

Letter I67

LAW OFFICES OF WESLEY W. PELTZER

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Sent Via EMAIL & OVERNIGHT MAIL

Mark Slovick
Planning & Development Services
County of San Diego
5510 Overland Ave.
San Diego, CA 92123

Re: Comments on Lilac Hills Ranch Revised Draft EIR

Dear Mr. Slovick:

We represent the Pardee family and entities they own pertaining to two properties directly adjoining the Lilac Hills Ranch specific plan as noted in our comment letter of August 19, 2013. These are the 79-acre Covey Farms property located on the south side of Covey Lane adjoining the Lilac Hills Ranch specific plan area and the 40-acre Circle R property that abuts the Lilac Hills Ranch specific plan area at the southern end of Mountain Ridge Road. Both of these properties have been in active agricultural operations for many years and are located directly adjacent the Lilac Hills Ranch project. Please accept this letter as our official comments on the Revised Draft EIR (the "RDEIR"). For reasons noted in this letter, and in our prior comment letters, we have concluded that the Lilac Hills Ranch Project violates both the County General Plan and the Valley Center and Bonsall Community Plans prohibiting approval of the project. We have also concluded that the RDEIR violates the California Environmental Quality Act ("CEQA") and omits vital information and a proper analysis of environmental impacts requiring recirculation of the RDEIR.

I67-1

**I.
THE PROJECT**

The Lilac Hills Ranch specific plan consist of 90,000 square feet of commercial uses, a 50 room country inn, 1746 dwelling units, a senior community center, a group residential and care facility, a dementia care facility, a recycling facility, a water reclamation facility, a potentially new fire station, and a school. (RDEIR pp. 1-1, 1-2). The project's density is 2.9 dwelling units to the acre. (RDEIR p. 1-1).

I67-2

I67-1 This comment is an introduction to comments that follow. No further response is required.

I67-2 The comment provides factual background information, but does not raise an environmental issue within the meaning of CEQA. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project. However, because the comment does not raise an environmental issue with respect to the FEIR, no further response is required.

Note that the FEIR has been clarified throughout to state that the project's construction would occur over an 8- to 10-year period.

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The project includes construction over 20 years. (RDEIR p. 2.3-18). The project results in significant and unmitigable visual, air quality, traffic, and noise impacts. (RDEIR p. S-5).

I67-2
cont.

The current general plan designation for the site permits 110 residential units and mandates the preservation of 257 acres of the site in open space. (RDEIR p. S-7). Clearly, the project exceeds the permitted density by 1646 residential units, an increase of 1587% of the permitted density for the project area. The project will result in 4 million tons of grading at the rate of 50,000 tons per day. (RDEIR p. 2.2-20). The traffic section of the RDEIR acknowledges both the project and cumulative projects will result in significant and unmitigable impacts to numerous area roadways, intersections, and all of I-15 between Riverside County and Highway 78 which will operate in gridlock LOS F traffic conditions all the way from the Riverside County boundary to Highway 78. (RDEIR pp.2.3-2 through 2.3-5). No mitigation is being offered for any of the impacts to any CalTrans facilities based on claims that CalTrans has no program for mitigation of cumulative impacts when CalTrans has said otherwise.

I67-3

I67-4

We provided you with a comment letter on December 19, 2012 explaining why the Lilac Hills Ranch project fails to comply with numerous County standards on public roads for which we received no response. We sent you another comment letter on August 19, 2013 noting the project's inconsistency with the County General Plan and the Valley Center and Bonsall Community Plans and its violations of CEQA for which we also received no response. The RDEIR does not address any of the issues raised in this letter. We are providing you with another copy of both the December 19, 2012 and August 19, 2013 letter and requesting a specific response to each of our comments in both letters which are incorporated herein by reference. As you are undoubtedly aware, the County is required to respond to all comments on the RDEIR.

I67-5

I67-6

The RDEIR continues to conclude the land use impacts associated with the project are not significant because a General Plan Amendment might be approved which would result in the project being consistent with the General Plan. (RDEIR p. 3-87). However, in that very same paragraph of the RDEIR it states that "The project proposes land uses and densities that are not consistent with the adopted General Plan Land Use Element Regional Category of Semi Rural or the adopted land use designation of Semi Rural." (RDEIR p. 3-87). In fact, the RDEIR now includes a General Plan Consistency Alternative which acknowledges that the current County General Plan permits only 110 single-family dwelling units on this site and requires the preservation of 257 acres of the 608 acre site as open space. (RDEIR p. S-7). The analysis of this General Plan Consistency Alternative acknowledges that it would result in reduced visual impacts, it would reduce significant and unavoidable air quality impacts, and it would reduce significant and unavoidable traffic impacts to less than significant. (RDEIR p. S-7). As part of the CEQA Guidelines an EIR is required to discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans. (CEQA Guidelines §15125(d)). CEQA cases have uniformly held that the applicable plan to be evaluated is the plan that has already been adopted and not some future plan. (Chaparral Greens v. City of Chula Vista (1996) 50 Cal.App.4th 1134, 1145, fn2). The failure of the RDEIR to properly analyze the project based on its consistency with the adopted County General Plan and the adopted Valley Center and Bonsall Community Plans and not the possible General Plan Amendment violates

I67-7

I67-8

I67-9

I67-3 and I67-4

The FEIR determined that the proposed project, in combination with other cumulative traffic, would result in significant cumulative impacts on Interstate 15 from SR-78 north to the Riverside County boundary. (FEIR, subchapter 2.3; TIS, pp. 267-272, 356-357.) To mitigate the identified impacts it would be necessary to add additional I-15 travel lanes to provide increased capacity. However, there are no plans with a corresponding funding program in place to provide the additional lanes within the timeframe necessary to mitigate the identified impacts. Under CEQA, in circumstances as these in which the necessary improvements are outside of the jurisdiction and control of the lead agency (i.e., County), and the party with jurisdiction and control (i.e., Caltrans) has no plan or program in place to fund and construct the necessary improvements within the necessary timeframe, mitigation is considered to be infeasible and the impact is deemed significant and unavoidable. (FEIR, subchapter 2.3; TIS, p. 284.) The FEIR discloses this information and in doing so complies fully with CEQA. Please see Global Response: Significant and Unavoidable Impacts to I-15, for additional information responsive to the comment.

I67-5 and I67-6

Responses to these previous comment letters regarding the Draft EIR circulated for public review in July 2013 are attached hereto.

I67-7

This comment mischaracterizes the analysis framework of the FEIR and statements found in the FEIR. The FEIR frames the General Plan consistency analysis in subchapter 1.4 under "Environmental Setting," and describes its current land use planning context including current general plan land uses and applicable community plans. (See FEIR, subchapter 1.4.) Subchapter 1.6 describes the General Plan Amendment (GPA) required for approval of the project and that which is analyzed by the FEIR. Subsequent analysis of the physical environmental impacts that would occur from implementation of the GPA are illustrated in Chapters 2.0 and 3.0, as well as in the Land Use Planning section, subchapter 3.1.4 (See FEIR, Chapter 3.0 and Appendix W.) The land use consistency analysis for the proposed project is presented in the FEIR subchapter 3.1.4 and in Appendix W. The FEIR does conclude that land use impacts would be less than

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	<p>I67-7 (cont.) significant. Subchapter 3.1.4.2 summarizes that the project proposes land uses and densities that are not currently consistent with the adopted land use designation of Semi-Rural S-R4 (VCCP Land Use Map) and Semi-Rural SR-10 (BCP Land Use Map). In order for the project to be approved and implemented, the General Plan Regional Land Use Map would need to be amended to change the adopted regional category (Semi-Rural) designation of the project site and to redesignate the entire 608-acre site as "Village" (as shown in Figure 1-1 of the FEIR). In addition, the VCCP land use designation for the project would need to be amended to Village Residential (VR 2.9) and Village Core (C-5) and the BCP land use designation will need to be amended to Village Residential (VR 2.9) (as shown on Figure 1-2). Amending the General Plan Mobility Element road classification of West Lilac Road is addressed in subchapter 1.6 of the FEIR (See also subchapter 2.3, Traffic with respect to West Lilac Road and Road 3).</p> <p>I67-8 The General Plan Consistent Alternative compares the environmental impacts that would result if there was no General Plan Amendment and was designed to be consistent with the current land use designation and zoning. FEIR Table 4-1 includes a matrix comparing the proposed land uses of these Alternatives and Table 4-2 compares impacts of these Alternatives with the Project. This alternative was considered as part of several Alternatives that must be considered under CEQA. This comment does not raise specific concerns related to environmental impacts, and as such, no further response is required.</p> <p>I67-9 The FEIR properly compares the proposed project (including the General Plan amendment) with the existing General Plan and Community Plans as presented in the FEIR subchapter 3.1.4 and in Appendix W. Please also see Global Responses: General Plan Amendment CEQA Impacts Analysis and Project Consistency with General Plan Policy LU-1.2. Also, when a proposed project includes a general plan amendment, this means that the general plan amendment must be compared to the existing physical conditions. (See EPIC v. El Dorado, 131 Cal. App.3d 350). See response to comment I67-7 above.</p>
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CEQA and has resulted in a RDEIR that understates land use impacts which are clearly significant and unmitigable based upon the adopted County General Plan, and the adopted Valley Center and Bonsall Community Plans as noted in our August 19, 2013 letter to you. The RDEIR concedes inconsistencies between the project and the adopted General Plan.

