

Mark Slovick  
August 19, 2013  
Page 5

dementia care facility in this agricultural and rural residential community unquestionably divides the community resulting in a significant and unmitigable land use impact. Direct and indirect significant effects of a project must be identified and described in the DEIR. (CEQA Guidelines § 15126.2(a)). The failure to do so renders the DEIR fatally defective. (*Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, 829).

167a-8  
cont.

IV.

**THE NOISE SECTION OF THE DRAFT EIR IS ALSO FLAWED**

The Noise Section of the DEIR concludes that the project will result in significant noise impacts but then purports to adopt mitigation in the form of subsequent noise studies of blasting and materials, an acoustical study to demonstrate noise levels are below 45 CNEL within all residences, an acoustical study of the mechanical equipment, an acoustical study of the commercial land use plan which identifies noise sources and equipment, an acoustical analysis of dog parks, an acoustical analysis of the water reclamation facility, an acoustical analysis of the recycling facility and the preparation of a blasting and monitoring plan concluding the subsequent studies will mitigate these noise impacts. However, since none of these significant noise studies have been done the results of them are unknown and there is no evidence whatsoever demonstrating that any of these significant noise impacts can actually be mitigated. Where there are significant environmental impacts of a project, an EIR cannot defer mitigation planning. Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. On the other hand, an agency goes too far when it simply requires the project applicant to obtain a report and then comply with any recommendation that may be made in the report. (*Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4<sup>th</sup> 1261, 1275; *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4<sup>th</sup> 777, 793-794 [mitigation of construction interference from noise, supply depots, and vehicle staging areas was inadequate because it did no more than require a report be prepared and followed and allowed approval by a county department without setting any standards]; *San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645, 671 [same]).

167a-9

The Noise Section of the DEIR concludes that noise impacts from these facilities are significant without mitigation. The DEIR notes that noise generated by construction activities for the project exceed County standards. (DEIR p. 2.8-10). Impulse noise from the project also exceeds County noise standards. (Id. p. 2.8-10). Noise levels from the HVAC equipment exceed the County noise limit of 50 decibels within 450 feet of the source and are significant. (DEIR p. 2.8-11). The non-emergency electrical generators could exceed County noise standards and create a significant impact. (DEIR p. 2.8-12). Noise generated from parking lot activities is a significant impact. (DEIR p. 2.8-12). Noise from the loading docks during the night time would exceed the County standard for 200 feet from the loading docks and result in a significant impact. (DEIR p. 2.8-13). Noise impacts from the dog park are significant. (DEIR p. 2.8-13). Noise from the water reclamation facility is significant. (DEIR p. 2.8-14). Noise from the recycling facility is significant. (DEIR p. 2.8-15). Construction of the Miller fire station on site generates 81 decibels at 50 feet if the properties are occupied and results in a significant impact. (DEIR p. 2.8-17). The rock crushing exceeds 60 decibels 2000 feet from the rock crushing and

167a-9 Under CEQA, an agency may defer formulation of the details of a mitigation measure pending further study if there is a reasonable basis for it to conclude that the impact will be adequately mitigated. In this regard, mitigation measures may specify performance standards that would mitigate the significant effect of the project and that may be accomplished in more than one specified way. A mitigation performance standard is sufficient if it identifies the criteria the agency will apply in determining that the impact will be mitigated. (14 Cal. Code Regs., § 15126.4(a)(1)(B).) As explained below, the mitigation measures identified in the RDEIR are adequate in that they contain appropriate performance standards providing a reasonable basis that the identified noise impacts will be adequately mitigated.

Preliminarily, it is noted that the comment restates information contained in the DEIR. Please refer to the Draft REIR, Section 2.8, for the current, recirculated analysis of the stated potential noise impacts. For stationary and operational sources, the EIR determined that the majority of the identified significant impacts were due to a lack of specific information about the future potential sources, such as the make and model of equipment, the location of the sources in relation to property lines, or the presence of intervening topography or structures. As noise is a localized issue, the potential impacts on noise sensitive land uses (NSLU) are greatly dependent on these parameters. It is often the case that noise impacts can be avoided or mitigated by the selection of equipment, location and orientation of the equipment, and through use of barriers, sound cabinets, and louvers. Accordingly, mitigation measures M-N-3 through M-N-7 would be required to reduce non-construction stationary noise impacts to less-than-significant levels because best engineering practices would be implemented, including consideration of the noise rating of selected equipment, equipment orientation and placement within a site, and site design, such as building placement enclosures and the use of terrain to shield adjacent properties from on-site noise generators. Specifically, mitigation measures M-N-3 through M-N-7 require acoustical studies to be prepared prior to the issuance of any building permit. If the studies identify any impacts, the studies must identify mitigation measures (e.g., enclosures, barriers, site location, site orientation, reduction of parking stalls) shown to be effective in reducing noise levels to comply

l67a-9 (cont.)

with the County's non-construction noise level limits, which are set forth in County Noise Ordinance Section 36.404. The County Noise Ordinance Section 36.404 noise limits are provided in Table 2.8-6 of the Draft REIR. Mitigation measures M-N-3 through M-N-7 require that the measures needed to achieve these specifically identified noise level limits shall be implemented by the applicant or its designee prior to issuance of any building permit.

