuance of building permits” (DEIR p. 2-2). Although the DEIR characterizes the annexation as a mere possibility elsewhere, given the applicant’s clear intention to seek annexation, all impacts, approvals and jurisdictional changes related to the annexation scenario should be fully analyzed in the DEIR. Instead, like several other areas in the DEIR, analysis of these issues is impermissibly deferred to a future date or omitted altogether.

The City of Yorba Linda and Orange County Local Agency Formation Commission (“LAFCO”) have discretionary authority for carrying out or approving the Cielo project in an annexation scenario. As such, they are responsible agencies under the California Environmental Quality Act (“CEQA”), Pub. Res. Code sec. 21000 et seq. and should have been named as such. 14 Cal.Code Regs. §15381. LAFCO presents a clear example of a responsible agency. In their discussion of responsible agencies, authors Kostka & Zischke identify as a responsible agency “the Local Agency Formation Commission (LAFCO) for any annexation or 2

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reorganization.” Kosta & Zischke, *Practice Under the California Environmental Quality Act* §3.18 (CEB 2013).

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(cont)

In our experience, LAFCO generally requires that an EIR contain information about the environmental consequences of the decisions that LAFCO will be making with regard to the whole project. *Habitat And Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277. This information includes: a discussion of the required jurisdictional and sphere of influence changes subject to LAFCO discretionary approval(s); the project’s conformance with LAFCO statutory requirements and local policies; a description of the ability of existing agencies to provide services; a detailed description of existing and proposed infrastructure; and a discussion of the proposed provision of public services to the subject territory. The Project Description does not even mention LAFCO approvals (DEIR p. 2-37, 2-38) among the various approvals and permits and is inadequate on its face.

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Likewise, the DEIR’s description of approvals from the City of Yorba Linda appears incomplete and therefore inadequate (DEIR p. 2-38). The DEIR acknowledges that an annexation scenario “would include discretionary approvals on the part of the City” including possible changes to the Yorba Linda General Plan and zoning designations (DEIR p. 4.9-16). None of these possible discretionary approvals is listed in the approvals and permits listings (DEIR pp. 2-38, 4.9-7).

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LAFCO has discretionary authority for approval of the annexation to the City of Yorba Linda and any concurrent annexations and/or detachments involving special district water, sewer, and/or fire protection service providers for the project. Discretionary authority for jurisdictional changes is statutorily reserved to LAFCO. Cal. Gov. Code §§56100(a) and 56375. Therefore, at a minimum, the DEIR should identify all discretionary actions related to the applicant’s plan to seek annexation to the City of Yorba Linda by the type of jurisdictional change (annexation), the affected parcels and total acreage for each jurisdictional change, and the subject agency involved in the jurisdictional change. At present, the DEIR does not fulfill these most basic requirements and should be revised.

5

This failure to include discussion of all agency approvals in the Project Description presents a foundational problem that impacts other sections of the DEIR. For example, the Land Use and Planning section at 4.9 also contains an incomplete list of approvals and permits (DEIR pp. 4.9-6, 7). More seriously, the section’s discussion of thresholds of significance is inadequate and incomplete because it fails in the first instance to identify all agencies with jurisdiction over the project. If an agency such as LAFCO has not been identified in the first instance, then discussion of conflicts with applicable plans, policies or regulations of that agency has not occurred and is inadequate on its face.

Moreover, to the extent the DEIR discusses consistency thresholds and conflicts with existing Yorba Linda zoning or land use plans, policies or regulations at pp. 4.9-5, 7, 13-16, it attempts to gloss over clear conflicts with the Yorba Linda land use designation (low density residential 0-1.0 dwelling unit per acre) and zoning designation (UNC-Unincorporated Area) which will require a land use designation and/or zoning change. The DEIR characterizes the necessary Orange County zoning change as making the project “essentially consistent” with the

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changed Yorba Linda zoning, not the existing Yorba Linda zoning. Likewise, the DEIR indicates "the Project with approval of its requested discretionary actions would be potentially consistent with the applicable goals and policies in the [Yorba Linda] General Plan (DEIR p. 4.9-14). The proper issue for analysis is the project's consistency with the **current** Yorba Linda zoning and land use designations, not the consistency of the project with its discretionary approvals. The DEIR cannot properly avoid a significance determination by using the potentially changed zoning or land use designations which are part of the proposed project as a baseline. The Land Use and Planning section of the DEIR must be revised to employ the proper baseline and provide an open and forthright consistency analysis.

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The discussion also refers the reader to other sections of the DEIR instead of setting out the full consistency analysis in the Land Use and Planning section (DEIR p. 4.9-17) (consistency with Yorba Linda's Hillside Development Zoning Code Regulations and consistency of residential development with oil production discussed in section 4.1 Aesthetics). The Land Use and Planning section should include the consistency discussion in its entirety and not refer the reader to another DEIR section which may not contain an adequate consistency analysis.

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In this regard, the DEIR in both the Land Use and Planning section and the Aesthetics section fails to acknowledge that one effect of maintaining consistency with the hillside protection provisions in both the Yorba Linda General Plan and the zoning code may be reduced density and yield for this project. Under these circumstances, the proposed project density appears to be patently inconsistent with these policies.

8

The Recreation and Resource Element of the Yorba Linda General Plan seeks to "permanently preserve and protect sensitive hillside areas", "[r]espect the natural landform as a part of site planning", and "[p]reserve significant natural features, including sensitive hillsides" (DEIR p. 4.1-30). Similarly and consistent with these goals and policies, the Land Use Element contemplates and seeks "[l]ow density residential development in the hillside areas" and targets "lower densities to hillside areas with yield based on slope severity and stability, topographic conditions" (DEIR p. 4.1-30). Application of these Yorba Linda policies will likely result in a much lower density than that proposed by the project and this inconsistency must be acknowledged and analyzed in the DEIR.

9

In view of the foregoing identified inadequacies in the Cielo DEIR, the document should be substantially revised and re-circulated for public comment.

Very truly yours,
KEVIN K. JOHNSON APLC


Jeanne L. MacKinnon

Cc: Supervisor Todd Spitzer via email

LETTER: POHH-MACKINNON1

K. Johnson, APLC A Professional Law Corporation, Attorneys at Law

Jeane L. MacKinnon

600 West Broadway, Suite 225

San Diego, CA 92101

(January 22, 2014)

RESPONSE POHH-MACKINNON1-1

The commenter generally asserts that Draft EIR should have analyzed the impacts, approvals, and jurisdictional changes related to potential annexation of the Project Site by the City of Yorba Linda. The commenter does not, however, specify how the analysis contained in the Draft EIR is deficient or raise any significant environmental issues. Therefore, no further response is required. (Public Resources Code § 21091(d); CEQA Guidelines § 15204(a); *City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 401.)

The statement on page 2-2 of the EIR that the Applicant “intends” to seek annexation is a typographical error. It is more accurate to state that the Applicant “may” seek annexation in the future. The following revisions have been made to the Draft EIR and are also included in Chapter 3.0, *Corrections and Additions*, of this Final EIR:

Chapter 2.0, Project Description**1. Page 2-2. Modify the last paragraph with the following changes:**

The Orange County General Plan designates approximately 41 acres of the project site as Suburban Residential “1B”, which permits development of residential land uses at a density of 0.5-18 dwelling units per acre, and approximately 43 acres of the project site as Open Space (5). The entire project site is zoned A1(O) – General Agricultural with Oil Production Overlay, per the Orange County Zoning Map. The project site is also within the City of Yorba Linda Sphere of Influence (SOI). The City of Yorba Linda General Plan indicates that the SOI is representative of the long-term, probable future physical boundaries and service area of the City. The Project Applicant ~~intends to~~ may seek annexation to the City in the future through an annexation agreement to be negotiated with the City prior to issuance of building permits.

In addition, an EIR is not required to speculate about the environmental consequences of future development that is unspecified or uncertain. (*Environmental Protection Info. Ctr. V. Department of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 502.) Here, although annexation into the City of Yorba Linda is not certain, the Draft EIR provides a good faith effort at disclosing the impacts related to the Project. To the extent a resource area requires analysis of impacts which are particular to the City of Yorba Linda, for example, consistency with the City of Yorba Linda General Plan for multiple resource areas, the Project’s impact to parkland in the City of Yorba Linda, and potential traffic impacts on intersections within the City of Yorba Linda, that analysis is included in the Draft EIR. The commenter does not identify any significant environmental issues which were not addressed by the Draft EIR.

RESPONSE POHH-MACKINNON1-2

The County of Orange is the lead agency as the project site is within the County's jurisdiction. The City of Yorba Linda is a responsible agency for purposes of CEQA. (CEQA Guidelines § 15381.)

RESPONSE POHH-MACKINNON1-3

Commenter states that the Draft EIR should include additional information about the environmental consequences of any Orange County Local Agency Formation Commission ("LAFCO") decision on the Project. If LAFCO considers annexation of the Project at some point in the future, it will, at that time, analyze the issues identified by the commenter.

RESPONSE POHH-MACKINNON1-4

As commenter correctly notes, annexation into the City of Yorba Linda would include discretionary approvals by the City of Yorba Linda. If the City considers annexation-related approvals associated with the Project at some point in the future (e.g., a Pre-Annexation Agreement), it will, at that time, analyze the issues identified by the commenter.

RESPONSE POHH-MACKINNON1-5

As commenter correctly notes, LAFCO is generally vested with discretionary authority over annexation and detachment actions. If LAFCO considers an annexation and/or detachment action associated with the Project at some point in the future, it will, at that time, analyze the issues identified by the commenter.

RESPONSE POHH-MACKINNON1-6

The commenter is referred to the Project's consistency analysis with the City's General Plan Land Use Element in Table 4.9-2 on pages 4.9-14 and 4.9-15 of Section 4.9, *Land Use and Planning*, in the Draft EIR. The key points made in this table are that while the Project is proposed at 1.3 gross dwelling units per acre, which is slightly above the 0-1.0 dwelling units per acre allowed by the Land Use Element's Low Density residential designation, it is well below the average citywide residential density of 2.8 dwelling units per acre, and will incrementally reduce this citywide density. Also, it is within the range of densities for single family subdivisions immediately to the west of the project site. Additionally, the Land Use Element allows for a total of 536 dwelling units within this sphere of influence area east of the City limit with a total of 452 dwelling units proposed between this Project and Esperanza Hills Project to the east, well within the allowable maximum of 536 dwelling units. This is the summarized basis for the "essentially consistent" conclusion which goes beyond the mere arithmetic of the Land Use Element density range.

Contrary to what is stated in the commenter's letter, the information in Table 4.9-2 is an evaluation of the Project's consistency with the current City Land Use Element designation for the project site. No evaluation is provided with respect to the Project's consistency with the UNC-Unincorporated Area zone designation as there is no information or site development standards in the City's Zoning Code for this designation.

The commenter refers to the "Potentially Consistent" column above the Table 4.9-2 consistency analysis. This column heading appears throughout the Draft EIR because the County cannot presume a final consistency determination which would be made by the City's decision-makers should the Project be annexed to the City at some point in the future. A project is consistent with the general plan "if, considering

all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719.) “A given project need not be in perfect conformity with each and every general plan policy.” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.) As evidenced by Table 4.9-2 of the Draft EIR and the preceding discussion regarding the Yorba Linda General Plan, the Draft EIR appropriately analyzed consistency with the Yorba Linda General Plan, looking at both specific policies and general consistency. As noted therein, the Project would be potentially consistent with the Yorba Linda General Plan. A lead agency’s determination that a project is consistent with a general plan carries a strong presumption of regularity. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.)

Moreover, the Final EIR includes a new alternative – the Modified Planning Area 1 Only Alternative (Alternative 5) – which is consistent with the Yorba Linda General Plan, particularly the density restrictions. This alternative was determined to be the environmentally superior alternative, and may be adopted by the County Board of Supervisors.

RESPONSE POHH-MACKINNON1-7

This comment states organizational preferences but does not raise any substantive issues regarding the Draft EIR’s analysis of environmental impacts. It is standard practice in the preparation of EIRs to cross-reference information within the document sections. With respect to General Plan consistency analysis, it makes more sense to group the General Plan’s Elements with the subject matter being evaluated for determining Project impacts. For example, it makes more sense to prepare a Project consistency analysis with the County’s Transportation Element and the City’s Circulation Element within the Draft EIR’s Traffic/Transportation section as opposed to completing that under the Land Use and Planning section and referring the reader of the Traffic/Transportation section back to the Land Use and Planning section. Please also see Response POHH-MACKINNON1-6 for a discussion about the adequacy of the EIR’s analysis of the consistency with the Yorba Linda General Plan.

RESPONSE POHH-MACKINNON1-8

The Final EIR includes a new alternative – the Modified Planning Area 1 Only Alternative (Alternative 5) – which is consistent with the Yorba Linda General Plan’s density restrictions. This alternative was determined to be the environmentally superior alternative and may be adopted by the County Board of Supervisors.

The reader is also referred to Tables 4.1-2 and 4.1-3 on pages 4.1-29 through 4.1-32 of Section 4.1, *Aesthetics*, in the Draft EIR. These tables evaluate the Project’s aesthetic consistency with provision of the City’s General Plan and Hillside Development Zoning Code Regulations, respectively. The consistency analysis concludes that the Project is potentially consistent with both the General Plan provisions because and the Zoning Code provisions because the Project is clustered in two planning areas, it avoids grading and development on the most significant slopes and drainage courses affecting the project site, and does not alter or affect views of the most significant ridgelines to the east of the City.

RESPONSE POHH-MACKINNON1-9

Please refer to Response POHH-MacKinnon1-8.

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January 22, 2014

SENT VIA EMAIL AND U.S. MAIL

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Comments on Inadequate Project Description and Related Issues

Dear Mr. Tippets:

This firm represents Protect Our Homes and Hills, an unincorporated citizens group consisting of residents and taxpayers in the City of Yorba Linda. We submit this comment letter on the deficiencies in the Project Description and Cumulative Impacts and Growth Inducing Impacts Analyses in the Draft Environmental Impact Report (“DEIR”) prepared for the Cielo Vista development project (“Cielo”).

By failing to accurately include all components of the Cielo project, including water infrastructure improvements, the DEIR’s Project Description and related analyses are deficient in a number of fundamental and serious respects.

To be legally adequate, a project description must: depict the project accurately and not minimize its environmental effects; include reasonably foreseeable activities associated with the project; and be consistent throughout the EIR. Kostka & Zischke, *Practice Under the California Environmental Quality Act §12.6* (CEB 2013). A project description that omits components of the project results in an EIR that fails to disclose all project impacts. *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 829 (sand and gravel mine project description omitted discussion of water pipelines serving the project). An agency may not split a single large project into small pieces and thereby avoid environmental review of the entire project. *Orinda Ass’n v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.

The Project Description Omits Key Project Components and Thereby Fails to Disclose All Project Impacts

The project description for the Cielo Project fails to accurately depict all components of the project including foreseeable, growth inducing, cumulative activities related to the

January 22, 2014

expansion of the water supply infrastructure and the related Esperanza Hills project. By adopting a narrow view of the project, the DEIR overlooks “its cumulative impact by separately focusing on isolated parts of the whole” and engages in a “fallacy of division.” *San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

The Cielo project, along with the directly adjacent, concurrently processed, related Esperanza Hills project, currently lacks any water infrastructure. The Cielo and Esperanza Hills projects rely on the same water infrastructure and access. Due to their adjacency, shared infrastructure and concurrent processing, these projects are effectively one project and the totality of their environmental impacts should be comprehensively evaluated in one EIR. In particular, treatment as two separate projects without accompanying analysis of the necessary water infrastructure impacts avoids and understates project impacts, particularly growth inducing impacts and cumulative impacts.

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(cont)

These two projects will require the construction of connections to the Yorba Linda Water District (“YLWD”) water distribution system, storage infrastructure, pumping facilities, upgrades to booster stations and offsite improvements. These types of infrastructure improvements are by definition growth inducing (*see 14 Cal.Code Regs. §15126.2(d)*), are part of the projects and the projects are not possible without these improvements.

The DEIR presents a situation remarkably similar to the EIR found to be inadequate in *San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713 in which a housing development could not go forward without a sewer expansion project. The sewer expansion project was the subject of a feasibility report but the report was not included in the housing development EIR and the feasibility report contained no discussion of the environmental impacts of the sewer expansion.¹

Likewise, the water infrastructure improvements necessary for both the Cielo and Esperanza Hills developments were the subject of a Northeast Area Planning Study (“NEAPS”) dated March 2013 authored by YLWD. The NEAPS is referred to in Section 4.15 Utilities and Service Systems of the DEIR but is not included as an Appendix, is not discussed in any significant detail in the DEIR and does not contain any environmental review. Under the authority of *San Joaquin Raptor*, this is legal error. The DEIR “tells the public and decision makers nothing about how the impacts of the [water infrastructure improvements] would combine with the impacts of the [] houses. If that information had been clearly set forth in the beginning, it could have significantly affected how the County considered mitigation measures and overall alternatives to the project.” *San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th at 734.

The Project Description mentions the NEAPS but incorrectly minimizes the importance

¹ Unlike the present situation, although an EIR was prepared for the sewer expansion project in *San Joaquin Raptor*, it also was not made a part of the housing development EIR. Here, no environmental review for the water infrastructure improvements has occurred as more fully discussed *infra*.

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and relevance of this document by stating that “some” of the infrastructure improvements/upgrades detailed in the NEAPS would support the project. In fact, the need for the improvements detailed in the NEAPS was triggered by the Cielo and Esperanza Hills projects. The Cielo project is referred to in the NEAPS as the Sage development. The NEAPS states:

The purpose of the Northeast Area Planning Study is to evaluate the capacity of existing distribution system facilities and size new infrastructure required to provide water under anticipated operational conditions for future demands. The proposed Esperanza Hills Estates (EHE) and Sage (SG)[Cielo] developments are projected to add 542 acre-feet per year (afy) to the District’s annual demands, resulting in an overall system annual demand of 25,388 afy, which equates to a 2 percent demand increase.
NEAPS p. ES-1.

This Northeast Area Planning Study is primarily limited to the system evaluation surrounding the new Esperanza Hills/Sage developments and the FPS [Fairmount Pump Station].
NEAPS p. ES-3.

The District is undertaking this study to evaluate water service in the northeast are of the District. Specifically, this study is intended to evaluate the capacity of the system to supply the areas of new development...
Two developments are currently planned for the northeast area of the District’s service area, the Esperanza Hills Estates development and the Sage development.
NEAPS p. 1.

In addition to failing to acknowledge the centrality of these two projects as the reason for the NEAPS, the Cielo project description completely abdicates responsibility for environmental review of these water infrastructure improvements by: (1) characterizing the recommendations in the NEAPS as mere possibilities, i.e. improvements “could include improvements such as water tanks...”; (2) indicating that the “specific locations, designs, and extent of the improvements are not known”; and (3) effectively deferring environmental review and passing the environmental review buck to YLWD by stating “[o]nce the facilities are further planned and designed, YLWD would evaluate the potential for the construction or operation of these facilities to result in significant impacts.” DEIR p. 2-22.

The DEIR fails to properly characterize the NEAPS recommendations; they are not mere possibilities, they are necessary if this project is to go forward. The DEIR fails to acknowledge that neither the Cielo project nor the Esperanza Hills project can go forward without the water infrastructure improvements; fails to analyze the environmental impacts of the total project as including the water infrastructure improvements; and improperly defers environmental review and formulation of mitigation for significant project impacts, including cumulative impacts of the three interdependent projects.

These omissions render the DEIR inadequate and require revision and recirculation of

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the document. These water infrastructure improvements are properly part of the project, should be adequately described in the project description and their significant impacts identified and fully analyzed.

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(cont)

The Growth Inducing Impacts Section Improperly Defers Environmental Review

The DEIR Growth Inducing Impacts section also improperly defers analysis of water infrastructure impacts (DEIR p. 6-1- 2) again indicating “the specific locations, designs, and extent of the improvements are not known” and “[o]nce the facilities are further planned and designed, YLWD would evaluate the potential for construction or operation of these facilities with respect resulting in any significant impacts” which would be evaluated by YLWD as an independent project. The growth inducing impacts of the Cielo project must be considered in conjunction with the growth-inducing and cumulative impacts of the water infrastructure improvements, including whether these improvements would facilitate growth elsewhere in the Northeast Area of the YLWD. *San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th at 732-733.

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The Utilities and Service Systems Discussion Is Seriously Flawed

The Utilities and Service Systems section of the DEIR (Section 4.15) fails to even include the NEAPS in its discussion of the local and regional regulatory framework (DEIR p. 4.15-2).

More seriously, the Utilities and Service Systems section fails to properly apply threshold of significance 2 related to the water infrastructure improvements. Threshold 2 asks:

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Would the Project:

Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

DEIR p. 4.15-11.

The DEIR acknowledges elsewhere in the document that the Cielo project will require the construction of connections to the Yorba Linda Water District (“YLWD”) water distribution system, storage infrastructure, pumping facilities, upgrades to booster stations and offsite improvements. Therefore, any logical reading of these facts in conjunction with the question posed by threshold 2 would result in an affirmative response, i.e., yes, the project would require and result in the construction of new water facilities and the expansion of existing facilities, the construction of which could cause significant environmental effects.

However, the Utilities and Service Systems discussion of Threshold 2 (water infrastructure) contains an incomplete and inconsistent discussion of the threshold and further promotes confusion by combining its discussion of Threshold 2 with a discussion of Threshold 4 (adequacy of water supply). These thresholds of significance should be addressed separately (DEIR p. 4.15-14). Combining the thresholds serves to undermine conclusions of significance

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by subsuming one threshold within another. The DEIR's conclusion that impacts regarding water supply would be less than significant does not even address the significance of impacts resulting from the new and expanded water infrastructure.

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(cont)

This error is not corrected by the statement four pages later that "[g]iven the need for new infrastructure to support the Project, the Project would have a potentially significant impact on water storage in the area" (DEIR 4.15-18). The error is compounded by the document's failure to analyze these potentially significant impacts, provide mitigation or alternatives and by deferring any consideration of these impacts to some future date by YLWD

The foregoing fundamental omissions in the Cielo project description, in the growth inducing and cumulative impacts analyses and in the Utilities and Service Systems section require revision and recirculation of the DEIR to include an accurate, complete project description, analysis of all impacts related to the water infrastructure improvements and formulation of mitigation and alternatives discussion for these impacts.

