

R-O6-18 (cont.) checkerspot butterfly, and therefore, do not represent suitable habitat for the species. The two other small patches are located at the extreme southeastern and southwestern boundaries of the Project site, and though they have connectivity to larger patches of coastal sage scrub habitat off-site, they are located at the periphery of existing habitat and subject to on-going disturbances related to golf course landscaping and maintenance, including irrigation, and as such, do not represent suitable habitat for the species. It should also be noted that host plants associated with the species were not found to occur within the Project site, and potential nectaring resources are limited as a result of previous habitat conversion and ongoing golf course operation and maintenance activities. As summarized above and detailed within the RDEIR and Biological Resources Technical Report recirculated with the RDEIR (FEIR Appendix C), the Project site lacks suitable habitat for the Quino checkerspot butterfly and focused surveys for the species were not required. The Project would not impact Quino checkerspot butterfly or potential habitat for the species and no mitigation is required.

The comment also states that the Biological Resources Technical Report recirculated with the RDEIR (FEIR Appendix C) had confirmed sightings of the species during 2018 and 2019 surveys. However, Quino checkerspot butterfly was not detected during biological surveys conducted for the Project between 2018 and 2022.

R-O6-19 The dust generated by the additional truck trips has been quantified and compared to the County's screening-level thresholds. The dust generated by the Project, including the additional truck trips, was found to be less than the applicable threshold resulting in a less than significant impact. Additional measures beyond what is provided in the Fugitive Dust Control Plan would not be necessary. The Fugitive Dust Control Plan is included as Appendix A to the Air Quality Technical Report (FEIR Appendix I), and was circulated to the public as part of the original DEIR. The Fugitive Dust Control Plan was not substantially revised, and thus, was not circulated with the RDEIR. The Fugitive Dust Control Plan includes additional dust control measures beyond watering, such as maintaining vehicle speeds within the Project site to no greater than 10 miles per hour and requiring outgoing loaded trucks to be covered in at least 2 feet of freeboard or securely cover the loads, among others.

R-O6-20 As stated in Section 2.4 of the Reclamation Plan, which can be found on the County's website for the Cottonwood Sand Mine Project (<https://www.sandiegocounty.gov/pds/ceqa/MUP-18-023.html>), under the heading "Project Documents" as Reclamation Plan Parts 1 through 6), "A maintenance program to control weeds on un-reclaimed disturbed ground would

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of birds, other wildlife, and their habitats...

R-O6-20
cont.

Plan (EnviroMINE 2021a), and revegetation. **Please indicate where this document can be located.** This section needs to include a detailed watering down procedures of all boots, tools, vehicles, and equipment entering the project site to reduce opportunities for invasive species to gain a foothold. **Will the final EIR include effective, detailed watering down procedures of all worker boots, tools and equipment, and vehicles entering the project site? Will the final EIR address to new impacts of 58 trucks per day entering the site and potential impacts of introducing invasive seeds from other regions with mitigation? Will the final EIR cite where the Reclamation Plan (EnviroMINE 2021a) can be located for vetting and potential improvement? Will the EIR require systematic surveys of and removal of the introduced invasive species that occur in spite of the prevention measures for the life of the project and during a protective post-project time period, both in and around the project?**

R-O6-21

Thank you for the opportunity to comment on the Cottonwood Sand Mine Project Recirculated Draft Environmental impact Report. The significant impacts to biological resources from the scope and timeline of this project are substantial. We advocate for this project to be located in a more suitable environment than this flourishing ecosystem with critical habitat linkages and corridors for many of the regional wildlife including special status species. We support the implementation of the Biological Open Space Easement and site-specific rehabilitation efforts.

We urge that the points presented in this comment letter be fully addressed by the DEIR and the recommendations be carefully considered to avoid, reduce, and/or mitigate the very significant impacts that could potentially result from this project.

Sincerely,

James A. Peugh
SDAS Conservation Chair

John Riedel
SDAS Conservation Committee Member

R-O6-22

ENCLOSURE:
San Diego Audubon Society Comment Letter, Cottonwood Sand Mining EIR, February 28, 2022

R-O6-20 (cont.) be established and implemented at the start of the mining process. The purpose of this effort is to prevent weed infestation of areas that are to be reclaimed in the future. This program would continue during the revegetation and monitoring periods of the Project.” Section 3.10 of the Reclamation Plan also addresses weed control efforts during the mining and reclamation phases of the Project. The commenter’s suggestions regarding exotic species control measures are noted.

Weed control measures within the native mitigation and revegetation areas during the maintenance and monitoring period would be conducted in accordance with the Project’s Conceptual Revegetation Plan (Appendix N of the Biological Resources Technical Report recirculated with the RDEIR) and Conceptual Wetland Mitigation Plan (Appendix O of the Biological Resources Technical Report recirculated with the RDEIR). The BOS would be managed in accordance with the Project’s Conceptual Resource Management Plan (Appendix P of the Biological Resources Technical Report). These measures apply to the additional truck trips just as they apply to the truck trips described in the originally circulated DEIR.

R-O6-21 The commenter’s advocacy for an alternate Project location and support of the BOS Easement and site-specific rehabilitation efforts are noted. Please see Responses to Comments R-O6-1 through R-O6-20 that address the comments and recommendations provided in this comment letter.

R-O6-22 Please see Response to Comment D-O14-1, where the San Diego Audubon Society’s comment letter dated February 28, 2022, that was enclosed with the August 21, 2023, RDEIR comment letter is included in full.



February 28th, 2022

To:
Robert Hingtgen (Robert.Hingtgen@sdcounty.ca.gov)
Planning & Development Services
5510 Overland Avenue, Suite 310
San Diego, California 92123

Regarding Cottonwood Sand Mining Project Environmental Impact Report Issued 12/16/21
(PDS2018-MUP-18-023), (PDS2018-RP-18-001); LOG NO. PDS2018-ER-18-19-
007; SCH# 2019100513
–Due 2/28/22–

Thank you for providing the opportunity to comment on the Draft EIR for the Cottonwood Sand Mine (PDS2018-MUP-18-023; PDS2018-RP-18-001; Log No. PDS2018-ER-18-19-007; SCH# 2019100513). The San Diego Audubon Society (SDAS) is a 3,000+ member non-profit organization with a mission to foster the protection and appreciation of birds, other wildlife, and their habitats, through education and study, and to advocate for a cleaner, healthier environment. We have been involved in conserving, restoring, managing, and advocating for wildlife and their habitat in the San Diego region since 1948. SDAS does not support this project and has identified several deficiencies in the DEIR. This parcel is the missing link in a resilient and accessible open space network protecting endangered species habitat, drinking water, and connections to the existing Wildlife Refuge. The following are concerns we hope will be considered as the project moves forward.

Critical Link To Existing Conserved Area

The project site is located between two wildlife protected habitats of the San Diego National Wildlife Refuge (SDNWR) as shown in Figure I-12. Section 1.4.12 Habitat Connectivity and Wildlife Corridors reviews the project location as a viable wildlife linkage/corridor and concludes its conditions to be untenable for wildlife movement. This is contrary to all the evidence that is discussed in this section. Biological resources currently on the site include a federally- and state-endangered bird (Least Bell's Vireo), four special status plants, 14 special status animal species, critical habitat for several species, and jurisdictional wetlands. Downstream on the Sweetwater River, the San Diego Monitoring and Management Program portal shows the [river channel supports](#) Least Bell's Vireo (*Vireo bellii pusillus*), Cactus Wren (*Campylorhynchus brunneicapillus*), Southwestern Willowflycatcher (*Empidonax traillii extimus*). The San Diego National Wildlife Refuge is upstream and just downstream of the site and supports numerous species in our most-biodiverse county in the nation. Just upstream, the McGinty Mountain Ecological Reserve supports habitat for Hermes Copper butterfly and Least Bell's Vireo. Even more critical than the individual species and habitats that this area supports, the Cottonwood Golf Course represents a needed connection between two pieces of the San Diego National Wildlife Refuge. The 1.5 miles of the Sweetwater River that are currently impacted by the golf course are the lynchpin in connecting existing preserves into an over 5 mile-long area managed for the long-term survival of these endangered species.

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Protection and restoration of this area is the superior option than the project described in this EIR. **Will the DEIR be updated to show that the project site is currently a vital and critical wildlife linkage/corridor connecting protected wildlife habitat near and adjacent to the project site?**

Comprehensive Wildlife Survey Lacking

It will also be noted the survey limitations of the surveys in Section 1.3.5 that all species using the project site are not recognized in this DEIR. A more expansive wildlife survey, including different seasons and night time observations, including wildlife tracking (San Diego Tracking Team) would provide a more comprehensive analysis of the biological resources of the project site. **Will the DEIR be updated to show the biological value of the existing site with improved wildlife surveys and an analysis of improved Biological Resource value if restored?**

The project implementation includes four-foot-high, four-strand barbed wire fencing as described in Section 1.2.1.5. This is a serious danger to wildlife as snaring could lead to unnecessary injury and death. Prevent intrusion by using wildlife friendly fencing or barriers. The project should ban the routine use of herbicides for weed control or non-native vegetation removal and the routine use of pesticides for pest or vector control as they cause harm beyond its intention. **Will the DEIR be updated to address these concerns?**

Cumulative Impacts on Wildlife Corridor

Section 6.3 Cumulative Impact Analysis follows this erroneous analysis above in regard to the project's impacts on wildlife movement. It states the cumulative impacts of urban infrastructure and the abundance of wildlife activity in the surrounding areas proving the importance of the project site as a wildlife corridor/linkage. Followed by the conclusion, "...project site as a linkage/corridor for wildlife movement is considered low..." The current usage of the site as a golf course is beneficial for wildlife movement providing for the open space and lack of nighttime human activity allowing for nocturnal wildlife movement between protected habitats. The decade of project mining could cause permanent impacts affecting wildlife community health by fracturing and isolating wildlife communities. The project will substantially contribute to cumulative impacts to wildlife linkages/corridors. **Will the DEIR be updated to conclude that the project will contribute to cumulative significant impacts to wildlife corridors/linkages?**

Mitigation Measures Lacking

Section 3.4 lists Mitigation BIO-1 through BIO-11 to reduce significant impacts to Special Status Species and Critical Habitat with a Conclusion in Section 3.5. The concerns to the mitigation strategies will be presented here.

BIO-1 Mitigation for direct impacts to CAGN habitat preservation and revegetation in the post-project BOS easement. This is a deferred mitigation strategy, allowing for significant impacts from the

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project with no concurrent mitigation strategies. **Can the project implement strategies to mitigate for direct impacts to CAGN during the project timespan?**

BIO-2 Grading or clearing of vegetation by 500 feet of CAGN habitat during breeding season shall be avoided to the extent feasible. The feasible extent is a subjective phrase and does not offer proper protection to CAGN habitat. The 72-hour window of CAGN observation to confirm presence does not provide effective mitigation for potential significant impacts. The biologist could simply miss the observation within the time provided. The mitigation should extend to grading/clearing by 500 feet at all times of CAGN habitat and the project should avoid all CAGN habitat during breeding season because the species is known to occur on-site. **Will the DEIR be updated to include effective mitigation strategies for CAGN habitat?**

BIO-3 The same reply to BIO-1 except replace CAGN with LBVI. **Can the project implement strategies to mitigate for direct impacts to LBVI during the project timespan?**

BIO-4 The same reply to BIO-2 except replace CAGN with LBVI. **Will the DEIR be updated to include effective mitigation strategies for LBVI habitat?**

BIO-5 Mitigation for indirect impacts to CAGN and raptors, during breeding season, is a 72-hour window of species observation onsite within 500 feet of construction or excavation activities. Mitigation is the cessation of excavation activities or construction of a noise reduction berm. Major project activities interfering with breeding season should be performed during non-breeding season and less intrusive project activities should proceed with noise reduction strategies within accepted CFWS standards. Figure 9 provides that special status species habitat is concentrated on the northern and southern sections of the project site. **Will the DEIR be updated to strengthen the mitigation strategies for indirect impacts to CAGN/Raptors during breeding season?**

BIO-6 Mitigation for vegetation clearing potential impacts to nesting birds by a 72-hour window of species observation onsite will be avoided to the extent feasible. The term extent feasible is subjective and the biologist could miss special status species during the observation window. Breeding activities could begin after observation and would be impacted if project activities were to commence. Construction activities for vegetation clearing should proceed during the non-breeding season. Less intrusive project activities should proceed with CDFW adopted distances and not to the extent feasible. **Will the DEIR be updated to strengthen the mitigation strategies for potential impacts to nesting birds during breeding season?**