As to construction and industrial noise, these sources can be very loud and can carry much further than noise sources associated with residential or commercial land uses. As identified in the noise analysis, when considering the project design, construction noise levels would not exceed the County construction noise level limit of 75 dB(A)  $L_{eq}$  at adjacent property lines with the exception of properties within the boundary of the project i.e., the surrounding "not apart properties," (NAP) properties. (FEIR, subchapter 2.8.6.2.) Mitigation measure M-N-8 provides restrictions that would limit on-site construction activities and reduce these impacts to NAP properties to less than significant. Specifically, M-N-8 requires that during all phases of project-related construction activities, the project applicant or designated contractor shall ensure that construction does not occur along more than one property line of any single existing on-site property that is identified as NAP on the implementing map. (See FEIR, [M-N-8].)

As to construction on the CAL FIRE Miller Station site, the REIR discloses that there is a potential to exceed County construction noise limits at future occupied residential properties. (FEIR, Section 2.8.2.2) However, potential impacts associated with the expansion of Miller Station would be mitigated with the incorporation of mitigation measure M-N-9. This mitigation measure requires a temporary 12-foot-high noise barrier sufficient to block the line of sight from the adjacent properties to the construction activities along the eastern and western property lines of Miller Station. (See FEIR, M-N-9.)

LETTER

RESPONSE

	<p>I67a-9 (cont.)</p> <p>As to blasting impacts, at the current stage of the project design, a blasting study has not been completed and no specific blasting timelines, blast numbers, or locations are available. There is no way to know exactly where or how much blasting will be required until ground is broken. Estimates can be made, but that will almost certainly change once construction begins. Additionally, this is a common analysis method also used for the County (DPW) for infrastructure projects, such as roadways. San Vicente Road is one such project and Wildcat Canyon is another. Accordingly, the REIR discloses that noise impacts associated with blasting would be significant, without consideration of the proximity of local NSLU. However, with consideration of local NSLU and by limiting the total explosive used per charge and shot, noise and vibration levels can be calculated with a high level of accuracy. Therefore, blasting can and will be limited to comply with the noise level limits of County Noise Ordinance Sections 36.409 and 36.410 and the vibration level limits of 1.0 in/sec peak particle velocity (PPV) by requiring smaller blasts when near NSLU. Accordingly, potential noise impacts due to blasting would be mitigated with the incorporation of mitigation measures M-N-11 and M-N-12, which would require, among other things, blasting and vibration monitoring plans to be prepared along with conformance to the specified requirements. (See FEIR M-N-11 and M-N-12.)</p> <p>Similar to blasting, rock crushing noise was also identified in the noise analysis as a potentially significant impact. However, as with the operation noise, the primary issue is the location of the activity. Given the size of the subject site, there would be ample room to locate a rock crusher far from project boundaries or NSLU property lines within the project. Accordingly, the FEIR concludes that impacts associated with rock crushing activities would be mitigated with the incorporation of mitigation measure M-N-10. This mitigation measure requires all rock crushing activities to be located a minimum distance of 350 feet from the nearest property line where an occupied structure is located. The 350-foot setback would mitigate rock crushing impacts because, based on analysis of rock-crushing activities, noise levels would attenuate to 75 dB(A) Leq or less at distances of 350 feet or more. (Please refer to Section 2.8.6.2 of the FEIR.)</p>
--	---

l67a-9 (cont.)

For traffic-generated noise, the comment mentions an acoustical study to demonstrate noise levels are below 45 CNEL within all residences and 50 CNEL for schools, churches, and other facilities. This requirement is set forth in mitigation measure M-N-2, which requires an interior analysis of receivers located in noise restriction easements to be conducted when specific building plans are available to determine whether interior noise levels will exceed 45 CNEL or 50 CNEL.

Mitigation is not improperly deferred because prior to issuance of any building permit for properties located in noise restriction easements, the building permit applicant shall demonstrate noise levels due to exterior noise sources would not exceed these defined standards, i.e., 45 CNEL or 50 CNEL, as applicable. It is anticipated that the typical method of compliance would be to provide the homes with air conditioning or equivalent forced air circulation to allow occupancy with closed windows, which, for most residential construction, would provide sufficient exterior-to-interior noise reduction; other structural components include dual pane windows and weather stripping for doors, etc. (Please refer to FEIR, M-N-2.) Mitigation measure M-N-2 would effectively reduce impacts because it will require these specifications for structural components at the time of construction. (FEIR, Section 2.8.6.1.)

In short, the mitigation measures are adequate because they specify performance standards and there is a reasonable basis to conclude that the impacts will be adequately mitigated. Where formulation of the precise means of mitigating impacts is impractical, an approving agency may treat an impact as significant and commit to implement measures to mitigate the impact. Alternatively, where feasible measures are known, but where practical considerations prohibit developing the specific measure during the planning process, the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.

Mark Slovick  
 August 19, 2013  
 Page 6

results in a significant impact. (DEIR p. 2.8-18). Damage to nearby residences may occur from blasting which is a significant impact. (DEIR p. 2.8-19).

I67a-9  
 cont.

The DEIR concedes that no blasting study has been done but concludes this is a significant impact. (DEIR p. 2.8-20). However, the DEIR defers a noise analysis of the blasting and materials until a building permit is issued and claims this mitigates the impact. (DEIR p. 2.8-20). An acoustical study to demonstrate the noise levels are below 45 CNEL within all residences and 50 CNEL for schools, churches, and other facilities on site is likewise deferred and treated as adequate mitigation. (DEIR p. 2.8-27). The preparation of an acoustical study of the mechanical equipment is also deferred until a building permit and is treated as adequate mitigation. (DEIR p. 2.8-27). An acoustical study to demonstrate that the commercial land use plans and their noise sources will not exceed County noise levels is deferred until a building permit is issued. (Id. 2.8-27). An acoustical analysis of the dog parks, the water reclamation facility, and the recycling facility are all deferred until a building permit is issued and treated as adequate mitigation. (DEIR pp. 2.8-27, 2.8-28). The deferral of these critical acoustical studies needed to demonstrate the noise impacts of sources already treated as significant in the DEIR is prohibited by CEQA as noted by the prior cases. Each of these noise impacts must therefore be treated as significant and unmitigable unless these noise studies are completed and provided as part of revisions to, and recirculation of the DEIR demonstrating these impacts are no longer significant.