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Very truly yours,
KEVIN K. JOHNSON APLC



Jeanné L. MacKinnon

Cc: Supervisor Todd Spitzer via email

LETTER: POHH-MACKINNON2**K. Johnson, APLC A Professional Law Corporation, Attorneys at Law****Jeane L. MacKinnon**

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(January 22, 2014)

RESPONSE POHH-MACKINNON2-1

The commenter asserts the Draft EIR is invalid because it failed to accurately depict all components of the Project, including with respect to expansion of water supply infrastructure and the Esperanza Hills Project. Please see Topical Response 1 which explains that the Esperanza Hills Project is separate and distinct from the Project, and was properly analyzed as a cumulative project in the Draft EIR. Please also see Topical Response 2 for a detailed discussion of water supply infrastructure associated with the Project.

RESPONSE POHH-MACKINNON2-2

The Draft EIR appropriately characterized the Northeast Area Planning Study (Planning Study), which the Draft EIR notes was for the northeast portion of the Yorba Linda Water District (YLWD) service area. This area includes the Project and the Esperanza Hills Project. The infrastructure improvements discussed in the Planning Study are recommended to meet the anticipated water service and infrastructure demands within the northeast area, a significant portion of which is allocated to the Esperanza Hills Project. Thus, as the improvements are for both the Esperanza Hills Project and the Project, only “some” of the improvements would support the Project, which does not add the entirety of the northeast district’s expected demand.

RESPONSE POHH-MACKINNON2-3

Please see Topical Response 2 for a detailed discussion of water supply infrastructure associated with the Project.

RESPONSE POHH-MACKINNON2-4

Please see Topical Response 2 for a detailed discussion of water supply infrastructure associated with the Project.

RESPONSE POHH-MACKINNON2-5

Please see Topical Response 2 for a detailed discussion of water supply infrastructure associated with the Project.

RESPONSE POHH-MACKINNON2-6

Commenter’s assertion regarding the discussion of Thresholds 2 and 4 together is a comment which expresses an organizational suggestion. It is not a comment on the analysis contained in the Draft EIR or one that raises a significant environmental issue. Therefore, no further response is required. However, the two thresholds are discussed together because they both relate to the provision of adequate water supplies to the Project.

With regard to commenter's discussion of water infrastructure, please see Topical Response 2 for a detailed discussion of water supply infrastructure associated with the Project.

RESPONSE POHH-MACKINNON2-7

This comment represents a summary of the individual comments contained in the letter. Please see Responses POHH- MacKinnon2-1 through POHH- MacKinnon2-6 for individual responses to those comments.

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January 22, 2014

SENT VIA EMAIL AND U.S. MAIL

Orange County Planning
Attn: Mr. Ron Tippetts
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Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Comments on Greenhouse Gas Emissions Chapter Section 4.6

Dear Mr. Tippetts:

This firm represents Protect Our Homes and Hills, an unincorporated citizens group consisting of residents and taxpayers in the City of Yorba Linda. We submit this comment letter on the Greenhouse Gas Emissions chapter of the Draft Environmental Impact Report (“DEIR”) prepared for the Cielo Vista development project (“Cielo”).

The Greenhouse Gas Emissions (“GHG”) analysis is deficient in a number of fundamental and serious respects undermining the validity of any significance conclusions reached therein.

The GHG chapter consists of 23 pages of boilerplate and general background information followed by 3 ½ pages of “analysis” (see DEIR pp. 4.6-1 through 4.6-27). The entire chapter appears to simply be a copy of the equally inadequate and inaccurately named Appendix F – Greenhouse Gas Study which also provides 26 pages of background information followed by 6 pages of “analysis”. This cursory, once over lightly treatment of GHG impacts is inadequate on its face.

Specifically, the “analysis” is deficient under the California Environmental Quality Act (“CEQA”), Pub. Res. Code sec. 21000 et seq. and the CEQA Guidelines, 14 Cal. Code Regs. sec. 15000 et seq. in numerous, specific respects as outlined below.

1. The GHG chapter fails to adequately discuss the existing conditions on the Cielo site or the appropriate baseline.

The DEIR does not measure the significance of the Project’s GHG emissions by comparing them to the existing conditions as CEQA requires. In fact, CEQA Guideline section

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15064(b) indicates that when evaluating whether the impacts of a project's GHG emissions are significant, an agency should consider whether the project "may increase or reduce greenhouse gas emissions compared to the existing environmental setting." 2 (cont)

The GHG chapter fails to provide any baseline description of the existing environmental setting as it relates to GHGs. The chapter includes a single paragraph entitled "Existing Greenhouse Gas Emissions" at p. 4.6-18 which describes five operating oil wells and a recitation of regulations applicable to these operating wells as well as the abandoned wells onsite and concludes without any evidence or any effort to quantify or measure current GHG emissions that "existing CO₂ e emissions are minimal."

This failure to adequately describe the current environmental setting provides no baseline with which to compare the project impacts. This omission is particularly troublesome for two reasons. First, oil production is one of the top GHG producers and in particular produces large amounts of methane. Although carbon dioxide is a much more abundant greenhouse gas, methane has a far bigger impact on climate change with more than 20 times the global warming potential of carbon according to the Environmental Protection Agency.¹ Accordingly, in order to properly analyze GHG impacts, the DEIR should quantify current GHG emissions in order to provide some valid basis for comparison with overall project impacts. However, the DEIR also fails to quantify emissions from reconsolidated wells (p. 4.6-25). In the absence of any effort to quantify or compare current well emissions levels with emissions of new or reconsolidated wells and overall project emissions, significance conclusions are of no value whatsoever and are not supported by substantial evidence 3

Second, the GHG chapter contains inconsistent discussion of new wells planned as part of the project. The chapter acknowledges that the project includes development of a drilling pad for continued oil operations including consolidation of wells relocated from the rest of the project site and slant drilling of **new wells** below ground (pp. 4.6-24) but then, in the very next sentence, inconsistently claims that the Project "is not proposing new oil wells and as such, would not drill new wells." The DEIR alternately refers to new wells versus reconsolidated wells without quantification of impacts of either and concludes without any substantial evidence that "operational GHG impacts associated with the potential new oils [sic] wells would be less than significant". In order to serve its purpose as an informational document, the DEIR must include meaningful discussion of current GHG emissions from the operating and abandoned wells and how the project, including the drilling pad and the new and/or reconsolidated wells, may increase or reduce these impacts. As currently drafted, the discussion of GHG emissions from existing and planned wells is inadequate, contradictory and not supported by substantial evidence. 4

2. The GHG chapter fails to conduct any cumulative impacts analysis. 5

In an effort to avoid a significance determination on the issue of cumulative impacts, the DEIR's cumulative impacts discussion makes passing reference to the adjacent Esperanza Hills project, omits any discussion of 18 related projects discussed in the Traffic/Transportation

¹ <http://www.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2013-ES.pdf>

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section of the DEIR, and inappropriately tries to minimize the incremental cumulative impact of this project by stating “[o]n a global scale, no single project alone will measurably contribute to a noticeable incremental change in global average temperature” (p. 4.6-26). Changes on a global scale are not necessary in order to meet a CEQA threshold of significance. The DEIR fails to conduct even a minimal cumulative impacts analysis as required under CEQA. 5 (cont)

CEQA requires discussion of cumulative impacts of a project when the project’s incremental effect is cumulatively considerable. 14 Cal. Code Regs. sec. 15130(a). “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. 14 Cal. Code Regs. sec. 15065(a)(3). An adequate discussion of cumulative impacts will include either: (1) a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency; or (2) a summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. 14 Cal. Code Regs. sec. 15130(1). 6

The Cielo GHG chapter fails to conduct any cumulative impacts analysis consistent with the foregoing Guideline sections. Even the DEIR for the adjacent Esperanza Hills Project recognizes the “addition of the adjacent Cielo Vista project and the 18 related projects identified in the Traffic Analysis will further contribute to an exceedence of GHG [emissions] and, therefore, cumulative impact remains significant and unavoidable” (DEIR Esperanza Hills p. 5-273). 7

The GHG chapter bases its conclusions on the draft, non binding Southern California Air Quality Management District (“SCAQMD”) threshold of significance. Relying exclusively on these thresholds to reach a cumulative impacts conclusion results in a situation where if all 18 related projects individually fell below the SCAQMD threshold, they would not collectively be considered cumulatively considerable, even though their combined emissions vastly exceeded the threshold. This logically cannot represent proper reasoning or analysis under CEQA. 8

Although it may be appropriate to rely on thresholds of significance that are formally adopted for general use, the SCAQMD thresholds have not been adopted by regulation, rule, resolution or ordinance, as required by CEQA. 14 Cal. Code Regs. sec. 15064.7 (b). The fact that the thresholds were first proposed in 2008 and still have not been adopted further undermines their reliability as valid indicia of significance. 9

Even if application of the threshold were considered appropriate under these circumstances, the County would still need to consider other evidence that the project may cause a significant GHG impact. As stated in *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109, “in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met.” An EIR is required to evaluate a particular environmental impact if it is “reasonably feasible” to do so. (14 Cal. Code Regs. sec. 15151). It is reasonably feasible to

evaluate the cumulative GHG impacts of this project in conjunction with the other related projects and appropriate mitigation or alternatives formulated and analyzed for such impacts. 9 (cont)

The GHG chapter also cites to the much lower Bay Area Air Quality Management District's Proposed Air Quality CEQA Thresholds of Significance in support of the statement that "other air districts within the state have established that projects which are consistent with project-level GHG thresholds would not be 'cumulatively considerable'" (p. 4.6-27). However, and importantly, the Bay Area Air Quality Management District ("BAAQMD") set a much lower threshold of significance for analyzing project level GHG emissions. The BAAQMD threshold recognizes that a residential or mixed-use development will normally have a significant GHG related impact if its emissions exceed **1,100 metric tons of CO2 equivalent per year**. The Cielo project GHG emissions clearly exceed this threshold and are considered significant under the BAAQMD threshold requiring mitigation for the project's GHG impacts. 10

3. The GHG chapter fails to compare GHG emissions impacts under various alternative scenarios.

The GHG chapter makes no attempt to evaluate the comparative merits of the alternatives identified in the DEIR from a GHG impacts standpoint. 14 Cal. Code Regs. sec. 15126.6(a). Given the analytical deficiencies identified herein, the DEIR should be revised and re-circulated to include quantification and comparison of GHG emissions under the alternatives analysis in the DEIR (The alternatives section, commented upon under separate cover, is woefully inadequate on independent grounds). 11

4. The GHG chapter relies on draft, non-binding thresholds of significance and fails to properly apply the County significance analysis.

Neither SCAQMD nor the County of Orange have adopted significance thresholds for GHG emissions from non-industrial development projects (DEIR p. 4.6-20). As previously indicated, although it may be appropriate to rely on thresholds of significance that are formally adopted for general use, the thresholds employed by the County and SCAQMD have not been adopted by regulation, rule, resolution or ordinance, as required by CEQA. 14 Cal. Code Regs. sec. 15064.7 (b). 12

Even if application of a draft threshold were considered appropriate under these circumstances, the DEIR fails to fully analyze the County's current significance methodology which includes not just the SCAQMD draft thresholds but also "an analysis of the Project's consistency with plans, policies, and regulations adopted for the purpose of reducing GHG emissions" (DEIR p. 4.6-20). As indicated in sections 5 and 6 below, the DEIR fails to include this required analysis.

5. The GHG chapter omits discussion of applicable regulations and plans.

The GHG chapter contains an incomplete and cursory discussion of SCAG's sustainable communities strategy ("SCS"); fails to discuss project consistency with the SCAG SCS; fails to identify that the Orange County Council of Governments ("OCCOG") has its own SCS 13

applicable to this project; and fails to discuss project consistency with OCCOG's SCS. OCCOG's SCS is incorporated into the SCAG SCS but is not even mentioned in the DEIR.

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Senate Bill 375 (SB 375) was enacted to reduce greenhouse gas emissions from automobiles and light trucks through integrated transportation, land use, housing and environmental planning. Under the law, SCAG was tasked with developing a Sustainable Communities Strategy (SCS), a newly required element of the 2012 Regional Transportation Plan (RTP) that provides a plan for meeting emissions reduction targets set forth by the California Air Resources Board (ARB). On September 23, 2010, ARB issued a regional 8% per capita reduction target for the planning year 2020, and a conditional target of 13% for 2035.

The DEIR fails to discuss how the project is or is not consistent with these reduction targets or the sustainable communities strategies outlined in the OCCOG SCS at pp. 77-149 (<http://occog.com/pdf/OCSCS20110614.PDF>). Some of these GHG reduction strategies outlined in the OCCOG SCS include:

- Promoting a land use pattern that accommodates future employment and housing needs.
- Using land in ways that make developments more compact and better links jobs, housing and major activity centers.
- Protecting natural habitats and resource areas.
- Implementing a transportation network of public transit, managed lanes and highways, local streets, bikeways, and walkways built and maintained with available funds.
- Managing demands on the transportation system (TDM) in ways that reduce or eliminate traffic congestion during peak periods of demand.
- Managing the transportation system (TSM) through measures that maximize the efficiency of the transportation network.
- Utilizing innovative pricing policies to reduce vehicle miles traveled and traffic congestion during peak periods of demand.

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This multi-faceted analysis is particularly important for this project located in Yorba Linda's sphere of influence and likely to be annexed to Yorba Linda because the OCCOG SCS identifies Yorba Linda as one of the most dense Traffic Analysis Zones holding 3,000 housing units or more by year 2035 (p. 37 <http://occog.com/pdf/OCSCS20110614.PDF>).

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6. The GHG chapter conflicts with AB 32 and Executive Order S-3-05.

The DEIR attempts to avoid the required consistency analysis and the conclusion that this project is inconsistent with the emission reduction mandates of AB 32 and EO S-3-05 by employing faulty logic and unfounded assumptions without any supporting evidence or authority. The DEIR asserts that SCAQMD's draft significance threshold was designed to ensure compliance with AB 32 emissions reduction requirements and therefore if a project doesn't meet the threshold, "it can be assumed to comply with AB 32" (DEIR p. 4.6-25). How a permissive emissions threshold equates with a mandated reduction in GHGs is not explained.

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If the threshold was a performance standard requiring that every development project reduce GHG emissions by a certain percentage and this percentage represented compliance with AB 32's requirements, such a threshold could possibly be considered as designed to ensure compliance with AB32. One air pollution control district employs such a performance standard. The San Joaquin Valley Air Pollution Control District's Guidance for Valley Land Use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA indicates:

[L]and use agencies adopting this guidance as policy for addressing GHG impacts under CEQA, as a lead agency will require all new projects with increased GHG emissions to implement performance based standards, or otherwise demonstrate that project specific GHG emissions have been reduced or mitigated by at least 29%.

<http://www.valleyair.org/Programs/CCAP/12-17-09/3%20CCAP%20-%20FINAL%20LU%20Guidance%20-%20Dec%2017%202009.pdf>

However, equating an emissions threshold with a reduction mandate without any supporting evidence does not provide evidence of consistency with either AB 32 or Executive Order S-3-05.

In addition, thresholds of significance and consistency determinations are two entirely different inquiries as recognized by the County of Orange which uses two, separate approaches in analyzing GHG impacts: (1) the draft SCAQMD threshold; and (2) "an analysis of the Project's consistency with plans, policies, and regulations adopted for the purpose of reducing GHG emissions" (DEIR p. 4.6-20).

The DEIR acknowledges Executive Order S-3-05 but fails to analyze the project's consistency with this official state policy. This gubernatorial order has not been withdrawn or modified by a subsequent governor. The DEIR fails to examine how or if the project complies with the Executive Order's policy to reduce GHG emissions to 1990 levels by 2020 and to 80% below 1990 levels by 2050.

The Sacramento Metropolitan Air Quality Management District has recognized the importance of new development achieving its "fair share" of reductions in GHG emissions when it indicated in its CEQA Guide December 2009, Revised April 2011, Revised April 2013:

AB 32 demonstrates California's commitment to reducing the rate of GHG emissions...Thus, to achieve the goals of AB 32, which are tied to GHG emission rates of specific benchmark years (i.e., 1990), California will have to achieve a lower rate of emissions per unit of population and per unit of economic activity than it has now...Thus, future land use development projects that will not encourage new development to achieve its fair share of reductions in GHG emissions will conflict with the spirit of the policy decisions contained in AB 32, thus impeding California's ability to comply with the mandate.

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<http://www.airquality.org/ceqa/cequguideupdate/Ch6ghgFINAL.pdf>.

Likewise, the County of Orange has recognized that not exceeding a threshold is not the end of the significance inquiry. The DEIR must conduct a full and fair consistency analysis and examine whether this project achieves the reduction mandates in AB 32 and EO S-3-05. Its failure to do so renders it inadequate as an informational document and its conclusions regarding the significance of GHG impacts are unsupported by substantial evidence.

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7. The GHG chapter avoids a significance determination by segmenting the drilling pad impacts from the residential operational impacts.

Although the project includes development of a drilling pad for continued oil operations including consolidation of wells relocated from the rest of the project site and slant drilling of new wells below ground (pp. 4.6-24), the DEIR treats GHG impacts from this drilling pad and associated wells separately from other operational impacts, makes no attempt to measure, estimate or quantify these GHG impacts or compare them with existing GHG emissions concluding without any supporting evidence that "GHG emissions from the reconsolidated wells would not be greater than under existing conditions and in consideration of the factors cited above, operational GHG impacts associated with the potential new oil wells would be less than significant" (DEIR p. 4.6-25). In the absence of quantifiable emissions data, this "take our word for it" approach is not permissible or adequate under CEQA.

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In view of the foregoing inadequacies in the Cielo GHG analysis, the DEIR should be revised and re-circulated, significance conclusions reexamined and appropriate, feasible mitigation measures formulated for the GHG impacts resulting from this and other related projects.

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Very truly yours,

KEVIN K. JOHNSON APLC



Jeanne L. MacKinnon

LETTER: POHH-MACKINNON3**K. Johnson, APLC A Professional Law Corporation, Attorneys at Law****Jeane L. MacKinnon**

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(January 22, 2014)

RESPONSE POHH-MACKINNON3-1

This comment provides a general introduction and summary regarding the issues raised in this letter. Individual responses to this letter are provided below in Responses POHH-MacKinnon3-2 through POHH-MacKinnon3-22.

RESPONSE POHH-MACKINNON3-2

Under CEQA guidelines, the Lead Agency (County) has the discretion to select the methodology and adopt significance criteria for analysis of GHG impacts. CEQA Guidelines Section 15064.4 allows the lead agency to consider qualitative factors or performance standards. Specifically, Section 15064.4(a) provides that the determination of the significance of greenhouse gas emissions “calls for a careful judgment by the lead agency” and that a lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency has discretion to determine, in the context of a particular project, whether to select a model or methodology to quantify greenhouse gas emissions resulting from a project, explaining the limitations of the particular model or methodology selected for use; and/or rely on a qualitative analysis or performance based standards. (CEQA Guidelines § 15064.4(a).) A lead agency retains the discretion to determine the significance of greenhouse gas emissions as well as significance thresholds. (*Citizens for Responsible Equitable Environmental Development (CREED) v City of Chula Vista* (2011) 197 Cal.App.4th 327; see *North Coast Rivers Alliance v. Marin Mun. Water Dist.* (2013) 216 Cal.App.4th 614, 652 [concluding that an EIR properly applied county emissions reduction goals in determining significance of greenhouse gas emissions.]) Page 4.6-18 in Section 4.6, *Greenhouse Gas Emissions*, of the Draft EIR provides a qualitative description of baseline conditions.

As discussed in the Draft EIR, global climate change impacts are evaluated based on the incremental increase (project – baseline) of GHG emissions directly attributable to the Project. Although there are minimal emissions resulting from existing oil well operations, as a conservative assumption, the GHG analysis conservatively assumed the baseline was zero. If existing oil drilling emissions were accounted for in the analysis, the incremental increase in GHG emissions resulting from operation of the Project would be lower than those presented in the Draft EIR. As discussed throughout the Draft EIR, oil drilling operations are assumed to be discontinued with implementation of the Project. The Project is not proposing new oil wells and as such, would not drill new wells. Also, the oil drilling pad is currently inactive and there are no proposed plans or pending applications to conduct drilling at the site. Although drilling operations may be performed at the drilling pad in the future, this assumption is speculative and would require separate environmental review prior to the initiation of drilling activities.

RESPONSE POHH-MACKINNON3-3

Please refer to Response POHH-MacKinnon3-2 for a discussion of existing baseline conditions. As discussed above, the Lead Agency has the discretion to rely on a qualitative analysis to assess project related GHG impacts. As discussed above, the GHG analysis calculates the incremental increase of GHG emissions directly attributable to the Project. As a conservative measure, existing baseline emissions were assumed to be negligible.

RESPONSE POHH-MACKINNON3-4

As stated on page 2-28 in Section 2.0, *Project Description*, of the Draft EIR, existing on-site oil wells and production facilities would be abandoned or re-abandoned, as necessary, in accordance with the standards of the State of California Division of Oil, Gas and Geothermal Resources (DOGGR), OCFA, and County of Orange. The Project is not proposing new oil wells and as such, would not drill new wells. Therefore, operational emissions would not result in a net increase as a result of oil well reconsolidation.

As stated on page 4.6-24 of the Draft EIR, the drilling pad would be made available to the current oil operators following the Project's construction activities for continued oil operations with permitting and site planning to be pursued by the oil operators. Should construction of the reconsolidated wells occur following development of the project site, the construction activities would be limited to the installation of the wells and screening, as necessary. Development of the drilling pad (pad only) is part of the Project. Although drilling operations may be performed at the drilling pad in the future, such operations are not a part of the Project and an assumption that specific drilling operations will be performed is speculative. Any future drilling operations, including any slant drilling of new wells, would require separate environmental review prior to the initiation of drilling activities. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 CalApp.4th 1036, 1061 ["where an EIR cannot provide meaningful information about a speculative future project, deferral of an environmental assessment does not violate CEQA"].) If drilling operations are proposed, an analysis of GHG emissions from the future drilling activities would be performed at that time.