167-9
cont.

**II.
THE FIRE IMPACTS ANALYSIS IS INADEQUATE AND FIRE IMPACTS ARE
SIGNIFICANT AND UNMITIGABLE**

The RDEIR acknowledges that the project does not comply with the Consolidated Fire Code requirement of a fire buffer of 100 feet from all residences. In fact, Figure 1-6 of the RDEIR shows that the northern, central and southern portions of the project site include fire buffers from residences ranging from 50 to 90 feet, far short of the 100 foot fire buffer from residences mandated by §96-1.4907.2 of the Consolidated Fire Code. (Figure 1-6; RDEIR p. 2.7-25). The RDEIR acknowledges this could represent a significant impact. (RDEIR p. 2.7-26). The Deer Springs Fire Protection District (DSFPD) which is the Fire District having jurisdiction over the project has not accepted this reduction in the fire buffer areas which therefore requires compliance with the 100 foot fire buffer from all residences mandated by the Consolidated Fire Code. This results in a significant and unmitigable fire impact not disclosed or discussed in the RDEIR.

167-10

The RDEIR states that the maximum emergency response time for the project is 5 minutes. (RDEIR p. 2.7-33). The RDEIR acknowledges that the DSFPD identified Fire Station 11 as the primary fire station to serve the project. (RDEIR p. 2.7-33). The fire section of the RDEIR admits that response times from Station 11 to the project site are 6-7.5 minutes (RDEIR p. 2.7-34), well in excess of the 5 minute response time permitted and Figure 2.7-2 of the RDEIR actually indicates response times of 8.5 to 9.4 minutes are necessary from Station 11 to the furthest structures in Phase III of the project. These clearly exceed the 5 minute response time mandated by the County's Public Safety Element (Table S-1) requiring denial of the project and a finding that the project's fire impacts are significant and unmitigable. The failure of the RDEIR to disclose and discuss these significant and unmitigable fire impacts violates CEQA.

167-11

The fire section of the RDEIR relies on the Miller Station and four other options provided to assert compliance with the 5 minute emergency response time. (RDEIR pp. 2.7-33, 2.7-35). However, the DSFPD has repeatedly indicated that none of these options are viable or acceptable to it and that it would not accept the Miller Station in lieu of Station 11 to serve the project.

167-12

We are providing you with this letter the June 11, 2014 minutes of the DSFPD expressly stating they cannot meet the 5 minute response time and would not accept the Miller Station as one of the fire station options since it is not a DSFPD station and it is not staffed year-round. With this letter, we are also providing you with an e-mail from Cal Fire who is currently staffing the Miller Station on a part-time basis dated May 20, 2013 unequivocally stating that Cal Fire will not provide full time fire or EMS coverage for the Lilac Hills Ranch Project. In fact, the DSFPD's own studies have indicated that all of the options offered in the fire section of the RDEIR were flawed since they could not recover adequate fees from property taxes to fund them and it would

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167-10 DSFPD provided a "Project Facilities Availability Form" for the project (attached to the Specific Plan) that requires the Project to conform to the FMZ requirements of Section 96.1.4907.2 of the County Consolidated Fire Code. Section 96.1.4907.2(b) provides that where the standard 100 feet FMZ cannot be met entirely within the boundary of the project, alternative fire protection measures consistent with the Fire Code can be proposed that achieve the same level of protection as fuel modification. Subchapter 2.7.2.4 of the FEIR addressed the project's consistency with the FMZ requirements as set forth in the County Consolidated Fire Code. Although several areas of the project site would not meet the 100-foot standard for FMZs as shown on Figure 1-6 of the FEIR, a number of other alternative measures (described in Section 4.4.4 of the Fire Protection Plan) that achieve the same level of required protection were identified. (In addition the project incorporated a number of design considerations into the project.) The FEIR identifies where the 100-foot FMZ is not met. Mitigation measure M-HZ-1 provides that for areas within the project site where buildings do not meet the standard 100-foot setback for FMZ, either an easement shall be obtained from an adjacent property owner or one of the alternative measures that would achieve the same level of required protection described in Section 4.4.4 of the FPP shall be met. The measures would be required to be approved by DSFPD and would be incorporated into the site plan or use permit plan.

167-11 The comment states that the FEIR acknowledges that the emergency response time for the project is 5 minutes, and that Station 11 is the primary fire station to serve the project. Please refer to the Global Response: Fire and Medical Services for a thorough discussion on this matter.

167-12 The comment states that the FEIR relies on four options to provide compliance with the 5-minute emergency response time and DSFPD has repeatedly indicated that none of these options are viable or acceptable to it. Please refer to the Global Response: Fire and Medical Services for a thorough discussion on this matter.

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	<p>I67-13 The commenter asserts that based upon minutes provided, DSFPD has stated that it cannot meet the 5-minute travel time and would not accept Miller Station as one of options. However, the comment does not reflect the most current response provided by DSFPD, dated July 28, 2014. The District stated that it has the capacity and intent to provide service to the project. DSFPD also stated that should the County accept the use of Miller Station as meeting the intent of the General Plan, the District will respond to the development under its own travel time standards of 7 to 9 minutes within the project.</p> <p>Please refer to Global Response: Fire and Medical Services for a thorough discussion on this matter.</p> <p>I67-14 See Global Response: Fire and Emergency Services.</p>
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require a shifting of fire services from Station 11 which is currently the best station to serve the rest of the District.

167-14
cont.

The Evacuation Plan (Appendix K) provided for the project evaluates only evacuations to ensure the safe and efficient evacuation of residents and guests within the project area as stated in RDEIR. (RDEIR p. 2.7-36). No information has been provided in the RDEIR or the Evacuation Plan evaluating the ability to adequately evacuate the many existing residents, agricultural and other users surrounding the project site and their ability to evacuate safely in the event of a fire. The RDEIR needs to provide an analysis of the ability of area residents to evacuate safely since no information has been provided on this in the RDEIR. The failure to include this information violates CEQA.

167-15

III.

THE ABILITY OF THE PROJECT TO USE MOUNTAIN RIDGE ROAD FOR ACCESS AND EMERGENCY ACCESS

Mark Jackson received an attachment from the County which is enclosed as part of his July 22, 2014 comments on the RDEIR obtained from the County which clearly indicates that 32 offsite parcels must grant rights of way for the project to use Mountain Ridge Road for any of the project's proposed uses. As noted in the RDEIR, the project is currently proposing to use Mountain Ridge Road for access to its senior facilities in Phase 5 and as emergency access. (RDEIR p. 1-12) Please provide us with any evidence the project has secured all access rights it needs to use Mountain Ridge Road for any purpose. If there is no evidence that the project has secured all easement rights it needs to use Mountain Ridge Road, the RDEIR needs to be revised to disclose this and project impacts must be reevaluated based upon the fact the project could not use Mountain Ridge Road as access or emergency access. Please provide a full evaluation of this issue and any support you have for it in response to this comment.

167-16

IV.

IMPACTS TO AREA RESIDENTS AND OTHERS WITHIN THE PROJECT AREA NEED TO BE EVALUATED IN THE RDEIR FOR THE REQUIRED OFF-SITE IMPROVEMENTS AND LAND ACQUISITIONS

The RDEIR does not contain any analysis of impacts to existing residential users, agricultural users, or other businesses in the area caused by the required off-site improvements for the project or the acquisitions or takings for them. As noted in the RDEIR, these off-site improvement include the widening of West Lilac Road west to the Maxwell Memorial Bridge, the construction of improvements to Lilac Hills Ranch Road, the widening of Covey Lane from 28 feet to 40 feet, 3800 feet of improvements from the southern project boundary to a connection with Circle R Drive from Mountain Ridge Road, and the paving of Rodriguez Road 24 feet from Lilac Hills Ranch Road to Covey Lane as well as significant water, sewer and drainage improvements. (RDEIR pp. 1-12 through 1-17; 1-22 through 1-27). Various provisions of the RDEIR also indicate that the County will take land if necessary, for these off-site improvements and the acquisitions. The RDEIR needs to contain a full analysis of all impacts associated with these off-site road improvements to existing owners and their current uses. In addition, the RDEIR needs

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167-15 The comment states that the Evacuation Plan only evaluated the evacuation of the project area but no information has been provided in the FEIR or Evacuation Plan evaluating the ability to adequately evacuate the residents, agricultural, and other uses surrounding the project site thus violating CEQA.