BIO-7, BIO-8, BIO-9 Beyond the scope of the project, it is the timescale of the project. The prolonged impacts of the project of 10 years could likely result in permanent impacts by fracturing and further isolating wildlife communities. The project's impacts are significant for A, B, D, E and F for Section 6.1. The deferred mitigation statement, "The project would ultimately contribute approximately 142.8 acres of preserved, rehabilitated, restored, and revegetated habitat to the linkage which will be placed within a BOS easement." is not a viable mitigation strategy for significant impacts of years 1 through 10 of the project. The Reclamation Plan with BOS easement is

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a post-project deferred mitigation strategy. This does not mitigate for significant impacts occurring concurrently during project activities. **Will the DEIR be updated to remove the post-project Reclamation Plan as a mitigation strategy for significant impacts to special status species during the project timeline?**

Climate Change Impacts

The county has begun a robust suite of programs to tackle our climate challenges, and in light of that effort this parcel should be analyzed for its potential release of greenhouse gas emissions through habitat loss and project components as well as for its potential to sequester carbon over the coming decades through habitat restoration. **Will the DEIR be updated to show the carbon sequestration value of the project site through habitat restoration and the greenhouse emissions of the full timespan of the project?**

BOS Easement Vague and Unenforceable

Section 1.2.1.2 details post-project activities in a Reclamation Plan including a biological open space (BOS) easement of 1428 acres (52% of the project site). The EIR uses the term BOS Easement 29 times in the Biological Section, but there is no real definition of what this translates to. **What species, what habitat, what ecological value will this BOS easement bring forth, and when will a detailed Management Plan be proposed?** There is no supporting evidence this BOS easement will be able to recover from the project's scope and timespan. There are no figures or descriptions showing the location of the easement or long-term strategies to make it biologically active as its current state. The EIR states the easement will be in perpetuity In the Biological Resources summary. **How can this proclamation be stated when post-project the land can be claimed to be disturbed by mining activities and therefore not a viable biological habitat?** The Bos easement is needed in this critical location for its wildlife linkages value and reasoning should be expressed why it is not 100% instead of 52% as detailed in the EIR. The easement is repeatedly used as a deferred mitigation strategy for significant impacts during the project's lifespan. Reclamation, revegetation, restoring, rehabilitating will not address the impacts to the wildlife using the site today. **Will the DEIR provide a strategy beyond key words and phrases that will show the BOS easement to have biological value to the region's wildlife that will not have to recover from the lifespan and scope of the project?**

We appreciate the opportunity to cover the problems with this project and with this DEIR, and hope to see the project greatly improved for the benefit of our wildlife, our water, and our people.

Sincerely,

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of birds, other wildlife, and their habitats...

James Peugh
Chair, Conservation Committee
San Diego Audubon Society

Bonnie Ridley and John Riedel
Members, Conservation Committee
San Diego Audubon Society

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WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

CATHERINE C. ENGBERG
Attorney
Engberg@smwlaw.com

August 19, 2023

Via E-Mail

Mr. Christopher Jacobs
Land Use/Environmental Planner
Planning & Development Services
5510 Overland Avenue, Suite 310
San Diego, CA 92123
E-Mail: christopher.jacobs@sdcounty.ca.gov

Re: Cottonwood Sand Mining Project (PDS2018-MUP-18-023),
(PDS2018-RP-18-001); Log No. PDS2018-ER-18-19-007; SCH#
2019100513

Dear Mr. Jacobs:

On behalf of the Sierra Club San Diego Chapter ("Sierra Club"), we have reviewed the Recirculated Draft Environmental Impact Report ("RDEIR") for the proposed Cottonwood Sand Mining Project ("Project"). We submit this letter to state our position that the RDEIR fails to meet the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 et seq. ("Guidelines"). Like all concerned members of the public, Sierra Club relies on the environmental document required by CEQA for an honest and thorough assessment of the environmental impacts of a project such as this. The RDEIR's failure to provide that assessment undermines CEQA's core purpose and renders the document inadequate.

We previously submitted extensive comments on behalf of the Sierra Club regarding the deficiencies in the original Draft Environmental Impact Report ("DEIR"). See comments on the Cottonwood Sand Mining Project DEIR dated February 28, 2022. Since those comments remain applicable to the County's analysis of the Project, Sierra Club incorporates its earlier comments and all accompanying exhibits by reference as if fully set forth herein. Sierra Club also submits with this letter reports prepared by Robert Hamilton, Biologist, attached as Appendix A ("Hamilton Report") and Greg Kamman, Hydrogeologist with CBEC Eco Engineering, attached as Appendix B ("CBEC Report").

R-07-1

R-07 – Shute, Mihaly and Weinberger Attorneys for the Sierra Club San Diego Chapter

R-07-1 These introductory comments do not raise a specific issue concerning the environmental analysis or adequacy of the RDEIR. Please see the responses below to specific comments on the RDEIR. Please also see Responses to Comments D-08-1 through D-08-97, which address the comment letter submitted by Shute, Mihaly & Weinberger on behalf of the Sierra Club dated February 28, 2022.

Christopher Jacobs
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R-07-1
cont.

We respectfully refer the County to these attached reports, both here and throughout these comments, for further detail and discussion of the RDEIR's inadequacies. We request that the County reply to each of the comments in this letter and to each of the comments in the attached reports. Because the reports prepared by Hamilton Biological and CBEC provide detailed comments on the RDEIR's revised analyses, we will not reiterate each of those comments in this letter. Instead, the discussion below highlights the most egregious deficiencies.

After carefully reviewing the RDEIR for the proposed Project, we have again concluded that the EIR¹ fails in numerous respects to comply with the requirements of CEQA. The EIR is "the heart of CEQA." *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392. It "is an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended 'to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.' Because the EIR must be certified or rejected by public officials, it is a document of accountability." *Id.* (citations omitted).

As explained in our prior comments, the Project as proposed will have significant, adverse impacts on both the natural and the human environment in San Diego County. These impacts include, but are not limited to, potentially devastating effects on: local hydrology and water quality, habitat for both terrestrial and aquatic wildlife, local traffic, air quality, and noise. Importantly, the Project also remains inconsistent with the San Diego County Multiple Species Conservation Program ("MSCP").

The County recirculated portions of the DEIR due to changes made to the project description and analysis of biological resource impacts. Unfortunately, the RDEIR does not correct the flaws in the DEIR. Instead, as discussed in detail in the attached Hamilton Report and below, the technically deficient revised biological analysis serves only to further obscure the true impacts of the Project. *See generally* Appendix A. Moreover, while the RDEIR indicates that the County prepared a new analysis of air quality emissions altered by some of the project changes, the RDEIR fails to present any evidence showing the work done in that analysis. The details (i.e., methods, approach, data, and analysis) must be provided for review so that the public and decisionmakers can fully evaluate the analysis for accuracy and adequacy.

With regard to each of CEQA's substantive requirements—a complete and stable project description, a thorough analysis of significant impacts, identification of feasible

¹ This letter refers to the original DEIR and the RDEIR collectively as the "EIR".

Christopher Jacobs
August 19, 2023
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R-07-1
cont.

and enforceable mitigation measures, an analysis of a reasonable range of alternatives—the DEIR falls woefully short. As a result, the EIR fails to meet CEQA’s fundamental purpose of providing disclosure to the public of the Project’s environmental effects.

I. Introduction and Background

R-07-2

The proposed Project includes the following components: Major Use Permit to allow sand mining over a period of 10-12 years; Reclamation Plan, Landscape Plan (for revegetation), Public Improvement Plan, right-of-way permits; and a host of discretionary permits from resource agencies. The Project would extract 6.4 million tons of material. RDEIR at S-15. The Reclamation Plan and revegetation would be implemented as each Project phase is completed over the 12 year period.

The Project site is located within San Diego County’s jurisdiction on land designated as Semi-Rural Regional and Specific Plan Area Land Use and zoned Open Space (S80), Specific Plan (S88), and Holding Area (S90). The majority of the proposed Project site is located in the flood plain for the Sweetwater River and within both the northeastern portion of the South County Segment and southwestern portion of the Metro-Lakeside-Jamul Segment of the adopted the MSCP subarea plans. RDEIR at 1-29. These plan areas have already suffered extensive depletion by past development. Remaining intact habitat blocks—identified as Pre-Approved Mitigation Areas (“PAMAs”) with linkages to large open space areas—are rare.

R-07-3

The project site is also within an area identified by the MSCP as a Biological Resource Core Area (“BRCA”), which is defined as “land that qualifies as an integral component of a viable regional ecosystem” under the County’s Biological Mitigation Ordinance (“BMO”). BMO section 86.508(a). The BRCAs are areas supporting a high concentration of sensitive biological resources, which, if lost or fragmented, could not be replaced or mitigated elsewhere. The fragmentation and loss of ecological value of a BRCA or PAMA—as exemplified by this project site—would jeopardize the assembly of a preserve system.

There are no intact core areas to spare. Importantly, the *whole* of the Project site is designated BRCA and an important habitat corridor linkage between the McGinty Mountain/Sycuan Peak-Dehesa and Sweetwater Reservoir/San Miguel Mountain BRCAs. This Project will have serious long-term consequences, not only for the area residents, but for the San Diego County region. Those consequences include potentially devastating effects related to changes in drainage patterns, impacts to groundwater recharge, jeopardizing habitat planning efforts and loss of designated conservation lands, impacts to multiple sensitive species and their habitats, loss of open space, visual impacts,

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R-07-2 The County acknowledges these introductory comments; however, they do not raise an issue concerning the environmental analysis or adequacy of the RDEIR.

R-07-3 The comment references the Project site’s designation as a Biological Resource Core Area (BRCA) and habitat linkage. The BRCA boundaries and habitat linkage are depicted on Figure 2.2-6 of the RDEIR and Figure 14 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C). As described in Section 2.2.2.1 (Guideline 7) of the RDEIR, the extreme southwestern and southeastern portions of the Project site are located within designated Sweetwater Reservoir/San Miguel Mountain/Sweetwater River and McGinty Mountain/ Sycuan Peak-Dehesa BRCAs, respectively. However, these areas primarily consist of disturbed and developed areas associated with the golf course and are highly degraded and fragmented from adjacent natural areas by the golf course development. The Project site is identified as a habitat linkage between these core areas. Please see Topical Response 9, *Wildlife Corridors and Species Connectivity Impacts*, regarding additional information on wildlife corridors and linkages.

Impacts related to drainage patterns, groundwater recharge, habitat planning efforts and designated conservation lands, sensitive species and their habitats, open space, visual resources, sensitive cultural sites, traffic congestion, and air and water pollution are addressed in the DEIR and RDEIR in the following sections: 2.1, *Aesthetics*; 2.2, *Biological Resources*; 2.3, *Cultural Resources*; 3.1.1, *Air Quality*; 3.1.5, *Hydrology and Water Quality*; and 3.1.7, *Transportation/Traffic*.

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R-07-3
cont.

impacts to sensitive cultural sites, increased traffic congestion, an increased risk of air and water pollution, and impacts to quality of life for thousands of area residents.

R-07-4

The RDEIR for the proposed Project suffers from several major problems. First, the RDEIR fails to address any of Sierra Club's and other public comments on biological resources. Instead, it focuses only on addressing comments by the California Department of Fish and Wildlife ("CDFW"). Similarly, the RDEIR fails to address any comments on the DEIR's hydrology and water quality analysis. Second, the RDEIR, like its predecessor, downplays significant impacts resulting from the proposed 10-12 year mining operation, treating impacts from mining as temporary. A project that calls for sand and gravel mining operations over a dozen years, in an area long recognized for its natural beauty, high-value biological resources, and serene environs would clearly harm biological values and degrade quality of life for residents of the area.

R-07-5

As discussed in more detail below, the RDEIR continues to present an incomplete description of the project setting and of the project itself, and also substantially understates the severity and extent of a range of environmental impacts, and thus fails to provide adequate mitigation. To ensure that the public and the County's decision-makers have adequate information to consider the effects of the proposed Project—as well as to comply with the law—the County must require revisions in the Project to make it compliant with the General Plan, the Multiple Species Conservation Plan and other applicable plans, then prepare and recirculate a revised DEIR that properly describes the Project, analyzes all of its impacts, and considers meaningful alternatives and mitigation measures to ameliorate those impacts.

II. The RDEIR Fails to Describe Important Elements of the Project

R-07-6

As discussed in detail in SMW's comments on behalf of the Sierra Club dated February 28, 2022, under CEQA the inclusion in the EIR of a clear and comprehensive description of the proposed project is critical to meaningful public review. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193 ("Inyo II"). As explained below, the RDEIR fails to remedy the gaps in the Project description described in our prior comments and fails to include critical details about new Project features.