RESPONSE POHH-MACKINNON3-5

A cumulative impacts analysis is contained on pages 4.6-26 and 4.6-27 of the Draft EIR. As stated by the California Air Pollution Control Officers Associate (CAPCOA) and included on page 4.6-26 of the Draft EIR, "GHG impacts are exclusively cumulative impacts; there are no non-cumulative emission impacts from a climate change perspective." In effect, the entirety of the GHG analysis is a cumulative impacts analysis. A separate discussion of the contributions of 18 related projects, as requested by commenter would not provide a meaningful basis by which to analyze the Project's incremental contributions to cumulative GHG impacts. Cumulative impacts were assessed based on the SCAQMD's Tier III Project level threshold of 3,000 MT CO₂E. This tiered approach to significance thresholds was created so as to subject the vast majority of development projects (the largest 90 percent) to a more refined analysis and more stringent GHG reduction requirements compared to small development projects that contribute a relatively small fraction of cumulative statewide GHG emissions. It should be noted that the SCAQMD Tier III threshold is also based on CAPCOA's quantitative threshold methodology which states: "Capture of 90 percent of new residential

development would establish a strong basis for demonstrating that cumulative reductions are being achieved across the state.”⁷

As discussed on page 4.6-27 of the Draft EIR, the Project would result in GHG emissions which are below the SCAQMD threshold. Related projects in the vicinity that fall below or are consistent with this threshold would not be cumulatively considerable with respect to GHG emissions impacts. CEQA Guidelines Section 15064(h)(3) provides that a lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (i.e., AB 32, SCAQMD Tier 3 Screening Threshold) which provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Therefore, the GHG section contained in the Draft EIR provides an adequate analysis of s cumulative impacts that is supported by substantial evidence.

RESPONSE POHH-MACKINNON3-6

Please refer to Response POHH-MACKINNON3-5 for a discussion of cumulative impacts.

RESPONSE POHH-MACKINNON3-7

Please refer to Response POHH-MACKINNON3-5 for a discussion of cumulative impacts. In addition to meeting SCAQMD significance thresholds, the Project would also be consistent with AB 32 goals as discussed on page 4.6-25 under Impact Statement 4.6-2 in the Draft EIR.

On April 29, 2015, Governor Jerry Brown signed into effect Executive Order B-30-15 establishing a greenhouse gas reduction target of 40 percent below 1990 levels by 2030. Order B-30-15 requires state agencies to update the current Climate Change Scoping Plan to incorporate the 2030 target. The state's 5-year Infrastructure Plan is also mandated to take possible future climate change impacts into account. It does not require project planning or CEQA implementation for climate change impacts beyond the implementation actions of the Global Warming Solutions Act (2006), AB-32. Toward that end, the order specifically states: “This Executive Order is not intended to create, and does not, create any rights or benefits, whether substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.” As a result, no changes to the GHG analysis in the Cielo Vista EIR No. 615 is required by this Executive Order.

RESPONSE POHH-MACKINNON3-8

Please refer to Response POHH-MACKINNON3-5 for a discussion of cumulative impacts. In addition to meeting SCAQMD significance thresholds, the Project would also be consistent with AB 32 goals as discussed on page 4.6-25 under Impact Statement 4.6-2 in the Draft EIR.

RESPONSE POHH-MACKINNON3-9

Comment POHH-MacKinnon3-9 suggests that it was not appropriate to rely on the SCAQMD thresholds of significance because they were not formally adopted by the County as required by CEQA Guidelines Section 15064.7(b). However, CEQA Guidelines Section 15064.7(a) states, “Each public agency is encouraged to

⁷ California Air Pollution Control Officers Association CEQA and Climate Change White Paper. January 2008

develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects.” Thus, while Lead agencies are “encouraged” to adopt thresholds of significance, their adoption is not required by CEQA Guidelines Section 15064.7. The Draft EIR’s reliance on the SCAQMD thresholds of significance is therefore consistent with the CEQA Guidelines.

The commenter further states that even if application of the threshold were considered appropriate under these circumstances, the County would still need to consider other evidence that the project may cause a significant GHG impact. The commenter does not, however, provide any such evidence. A comment that consists exclusively of mere argument and unsubstantiated opinion does not constitute substantial evidence. (*Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580; CEQA Guidelines § 15384.)

Please refer to Response POHH-MACKINNON3-5 for a discussion of cumulative impacts. In addition to meeting SCAQMD significance thresholds, the Project would also be consistent with AB 32 goals as discussed on page 4.6-25 under Impact Statement 4.6-2 in the Draft EIR.

RESPONSE POHH-MACKINNON3-10

Please refer to Response POHH-MACKINNON3-9 for a discussion of significance thresholds.

RESPONSE POHH-MACKINNON3-11

Analysis of Alternatives and resulting GHG impacts was provided in Chapter 5.0, *Alternatives*, of the Draft EIR. CEQA Guidelines Section 15126.6 requires a “meaningful evaluation, analysis, and comparison with the proposed project.” Quantification and comparison of GHG emissions from each Alternative is also provided in Chapter 5.0.

RESPONSE POHH-MACKINNON3-12

Please refer to Response POHH-MACKINNON3-9 for a discussion of significance thresholds. As discussed therein, the County of Orange, as the Lead Agency under CEQA, has discretion to develop its own thresholds of significance. The County has chosen to utilize the SCAQMD’s significance thresholds to assess cumulative GHG impacts. As such, the BAAQMD’s significance thresholds are not applicable to the Project. It also acknowledged that the project site is within the boundaries of the SCAQMD jurisdiction, and not the BAAQMD.

RESPONSE POHH-MACKINNON3-13

SCAG’s Sustainable Communities Strategies (SCS) targets are not project-specific and are achieved through region-wide vehicle miles traveled (VMT) reduction measures. These VMT reduction goals contained in the SCS may be achieved through other means such as mass transit or transit oriented development within the region. Per this comment a discussion of the Orange County Council of Governments (OCCOG) SCS has been added to the Draft EIR (see below). As discussed therein, the Project would not conflict with the SCS. The following revisions have been made to the Draft EIR and are also included in Chapter 3.0, *Corrections and Additions*, of this Final EIR:

Section 4.6, Greenhouse Gas Emissions

1. **Page 4.6-26. Add the following text below the 1st paragraph in the discussion of “Consistency with Applicable GHG Plans”:**

Further, as discussed previously, SB 375 was enacted to reduce GHG emissions by requiring MPOs to develop an SCS as part of their RTP. As a result, SCAG has included an SCS element to their RTP which encompasses the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and Riverside. SB 375 also allows for subregional council of governments to develop a subregional SCS. The Orange County Council of Governments (OCCOG) has developed a subregional SCS specific to Orange County.

The OCCOG subregional SCS contains goals (VMT reduction) identical to the regional SCAG SCS. However, goals of the SCS are not project specific. As stated in the OCCOG subregional SCS, “no subregional GHG emissions reduction targets were set by CARB or SCAG. GHG emission reduction targets are only calculated at the regional level.” Therefore, the SCS does not target specific projects, but reductions will be achieved on a regional level.

In order to achieve VMT and GHG reduction goals, the SCS contains several VMT reduction measures which may not be project specific. Such measures include transportation system efficiency improvements and transit oriented development. As these VMT reduction measures are more regional in nature, the Project would not be able to implement such measures. Therefore, the Project would not conflict with goals of the SCS.

RESPONSE POHH-MACKINNON3-14

Please refer to Response POHH-MACKINNON3-13 for a discussion of SCAG and OCCOG’s SCS as well as SB 375 targets.

RESPONSE POHH-MACKINNON3-15

The comment is noted. Please refer to Response POHH-MACKINNON3-13 for a discussion of SCAG and OCCOG’s SCS. No further response is required because this comment does not raise any new significant environmental issues or address the adequacy of the environmental analysis included in the Draft EIR.

RESPONSE POHH-MACKINNON3-16

Please refer to Responses POHH-MACKINNON3-17 and POHH-MACKINNON3-19 for a discussion of AB 32 and EO S-3-05 consistency.

RESPONSE POHH-MACKINNON3-17

Reduction targets established under AB 32 were not designed to apply uniformly to all projects. AB 32 and Executive Order S-3-05 do not specify that emissions reductions should be achieved through uniform reduction by location or emission source. Smaller projects such as a single house may not emit GHGs on a level which will affect AB 32 consistency. Recognizing this, the SCAQMD working group designed a tiered approach to determining significance, and for smaller projects, the SCAQMD has developed a project-level threshold of 3,000 MT CO₂E. This approach to significance thresholds was created so as to subject the vast

majority of development projects (the largest 90 percent) to a more refined analysis and more stringent GHG reduction requirements compared to small development projects that contribute a relatively small fraction of GHG emissions.⁸ As the Project would meet this screening level threshold, it was determined that Project-related GHG emissions would be consistent with and not conflict with AB 32 goals.

RESPONSE POHH-MACKINNON3-18

Analysis of GHG impacts and the SCAQMD threshold was provided beginning on page 4.6-23 in Section 4.6, *Greenhouse Gas Emissions*, of the Draft EIR under Impact Statement 4.6-1. An Analysis of Project consistency with applicable plans, policies or regulations was provided beginning on page 4.6-25 of the Draft EIR under Impact Statement 4.6-2. Supporting data was provided in Appendix F of the Draft EIR.

RESPONSE POHH-MACKINNON3-19

The GHG analysis in the Draft EIR discusses the Project's consistency with AB 32 goals beginning on page 4.6-25 of the Draft EIR under Impact Statement 4.6-2. The CARB AB 32 Scoping Plan has developed GHG emission reduction targets for 2020 which are to be achieved through measures such as new regulation. These new regulations would be applicable to the Project. Although AB 32 is focused on the GHG emissions target for 2020, long-term targets (2050) are also identified in the Scoping Plan. However, specific reduction measures have not yet been identified to achieve the 2050 target. The Scoping Plan has identified reduction measures which will achieve targets during mid-term years (2030-2040). The mid-term year reduction measures are a more aggressive version of current measures. As the Project would be consistent with the goals contained in the AB 32 Scoping Plan, it is assumed that the Project would also be consistent with long-term targets. Therefore, a separate analysis of the Project's consistency with Executive Order S-3-05 is not required.

RESPONSE POHH-MACKINNON3-20

Please refer to Response POHH-MACKINNON3-9 for a discussion of significance thresholds. This comment introduces significance thresholds utilized by the Sacramento Metropolitan Air Quality Management District, which do not apply to the Project. As such, no further response is necessary.

Please refer to Response POHH-MACKINNON3-19 for a discussion of AB 32 and EO 8-3-05 consistency.

RESPONSE POHH-MACKINNON3-21

Please refer to Response POHH-MACKINNON3-2 for a discussion of qualitative GHG analyses. A qualitative analysis was performed for oil well activities. Long-term operational GHG emissions from potential new wells are not expected to differ greatly from the existing wells, but would likely be lower than the current wells because they would be more energy efficient and lower-GHG emitting, as discussed on page 4.6-25 of the Draft EIR. Therefore, a qualitative analysis was sufficient to address oil well reconsolidation, although no new wells or drilling on the "drilling pad" is proposed as part of the Project. This comment also states that the Draft EIR improperly segmented drilling pad impacts from the residential operational impacts in order to avoid a significance determination. However, as discussed in Response MACKINNON3-4, since no new wells

⁸ *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group Meeting #13. South Coast Air Quality Management District. August 2009.*

or drilling on the “drilling pad” is proposed as part of the Project, any future drilling operations are speculative. Under CEQA, uncertain future activities not currently proposed for approval and that are not reasonably foreseeable consequences of the project proposed for approval need not be included in the description or analyzed in the EIR. (*See Lake County Energy Council v. County of Lake* (1977) 70 Cal.App.3d 851, 856 [concluding that an EIR for three exploratory wells was adequate despite its failure to consider the impacts of a geothermal production unit that might be built if the wells proved successful].)

RESPONSE POHH-MACKINNON3-22

This comment provides a general conclusion regarding the issues raised in this letter. Individual responses to this letter are provided above in Responses POHH-MACKINNON-2 through POHH-MACKINNON-21. Based on the responses above, the Draft EIR provides an adequate assessment of greenhouse gas emissions that meets CEQA requirements. This comment also states that the EIR should be recirculated. Because significant new information has not been added to the EIR, recirculation is not required. (CEQA Guidelines § 15088.5.) New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of meaningful opportunity to comment upon a substantial adverse environmental effect of the project, or a feasible way to mitigate or avoid such an effect that the project proponents have declined to implement. (*Id.*)

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Letter: POHH-Magsaysay

Judith and Ron Magsaysay
21230 Twin Oak
Yorba Linda, CA 92886

November 13, 2013

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

We are writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, we respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

Judith and Ron Magsaysay, members
Protect Our Homes and Hills
Yorba Linda

C: The Honorable Todd Spitzer, Supervisor

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LETTER: POHH-MAGSAYSAY**Judith and Ron Magsaysay, Members**

21230 Twin Oak
Yorba Linda, CA 92886
(November 13, 2013)

RESPONSE POHH-MAGSAYSAY-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-MAGSAYSAY-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-MAGSAYSAY-3

Please refer to Response POHH-MAGSAYSAY-1.

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Letter: POHH-Mak

Lana Mak
4485 San Antonio rd
Yorba Linda, CA

November 17, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

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(cont)

Very truly yours,

Name, Member
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-MAK

Lana Mak, Member
4485 San Antonio Road
(November 17, 2013)

RESPONSE POHH-MAK-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

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RESPONSE POHH-MAK-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-MAK-3

Please refer to Response POHH-MAK-1.

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Letter: POHH-Mellon

M.J. Mellon
21085 Ridge Park Dr.
Yorba Linda, CA 92886

November 13, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippets
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippets:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

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Cont'd

Very truly yours,



Michael J. Mellon
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-MELLON**Michael J. Mellon, Member**

21085 Ridge Park Drive

(November 13, 2013)

RESPONSE POHH-MELLON-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-MELLON-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-MELLON-3

Please refer to Response POHH-MELLON-1, above.

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January 14, 2014

Orange County Planning
Attn: Mr. Ron Tippetts
300 North Flower
Santa Ana, CA 92702-4048

Dear Mr. Tippetts:

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Section 4.5 - Geology & Soils

Dear Mr. Tippetts:

The following comments respond to Section 4.5, Geology and Soils of Draft Environmental Impact Report No. 615, Cielo Vista Project, Yorba Linda, and are submitted by me as both a resident and a member of the Leadership Team of Protect Our Homes and Hills of Yorba Linda.

Fault Rupture. Similar to other factors included in this section, such as Seismic Ground Shaking, Ground Failure, and Landslides and Slope Stability, Fault Rupture is of major concern. Per the applicant's own geologists' reports of 2006 and minor recent updates thereto, the specific location of the Whittier Fault is known to be located along the mid-point of the Whittier Fault Zone (see 4.5 Geology and Soils, at page 4.5-14). Further it is stated that the *specific location* of the *fault trace* has not been identified. A suggested "mitigation measure" is called out to require a subsurface investigation consisting of boring and trenching to identify this trace location. At this time, such additional subsurface analysis **has not been conducted**. More alarming, the tentative tract map shows approximately 42 of the 112 homes (37 percent) will likely be within the "limit of fault zone per a Fault Rupture Hazard Zone Map" (See Map at 4.5-1, LGC Geotechnical Inc., 2013). The impact of the fault trace however is minimized and downplayed by Cielo Vista at this time, as the DEIR states that, "impacts regarding fault rupture are conservatively considered to be potentially significant." (at page 4.5-14). In addition, the mitigation measure called out to consider that this issue complies with both the Orange County General Plan and the City of Yorba Linda General Plan is not known at this time. The statement on page 4.5-20 which provides, "compliance with applicable regulatory requirements and implementation of the prescribed mitigation measures would reduce potentially significant impacts regarding natural hazards to a less than significant level." (at Table 4.5-1), is an improper deferral of mitigation. We

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need to know exactly where the structures are going to be built. There is no discussion of what the “applicable regulatory requirements” are in order for the developer to declare what the prescribed mitigation measure(s) would be to bring this development from their self-assessed status of a “potentially significant impact” down to a “less than significant level”!

2 (cont)

The section on Geology and Soils is insufficient to support the conclusion that all impacts have been reduced to a less than significant level, because the true nature of the land to be bulldozed and rearranged by moving over 600,000 cubic yards of dirt, has not been established by a definitive subsurface geologist’s study and recommendation. Further the applicant has failed to substantiate his “consistent” declaration as to Goal 1 of the County of Orange General Plan regarding the “Safety Element, Public Safety” section, that calls for “. . . a safe living and working environment consistent with available resources.” Further, the “potentially consistent” declaration as to Goal 1 of the City of Yorba Linda General Plan regarding “Goals, Objectives, and Policies, Safety Element” to “Protect the community from hazards associated with geologic instability. seismic hazards” is not supported by the evidence. In addition, I live on the southern boundary of Planning Area 1 of this development, adjacent to a significant slope to the north of my property scheduled to be both cut and filled. My property may be put at risk for upset and destabilization as indicated by the 2006 geologist’s finding that, “It is anticipated that planned cut, fill and/or natural slopes in and adjacent to the proposed project **may be unstable and require evaluation for stabilization.**” emphasis added, (see page 14 of Appendix E, dated June 8, 2006, of Draft EIR). I am not interested in incurring property damage which may be caused by the disturbance of adjacent soils being severely compromised by upset caused by the grading of 600,000 cubic yards of dirt. Soils and seismic features must be fully evaluated at the EIR stage so it can be determined where, if at all, homes can be safely constructed and all environmental impacts fully mitigated.

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4

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Very truly yours,

Marlene Nelson, Member & Resident
Leadership Team
Protect our Homes and Hills
4790 Via De La Roca
Yorba Linda, CA 92887

Cc: Kevin Johnson, Esq.

LETTER: POHH-NELSON1**Marlene Nelson, Member**

4790 Via De La Roca
Yorba Linda, CA 92887
(January 14, 2014)

RESPONSE POHH-NELSON1-1

The commenter is referred to Topical Response 4, which comprehensively addresses the issues raised in Comment POHH-Nelson1-1, and includes a revision of Mitigation Measure 4.5-1.

RESPONSE POHH-NELSON1-2

Mitigation Measure 4.5-1, which has been revised as shown in Topical Response 4, does not constitute improper deferral of mitigation. CEQA generally prohibits the deferral of the formulation of mitigation. However, “when a public agency has evaluated the potentially significant impacts of a project and has identified measures that will mitigate those impacts, the agency does not have to commit to any particular mitigation measure ... as long as it commits to mitigating the significant impact of the project.” (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906 [a mitigation measure that committed an agency to conduct a more thorough site-specific analysis that would be used to formulate final structural design of the project did not constitute improper deferral of mitigation].)

Here, the Draft EIR identified a potentially significant impact resulting from fault rupture, and characterized the impact as such. To ensure any such impact is mitigated to a less than significant level, the Draft EIR incorporates Mitigation Measure 4.5-1 (as revised in Topical Response 4), which requires the preparation of a site-specific, design-level geotechnical report prior to the issuance of grading permits. This report shall confirm or refine the Whittier Fault trace location and orientation delineated in the letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Location of Whittier Fault, Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated July 31, 2014, and shall confirm that the designation of the fault as “active” (i.e., a fault that has ruptured the ground surface within the Holocene Age (approximately the last 11,000 years) by subsurface investigations consisting of boring and trenching activities. In addition, Mitigation Measure 4.5-1 requires the Project Applicant/developer to conduct additional off-site fault trenching as recommended in the letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Discussion of Potential Implications of Subsurface Geological Features in the Southern Portion of Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated August 1, 2014, to confirm that the area of FT-1 and FT-4 are not active. Should this area not be determined to be active, a 75-foot setback zone would be recommended for those lots along the south side of the active Whittier Fault. The letter reports from Tim Lawson are included in Appendix B of this Final EIR.

As discussed in the Draft EIR, the Alquist-Priolo Act prohibits the construction of buildings for human occupancy across the trace of a known fault and structures intended for human occupancy must be set back a minimum of 50 feet from the fault trace. “[A] condition requiring compliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906; *Citizens Opposing a Dangerous Environment v. County of Kern* (2014) 228 Cal.App.4th 360, 383-384.) Here it is reasonable to expect

compliance with the Alquist-Priolo Act and other applicable regulations. Moreover, the goal of mitigation is to reduce the impact of a proposed project to insignificant levels. (*Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 529.) Mitigation Measure 4.5-1 complies with this directive by mandating a future site specific geotechnical study and compliance with the Alquist-Priolo Act. Therefore, there is no improper deferral of mitigation.

Commenter asserts that they must know exactly where the structures are going to be built. The letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Discussion of Potential Implications of Subsurface Geological Features in the Southern Portion of Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated August 1, 2014, includes a figure entitled “Whittier Fault Setback Map” that shows the approximate building envelope for the Project’s proposed residences. This figure and the accompanying letter demonstrate “a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.” (CEQA Guidelines § 15151.) Moreover, as was held in *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906, a mitigation measure which required an additional site specific geotechnical investigation to consider the particular project designs is proper. Here, the Draft EIR includes specific information related to the potential for fault rupture and incorporates a measure which will ensure impacts are reduced to a less than significant level.

As noted above, the Draft EIR specifically states that the findings of the geotechnical report will be used to ensure compliance with the Alquist-Priolo Act, which prohibits construction of structures intended for human occupancy within 50 feet from a fault trace.

RESPONSE POHH-NELSON1-3

Geology and soils impacts were addressed in Section 4.5, *Geology and Soils*, of the Draft EIR, with supporting data provided in Appendix E of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measure. Please refer to Topical Response 4 regarding the mitigation prescribed in the Draft EIR to ensure potentially significant seismic impacts are reduced to a less than significant level. Also, information in Section 4.5 of the Draft EIR is largely based on information and findings obtained in the following documents: *Geotechnical Feasibility Study* (referred to as the “Geotechnical Feasibility Study”), *Proposed Development of Tentative Tract Map No. 17341, County of Orange, California*, prepared by LGC Geotechnical, Inc. March 1, 2013; and *Geologic and Geotechnical Evaluation* (referred to as the “Geotechnical Evaluation”), prepared by Pacific Soils Engineering, Inc., June 8, 2006. Both documents are included in Appendix E of the Draft EIR. Both of these reports were prepared by Certified Engineering Geologists.

RESPONSE POHH-NELSON1-4

The Project’s consistency with Goal 1 of the Safety Element in the County’s General Plan is discussed in Table 4.5-1 on page 4.5-20 of the Draft EIR. Also, the Project’s consistency with Goal 1 and Policy 1.1 in the Safety Element of the City of Yorba Linda General Plan is discussed in Table 4.5-2 on page 4.5-21 of the Draft EIR. As discussed within each table, compliance with applicable regulatory requirements and implementation of the prescribed mitigation measure would reduce potentially significant impacts regarding seismic and geologic stability hazards to a less than significant level. Please also refer to Topical Response 4 regarding the mitigation prescribed in the Draft EIR to ensure potentially significant seismic impacts are reduced to a less than significant level.