The County requires new residential development projects to prepare an evacuation plan as a part of the approval process that addresses the development's unique location, community uses, fire environment, and road network. In San Diego County there is a comprehensive emergency plan known as the Operational Area Emergency Plan along with a number of other regional emergency response plans. (County's Guidelines for Determining Significance-Emergency Response Plans, (2007)). With respect to the DSFPD area, a draft community emergency evacuation plan was developed by the Deer Springs Fire Safe Council. This plan is a component of the project's Evacuation Plan. The commenter is confusing the requirement to prepare an evacuation plan for a specific project with the County's and other governmental agencies' responsibility to prepare emergency response plans for the region, county, and community residents.

CEQA requires lead agencies to consider whether the implementation of a proposed project would impair the implementation of, or physically interfere with, an emergency response plan or an emergency evacuation plan. The FEIR determined that the impacts associated with emergency response and evacuation plans would be less than significant and that the project would not interfere with the implementation of any applicable emergency or evacuation plan, including the Draft Valley Center Community Evacuation Plan.

167-16 Please refer to Global Response: Easements (Covey Lane and Mountain Ridge Roads) for a thorough discussion of this matter.

to disclose the number of owners affected by any land acquisitions or takings needed for the off-site improvements, the total acreage of the required acquisitions or takings for the off-site improvements and how this would impact existing uses on these parcels. Please provide a detailed response on these issues which includes a full analysis of all environmental impacts to area residents associated with the required off-site improvements and acquisitions and an analysis of the number of owners affected and the total acreage needed for any acquisitions or takings of private land and all environmental impacts to these owners from the acquisitions or takings.

167-19
cont.

167-20

V.

THE AGRICULTURAL SECTION OF THE RDEIR UNDERSTATES AGRICULTURAL IMPACTS WHICH ARE SIGNIFICANT AND UNMITIGABLE

We discussed the understated agricultural impacts and the fact they were significant and unmitigable in our August 19, 2013 letter which is attached. None of these issues have been addressed in the RDEIR. The RDEIR continues to conclude that significant agricultural impacts have been fully mitigated both individually and cumulatively. (RDEIR p. 2.4-31).

167-21

As you know, the CEQA Guidelines Appendix G specifically provides that a project will have a significant agricultural impact if it converts Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to a nonagricultural use or if it could individually or cumulatively result in the loss of Farmland to nonagricultural uses. The County's own significant standards for Agricultural Resources also recognize these CEQA standards. (County's Guidelines for Determining Significance Agricultural Resources p. 1). The RDEIR specifically notes that the project site contains 293 existing acres of orchard crops. (RDEIR p. 2.4-4). The RDEIR contains no analysis of impacts to the existing 293 acres of orchard crops on site. The RDEIR also acknowledges that the site presently contains 36.2 acres of Farmland of Statewide Importance and 329.2 acres of Unique Farmland. (Table 2.4-2; RDEIR p. 2.4-5). Table 2.4-6 shows that the project will directly impact 329.2 acres of Unique Farmland and 36.2 of Farmland of Statewide Importance resulting in a direct loss of 365.4 acres of both Prime Farmland and Unique Farmland as a result of the project. In fact, the RDEIR acknowledges that the project will result in a loss of 511.7 acres of existing farmland on the project site representing 54 percent of the cumulative total of Important Farmland in the area. (RDEIR p. 2.4-24). This loss of 511.7 acres of existing farmland as a result of the project is a significant agricultural impact caused by the project not disclosed in the RDEIR.

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We also note that the agricultural section of the RDEIR has failed to adequately evaluate cumulative impacts to agricultural resources in the area. Figure 2.4-8 shows that the cumulative projects evaluated in the surrounding area contained only 7 surrounding projects in a few areas around the site. (Figure 2.4-8). This cumulative evaluation did not consider the 1347 acres of mixed use orchards within one mile of the site, row crops within one mile of the project site, or the 306 acres of nurseries and greenhouses located within one mile of the project site acknowledged in the RDEIR. (RDEIR pp. 2.4-8, 2.4-9).

167-25

167-17 through 167-20

The FEIR adequately analyzes the potential environmental impacts associated with construction of the off-site physical improvements as required under CEQA. With respect to related property rights, please see Global Response: Off-Site Improvements – Environmental Analysis and Easement Summary Table, which describes the respective off-site improvements, corresponding environmental analysis, status of easement rights, and affected properties. Please also see Global Response: Easements (Covey Lane and Mountain Ridge Roads), for additional information responsive to this comment.

167-21 The comment refers to prior comments submitted in 2013 relating to the July 2013 Draft EIR and provides an introduction to the comments that follow. Responses to the 2013 comments are provided. Please see responses to Attached Letter (Peltzer 2013), comments 19 through 21.) Responses to each of the specific comments relating to the FEIR are provided below.

167-22 The commenter claims the FEIR analysis of direct impacts improperly omitted certain agricultural resource classifications. However, in assessing impacts to on-site agricultural resources, the relevant inquiry under the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements – Agricultural Resources is whether the project would result in the conversion of agricultural resources that meet the soil quality criteria for Prime Farmland or Farmland of Statewide Importance. Thus, under the County's approved significance thresholds, impacts to Unique Farmland or Farmland of Local Importance as designated by the statewide Farmland Mapping and Monitoring Program (FMMP) are not considered significant impacts within the meaning of CEQA. Please see Global Response: Agricultural Resources, Direct Impacts, for additional information regarding the County's thresholds and the related impacts analysis.

167-23 The commenter refers to acreage amounts that are based on the statewide FMMP Important Farmland mapping designations and that include the Unique Farmland classifications. However, as noted in the prior response, the assessment of significant impacts under the County Guidelines focuses on those agricultural resources that meet the soil

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	<p>I67-23 (cont.) quality criteria for Prime Farmland or Farmland of Statewide Importance. These soil types are listed in the FEIR Table 2.4-1. Notably, under the FMMP mapping designations, the project site includes 0 acres of Prime Farmland and 36.2 acres of Farmland of Statewide Importance. (FEIR Table 2.4-2.)</p> <p>However, under the County Guidelines, the project site includes 1.88 acres of Prime farmland and 44.43 acres of Farmland of Statewide Importance available for agricultural use. As such, use of the County Guidelines in this case provides a more conservative assessment of impacts than would use of the FMMP mapping designations. Please see Global Response: Agricultural Resources, Direct Impacts, for additional information regarding the County's thresholds and the related impacts analysis.</p> <p>I67-24 The comment refers to the amount of acres designated by the FMMP mapping system as Prime, Unique, Of Local Importance, and Of Statewide Importance that the FEIR cumulative impact analysis notes would be impacted by the project. (FEIR, p. 2.4-24.) However, the focus of the assessment of cumulative impacts is the same as for direct impacts - agricultural resources that meet the soil quality criteria for Prime Farmland or Farmland of Statewide Importance. (County Guidelines, pp. 43-44, 40.) As a result, the FEIR overstates potential cumulative impacts. Nonetheless, the FEIR correctly determined that the project's contribution to cumulative impacts would be cumulatively considerable and, therefore, the project would result in significant cumulative impacts. (FEIR, p. 2.4-4.)</p> <p>I67-25 The comment contends the scope of the cumulative project study area is inadequate because it did not consider the acreage associated with the existing agricultural uses located within one mile of the project site. However, a cumulative impact consists of effects created as a result of implementation of the project evaluated in the FEIR combined with other projects causing related impacts. (CEQA Guidelines Section 15355; FEIR subchapter 1.7.) Specifically, the focus of the analysis is on the incremental impact that would result from the proposed project in combination with "other closely related past, present and reasonably foreseeable probable future projects." (CEQA Guidelines Section 15355(b).)</p>
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	<p>I67-25 (cont.)</p> <p>FEIR Figure 2.4-8, Cumulative Project Area, illustrates the location of the seven reasonably foreseeable probable future projects located within the vicinity of the proposed project that were considered as part of the cumulative impact analysis. As shown in the cumulative analysis in subchapter 2.4 of the FEIR, the 1,347 acres of mixed use orchards, row crops, and 306 acres of nurseries and greenhouses located within one mile of the project site, referenced by the comment, would not be impacted by the project and other related cumulative projects.</p>
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The agricultural analysis contained in the RDEIR addresses only compatibility with neighboring agricultural uses and the project and does not evaluate at all impacts to any of the neighboring agricultural uses caused by the project's construction activities. The agricultural section of the RDEIR merely discusses consistency of uses proposed for the project with the neighboring agricultural uses and proposes a 50 foot buffer only to address potential use inconsistencies. (RDEIR pp. 2.4-17 through 2.4-21). The agricultural section of the RDEIR contains no evaluation or discussion of impacts to these adjoining agricultural uses caused by project construction activities over 20 years. Please provide a detailed analysis of environmental impacts to these neighboring agricultural uses caused by the project's construction activities over 20 years. The failure to include this information in the RDEIR omits vital information rendering the RDEIR fatally defective.