I67a-10

I67a-10 See response to comment I67a-9, above.

The Noise Section of the DEIR is also defective because it relies exclusively on the County's noise standards without evaluating the significant noise impacts caused by the project when compared to existing ambient noise levels. The DEIR documents that ambient noise levels in the project area are presently 34 to 52 decibels. (DEIR p. 2.8-4). Table 2.8-4 showing on-site future noise levels shows these noise levels rising as high as 62 CNEL, an increase of 28 decibels over existing ambient conditions. (DEIR p. 2.8-34). Similarly, Table 2.8-6 demonstrates that future off-site noise levels will rise to the mid 50s to 62 CNEL at a number of sensitive resources located off-site. (DEIR p. 2.8-37). This reflects an increase of approximating 23 decibels at many existing off-site noise sensitive receptors. The CEQA guidelines for noise recognize that "an activity which may not be significant in an urban area may be significant in a rural area". (CEQA Guidelines § 15064(b)). CEQA cases have held that the failure to properly evaluate significant increases in noise levels even if they do not exceed a noise standard does not comply with CEQA. (*Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882 [citizen's personal observations about excessive noise was substantial evidence that the impact may be significant and should be assessed in an EIR, even though the noise level did not exceed general planning standards]; *Berkeley Keep Jets Over The Bay Committee v. Board of Port Commissions of the City of Oakland* (2001) 91 Cal.App.4th 1344, 1381 [EIR vacated where it contained a fixed standard CNEL of 65 decibels but did not consider the particulars of the different areas impacted by the project]). The Noise Section of the DEIR needs to contain a proper analysis of the significant increase in noise levels caused by the project over ambient conditions and whether these result in a significant noise impact whether or not they expressly exceed the County noise standard.

I67a-11

I67a-11 The noise analysis was conducted per the County Guidelines for Determination Significance under CEQA, which are publically available and include the thresholds used in the analysis. In accordance with that guidance, noise levels were measured in the project area. Additional noise modeling was conducted along roadways in the project area.

I67a-12 The cumulative impact is based on the noise levels and increases presented in FEIR Table 2.8-5. FEIR Tables 2.8-4 and 2.8-6 provide the future noise level, as demonstrated in the analysis, the future noise levels would exceed 60 CNEL at a few locations, but after investigation of location specific factors, noise levels would not exceed the County's noise and land use compatibility guidelines of the General Plan at any NSLU.

The DEIR admits that traffic noise level increases on Covey Lane and Lilac Hills Ranch Road combined results in a 16 decibel increase and a cumulatively significant noise impact.

I67a-12

Mark Slovick  
 August 19, 2013  
 Page 7

(DEIR p. 2.8-22). However, the Noise Section of the DEIR contains no analysis whatsoever of the number of sensitive receptors including residences impacted by this increase or the level of noise they will experience. The Noise Section of the DEIR needs to be revised to properly address this issue.

I67a-12  
 cont.

To mitigate for traffic noise impacts, the Noise Section of the DEIR proposes a 6-foot sound wall along West Lilac Road and a wing wall for all properties fronting Main Street. (DEIR p. 2.8-26). However, there is no discussion in the DEIR about environmental impacts of installing these two walls on adjoining uses (including visual impacts, loss of driveways and impacts on land uses) and proposes no mitigation for any of these impacts. The DEIR needs to be revised to evaluate the environmental impacts of these two extensive walls that are being proposed as noise mitigation.

I67a-13

I67a-13 The proposed six-foot-high noise wall has been removed from the FEIR due to the selection of alternative mitigation that would be less intrusive to the project's access (i.e., aesthetics of entranceway and site distance along West Lilac Road). Properties west of Main Street, between West Lilac Road and C Street, would require site specific design for building placement and inclusion of wing walls would be required to reduce noise levels at exterior NSLU areas. See FEIR subchapter 2.8.6.1.

v.

**THE FIRE IMPACT ANALYSIS IS INADEQUATE AND  
 FIRE IMPACTS ARE SIGNIFICANT AND UNMITIGABLE**

The Fire Section of the DEIR fails to acknowledge or address significant fire issues raised by the Deer Springs Fire Protection District ("DSFPD") in multiple letters submitted on June 12, 2012, March 5, 2013 and August 9, 2013. Although the DEIR proposes to utilize the Miller fire station as its primary fire station (DEIR pp. 2.7-29, 2.7-30), the DSFPD has repeatedly stated that the Developer's proposal to utilize the Miller fire station as the primary fire station is unacceptable. The DSFPD has also repeatedly stated that a new fire station located on the site or off site might be acceptable following completion of an evaluation of suitable sites and a modeling of response times that also evaluates roadway modifications necessary to accommodate each option. (DSFPD Letter August 9, 2013). The DSFPD has noted that the Miller station is manned by only two personnel and not three personnel that is the standard for DSFPD and that the Miller station is non-paramedic level facility year round which does not provide any emergency medical services. The DSFPD has also made it clear that any new fire station would have to meet a five minute response time not only for the project but also for other residents of the District. At this juncture, no fire station has been approved for the project and the project is not in compliance with the requirements of DSFPD. This results in a significant and unmitigable fire impact and not no significant impacts as claimed in the DEIR. (DEIR p. 2.7-30).