RESPONSE POHH-NELSON1-5

Please refer to Response POHH-Nelson1-3. As discussed therein, the geology and soils analysis included in Section 4.5 of the Draft EIR concluded that geology and soils impacts would be less than significant with implementation of the prescribed mitigation measure. As part of the prescribed Mitigation Measure 4.5-1, the design-level geotechnical investigation would identify slope stabilization measures, as necessary, to ensure the project site and surrounding uses are not subject to significant geologic hazards resulting from grading/construction activities on the project site.

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January 16, 2014

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Dear Mr. Tippets:

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Section 4.7 – Hazards and Hazardous Materials

Dear Mr. Tippets:

This following section pertains to the Hazards and Hazardous Materials section of the subject Draft EIR.

I am an eyewitness to a fire that occurred on November 15, 2008 adjacent, on and through the Cielo Vista property, subject to the Draft EIR. I have resided at 4790 Via De La Roca, Yorba Linda, for the past 28 years. Prior to purchasing this residence, we lived in Placentia. We are an original owner of our residence. We were aware that the area may burn, as we witnessed the 1980 Owl Fire and drove to Yorba Linda and actually saw “lazy flames” coming from Blue Mud Canyon to Yorba Linda Boulevard. We felt safe in that a fire station was less than a few blocks away from our Via De La Roca home, and the fire that we witnessed back in 1980 was a slow moving grass fire. The subject DEIR also mentions the close proximity of the fire station and states how fire assistance would be readily available to protect us! Then there was the Freeway Complex Fire of 2008! What a different fire experience that was.

That morning was unusually hot for November and was a typical Santa Ana wind event, but very strong, about 45 to 50 MPH conservatively. Out in our yard we noticed smoke to the East. I was getting ready to go to San Dimas close to noon. I actually drove over to Avimore to see just where the smoke was coming from...it was way East and the radio and TV broadcasters confirmed that it was at Green River Golf Course. No problem I thought. I got in my car and my husband stayed at home working in the yard. By the time I arrived at San Dimas, my husband called to tell me to get back home as the fire had dumped a wad of brush in Blue Mud Canyon. I got in my car and drove home. On the way, I phoned my husband again. He told me that from the time he came in and called me the first time and the time he got back out to the yard, the fire had traveled

totally West across the back brush of our home and over the hill towards San Antonio, all in less than five minutes time. It took me 1 ½ hours to get back to Yorba Linda because of the freeway closure of the 57 because of the fire in the Hills of Brea. By the time I drove back to our home, came around the corner, to my horror my neighbor's home was COMPLETELY GONE with two cars burning in the driveway and his gas line burning like a roman candle less than fifteen feet from the corner of my home. There were NO Orange County Fire Authority personnel anywhere to be seen. I did not see my husband....

It took a few minutes to actually find my husband in the backyard of our half-acre lot. He had been busy during the last several hours putting out vegetation fires in our yard, and watering down our eaves next to our neighbor's home that burned down. The heat was horrendous, the wind was strong, and despite the strong wind, you couldn't see very far. My husband told me that earlier the evacuating traffic down Via Del Aqua was three wide and stopped for a considerable time and our neighbor who ultimately lost his home, grabbed his kids and pets, left his cars and literally ran down the sidewalk to Yorba Linda Boulevard. I was home about twenty minutes when the home above us literally exploded and burned down....this some two hours after the main fire went through. One fire water tender truck finally came in since the outbound, evacuating traffic subsided, and was putting out vegetation on my neighbors hill when they saw the neighbor's home above us go up in a blaze. They raced up to that home, but it was too late, the home was invaded by embers in the attic and it literally exploded before my eyes. In moments, it was a total loss, and this was over two hours after the main fire passed through the area.

Our home would certainly have been lost if my husband had not stayed home. No doubt about that. Would he stay if another fire occurs....yes. Why? Because he witnessed the fact that the congestion of evacuating neighbors, three wide, driving down Via Del Aqua all at once, backed up and stood still, and never permitted any OCFA vehicles up the road. It didn't matter how close the fire station was. To regress a bit, let me say, we did all the preventative chores we should have before the fire season. In February of 2008, we contacted The City of Yorba Linda, The County of Orange, and OCFA to request assistance in getting the weeds abated on the water/fire easement behind our home. Weed abatement had not taken place for two years and vegetation was high. It took until October 2008 until the County was able to contact Mr. Amos Travis, owner of the property, to arrange for the vegetation to be dishd under. About three weeks before the fire, we had all our queen palms professionally skinned. Years earlier we had purposely planted our hill with ice plant (a fact other neighbors claim probably saved their homes). We purchased mini "fireman's hose nozzles" in August that allowed my husband to shoot water up those 30 foot palms and on the eaves during the fire. We even had contacted our insurance company the first of November and brought all our coverage up to date with appropriate replacement cost increases. We had done all the chores we should have done. We still nearly lost our home. The heat from the fire from our next door neighbor's house cracked two of our window panes but thankfully only the outside pane of the thermal glass panels, which we discovered a week after the fire...that's how close it was to losing or home.

I've learned more about fire than I ever thought I ever would. Everyone involved with these developments has assured us how much better off we'd be with development behind us. In a report after the fire, the Orange County Fire Authority considers that the evacuation was quite orderly. That is a complete fabrication from what we witnessed. In fact, at a recent meeting commemorating the five year anniversary of the fire, the Orange County Sheriff's Department said that the reason for the extreme congestion was that Brea Police Department did not have an evacuation plan! The fact was that gridlock occurred on all streets exiting to Yorba Linda Boulevard. Traffic was stopped going down Via Del Aqua, Stonehaven and San Antonio to name just three. If the Orange County Fire Authority states in their "Ready Set Go" DVD (produced post fire), that the major contributor to destruction in such a fire is building homes in a wild urban interface zone, then how can we be safer with 500 more homes? They say the new homes will be hardened, pointing to Casino Ridge. If you saw Casino Ridge in 2008, the vegetation and landscaping around those homes was new. If you see it today, the homes now have all the lush landscaping the older homes have and more. All that fuel that didn't exist in 2008, is now ready to burn and blow. Speaking to city council members last year, Councilman Young asked us why we thought we wouldn't be safer with development back there, that his in laws experienced a fire reduction in Mohler Canyon when development pushed east in Anaheim Hills. My response was this:

As long as Blue Mud Canyon is there (and it will remain open space after the developments of both Cielo Vista and Esperanza Hills) existing and new homes are at risk because we are at the end of that "wick". It will take but one cigarette, one catalytic converter along the side of the 91 Freeway at Green River to set off another path of destruction through the hills of Yorba Linda around and through Hidden Hills, into Blue Mud and to our homes. I've recently heard that firefighters will not go into a wild urban fire to within 300 feet of a fast moving blaze because that could basically suck the air out of your lungs and can't be survived (similar to the Preston, Arizona incident). I think back now that it was good I phoned my husband and he came inside to answer my call as the fire raced behind our home. He would have been within 300 feet of that advancing inferno. I've also heard that the Hidden Hills folks couldn't use an designated "emergency exit" to get out on the water easement/fire road that lies adjacent to Blue Mud Canyon and dumps onto Via del Aqua/Stonehaven (labeled as Green Crest Dr.) because no one had a key to get the gate open. THANK GOD. If anyone had opened those gates and any cars attempted to travel that emergency exit road, they would have been stopped by the traffic jam on Via Del Aqua/Stonehaven. That community was but one bolt cutter away from being fried in their cars. The current plans continue to identify that access road as an emergency exit, which if these developments proceed will merge together with our developments AND 500 MORE HOMES onto the same roads that were unable to handle evacuation in November of 2008. If you believe that this "perfect storm" couldn't happen again, think again. In late April of this year, we again had unusual weather. It was in the upper 80's and the Santa Ana's were blowing hard, much the same conditions as on that day in November of 2008 I thought. To my horror, there was a crew doing weed abatement with gas powered weed whackers working on the easement behind our home! After calls to the

City of Yorba Linda, The County of Orange, The Orange County Fire Authority, (everyone passed the buck with a County representative stating to me, "They know what and when to do that type of work.") I then went outside and talked to a supervisor of the crew over the fence. I learned that the Metropolitan Water District contracts with them to conduct weed abatement. I did call MWD but I was never given a good explanation as to who thought it was a good idea to do this type of work on a day like that or who was responsible for contract administration. It was a miracle that we didn't have another fire.

2 (cont)

I've learned a lot from these experiences. There is insufficient ingress and egress to add another 500 homes to this area to evacuate on the same, existing roads that did not support evacuation in 2008 to make new development safe, pure and simple. It is foolish and irresponsible to suggest that residents of the new homes will "shelter in place". If you experienced what we did, you would know that will never happen as it was too hot, too windy, and too smoky for the majority of folks to do that.

3

Very truly yours,

Marlene Nelson, Member & Resident
Leadership Team
Protect our Homes and Hills
4790 Via De La Roca
Yorba Linda, CA 92887

Cc: Kevin Johnson, Esq.

LETTER: POHH-NELSON2**Marlene Nelson, Member**

4790 Via De La Roca
Yorba Linda, CA 92887
(January 16, 2014)

RESPONSE POHH-NELSON2-1

This comment details the commenter's eyewitness experience of a fire that occurred on November 15, 2008, adjacent, on and through the project site as it pertains to the Hazards and Hazardous Materials section of the Draft EIR. The Draft EIR addressed wildland fire impacts in Section 4.7, *Hazards and Hazardous Materials*, with supporting data provided in Appendix G of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measures, in addition to the fire protection features (see project design features PDF 7-9 to 7-14) to be included as part of the Project. Please also refer to Topical Response 3 regarding emergency access.

RESPONSE POHH-NELSON2-2

Please refer to Response POHH-Nelson2-1, above.

RESPONSE POHH-NELSON2-3

Please see Topical Response 3 for a detailed evaluation of the Project's fire evacuation plan and the potential traffic impacts associated with wildfire evacuation events. To the extent the comment concerns additional houses to be constructed as part of the Esperanza Hills Project, please see Topical Response 1 regarding the separation of Esperanza Hills and Cielo Vista during the environmental review process.

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January 17, 2014

Orange County Planning
Attn: Mr. Ron Tippetts
300 North Flower
Santa Ana, CA 92702-4048

Dear Mr. Tippetts:

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Section 4.9 Land Use and Planning

Dear Mr. Tippetts:

The following comments respond to Section 4.9., Land Use and Planning, of Draft Environmental Impact Report No. 615, Cielo Vista Project, located in the unincorporated foothills of Yorba Linda and are submitted by me as both a resident and a member of the Leadership Team of Protect Our Homes and Hills of Yorba Linda.

IMPACT:

Density. The density of the Project is such that the environmental impact should be classified as “**significant**”. The County General Plan designates approximately 41 acres of the project site as 1B, Suburban Residential, while the remaining 43 acres is designated as 5, Open Space. However, current Codified Ordinances of the County of Orange Zoning designates the entire project site as A1(O), General Agriculture with Oil Production Overlay per the County of Orange Zoning Map. This inconsistency needs to be addressed in the DEIR.

The Project entirely relies upon avoiding or mitigating an environmental impact by requiring rezoning through approval of their requested discretionary actions in order to declare the Project’s consistency with various goals, objectives and policies within the County’s General Plan as well as the General Plan of the City of Yorba Linda. As stated repeatedly throughout the Land Use and Planning section as well as nearly all other sections thereto, a “gross density” calculation is made at 1.33 dua, thereby declaring the proposed Project consistent with adjacent, existing development. Nothing could be further from the truth. The true density is 2.3 to 2.7 dua when allocating homes against the acreage where the homes will be built.

The existing residential developments surrounding the Project site were all built in the late 1980's, early 1990's. Clustering was not a design concept of residential development at that time. The densities of the adjacent, existing developments are not only an average 1.24 dua, the lot sizes of those developments, and specifically those lots abutting the Project, have lots that are over one-half acre. In the design of those existing homes, the "open space" is incorporated within the individual lots, much as the DEIR defines that concept in its "Large Lots/Reduced Grading" **alternative** as contained in Section 5.0 Alternatives. Under that alternative scenario, lots would average 12,000 square feet. While not as large as the 20,000 square foot average of abutting, existing homes, the 12,000 square foot lots are far more compatible with contiguous development than lots averaging a mere 7,500 square feet under the Project's proposal.

2

Having designed the Project under the County's residential zone of 1B has allowed the developer to avoid declaring numerous "significant" environmental impacts throughout the DEIR. Proposing the Project pursuant to the 1B designation provides the public with a false sense of the environmental damage that will be caused by such irresponsible development and masks the significant nature of such impacts on land use and planning. The developer purports to be a champion of environmental protection and in compliance when stating how responsible they are in building "only" 112 homes, when according to the proposed 1B rezoning designation, they state that 738 dwellings **could** be built per the County General Plan. They make circular arguments that they could obtain an upzone to a 1B designation and that they could, under that designation, build up to 738 dwelling units. Then they go on to discount the impacts of the 112 homes by comparing that to the hypothetical 738. This is circular reasoning at its worst. There remains one issue to overcome before the developer can self-identify as an environmental guardian.

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Environmental Constraint. While the developer declares a gross density of 1.33 dua, the more accurate measure is the net of 2.3 to 2.7 dwelling units per acre (dua) upon the acreage appropriate to build homes upon. This increased density should classify this entire project as "**significantly inconsistent**" with the County and City of Yorba Linda General Plans. The developer continually boasts about the 36.3 acres that will remain as Open Space. The fact is that the area designated for Open Space must necessarily remain undeveloped due to, but not limited to, a major earthquake fault line that transects Planning Area 1 from Planning Area 2 as well as known, historic landslide areas.

4

The environmental constraint inherent in this property precludes any residential dwelling from being built on nearly 50 percent of its acreage. As such, the net acreage of approximately 41 acres should be what is used to calculate the dwelling units per acre. Visually, the Project with a net density of 2.3 to 2.7 dua (as small as 7,500 square foot lots) as proposed, is such that adjacent existing residential development with half acre lots (over 20,000 square feet) makes this development incompatible. The

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difference in density between old and new development is significantly incompatible and should also be deemed **inconsistent** with adjacent development.

5 (cont)

Per the County own draft General Plan Amendment GPA 12-01, "Potential slope and seismic hazards constrain development in certain parts of the County. While both conditions seldom preclude development, they *may increase the cost of construction.*" (emphasis added). The developer should not be rewarded by the County with the grant of a functional higher density zone largely due to the environmental constraints of the subject property. The developer should be required, at a minimum, to lower density to a level that is truly consistent and compatible with adjacent, existing residential neighborhoods.

6

City of Yorba Linda Sphere of Influence. Since the Project relies upon a necessary rezoning to occur per the County General Plan of Zone 1B which allows .05 to 18 dwelling units per acre, it further states that such zoning is consistent with the City of Yorba Linda Land Use Element designation with a range of 0. – 1.0 du/a. This is yet another example of an exaggeration of comparability. How can these densities relate when the county's 1B zone would theoretically allow up to 738 dwellings while the city's zone would allow just 84? There is no legitimate relationship.

7

Also, note that Cielo Vista/Sage, under different interests, did in fact file a plan for development with the City of Yorba Linda in 2006 on that same Cielo parcel. Said development had just 84 dwellings, and complied with the 1.0 du/a contained in the City's general plan. Yet, that plan has been neither mentioned nor proposed as an option within this DEIR. Moreover, although the DEIR does give the briefest of mention to the additional, adjacent proposed development of Esperanza Hills with 340 proposed dwellings (with that developer indicating that an additional parcel under private ownership will be provided with an easement for future, yet to be determined development of more dwellings) it is unconscionable that any governmental jurisdiction be it county or city, would allow the magnitude of development being propose due to the recent, known outcomes of a major wild fire.

8

Freeway Complex Fire of 2008. The very property that is proposed for development of both Cielo Vista and Esperanza Hills was fully burned during the 2008 Freeway Complex fire. In addition, that same property was fully burned in the 1980 Owl fire. What is known today, and was not known in 2006 when different development interests actually proposed development, was just how fast and furious a wild fire can be with homes in its path.

9

The density of this Project makes it incompatible with the existing, limited capacity city streets that must be utilized for ingress and egress in the City of Yorba Linda. For those who lived through it, this writer is one, having 95 more residences (as planned for Planning Area 1 alone) trying to evacuate out on Via Del Aqua together with the existing residents is incomprehensible. Then there is the cumulative impact of 340

more homes in the proposed Esperanza Hills development. The complete project most likely includes plans to annex the property into the City of Yorba Linda. The project description as well as the rest of the DEIR should analyze the impacts of the developers proceeding in this direction.

9 (cont)

Conclusions:

Cielo Vista, as proposed in its DEIR, should be categorized as “**significantly inconsistent**” with the County of Orange General Plan and additionally with the City of Yorba Linda General Plan (as a Sphere of Influence stakeholder). Additionally, adjacent neighborhoods are not “clustered” in design. This *design concept* should, therefore, be considered **significantly inconsistent** with adjacent homes, and lacking real or visual “buffer” as required in the County’s General Plan, from existing development.

10

Environmental Constraints which exist on the property in the way of seismic and landslide dangers results in nearly 50 percent of the acreage being undevelopable. From a Land Use perspective, the developer should not be rewarded with the granting of a density which is **significantly inconsistent** with adjacent development. The 1B zoning as proposed by the developer for the other 50 percent of the property, would provide said developer with undue profit. This is particularly egregious if, once entitled, this developer sells off the property to a third party builder, leaving residents with the consequences.

Very truly yours,

Marlene Nelson, Member & Resident
Leadership Team
Protect our Homes and Hills
4790 Via De La Roca
Yorba Linda, CA 92887

Cc: Kevin Johnson, Esq.

LETTER: POHH-NELSON3**Marlene Nelson, Member**

4790 Via De La Roca
Yorba Linda, CA 92887
(January 17, 2014)

RESPONSE POHH-NELSON3-1

The Project proposes a density of 1.3 dwelling units per gross acre, which is very near the minimum density of 0.5 to 18 dwelling units per acre provided by the “1B” General Plan Land Use Element designation. The A1(O) zoning associated with the “1B” designation is considered by the County as a “holding zone” at this location pending a proposal for residential uses, consistent with the “1B” designation while allowing continuing oil operations. The Project’s density of 1.3 gross dwelling units per acre compares favorably with adjacent and nearby subdivisions as described in Table 4.9-3 on page 4.9-19 of Section 4.9, *Land Use Planning*, of the Draft EIR with density ranges of between 1.04 and 1.96 dwelling units per acre.

The County’s General Plan Land Use Element designation of “1B” Suburban Residential allows for clustering given its broad density range of 0.5 to 18 dwelling units per acre. The City’s General Plan Land Use Element designation of Low Density Residential at up to 1.0 dwelling units per acre states on Page LU-45 that clustering may occur at greater intensities to compensate for topographical constraints. The Project proposes a range of lot sizes from a minimum of 7,500 square feet, with an average lot size of approximately 15,000 square feet per the Project’s draft Area Plan. The Project’s clustering allows for the future single family homes to be compatible with the design and intensity of adjacent subdivisions. The clustering avoids development of the most topographically constrained areas, and allows for the preservation of approximately 36 acres, or approximately 43% of the 84 acre project site as open space.

By comparison to the City’s General Plan, the commenter is referred to the Project’s consistency analysis with the City’s General Plan Land Use Element in Table 4.9-2 on pages 4.9-14 and 4.9-15 of Section 4.9 in the Draft EIR. As shown on that table, while the Project is proposed at 1.3 gross dwelling units per acre, which is slightly above the 0-1.0 dwelling units per acre allowed by the Land Use Element’s Low Density residential designation, it is well below the average citywide residential density of 2.8 dwelling units per acre, and will incrementally reduce this citywide density. Also, it is within the range of densities for single family subdivisions immediately to the west of the project site. Additionally, the Land Use Element allows for a total of 536 dwelling units within this sphere of influence area east of the City limit with a total of 452 dwelling units proposed between this Project and Esperanza Hills Project to the east, well within the allowable maximum of 536 dwelling units. This is the summarized basis for the “essentially consistent” conclusion which goes beyond the mere arithmetic of the Land Use Element density range.

In summary, the Project is consistent with the County’s “1B” Suburban Residential designation with a density very near the lower end of the density range. Both the County General Plan and the City General Plan permit clustering to preserve significant topographically constrained areas and open space areas, and the Project is within the maximum number of dwelling units allowed for this area of the City’s sphere of influence area. The Project will incrementally reduce the citywide average residential density should the property be annexed to the City. And, with an average lot size of 15,000 square feet, the Project is compatible with the density in nearby subdivisions with larger lots located in Planning Area 2 and clustered lots with a minimum

lot size of 7,500 square feet located in Planning Area 1 which is adjacent to existing city neighborhoods allowing for higher densities than the city neighborhoods located adjacent to Planning Area 2.

A project is consistent with the general plan “if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719.) “A given project need not be in perfect conformity with each and every general plan policy.” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.) As evidenced by Table 4.9-2 of the Draft EIR and the preceding discussion regarding the Yorba Linda General Plan, the Draft EIR appropriately analyzed consistency with the Yorba Linda General Plan, looking at both specific policies and general consistency. As noted therein, the Project would be potentially consistent with the Yorba Linda General Plan. A lead agency’s determination that a project is consistent with a general plan carries a strong presumption of regularity. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 238.)

Moreover, the Final EIR includes a new alternative – the Modified Planning Area 1 Only Alternative (Alternative 5) – which is consistent with the Yorba Linda General Plan’s density restrictions. This alternative was determined to be the environmentally superior alternative, and may be adopted by the County Board of Supervisors.

The commenter is incorrect in stating that the Project avoids environmental impacts or avoids mitigating them. The Draft EIR contains a comprehensive discussion and analysis of impacts and mitigation of Project caused impacts as required by CEQA.

RESPONSE POHH-NELSON3-2

The commenter’s summary of residential development in the project area is noted. An analysis of Project alternatives, including why the Project alternatives discussed are not being pursued, is provided in Chapter 5.0 of the Draft EIR.

RESPONSE POHH-NELSON3-3

The commenter is incorrect in stating that the Project avoids environmental impacts or avoids mitigating them. The Draft EIR contains a comprehensive discussion and analysis of impacts and mitigation of Project caused impacts as required by CEQA. The County concurs with the analysis in the Draft EIR that up to 738 dwelling units may be permissible on the project site under existing land use controls.