The Project would require 2.5 million cubic yards of backfill over the course of 10 years yet the RDEIR fails to provide key information regarding where the backfill material needed for the Project will originate. As explained in Sierra Club's comments on the DEIR, this information is required to accurately evaluate resulting Project-related vehicle miles travelled, increased air pollutants, higher greenhouse gases and increased noise. In addition, the RDEIR fails to disclose what protocols will be in place to ensure

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R-07-3 (cont.) Through implementation of mitigation measures presented in the DEIR and RDEIR, impacts associated with all resource categories except for aesthetics would be less than significant. Impacts associated with aesthetics would be minimized to the extent feasible through the implementation of Project Design Features/Conditions of Approval presented in Section 7.2 of the DEIR. Impacts to the quality of life for residents are not an environmental issue and are not required to be assessed under CEQA.

R-07-4 Please refer to the responses to comments on the DEIR, which describe in detail how comments submitted during the public review period for the DEIR have been addressed and revisions made to the RDEIR and FEIR, where applicable. This commenter's letter dated February 28, 2022 is specifically addressed in Responses to Comments D-O11-1 through D-O11-45 and the Sierra Club's letter dated August 18, 2023 is addressed in Responses to Comments R-07-1 through R-07-33. As stated in Section 2.2 of the FEIR, impacts to biological resources would be less than significant with mitigation. Please see Topical Response 9 regarding additional information on wildlife corridors and linkages. Please also see Topical Response 3, *Updates to the Technical Reports*, which describes the clarifications and additions made to the Project's hydrology and water quality analyses to address additional import trips, and why these changes and updates do not affect the significance determination of any impact disclosed in the DEIR, or otherwise present significant new information, as that term is defined by CEQA.

R-07-5 The County acknowledges these introductory comments stating the commenter's opposition to the proposed Project. Please see the responses below to specific comments.

R-07-6 Please see Topical Response 5, *Imported Material and Backfilling Process*, for additional information related to the mining, backfill, and reclamation process, which would proceed across the Project site in phases and subphases, with subphases of less than 30 acres per phase. As discussed in further detail in Topical Response 5, the entire Project would not be undergoing mining at any single given time. Impacts related to air quality, GHG, noise, and water quality, both permanent and temporary, were considered in the RDEIR, as discussed in Topical Response 3. Further, as addressed in the RDEIR, it was assumed that backfill material would originate at construction sites within the San Diego region.

Christopher Jacobs
August 19, 2023
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R-O7-6
cont. ↑
the material is not contaminated, and what standards will be implemented guiding the placement of the backfill in the channel and floodplain to ensure that it will not result in scour and erosions. CBEC Report at 3. This information is important to disclose because these features will result in water quality, erosion, and downstream habitat impacts as well as air quality and noise impacts to area residents. Yet, the RDEIR omits details of these project elements and activities.

R-O7-7
In addition, the RDEIR provides no description or design of the 20-foot-tall rock riprap channel erosion barriers (drop structures) that span the entire project floodplain width located at the upstream end of the project and Steele Canyon Road. As explained in the CBEC Report dated February 24, 2022 and in the current CBEC Report, attached as Appendix B to this letter, design information is important because certain designs would create high velocities during periods of moderate to high river flows. See CBEC Report at 2 and CBEC Attachment A at 3 and 4.

R-O7-8
In sum, the RDEIR presents an unstable project description. The failure to describe the whole of the Project is a serious and pervasive deficiency, as it renders faulty the EIR's environmental impact analyses as well as the discussion of potential mitigation measures and alternatives to minimize those impacts. The information described above is necessary to allow decision makers, the public and responsible agencies to evaluate potential environmental impacts.

III. The RDEIR Uses An Improper Baseline to Analyze Impacts to Biological Resources and Hydrological Resources.

R-O7-9 ↓
Under CEQA, an EIR must describe the physical conditions and environmental resources within the project site and in the project vicinity, and evaluate all potential effects on those physical conditions and resources. CEQA Guidelines § 15125. The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts. Id. "If the description of the environmental setting of the project site and surrounding area is inaccurate, incomplete or misleading, the EIR does not comply with CEQA." *Cadiz Land Co. v. Rail Cycle L.P.* (2000) 83 Cal.App. 4th 74,87. Moreover, an inadequate environmental setting "tenders the identification of environmental impacts legally inadequate." *San Joaquin Raptor/Wildlife Center v. Stanislaus County* (1994) 27 Cal.App.4th 729.

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R-O7-7 Please see Topical Response 12, *Flood Control and Bridge Design*, which provides additional description of the proposed drop structure and addresses the noted concern regarding the ability to withstand high flow velocities.

R-O7-8 The RDEIR provided an updated Project Description, which disclosed the additional import trips and also incorporated other minor clean-up items. This revised Project Description describes the whole of the Project, the impacts of which were analyzed and disclosed in the EIR. Please also see Response to Comment R-O7-6 regarding information relating to where the EIR assumes that imported backfill would originate from. See also Response to Comment R-O7-7 regarding information relating to the proposed drop structures.

R-O7-9 The comment requests that a more current baseline for purposes of assessing impacts to sensitive habitat be applied. However, as addressed in the RDEIR, the baseline for the biological resources impacts analysis was updated. The biological resources baseline was initially based on field surveys conducted in 2018 and 2019, and subsequently updated with the results of additional surveys conducted in 2020 and 2022. The commenter states that site conditions are dramatically different than described in the RDEIR. Small stands of emergent willow identified by the commenter within the river channel are successional and this type of habitat is expected to expand and contract depending on available groundwater and surface flows, combined with maintenance mowing of the areas surrounding the channel. The overall channel is still dominated by non-native disturbance-associated species and accurately characterized as disturbed wetland along its reach within the active and abandoned golf course, irrespective of the presence of small pockets of native species. Please also see Response to Comment R-O7-13.

Regarding classifying habitat in the abandoned golf course as disturbed habitat rather than non-native grassland, the vegetation in this area is characterized by ruderal vegetation that is subject to maintenance mowing. Bermuda grass

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A. The RDEIR Should Employ a Different Baseline for Biological Resources Due to Changed Conditions at the Site.

This project began with the issuance of a Notice of Preparation (NOP) on October 24, 2019. Two years later, the Notice of Availability for the Draft EIR was published on December 16, 2021. A year and a half after that, the Notice of Availability for the Recirculated Draft EIR was published on June 29, 2023. CEQA provides that the date of the Notice of Preparation ("NOP") is "normally" the date upon which the DEIR's baseline conditions should be set. CEQA Guidelines § 15125. However, as the courts have emphasized, "the date for establishing the baseline cannot be a rigid one" and must be evaluated in light of other relevant factors. *Save Our Peninsula Committee*, 87 Cal.App.4th at 125. In some cases, conditions closer to the date the project is approved are more relevant to a determination whether the project's impacts will be significant." *Save Our Peninsula Comm. v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 125. Further, CEQA allows that a lead agency may define the baseline differently where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts. CEQA Guidelines § 15125(a)(1).

In the case of this Project, the use of a more current baseline for the purposes of assessing impacts to sensitive habitat is not only acceptable, but imperative. First, the RDEIR describes site conditions largely based on surveys conducted in 2018 and 2019 (e.g., RDEIR at 2.2-2 and 2.2-3) with some additional surveys in 2022. The RDEIR, like the DEIR before it, mischaracterizes site conditions and describes conditions during and following one of the worst droughts in California history. See, e.g., <https://www.nbnews.com/science/environment/us-megadrought-worst-least-1200-years-researchers-say-rena16202> and <https://www.cnn.com/2021/10/14/us/california-summer-drought-worst-on-record/index.html>. As the Hamilton Report shows, current site conditions are dramatically different than described in the RDEIR. For example, recent rains have resulted in substantial areas of healthy Southern Willow Scrub and Non-native grassland, and have altered and improved the Sweetwater River channel. Hamilton Report at 9 and photos at pages 11-17. The changed conditions on the site warrant an updated description of existing conditions and use of a different baseline to evaluate the Project's impacts.

In addition, as discussed throughout this letter, and in more detail in the Hamilton Report, the RDEIR fails to correct the DEIR's serious errors in the description of the existing vegetation and habitat on the site. Specifically, the RDEIR mischaracterizes 93 acres of the project site – consisting of Non-native Grassland (an MSCP designated Tier IIIB habitat) – as Disturbed Habitat. The document also fails to address two California

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R-O7-9 (cont.) installed as a turf grass for the golf course has naturalized in the abandoned golf course, along with other ruderal and disturbance-tolerant species. The County's Biology Guidelines state that "vegetation on disturbed land (if present) will have a high predominance of non-native and/or weedy species that are indicators of surface disturbance and soil compaction" and "although non-native grasses may be present on disturbed land, they do not dominate the vegetative cover" and goes on to say, "where the vegetative cover is greater than 10 percent, there is soil surface disturbance and compaction, and the presence of building foundations and debris (e.g., irrigation piping, fencing, old wells, abandoned farming or mining equipment) resulting from legal activities (as opposed to illegal dumping)." While succession to grassland from disturbed habitat can occur, the mapping in the RDEIR accurately reflects the species composition and description of disturbed habitat observed in the baseline condition. Please also see Response to Comment R-O7-13. Continued updates to baseline conditions are not necessary as Project impacts to biological resources are adequately addressed and mitigated.

The Commenter expresses concern regarding the discussion about habitat classifications and California Species of Special Concern. However, the habitat classification used in the RDEIR and FEIR conforms with the environmental baseline as defined under CEQA. Please refer to Response to Comment R-O7-11 regarding how California glossy snake and San Diegan legless lizard were addressed in the RDEIR. The RDEIR appropriately addressed biological resources, and no additional revisions or biological surveys are required.

R-O7-9
cont.

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R-07-9
cont.

Species of Special Concern closely associated with loose, alluvial soils, that have a high potential to occur on the project site. Appendix A, Hamilton Report at pages 5 through 7 and 18. Hamilton Biological pointed out these errors in comments dated February 28, 2022. However, the Updated Biological Resources Technical Report (BRTR 2023) supporting the Recirculated Draft EIR (Helix Environmental Planning, March 2023) fails to correct the errors and perpetuates the problem by continuing to mischaracterize the vegetation and habitat on the site and relying on inaccurate information regarding baseline conditions at the site.

Under CEQA, knowledge of the regional setting is critical to the assessment of environmental impacts. "Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project." CEQA Guidelines § 15125 (c). Especially here, where the project site is an important wildlife movement linkage between established reserves, correcting these errors is crucial. The RDEIR's use of outdated and incorrect baseline conditions ignores reality and virtually ensures that the resultant analysis is uninformative and inaccurate. Accordingly, to provide a meaningful and accurate baseline, the County must conduct revised biological surveys to determine the current, actual baseline conditions in light of recent changes in rainfall and to correct the mischaracterization of important habitat. Only by doing so can the County provide a meaningful analysis of Project impacts.

R-07-10

While the RDEIR acknowledges that the proposed Project site is within the County's MSCP, it fails to present important contextual information related to biological resources on the Project site. For example, the RDEIR describes the site as developed and including only small portions of high habitat value. RDEIR at 2.2-1 and 2.1-2. This description ignores the site's capacity to support special-status species by way of providing a safe corridor to travel between conserved habitat areas. As the Hamilton Report and our prior comments on the DEIR point out, the entire proposed Project site is designated for conservation in the County of San Diego's MSCP as an important wildlife movement corridor that contributes to biodiversity and long-term sustainability of the regional conservation network.

R-07-11

Further, while the RDEIR acknowledges that the Project site includes sensitive vegetation communities that provide habitat for a long list of sensitive species,² the RDEIR is dismissive of the potential for two California Species of Special Concern. RDEIR Appendix C at PDF page 336 (the two species, California Glossy Snake and Southern California Legless Lizard, are included on the list of Special Status Animal

² The RDEIR lists 22 special-status wildlife species observed on or near the project site and 14 additional species determined to have moderate or high potential to occur.

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R-07-10 The commenter appears to be referring to Section 2.2.1.1, *Existing Setting*, of the RDEIR. This section contains a description of how the site is mapped on the County's Habitat Evaluation Map. The Habitat Evaluation Map classifies lands as having low, moderate, high, and very high habitat values and this section of the RDEIR is presenting this information, not making this determination.

Please see Topical Response 9 for a discussion on habitat linkages, wildlife movement, and connectivity.

Please see Response to Comment R-07-2 regarding BRCAs.

R-07-11 As stated in the comment, both species, California glossy snake and San Diegan legless lizard were analyzed for potential to occur within Appendix L of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C) and determined to have moderate potential to occur. The Project's impact analysis is consistent with the County's *Biological Survey and Report Requirements and Guidelines for Determining Significance for Biological Resources*, which requires analysis of special status species identified to occur on site and those with high potential to occur. It should be noted that implementation of mitigation measure M-BIO-11, included on page 2.2-84 of the RDEIR and Section 3.4 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR Appendix C), would reduce potential direct impacts to

R-07-11 (cont.) special status reptile and amphibian species, including the California glossy snake and San Diegan legless lizard specifically, to a less than significant level.