I67a-14

I67a-14 The comment states that the Fire Section of the FEIR fails to acknowledge or address significant fire issues raised by DSFPD in multiple letters submitted on June 12, 2012, March 5, 2013, and August 9, 2013. 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. See Global Response: Fire and Emergency Services.

In addition, in its January 12, 2012 letter the DSFPD noted that all north/south and east/west roads must be public and meet all public road standards. The DEIR clearly establishes that the north/south and east/west roads included as part of the project are private, not public, and none of them are proposed to be improved to public road standards. The Lilac Hills Ranch specific plan expressly states that "all of the roads within the Community will be private roads". (LHR Specific Plan p. II-23). Figure 24 of the specific plan expressly shows that all of the north/south roads through the project site and Covey Lane running east to west are private and that gates will actually be installed at Covey Lane and Mountain Ridge Road prohibiting entrance to the project site. In addition, the June 12, 2012 DSFPD letter notes that all backbone roads must be completed prior to the issuance of building permits and all roads must be

I67a-15

Mark Slovick  
August 19, 2013  
Page 8

constructed prior to the delivery of combustibles including the proposed north/south road that will link West Lilac Road to Circle R Drive. The fire protection plan for the project does not meet this requirement since it proposes installation of these roads in phases as shown on Figure 14 of the specific plan.

I67a-15  
cont.

In its March 5, 2013 letter the DSFPD noted that all fuel modification zones must have “a minimum of 100 feet throughout”. The current fire protection plan for the project does not meet this requirement since a number of areas of the project site do not meet the 100-foot standard as shown on Figure 1-6 of the DEIR. Figure 1-6 of the DEIR indicates that there are a number of areas on the project site that will not meet the 100-foot fire buffer mandated by the County Fire Code. Section 4707.2(a) of the County Fire Code expressly requires that any building or structure in a hazardous fire area “shall maintain a fuel modification zone within 100 feet of the building or structure”. The DEIR acknowledges the failure of the project to meet this 100-foot setback standard “could represent a significant impact”. (DEIR p. 2.7-25). However, the fire section of the DEIR simply ignores this significant impact in concluding at the end that no significant fire impacts will occur.

I67a-16

We also note that the June 12, 2012 letter from the DSFPD states that it needs more detailed information regarding the types, sizes and uses of structures within the project for a full evaluation of the impacts on the District’s response capabilities. The DSFPD noted that the developer had failed to provide any specific information regarding these structures which will make all-hazard response planning “impossible”. The lack of this information prevents a proper analysis of the risk of structural fires and the ability of the DSFPD to contain them. The DEIR recognizes that AB 2447 “requires the legislative body of a County to deny approval of a Tentative Map for development, or a parcel map for development, if the project is in a SRA or a very high fire hazard sensitivity zone. The exception to AB 2447 includes projects that obtain written verification from each fire protection agency having jurisdiction over the project site or provide written verification that there would be sufficient structural fire protection or the structures created by the project”. (DEIR p. 3-77). The DEIR states that portions of the project site are within a very high fire hazard zone. (DEIR p. 2.7-11). The failure of Lilac Hills Ranch to provide the DSFPD with detailed information about all structures proposed so that a proper analysis of structural fires can be completed clearly bars approval of the project pursuant to AB 2447.

I67a-17

Viewed collectively, the comments of the DSFPD demonstrate the project does not meet numerous fire requirements of the District or the Fire Code resulting in significant and unmitigable fire impacts. The fire section of the DEIR needs to be extensively revised to address these deficiencies and to demonstrate compliance with the requirements of the DSFPD.

I67a-18

VI.

**THE AGRICULTURAL SECTION OF THE DEIR UNDERSTATES AGRICULTURAL IMPACTS WHICH ARE SIGNIFICANT AND UNMITIGABLE**

I67a-19

The agricultural section of the DEIR claims that no significant agricultural impacts will occur from the project. (DEIR pp. 2.4-25, 2.4-26). However, the agricultural standards used to

I67a-15 The FEIR has been modified to better clarify a number of issues raised by previous comments. All proposed on-site roads have been designed in accordance with the County Consolidated Fire Code and DSFPD standards and would exceed requirements, falling within the 20 percent maximum allowable grade, and would meet or exceed the minimum paved width requirements. Specifics of the proposed roadway designs compared to the Consolidated Fire Code are detailed in the Road Standard Comparison Matrix, Attachment P of the Fire Protection Plan (FPP). See also FEIR, subchapter 2.7.2.3.

The comment also states that the roads would be installed in phases, which is inconsistent with DSFPD’s requirement to complete all backbone roads prior to the issuance of building permits, and construct all roads prior to the delivery of combustibles. This statement mischaracterizes the FPP and the DSFPD’s requirements and is therefore incorrect. Section 4.2.1 of the FPP provides that roadway infrastructure for each phase will be installed prior to the allowance of combustibles on the project site. In addition, all roads shall be provided with an approved driving surface for all phases of development prior to building permit issuance, construction, and/or bringing combustible building products onto each parcel. (FPP, page 34.) The project complies with DSFPD requirements.

I67a-16 Please refer to Response I67-10 above.