I67-26

In addition, the agricultural section of the RDEIR fails to disclose or consider cumulative impacts from the loss of agriculture documented in the County's General Plan in combination with the incremental loss caused by the project and other planned development in the area. The RDEIR states that the project in combination with other planned projects will result in impacts to 943.5 acres of Important Farmland. (RDEIR p. 2.4-24). The EIR adopted for GP 2020 specifically concluded that implementation of the General Plan "would result in the potential conversion of 55,963 acres of agricultural resources to non-agricultural land uses resulting in a significant and unmitigable agricultural impact." (GP 2020 EIR p. S-7). The loss of an additional 511 acres of existing agriculture on the project site and 943.5 acres in the cumulative study area clearly results in a significant and unmitigable cumulative agricultural impact based on the County's own EIR for GP 2020. No mitigation is offered in the RDEIR for this loss of agricultural lands on the project site either individually or cumulatively. The only mitigation offered is for the on-site loss of 43.8 acres of soils of Prime or Statewide Importance. (RDEIR pp. 2.4-27, 28).

I67-27

VI.

THE TRAFFIC SECTION OF THE RDEIR FAILS TO ADEQUATELY EVALUATE TRAFFIC IMPACTS FROM CONSTRUCTION ACTIVITIES, SIGNIFICANT AND UNMITIGABLE TRAFFIC IMPACTS ARE NOT PROPERLY MITIGATED AND CUMULATIVE TRAFFIC IMPACTS ARE UNDERSTATED

The traffic section of the RDEIR indicates that construction activities will result in 13,473 daily trips. (RDEIR p.2.3-18). It also indicates that project construction is expected to be phased over 20 years. (RDEIR p. 2.3-18).

I67-28

Simple math indicates that these construction activities will result in 4,917,645 construction trips during a year (13,473 daily trips x 365 days = 4,917,645 annual construction trips) and 98,352,900 construction trips over the 20 year project construction period. There is no analysis contained in the RDEIR about impacts on area residents or other uses caused by construction trips of this magnitude over any period of time. Please provide a full analysis of impacts to area residents caused by 4,917,645 construction trips per year.

In order to conclude that construction traffic impacts are less than significant, the RDEIR indicates that a traffic control plan would be completed at some undefined period in the future to

I67-29

I67-26 The comment states the analysis of agricultural resources contains no evaluation or discussion of the effect of project construction activities on adjacent agricultural uses. Please note that the FEIR has been revised to clarify that the project's construction period would be 8 to 10 years in duration. However, the FEIR specifically addresses the generation of particulate matter (PM) during project construction activities that could affect adjacent agricultural operations such as flower crops. (FEIR, pp. 2.4-22 to 2.4-23.) The FEIR explains further that standard PM control measures would be required during construction, which would address these potential impacts. (FEIR, subchapter 2.4.) Please see Global Response: Agricultural Resources, Indirect Impacts, for additional information responsive to the comment.

I67-27 The comment states that the cumulative impacts analysis improperly failed to consider the project's impacts in combination with the impacts that would result with implementation of the County's General Plan 2020. However, as discussed in response to comment I67-25, the cumulative analysis properly considered "other closely related past, present and reasonably foreseeable probable future projects." (CEQA Guidelines Section 15355(b).) Additionally, as discussed in the response to comment I67-24, the focus of the assessment of cumulative impacts is the same as for direct impacts - agricultural resources that meet the soil quality criteria for Prime Farmland or Farmland of Statewide Importance. (County Guidelines, pp. 43-44, 40.) Under CEQA, the relevant inquiry in assessing cumulative impacts is whether the project's contribution to a significant cumulative impact is cumulatively considerable. (CEQA Guidelines Section 15130(a).) In this case, the FEIR determined that the project's contribution would be cumulatively considerable. The project is required to mitigate its share of the cumulative impacts; this assessment would be unchanged whether or not the cumulative impacts identified in the County General Plan EIR were considered.

I67-28 Please note that the FEIR has been revised to clarify that the project's construction period would be 8 to 10 years in duration. As documented in Table 11.2 of the Lilac Hills Ranch Traffic Impact Study (June 2014), the referenced 13,473 daily trips is the combination of both the Existing Plus Project Phase D traffic and construction-related traffic. This

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	<p>I67-28 (cont.) combination includes 537 daily construction-related trips (as shown in Table 11.2), with the remaining 12,900 trips generated by the proposed residential, commercial, and other land uses within the project. Therefore, the commentor is incorrect to state that the traffic control plan would need to handle 13,473 construction-related daily trips for 20 years. Rather the project would generate a maximum of 537 construction-related daily trips throughout the project construction cycle. Additionally, it is standard practice to analyze the impacts on a daily basis not on a calendar year basis. Please see Chapter 11 of Appendix E of the FEIR for details on the analysis of construction traffic.</p> <p>I67-29 As noted in the response to comment I67-28, the project would generate a maximum of 537 daily construction-related trips during buildout of the project. In assessing potential construction-related impacts, the TIS determined that under a worse case scenario, the project would generate a total of 13,473 daily vehicle trips during project construction (537 construction-related trips + 12,936 project-related trips). (TIS Section 11.0, Construction Traffic.) This number of trips is less than the build-out total of 15,151 external daily trips and, therefore, no additional impacts beyond those already identified in the TIS and FEIR would occur due to construction-related traffic. Because no significant impacts were identified, mitigation is not required. Nonetheless, as reported in the FEIR, a traffic control plan would be prepared to manage construction traffic and ensure impacts are less than significant.</p>
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manage construction traffic. (RDEIR p. 2.3-18). No such traffic control plan has been provided as part of the RDEIR and there is no discussion in it about how 13,473 daily construction trips for 20 years can be adequately mitigated. Please provide a detailed evaluation of construction traffic impacts for 20 years and provide an evaluation of how these construction trips can be adequately mitigated. Requiring a subsequent undefined traffic control plan is not adequate mitigation under established CEQA case law. A number of California CEQA cases have expressly held that mitigation measures requiring a project applicant to obtain a subsequent report and then comply with any recommendations is legally defective mitigation. (Defend the Bay v. City of Irvine (2004) 119 Cal.App.4th 1261, 1275 [mitigation requiring project applicant to obtain a subsequent biology report and then comply with recommendations legally deficient]; Endangered Habitats League, Inc. v. County of Orange (2005) 131 Cal.App.4th 773, 793-794 [mitigation of construction interference from noise, supply depots, and vehicle staging areas was inadequate because it did not require anything more than a report be prepared and filed and obtain approval by county department without setting any standards]).

167-29 cont.

167-30

The traffic section of RDEIR states that the project will result in significant and unmitigable impacts to the I-15 SB ramps at the Gopher Canyon Road intersection for which no mitigation is offered and that the project will result in significant and unmitigated cumulative impacts to 9 roadway segments and 11 intersections. (RDEIR pp.2.3-39 through 2.3-41). The RDEIR also indicates that 8 segments of the I-15 freeway will operate at LOS F from the Riverside County boundary to Highway 78. (RDEIR pp. 2.3-41, 42). The RDEIR determines that no mitigation is feasible for any freeway or CalTrans facilities to mitigate for these cumulative impacts. However, on June 24, 2014 CalTrans wrote a letter to Mark Slovick expressly indicating it does not agree with the mitigation language throughout the EIR where mitigation was determined to be infeasible and would remain significant and unavoidable because the impacts are within the jurisdiction of CalTrans and CalTrans further expressly stated that it does have a mechanism to collect fair-share contributions for cumulative impacts on CalTrans facilities. The traffic section of the RDEIR needs to be extensively revised to require fair-share contributions from the project for cumulative impacts to all CalTrans facilities in accordance with the June 24, 2014 CalTrans letter. We are providing you with a copy of the June 24, 2014 CalTrans letter with this letter. In addition the County should require fair share contributions for County roads impacted by the project instead of determining the project has no obligation on County roads impacted by the project because it exceeds the project's fair share contribution.

167-31

167-32

167-33

The revised traffic impact study indicates cumulative traffic impacts added by Valley Center property owner requests 11, 20A, 20B, 54, 61, and 66, adding 261 units. (TIS p. 5). We were present when the Board of Supervisors took the action to permit a General Plan Amendment allowing an additional 720 residential dwelling units in the Valley Center area joining the Lilac Hills Ranch project as noted in our August 19, 2013 letter to you. The authorization of this General Plan Amendment for the Valley Center properties extended far beyond property owner requests 11, 20A, 20B, 54, 61, and 66 and will result in an additional 720 residential units, not 261 as stated in the cumulative section of the traffic analysis. Utilizing the SANDAG standard of 12 ADT per dwelling, these additional trips in the Valley Center area will add an additional 8736 average daily trips, which is well in excess of the property owner requests analyzed in the cumulative traffic section of the RDEIR. In addition, at the same time the Board of Supervisors

167-34

167-35

167-30 The referenced cases are not applicable. Please see response to comment 167-29.