As detailed in Section 2.2.1.1 of the RDEIR and Section 1.3.3 of Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C), focused surveys for arroyo toad were conducted in accordance with the current USFWS survey protocol in 2019. The methods and results of the survey are included in Appendix B of Biological Resources Technical Report recirculated with the RDEIR and include a detailed discussion of habitat suitability and quality. No arroyo toads were observed within the Project site, and published data regarding the arroyo toad observations and distribution was provided that supported the negative survey findings. An updated habitat assessment was conducted in 2022 to assess and document changes in biological resources from the 2019 focused surveys and evaluate the suitability of potential habitat to support arroyo toad, the results of which are included in the RDEIR and Biological Resources Technical Report recirculated with the RDEIR. The RDEIR further discloses that arroyo toads are not expected to occupy the Project site as the species has not been detected south of Sloan Canyon Road, located over five miles upstream of the site, since 1997. Based on this regional data, it is currently unlikely that a self-sustaining population of arroyo toads persists in the local area. Given the negative 2019 protocol survey results, updated 2022 habitat assessment survey results, and regional data that suggests arroyo toads are not known within the Project reach of the Sweetwater River, updated protocol surveys are not warranted to establish the baseline required under CEQA for the RDEIR.

Potential Project impacts to arroyo toad aestivation, foraging, or breeding habitat are analyzed in Section 2.2.1 (Guideline 4) of the RDEIR and Section 3.2.2 of the Biological Resources Technical Report recirculated with the RDEIR. As stated on p. 2.2-52 of the RDEIR, "The Project site does not contain habitat critical to the survival of this species and the reach of river within the Project site is currently considered unoccupied by this species given the lack of observations in the area for several years, including during the 2019 protocol surveys conducted for the Proposed Project. Since arroyo toad was not found to occur within the Project site, impacts to potentially suitable arroyo habitat would be less than significant."

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cont.

Species Observed or with Potential to Occur with a moderate potential to occur but not included in the RDEIR analysis of impacts to special status species). California Glossy Snake (*Arizona elegans occidentalis*) and Southern California Legless Lizard (*Amniella stebbinsi*), are both closely associated with loose, alluvial soils (such as those found on the site), and also have a high potential to occur on the project site. Hamilton Report at 18 and 19. In addition, as Hamilton Biological pointed out in the DEIR comments, the surveys for arroyo toad (a federally endangered species) are inadequate and cannot be used to rule out the presence of this species. The RDEIR fails to remedy this failure. The RDEIR provides inadequate information to evaluate the adequacy of the survey, and no reassessment was made in 2023 after large areas of willow-riparian scrub naturally regenerated throughout the Sweetwater River channel. Hamilton Report at 20 and 36

B. The RDEIR Presents Inconsistent Information About Existing Conditions for Groundwater at the Project Site.

R-07-12

The RDEIR also presents conflicting information about the depth range of shallow groundwater on the project site. CBEC Report at 2. Specifically, RDEIR Appendix P indicates that “the depth range for shallow groundwater is 25 to 70 feet below grade.” RDEIR, Appendix P at PDF page 16. However, Figure 9 the November 5, 2021 Groundwater Investigation Report by Geo-Logic indicates that the depth to groundwater in monitoring wells at the site are much shallower than reported in the RDEIR (i.e., 0’ to 25’ below ground surface at one monitoring well and 6’ to 33’ at another). CBEC Report at 2. This is important information from which to establish a baseline. Without a proper description of baseline conditions, the EIR is unable to provide an adequate analysis of Project-related increases or decreases in groundwater recharge relative to existing conditions.

IV. The RDEIR Fails to Correct Many of the DEIR’s Shortcomings in Evaluating the Project’s Impacts on Biological Resources.

R-07-13

A. The RDEIR Perpetuates the Misclassification of Grasslands and Willow Scrub Habitat.

As an initial matter, the RDEIR’s inaccurate environmental setting “fails to set the stage” for a complete discussion of impacts and alternatives. *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 873-75. Both the DEIR and the RDEIR erroneously classify 93.1 acres of the site as “Disturbed Habitat.” Hamilton Report at 3 through 17. As explained further below, and in detail in the Hamilton Report, this error is critical because proper classification of the area as Non-native Grassland affords the site protection under the MSCP and is subject to mitigation if impacted. By

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R-07-12 This comment references the General Notes found on page 1 of the Drainage Management Area (DMA) Exhibit 1 (On-site) Mining Phases of the PDP SWQMP included as Appendix P of the RDEIR. The depth range for shallow groundwater cited under “General Notes” references Table 2-2 of the November 5, 2021 Groundwater Investigation Report, which identifies on- and off-site wells in the Project vicinity. Table 2-2 cites depth to groundwater at the nearest wells with available data logs ranging from 26.3 feet at the Steele Canyon #2 well to 70 feet at the Ivanhoe #8 well. Monitoring data from Sweetwater Authority for two additional on-site wells (Ivanhoe #11 and Lakes #11) that was not included in Table 2-2 was described following the table in Section 2.7 of the Groundwater Investigation Report. Over a monitoring period of 2007 through 2021, the average groundwater elevation at upgradient well Ivanhoe #11 was 339 feet above mean sea level (amsl), while the average elevation at downgradient well Lakes #11 was 315 feet amsl. Assuming these wells are not artesian, with a grade elevation of 371 feet amsl at Ivanhoe #11 and 329 feet amsl at Lakes #11, the average depth-to-water below grade in these wells is estimated at 26 feet at Ivanhoe #11 and about 12 feet at Lakes #11. Although the depth to groundwater cited in the PDP SWQMP differs from the average depths measured within the on-site wells, the depth range for shallow groundwater is provided for informational purposes only and does not form the basis for BMP design or relevant components of the PDP SWQMP. The PDP SWQMP General Notes on the referenced DMA exhibit have been revised to reference a depth range for shallow groundwater of 12 to 26 feet below grade.

R-07-13 This comment expresses concerns with the Project’s vegetation classification and mapping, asserting that large portions of the Project site have been misclassified. The commenter states that “...the DEIR and the RDEIR confusingly employ two systems (County 2010a and Oberbauer et al. 2008) of habitat classification interchangeably....” However, vegetation within the Project

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mischaracterizing this sensitive habitat, the DEIR and RDEIR present misleading information and dismiss the importance of this Tier III habitat protected by the MSCP.

As explained in the Hamilton Report, the DEIR and the RDEIR confusingly employ two systems (County 2010a and Oberbauer et al. 2008) of habitat classification interchangeably, failing to distinguish some key differences between the two. Hamilton Report at pages 4-5. Specifically, the definitions of “Disturbed Habitat” differ as follows:

- The definition provided by the County (2010a) states that “vegetative cover comprises less than 10 percent of the surface area” and also requires “evidence of soil surface disturbance and compaction from previously legal human activity.”
- The definition provided by Oberbauer et al. (2008) does not include a specific statement about percent vegetative cover but states that disturbed areas “are no longer recognizable as a native or naturalized vegetation association” and provides a more complete list of invasive, non-native forb species that characterize Disturbed Habitat. (p. 5).

In any event, the project site does not qualify as “Disturbed Habitat” under either classification system. Indeed, a criterion shared by the definitions of “disturbed habitat” in both systems is that non-native grasses make up only a *minor* component of the vegetation. Hamilton Report at 5. The Hamilton Report includes recent site photos (see Appendix A Hamilton Report at pages 11 to 17) that show the golf course is dominated by non-native grasses. Hamilton Report at 5. This is an important point because, regardless of which classification system is employed, the site does not fit the definition of “Disturbed Habitat.” Hamilton Report at 5. Instead, the site should be classified as a form of “Non-Native Grassland” interspersed with large Fremont Cottonwoods (*Populus fremontii*). Hamilton Report at 5. Therefore, an accurate account of the impacts to this grassland habitat reveals that the proposed sand mine would impact a large area of Tier III habitat within a Biological Resource Core Area.

As explained in the Hamilton report, Non-native Grassland is a natural community that provides habitat for a variety of wildlife, including raptors and several special-status species. As mentioned above, under the MSCP, it is a Tier IIIB community, recognized as sensitive habitat, that requires 0.5 to 1.0 acre of mitigation for every 1.0 acre of impact. Moreover, this habitat provides potentially suitable habitat for California Glossy Snakes, Western Spadefoots, and other severely declining species.

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R-07-13 (cont.) site was mapped in accordance with the County’s Biology Guidelines, which follow the Holland code classification, as updated and modified by Oberbauer. The County’s Biology Guidelines provide additional guidance for “determining the proper code for disturbed land, non-native grassland, agriculture, coastal sage-chaparral scrub, and native grassland classifications.” Contrary to the commenter’s statement, the DEIR and RDEIR do not employ two different classification systems and follow the County’s Biology Guidelines and additional guidance for vegetation classification.

The comment asserts that areas mapped as disturbed habitat within the western portion of the Project site (i.e., the abandoned golf course) should be classified as non-native grassland. Definition excerpts of disturbed habitat have been provided but the definition of non-native grassland was not included in the comment letter. In reference to the County’s definition of disturbed habitat/land, the commenter misquotes the definition in respect to vegetative cover. The County’s Biology Guidelines state that, “where the vegetative cover is greater than 10 percent, there is soil surface disturbance and compaction, and the presence of building foundations and debris (e.g., irrigation piping, fencing, old wells, abandoned farming or mining equipment) resulting from legal activities (as opposed to illegal dumping).” It also goes on to state, “Vegetation on disturbed land (if present) will have a high predominance of non-native and/or weedy species that are indicators of surface disturbance and soil compaction” and that “Although non-native grasses may be present on disturbed land, they do not dominate the vegetative cover.” The County’s Biology Guidelines additional guidance for non-native grassland states, “Annual species comprise from 50 percent to more than 90 percent of the vegetative cover, and most annuals are non-native species. Non-native grasses typically comprise at least 30 percent of the vegetation, although this number can be much higher in some years and lower in others, depending on land use and climatic conditions. Usually, the annual grasses are less than 1 meter (3 feet) in height, and form a continuous or open cover. Emergent shrubs and trees may be present, but do not comprise more than 15 percent of the total vegetative cover.” The additional habitat identification information for disturbed habitat and non-native grassland was taken into account when identifying and mapping these two vegetation communities within the Project site including dominant plant species, total vegetative cover, relative cover of dominant plant species, previous golf course development, and past and current land use.

The comment asserts that areas mapped as disturbed wetland within the western portion of the Project site (i.e., the abandoned golf course) should be classified as southern willow scrub. Disturbed wetland within the western portion of the

R-07-13 (cont.) Project site was mapped along the Sweetwater River, primarily upstream of the established patch of riparian habitat that occurs along the downstream reach of the Sweetwater River channel in the southwestern portion of the Project site (refer to Figure 2.2-3 of the RDEIR). However, this is incorrect. This reach of the river channel did not support southern willow scrub in the baseline condition. The river channel was characterized by unvegetated sandy areas intermixed with patches of non-native Bermuda grass (*Cynodon dactylon*), native and non-native herbaceous wetland species, and tamarisk (*Tamarix* sp.) saplings. Though willow (*Salix* spp.) saplings were present within the river channel, they were not of sufficient size or density to constitute southern willow scrub habitat. Although habitat succession is occurring within portions of the abandoned golf course, the previously established baseline remains valid under CEQA and does not need to be updated for the RDEIR. Further, as summarized in Table 2.2-5 of the RDEIR and Table 8 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C), the Project would result in minor impacts, totaling 0.55 acre, to portions of the previously modified river channel in association with temporary construction crossings and construction of a permanent grouted riprap drop structure west of Steele Canyon Road bridge.

Refer to Section 2.2, *Biological Resources*, of the FEIR for additional discussion of the on-site habitat condition, Project impacts to riparian habitat or other sensitive natural communities, and the Project's on-site native habitat restoration and revegetation, which exceeds the Project's overall habitat mitigation requirements and would provide higher quality habitat than currently exhibited by the active and abandoned golf courses.

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cont. By contrast, actual Disturbed Habitat is characterized as possessing no “capability of providing viable natural habitat for uses other than dispersal” (Oberbauer et al. 2008). Obviously that is not the case here, where the 93-acre project site consists of sensitive habitat that provides an important wildlife linkage corridor.

R-07-14 Ironically, the RDEIR concludes that the Western Spadefoot, a CDFW Species of Special Concern and County Group 2 species, has a high potential to occur on the proposed Project site. RDEIR at 2.2-20. However, this species does not use Disturbed Habitat for upland aestivation habitat. Hamilton Report at 7. Thus, the RDEIR’s identification of Western Spadefoot having a high likelihood of occurring on the site, while at the same time classifying the abandoned golf course as Disturbed Habitat makes the document internally inconsistent.