I67a-17 The comments referred to in this letter are dated, and since they were submitted, the DSFPD has approved the FPP and provided a Project Facilities Availability Form for the Project. In addition, DSFPD has acknowledged that it has the capacity and intent to provide services to the project pursuant to its letter dated July 28, 2014. (See also subchapter 2.7.2.4 of the FEIR that provides an analysis regarding the relevant issues addressed by the comment.) Therefore the requirements of AB 2447 have been met and the project may be approved.

LETTER

RESPONSE

	<p>I67a-18 The comments that are referred to are based on letters written by the District, in some cases over two years ago. Since that time additional information has been received, revisions have been made, and as a result a number of the District's comments are no longer applicable. The FEIR provides sufficient analysis regarding the project's compliance with the appropriate fire requirements of the District or the Fire Code and no further analysis is required.</p> <p>I67a-19 The comment is directed towards the Agricultural Resources impacts analysis presented in the Lilac Hills Ranch Draft EIR circulated for public review in July 2013. Following receipt of public comments, the July 2013 Draft EIR was subsequently revised and a FEIR was circulated for public review in June 2014. The FEIR determined that the proposed project would result in significant impacts to on-site agricultural resources (i.e., direct impacts) and identified appropriate mitigation to reduce the impacts. Please see FEIR subchapter 2.4, Agricultural Resources, and the corresponding technical report, Agricultural Resources Report, Lilac Hills Ranch (ARR) [FEIR Appendix F]. Please also see Global Response: Agricultural Resources, Direct Impacts.</p> <p>With respect to the conversion of land designated by the Farmland Mapping and Monitoring Program (FMMP) as Unique Farmland, 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 (County Guidelines) 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.</p> <p>Thus, while development of the County's thresholds was informed by the CEQA Guidelines Appendix G significance criteria, under the County's approved significance thresholds, impacts to those lands designated as Unique Farmland by the FMMP mapping system 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.</p>
--	---

Mark Slovick  
 August 19, 2013  
 Page 9

determine significance in the agricultural section of the DEIR fails to correctly state the standards for agricultural resource impacts contained in Appendix G of the CEQA Guidelines. Appendix G specifies that a project would have a significant agricultural impact if: (1) it converts Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural use; (2) it conflicts with existing zoning for an agricultural use, or a Williamson Act contract; or (3) it involves other changes in the existing environment which, due to their location or nature, could individually or cumulatively result in loss of Farmland to nonagricultural use. Judged by these correct significance standards, the agricultural impacts of the project are clearly significant and unmitigable.

The DEIR demonstrates that the project will convert both Unique Farmland and Farmland of Statewide Importance to non-agricultural use. Table 2.4-2 of the DEIR expressly shows that the site currently includes 329.2 acres of Unique Farmland and 36.2 acres of Farmland of Statewide Importance. (DEIR p. 2.4-5). Collectively, this totals 365.4 acres of existing Unique Farmland and Farmland of Statewide Importance that will be lost as a result of the project. In addition, the DEIR acknowledges that an agricultural impact is significant if it proposes a non-agricultural use within one-quarter mile of an existing agricultural operation. (DEIR p. 2.4-12). The DEIR expressly states that the site presently includes 384 acres of existing agricultural uses consisting of orchards, vineyards, and row crops. (DEIR p. 2.4-4). This is clearly a significant agricultural impact since the project proposes an intensive residential and commercial project directly on the site itself where 384 acres of existing agricultural uses and 365.4 acres of important farmland will be destroyed.

The project also clearly conflicts with the existing zoning designating agricultural uses in both the A-70 and Rural Residential zones. The A-70 zone specifically indicates it is "intended to create and preserve areas intended primarily for agricultural crop production". (Zoning Ordinance § 2700). Most of the project site is designated A-70. In a similar fashion the rural residential zone expressly states it is "intended to create and enhance residential areas where agricultural use compatible with a dominant, permanent residential use is desired". (Zoning Ordinance § 2180). The project clearly conflicts with both of these existing zoning designations resulting in a significant agricultural impact.

The CEQA Guidelines also recognize that an agricultural impact is significant if the project could individually or cumulatively result in the loss of Prime Farmland, Unique Farmland or Farmland of Statewide Importance to non-agricultural uses. As noted previously, the project results in the direct loss of 384 acres of existing agricultural uses to non-agricultural uses. Based on the correct agricultural significance standards, the project meets every one of them and clearly has a significant and unmitigable agricultural impact.

The cumulative agricultural impact analysis is flawed since it fails to consider cumulative impacts from the loss of agriculture documented in the County's General Plan in combination with the incremental loss of the project and other planned development on the area. 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 agricultural section of the DEIR concedes that the project in combination with other

167a-19  
 cont.

167a-20

167a-21

167a-20 The comment states that the proposed project conflicts with the existing zoning designating agricultural uses in both the A-70 and Rural Residential zones. As explained in the FEIR, the proposed project would amend the General Plan to change the land use of the project site, and rezone the site to either Residential Use (RU) or C34 General Commercial-Residential Use Regulation.

167a-21 As noted in response to comment 167a-19 above, subsequent to submittal of the comment, the analysis of potential agricultural resources was revised. The revised analysis determined that the proposed project would result in significant cumulative impacts related to the loss of farmland. Please also see Global Response: Agricultural Resources, Direct Impacts for additional information responsive to this comment.

The comment also asserts 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, the cumulative analysis properly considered other closely related past, present and reasonably foreseeable probable future projects as described by the CEQA Guidelines Section 15355(b).