167-31 The comment restates information contained in the FEIR, but does not raise an environmental issue within the meaning of CEQA. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project. However, because the comment does not raise an environmental issue with respect to the FEIR, no further response is required.

167-32 As explained in the responses to the referenced Caltrans comments, the FEIR determined that the proposed project, in combination with other cumulative traffic, would result in significant cumulative impacts on I-15 from SR-78 north to the Riverside County boundary. To mitigate the identified impacts it would be necessary to add additional I-15 travel lanes to provide increased capacity. However, there are no plans with a corresponding funding program in place to provide the additional lanes within the timeframe necessary to mitigate the identified impacts. Under CEQA, in circumstances as these in which the necessary improvements are outside of the jurisdiction and control of the lead agency (i.e., County), and the party with jurisdiction and control (i.e., Caltrans) has no plan or program in place to fund and construct the necessary improvements within the necessary timeframe, mitigation is infeasible and the impact is deemed significant and unavoidable. Please see Global Response: Significant and Unavoidable Impacts to I-15, for additional information responsive to the comment.

In an effort to reduce project vehicle trips, as part of the project an interim basis, private on-demand transit service would be established to facilitate resident access to I-15 transit services until the necessary transit linkage is available. (Lilac Hills Ranch Specific Plan (June 2014) (Specific Plan), Section III, Development Standards and Regulations, pp. III-11 to III-12; see also FEIR, Table 1-3.) In addition, the project includes a requirement that a Transportation Demand Management program be implemented to foster alternative modes of transportation. (Specific Plan, pp. III-11 to III-12; FEIR Table 1-3, Additional Project Design Considerations.)

	<p>I67-32 (cont.) Please see Global Response: Significant and Unavoidable Impacts to I-15, for additional information regarding these project features and other information responsive to the comment.</p> <p>I67-33 The comment is referring to the FEIR determination that significant cumulative impacts to two roads within the jurisdiction of the County (TR-12 and TR-16) are infeasible to mitigate. The referenced cumulative impacts are to Gopher Canyon Road between E. Vista Way and Little Gopher Canyon Road (TR-12), and Pankey Road between Pala Mesa Drive and SR-76 (TR-16). Both the FEIR and TIS explain the basis for the infeasibility determination. In each case, while the project would add a small amount of traffic (3.5 percent and 5.2 percent, respectively), it would be necessary for the project to fund the full cost of the improvement (approximately \$8.5 million and \$2.2 million, respectively) as the improvements are not currently included in the County's traffic impact fee (TIF) program. Pursuant to CEQA, mitigation measures must be roughly proportional to the environmental impacts caused by the project. As such, conditioning the project to construct the improvements is not feasible under CEQA. Please see FEIR subchapter 2.3 and TIS Section 6.4 for additional information responsive to the comment.</p> <p>I67-34 As shown in TIS Section 6.0, all applicable project amendments by the Board of Supervisors were included as cumulative projects within the Project TIS. These projects include: VC-15, VC-57, VC-63, VC-64, VC-67, VC-7, VC-11, VC-20A, VC-20B, VC-54, VC-61, VC-66. Please see the attached Board of Supervisors' Summary of Property Requests Workplan Groupings and Evaluation, which includes a listing of all property owner requests presented to the Board of Supervisors following adoption of the General Plan Update. As shown, the total number of property requests in the Valley Center area matches those in the Revised TIS, resulting in an increase of 624 dwelling units (not 720 units as stated by the commentator). Dwelling unit increases from VC-7, VC-9, VC-11, VC-20A, VC-20B, VC-54, VC-60, VC-61, and VC-66 would make up 371 dwelling units out of the 624 dwelling units, with VC-51, VC-57, VC-63, and VC-64 making up the remaining 253 dwelling unit increase.</p>
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	<p>I67-34 (cont.)</p> <p>The 261 units referenced on page 229 and in Table 6.1 of the Revised TIS only refers to the property owner requests in the immediate vicinity of the Lilac Hills Ranch Project. As shown on the referenced attachment, VC-7, VC-9, VC-11, VC-20A, VC-20B, VC-54, VC-60, VC-61, and VC-66 would increase the total dwelling units by 371 units. However, VC-9 is the Lilac Hills Ranch project, and thus 110 dwelling units (which is the current General Plan designation for the Lilac Hills Ranch Project) were removed from the total, resulting in 261 dwelling units.</p> <p>I67-35 Please see response to comment I67-34 above in regards to the number of future dwelling units assumed as part of the cumulative analysis for in the Valley Center Area. The trip generation rates for all cumulative projects were applied by the SANDAG regional model; thus, all applicable trips attributable to cumulative projects were included in the analysis contained in the Revised TIS.</p>
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Page 8

authorized a General Plan Amendment for a large number of Bonsall properties located directly across the I-15 freeway from the Lilac Hills Ranch project which have not been evaluated at all in the cumulative traffic analysis. The cumulative traffic analysis needs to be revised to show the correct number of residential units authorized by the Board for the property owner General Plan Amendments in both the Valley Center and Bonsall areas and the cumulative traffic analysis needs to be revised to reflect this substantial increase in cumulative trips.

167-36
cont.

Title 6.1 of the Traffic Impact Study contains a list of cumulative projects but there is no information in the traffic study or the RDEIR about the total number of ADT assigned to each of these cumulative projects. Please provide specific information on the ADT assigned to each of the cumulative projects for the revised traffic study and the cumulative projects and ADT for each of them used in the air quality analysis.

167-37

**VII.
AIR QUALITY IS NOT ADEQUATELY ANALYZED**

The air quality analysis assumed only 7 years of construction activities as indicated in the RDEIR. (RDEIR p. 2.2-11). However, as noted previously the traffic section of the RDEIR in fact indicates that construction activities will occur for 20 years. (RDEIR p. 2.3-18). The air quality section of the RDEIR needs to be revised to analyze air quality impacts associated with construction activities over 20 and not 7 years.

167-38

The CO hot spot analysis considered only the signalized intersections on SR-76/Old River Road, SR-76/Olive Hill Road and over Highway 395/SR-76. (RDEIR p. 2.2-24). However, the traffic section of the RDEIR notes that signalized intersections will also occur at the I-15 SB ramp/Gopher Canyon Road, the I-15 NB ramp/Gopher Canyon Road, Old Highway 395/West Lilac Road and Old Highway 395/Circle R Drive. (RDEIR p. 2.3-2). Since all of these additional intersections will add traffic from the project and cumulative projects exceeding a 2000 trip increase all of them need to be evaluated in the CO hot spot analysis. Failure to include this analysis in the RDEIR renders the EIR legally deficient.

167-39

Where an EIR fails to provide the agency decision-makers and the public with all relevant information regarding the project that is necessary for informed decision-making and informed public participation, the EIR is legally deficient and the agency's decision must be set aside. (Santiago County Water District v. County of Orange (1981) 118 Cal.App.3d 8181, 829; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 712). We hereby incorporate the deficiencies in the RDEIR noted by Mark Jackson, the Valley Center Planning Group, the Bonsall Planning Group, the Endangered Habitat League, Kevin K. Johnson and others responding to the RDEIR.

167-40

**VIII.
CUMULATIVE IMPACT IN THE RDEIR ARE SIGNIFICANTLY UNDERSTATED IN LIGHT OF SIGNIFICANT CUMULATIVE IMPACTS ALREADY IDENTIFIED IN THE COUNTY'S EIR FOR ADOPTED GP 2020**

167-36 As documented in TIS Section 6.0, all Specific Plan Amendment (SPA) requests within the Bonsall community have been included in the cumulative impact analysis through the SANDAG Series 12 Cumulative Year Transportation Forecast Model. (Please see the attached Board of Supervisors Summary of Property Requests Workplan Groupings and Evaluation). Additionally all tentative project applications in the County of San Diego database at the time of the study were included in the model. The projects listed in the comment were all included in the traffic impact study (as well as the model) and are included in the TIS.

167-37 Section 6.1 of Appendix E of the FEIR details how the cumulative traffic volumes were generated. As detailed in this section, the SANDAG's Series 12 Year 2020 Transportation Model was utilized to forecast cumulative traffic volumes. In addition, the cumulative projects shown in Table 6.1 of Appendix E were incorporated into the SANDAG model. The SANDAG model trip generation report is included in Appendix AN of Appendix E to the FEIR. ADT were estimated for each cumulative project based on the proposed land uses (e.g., number of units, square footage of commercial space, etc.) using standard SANDAG trip generation estimates. The air quality analysis uses the same trip generation rates for consideration of cumulative operational emissions.