R-07-15 The RDEIR similarly misclassifies Southern Willow Scrub habitat, a Tier I sensitive natural community in the MSCP, as Disturbed Wetland. Hamilton Report at 9 to 17. As explained in the Hamilton Report, large sections of the river channel have regenerated naturally to Southern Willow Scrub. Id. In fact, a ribbon of Southern Willow Scrub habitat has established in the middle of the site. This habitat improves opportunities for wildlife movement through the site and provides suitable habitat for sensitive species, including the Arroyo Toad, Western Spadefoot, and Least Bell’s Vireo. These discrepancies are due to the County’s reliance on old maps and the failure to conduct surveys for this species in 2023, despite changed site conditions. Hamilton Report at 9.

B. The RDEIR’s Conclusion That The Project Would Not Result in Significant Impacts to the Linkage Between Preserved Habitat Is Not Supported By Evidence.

R-07-16 One of the most important biological functions that the proposed Project site serves is as a habitat linkage for wildlife movement between the two refuges of the McGinty Mountain/ Sycuan Peak-Dehesa Biological Resource Core Area (BRCA) to the east and Sweetwater Reservoir/San Miguel Mountain BRCA to the west. RDEIR Appendix C, Biological Resources Technical Report at 36 to 37 and Hamilton Report at 1 and 2. The RDEIR itself provides evidence of the critical corridor linking the two refuges in RDEIR Appendix C, Figure 14 “Conceptual Wildlife Corridors and Linkages” shows the project site as a key linkage corridor.

The RDEIR, like the DEIR before it, continues to downplay the importance of this linkage. Id. For example, the RDEIR concludes that impacts to the habitat linkages would be less than significant, in part due to restoration of the site in 10-12 years when the

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R-07-14 As stated in Section 2.2.2.1 (Guideline 2) of the RDEIR and Section 2.1.2 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C), western spadefoot “was determined to have a high potential to occur based on the presence of potentially suitable aquatic and riparian habitat and reported occurrences within the surrounding area.” No ephemeral breeding ponds for western spadefoot were observed within the Project site; therefore, none were mapped. The RDEIR acknowledges the presence of marginal habitat conditions within slow-moving water sections of the Sweetwater River. The potential for western spadefoot to occur within the Project site was not based on the presence or absence of disturbed habitat and/or non-native grassland within upland habitat areas. As mentioned in Appendix L of the Biological Resources Technical Report, occurrences of western spadefoot occur just south of the Project site within the SDNWR which supports suitable upland habitat for aestivation.

R-07-15 Please see Response to Comment R-07-13 for a discussion on habitat classification and mapping.

Potential impacts to special status species, such as arroyo toad, western spadefoot, and least Bell’s vireo, are addressed in the RDEIR and Biological Resources Technical Report recirculated with the RDEIR (Appendix C of the FEIR and RDEIR). Implementation of mitigation measures M-BIO-1 through M-BIO-15 (summarized in Table 2.2 of the RDEIR and Table 13 of the Biological Resources Technical Report) would reduce Project impacts to special status species to a less than significant level. Furthermore, implementation of the Project’s Conceptual Revegetation Plan (Appendix N of the Biological Resources Technical Report recirculated with the RDEIR) and Conceptual Wetland Mitigation Plan (Appendix O of the Biological Resources Technical Report recirculated with the RDEIR) would provide additional, higher quality habitat for the special status species and improve wildlife linkage and corridor functions.

This comment implies that baseline conditions are based on “old maps.” As summarized in Section 2.2.1.1 of RDEIR and further detailed in the Biological Resources Technical Report (Appendix C of the FEIR and RDEIR), biological surveys

R-07-15 (cont.) were conducted over a multi-year survey effort between 2018 and 2022 and included:

- Vegetation mapping;
- General plant and animal inventories;
- Rare plant surveys;
- Southwestern pond turtle (*Actinemys pallida*) surveys;
- Acoustical bat surveys;
- Wildlife camera trapping surveys; and
- Protocol-level surveys for arroyo toad, coastal California gnatcatcher, least Bell's vireo, and southwestern willow flycatcher.

In particular, general biological surveys and vegetation mapping occurred on the following dates: August 13 and November 7, 2018, September 28 and 29, 2020, October 6, 2020, and May 10 and 19, 2022. The biological resource data and mapping represent the current baseline condition of the Project site.

R-07-16 Please see Topical Response 9 or a discussion on habitat linkages, wildlife movement, and connectivity, as well as Response to Comment R-07-13 for a discussion on habitat classification and mapping.

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cont.

mining is completed. RDEIR Appendix C at 109. However, in reality, the existing habitat linkage will be significantly impacted by the proposed Project.

Specifically, the RDEIR improperly redefines “habitat” to refer only to certain patches of riparian areas and other sensitive natural communities, and by misclassifying 93 acres of grasslands, and many more acres of Willow Scrub habitat. As explained in the Hamilton Report, the project site is designated as a regional habitat linkage, and a Biological Resource Core Area, because it is an expansive area of non-native grassland and golf course punctuated with cottonwood trees that occupies an ecologically important position in the MSCP preserve system. Hamilton Report at 20. The site’s importance as a linkage corridor is made clear in the County’s 2019 comments on the proposed Project which stated that the “project contains nearly the *entire habitat linkage* between the McGinty Mountain/Sequan Peak-Dehesa Biological Resource Core Area (BRCA) and the Sweetwater Reservoir/San Miguel Mountain BRCA.” County Scoping Letter at 77; emphasis added.

R-07-17

The RDEIR makes a feeble attempt to study wildlife movement on the site, but as the Hamilton Report explains, that study is also incomplete and inadequate. Hamilton Report at 22 and 23. The study employed an inadequate number of cameras for too short a period of time. Id. In addition, the RDEIR fails to explain the study design and rationale, and fails to analyze the observations or provide context, and the results of the study were presented in a paltry single paragraph, thus providing little to no helpful information. Id. To make matters worse, the revised DEIR’s biological resources report deleted the most obviously flawed and biased, unsupported statements about habitat linkages, but left in place the findings and conclusions without support or evidence. Hamilton Report at 23.

R-07-18

The RDEIR also claims that “[T]he Project would not narrow the existing wildlife linkage width.” RDEIR at 2.2-69. However the Project would narrow the existing corridor from the current 850 to 1,700 feet to “an average width of 600 feet” with some areas narrowing to 350 to 400 feet at the western end of the site. RDEIR at 2.2-69 and Hamilton Report at 19. This change is significant because preserving linkages for wildlife movement in an area under development pressure is critical to preserving biodiversity, preserving areas wildlife can move to during changing climate conditions, and preserving the overall function of the MSCP preserve system. In this case, impacts to this habitat linkage would be significant and cannot be mitigated to less than significant levels. Hamilton Report at 19.

R-07-19

This approach to analyzing impacts on important biological resources does not comport with CEQA. Under CEQA, decision-makers and the public must be given

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R-07-17 This comment asserts that the wildlife camera trapping surveys were incomplete and inadequate. As detailed in Section 2.2.1.1 of the RDEIR and Section 1.3.3 of the Biological Resources Technical Report (Appendix C of the FEIR and RDEIR), three motion-activated cameras were deployed within the Project site for a 10-week period between May and July 2022, which is an optimal period of the year to detect wildlife activity and capture wildlife presence, use, and movement within and throughout the Project site. The methods in Section 1.3.3 of the Biological Resources Technical Report identified the type of camera used, the location of the cameras (refer to Figure 8 of the Biological Resources Technical Report), the length of the deployment periods, and the various criteria considered in placement of the camera stations. One camera was stolen during the first deployment period but was promptly replaced during the second deployment period. Though one camera malfunctioned during the deployment period, no other malfunctions occurred. Therefore, a total of 10 sites were sampled during the 10-week survey period and sufficient data was gathered to provide a baseline understanding of the types of animal species present within the Project site and how those species may utilize the Project site for wildlife movement functions. Furthermore, numerous biological surveys were conducted between 2018 and 2022 over several different months and during both daytime and nighttime hours. These surveys included focused and passive surveys for various animal species and evidence of individual locations and species use of the Project site was documented. The methods employed to assess wildlife use and movement functions were comprehensive and adequate in making determinations for species occurrence and reasonable inferences toward the types of animal species present within the Project site and ways in which those species could use the site.

R-O7-17 (cont.) The results of the wildlife camera trapping surveys are disclosed in Section 2.2.1.1 of the RDEIR and Section 1.4.12 of the Biological Resources Technical Report (Appendix C of the FEIR and RDEIR). The results included a discussion of the various species captured by the cameras; identification of key mammal species detected by the cameras (i.e., coyote and bobcat), including their abundance and location, and those that were not detected (i.e., mule deer and mountain lion); and discussion of additional data collected by the cameras, such as unauthorized pedestrian access, recreational activity, and off-leash dogs during both daytime and nighttime hours. The RDEIR and Biological Resources Technical Report include discussion on how the various animal species detected within the Project site during the camera trapping surveys and other biological surveys likely utilize the site for foraging, dispersal, and breeding activities, and how wildlife may move within and throughout the Project site and use the site for local and regional movements. Additional camera trapping surveys are not required and would be highly unlikely to result in new or different impacts being identified.

R-O7-18 This comment claims that the Project would narrow the width of the existing habitat linkage, and that the existing habitat linkage width is 850 to 1,700 feet. This width is based on additional information contained in the referenced Hamilton Report and coincides with the mapped (Federal Emergency Management Agency [FEMA]) 100-year floodplain (see Figure 3.1.5-2 of the FEIR). However, the habitat linkage width is not based on the FEMA 100-year floodplain, which is a geographic area that the FEMA has defined according to varying levels of flood risk. The FEMA 100-year floodplain represents an area with a 1 percent annual chance of flooding. As described in the County's Multiple Species Conservation Program (MSCP) Subarea Plan, habitat linkages provide connectivity between BRCAs and provide breeding and foraging habitat for resident species. Figure 2.2-6 of the RDEIR and Figure 14 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C) depict the identified habitat linkage and BRCAs within and adjacent to the Project site. As stated in the County's MSCP Subarea Plan, *"The Wildlife Agencies Core and Linkage Map (Attachment 1, Figure 1-2) is one possible configuration of core and linkage areas that would be consistent with the County's Biological Mitigation Ordinance [BMO]."* As such, the depicted habitat linkage is conceptual and not all lands within the identified linkage contain suitable habitat that provides connectivity between core areas and breeding and foraging habitat for resident species.

Section 2.2.1.1 of the RDEIR and Section 1.4 of the Biological Resources Technical Report recirculated with the RDEIR describe the existing condition of the Project site which has been heavily altered by past human disturbances and habitat

R-07-18 (cont.) modification associated with the development of the golf course. The Sweetwater River channel has been severely modified by previous golf course development. The river has been channelized through the site and its width has been constricted to allow for the development of golf course fairways. The river channel transitions between low-growing herbaceous species and open sandy areas, and generally lacks substantial shrub and tree cover excluding the southwestern patch of riparian habitat. Portions of the Project site containing higher value habitat that provide breeding and foraging habitat for resident species are discussed throughout the RDEIR and Biological Resources Technical Report recirculated with the RDEIR and are generally located along the Project's southern boundary where existing patches of riparian habitat that would be preserved within the Project's BOS. The overall condition of the habitat linkage is summarized in Section 2.2.2.1 (Guideline 7) of the RDEIR and Section 2.4 of the Biological Resources Technical Report recirculated with the RDEIR as follows, "Though its current function is likely constrained by the site's historic and ongoing human-related disturbances associated with the golf course development, ongoing maintenance, and operations, local wildlife still utilizes the site for foraging and dispersal activities". This conclusion is compatible with the County's MSCP Subarea Plan description the habitat linkage, which is described as follows: *"Sweetwater Reservoir to McGinty Mountain, a highly fragmented area. The southern part of this linkage is narrow and highly constrained by development"*.

As detailed in Section 2.2.2.4 of the RDEIR and Sections 2.4 and 6.0 of the Biological Resources Technical Report recirculated with the RDEIR, the Project would not narrow the existing wildlife linkage width. On the contrary, the Project would restore wildlife linkage and corridor functions through the Project's reclamation process and native habitat revegetation. The Sweetwater River channel and associated flood-prone area, currently measuring between 35 and 120 feet wide, would be substantially expanded throughout the entire length of the Project site (approximately 10,040 linear feet) and would measure between 450 feet and 720 feet wide. The expanded floodplain would be revegetated with riparian habitat resulting in a post-Project condition that would restore wildlife linkage and corridor functions and is biologically superior to the existing condition.

Please refer to Topical Response 9 for discussion on the Project's impact analysis regarding habitat linkages and wildlife movement.