RESPONSE POHH-NELSON3-4

The County disagrees with the commenter’s conclusion that the Project is “significantly inconsistent” with the County General Plan and City General Plan and is referred to comment POHH Nelson3-1.

RESPONSE POHH-NELSON3-5

The County disagrees with the commenter’s conclusion that the Project is “significantly incompatible and should also be deemed inconsistent with adjacent development” as explained in Response POHH-Nelson3-1.

RESPONSE POHH-NELSON3-6

The commenter correctly notes that slope and seismic hazards can constrain development which may increase the cost of construction. The Project Applicant is aware of this because it is required to engineer the site so that it is safe for residential development. Additionally, given that the project site has numerous environmental constraints which are discussed and analyzed in the Draft EIR, 112 single family dwelling units are appropriate for the site (1.3 gross dwelling units per acre) for which impacts can be mitigated to a less than significant level. Therefore, contrary to the commenter's observation, no density reward is being given by the County. Please also refer to Response POHH-Nelson3-1 for a discussion of Project compatibility and consistency.

RESPONSE POHH-NELSON3-7

Please refer to Response POHH-Nelson3-1 which notes that Project density at 1.3 dwelling units per gross acres is slightly above the City's Low Density designation of 0 to 1.0 dwelling units per acre and close to the lower and on the County's "1B" Suburban Residential designation of 0.5 to 18 dwelling units per acre. Moreover, the Final EIR includes a new alternative – the Modified Planning Area 1 Only Alternative (Alternative 5) – which is consistent with the Yorba Linda General Plan's density restrictions. This alternative was determined to be the environmentally superior alternative, and may be adopted by the County Board of Supervisors.

RESPONSE POHH-NELSON3-8

The Project Applicant filed for an 84 dwelling unit project with the City in 2006. That application was subsequently withdrawn. Regarding the Esperanza Hills Project, it is analyzed for cumulative impacts with the Cielo Vista Project in every impact subsection under Chapter 4.0, *Environmental Analysis*, of the Draft EIR.

RESPONSE POHH-NELSON3-9

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts. Also, please refer to Topical Response 3 regarding fire evacuation.

RESPONSE POHH-NELSON3-10

Please refer to Responses POHH Nelson 3-1 through POHH Nelson 3-8.

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January 18, 2014

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Section 4.14 – Traffic and Transportation

Dear Mr. Tippets:

The following comments are provided with regard to Section 4.14 Traffic and Transportation.

The traffic study concludes that the intersection of Yorba Linda and Stonehaven need not be included in the traffic study. There is a map and legend on Page 4.14-3 which states that, “intersection ...does not meet 1% test (County of Orange) or 50 peak hour trip (City of Yorba Linda) threshold,” and therefore Cielo Vista is of the opinion that Stonehaven and YL Blvd does not require analysis. What is the basis of that opinion and what data was used to arrive at it?

I note that the study was conducted in May-June of 2012. What are the exact dates of the study? Schools are out before the end of June so the study period was inadequate as the study included a period when school was out for summer. In addition, as commented below, when Via Del Aqua gets a signal, traffic will be disbursed more evenly throughout the Stonehaven/Aqua loop in my opinion. Question: Where was the counting mechanism/tube on Stonehaven placed exactly? There is a Kindercare Pre School at the corner and from experience upon taking my grandsons there, approximately 60 families drop off and pick up children during peak hours. Was the tube across the street placed north of Kindercare’s approach so as to avoid including that count? This places the entire Traffic Study into question.

How can it be assumed that the addition of 95 homes with sole access to the terminus of Via Del Aqua and Stonehaven would only adversely impact Via Del Aqua. Based upon my personal observation as I travel these roads frequently, traffic can be observed now which shows that residents living off Via Del Aqua routinely travel north, up and to Stonehaven and proceed south, down to Yorba Linda Boulevard to turn left or south onto Yorba Linda Boulevard with benefit of the traffic control signal. Likewise

residents that live on the lower sections of Stonehaven (e.g., between Heatheridge and Aviemore) travel north UP Stonehaven to Via Del Aqua and down to Yorba Linda Blvd., turning right to the west in order to avoid the control of a traffic signal. It is totally insufficient not to address daily trips, particularly during peak periods, throughout the entire loop of Via Del Aqua and Stonehaven to include both intersections at Yorba Linda Boulevard. Cielo Vista suggests a mitigation measure for Via Del Aqua by the installation of traffic signal light. A traffic light at Via Del Aqua *will* change the dynamics of travel preference among the residents throughout the neighborhood. This needs further analysis.

4 (cont)

5

Likewise, the cumulative analysis of adding yet 378 MORE HOMES from Esperanza Hills to access that same loop does not adequately address Stonehaven in this traffic study. When you factor in that there is a combination Elementary and Middle School between Via del Aqua and Stonehaven (Travis Ranch Elementary and Middle School) which is on Yorba Linda Blvd., plus Kindercare for infants through preschool located at the intersection of Stonehaven and Yorba Linda Blvd., residents from existing and new development will attempt to get their children to school in a timely manner. Speaking again from experience, the congestion caused by parents dropping off and picking up children causes backups beyond the capacity of the present turning ques. It is imperative that the traffic study include all intersections that are affected on the Via del Aqua/Stonehaven loop.

6

The traffic study also appears to speculate that the primary access by Esperanza Hills would be via Aspen/San Antonio when in fact that option would require that the developers/owners of Cielo Vista grant this easement right to Esperanza Hills. The fact is that there is a current lawsuit between Esperanza Hills vs. Cielo Vista (see Exhibit 1, attached) to utilize an emergency access point at Street A of the Cielo Vista project. Cielo Vista denies the existence of this easement right. Question: Why would Cielo Vista describe an ADDITIONAL access easement for Esperanza Hills when the applicant already denies the very existence of the emergency easement? Cielo Vista capitalizes on Esperanza Hills' access at Aspen/San Antonio to downplay traffic on the entire Via Del Aqua/Stonehaven loop. Again, the cumulative impact of all proposed development has not been sufficiently addressed and the traffic study should analyze traffic flows both with and without the easement.

7

The additional traffic generated by the proposed development calls for a "Traffic Calming" study in an effort to slow down the traffic, especially in the down-hill direction. Although the traffic study addresses the 240 foot sight lines at Street A at Via Del Aqua, it appears silent as to the considerable grade on Via Del Aqua's southern approach to Street A. The grade which contributes to current unsafe speeds should be taken into consideration with respect to traffic and in particular consider and address the cumulative impact of Esperanza Hills and its 378 additional homes. Mitigations from similar studies include landscaped raised median, traffic circles, stop signs, traffic humps.

8

Further, the proposed development should also consider widening the intersection of Yorba Linda Blvd. and Via Del Aqua to accommodate added traffic due to the development. There is no proof that a single traffic signal to be installed at Via Del Aqua and Yorba Linda Blvd., is all that is required to provide tolerable traffic conditions. Likewise, the widening and additional landscaped median at this intersection should be incorporated into the EIR.

9

Conclusions:

In summary, the text portion of the traffic study is in need of an update to quantify and add the 2013 data which is only incorporated as raw data in Appendix L. In addition, the traffic study insufficiently considers the cumulative impact of other new development (both adjacent and city-wide); ignores totally the traffic impact on Stonehaven omitting any data and discussion related thereto; places a positive spin (which downplays traffic impacts on Via Del Aqua) on an access point for Esperanza Hills to Aspen that Cielo Vista alone controls and for which Cielo Vista shows no interest in allowing; and does not address the impact of a significant downward grade approaching Street A with ramifications of increased speed and noise as a result of braking and “gunning” of engines. Cielo Vista provides a deficient mitigation measure with regard to Traffic which only provides for a new signal to be installed at Via Del Aqua and Yorba Linda Blvd. The result is that this development poses very negative impacts to existing streets and to the current and future residents of the City of Yorba Linda who will use them going forward.

10

11

Very truly yours,

Marlene Nelson, Member & Resident
Leadership Team
Protect our Homes and Hills
4790 Via De La Roca
Yorba Linda, CA 92887

Enc. Exhibit 1. Yorba Linda Estates L.L.C. vs. Virginia Richards Trust

Cc: Kevin Johnson, Esq.

LETTER: POHH-NELSON4**Marlene Nelson, Member**

4790 Via De La Roca
Yorba Linda, CA 92887
(January 18, 2014)

RESPONSE POHH-NELSON4-1

The California Environmental Quality Act (CEQA) allows agencies to have thresholds to determine when projects would have the potential to cause an impact. The lead agency (County of Orange) has utilized the County's Congestion Management Program (CMP) traffic study guidelines to determine when the Project's off-site traffic impact would be significant for CEQA purposes. Per CMP guidance, a project study area is defined based on intersection locations where the contribution of project traffic results in the intersection capacity utilization (ICU) value increasing by one (1) percent or more of a DEFICIENT intersection as compared to the No Project condition is considered significantly impacted and mitigation measures are required to reduce the project's impact to a level of insignificance. This is more stringent than the City of Yorba Linda's traffic study guidelines, which recommend the analysis of study area intersections where the project is anticipated to contribute 50 or more peak hour trips. The Project is anticipated to contribute fewer than 50 peak hour trips to the intersection of Stonehaven and Yorba Linda Boulevard and the addition of Project traffic was found to also change the ICU value by less than 1% (or 0.01). As such, the County of Orange and City of Yorba Linda staff agreed (via the scoping process) that focused intersection level operation analysis is not needed for this intersection, consistent with the County's CMP and the City's traffic study guidelines.

RESPONSE POHH-NELSON4-2

Traffic counts utilized in the traffic study were conducted on May 2, 2012, May 20, 2012 and June 5, 2012. All three dates reflect typical weekday conditions on normal school days. Per the Placentia-Yorba Linda Unified School District calendar, the last day of instruction was June, 15, 2012.

RESPONSE POHH-NELSON4-3

Peak hour intersection counts during the hours of 7-9 AM and 4-6 PM (typical peak hours of the adjacent street traffic) were collected at all study area intersections, including the intersections of Via de la Roca at Via del Agua and Stonehaven at Yorba Linda Boulevard. The peak hour intersection counts collected at the intersection of Via de la Roca and Via del Agua were utilized to determine the east-west through volumes at the future Project driveway (proposed to be located just north of Via de la Roca). A review of the counts at this intersection indicates that the distribution of traffic is approximately 20% heading east towards Stonehaven and 80% west on Via del Agua during the AM peak hour volumes and 60% heading east towards Stonehaven and 40% west on Via del Agua during the PM peak hour. The intersection of Stonehaven at Yorba Linda Boulevard was counted during the AM and PM peak hours for the purposes of conducting the 1% test (not a tube count). This count would have captured all school traffic coming to and from the KinderCare as its only access is on Stonehaven, just east of Yorba Linda Boulevard.

RESPONSE POHH-NELSON4-4

The access to Yorba Linda Boulevard and associated traffic patterns will change from what the commenter observes with the implementation of the Project and signalization of Via del Agua and Yorba Linda Boulevard. The Project access point is far closer in proximity to Yorba Linda Boulevard via Via del Agua than to Yorba Linda Boulevard via Stonehaven. Although existing residents have been observed to travel north to Stonehaven to utilize the signalized intersection at Stonehaven and Yorba Linda Boulevard, this behavior is anticipated to decrease as the Project intends to signalize the intersection of Via del Agua at Yorba Linda Boulevard, making that intersection the most logical access point to Yorba Linda Boulevard from the Project site. With the proposed signalization of Via del Agua and Yorba Linda Boulevard, it will be more efficient for vehicles exiting from the Project to utilize the intersection of Via del Agua and Yorba Linda Boulevard to make either a left or right turn.

RESPONSE POHH-NELSON4-5

The installation of a traffic signal may change existing travel patterns, but only in the sense of evenly splitting the traffic between Via del Agua and Stonehaven (and therefore reduce impacts) as both intersections will ultimately have the same traffic control, residents may elect to no longer go around to use one or the other. In other words, people who live off of Via del Agua may utilize the signal at Via del Agua and Yorba Linda Boulevard while those that live on the east side of the loop (off of Stonehaven) may utilize the signal on Stonehaven at Yorba Linda Boulevard. In effect, residents will likely choose to take the shortest path and adjust travel patterns accordingly. However, in order to be conservative, this change in travel patterns that could potentially reduce the traffic impacts is not accounted for in the traffic analysis.

RESPONSE POHH-NELSON4-6

The effects of the Esperanza Hills Project have been accounted for in the Opening Year and Horizon Year analysis scenarios and labeled as the "Access Alternative". Taking into consideration the location of the Travis Ranch Elementary/Middle School and the KinderCare, the Project's proximity to these locations is closer using Via del Agua as opposed to Stonehaven. The Cielo Vista Traffic Impact Study project trip distribution does not assign any project trips east of the project site on Via Del Agua/Stonehaven Drive, therefore additional intersections on the Via del Agua/Stonehaven loop are not required to be included in the traffic analysis.

The analysis, however, does assign 37% of the Project traffic eastbound on Yorba Linda Boulevard at the intersection of Stonehaven Drive. The analysis shows that with the cumulative project traffic that includes the Esperanza Hills Project and the Cielo Vista Project traffic, the intersection of Via del Agua/Yorba Linda Blvd. will operate at LOS "A" or better with the recommended traffic signal. The Project is not expected to add more than 50 peak hour trips to the intersection of Stonehaven Drive/Yorba Linda Blvd. and therefore, the Project impacts at this location are considered less than significant.

RESPONSE POHH-NELSON4-7

Contrary to the commenter's suggestion, the traffic study evaluates both Esperanza Hills Option 1 (access to Via del Agua/Stonehaven) and Option 2 (access to Aspen Way). Both Option 1 and 2 have been evaluated for both Opening Year and Horizon Year traffic conditions.

RESPONSE POHH-NELSON4-8

Through the scoping process, the City of Yorba Linda did not request that traffic calming be addressed as part of the traffic study. Furthermore, the Project's traffic alone does not warrant a traffic calming analysis as the Project is anticipated to contribute less than 100 peak hour trips to Via del Agua. As demonstrated in the traffic study, the addition of Project traffic is not anticipated to result in any deficiencies, with the exception of the intersection of Via del Agua at Yorba Linda Boulevard which is currently operating at deficient LOS during the peak hours. It is important to recognize that traffic calming measures are intended to slow vehicles and consequently also result in reduced traffic capacity.

RESPONSE POHH-NELSON4-9

Contrary to the commenter's suggestion, with the proposed mitigation measure to install a traffic signal at the intersection of Via Del Agua at Yorba Linda Boulevard, the intersection of Via Del Agua at Yorba Linda Boulevard is anticipated to operate at LOS "B" during the peak hours under Horizon Year 2035 traffic conditions. As peak hour capacity and associated LOS are anticipated to far exceed the County and City of Yorba Linda's standard of LOS "D" or better, widening of the intersection or otherwise improving the median is not necessary.

RESPONSE POHH-NELSON4-10

This comment provides a general conclusion regarding the issues raised in this letter. Individual responses to this letter are provided above in Responses POHH-Nelson4-1 through POHH-Nelson-9. Based on the responses provided above, no further updates to the text portion of the EIR analysis are necessary.

RESPONSE POHH-NELSON4-11

Please refer to Responses POHH-Nelson4-1 through POHH-Nelson-9 regarding the traffic issues raised in this comment letter.

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January 19, 2014

Orange County Planning
Attn: Mr. Ron Tippets
300 North Flower
Santa Ana, CA 92702-4048

Re: Cielo Vista Project – Draft Environmental Impact Report, EIR No. 615
Section 4.2 AIR QUALITY

Dear Mr. Tippets:

The following comments are provided in regard to the Cielo Vista Draft Environmental Report under Section 4.2 Air Quality.

“3. Cumulative Impacts. The Project combined with cumulative development in the area may result in cumulative air quality impacts. However, project-by-project analysis of air quality impacts and compliance with applicable regulatory requirements would ensure that potentially significant cumulative impacts regarding air quality impacts are reduced to a less than significant level.” (emphasis added)

1

The above comment is quoted from page 4.2-32 of the Air Quality section of the Cielo Draft Environmental Impact Report regarding **cumulative impacts** of this and adjacent development. As in other sections of the Cielo DEIR, cumulative impacts are given inadequate, incomplete and insignificant attention throughout the document and Air Quality is no exception.

The DEIR for Cielo Vista just ignores other development, stating there is no significant cumulative impact when dealing with their own project. This is not a proper CEQA analysis.

I would like, at this point, digress a bit, to the late 1980's, with a factual analysis of the impact on air quality of hillside development that requires an inordinate amount of earth to be bulldozed and graded for months and even years before the “dust settles.”

2

We bought our home and moved to 4790 Via De La Roca, in November 1985. At that time, Via Del Aqua stubbed out at a dead-end just past our street, Via De La Roca. The dead-end was actually overlooking a small canyon beyond...where Cielo Vista now

wants to build and is precisely where Street A (primary entrance) would be located. About three years after we moved in, bulldozers started to cut Stonehaven up from Yorba Linda Boulevard through the hills to our northwest. The real estate market started to heat up with lotteries the common scene for anxious buyers. To our amazement the extreme amount of dirt that was cut from Stonehaven soon found its place....it was dumped to the northwest of Heatherridge. So at that time, for months, we watched as the dozers continued to bring thousands of cubic yards of dirt over to our side of the ridge and to our amazement, Stonehaven was eventually tied in to Via Del Aqua. That was certainly not what we were shown when we purchased our Brock Estates home as to potential development behind our home. Devonport, Stirlingbridge, and Blue Mountain all were fabricated by the fill from cutting Stonehaven. We were amazed and disappointed because we had been told when we purchased our home that Via Del Aqua would continue into the Blue Mud area for large, one acre equestrian estates at some time in the future. And then it started....

2 (cont)

My daughter, 8 years old at the time, began having severe coughing events whenever she caught even a mild cold. She coughed so much that she could literally be sleeping and still violently cough. It took months of going back and forth to the doctor. Finally a diagnosis was provided....the doctor told us that she had ENVIRONMENTAL ASTHMA caused by the release of spores from all the earth that was being bulldozed by the cut and fill of Stonehaven. She eventually had to have sinus surgery a couple years later. To this day, now in her early 30's, she continues to have extreme, prolonged coughing spells whenever she has a cold or is exposed to air pollutants.

So here we are with these proposed developments by developers who would claim that there will be no import or export of soil in the grading of the property. Projects, however, will require over two years' worth of grading activity and on land that, this time, has known carcinogens from oil production and which has the potential to release methane. Cielo Vista and the adjacent proposed development of Esperanza Hills will need to move hundreds of thousands cubic yards of dirt, primarily to skirt around known hazards including the Whittier Fault and landslide areas, as well as a topography of deep canyons and oil field operations (both active and capped).

A visual survey of the land as it now exists would certainly cause any normal person to believe the land is undevelopable. But to a developer, with enough capital, and enough bulldozers, a lot of money could be made. No matter that the full development could take a minimum of two years of cutting, filling and grading activity, but the full completion of the area could take upwards of SEVEN years to complete (taken from the DEIR of Esperanza Hills....but then the **cumulative** impacts are supposed to be addressed are they not?).

Existing residents, many original owners, who have lived here since 1985, some twenty-eight years, are now expected to be exposed and put in harm's way by massive

grading operations resulting in endless phases of development and construction lasting for nearly one-third of the time they have resided in their homes. Many of the original homeowners are now retired, and some have developed health issues of their own in their senior years. Should they now be forced to shutter their windows, stay inside “shelter-in-place” not because of fire, but because of the prolonged exposure to dust and dirt? Developers who wish to bulldoze this amount of land that will take years to complete should be required to compensate adjacent homeowners who will incur a huge expense by running their air conditioners 24/7. Will that mitigation be provided to residents of Yorba Linda who prefer fresh country air?	2 (cont)
Can adjacent homeowners be assured that there will not be the exporting of contaminated dirt? What studies have been done to ensure that this won’t occur? Can this be known before the property is torn up and earth spores exposed? What protection will residents of property abutting the land be provided if environmental hazards are exposed and released into the air during upset of the land?	3 4 5 6
Cielo Vista’s DEIR is very clear under the GEOLOGY section that necessary coring and sampling of soil in its geologist’s reports has not been accomplished and remains to be done. All developer assertions made are sheer speculation that there will not be significant negative impacts on existing residents or that Air Quality will not be adversely impacted by the development of this property. Note that the DEIR for Esperanza Hills states that Greenhouse Gases is one negative impact that cannot be mitigation to a level less than significant. Yet Cielo Vista’s DEIR is silent.	7 8
The County of Orange should demand that the developer do the necessary due diligence required now versus gaining entitlement and thereafter no doubt sell off the property to a builder. Per the County of Orange General Plan, this property suffers from <i>environmental constraints</i> and while not precluding development, development may require additional expense of mitigation from the impacts of the project which needs to be paid for by the developer	9 10

Very truly yours,

Marlene Nelson, Member & Resident
Leadership Team
Protect our Homes and Hills
4790 Via De La Roca
Yorba Linda, CA 92887

Cc: Kevin Johnson, Esq.

LETTER: POHH-NELSON5**Marlene Nelson, Member**

4790 Via De La Roca
Yorba Linda, CA 92887
(January 19, 2014)

RESPONSE POHH-NELSON5-1

The Draft EIR addressed air quality impacts in Section 4.2, *Air Quality*, with supporting data provided in Appendix B of the Draft EIR. Cumulative air quality impacts are discussed on page 4.2-32 of the Draft EIR. Contrary to the comment, the discussion of cumulative air quality impacts does consider the list of related projects identified in Chapter 3.0, *Basis for Cumulative Analysis*, in the Draft EIR. With regards to cumulative construction air quality impacts, the County acknowledges that construction activities between the Esperanza Hills Project (or other related projects) and the Cielo Vista Project potentially could overlap. However, there would be numerous construction phases for each project, and it would be speculative at this point in time to identify the timing of each phase for the related projects and the associated emissions by phase to determine the precise extent of potential cumulative construction emissions. Accordingly, as discussed in the Draft EIR's cumulative impact analysis, other cumulative projects (including the Esperanza Hills Project) would comply with SCAQMD's Rule 403 (fugitive dust control) during construction, as well as all other adopted AQMP emissions control measures. Per SCAQMD rules and mandates, as well as the CEQA requirement that significant impacts be mitigated to the extent feasible, these same requirements would also be imposed on all projects Basin-wide, which would include all related projects. As such, cumulative impacts during construction would be less than significant.