167-38 Please note that the FEIR has been revised to clarify that the project's construction period would be 8 to 10 years in duration. The commenter asserts the air quality analysis did not adequately analyze the impact on air quality due to the analysis using a shorter construction period than the traffic analysis. The County's air quality thresholds are based on maximum daily limits, and the shorter time frame for construction of the project used in the air quality analysis results in a more conservative analysis as more equipment is required in a shorter time period to accomplish the same amount of work. Therefore, if the project's emissions were spread over a longer period of the project, it would require fewer pieces of equipment on a daily basis with lower daily emissions. Additionally, emissions factors are lower in future years and continue to decrease due to regulations affecting the efficiency of the engines. Thus, if the same equipment is modeled in 2020 as opposed to 2015, the emissions for the same vehicle would be lower in 2020. By developing the air quality emissions analysis with these parameters, the impacts are generally over-predicted, but offer a margin of safety to ensure future land uses do not result in adverse air quality impacts.

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	<p>167-39 The comment asserts the air quality analysis did not analyze all the signalized intersections that would have more than 2,000 vehicles added to them under the cumulative conditions, which make the analysis deficient. However, as stated in the County's Guidelines for Determining Significance on page 24, "[p]rojects that cause road intersections to operate at or below a LOS E (analysis only required when the addition of peak-hour trips from the proposed project and the surrounding projects exceeds 2,000) and create a CO "hotspot," create a cumulatively considerable net increase of CO." Therefore, it is not only the number of vehicles operating in an intersection but also the level of service the intersection operates at. As shown in subchapter 2.3, Table 2.3-16, only the intersections at SR-76 and Old River Road, SR-76 and Olive Hill Road, and SR-76 and Highway 395 would satisfy both requirements. Therefore, the analysis of CO hotspots was appropriately and adequately analysis and disclosed.</p> <p>167-40 The commenter asserts that the FEIR does not disclose adequate information regarding air impacts to the public and decision makers and is legally deficient. The comment expresses the opinion of the commenter and does not raise any specific issue regarding the analysis. Therefore, no more specific response can be provided or is required. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project.</p>
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The RDEIR continues to significantly understate cumulative impacts in multiple areas fully documented in the General Plan 2020 EIR previous adopted by the County. Specifically, the County's own General Plan 2020 EIR recognizes implementation of the adopted General Plan would result in the conversion of 55,960 acres of agricultural resources to non-agricultural uses resulting in a significant and unmitigable agricultural impact. In addition that loss would also be clearly significant and unmitigable. (GP 2020 EIR p. S-7). Similarly, the EIR for GP 2020 recognized that implementation of the General Plan would redirect high density growth in the areas containing agricultural resources causing an indirect conversion of agricultural resources to non-agricultural uses resulting in a significant and unmitigable indirect agricultural impact. (GP 2020 EIR p. S-7). The GP 2020 EIR also recognized that the General Plan would result in a cumulatively considerable net increase in pollutants for the San Diego Air Basin listed as non-attainment resulting in a significant and unmitigable air quality impact. (Id p. S-8).

The GP 2020 EIR also recognized that implementation of the General Plan would result in land uses that allow residential, commercial, and industrial development in areas that are prone to wildland fires that would expose people or structures to a significant risk of loss, injury or death involving wildland fires and a significant and unmitigable fire impact. (Id p. S-13). It also determined that implementation of the General Plan would contribute pollutants that would significantly degrade water quality and in some instances exasperate existing surface and ground water pollution conditions in the unincorporated County resulting in a significant and unmitigable water quality impact. (Id p. S-14). The GP 2020 EIR found that implementation of the General Plan would permanently increase ambient noise levels along County roadways resulting in a significant and unmitigable noise impact. (Id p. S-16). It also determined that implementation of the General Plan would result in a total of 158 deficient roadway segments throughout the unincorporated County (approximately 32 State highway segments and 125 Mobility Element segments) resulting in a significant and unmitigable traffic impact. Finally, it concluded that greenhouse gas emissions would increase by 7.1 MMT CO₂e representing an increase of 24% over 2006 levels and a 36% increase from estimated 1990 levels resulting in a significant and unmitigable global climate change impact. (Id p. S-20).

None of the significant and unmitigable impacts recognized in the County's own EIR for GP 2020 have been recognized or discussed at all in the RDEIR. Obviously, under CEQA any increase to these already significant and unmitigable impacts fully acknowledged in the County's own GP 2020 EIR would result in a cumulatively significant impact in all of these areas. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 718 [EIR defective since it failed to recognize additional air emissions resulting in significant cumulative air impacts since existing air emission impacts were already significant]. Los Angeles Unified School District v. City of Los Angeles (1997) 58 Cal.App.4th 1019 [EIR defective for failure to recognize additions to noise by the project were cumulatively significant in light of the already serious noise problem]. Gray v. County of Madera (2008) 167 Cal.App.4th 1009 [Same]). The failure to acknowledge these significant and unmitigable impacts that already exist based on adopted GP 2020 and to include it in the RDEIR significantly understates cumulative impacts and results in a fatally defective EIR. Please include a copy of the EIR for GP 2020 in the record of these proceedings.

167-41

167-41

It is noted that the General Plan cumulative analysis concluded it would have significant environmental impacts as identified in this comment; however, the cumulative General Plan conclusions do not directly apply to the cumulative proposed project analysis as implied in this comment. Considering the greater scale and area covered by the General Plan, the General Plan cumulative study area is different than the proposed project and the General Plan has different cumulative impacts and a different scale of cumulative than the proposed project.

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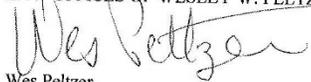
We are providing you with a copy of our August 19, 2013 letter commenting on the EIR and our prior December 19, 2012 letter. Please provide a response to all comments provided in this letter as well as our prior letters. Thank you for providing us with the opportunity to comment on the RDEIR.

} 167-42

167-42 See response to comments to the attached letter.

Sincerely,

LAW OFFICES OF WESLEY W. PELTZER



Wes Peltzer

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Letter I67a

Attachment

August 19, 2013

Via E-Mail

Mark Slovick
Planning and Development Services
County of San Diego
5510 Overland Avenue
San Diego, CA 92123

Re: *Comments on Lilac Hills Ranch Draft EIR*

Dear Mr. Slovick:

We represent the Pardee family who owns two properties directly adjoining the Lilac Hills Ranch specific plan. These are the 79-acre Covey Farms property located on the south side of Covey Lane adjoining the Lilac Hills Ranch specific plan area and the 40-acre Circle R property that abuts the Lilac Hills Ranch specific plan area at the southern end on Mountain Ridge Road. Please accept this letter as our official comments on the Draft EIR (the "DEIR"). For the reasons noted in this letter, we have concluded that the Lilac Hills Ranch project violates both the County General Plan and the Valley Center and Bonsall Community Plans prohibiting approval of the project. We have also concluded that the Draft EIR violates the California Environmental Quality Act ("CEQA") and omits vital information and a proper analysis of environmental impacts requiring recirculation of the Draft EIR.

I.

THE PROJECT

The Lilac Hills Ranch specific plan consists of 90,000 square feet of commercial uses, a 50 room country inn, 746 residential units, a senior community center, a group residential and care facility, a dementia care facility, a recycling facility, a water reclamation facility, a new fire station and a church. (DEIR pp. S-1, 1-8). The project's density is 2.9 dwelling units to the acre. (DEIR p. 1-2).

The project includes construction over ten years. (DEIR p. S-3). The project results in significant and unmitigable visual, air quality, traffic and noise impacts. (DEIR p. S-5).

The current general plan designation for the site permits 110 residential units and mandates the preservation of 257 acres of the site in open space. (DEIR p. S-7). Accordingly, the project exceeds the permitted density by 1,646 residential units, an increase of 1587% of the permitted density for the project area. The project will result in 4 million cubic yards of grading and blasting for 45 days. (DEIR pp. 1-26, 1-28).

I67a-1

I67a-1

The comment restates information contained in the FEIR, but does not raise an environmental issue within the meaning of CEQA. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed project. However, because the comment does not raise an environmental issue with respect to the FEIR, no further response is required.

Mark Slovick
August 19, 2013
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II.

THE DRAFT DEIR FAILS TO ADEQUATELY ANALYZE LAND USE IMPACTS

The Draft EIR concludes that the project is consistent with the County general plan and land use impacts are less than significant. (DEIR p. 3-65). The Draft EIR also concludes the project is consistent with the Valley Center Community Plan and the Bonsall Community Plan. (DEIR pp. 3-66, 3-67).

The Draft EIR correctly concedes that the project would have a significant land use impact if it would conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project. (DEIR p. 3-64).