R-07-19 Please see Responses to Comments R-07-13 through R-07-18, which address the above comments. The analysis provides the appropriate level of information necessary to evaluate potential Project impacts and identify

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sufficient information about impacts and mitigation to be able to evaluate the impacts of a proposed project for themselves. *See* Pub. Res. Code 21061. The DEIR failed to provide a thorough and accurate evaluation of the proposed Project's impacts to wildlife, habitat, and linkages in the region and the RDEIR only maintains and carries forward the DEIR's failures.

C. The RDEIR's Analysis of the Project's Compliance with the County's MSCP is Fatally Flawed.

As discussed in our prior comments and at length in the Hamilton Report, the Project is inconsistent with the MSCP's requirements for development proposed within MSCP areas. The proposed Project is subject to making Findings of Conformity with MSCP policies. The DEIR's MSCP consistency analysis concludes that the proposed project would comply with the Findings of Conformity, but in most cases, compliance is simply asserted rather than demonstrated with supporting evidence. The RDEIR fails to correct the DEIR's mistakes. Instead, it too claims that the proposed Project conforms with MSCP requirements but it fails to substantiate these claims with adequate survey data, an accurate description of the site's resources, and incorporation of relevant scientific information from peer-reviewed literature. Hamilton Report at 37. Because the Hamilton Report provides a thorough analysis explaining why the RDEIR's analysis of the proposed Project's conformance with MSCP requirements is inadequate, we will not reiterate all the points here. Hamilton Report at 17 through 37. Instead, we highlight some key deficiencies below.

R-07-20

The MSCP requires that the proposed Project 'preserve the biological integrity of linkages between BRCAs.' RDEIR at 2.2-73 to 2.2-73 and Hamilton Report at 22. As discussed above, rather than 'preserve the biological integrity of linkages between BRCAs,' the Project will substantially disturb more than 209 acres of linkage/corridor and habitat. Hamilton at 25. Although the RDEIR asserts that the Project will conform to the MSCP requirements for habitat linkages/corridors (RDEIR at 2.2-67), this conclusion is unsupported.

As discussed in the Hamilton Report, the following points illustrate that the proposed Project site is indeed a viable and important habitat linkage/corridor:

- The habitat linkage through the project site was identified in the MSCP Subarea Plan because, despite being occupied by two golf courses (one now abandoned), *this is the only viable pathway* for terrestrial and aquatic wildlife to move between the McGinty Mountain/Sycuan Peak-Dehesa BRCA and the Sweetwater Reservoir/San Miguel Mountain BRCA.

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R-07-19 (cont.) appropriate mitigation to reduce biological resources impacts to less than significant levels. No additional analysis is required.

R-07-20 The comment generally claims that the Project is inconsistent with the requirements of County's MSCP Subarea Plan, particularly those pertaining to habitat linkages and corridors. Please see Response to Comment R-07-21 regarding the Project's conformance with the requirements of the MSCP, including preserve design criteria related to corridors and linkages.

Please see Topical Response 9 for a discussion on wildlife movement, habitat linkages, and connectivity, and summary of how the Project would restore and greatly improve habitat connectivity and suitability for wildlife through the implementation of site reclamation and revegetation following mining activities, and as such, would "preserve the biological integrity of linkages between BRCAs."

The comment includes the statement that the habitat linkage through the Project site is "the only viable pathway for terrestrial and aquatic wildlife to move between the McGinty Mountain/Sycuan Peak-Dehesa BRCA and the Sweetwater Reservoir/San Miguel Mountain BRCA." As described in the County's MSCP Subarea Plan, habitat linkages provide connectivity between BRCAs and provide breeding and foraging habitat for resident species. Figure 2.2-6 of the RDEIR and Figure 14 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C) depict the identified habitat linkage and BRCAs within and adjacent to the Project site. As stated on page 4-2 of the County's MSCP Subarea Plan, "*The Wildlife Agencies Core and Linkage Map (Attachment 1, Figure 1-2) is one possible configuration of core and linkage areas that would be consistent with the County's Biological Mitigation Ordinance.*" As such, the depicted habitat linkage is conceptual and not all lands within the identified linkage contain suitable habitat that provides connectivity between core areas and breeding and foraging habitat for resident species.

Regarding closure of the Lakes Course in 2017 increasing the functioning of the wildlife linkage compared to when it was originally designated in the MSCP Subarea Plan, as described in Subchapter 2.2 of the RDEIR, although golf play was discontinued in 2017, the area is still regularly mowed and utilized recreationally by the public. The area is characterized by disturbed and developed areas and

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- Closure of the Lakes Course in 2017 increased the functioning of the wildlife linkage compared with when it was originally designated in the MSCP Subarea Plan, because the southwestern third of the project site is no longer manicured and human presence has been completely removed. As shown in photos 9, 10, 12, 13, 16, and 17 of the Hamilton Report (at pages 11-17), willow-riparian vegetation has grown back in the main channel following the wet winter of 2022/2023, improving movement opportunities for wildlife. This RDEIR does not account for this important change in the existing conditions.
- The Ivanhoe Course, although still in use, represents a viable habitat linkage for use by terrestrial wildlife, most of which move at night, when human presence, lighting, and noise are minimal.
- Although the project biologists assert that this regional habitat linkage is of little value for wildlife, they collected only minimal wildlife movement data in support of this conclusion. Their observational study was not designed to provide adequate information upon which to base a legitimate impact analysis.

Hamilton Report at 25.

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In another example, the proposed Project, if implemented would violate *nine* MSCP design criteria for linkages and corridors. Hamilton Report at 26-34. These include: failure to maintain habitat linkages as defined by the County's Biological Mitigation Ordinance (Hamilton Report at 26); failure to identify, maintain, and protect existing linkages/corridors (Hamilton Report at 27); failure to protect a regional linkage that accommodates travel for a wide range of wildlife species (Hamilton Report at 28 and 29); failure to protect the width of the linkage based on the biological information for target species (Hamilton Report at 29); failure to maintain the corridor at a width wide enough for animals to hide in during the day with a minimum width greater than 1,000 feet for large mammals (Hamilton Report at 31), among others. See Hamilton Report at 26-34.

R-07-22

Finally, the County's required Findings of Conformity for proposed development within the MSCP mandate that "No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan." Hamilton Report at 35. Once again, the RDEIR asserts that the Project would conform to the County's requirements. To contrary, as described throughout this letter above, in the Hamilton Report, and in our prior comments, allowing sand mining through the heart of this important linkage would violate multiple linkage/corridor design criteria and would clearly jeopardize the assembly of a functioning preserve system. Furthermore, approval

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R-07-20 (cont.) contains limited continuous vegetative cover to conceal land-traveling wildlife species that would likely move east to west through the Project site. This is similar for the Ivanhoe Course, which is also subject to human activity and lacking in continuous cover to represent a viable habitat linkage.

Please see Response to Comment R-07-17, which addresses the comment regarding the wildlife movement data that was collected in support of the habitat linkage value.

R-07-21 The comment claims that the Project would violate nine MSCP design criteria for linkages and corridors. The Project would comply with the requirements of the MSCP, including preserve design criteria related to core and linkage areas (Section 4.2.1 of the South County MSCP Subarea Plan), as demonstrated Sections 2.2.2.4 (Guidelines 19 through 24) and 2.2.2.5 (Guidelines 31 and 32) of the RDEIR, and Sections 6.0 and 7.0 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C). It is important to note that the baseline condition of the linkage mapped in the County MSCP is largely developed and degraded by residential and golf course developments, and the baseline condition of the functioning corridor on site and within that linkage has been substantially degraded and narrowed due to the existing and historical developments and uses. The Project would re-establish functioning habitat within the linkage and corridor where it hasn't been present for decades. Therefore, any existing, functioning linkage and corridor habitat would be maintained and, even more so, expanded, enhanced, and uplifted far beyond the baseline condition. The following provides additional clarity on how the Project would not violate the nine MSCP design criteria for linkages and corridors:

- 1. Habitat Linkages as defined by the BMO, rather than just Corridors, will be maintained.**

The boundaries of linkages and corridors are not designed specifically to follow the 100-year floodplain boundaries. It is important to take into account that the

R-07-21 (cont.) existing floodplain, whether the 100-year floodplain or other, clearly and factually overlaps existing developments, including both residential and golf course developments, that do not function and have not functioned in many years in a linkage or corridor capacity. These areas that overlap existing developments could not function as a linkage or corridor unless the existing developments are removed and the areas are substantially restored, which is what the Project is proposing. As depicted on Figure 2.2-6 of the RDEIR, the County's MSCP linkage mapping clearly and factually overlaps existing developments that occur both within and outside of the Project site. This is further substantiated by the fact that the County's MSCP designations mapping, as depicted on Figure 2.2-1 of the RDEIR, identifies the majority of the Project site and other areas within the County's MSCP linkage mapping as Unincorporated Land in the Metro-Lakeside-Jamul Segment, distinctly outside of Hardline Preserve, Minor Amendment Area, Pre-Approved Mitigation Area, Take Authorized Area, or other areas designated as being targeted for conservation or take allowance. The actual linkage and corridor areas that overlap the Project site are much narrower than the 100-year floodplain and much narrower than the County's MSCP mapping because these resources, by definition, can only be comprised of undeveloped and functioning habitat that, as adequately demonstrated through the Project's biological study, actually function as linkage and corridor habitat for wildlife. The baseline (existing) condition of the linkage mapped in the County MSCP is largely developed by residential and golf course developments, and the baseline condition of the functioning corridor on-site and within that linkage has been substantially degraded and narrowed well below the 100-year floodplain due to the existing developments and uses.

The comment expresses concern that the Project would narrow the existing linkage down to the width of a corridor and cites the County BMO definition of a corridor, though the definition of a linkage is not included. The County BMO defines a linkage as follows: *"'Linkage' shall mean an area of land which supports or contributes to the longterm movement of wildlife and genetic material."* As described above, the existing condition of the linkage area mapped over the Project site and the Project reach of the Sweetwater River is primarily a developed golf course and what functioning habitat that exists within this area would be avoided and placed within BOS. Furthermore, any developed portions of the linkage area and corridor mapped over the Project site would be decommissioned and functioning habitat would be re-established over the areas as part of the Project. The Project proposes no adverse impacts to the remaining linkage area mapped outside of the Project site and instead would improve the hydrological and ecological contiguity and connectivity with this off-site habitat. Therefore, the Project is maintaining the existing functioning habitat within the

R-07-21 (cont.) linkage and is replacing developed portions with new, re-established functioning habitat. As such, the Project would significantly increase the amount of functioning habitat and greatly widen the functioning width of the linkage compared to the existing baseline condition as opposed to narrowing the linkage.

2. Existing movement corridors within linkages will be identified and maintained.

The commenter is referred to the discussion above regarding how existing movement corridors within linkages have been identified and would be maintained by the Project. The commenter is further referred to Topical Response 9 regarding the biological studies completed to inform the assessment of wildlife movement and existing corridors at the Project site. As stated, the Project would maintain the existing habitat demonstrated to facilitate wildlife movement functions through the Project site by placing the areas into BOS and would further re-establish and also place in BOS additional functioning habitat throughout the site in areas that have been developed and degraded by golf course developments and uses. Therefore, existing movement corridors within linkages have been identified and would be maintained.

3. Corridors with good vegetative and/or topographic cover will be protected.

As stated in the RDEIR, the existing vegetative cover along the Project reach of Sweetwater River and throughout most of the Project site is generally sparse and open, with limited disjunct and disconnected areas containing taller and denser vegetation. This is especially true of the active and former golf course portions of the site, which are characterized primarily by manicured turf grass in the golf course fairways, lower-growing forbs and grasses in the former golf course fairways, and isolated trees that line the golf course and former golf course fairways. The general openness of the vegetation does not provide adequate cover or refuge for certain wildlife and exposes them to deterrents from night lighting, noise, humans, predators, and other factors, all of which can be hindrances to wildlife movement. As stated, the Project would substantially improve the vegetative composition and structure with respect to wildlife movement by re-establishing contiguous native habitat along a corridor arrangement. The existing topography is also relatively flat and open with clear lines of sight and no topographic features to direct and funnel wildlife movement, shield wildlife from lighting, attenuate noise, block views from humans and developments, or present obstructions to predators. As stated, the Project would re-establish topographic features that are more conducive to directing,

R-07-21 (cont.) concealing, and facilitating wildlife movement in a manner that protects them and their habitat from surrounding developments and associated disturbances.

- 4. Regional linkages that accommodate travel for a wide range of wildlife species, especially those linkages that support resident populations of wildlife, will be selected.**

The Project is in conformance with this criterion as it has intentionally selected areas to maintain and further provide for significant uplift within a regional linkage that accommodates travel for a wide range of wildlife species and supports resident populations of wildlife. No further response is required.