The focus of the assessment of cumulative impacts is the same as for direct impacts, which considers those agricultural resources that meet the soil quality criteria for Prime Farmland or Farmland of Statewide Importance. 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. This assessment would be unchanged whether or not the cumulative impacts identified in the County GP 2020 EIR were considered.

Mark Slovick  
August 19, 2013  
Page 10

development in the area will result in the loss of 1,052 acres of Important Farmland. (DEIR p. 2.4-22). Collectively this results in the loss of 57,015 acres of agricultural resources to non-agricultural uses, which is clearly a cumulatively significant and unmitigable agricultural impact as determined in the County's own EIR for GP 2020.

167a-21  
cont.

VII.

**THE PROJECT IS GROWTH INDUCING RESULTING IN A SIGNIFICANT GROWTH-INDUCING IMPACT**

The DEIR acknowledges that the project would result in approximately 5,135 residences at build-out. (DEIR p. 3-80). By contract, the 110 residential units permitted under the existing General Plan would result in a population of about 120 to 360 residents. (DEIR p. 1-38). The population increase caused by the project itself is clearly growth-inducing. If allowed to proceed, the project will in essence add another 4,805 people to an area where they are not permitted under the current General Plan. The CEQA Guidelines expressly recognize that a project is growth-inducing if it "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)). The project is also growth inducing since it adds an additional 1,636 residential dwellings to the area, more than 90,000 square feet of commercial uses that do not currently exist and will include a 50 room country inn, a 300,000 square foot 200 bed group care facility (DEIR p. 1-6), and a 12 acre site suitable for a K-8 school (DEIR p. 1-7). All of these are significant growth-inducing impacts of the project itself without even considering the growth-inducing impacts of adding a new fire station which will serve all residents of the DSFPD and the water reclamation facility that can be used to irrigate all "areas or uses consistent with the VCMWD regulations". (DEIR p. 1-9). These are clearly significant growth-inducing impacts of the project and the failure to recognize them in the DEIR renders the DEIR fatally defective.

167a-22

VIII.

**SIGNIFICANT IMPACTS IDENTIFIED IN THE EIR FOR GP 2020 AND THE OMISSION OF OTHER PLANNED PROJECTS RESULT IN SIGNIFICANT CUMULATIVE IMPACTS NOT RECOGNIZED IN THE PROJECT DEIR**

As a preliminary matter the cumulative section of the DEIR fails to address numerous significant and unmitigable cumulative impacts fully documented in the GP 2020 EIR. Specifically, the General Plan EIR recognized that implementation of the General Plan would result in the conversion of 55,963 acres of agricultural resources to non-agricultural land uses resulting in a significant and unmitigable agricultural impact. Any addition to that loss would also be clearly significant and unmitigable. Similarly, the GP 2020 EIR recognized that implementation of the General Plan would redirect high density growth into areas containing agricultural resources causing an indirect conversion of agricultural resources to non-agricultural uses resulting in a significant and unmitigable 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

167a-23

167a-22 The FEIR has been revised to conclude that elements of the project could be growth inducing. Growth inducement associated with the provision of services and infrastructure is discussed in FEIR subchapter 1.8. As detailed in FEIR subchapter 1.2, the project would develop a sustainable Village which provides infrastructure, utilities, and the availability of goods and services intended primarily to serve the Village. The project's construction/improvement of roadways and provision/extension of public facilities would be sized to serve the project's population, and would not allow for excess capacity that could facilitate growth outside the project site.

Regarding roadway infrastructure improvements, the FEIR discusses in subchapter 2.3, that the project will not require the installation of a new transportation network in the area. Rather, mitigation of a large majority of the relatively few direct and cumulative significant impacts to road segments and intersections resulting from the project to below a level of significance can be achieved either by minor enhancements (construction of turn lanes) to the existing road system or by payments to the County TIF Program.

The few direct significant impacts to intersections and cumulative impacts to road segments and intersections that are not reduced to below a level of significance result from the need to install mitigation measures that are either outside the jurisdiction of the County of San Diego or are beyond the proportional impacts of the project, and are therefore infeasible.

Regarding upgrades to the utilities system, as discussed in subchapter 3.1.7 of the FEIR, the VCMWD has sufficient existing capacity as of 2014 to serve the potable water demands of the project and the community based on the VCMWD's replacement of the Country Club reservoir with two 5 mg reservoirs. The project would not require the construction of any new major water storage facilities. The project would extend water service lines from the project boundaries to the existing VCMWD water storage facilities with pipes designed to serve the project's needs.

LETTER

RESPONSE

	<p>I67a-22 (cont.)</p> <p>Regarding the provision of sewer service, please see the response to comment 03g-4. The project would construct new wastewater treatment facilities to serve only the project's needs, not those of other properties.</p> <p>Regarding the availability of response services, see Global Response: Fire and Medical Services. Also, as explained at subchapter 1.8 of the FEIR, if either of the four new Fire Options discussed at subchapter 2.7 of the FEIR were required as a condition of project approval, then such new facility could remove a barrier to growth as an improved fire response time could allow for increased density in the area near the project under County standards.</p>
--	---

Mark Slovick  
August 19, 2013  
Page 11

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 stated that implementation of the General Plan would contribute pollutants that would significantly degrade water quality and in some instances exasperate existing surface and groundwater 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 update would permanently increase ambient noise along roadways resulting in a significant and unmitigable noise impact. (Id. p. S-16). It also determined that implementation of the General Plan Update 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). Cumulative conditions caused by the project and other planned development must be considered in addition to these significant and unmitigable impacts already noted in the GP 2020 EIR and the cumulative analysis section needs to be extensively revised to consider them.