Numerous provisions of the Draft EIR recognize that the project is not consistent with the County general plan. The Draft EIR expressly states the project proposes "land uses and densities *not consistent* with the adopted General Plan". (DEIR p. 3-64). The Draft EIR also acknowledges that the project is designated semi-rural 4 in the Valley Center Community Plan "which permits one housing unit per 4, 8, or 16 gross acres, dependent on slope". (DEIR p. 3-56). The DEIR likewise concedes that the semi-rural 10 designation on the site permits "one unit per 10 or 20 gross acres, dependent on slope within the VCP area". (Id. p. 3-56).

The DEIR notes that the current General Plan designation for the site permits only 110 single-family dwelling units and would require the preservation of 257 acres of the site as open space. (DEIR p. S-7). The DEIR concedes that semi-rural lands are appropriate only for "lower density residential neighborhoods, recreation areas, agricultural operations and related commercial uses that support rural communities". The Land Use Element of the County General Plan specifically notes that: "The Community Development Model directs the highest intensities and greatest mix of uses to Village areas, while directing lower-intensity uses, such as estate-style residential lots and agricultural operations, to Semi-Rural areas". (Land Use Element p. 3-6).

The Lilac Hills Ranch project is not consistent with the County Zoning Ordinance either. The existing zoning for the site is A-70 in the Valley Center community planning area and rural residential in the Bonsall community planning area. (DEIR p. 3-58). Both of these designations require a minimum lot size of 2 acres. (Lilac Hills Ranch Specific Plan p. 1-10). By contract, the Lilac Hills Ranch project proposes a density of approximately 2.9 dwelling units per acre. (DEIR p. 1-2). This density is clearly inconsistent with the densities in both the A-70 and rural residential zones. The A-70 zoning designation states unequivocally that it is "intended to create and preserve areas intended primarily for agricultural crop production". Permitted uses in the A-70 zone are family residential, essential services, fire protection services, and agriculture. (Zoning Ordinance § 2702). The high density residential units, the 90,000 square feet of commercial uses, the 50 room inn, the group residential care facility, the dementia care facility and the church are not permitted in this zone.

The rural residential zoning designation states unequivocally that it "would be applied to rural or semi-rural areas where urban levels of service are not available and where large lots are

I67a-1
cont.

I67a-2

I67a-2 The comment provides background information and expresses the opinions of the commentator, but does not raise an environmental issue within the meaning of CEQA. Please see the FEIR Chapter 3.1.4 and Global Responses: Project Consistency with General Plan Policy LU-1.2, General Plan Consistency Analysis, and General Plan Amendment CEQA Impacts Analysis for a full discussion of this topic. The proposed project includes a General Plan Amendment to the General Plan Regional Land Use Map to change the regional category designation of the project site from Semi-Rural to Village, which has been analyzed to be consistent with General Plan Policies LU-1.1 and LU-1.2. The project also proposes to amend the Valley Center and Bonsall Community Plans and rezone the project site to be consistent with the proposed change to the General Plan Land Use Map. Please see the FEIR subchapter 3.1.4 and Global Responses: Project Consistency with General Plan Policy LU-1.2 and General Plan Amendment CEQA Impacts Analysis for a full discussion of this topic.

Mark Slovick
August 19, 2013
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desired". Permitted uses in this zone are limited to family residential, essential services, fire protection services, and agricultural uses. (Zoning Ordinance § 2182). Like the A-70 zone, this zone does not permit the 90,000 square feet of commercial uses, the 50 room inn, the senior community center, the group residential care facility, the dementia care facility or the church. None of these are permitted uses in this zone.

167a-2
cont.

The Lilac Hills Ranch project is also clearly inconsistent with the Valley Center Community Plan ("VCCP"). The VCCP unequivocally declares it "is a rural community, and the intent of the Community Plan is to maintain the rural character of the Planning Area" (VCCP p. 4). The VCCP mandates that the rural character be preserved by focusing population growth solely in the communities' existing in the north and south Village areas and "by limiting Village Residential densities to these areas". (Id. p. 7). The VCCP expressly prohibits commercial development "by containing commercial uses in the Cole Grade Road and Valley Center Road area and the Mira de Valley Road and Valley Center Road area". (Id. p. 13). The primary goal of the VCCP is the preservation and enhancement of existing and future agricultural uses in the Valley Center Community Plan. (VCCP p. 14). The VCCP also requires "that the road system function at a service level no worse than "C" at peak hours as development occurs". (Id. p. 52). The traffic section of the DEIR notes numerous roadways, highways, and intersections operating at failing "E" and "F" conditions both from project traffic and cumulative traffic which includes East Vista Way (E and F), West Lilac Road (F), Camino del Rey (E), Gopher Canyon Road (F), Pankey Road (F), Lilac Road (E), Cole Grade Road (E), the SR 76-Old River Road intersection (F), the Old Highway 395/SR 76 interchange (F), the I-15 south and northbound ramps at Highway 395 (F), the Old Highway 395/Circle R interchange (F), and the failing I-15 freeway from the Riverside boundary to El Norte Parkway (F).

167a-3

167a-4

The project is also clearly inconsistent with the Bonsall Community Plan ("BCP"). The Bonsall Community Plan unequivocally states it is to "preserve and enhance the rural character of Bonsall through the protection of agriculture, estate lots, ridgelines and the communities' natural resources". The BCP notes that the Bonsall area consists primarily of low-density estate type residential and agricultural uses. Developed residential areas throughout Bonsall consist primarily of low density, estate type lots, many of which are combined with agricultural uses. This type of development, as well as the rolling hill and valley topography of the area, gives Bonsall its rural atmosphere. (BCP pp. 3, 6). The BCP contains an express agricultural goal to "protect and encourage existing and future agriculture/horticulture as a prominent land use throughout the Bonsall area". The BCP mandates that agricultural uses and land suitable for agricultural usage "should be protected from land uses which may be incompatible with agriculture". Nothing in the BCP remotely supports a density of 2.9 dwelling units to the acre or the destruction of 384 acres of existing agriculture on the Lilac Hills Ranch site. (DEIR p. 2.4-4).

167a-5

The Land Use Section of the DEIR fails to acknowledge the project conflicts with the implementation of the San Diego RAQS creating a significant and unmitigable air quality impact as acknowledged in the air quality section of the DEIR. (DEIR pp. S-10, S-12).

167a-6

Stated succinctly, the Lilac Hills Ranch specific plan clearly violates the County General Plan, the VCCP, the BCP, the County Zoning Ordinance and the current RAQS resulting in a

167a-7

167a-3 The comment states that the project is inconsistent with the Valley Center Community Plan in that is mandated by the Community Plan to remain rural by focusing population growth solely in the communities existing in the north and south Village areas. The commenter incorrectly asserts that growth can only occur in the existing Village areas designated in the community plans. This interpretation would prohibit the County from amending its General Plan in the future to allow for the establishment of any new villages, other than in those areas designated by the General Plan when it was adopted in 2011. The General Plan states that it is intended to be a dynamic document and many policies support a balanced approach to new growth within the unincorporated County. (General Plan, page 1-15) General Plan Policy LU-1.2 permits new villages that are consistent with the Community Development Model and meet the requirements set forth therein. Language in the General Plan clearly allows for future amendments to the Land Use Map and Regional Categories Map. Please refer to Global Response: Project Consistency with General Plan Policy LU-1.2 and FEIR Appendix W for a thorough discussion on related topic.

167a-4 The comment states that the project would be inconsistent with the following provision: "Require that the road system function at a service level no worse than "C" at peak hours as development occurs." The project is consistent with this provision in that the road system within Lilac Hills Ranch will function at LOS C or better. An interpretation of this provision to apply to all roadways within the Valley Center Community Plan Area, including Mobility Element Roads, is overly broad and inconsistent with other General Plan Policies.

Like the VCCP requirement, General Plan Mobility Element Policy M-2.1 requires development projects to provide associated road improvements necessary to achieve a level of service of "D". The General Plan, however, allows for those roads where a failing level of service has been accepted by the County pursuant to the criteria specifically identified in the accompanying text box (Criteria for Accepting a Road Classification with Level of Service E/F). . As explained in Chapter 9 of the Traffic Impact Study, the changes to the Regional Category and Land Use Designations result in additional

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I67a-4 (cont.)

traffic on Mobility Element roads that was not previously anticipated by the General Plan. Therefore, a plan to plan analysis was conducted to determine the impacts to the County's Mobility Element roadway network as a result of the changes in the density and intensity of the project site.

As identified in the Traffic Impact Study, the project would result in inconsistencies in the following eight roadway segments: 1) West Lilac Road, between Old Highway 395 and Main Street; 2) West Lilac Road, between Main Street and Street "F"; 3) West Lilac Road, between Street "F" and Road 3; 4) Old Highway 395, between SR-76 and E. Dulin Road 5) Old Highway 395, between E. Dulin Road and West Lilac Road; 6) Old Highway 395, between W. Lilac Road and I-15 SB Ramps; 7) Lilac Road, between New Road 19 (east of Betsworth Road and Valley Center Road; 8) Valley Center Road, between Miller Road and Indian Creek Road. The County General Plan Update has already accepted LOS E/F along three of the roadway segments identified above: 1) Old Highway 395, between SR-76 and E. Dulin Road; 2) Lilac Road, between New Road 19 (east of Betsworth Road and Valley Center Road; 3) Valley Center Road, between Miller Road and Indian Creek Road. As a result of the project, these segments would have to be reaccepted at LOS E/F.