- 5. The width of a linkage will be based on the biological information for the target species, the quality of the habitat within and adjacent to the corridor, topography, and adjacent land uses. Where there is limited topographic relief, the corridor must be well vegetated and adequately buffered from adjacent development.**

As stated, the width of the existing functioning linkage is severely narrowed and fragmented by existing developments, including the existing and former golf course developments within the Project site. The Project is proposing to substantially increase the width of the functioning linkage compared to the existing condition; significantly uplift the quality, functions, and services of the habitat on site; re-establish habitat connectivity both on-site and with adjoining off-site habitat areas; and improve vegetative cover, topographic relief, and buffering from adjacent developments. The commenter is referred to the discussions above regarding the incorrect correlation of a 100-year floodplain with a linkage width. The commenter is further directed to Section 1.4.12 of Appendix C to the RDEIR for discussions related to the biological information on species observed, otherwise detected, and that have potential to move through the Project site. Based on these factors, the width of the proposed functioning habitat to be protected and re-established within the linkage is sufficient. Please see the detailed Response to Comment R-07-58 regarding accommodation of target species such as mountain lions.

- 6. If a corridor is relatively long, it must be wide enough for animals to hide in during the day. Generally, wide linkages are better than narrow ones. If narrow corridors are unavoidable, they should be relatively short. If the minimum width of a corridor is 400 feet, it should be no longer than 500 feet. A width of greater than 1,000 feet is recommended for large mammals**

and birds. Corridors for bobcats, deer, and other large animals should reach rim-to-rim along drainages, especially if the topography is steep.

The commenter is directed to the discussions above regarding linkage and corridor widths.

7. Visual continuity (i.e., long lines-of-site) will be provided within movement corridors. This makes it more likely that animals will keep moving through it. Developments along the rim of a canyon used as a corridor should be set back from the canyon rim and screened to minimize their visual impact.

This comment references the MSCP preserve criteria related to maintain visual continuity (i.e., long lines-of-site) within movement corridors. Visual continuity is addressed in Section 2.2.2.4 (Guideline 24) of the RDEIR and Section 6.2.1 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and DEIR Appendix C). No additional analysis is required. Please see the detailed Response to Comment R-O7-60.

8. Corridors with low levels of human disturbance, especially at night, will be selected. This includes maintaining low noise levels and limiting artificial lighting.

This comment references the MSCP preserve criteria related to human disturbances, particularly noise and nighttime lighting, to movement corridors. Noise and nighttime lighting is addressed in Section 2.2.2.4 (Guideline 22) of the RDEIR and Section 6.2.1 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C). Please also see Topical Response 7, *Noise Impacts*, under “Noise Impacts on Wildlife Species.” and the more detailed Response to Comment R-O7-61.

9. Barriers, such as roads, will be minimized.

This comment references the MSCP preserve criteria related barriers and roads within movement corridors. Barrier and roads are addressed in Section 2.2.2.4 (Guideline 21) of the RDEIR and Section 6.2.1 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C). No additional analysis is required. Please see the detailed Response to Comment R-O7-62.

R-O7-22 Please see Responses to Comments R-O7-16 through R-O7-21, which address the above comments related to the Project’s impact on habitat linkages,

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of this Project would not only degrade this particular linkage/corridor, but would also establish a precedent that any or all of the MSCP design criteria can be ignored when proposing impacts within designated regional habitat linkages.

D. The RDEIR Fails to Mitigate Significant Impacts to Sensitive Species, Sensitive Habitat, and Linkage Corridors.

R-07-23

As explained in our prior comments, because the EIR fails to accurately describe the existing setting and fails to adequately analyze significant impacts to sensitive species, sensitive habitat, and designated wildlife linkage/corridor, it necessarily fails to identify measures to mitigate the Project's impacts. The RDEIR fails to correct this flaw. For example, as discussed above, in the attached Hamilton Report and in prior comments, the RDEIR fails to mitigate the significant impacts associated with destruction of habitat and narrowing of the habitat linkage/corridor. Hamilton Report at 19. In another example, the RDEIR fails to address significant impacts and mitigation to the Glossy Snake and Southern California Legless Lizard. Id. Both of these species are California Species of Special Concern, yet the County failed to conduct surveys for them or properly analyze direct and indirect impacts to individuals and their habitat. Id. Instead, the RDEIR lists them as 'Special Status Animal Species Observed or with Potential to Occur' on the site, discloses that suitable habitat is present on the site, but dismisses their occurrence due to past disturbance. RDEIR Appendix C Biological Resources Technical Report, Appendix L Special Status Animal Species Observed or with Potential to Occur for the Cottonwood Sand Mine Project at PDF page 336.

R-07-24

Similarly, the RDEIR's proposed mitigation measures fail to effectively address significant impacts to the Western Spadefoot. While the RDEIR acknowledges that this California Species of Special Concern and County Group 2 species has a high potential to occur within the proposed Project site (RDEIR at 2.2-35) and would be significantly impacted by the Project (RDEIR at 2.2-45), the measures identified as mitigation are inadequate. Hamilton Report at 19 and 20. Specifically, the measures proposed focus only on direct impacts to individuals and breeding habitat. RDEIR at M-BIO-12 at p. 2.2-84. The RDEIR inappropriately ignores impacts to aestivation, or wintering, habitat for these species, yet such habitat is equally important to the species. Hamilton Report at 19 and 20.

R-07-25

Under CEQA, an EIR is inadequate if it fails to suggest mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61 at 79. Here, like the DEIR before it, the RDEIR's

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R-07-22 (cont.) wildlife movement, and connectivity, as well as Project conformance with the County's MSCP requirements.

Further, the Project would not jeopardize the assembly of a functioning preserve system. As detailed in the RDEIR and Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C), the Project would ultimately contribute approximately 150.7 acres of preserved, rehabilitated, revegetated, and restored habitat to the preserve system through placement of these areas within a BOS easement. The post-reclamation condition of the Project site would restore and substantially improve functional connectivity of the identified habitat linkage to BRCAs and preserved lands located to the east, west, and south of the site as shown in Figure 22 of the Biological Resources Technical Report.

R-07-23 Please refer to Response to Comment R-07-18 for a discussion of why the Proposed Project does not narrow the habitat linkage. Please refer to Response to Comment R-07-11 regarding how California glossy snake and San Diegan legless lizard were addressed in the RDEIR and why potential impacts to either species would be less than significant with the incorporation of mitigation. Please refer to Response to Comment R-07-15 regarding the Project's biological studies, which are also detailed in Section 2.2.1.1 of the RDEIR and Section 1.3.3 of Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C). A full suite of biological surveys was conducted for the Project over a multi-year period between 2018 and 2022 and included an evaluation of habitat for special status species and general animal inventories. Focused surveys were conducted for listed and special status species with species-specific surveys protocols developed by various federal (USFWS and USGS), state (CDFW), and/or local (County) agencies. No species-specific survey protocols are present for California glossy snake or San Diegan legless lizard. As such, no additional biological surveys are required.

R-07-24 Implementation of mitigation measures M-BIO-11 and M-BIO-12, included on page 2.2-84 of the RDEIR and Section 3.4 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR Appendix C), would reduce potential direct impacts to western spadefoot to a less than significant level. They do so by requiring that a pre-construction survey be conducted within two weeks of vegetation removal, grading, and/or other ground disturbing activities, and if western spadefoot are found to occur, that a species-specific protocol for handling and relocation procedures be prepared and approved by the CDFW and any other required Wildlife Agency, and that any western spadefoot toads,

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tadpoles, or egg masses are identified within the proposed impact area be relocated to a suitable relocation site approved by the CDFW and any other required Wildlife Agency. These mitigation measures are based on recommendations provided by CDFW on the DEIR; also see Response to Comment D-A2-16. These mitigation measures adequately address direct impacts to western spadefoot individuals.

Implementation of mitigation measures M-BIO-8, M-BIO-9, and M-BIO 10, included on pages 2.2-83 and 2.2-84 and Section 3.4 of the Biological Resources **R-07-24 (cont.)** Technical Report recirculated with the RDEIR (FEIR Appendix C), would reduce potential direct impacts to western spadefoot breeding, aestivation, and wintering habitat to a less than significant level. These measures require reclamation and revegetation of the site following the completion of mining activities and habitat-based mitigation.

R-07-25 This comment does not raise a specific issue concerning the environmental analysis or adequacy of the RDEIR. Please see Responses to Comments R-07-13 through R-07-24, which address the more-specific above comments.

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cont.

identification and analysis of mitigation measures, like its analysis of biological impacts, are legally inadequate.

V. The RDEIR's Evaluation of Hydrology and Water Quality Impacts is Inadequate.

R-07-26

The RDEIR's analysis of the Project's impacts to hydrology, water quality, and flooding is inadequate because it: (a) continues to rely on an inaccurate hydraulic analysis; (b) presents an inaccurate estimate of impacts on groundwater resources; (c) fails to analyze on-site and downstream impacts, including impacts to drinking water in the Sweetwater Reservoir; (d) fails to support its conclusions with the necessary facts and analysis; and (e) fails to identify mitigation capable of minimizing the Project's significant environmental impacts.

Greg Kamman, Hydrogeologist with CBEC Eco Engineering, reviewed the Cottonwood Sand Mine RDEIR hydrology and water quality analysis and the document's hydrological appendices. His report (CBEC Report), attached as Appendix B, provides detailed comments on the RDEIR's Hydrology and Water Quality section. We summarize some of the most critical points of that report below.

1. The RDEIR Presents an Inaccurate Hydraulic Analysis of the Project's Flood Impacts

R-07-27

As explained in the CBEC Report, the RDEIR fails to correct the DEIR's faulty analysis of the Project's potential impacts related to flooding. CBEC Report at 2. Instead, the RDEIR states that the prior Hydraulic (HEC-RAS) Modeling are correct. CBEC Report, Appendix A at 2 and RDEIR Appendix P at PDF p 39). However, the RDEIR fails to respond to CBEC's comments detailing the flaws identified in the modeling.

In the comments on the DEIR, CBEC explained that the hydraulic model failed to incorporate the elevated fill surface into the cross-section profiles, and instead used existing condition ground surface elevations. Appendix B, CBEC Report, at 2 and CBEC Report, Appendix A at 3. CBEC's identified discrepancies in the model that raise serious concerns about the Project's impacts on site hydraulics. Had the model accurately incorporated the planned elevated fill surface, the hydraulic model would have shown that the fill area would obstruct and alter hydraulic flow patterns, which would likely raise 100-year flood water surface elevations higher than disclosed in the DEIR. Id. As explained in our prior comments, this flaw implicates other parts of the hydraulic analysis as well. Id. For instance, this change in flow pattern could result in increased water storage on the site and increased flooding hazards downstream. Therefore, the RDEIR's

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R-07-26 Please see Responses to Comments R-07-27 through R-07-32, which address the specific comments from the CBEC Eco Engineering review of the RDEIR's hydrology and water quality analysis (CBEC Report) attached as Appendix B to this letter. Further responses to the CBEC Report are provided in Responses to Comments R-07-86 through R-07-93. The CBEC Report references additional comments provided on the DEIR, which are addressed in Responses to Comments D-08-74 through D-08-82.

R-07-27 The comment correctly identifies the need for the hydraulic model to incorporate the elevated fill surface into the cross-section profiles, where the report circulated with the DEIR used existing condition ground surface elevations. As described in detail in Topical Response 3, *EIR Errata and Updated Technical Reports*, under "Appendix O – CEQA-Level Drainage Study," the study was revised to include additional information supporting and clarifying the hydrologic and hydraulic conclusions of the DEIR to address comments received on the DEIR. The CEQA-level Drainage Study has been revised in the FEIR to update the cross sections with the post-mining fill surface elevations to match the plot plan (FEIR Figures 1-5a and 15b). The hydraulic modeling results show no adverse flooding or hydraulic impacts resulting from implementation of the Project, similar to the conclusions presented in the DEIR. The Project would not obstruct or alter flow patterns or raise the 100-year flood water surface elevations in such a way that significant impacts would occur.

The comment also alleges that the Project would result in a change in flow pattern that could result in increased water storage on the site and increased flooding hazards downstream. This is incorrect. As noted above, the hydraulic modeling results show no adverse flooding impacts. The on-site flow pattern would be similar to existing conditions, with flow from the Sweetwater River continuing along the existing channel, which would be maintained. Water surface elevations would be at or above the existing low flow channel, so no on-site storage is anticipated to occur following the completion of mining activities.

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cont.

conclusion that the model is accurate is wrong and the EIR's conclusion that impacts relating to flooding hazards would be less than significant remains unsubstantiated. CBEC Report at 2. Until the EIR corrects this flaw and accurately assesses water surface elevations during the post-reclamation phase, the EIR will be legally inadequate.