I67a-23  
cont.

The second major flaw in the cumulative analysis is its failure to evaluate and discuss the significant and insignificant impacts of the other projects identified in the cumulative analysis and omitted from the cumulative analysis so that their cumulative impacts are appropriately analyzed in the DEIR. Noticeably absent from the cumulative analysis is a discussion of the significant and insignificant impacts of the Merriam Mountains project located on the western side of I-15 near Deer Springs Road which includes 1,162 additional dwelling units as noted as map key 105 on Table 1-6. Utilizing the SANDAG standard of 12 ADT per resident, this project alone would result in 13,944 average daily trips without even considering the commercial and office-professional uses also permitted as part of its project. An EIR previously prepared for the Merriam Mountains project concluded it would result in significant and unmitigable traffic impacts on numerous roads within the County road system and it would create air quality impacts that were significant and unmitigable. The list of cumulative projects also omits an action taken by the Board of Supervisors to permit approximately 1,456 acres of land adjoining the Lilac Hills Ranch project to be changed from an SR-4 to an SR-2 designation. These were formerly shown as property owner requests VC 7, 9, 11, 20A, 20B, 54, 60, 61, and 66 which are not included in the cumulative project list. The Board of Supervisors' action will result in an additional 720 residential dwellings being permitted in the area adjoining Lilac Hills Ranch which result in an additional 8,736 average daily trips on local and area roads also impacted by the Lilac Hills Ranch project. The cumulative impacts of this project must be included in the cumulative project list and properly evaluated given its close proximity to the Lilac Hills Ranch project and the fact it will result in an additional 8,736 average daily trips based on SANDAG's use of 12 daily trips per resident.

I67a-24

Given the omission of significant impacts caused by the County's General Plan, lack of any evaluation of the significant cumulative impacts from the Merriam Mountains project, and the omission of the impacts from the 720 residential dwellings adjoining Lilac Hills Ranch, the

I67a-25

I67a-23 The FEIR for the project used a geographic area of impact in its cumulative analysis. Each subject area in Chapter 2.0 identified and delineated an appropriate cumulative project area for each individual subject area. An explanation for the criteria used for determining the cumulative project area is included in each section, along with maps as needed. The use of a larger assessment area could obscure the project's impacts and not be practical or reasonable. The General Plan Update EIR analysis of agricultural impacts was based on the overall County (plan level) and not on a site-specific case (project level). The General Plan Update EIR's review looked at the environmental impact of the then proposed General Plan's Goals and Policies, on agricultural lands and the agricultural industry. The comment's comparison of the project-specific environmental analysis required by the County's Agricultural Guidelines and that environmental analysis prepared for the General Plan Update is a comparison based on two separate processes and not relevant to the project-specific EIR.

I67a-24 The project's cumulative impact analysis is comprehensive and includes all applicable projects within the relevant cumulative project areas. Although an application had not been submitted to the County of San Diego for the former Merriam Mountains project at the time of circulation of the FEIR, this project was included in the traffic study cumulative analysis (see Table 6.1, project #106). The Property Specific Requests are included in the project's cumulative study area as illustrated in FEIR Figures 1-24 and 1-25.

I67a-25 See response to comments I67a-23 and I67a-24.

Mark Slovick  
August 19, 2013  
Page 12

DEIR needs to be extensively revised to incorporate the significant and cumulative impacts acknowledged in GP 2020 and to include a proper analysis of the cumulative impact of these other projects. The DEIR then needs to be recirculated for public review.

167a-25  
cont.

IX.

**THE PROJECT IS NOT CONSISTENT WITH THE COUNTY GENERAL PLAN OR THE VALLEY CENTER OR BONSALL COMMUNITY PLANS REQUIRING DENIAL OF THE PROJECT**

As noted previously, the DEIR repeatedly admits the project is not in compliance with the County General Plan. The DEIR declares unequivocally: "The project proposes land uses and densities that are not consistent with the adopted General Plan Land Use Element Regional Category of Semi-Rural and the adopted land use designation of Semi-Rural SR-4 (VCCP Land Use Map) and Semi-Rural SR-10 (BCP Land Use Map)". (DEIR p. 3-64). In fact, the DEIR concedes that the project would be consistent with the General Plan only if the General Plan Amendment is approved which "would result in the project being consistent with the General Plan". (Id. p. 3-64). In multiple places the DEIR readily concedes that the current General Plan permits only 110 single-family dwelling units on the project site and not the 1,748 residential units and numerous commercial uses being proposed. (DEIR pp. S-7, 4-13). In numerous places the DEIR also admits the semi-rural designation for the site is appropriate only for "lower density residential neighborhoods, recreational areas, agricultural operations and related commercial uses that support rural communities". (Id. p. 3-56).

167a-26

The general plan consistency doctrine has been described as the lynch pin of California's land use and development laws. It is the principle which infuses the concept of planned growth with the force of law. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 355.) The project's express inconsistency with the San Diego County General Plan and its elements renders it invalid and unlawful. An EIR must be consistent with the governing general plan to be valid. (*Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 782; Government Code § 65454 ["No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan."]). "A county cannot articulate a policy in its general plan and then approve a conflicting project". (*Endangered Habitats, supra* p. 789).

X.