With regards to operational impacts, the analysis is based on guidance from the South Coast Air Quality Management District (SCAQMD). As stated in that analysis, the *SCAQMD's CEQA Air Quality Significance Thresholds (March 2009)* indicate that any projects in the Basin with daily emissions that exceed any of the indicated thresholds should be considered as having an individually and cumulatively significant air quality impact. The SCAQMD also states that "projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant."⁹ Based on this guidance, since Project operation would not result in the emissions of non-attainment pollutants and precursors in excess of the SCAQMD project-level thresholds, cumulative air quality impacts would be less than significant. Further, given the Project's consistency with the SCAQMD Air Quality Management Plan (AQMP), the Project's incremental contribution to cumulative air quality effects is not cumulatively considerable.

RESPONSE POHH-NELSON5-2

The Draft EIR addressed air quality impacts in Section 4.2, *Air Quality*, with supporting data provided in Appendix B of the Draft EIR. As indicated in Table 4.2-8 on page 4-2.25 of the Draft EIR, fugitive dust emissions would be less than the health protective threshold established by the SCAQMD and CARB. As a result, fugitive dust emissions would result in a less than significant impact to nearby sensitive receptors.

⁹ South Coast Air Quality Management District, *White Paper on Potential Control Strategies to Address Cumulative Impacts From Air Pollution*, Appendix D, August 2003.

Also, as specified in the Draft EIR, Mitigation Measures 4.2-1 and 4.2-2 have been proposed to control fugitive dust emissions. In response to a City comment (see Response CITY2-98), applicable requirements of SCAQMD Rule 403 have also been included under Mitigation Measure 4.2-1 to control fugitive dust and impacts to nearby residents.

Cumulative air quality impacts are discussed on page 4.2-32 of the Draft EIR. The County acknowledges that construction activities between the Esperanza Hills Project and the Cielo Vista Project potentially could overlap. However, there would be numerous construction phases for each project, and it would be speculative at this point in time to identify the timing of each phase for both projects. Accordingly, as discussed in the Draft ER's cumulative impact analysis, other cumulative projects (including the Esperanza Hills Project) would comply with SCAQMD's Rule 403 (fugitive dust control) during construction, as well as all other adopted AQMP emissions control measures. Per SCAQMD rules and mandates, as well as the CEQA requirement that significant impacts be mitigated to the extent feasible, these same requirements would also be imposed on all projects Basin-wide, which would include all related projects. As such, cumulative impacts during construction would be less than significant.

Please also refer to Topical Response 1 regarding the separation of Esperanza Hills and Cielo Vista during the CEQA environmental review process, with Esperanza Hills being properly analyzed as a related project for purposes of Cielo Vista's cumulative impacts analysis.

RESPONSE POHH-NELSON5-3

Please refer to Response POHH-NELSON5-2 for a discussion of mitigation measures to control fugitive dust emissions from exceeding unhealthful standards at adjacent residential uses.

RESPONSE POHH-NELSON5-4

Handling of potentially contaminated soil was addressed in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR. As discussed under Impact Statement 4.7-2 beginning on page 4.7-20, a Soils Management Plan (SMP) and a Health and Safety Plan (HASP) would be implemented by the Project when handling suspected contaminated soils. These plans establish the protocol for the safe handling and disposal of impacted soils that could be potentially encountered during construction activities. Additional soil testing would be implemented to ensure soils are accurately characterized prior to excavation and earth moving activities. Mitigation Measures 4.7-1 to 4.7-3 require these plans to be prepared and implemented during construction activities. As concluded under Impact Statement 4.7-2, with implementation of the applicable project design features (PDFs), the prescribed mitigation measures and compliance with applicable regulatory requirements, all potentially significant impacts regarding the Project's potential to 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 would be reduced to a less than significant level.

RESPONSE POHH-NELSON5-5

Please refer to Response POHH-NELSON5-4 for a discussion of soil management and testing prior to construction activities.

RESPONSE POHH-NELSON5-6

Please refer to Response NELSON5-4 for a discussion of soil management and testing prior to construction activities. In addition, the Draft EIR under Impact Statement 4.7-2 beginning on page 4.7-20 provides details on handling potentially contaminated soil. If contaminated soils are encountered during excavation activities, a VOC mitigation plan in accordance with South Coast Air Quality Management District (SCAQMD) Rule 1166 would be required. This rule sets requirements to control VOC emissions from excavation or handling of VOC contaminated soil. In addition to SCAQMD requirements, the SMP would be reviewed by other regulatory agencies such as the Regional Water Quality Control Board and Department of Toxic Substances Control, as necessary, based on applicable regulatory requirements.

RESPONSE POHH-NELSON5-7

Geology and soils impacts were addressed in Section 4.5, *Geology and Soils*, of the Draft EIR, with supporting data provided in Appendix E of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measure. Please refer to Topical Response 4 and revised Mitigation Measure 4.5-1.

RESPONSE POHH-NELSON5-8

The Draft EIR addressed greenhouse gases in Section 4.6, *Greenhouse Gas Emissions*, with supporting data provided in Appendix F of the Draft EIR. As discussed on page 4.6-27 of the Draft EIR, the Project would result in GHG emissions which are below the SCAQMD threshold of 3,000 MT CO₂E. The Esperanza Hills Project, which the commenter cites, is many times larger than the Cielo Vista Project and involves additional vehicle and construction trips, for example, that contribute to its significant GHG impact.

RESPONSE POHH-NELSON5-9

The County is ensuring that all appropriate due diligence pertaining to the environmental review of the Project is conducted as part of this CEQA EIR process and as required by State law. Chapter 1.0, *Introduction*, includes an overview of the CEQA public review process conducted for the Project.

RESPONSE POHH-NELSON5-10

The comment is noted by the County. The Project Applicant would be required to incur the costs associated implementation of the mitigation measures prescribed in the Draft EIR.

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Marlene Nelson
4790 Via De La Roca
Yorba Linda, CA 92887

November 19, 2013

Via E-Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. The current response period is just 15 days longer than the NOP comment period despite the fact that the draft EIR contains hundreds more pages, exhibits, and data to review. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving

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maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

3 (cont)

In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

/s/ Marlene Nelson

Marlene Nelson

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-NELSON6**Marlene Nelson, Member**

4790 Via De La Roca
Yorba Linda, CA 92887
(November 19, 2013)

RESPONSE POHH-NELSON6-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-NELSON6-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-NELSON6-3

Please refer to Response POHH-NELSON6-1.

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Letter:POHH-Pailma

Christopher and Jaime Pailma
4710 Blue Mountain Drive
Yorba Linda, CA 92887

November 12, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

3 (cont)

Very truly yours,

Christopher and Jaime Pailma, Member
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-PAILMA**Christopher and Jaime, Members**

4710 Blue Mountain Drive

(November 12, 2013)

RESPONSE POHH-PAILMA-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

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RESPONSE POHH-PAILMA-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-PAILMA-3

Please refer to Response POHH-PAILMA-1.

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Letter: POHH-Pizzati

Mr. & Mrs. S. Pizzati
4901 Orlando Dr.
Yorba Linda, CA 92886

November 12, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in the process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

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3 (cont)

Very truly yours,

Sal and Linda Pizzati

Sal & Linda Pizzati, Member
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-PIZZATI**Sal and Linda Pizzati, Members**

4901 Orlando Drive
Yorba Linda, CA 92886
(November 12, 2013)

RESPONSE POHH-PIZZATI-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

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RESPONSE POHH-PIZZATI-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-PIZZATI-3

Please refer to Response POHH-PIZZATI-1.

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Letter: POHH-Prina

Dennis Prina
4620 San Antonio Rd.
Yorba Linda, CA 92886

November 13, 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippets
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippets:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

3 (cont)

Very truly yours,

Dennis Prina
Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-PRINA

Dennis Prina, Member
4620 San Antonio Road
(November 13, 2013)

RESPONSE POHH-PRINA-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

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RESPONSE POHH-PRINA-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-PRINA-3

Please refer to Response POHH-PRINA-1.

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Geotechnical Exploration, Inc.

SOIL AND FOUNDATION ENGINEERING • GROUNDWATER • ENGINEERING GEOLOGY

22 January 2014

Orange County Planning Commission
300 North Flower
Santa Ana, CA 92702-4048
Attn: Mr. Ron Tippets

Job No. 14-10450

Subject: **Review of Geotechnical and Geologic Concerns**
Draft Environmental Impact Report
Cielo Vista Project EIR No. 615
Yorba Linda, California

Dear Mr. Tippets:

In accordance with the request of Protect Our Homes and Hills represented by KEVIN K. JOHNSON, APLC, ***Geotechnical Exploration, Inc.*** herein provides commentary on the subject draft EIR based upon our review of the reported geotechnical and geologic conditions.

We are a full-service soil engineering firm located in the City of San Diego, established in 1976, with staff possessing the appropriate registrations and certifications in civil engineering, geotechnical engineering, geology and engineering geology. The personnel at ***Geotechnical Exploration, Inc.*** have background experience in soil mechanics, feasibility and design, environmental planning, hazard evaluation, quality control, field supervision and inspection, material testing, and management consultation. This experience has been applied to geotechnical and geologic investigations for residential subdivisions, multi-story commercial complexes, light residential foundations and deep caisson design, street and septic system design, hazard mitigation and litigation, dams, slope stability and settlement analyses. Our work includes predevelopment exploration and grading observation and testing services, hydrogeologic water resource and hazardous

materials studies, forensic investigations and expert testimony, and geotechnical services related to post damage reconstruction.

We have explored and investigated active California faults and landslides in San Diego County, Orange County, Los Angeles County and northwestern Mexico for the purposes of project development, mitigation and repair. Our experience includes evaluation of reported residential damage to homes following earthquakes that occurred on the Newport-Inglewood and Whittier Fault zones.

Our Scope of Work was limited to review of the referenced DEIR and preparation of this letter with our comments. We have not performed a site investigation or reconnaissance of the site.

BACKGROUND DOCUMENTS

We have reviewed the Draft Environmental Impact Report (DEIR) No. 615 for the planned Cielo Vista project. This document was prepared by PCR Services Corporation and is dated November 2013. The DEIR included the following sections pertinent to the discussion of site geologic and geotechnical conditions:

1. Executive Summary, pages ES-3, ES-21 through ES-23;
2. 2.0 Project Description;
3. 4.5 Geology and Soils;
4. Appendix E Geology Study including:
 - a. "Geologic and Geotechnical Evaluation In support of Due Diligence Evaluation "Travis" Property; City of Yorba Linda, County of Orange, California" dated June 8, 2006, prepared by Pacific Soils Engineering, Inc. work order 500674.



- b. "Geotechnical Feasibility Study, Proposed Development of Tentative Tract Map No. 17341, County of Orange, California" dated March 1, 2013, prepared by LGC Geotechnical, Inc.; Project No. 10106-01.

Our description of site conditions as provided herein is based solely on review of these pertinent project and geologic/geotechnical references. Our opinions are based on this review and our experience as an active geotechnical consultant in southern California.

PROJECT AND SITE DESCRIPTION

We understand the planned Cielo Vista project includes development of an 84 acre tract located in unincorporated Orange County adjacent to the City of Yorba Linda. The project applicant plans for a maximum of 112 single-family dwellings to be constructed on 47.7 acres in 2 Planning Areas. The remaining 36.3 acres would be preserved as open space. The site is currently primarily vacant land with some operational and abandoned oil wells and appurtenant dirt access roads and trails.

Residential communities exist along the north, south and west sides of the property. The 469-acre undeveloped Esperanza Hills parcel exists to the east. The site and adjacent undeveloped properties are within an area commonly referred to as the Murdock Properties. Chino Hills State Park exists to the north and east of this undeveloped area of Orange County.

The L-shaped site is characterized by moderate to steeply sloping hillsides with over 300 feet of relief, from lower elevations in the south (565 feet above Mean Sea Level, MSL) to 885 feet above MSL in the north. Three relatively deeply incised southerly and westerly draining canyons cross the site. Native vegetation



supporting natural habitats exists across most of the site except where oil operations and associated facilities exist.

REGIONAL AND LOCAL GEOLOGIC SETTINGS

The site is located in the Puente Hills which are the foothills of the northwestern portion of the Santa Ana Mountains. These form the eastern boundary of the Los Angeles Basin within the Peninsular Ranges Geomorphic Province within California, characterized by northwest trending mountain ranges, intervening valleys and multiple sub-parallel fault systems. The faults in this province are typically right-lateral strike slip faults. Several large active faults exist in the region of the site including the San Joaquin Hills Thrust Fault, Newport-Inglewood Fault, San Andreas Fault and Whittier-Elsinore Fault.

The Tertiary-age Puente Formation forms the site bedrock materials. This Miocene unit consists of thin to massively bedded sandstone, siltstone and shale with minor overlying topsoil and colluvium. Older alluvial materials and abandoned stream terrace deposits are also present on upper portions of the site. Younger alluvium exists within canyon bottoms.

The bedrock materials within the Puente Formation are highly folded due to regional faulting and proximity to the Whittier Fault, with multiple east-west trending synclines and anticlines. Beds dip steeply to both the north and south and include thin weak planes along and across the bedding subject to localized instability. Several large-scale potentially hazardous landslide areas have been indentified on the northwestern portion of the project site. The hazard represented by these landslides has not been evaluated. This hazard could modify or preclude the current planned development on the northwestern portion of the project.



The Whittier Fault forms the dominant structural feature on the site. It crosses the central portion of the site from northwest to southeast and is approximately 1,660 feet long on the site. This fault is considered active by the State of California per the Alquist-Priolo Act of 1972 and is identified as a 1000-foot-wide Fault Rupture Hazard Zone on the fault-rupture hazard zone map. The hazard zone map uses the base USGS Yorba Linda 7.5' quadrangle. The surface trace of the fault has not been identified within this zone on the map and is dashed to indicate only an approximate location. The Alquist-Priolo Act requires that active fault locations be identified such that habitable structures are not located across the surface fault trace.

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GEOLOGIC HAZARDS

Federal, State of California, County of Orange and City of Yorba Linda regulations control the development of the project including the geotechnical and geologic aspects of site development. The geotechnical and geologic consultants for the project have identified several hazards on the site that will require avoidance or mitigation. The degree of project redesign and loss of planned lots resulting from the avoidance or mitigation of these hazards and their impacts cannot be determined until site conditions are investigated and fully addressed. Due to the presence of hazards associated with the Whittier Fault Zone (WFZ) the site is considered a high risk site, which will most likely require significant redesign. The hazards include:

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- Significant ground shaking from potential seismic events on the Whittier Fault on site, up to magnitude $M_w 7.2$, and other large active southern California faults;



- Ground surface rupture due to a seismic event on the Whittier Fault on site;
- Ground failure as the result of localized liquefaction on the southern portion of the site during a seismic event on the Whittier Fault on site or other active southern California faults;
- Landsliding/slope instability due to the presence of an ancient landslide complex on the northern portion of the site and in several mapped potential earthquake-induced landslide areas;
- Expansive soils requiring special grading and/or design of proposed foundations, floors and pavements, etc.

3 (cont)

The most significant geologic hazards are associated with potential earthquakes on the Whittier Fault on the site. The location of the surface trace and associated additional traces within the 1,000-foot wide Whittier Fault Zone (which may restrict buildable areas) has not yet been determined. State of California Public Resources Code Section 2621 requires this determination prior to project approval and issuance of grading permits by cities and counties.

DISCUSSION

Neither of the geologic/geotechnical consultant reports referenced here provides the subsurface fault investigation to determine the actual (not approximate) location of the Whittier Fault on the planned Cielo Vista project site as required by PRC Section 2621 prior to project approval and permitting by a city and/or county. The fault surface trace is depicted in these reports as being generally along the center of the 1,000-foot-wide zone as approximately shown on the official State of

4



California Fault Rupture Hazards Zone map. The approach to investigating the site for faulting requires that exploratory trenches and ancillary borings be excavated generally perpendicular to the trend of the faulting such the ground surface fault trace(s) can be identified both within the zone and adjacent to the zone (per current state-of-the-art practice). Trenches of the type required to explore the Whittier Fault Zone could be up to 20 feet or more deep and several hundred feet long. Multiple trenches will be required to fully evaluate the 1,000-foot wide zone. Spoils removed from the trenches would have to be properly stockpiled. Field operations could span months.

The Alquist-Priolo Act requires that habitable structures not be located astride or over these offsets. Therefore, the investigations required to accurately locate the faults have to be performed before project approval, issuance of grading permits and development. Setbacks from the fault trace(s) would also be required. Both geotechnical/geologic consultant reports recommend further investigation of the fault.

The locations of these surface fault traces are significant with respect to the location of the planned project residential structures and appurtenant improvements. A Geologic Map of the site is provided in the referenced LGC Geotechnical, Inc. report. It provides an overlay of the planned project configuration within (and adjacent to) the mapped Whittier Fault Zone (WFZ). Based on review of this project overlay, 56 planned residential lots are within the WFZ. Additionally, 10 planned lots are within 100 to 200 feet of the WFZ. These 66 lots represent 59 percent of the planned project. Should active faulting be discovered beneath the location of planned lots significant re-siting of these lots, associated project utilities and roads would be required to comply with the Alquist-Priolo requirements.

4 (cont)



4 (cont)

In effect, any approval of a housing site plan before these geologic investigations are completed could be subject to major revisions and possible significant down-sizing of the project as currently planned.

In addition to the hazards associated with the WFZ, the planned project site has ancient landslide features and steep slopes that pose potential hazards to the planned residential lots. These features have not been investigated. A landslide complex is mapped above and abutting the eastern side of Planning Area 2 (PA2). All 17 planned residential units within PA2 could be affected by this hazard. Additionally, steep slopes with adverse geologic bedding may pose significant potential slope failure hazards. All potential landslide, steep slope and adverse geologic bedding hazards require thorough subsurface investigation before project approval.

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The normal approach to investigating these features would be to drill large-diameter borings that would allow downhole inspection and logging by the project geologists of the ancient landslide features and bedding within steep slope areas. The borings, advanced by large truck-mounted or track-mounted drill rigs, would be 2½ to 3 feet in diameter and up to 150 feet deep. Spoils excavated from the borings would have to be stockpiled and the borings appropriately sealed after backfilling.

Following subsurface investigation and soil strength testing cross sections through the hillsides and landslide features and slope stability/engineering analyses would be performed to assess the stability of these features both in the short term and long term. Planned project development would likely include stabilization of potential landsliding hazards, either by buttress grading or excavation, etc. of unstable features. Setbacks from the hazards would likely be required. Depending



on the details of the field investigation findings, significant re-siting or redesign of planned project lots, streets, utilities, etc. would likely be required. Both referenced geotechnical consultant reports recommend further investigation of these features. 5 (cont)

The subsurface investigations to address both the WFZ and landsliding/steep slope hazards require the mobilization of ⁵explanatory equipment across the site. Large exploratory trenches will have to be ⁵led by four-wheel drive or track-mounted excavators in all planned ⁵procedures. We understand from review of available photographs that similar fault trenching studies were performed on the adjacent Esperanza site.

Trenches will have to be open for the time required for detailed logging by project geologists and therefore commonly require shoring. Multiple overlapping or long trenches may be required. Access to certain site areas may have to be created by temporary road building. The large-diameter borings will require that drill rigs access higher landslide and slope areas such that the exploratory borings drill down through the areas of concern. Temporary access roads may also have to be created. Multiple borings will be required. The detailed exploration and updated investigation, as described, could take several months to complete. Significant environmental impacts due to trenching and drilling should be anticipated including soil and ground disturbance, noise, dust, effects to sensitive biological resources, potential effects on ground water, potential disturbance to archaeological and/or paleontological resources, habitat destruction or disturbance, etc. 6

LIMITATIONS

Our discussion and opinions have been based upon the provided materials as described in this report, as well as our experience with the soils and native

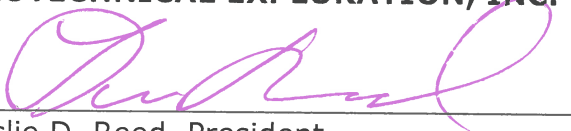


materials located in this area of Orange County. We have not performed a geotechnical or geologic investigation of the site.

Should you have any questions, please feel free to contact our office. Reference to our **Job No. 14-10450** will help expedite a reply to your inquiries.

Respectfully submitted,

GEOTECHNICAL EXPLORATION, INC.



Leslie D. Reed, President
C.E.G. 999/P.G. 3391



Cc: Kevin K. Johnson, KEVIN K. JOHNSON, APLC



LETTER: POHH-REED**Geotechnical Exploration, Inc. Leslie D. Reed, President**

7420 Trade Street
San Diego, CA 92121
(January 22, 2014)

RESPONSE POHH-REED-1

Please see Response POHH-REED-5 for a detailed discussion of the potential impacts associated with landslides and slope stability.

RESPONSE POHH-REED-2

Please refer to Topical Response 4 regarding geology and faulting.

RESPONSE POHH-REED-3

Much of Comment POHH-Reed-3 relates to the location of the Whittier Fault. Please refer to Topical Response 4 regarding geology and faulting for responses to these questions.

The commenter also identifies specific hazards associated with the presence of the Whittier Fault Zone, each of which is discussed and analyzed in Section 4.5, *Geology and Soils*, of the Draft EIR. For example, with respect to potential seismic ground shaking, the Draft EIR notes that there is a potential for significant ground shaking and considers it to be a potentially significant impact. However, with the implementation of Mitigation Measure 4.5-1 (as revised in Topical Response 4) and compliance with applicable regulations, the Project's impact would be less than significant. Likewise, the Draft EIR identifies and discusses potential landslide and slope instability impacts, and concludes they will be less than significant with mitigation and compliance with applicable regulations. The commenter does not specifically challenge any of the analyses in the Draft EIR or present any evidence which undermines its conclusions. With implementation of Mitigation Measure 4.5-1, the designation of the Whittier Fault as "active" will be confirmed. After the fault trace is mapped, the Project's proposed residences shall be set back from the fault trace in accordance with applicable law, including the Alquist-Priolo Act, as discussed in Mitigation Measure 4.5-1.