2. The RDEIR Presents An Inaccurate Estimate of Future Water Demands and Impacts on Groundwater Supply

R-07-28

The RDEIR, like the DEIR before it, fails to adequately evaluate or substantiate how the proposed Project will impact groundwater supply. CBEC Report at 2. The RDEIR states that "[E]xposure of groundwater as a free water surface at any given time in each of three pits would be limited to approximately five acres in size." RDEIR at 1-22. However, based on CBEC's review, groundwater conditions under final project grades will lead to much more extensive exposure of groundwater leading to significant evaporative losses that are not quantified or accounted for either the DEIR or the RDEIR.

R-07-29

CBEC's own analysis, presented in their comments on the DEIR, concludes that with implementation of post-reclamation grades, the Project site will have large areas of ground lowering that will intersect the groundwater table, creating surface ponding. CBEC Report, Attachment A at 2-3 and Figures 3 and 4. CBEC's analysis found that the ground surface elevation will be lowered by approximately 18 feet in elevation on one part of the site and by approximately 6 feet at another. This change in ground surface elevation, which would vary by as much as 18 feet of elevation in some places, will in turn expose the ponded groundwater to evaporation, which will lead to a loss of groundwater. Id. The length of exposure time of ponded groundwater would vary with prolonged (multi-month to annual) exposure during wet years (see CBEC Report Figure 3). The RDEIR fails to acknowledge CBEC's prior comments or to accurately quantify the losses of groundwater due to surface ponding and evaporation. Therefore, the EIR's conclusion that the proposed Project would have less than significant impacts to groundwater storage is unsubstantiated by the technical studies that support the claim. DEIR at 3.1.5-16 and RDEIR at 1-22.

Moreover, as discussed in our prior comments, the Project would also result in reduced depths to groundwater that are shallower than evaluated in the EIR. CBEC Report at 2 and CBEC Report Attachment A at 3. This change implicates the survival of vegetation communities as mapped in the Reclamation Plan and may result in increased evapotranspiration demand, both of which have an impact on the feasibility of implementation of the Reclamation Plan. Id. In addition, a change in evapotranspiration demands, may lead to adverse impacts on groundwater supplies and groundwater recharge.

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R-07-27 (cont.) The DEIR correctly concludes that impacts relating to flooding hazards would be less than significant. This is because the Project generally lowers the 100-year water surface elevations due to the excavation; where minor increases in water surface elevations occur, they would be contained on site and would not result in off-site flooding. As shown in the revised analyses presented in the FEIR, none of the technical changes made result in new significant impacts, or substantially more severe significant impacts, than were disclosed in the originally circulated DEIR.

R-07-28 The comment alleges that the Project has the potential to impact groundwater supply due to exposure of groundwater at the final Project grades and "significant evaporative losses that are not quantified or accounted for." Please see Response to Comment D-08-17 which addresses this concern and explains how the potential evaporative loss would be expected to be relatively minimal in the larger context of regional groundwater recharge and would not exceed the overall projected gain of groundwater in the reclaimed condition where less groundwater is used than existing conditions. Additional discussion related to this topic has been added to the Project Groundwater Investigation (FEIR Appendix R).

R-07-29 The comment seriously overstates the expected loss of groundwater supply to evaporation. In fact, the Project would result in an annual reduction in groundwater consumption, even when taking evaporative losses into account. As described in Section 4.2.2 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR Appendix C), the post-reclamation condition of the Project would include backfilling of excavation areas, widening of the Sweetwater River floodplain, and restoring and revegetating the channel with wetland/riparian vegetation. The groundwater study prepared for the Project calculated the post-reclamation groundwater use associated with these areas, which took into account loss due to evapotranspiration, at 337-acre feet per year, which is a reduction of approximately 467 acre-feet per year relative to golf course consumption in the baseline condition with both courses in operation (Geo-Logic Associates 2021). Assuming previously recorded groundwater use with both courses in operation is cut in half to account for closure of the western Lakes Course (i.e., approximately 402 acre-feet per year), this would still represent an annual reduction of approximately 65 acre-feet from current conditions with operation of the eastern Ivanhoe Course. This represents a 16 percent decrease in the annual groundwater consumption in the post-reclamation condition compared to existing consumption related to the current golf club operation (Ivanhoe Course only) and a 58 percent decrease in the annual groundwater consumption with both golf courses operating as permitted and historically used.

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R-07-29 (cont.) Therefore, site reclamation and the proposed native habitat restoration and revegetation would have a less than significant effect on groundwater. As discussed above in the Response to Comment R-07-28, potential additional loss from surface evaporation of a groundwater-fed pond is also less than significant, since the Project maintains an overall reduction in groundwater loss in the reclaimed condition.

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3. The RDEIR Fails to Perform Important Analysis and Mitigation of Project Erosion and Water Quality Impacts On-site and Downstream.

R-07-30

The RDEIR's evaluation of the Project's impacts related to erosion and water quality is equally problematic. The RDEIR fails to perform an accurate analysis of on-site and off-site erosion impacts resulting from the Project. CBEC Report at 2 and CBEC Attachment A at 3 and 4. As explained in our prior comments on the DEIR, the Project's proposed drop structures, intended to mitigate for potential erosion and upstream head cutting, would create high velocities during periods of high river flow that would cause erosion at the base of the structure. Id. The DEIR's analysis of the hydraulics of the drop structures omitted effective analysis of high velocity flow under during high river flow conditions. Id. The RDEIR fails to correct this omission and fails to analyze conditions with high velocity flows, turbulent hydraulics and scouring. Id. These conditions will result in erosion and transport of sediment and heavy metals downstream from the project. CBEC Report, Attachment A at 3 and 4.

R-07-31

As explained in our prior comments, such pollutants would impact not only riparian areas, aquatic wildlife, and other biological resources downstream, but also drinking water in the Sweetwater Reservoir. Id. The concentration of wash fines in the surface soil poses impacts to water quality through increases of total dissolved solids (TDS) and naturally occurring metals. CBEC Report at 3 and at Attachment A at 6. Such pollutants would then be transmitted downstream via floodwaters that bypass the project; ponds, wetlands, channel habitats that become established on fines within project boundary; and migration of water through the fines into underlying groundwater. Id. These pathways pose a direct risk to drinking water quality of receiving water bodies including both the Sweetwater Reservoir (located 2.8 miles downstream of the project site) and the underlying groundwater aquifer that supplies residential wells surrounding the site. The County should not ignore these serious impacts to habitat and drinking water sources.

R-07-32

Nor may the County rely on compliance with state regulations requiring review and oversight of the erosion control system to ensure that potential impacts will be avoided or mitigated. CEQA requires lead agencies to describe Project activities and analyze the resulting impacts. *Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, 885. In sum, the RDEIR perpetuates the DEIR's failures and skips over the required analysis of the Project's impacts related to erosion and water quality downstream.

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R-07-30 Please see Topical Response 12, which provides additional description of the proposed drop structure and addresses the noted concern regarding the ability to withstand high flow velocities. The proposed energy dissipation structures would address potential impacts related to erosion and sediment transport downstream from high velocity flow during high river flow conditions.

R-07-31 The theoretical conceptual model of sediment transport and potential transport and accumulation of naturally occurring metals described in the comment is inconsistent with the results of sediment transport modeling presented in the Sediment Load Analysis Report prepared for the Project (FEIR Appendix S), which demonstrate that even in a worst-case scenario where no BMPs are applied and all sediments estimated for an entire year during Phase 1 reach Sweetwater Reservoir in a single storm event, the minor amount of increased erosion estimated to occur under these conservative assumptions would be below the applicable water quality criteria and is considered less than significant relative to the County's thresholds. Please also see Responses to Comments D-A6-14 and R-A1-3, which further describe the analysis conducted and the proposed implementation of a Project SWPPP, erosion control plan, and associated BMPs to further reduce water quality impacts to the Sweetwater River.

R-07-32 The EIR's analysis of erosion and sedimentation is not based solely upon compliance with state regulations. Erosion and water quality is fully analyzed in Appendix S, *Sediment Load Analysis*, and Appendix T, *Water Quality Evaluation Report*.

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VI. The RDEIR Fails to Provide Evidence to Support Its Conclusion That Polluting Emissions from Increased Truck Traffic Would Be Less Than Significant.

The RDEIR revises the Project Description related to additional materials required to backfill the mined areas of the proposed Project site, and to achieve the Project's proposed post-reclamation elevations. RDEIR S-2 and S-3. Importing this additional fill material will result in approximately 58 additional truck haul trips a day to and from the site over the 10 years of proposed mining operations. RDEIR at S-2 and S-3. The RDEIR states that the Draft EIR had assumed 89 truck trips, so that with the addition of the import truck trips, the new total daily truck trips would be 147. RDEIR at S-4.

Clearly, the increase in truck trips will result in additional emissions. The RDEIR indicates that modeling of the additional emissions was performed to evaluate the revised Project's air quality and greenhouse gas emissions and potential impacts related to health risks. RDEIR at S-14 and S-15. The RDEIR provides the revised calculations in Table S-2, and indicates that the emissions would still be below the thresholds of significance. RDEIR at S-15. However, the RDEIR fails to provide the raw data for public review.

Similarly, the RDEIR revises the modelling done for greenhouse gas emissions resulting from the proposed Project. RDEIR S-17. However, the RDEIR fails to provide the data from this modeling as well. Instead, the RDEIR only provides a summary table of estimated greenhouse gas emissions. RDEIR Table S-4 at S-18 and S-19.

This approach does not conform with CEQA requirements. The RDEIR's 'trust us' approach lacks the required factual support that the Project's impacts involving the Project's air quality emissions would be less than significant. The RDEIR should have provided all the revised data outputs to allow the public to thoroughly review the changes and determine whether the revised analysis is adequate. As it is, the RDEIR fails to provide the required supporting evidence and the public and Decisionmakers cannot possibly assess the accuracy and adequacy of the revised air quality analysis.

VII. Conclusion

As discussed throughout this letter, both the DEIR and the RDEIR's analysis understate the severity of the potential harm to protected sensitive habitat and special status biological resources, groundwater resources and water quality, and air quality, among others as described in Sierra Club's prior comments, and neglects to identify sufficient mitigation to minimize these impacts. These impacts were not adequately analyzed and mitigated in the DEIR, nor are they remedied in the RDEIR. The EIR can support neither the findings required by CEQA nor a determination of General Plan

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R-07-33 This comment summarizes the RDEIR Project Description revisions that were provided to address the additional 58 truck trips per day for backfill operations. Air emissions modeling was updated to account for these additional truck trips; however, no new significant impacts, and no substantially more severe significant impacts, would occur beyond those already disclosed in the DEIR. For this reason, the updated emissions modeling was not recirculated as part of the RDEIR. CEQA requires only that those analyses identifying a new or substantially more severe environmental impact than was previously disclosed in the previously circulated DEIR be recirculated for an additional round of public review and comment. Please see Topical Response 1, *Reason for the Recirculation of the DEIR and the Recirculated DEIR Process*, which explains why certain sections are included in the RDEIR.

An addendum to the Air Quality Technical Report is included as part of Appendix I to the FEIR and an addendum to the Greenhouse Gas Emissions Technical Report is included as part of Appendix K to the FEIR. The addenda update and clarify the emissions modeling conducted to address the comments raised during public review of the DEIR and the additional truck trips and associated mining activity. The updated modeling outputs are provided as appendices E through G of the Air Quality Technical Report and appendices C and D of the Greenhouse Gas Emissions Technical Report. The addenda show that none of the minor technical revisions to the analysis result in new significant impacts, or substantially more severe significant impacts, than were disclosed in the original DEIR.

R-07-34 The comment summarizes the commenter's previous comments, which are responded to above in Responses to Comments R-07-01 through R-07-33. This comment does not raise additional or specific issues concerning the environmental analysis or adequacy of the DEIR beyond those addressed in Responses to Comments R-07-1 through R-07-33, above. Please also see Topical Response 2.

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consistency. For the foregoing reasons, the Sierra Club urges the County to delay further consideration of the Project unless and until the County prepares and recirculates a revised draft EIR that fully complies with CEQA and the CEQA Guidelines. Additionally, the Project must be modified to comply with the County's General Plan, Multiple Species Conservation Program, and other governing plans.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Catherine C. Engberg
Carmen J. Borg, AICP
Urban Planner

Appendices:

A – Hamilton Report
B – CBEC Report

cc: Susan Wynn, USFWS
Daniel Leavitt, USFWS
David Mayer, Regional Supervisor, CDFW
Heather Schmalbach, CDFW
Dahvia Lynch, Director, County Planning & Development Services
Bethany Principe, Coordinator, County Parks and Recreation MSCP Program
Stephanie Neal, County, Sustainability Planning Division
Peter Andersen
George Courser
Dave Hogan
Lisa Ross
Elizabeth Urquhart
Dan Weber
Barry Jantz
Richard Miller

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