**THE PROJECT LACKS SEWER AND RECYCLED EASEMENTS AND EASEMENT RIGHTS TO MOUNTAIN RIDGE ROAD NECESSARY TO APPROVE THE TENTATIVE MAP**

Chicago Title Company's forth amended title report on the project dated August 30, 2012 establishes that Lilac Hills Ranch has no legal rights to use the southern 2500 feet of Mountain Ridge Road as access for its project. Figure 1-7 of the DEIR clearly states the project plans to improve Mountain Ridge Road to private road standards to Circle R Road. Section 81.402 of the County's subdivision ordinance specifies that no tentative map shall be approved unless the map

167a-27

167a-26 This comment states that the project's expressed inconsistency with the County General Plan renders it invalid and unlawful. This comment is noted and will be made available to decision makers prior to making a final decision on the project. However, please refer to Appendix W for a discussion of this issue.

167a-27 This comment states Chicago Title Company's amended title report dated August 30, 2012 establishes that Lilac Hills Ranch has no legal rights to use the southern 2,500 feet of Mountain Ridge Road as access for its project. As the comment does not raise an environmental issue with respect to the FEIR, no further response is required. However, please refer to the Global Responses: Easements (Covey Lane and Mountain Ridge Roads) and Off-site Improvements – Environmental Analysis and Easement Summary Table for a thorough analysis on this topic. The comment incorrectly states that the Chicago Title Report, dated August 30, 2012, established that the project has no legal rights to use the southern 2,500 feet of Mountain Ridge Road for access purposes. The most current title report (the 10<sup>th</sup> Amendment) dated February 1, 2013 shows there are existing road easements or Irrevocable Offers to Dedicate Real Property which provide the necessary rights to construct required improvements. The project as proposed is designed to restrict access from all other parcels that do not have the rights to this roadway.

Mark Slovick  
August 19, 2013  
Page 13

and its proposed conditions satisfy the following requirements: “(j) Where it is necessary to extend a road beyond the boundaries of a subdivision to provide adequate circulation or fire protection for residents of the subdivision, the subdivider shall acquire the necessary easement at the subdivider’s expense.” Thus, the failure of the applicant to secure this easement requires the County to deny the tentative map.

167a-27  
cont.

The Valley Center Municipal Water District also wrote a letter on July 8, 2013 clearly establishing that VCMWD does not have sewer or recycled water easement rights for either the Covey Lane parcels or Mountain Ridge Road where the sewer and recycled water pipelines need to be placed. In its letter, the VCMWD declared that it “does not presently have sewer or recycled water easement rights across the Covey Lane parcels or the West side of Mountain Ridge private road from the Lilac Hills Subdivision Boundary to the Circle R Public Road”. In addition, the VCMWD noted that it lacked “sewer easement rights for the southern approximately 1260 feet to connect to Circle R public road”. Section 81.402(n) of the County’s subdivision ordinance clearly mandates the subdivider to provide these easements or the County must deny the tentative map. Section 81.402(n) states that no tentative map shall be approved unless “where the Director DPW determines it is necessary to extend a sewer system beyond the boundaries of the subdivision, the subdivider shall acquire and provide all necessary easements and rights-of-way to accommodate the sewer system extension”. Since Lilac Hills Ranch has failed to secure any of these easements the tentative map must be denied.

167a-28

We note additionally that the developer has submitted a design exception to the County for Mountain Ridge Road acknowledging that based on its current design requirements the road would “have to be completely rebuilt” and vertical curves would have to be lengthened considerably “which would result in some existing driveways no longer being accessible”. These driveways would need to be “redesigned and rebuilt”. The new road “would require permission to grade from multiple neighbors” which will not likely be granted and the cost to “reconstruct this entire road and many large retaining walls would be prohibitive”. By doing so, the developer has conceded it cannot construct Mountain Ridge Road to County design standards and the road construction will cut off existing driveways creating significant impacts to Mountain Ridge Road residents. This needs to be discussed and evaluated in the DEIR as a traffic safety issue and as an impact to existing residential owners in the area.

167a-29

XI.

**THERE IS INADEQUATE SIGHT DISTANCE AT THE MOUNTAIN RIDGE AND CIRCLE R INTERSECTION**

On June 25, 2013 Landmark Consulting submitted a sight distance analysis at the West Lilac Road and Covey Lane intersection. This report determined the sight distance of 480 feet was necessary to comply with County requirements. This report indicated the maximum line of sight distance currently looking south on West Lilac Road was 330 feet assuming no clearing or grading is completed. The report indicated that in order to secure adequate sight distance at this intersection a clear space easement with grading rights would need to be secured from a neighboring owner on Assessor’s Parcel No. 129-190-44. The consent of that owner to grant these additional grading rights has not been granted. Consequently, at this juncture the sight

167a-30

167a-28 The comment states that the Valley Center Municipal Water District wrote a letter on July 8, 2013 clearly establishing that it does not have sewer or recycled water easement rights for either the Covey Lane parcels or Mountain Ridge Road from the boundary of the project to the Circle R Public Road where the pipelines need to be placed. The commenter asserts in particular that the project lacked sewer easement rights for the southern approximately 1260 feet to connect to Circle R public road and therefore, the tentative map cannot be approved. The comment does not raise an environmental issue with respect to the FEIR, and no further response is required. However, California law grants local public agencies the ability to impose conditions on private development requiring the construction of public improvements located within land not owned by the developer. (See Government Code Section 66462.5.)

167a-29 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 the Global Response: Off-Site Improvements – Environmental and Easement Analysis 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.

167a-30 See response to comment 167a-29, above.