Commenter asserts that they must know exactly where the structures are going to be built. The letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Discussion of Potential Implications of Subsurface Geological Features in the Southern Portion of Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated August 1, 2014, includes a figure entitled "Whittier Fault Setback Map" that shows the approximate building envelope for the Project's proposed residences (see copy of letter in Appendix B of this Final EIR). This figure and the accompanying letter demonstrate "a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." (CEQA Guidelines § 15151.) Moreover, as was held in *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906, a mitigation measure which required an additional site specific geotechnical investigation to consider the particular project designs is proper. Here, the Draft EIR includes specific information related to the potential for fault rupture and incorporates a measure which will ensure impacts are reduced to a less than significant level. Please also see Topical

Response 4, which comprehensively addresses these issues, and includes a revision of Mitigation Measure 4.5-1.

RESPONSE POHH-REED-4

Please refer to Topical Response 4 regarding geology and faulting.

RESPONSE POHH-REED-5

Section 4.5, *Geology and Soils*, of the Draft EIR specifically identifies landslides/slope stability as a source of potentially significant impacts. As acknowledged in the Draft EIR, there is significant information indicating the presence of landslides and other gross slope instability conditions within the northern portion of the Project Site to the east of Planning Area 1. The Project's proposed grading is presently planned to avoid most areas suspected to be underlain by landslides or susceptible to slope stability hazard. Additionally, consistent with the commenter's characterization of investigation of landslide and slope stability issues, Mitigation Measure 4.5-1 mandates, prior to the issuance of grading permits, a stability analysis consisting of down-hole logging of large-diameter borings in the areas of suspected landslides and other areas of potential slope stability issues to characterize the slopes and determine what stabilization measures are necessary. Where existing and/or proposed slopes are found to have a factor of safety lower than the minimum applicable standards, the slopes shall either be setback or mitigation measures implemented to improve the stability of the slopes. Thus, the Draft EIR requires a thorough subsurface investigation prior to development of the Project. Please also see Topical Response 4, which comprehensively addresses these issues, and includes a revision of Mitigation Measure 4.5-1

RESPONSE POHH-REED-6

Implementation of the Mitigation Measure 4.5-1, including short-term ground disturbing activities, would result in short-term impacts. No new roads are anticipated to be constructed during the geotechnical investigation. Noise from the use of machinery during the geotechnical investigation activities would be temporary, intermittent and of short duration, and would not present any long-term impacts. The use of such equipment would comply with the applicable provisions of the Noise Ordinance of the Codified Ordinances of the County of Orange to ensure that noise impacts to surrounding noise sensitive uses are less than significant. As discussed in Section 4.4, *Cultural Resources*, in the Draft EIR, no archaeological resources are known to occur on the site or in immediate proximity to the site. The overall sensitivity and potential for discovery of surface archaeological resources is considered to be low. No known paleontological resources occur on the site. The site does however include geological formations conducive to retaining paleontological resources. The extent of excavation activities into deeper soils would be minimal and as such, the likelihood of encountering any cultural resources would be minimal. Nonetheless, the geotechnical consultant would implement a program consistent with the mitigation measures presented in Section 4.4, or as otherwise determined appropriate through consultation with a qualified archaeologist and/or paleontologist, as necessary, to ensure that impacts to unknown cultural resources are less than significant. As stated in Mitigation Measure 4.5-1, the investigation would comply with all applicable State and local code requirements. For example, ground disturbing activities and use of machinery would be required to comply with applicable South Coast Air Quality Management District (SCAQMD) air quality regulations (see Section 4.2, *Air Quality*) and County and Santa Ana Regional Water Quality Control Board (SARWQCB) water quality and discharge requirements (see Section 4.8, *Hydrology and Water Quality*) to ensure that air quality and water quality impacts are less than significant, respectively. In addition, the geotechnical consultant would consult with a qualified biologist prior to conducting any geotechnical investigations. The geotechnical

investigation(s) would first seek avoidance of sensitive biological resources, including sensitive plant communities/habitats and jurisdictional features, as described in Section 4.3, *Biological Resources*, of the Draft EIR. However, in the event that any such biological resources could not be avoided, the activities would be required to comply with applicable regulatory and permitting requirements such as the those pertaining to the Federal Endangered Species Act (FESA), Federal Clean Water Act (CWA) (Section 401 and 404), Migratory Bird Treaty Act and Section 1602 of the State of California Fish and Game Code, all of which are discussed in Section 4.3 of the Draft EIR. Overall, by complying with applicable regulatory and permitting requirements as discussed in the applicable sections of the Draft EIR, the geotechnical investigation's short-term impacts, including ground disturbing activities, would not result in significant adverse environmental impacts.

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Letter: POHH-Rehmeier1

From: Sharon Rehmeier [<mailto:ssrehmeyer@gmail.com>]
Sent: Tuesday, November 12, 2013 11:09 PM
To: Tippetts, Ron
Cc: Spitzer, Todd [HOA]
Subject: Extension of Public Comment Period for Cielo Vista Draft EIR

TO: Orange County Planning
ATTN: Ron Tippetts
300 N. Flower St.
Santa Ana, CA 92702-4048

DATE: November 12, 2013

RE: Cielo Vista Project Draft Environmental Impact Report
REQUEST FOR EXTENSION OF PUBLIC COMMENT PERIOD

Dear Mr. Tippetts.

We have received the Cielo Vista Project Draft Environmental Impact Report Notification and would urge you to consider an extension of time for the public comment period for Cielo Vista. Because of the voluminous amount of reading and study this Draft EIR entails and because we have received it with the approaching holiday season upon us, and a deadline for submission of our public comments coming right at Christmas time, we would urge an extension of 30 days beyond the current deadline to January 22, 2014.

1

(1) There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR.

(2) We understand that the County is in process of releasing a Draft EIR for the Esperanza Hills Project on parcels east of the Cielo Vista project. Both projects will share access easements and utilities connections, and the two projects, in our opinion, should be considered and evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

2

(3) The present comment period is totally insufficient for a thorough review by the public that CEQA requires. If the public comment period is not extended, the current comment period will not allow full public participation in the response process because of the approaching holiday season.

3

Because of the complexity of technical data to be reviewed in this Draft EIR, and the burden on the affected Yorba Linda community residents and other members of the public impacted by this Draft EIR to review and respond to such voluminous data during the holiday season, we request that the **Public Comment Period be extended by 30 days to January 22, 2014.**

Thank you for considering our **request for the 30 day extension.**

Sharon & Ted Rehemeyer

Residents of 4795 Via De La Roca, Yorba Linda, CA 92887 since November, 1985.

Members of Protect Our Homes and Hills, Yorba Linda.

Email: ssrehmeyer@gmail.com

Cc: The Honorable Todd Spitzer, Supervisor

Third District, County of Orange

10 Civic Center Plaza

Santa Ana, CA 92701

LETTER: POHH-REHMEYER1**Sharon and Ted Rehmeier, Members**

4795 Via De La Roca
Yorba Linda, CA 92887
(November 12, 2013)

RESPONSE POHH-REHMEYER1-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-REHMEYER1-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-REHMEYER1-3

Please refer to Response POHH-REHMEYER1-1.

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Letter: POHH-Rehmeyer2

From: Sharon Rehmeyer [<mailto:ssrehmeyer@gmail.com>]

Sent: Monday, January 20, 2014 12:28 PM

To: Tippetts, Ron

Cc: Spitzer, Todd [HOA]; Kevin Johnson

Subject: Fwd: Rehmeyer: CORRECTED AIR QUALITY 4.2 RESPONSE to CV DEIR



TO: Mr. Ron Tippetts

Orange County Planning

300 North Flower Street

Santa Ana, CA 92702-4048

Cc: The Honorable Todd Spitzer, OC Supervisor, Third District

CORRECTED COPY ATTACHED/ Please discard copy sent 1/19/14

FROM: Sharon S. Rehmeyer & Ted Rehmeyer

**(Members of PROTECT OUR HOMES AND HILLS LEADERSHIP TEAM & Yorba Linda residents
(at address below) for 28 years**

4795 Via De La Roca

Yorba Linda, CA 92887-1816

(714) 777-6818

ssrehmeyer@gmail.com

DATE: January 20, 2014

SUBJECT: Cielo Vista Project DRAFT EIR No. 615.

Section 4.2 AIR QUALITY

CORRECTED COPY ATTACHED:

We are responding to this CV DEIR No. 615, Sec. 4.2 Air Quality as members of the Protect Our Homes and Hills Leadership Team and as Yorba Linda residents who have lived for 28 years in our home adjacent to the OC County Hillside where the Cielo Vista Project is proposed to be developed.

ATTACHED are the FOLLOWING ITEMS:

- **Our RESPONSE TO CIELO VISTA PROJECT DEIR No. 615, Sec/. 4.2 AIR QUALITY**
 - plus 4 referenced ATTACHMENTS to support the document above:
1. **Exhibit A:** Los Angeles Times Article re: Whittier Earthquake Fault Line which runs through Cielo Vista Project--"Fault Lines in Law Leave Homes on Shaky Ground"
 2. **Exhibit B-1 Fracking Map "Well-Wide-View.jpg)** and **Exhibit B-2 Fracking Map** showing **two Yorba Linda Fracking sites** near Cielo Vista Project (**Well-Close-Up.jpg)**
 3. **Exhibit C:** **"100 Year History of Wildfires Near Chino Hills State Park"--see p. 21 & p. 18**

Please CONFIRM that you have received this email with our CORRECTED response to the CV DEIR No. 615, Sec. 4.2 Air Quality--five (5) attachments plus this cover letter. (This replaces the documents sent to you yesterday via email on 1/19/14 which should be discarded.)

We will be happy to hand deliver these same documents (attached to today's email) to you on Tuesday a.m., Jan. 21, 2014, if there is any confusion about our submissions. Please advise.

Thank you.

Sharon & Ted Rehmeyer

ssrehmeyer@gmail.com

FROM: Sharon S. Rehmeier & Ted Rehmeier

(Members of **Protect Our Homes And Hills** Leadership Team;
Residents of Yorba Linda at address below since 1985—28+ years)

4795 Via De La Roca

Yorba Linda, CA 92887-1816

Home: (714) 777-6818

Cell: (714) 323-4101

Email: ssrehmeier@gmail.com

ajimps@att.net

DATE: January 20, 2012

CORRECTED COPY

SUBJECT: RESPONSE TO CIELO VISTA PROJECT DRAFT EIR No. 615—

SECTION 4.2 AIR QUALITY

The following comments are in response to **Section 4.2 AIR QUALITY** of the subject Draft Environmental Impact Report for Cielo Vista (hereinafter referred to as “Project”):

SECTION 4.2 AIR QUALITY

In the Cielo Vista Project (EIR No. 615), dated November, 2013, the Executive Summary, shown in Table ES-1, states that the Cielo Vista Project “with implementation of prescribed mitigation measures...would not violate any air quality standards...” However, after a careful review of this Project’s Draft EIR, we find this Air Quality section to be a rosy, glossy review, and it’s projected “Less than Significant Impact” or “No Impact” statements are not supported by substantial evidence.

MAJOR CONCERNS:

1. BASIS OF ANALYSIS: For Air Quality Analysis, the developer of the Project relies upon an **Urban Crossroads document** prepared by Haseeb Qureshi, MES, and Ryan Richards for North County BRS Project, LLC, for SAGE COMMUNITY GROUP, INC., c/o Mr. Larry Netherton. Although this document was prepared August 8, 2012; and August 28, 2012, with a revision date of March 7, 2013, the basis of the Air Quality Analysis is **NOT CURRENT**. **Further research and analysis are needed**. Of the seven documents that form the basis of this Urban Crossroads document (see pg. 39), one is dated 1993, one is dated 2003, two are dated 2007, one is dated 2009, one is dated 2011, and one Urban Crossroads, Inc. revised document--“Cielo Vista Traffic Impact Analysis”--is dated 2013. However, that document relies on older documentation from studies done on urban areas not anywhere near the Project. Question: What has changed in the research data between 1993 and the present regarding Air Quality? The Project relies on the Crossroads study data which, in some cases, is more than two decades old and therefore suspect.

2. WHITTIER EARTHQUAKE FAULT and LAWSUIT ANALYSIS: The Project's location in relation to the **Whittier Earthquake Fault line that runs through it** is NOT addressed in the DEIR, though this is a major Air Quality and Public Safety issues.

The Project's DEIR also does NOT address information about lawsuits against the City of Yorba Linda regarding the **Whittier Earthquake Fault line which runs through the Project** and into the Bryant Ranch/Brush Canyon areas of Yorba Linda. This is documented in the *Los Angeles Times* article below.

<http://www.ela-iet.com/LATimesonQuake81102.htm>

(See Exhibit A)

"Fault Lines in Law Leave Homes on Shaky Ground"

(Aug. 11, 2002 article by Evan Halper, *Los Angeles Times* Staff Writer.

The Whittier Earthquake Fault is dangerous, as was learned in the aftermath of the major October, 1987 Whittier Earthquake.

(I grew up and lived in Whittier for over 25 years. I taught at Lincoln School (corner of Broadway and Pickering Ave., Uptown Whittier) in the Whittier City School District during the October, 1987 Whittier Earthquake. My mother lived in Whittier, 6208 Alta Ave., Whittier, CA 90601, for over 65 years, including the time of the Whittier Quake of 1987.)

But this Los Angeles Times article shows another reason the Whittier Earthquake Fault line is dangerous. What happens to unsuspecting house buyers who purchase houses along the Whittier Fault line? Why should Yorba Linda City Planning and Orange County Planners be wary of potential developments along the Whittier Earthquake Fault Line? There are **environmental conditions** that have **led to the Yorba Linda litigation this article describes**, and these need to be analyzed.

(Just an FYI, at least three minor earthquakes have occurred in the Project area along this fault line in the past month, including two on January 15, 2014, at 1:35 a.m. and again at 11:40 p.m. In both instances the jolt and rocking motions were felt at our house (4795 Via De La Roca, Yorba Linda, CA 92887) and in our neighborhood in eastern Yorba Linda. Our daughter & son-in-law, and granddaughter--- Kim & Donald Torrence and Anna (age: 18), 5530 Feather Grass Lane, Yorba Linda, 92887---also felt these quakes.

- **Questions:** Will the Cielo Vista Project cause financial woes for the City of Yorba Linda, if/when the Project buyers seek annexation? Will financial woes also be faced by the County of Orange because of this project? Who will be held legally and financially responsible when lots and/or houses are damaged or destroyed by earthquakes along the Whittier Earthquake Fault Line, or if the "shelter in place" houses are damaged or destroyed by wildfires, by fracking, or by methane gas explosions in this HIGH RISK WILDFIRE ZONE? Who will be responsible for informing new buyers of the Project's inherent dangers? Who will help the potential house buyers--or existing residents-- to obtain insurance and/or adequate coverage if insurance companies refuse to insure them--or cancel them---because of the Project's location in a HIGH RISK WILDFIRE ZONE with the Whittier Earthquake Fault running through it, further complicated by the presence of active and inactive oil wells? What about the potential for hazardous explosions as wildfires hit potential pockets of methane gas in the Project?

More subterranean research and analysis of the Whittier Earthquake Fault Line is needed by the Project developers, and by both Orange County and Yorba Linda City Planners. This **public safety issue** needs to be considered by all concerned with the CV and EH Projects-- especially the OC Planners, Supervisors and Yorba Linda City Council members responsible for project approvals. The Whittier Earthquake Fault not only impacts public health and safety, but it impacts air quality, geology, soils, and many other aspects of this Project. More research and analysis are needed.

3. FRACKING: The Project's DEIR ignores "fracking" which is currently going on in various Southern California areas—including at least two in Yorba Linda— **both are close to the Project—just off San Antonio Rd. in San Antonio Park, and another one between Dorinda and San Antonio Rd.** *Baldwin Hills Oil Watch states, "There have been 50 Hydraulic Fracturing events (in Southern California), and that Hydraulic Fracturing activity predominately occurs in two areas: Offshore Long Beach/Seal Beach and the rest between Chino Hills and Brea."*

(See MAP Exhibits B-1 (top map on website shown below) and B-2 (lower map on website)
<http://baldwinhillsoilwatch.org/action-center/sc-aqmd-rule-1148-2-maps/>

MAP B-1: shows **Fracking Sites** in Southern California, from Santa Monica east to Yorba Linda, and extending further east to the California border.
(Well-Wide-View (jpeg))

MAP B-2: shows **two Yorba Linda Fracking sites near the Project:** one off San Antonio Rd. in San Antonio Park, and one between Dorinda Rd. and San Antonio Rd., in Yorba Linda.
(Well-Close-Up (jpeg))

Questions: How does Fracking impact the Project and the surrounding neighborhoods? Has Fracking caused the recent earthquakes in the area that have been felt at our house and in eastern Yorba Linda and beyond? Does Fracking pose public health and safety issues? Does Fracking cause the release of Greenhouse Gases or other gases or elements?

4. PUBLIC SAFETY and PUBLIC HEALTH ISSUES: **Subterranean Research and Analysis are needed** for this Project because of its location in an **EXTREMELY HIGH RISK WILDFIRE ZONE** with oil wells, and with unknown issues about what lies underground, and the fact the Whittier Earthquake Fault line runs through it. At least five active oil wells are in the Project, and at least one non-active and one abandoned oil well are also on the Project site. This is a major public safety and public health issue. The Project's DEIR does not address these public safety and public health issues regarding the oil wells and their potential contamination, air quality, and other issues, including Green House Gases. Are there subterranean fissures? What research has been done on historic landslides within the Project? Are there subterranean pockets of methane, oil, gas? If the developer waits until grading to find out, there will be an improper deferral of impact assessment and mitigation analysis. What will the mitigation be if there are subterranean issues? Can they be mitigated after the fact? Will they be ignored until well over 600,000 cubic acres of ground surface are dug up and the problems exposed? What provision will be made for detecting, protecting, venting, monitoring, and measuring these potential subterranean issues, especially for Green House Gases? Methane gas (CH4) absorbs radiation and is known to exist in fossil-fuel oil combustion, and Nitrous Oxide (N2O) is also known as laughing gas which can cause brain damage. Are there pools of methane gas in the Project? What about Nitrous Oxide? What is the impact on public health and safety not just during the Project's development stage, but long term? Methane gas is highly volatile and prone to explosions. The Project lies in a documented **HIGH RISK WILDFIRE ZONE** with a known wildfire history to it. What if there are pockets of methane gas within the Project now buried underground? The heavily documented **Freeway Complex Fire of Nov. 15, 2008** raced through this Project. The raging inferno, moving at the 40-60 mph speeds of the Santa Ana winds, damaged or destroyed 312 homes. Air quality was sacrificed as the 2008 wildfire ate up oxygen in the Project, and embers,

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soot, ash, smoke, dust, and debris from the burning embers filled the air-- and the lungs of neighborhood residents as they fought or fled the flames.

See Exhibit C

<http://www.hillsforeveryone.org/projects/fire-files/A-100-Year-History-of-Wildfires-Near-CHSP.pdf>

"100 YEAR HISTORY OF WILDFIRES NEAR CHINO HILLS STATE PARK," a 35 page document published in August, 2012, by Melanie and Claire Schlotterbeck (Directors of Hills For Everyone)

8 (cont)

Page 21: *"This study shows that Chino Hills State Park and environs have endured significantly more fires, 101 to be exact, than would have naturally occurred by lightning strikes...Instead of a fire burning every 50 years in the natural fire regime, humans have increased the ratio essentially to a fire a year."*

Page 18: *"If there are lessons to be learned, it seems there are opportunities for jurisdictions to revisit how their communities grow and where the most appropriate place for housing developments should be located....Even with more stringent building codes and relatively new houses, hundreds of homes were lost or damaged (in the 2008 Freeway Complex Fire)."*

How is public safety protected if this Project, Esperanza Hills, Bridal Hills, or other potential developments adjacent to these projects are approved by the County in this hillside area? How does the potential for methane explosions impact construction of "shelter in place" Houses? Will they be able to withstand any potential blast? Will there need to be a "blast zone" for protection?

5. PROJECT DENSITY: **The DENSITY proposed in this Project is inconsistent with both Orange County and the City of Yorba Linda General Plans.** How does the projected density of this Project, along with Esperanza Hills, Bridal Hills, and potential future developments near the Project, relate to Air Quality, in terms of transportation fumes, and other health issues? This impact needs further research and analysis.

9

6. HEALTH ISSUES: Health issues are directly related to Air Quality and are a huge concern, not just during the Project's development and construction phase for workers, but for potential buyers, and for residents of existing neighborhoods, the "sensitive receptors" near the Project. The DEIR should analyze the public health issues as they are impacted by the unique topographic and wind conditions of this Project. The geology reports which form the basis of this Draft EIR are out of date. **CEQA requires studies over 12 months old be reviewed and updated.** **Additional studies are needed.**

In the **Summary of Findings** in the **Urban Crossroads Cielo Vista Air Quality Impact Analysis**, (p.2), it states:

- The Project will not conflict with or obstruct implementation of the applicable air quality plan.
- The Project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation.
- The Project will not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors.
- The Project will not expose sensitive receptors (Project neighbors and Project buyers) to substantial pollutant concentrations.
- The Project will not create objectionable odors affecting a substantial number of people.

Where is the analysis that supports these statements? These statements are not factual.

In our immediate neighborhood, we have knowledge of at least two neighbors who have suffered from respiratory issues, some long term, which were either caused by or intensified by grading in the hills of the Project area. Both suffered asthma attacks, allergies, and breathing difficulties during and after the construction of Stonehaven Dr. in the late 1980s, early 1990s. More recently--during exploratory digging

and grading for Cielo Vista and/or Esperanza Hills-- on the Project hillside, at least one neighbor suffered additional health issues.

- **Ron T. Carboni, 21620 Stonehaven Dr., Yorba Linda, CA 92887**
Phone: (714) 779-8129. Ron has asthma and allergies which were seriously impacted from the time he and his wife Judi moved into their new home 24 years ago. His health issues were reactivated with the recent hillside testing and digging in and near the Project site.
- **Kenneth & Marlene Nelson's daughter Jennifer** moved into her parents' new home with them in Fall, 1985, at **4790 Via De La Roca, Yorba Linda, CA 92887**. Phone: (714) 777-4815. Jennifer was a young child at the time the family moved in 28 years ago in 1985. In the late 1980s, early 1990s, according to Marlene, Jennifer began to suffer from asthma, allergies, sinus issues and a persistent cough as a result of exposure to air quality contaminants and issues caused by earth excavation and grading to form Stonehaven Dr. and its resultant side streets, plus the grading and construction of lots and housing. Jennifer still suffers from these contaminated soil and airborne health issues.