The reason for accepting the above roadway segments at LOS E or F is because the adverse impacts of adding travel lanes would not justify the resulting benefit of increased traffic capacity. This would include the following relevant situations:

- When marginal deficiencies are characterized along a short segment of a road and classifying the road with a designation that would add travel lanes for the entire road would be excessive; or
- When adding travel lanes to a road that would adversely impact environmental and cultural resources or in areas with steep slopes where widening roads would require massive grading, which would result in adverse environmental impacts and other degradation of the physical environment.

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	<p>I67a-4 (cont.) The project would pay the Transportation Impact Fee to mitigate cumulative impacts to all Mobility Element roadways</p> <p>General Plan Mobility Element Policy 2.1, provides that adequate road capacity to reasonably accommodate build-out of the Land Use Element, must be balanced with the need to support other General Plan goals such as providing environmental protections. Policy 2.1 acknowledges that the preservation of valuable resources may outweigh the benefits of road improvements. Therefore, a lower LOS along specified roadways may be acceptable.</p> <p>I67a-5 The comment states that the project would be inconsistent with the Bonsall Community Plan because the plan mandates the protection and preservation of agricultural uses, and does not support the densities proposed by the project. The commenter asserts that the project is inconsistent with the Bonsall Community Plan; however, community plans are plans which are governed by the General Plan. Since the General Plan is intended to be a dynamic document, amendments to it and community plans are expected. Specifically, General Plan Policy LU-1.2 permits new villages that are consistent with the Community Development Model and meet the requirements set forth therein. Language in the General Plan clearly allows for future amendments to the Land Use Map and Regional Categories Map to allow for new villages such as the project proposes. Please refer to Global Response: Project Consistency with General Plan Policy LU-1.2, in addition to Appendix W of the FEIR that describes the project's consistency with the policies of the General Plan and Community Plans.</p> <p>I67a-6 The Air Quality Resources assessment (subchapter 2.2 of the FEIR discloses that the project would not comply with the current RAQS and would result in both direct and cumulative impacts associated with this issue. Likewise, the impact is clearly delineated in Table S-3 with an indication that the impact would remain significant and unavoidable.</p>
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significant and unmitigable land use impact. Numerous EIRs have been declared inadequate for failure to properly analyze both project and cumulative impacts. (*San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645 [EIR inadequate for failing to adequately analyze groundwater impacts, traffic impacts, air impacts and impacts on biological resources]; *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428 [EIR inadequate for failing to adequately analyze air quality impacts]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099 [EIR inadequate for failing to adequately analyze project's impacts on noise levels].) The Land Use Section of the DEIR needs to be rewritten to fully disclose the significant and unmitigable land use impacts not disclosed in the DEIR and the DEIR needs to be recirculated.

I67a-7
 cont.

III.

THE PROJECT PHYSICALLY DIVIDES THE ESTABLISHED VALLEY CENTER AND BONSALL COMMUNITIES RESULTING IN A SIGNIFICANT LAND USE IMPACT

The DEIR contains one paragraph concluding that the project would not significantly disrupt or divide an established community because there is no established community on the project site. (DEIR p. 3-120). No effort is made in this section to evaluate the impacts of the project on the established Valley Center and Bonsall communities. A review of these communities and statements in the DEIR clearly demonstrate the project will physically divide and alter the established rural residential and agricultural uses throughout Valley Center and Bonsall resulting in a significant and unmitigable land use impact.

The DEIR acknowledges that the VCCP area is characterized by "its agricultural activities and its predominance of estate residential development". (DEIR p. 3-63). The DEIR also acknowledges the intent of the VCCP is to "maintain the rural character of the Planning Area". (Id. p. 3-63). The DEIR notes that development in the Bonsall area has resulted in the predominance of "low density estate type residential lots and agricultural land uses". The DEIR admits that agriculture is a "key factor in Bonsall's rural community character". (Id. p. 3-63). The DEIR further acknowledges that the area surrounding the site is "characterized by its agricultural and residential land uses". (Id. p. 3-64). As noted previously, the VCCP unequivocally states that commercial uses are not permitted except in the existing Village Residential areas, which does not include the project site. The VCCP unequivocally mandates that the rural character be preserved by focusing population growth in the communities' north and south Village areas, and by limiting Village Residential densities to these areas. (VCCP p. 7). Introducing 1,746 residential units, 90,000 square feet of commercial uses, a senior community center, a group residential and group care facility, and a dementia care facility is clearly and unequivocally inconsistent with the low density residential uses and extensive agricultural uses that exist in both Valley Center and Bonsall. In fact, the DEIR itself acknowledges that the project site presently includes 384 acres of existing agricultural uses consisting of orchards, vineyards and row crops. (DEIR p. 2.4-4). The DEIR also acknowledges that areas around the project site are all agricultural related. (DEIR pp. 1-31, 2.4-4). In fact, agricultural uses totally surround the project site as shown on Figure 1-21 of the DEIR. Introducing 1,746 residences, 90,000 square feet of commercial, office, and retail, a 50 room country inn, a senior community center, a group residential and group care facility, and a

I67a-8

I67a-7 The comment states that the FEIR must be rewritten to fully disclose the significant and unmitigable land use impacts not disclosed in the FEIR. CEQA requires an environmental document to analyze any project inconsistencies with General Plan policies that could result in an environmental impact. The proper basis for such analysis is to compare the project with the existing general plan. (CEQA Guidelines §15125(d).) Also, when a proposed project includes a general plan amendment, this means that the general plan amendment must be compared to the existing physical conditions. The FEIR properly compares the proposed General Plan amendment to the existing physical conditions and in no credible way can be alleged to obscure disclosure of future physical impacts resulting from the amendment on the existing physical environment.

Appendix W compares the project to the existing General and Community Plans to determine whether any inconsistency would result in an environmental impact. Although not required by CEQA, this matrix helps to avoid confusion by the public and the reviewing body by clearly showing the analytical trail concerning such comparisons. It should be noted that an inconsistency between a proposed project and an applicable plan, is actually a legal determination, not a CEQA one. Rather, CEQA is concerned only with whether the inconsistency could result in a physical impact on the environment. The commenter is confusing this legal analysis with the CEQA requirements of analyzing any inconsistencies with an existing general plan that could result in an environmental impact. For additional discussion of this topic, please see Global Response: General Plan Amendment CEQA Impacts Analysis, and Project Consistency with General Plan Policy LU-1.2 and FEIR Appendix W.

I67a-8 In response to this comment, subchapter 3.2.4 was revised to further explain the project's compatibility with surrounding off-site land uses and the project's internal compatibility with existing and planned land uses on-site. Overall, the project would not significantly disrupt or divide an established community due to the project's compatibility with relevant General and Community Plans policies. (See subchapter 3.1.4, and Appendix W.)

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	<p>I67a-8 (cont.)</p> <p>Compliance with the goals and policies of both Valley Center and Bonsall Community Plans are detailed in the General Plan Consistency Analysis (see Appendix W) and in subchapter 3.1.4.2. Likewise, compliance with the project's design guidelines and other provisions of the Specific Plan ensure the project's compatibility with the adjacent off-site land uses and those land uses proposed within the project site. Overall, the project is consistent with the relevant policies of both the Bonsall and Valley Center Community Plans and land use impacts associated with policy inconsistencies would be less than significant. As discussed in Chapter 1.0, one of the project's objectives includes the recognition of the existing rural atmosphere of the surrounding area through use of agriculture on-site and provision of transitional features to provide adequate buffering between types of residences and active agriculture (see also subchapter 2.4) The Specific Plan includes agriculture throughout the project site including common open space areas, biological open space, and manufactured slopes. HOA-maintained agricultural open space would be retained along many of the boundaries of the project site, as agricultural compatibilities buffers including groves of orchard trees, such as avocado and citrus. Other agricultural-related commercial uses may also be established by the project as allowed in the C-36 zones. The project's consistency with additional relevant goals of the Bonsall and Valley Center Community Plans associated with the maintenance of community character are discussed in detail in subchapter 3.1.4. Project grading would conform to the natural contours of the land and would not substantially alter the profile of the site. Grading in all phases, including off-site improvements would comply with the Landform Grading Guidelines contained in the Specific Plan, including the use of grading techniques that require blending and rounding of slopes, roadways, and pads to reflect the existing surrounding contours by undulating slopes, replicating the natural terrain. Subchapter 2.5 discusses the requirement for on-site open space to preserve the site's most sensitive resources and the project's consistency with the County's RPO.</p>
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