10 (cont)

7. The OC HILLSIDE PROJECTS SHOULD BE CONSIDERED AS ONE PROJECT:

Both the Cielo Vista Project and the proposed Esperanza Hills Project are intertwined, not only geographically, but they **share the same environmental impact issues, including Air Quality. They need to be considered as one project for ALL planning purposes and environmental review under CEQA.**

The same applies to all other parcels slated for development on this Orange County hillside within the City of Yorba Linda's sphere of influence, including Bridal Hills which proposes to add 38-48 additional houses, with access dependent upon Esperanza Hills. The Cielo Vista DEIR states on page 4.2-32 (4.2-5, 3. *Cumulative Impacts*) that ***"The Project combined with cumulative development in the area may result in cumulative air quality impacts. However, project-by-project analysis of air quality impacts and compliance with applicable regulatory requirements would ensure that potentially significant cumulative impacts regarding air quality impacts are reduced to a less than significant level."*** The separate Projects proposed for this OC hillside in the City of Yorba Linda's sphere of influence need to be treated as ONE planning project. Would the adoption of these Hillside Projects in a piece meal way allow CV and EH developers to bypass the cumulative impacts issues?

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8. GREENHOUSE GASES cannot be mitigated. More research and analysis are needed. The studies cited in the Draft EIR are insufficient and out of date by several years. The Project "assumes" it would not conflict with the State's ability to achieve reduction targets defined in AB 32 (within the SCQMD's jurisdiction) (See 4.6-25). This is an assumption, and NOT a fact. More research and analysis is needed **BEFORE** approval is granted and excavation and grading begins on this Project. Are there pockets of methane gas in and around the various current and old oil well sites? What other gases and soil contaminants are likely to be discovered once grading begins? These issues need further study, research and analysis before approval is granted to begin grading. What happens to the Project if discovery is made after grading begins? What happens to "sensitive receptors" if contaminants are discovered after grading begins?

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9. SANTA ANA WINDS: The climate of this Project, given its unique location in a basin of low hills and valleys in the region, is determined by its unique terrain, geography, topography, and wind patterns. Hot, dry Santa Ana wind conditions are greater from Spring through Winter through the Project, especially between April and January. The wind patterns, especially the hot, dry Santa Anas, form wind tunnels, and sometimes wind tunnels within wind tunnels which spread pollutants and contaminants, as

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well as dust, dirt, and debris. This was very evident during the 2008 Freeway Complex Wildfire that traversed the entire Project area. The wind patterns, including the Santa Anas, determine the air quality of the Project. The impact of the Santa Ana winds and wind patterns on the Project need further study and analysis. How will this Project affect air quality for sensitive receptors and potential house buyers, plus the entire Yorba Linda community?

13 (cont)

LETTER: POHH-REHMEYER2**Sharon and Ted Rehmeier, Members**

4795 Via De La Roca
Yorba Linda, CA 92887
(January 20, 2014)

RESPONSE POHH-REHMEYER2-1

The technical analyses to which the commenter refers is based on the most current methodology, models, and data and reflects standard industry practice. The commenter is referring to various documents referenced in Section 4.2, *Air Quality*, of the Draft EIR. The document referenced from 1993 is the SCAQMD CEQA Air Quality Handbook, portions of which represent the SCAQMD's current guidance.¹⁰ It should be noted that this document was used to refer to methodology for evaluating Air Quality Management Plan (AQMP) consistency. This analysis was performed using the latest AQMP available. Other documents referenced also represent the latest and most current SCAQMD methodology and guidelines. Impact analyses in the Draft EIR were performed using the most recent CalEEMod model, which is the currently used for analyses performed in the South Coast region. In addition, ambient background data assumed in the analysis is up to date. Vehicle and construction equipment emission factors used in the pollutant emissions calculation also use the latest emissions inventory database provided by CARB (EMFAC and OFFROAD).

RESPONSE POHH-REHMEYER2-2

Please refer to Topical Response 4 regarding geology and faulting.

RESPONSE POHH-REHMEYER2-3

Geology and soils impacts were addressed in Section 4.5, *Geology and Soils*, of the Draft EIR, with supporting data provided in Appendix E of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measure. Please refer to Topical Response 4 regarding Mitigation Measure 4.5-1 prescribed in the Draft EIR. Mitigation Measure 4.5-1 requires the preparation of a site-specific, design-level geotechnical report prior to the issuance of grading permits. This report shall confirm or refine the Whittier Fault trace location and orientation delineated in the letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Location of Whittier Fault, Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated July 31, 2014 residences (see copy of letter in Appendix B of this Final EIR), and shall confirm that the designation of the fault as "active" (i.e., a fault that has ruptured the ground surface within the Holocene Age (approximately the last 11,000 years) by subsurface investigations consisting of boring and trenching activities.

The Draft EIR addressed wildland fire impacts in Section 4.7, *Hazards and Hazardous Materials*, with supporting data provided in Appendix G of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measures, in addition to the fire protection features (see project design features PDF 7-9 to 7-14) to be included as part of the Project. Please also refer to Topical Response 3 regarding emergency access.

¹⁰ <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook>

Section 4.7 of the Draft EIR addressed hazards associated with methane. Specifically, methane impacts are addressed on page 4.7-22 of the Draft EIR. As discussed therein, the project site's elevated levels are considered to be a potentially significant impact. Thus, Mitigation Measure 4.7-6 has been prescribed to ensure this potentially significant impact is reduced to a less than significant level. Mitigation Measure 4.7-6 requires a qualified environmental consultant to prepare a combustible gas/methane assessment study for the OCFA for review and approval, prior to issuance of a grading permit. Based on the results of the study, methane mitigation measures would be implemented by the Project, as necessary to ensure methane gases do not pose significant hazards to people or the environment. Mitigation Measure 4.7-6 further provides for vapor barriers or sealed utility conduits to reduce the potential for fire danger during construction and also reduce the potential for any health hazards which could otherwise occur should the future residents be subjected to inhaling methane gas.

This comment also raises issues regarding financial and other real estate considerations that are beyond the scope of the EIR document. Because these comments do not raise a substantive issue on the content of the EIR or the impacts of the Project on the environment, no further response is warranted.

RESPONSE POHH-REHMEYER2-4

Please refer to Topical Response 4 regarding geology and faulting.

RESPONSE POHH-REHMEYER2-5

This comment raises concerns regarding fracking and potential associated impacts at the project site. No fracking is proposed as part of the Project and, no known fracking activities have occurred on the project site. As such, the extent of earthquakes or release of methane caused by fracking activities in the region or local area is beyond the scope of this EIR. Regardless, the Draft EIR addressed site-specific geology and soils impacts, including seismic hazards, in Section 4.5, *Geology and Soils*, with supporting data provided in Appendix E of the Draft EIR. As discussed therein, seismic impacts were concluded to be less than significant with implementation of the prescribed mitigation measure. Please also refer to Topical Response 4 regarding the mitigation prescribed in the Draft EIR to ensure potentially significant seismic impacts are reduced to a less than significant level. Also, please refer to Response POHH-Rehmeier2-3 for a discussion of methane impacts. Regardless of regional or local fracking activities, the implementation of Mitigation Measure 4.7-6 would ensure that methane within the project site does not result in public health or safety issues.

RESPONSE POHH-REHMEYER2-6

As stated on page 2-14 in Section 2.0, *Project Description*, of the Draft EIR, existing on-site oil wells and production facilities would be abandoned or re-abandoned, as necessary, in accordance with the standards of the State of California Division of Oil, Gas and Geothermal Resources (DOGGR), OCFA, and County of Orange. The Project is not proposing new oil wells and as such, would not drill new wells. Also, the oil drilling pad is currently inactive and there are no proposed plans or pending applications to conduct drilling at the site.

The Draft EIR addressed hazardous materials impacts in Section 4.7, *Hazards and Hazardous Materials*, with supporting data provided in Appendix G of the Draft EIR. The analysis of hazardous materials in Section 4.7 includes a discussion of hazardous materials impacts associated with oil activities on the project site. The analysis is based on numerous hazardous materials-related technical reports, which are listed on page 4.7-1

of the Draft EIR. The “Site Assessment Report” included numerous test excavations/borings to determine the extent of impacted soils associated with the site’s oil activities. As discussed in Section 4.7, potentially significant impacts regarding hazardous materials were concluded to be less than significant with implementation of the prescribed mitigation measures. Also, please refer to Response POHH-Rehmeier2-3 for further discussion of methane impacts.

Air quality impacts, including those associated with oil-producing activities, were addressed in Section 4.2, *Air Quality*, with supporting data provided in B of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measures.

The Draft EIR addressed greenhouse gas impacts, including those associated with oil-producing activities, in Section 4.6, *Greenhouse Gas Emissions*, with supporting data provided in Appendix F of the Draft EIR. As discussed therein, impacts were concluded to be less than significant.

Also, geology and soils impacts, including landslide impacts, were addressed in Section 4.5, *Geology and Soils*, of the Draft EIR, with supporting data provided in Appendix E of the Draft EIR. As discussed therein, impacts were concluded to be less than significant with implementation of the prescribed mitigation measure. Please also refer to Topical Response 4 regarding the mitigation prescribed in the Draft EIR that requires a future site-specific design-level geotechnical investigation (inclusive of subterranean fieldwork) to ensure potentially significant geologic impacts are reduced to a less than significant level.

RESPONSE POHH-REHMEYER2-7

Please refer to Response POHH-REHMEYER2-3 for a discussion of methane and wildland fire impacts.

RESPONSE POHH-REHMEYER2-8

Please refer to Response POHH-REHMEYER2-3 for a discussion of methane and wildland fire impacts.

RESPONSE POHH-REHMEYER2-9

The County acknowledges that the Project’s gross density of 1.33 dwelling units per acre would exceed the City’s density range (1 du/acre) for the site, were the City’s density to control. However, under the County’s land use designation for the site, which does control given that the project site is located in the County’s jurisdiction, up to approximately 738 dwelling units would be allowed on the site. Thus, the number of units proposed by the Project is far below the maximum number of units and density allowed under the County’s designation, which allows up to 18 units per acre. Land use impacts were addressed in Section 4.9, *Land Use*, of the Draft EIR. Consistency with applicable land use plans and policies is discussed under Impact Statement 4.9-1 beginning on page 4.9-7. As concluded therein, with implementation of the project design features (PDFs) and prescribed mitigation measures, all identified potentially significant impacts associated with the proposed uses and land use designations would be reduced to a less than significant level. Therefore, with approval of the requested discretionary actions, the Project would not result in conflicts with the County’s General Plan or applicable Zoning provisions (or City land use/zoning designations) such that significant physical impacts on the environment would occur.

The air quality analysis presented in Section 4.2, *Air Quality*, of the Draft EIR, considered the density proposed by the Project. As discussed therein, air quality impacts were concluded to be less than significant

with implementation of the prescribed mitigation measures. Cumulative air quality impacts are discussed on page 4.2-32 of the Draft EIR. The discussion of cumulative air quality impacts considers the list of related projects identified in Chapter 3.0, *Basis for Cumulative Analysis*, in the Draft EIR. With regards to cumulative construction air quality impacts, the County acknowledges that construction activities between the Esperanza Hills Project (or other related projects) and the Cielo Vista Project potentially could overlap. However, there would be numerous construction phases for each project, and it would be speculative at this point in time to identify the timing of each phase for the related projects and the associated emissions by phase to determine the precise extent of potential cumulative construction emissions. Accordingly, as discussed in the Draft EIR's cumulative impact analysis, other cumulative projects (including the Esperanza Hills Project) would comply with SCAQMD's Rule 403 (fugitive dust control) during construction, as well as all other adopted AQMP emissions control measures. Per SCAQMD rules and mandates, as well as the CEQA requirement that significant impacts be mitigated to the extent feasible, these same requirements would also be imposed on all projects Basin-wide, which would include all related projects. As such, cumulative impacts during construction would be less than significant.

With regards to operational impacts, the analysis is based on guidance from the South Coast Air Quality Management District (SCAQMD). As stated in the analysis, the *SCAQMD's CEQA Air Quality Significance Thresholds (March 2009)* indicate that any projects in the Basin with daily emissions that exceed any of the indicated thresholds should be considered as having an individually and cumulatively significant air quality impact. The SCAQMD also states that "projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant."¹¹ Based on this guidance, since Project operation would not result in the emissions of non-attainment pollutants and precursors in excess of the SCAQMD project-level thresholds, cumulative air quality impacts would be less than significant. Further, given the Project's consistency with the SCAQMD Air Quality Management Plan (AQMP), the Project's incremental contribution to cumulative air quality effects is not cumulatively considerable.

Furthermore, the SCAQMD Air Quality Management Plan (AQMP) is developed to manage air pollution in the region as well as accounting for potential growth such as new development. Project consistency with the AQMP is addressed on page 4.2-21, which accounts for future air quality in the region due to growth in housing and transportation. As concluded therein, the Project would not increase population and housing figures over those that have been projected for the region, would be consistent with the AQMP forecasts for the region, would be considered consistent with the air quality-related regional plans, and would not jeopardize attainment of state and federal ambient air quality standards in the Basin. Accordingly, the Project would not conflict with or obstruct implementation of the air quality plan established for this region, and impacts would be less than significant.

RESPONSE POHH-REHMEYER2-10

Urban Crossroad's Summary of Findings was addressed in Section 4.2, *Air Quality*, of the Draft EIR, with supporting data provided in Appendix B of the Draft EIR.

As indicated in Table 4.2-8 on page 4.2-25 of the Draft EIR, fugitive dust emissions (PM₁₀ and PM_{2.5}) during construction activities would be less than the health protective thresholds established by the SCAQMD and

¹¹ *South Coast Air Quality Management District, White Paper on Potential Control Strategies to Address Cumulative Impacts From Air Pollution, Appendix D, August 2003.*

CARB. As a result, fugitive dust emissions would result in less than significant impacts to nearby sensitive receptors.

Also, as specified in the Draft EIR, Mitigation Measures 4.2-1 and 4.2-2 have been prescribed to control fugitive dust emissions, to the extent feasible. In response to a City comment (see Response CITY2-98), applicable requirements of SCAQMD Rule 403 have also been included under Mitigation Measure 4.2-1 to control fugitive dust and impacts to nearby residents. It should be noted that SCAQMD Rule 403 does not allow visible plumes of dust to be emitted from the site during construction activities. Therefore, no additional mitigation measures would be required.

Furthermore, handling of potentially contaminated soil was addressed in Section 4.7, *Hazards and Hazardous Materials*, of the Draft EIR. As discussed under Impact Statement 4.7-2 beginning on page 4.7-20, a Soils Management Plan (SMP) and a Health and Safety Plan (HASP) would be implemented by the Project when handling suspected contaminated soils. These plans establish the protocol for the safe handling and disposal of impacted soils that could be potentially encountered during construction activities. Additional soil testing would be implemented to ensure soils are accurately characterized prior to excavation and earth moving activities. Mitigation Measures 4.7-1 to 4.7-3 require these plans to be prepared and implemented during construction activities. As concluded under Impact Statement 4.7-2, with implementation of the applicable project design features (PDFs), the prescribed mitigation measures and compliance with applicable regulatory requirements, all potentially significant impacts regarding the Project's potential to 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 would be reduced to a less than significant level.

POHH-REHMEYER2-11

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-REHMEYER2-12

Documents and studies referenced in Section 4.6, *Greenhouse Gas Emissions*, of the Draft EIR represent the latest methodology available at the time of the analysis and reflect standard industry practice in the area of technical GHG analysis. Reduction targets established under AB 32 were not designed to apply uniformly to all projects. AB 32 and S-3-05 do not specify that emissions reductions should be achieved through uniform reduction by location or emission source. Smaller projects such as a single house may not emit GHGs on a level which will affect AB 32 consistency. Recognizing this, the SCAQMD working group designed a tiered approach to determining significance, and for smaller projects, the SCAQMD has developed a project-level threshold of 3,000 MT CO₂E. This approach to significance thresholds was created so as to subject the vast majority of development projects (the largest 90 percent) to a more refined analysis and more stringent GHG reduction requirements compared to small development projects that contribute a relatively small fraction of GHG emissions.¹² As the Project would not meet this screening level threshold, it was determined that Project-related GHG emissions would be consistent with and not conflict with AB 32 goals.

¹² *South Coast Air Quality Management District, White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution, Appendix D, August 2003.*

RESPONSE POHH-REHMEYER2-13

Local air quality impacts were addressed in Section 4.2, *Air Quality*, of the Draft EIR, with supporting data provided in Appendix B of the Draft EIR. Regional and local air quality impacts due to both construction and operations will be less than significant, including cumulative impacts.

As indicated in Table 4.2-8 on page 4.2-25 of the Draft EIR, fugitive dust emissions (PM_{10} and $PM_{2.5}$) during construction activities would be less than the health protective thresholds established by the SCAQMD and CARB. As a result, fugitive dust emissions would result in less than significant impacts to nearby sensitive receptors.

Also, as specified in the Draft EIR, Mitigation Measures 4.2-1 and 4.2-2 have been proposed to control fugitive dust emissions, to the extent feasible. In response to a City comment (see Response CITY2-98), applicable requirements of SCAQMD Rule 403 have also been included under Mitigation Measure 4.2-1 to control fugitive dust and impacts to nearby residents. It should be noted that SCAQMD Rule 403 does not allow visible plumes of dust to be emitted from the site during construction activities. Therefore, no additional mitigation measures would be required.

Letter: POHH-Roizman

Daniel Roizman
4700 Blue Mountain dr.
Yorba Linda CA 92887

November 13 , 2013

Via E-Mail and U.S. Mail

Orange County Planning
Attn: Ron Tippetts
300 N. Flower Street
Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

I am writing to request an extension of the public comment period for the subject draft EIR. There are complex legal and technical issues surrounding the Cielo Vista Project and the County's Draft EIR. Almost concurrently, the County is also in process of releasing the proposed Esperanza Hills Project on adjacent parcels directly east of the proposed Cielo Vista site. Because the Esperanza Hills development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

Daniel Roizman

Protect Our Homes and Hills
Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor
Third District, County of Orange
10 Civic Center Plaza
Santa Ana, CA 92701

Emailed to: Ron.Tippets@ocpw.ocgov.com
Todd.Spitzer@ocgov.com

LETTER: POHH-ROIZMAN

Daniel Roizman, Member
4700 Blue Mountain Road
(November 13, 2013)

RESPONSE POHH-ROIZMAN-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

In addition to providing review time beyond what is required by CEQA, and though not required by CEQA, the County also elected to hold a public meeting at the Travis Ranch Activity Center in Yorba Linda on December 16, 2013, in order to take public comments on the Draft EIR and to further encourage public input. CEQA Guidelines § 15105(a) requires a public review period for a draft EIR of not less than 30 days nor longer than 60 days except in unusual circumstances. The 75-day public review and comment period provided more than sufficient time for public review under CEQA.

RESPONSE POHH-ROIZMAN-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-ROIZMAN-3

Please refer to Response POHH-ROIZMAN-1.

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Letter: POHH-Sinner

From: Barbara Sinner [<mailto:barbsinner@gmail.com>]

Sent: Tuesday, November 12, 2013 10:24 PM

To: Tippetts, Ron

Subject: request for extension

Barbara Sinner

4520 San Antonio Road

Yorba Linda, CA 92886

November 12, 2013

Via E-Mail and U.S. Mail

3

Orange County Planning

Attn: Ron Tippetts

300 N. Flower Street

Santa Ana, CA 92702-4048

Re: Cielo Vista Project Draft Environmental Impact Report

Dear Mr. Tippetts:

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development is a consequence of the Cielo Vista Project and both projects will share access easements and utilities connections, the two projects should be evaluated together. The near simultaneous release of these projects expands and complicates the scope of issues raised by the Cielo Vista Draft EIR.

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A six-week comment period is blatantly insufficient for a thorough review by the public that CEQA proscribes. In addition, the public comment period runs through and closes within the winter holiday season, which precludes the public from making an effective response on the Cielo Vista Draft EIR. If not extended, the current comment period would result in minimal public response and participation. As the lead agency in this development process, at the doorstep of the City of Yorba Linda, the County should advocate for achieving maximum public participation in the important environmental review phase of both this and the Esperanza Hills Draft EIR process.

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In view of both the complexity of technical data to be reviewed and the burden to the public to review such voluminous data during the holiday season, I respectfully request that the County lengthen the public comment period by 30 days which would extend responses to January 22, 2014. Thank you in advance for your approval of this request.

Very truly yours,

Barbara Sinner, Member

Protect Our Homes and Hills

Yorba Linda

Cc: The Honorable Todd Spitzer, Supervisor

Third District, County of Orange

10 Civic Center Plaza

Santa Ana, CA 92701

LETTER: POHH-SINNER

Barbara Sinner, Member
4520 San Antonio Road
Yorba Linda, CA 92886
(November 12, 2013)

RESPONSE POHH-SINNER-1

This comment letter requests an extension to the public review period for the Draft EIR. As described in Chapter 1.0, *Introduction*, of this Final EIR, the Draft EIR was subject to a public review and comment period of a total of 75 days, which well exceeds the minimum review periods established under CEQA. The Draft EIR was submitted to the State Clearinghouse, Office of Planning and Research, and initially circulated for a 45-day public review beginning on November 7, 2013, and ending on December 23, 2013. A Notice of Preparation of the Draft EIR was mailed to the appropriate public agencies, special districts, and members of the public prior to the issuance of the Notice of Availability and release of the Draft EIR for public review. The initial 45-day public review and comment period was subsequently extended by the County to 60 days, with the comment period ending on January 7, 2014. This additional extension was granted by the County in response to extension requests from both the public, as well as public agencies, including the City of Yorba Linda's request for a minimum 60 day review period. A "revised" Notice of Availability was mailed to the appropriate public agencies, special districts, and members of the public to provide notice of the extended public review time on the Draft EIR. Subsequently, a "Second Revised" Notice of Availability was issued on January 2, 2014 and extended the public review and comment period on the Draft EIR an additional 15 days, resulting in a review and comment period ending on January 22, 2014.

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RESPONSE POHH-SINNER-2

Please refer to Topical Response 1 for a detailed explanation as to why the Esperanza Hills Project is not part of the Cielo Vista Project, but was instead properly considered in the EIR as a related project for cumulative impacts purposes and in the Draft EIR's analysis of growth inducing impacts.

RESPONSE POHH-SINNER-3

Please refer to Response POHH-SINNER-1.

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