HAMILTON BIOLOGICAL

August 18, 2023

Ms. Carmen J. Borg
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

SUBJECT: REVIEW OF BIOLOGICAL RESOURCE ISSUES RECIRCULATED DEIR, COTTONWOOD SAND MINE PROJECT COUNTY OF SAN DIEGO, CALIFORNIA

Dear Ms. Borg,

R-O7-35 At your request, this letter provides the comments of Hamilton Biological, Inc., regarding biological issues associated with the proposed Cottonwood Sand Mine Project. The proposed sand mine would remove approximately 6.4 million tons of sand and other materials from approximately 251 acres in the Sweetwater River floodplain currently occupied by the Cottonwood Golf Club. The County of San Diego (County) has prepared a Recirculated Draft EIR (RDEIR) addressing the proposed actions. Certification of the DEIR by the County would put in place a Major Use Permit (MUP) for the mining activities, and the proposed actions require a Reclamation Plan for the proposed under the California Surface Mining and Reclamation Act (SMARA).

COMMENTS ON ORIGINAL DEIR

R-O7-36 Hamilton Biological commented on the original Draft EIR (DEIR) in a 42-page letter dated February 28, 2022. Review of the RDEIR shows that the County has ignored most of the earlier comments. Updated information in the RDEIR focuses mainly upon issues raised in a comment letter dated February 28, 2022, from the California Department of Fish and Wildlife (CDFW). Nevertheless, public participation remains a mandated and essential component of CEQA. In *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Assoc.* (1986) 42 Cal. 3d 929, the court emphasized that the public holds a "privileged position" in the CEQA process "based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making."

MSCP CONSIDERATIONS

R-O7-37 The project site lies within Pre-Approved Mitigation Area (PAMA) in the South County Subarea of the Multi-Species Conservation Plan (MSCP) and is identified as a Biological Resource Core Area (BRCA) and a designated habitat linkage between the McGinty Mountain/Sycuan Peak-Dehesa and Sweetwater Reservoir/San Miguel Mountain

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R-O7-35 Comments R-O7-35 through R-O7-86 constitute an attachment to the commenter's letter. The County acknowledges this attachment, prepared by Hamilton Biological, Inc. 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 raised in this attachment.

R-O7-36 An earlier letter from Hamilton Biological, Inc. was submitted to the County during the public review period on the DEIR. Please see Response to Comment D-O8-67, where the Hamilton Biological comment letter dated February 28, 2022 is included in full. Further, please see Topical Response 1, which describes in detail how comments submitted during the public review period for the DEIR informed the update and revision of the biological resources analysis included in the RDEIR.

R-O7-37 This comment presents information related to the Project's various MSCP designations, which are presented in Section 2.2.1.1 of the RDEIR and 1.4.1 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C) and depicted on Figures 2.2-1 and 2.2-6 of the RDEIR and Figures 4 and 14 of the Biological Resources Technical Report. This comment does not raise an issue concerning the environmental analysis or adequacy of the RDEIR. Please also see Response to Comment R-O7-3.

BRCA. The northeastern two-thirds of the project site consists of the still-active Ivanhoe golf course and the remainder of the site consists of the disused Lakes Course. Given these designations, the site has an important strategic role in the function of the South County Subarea MSCP. An exhibit entitled "MSCP Designations," provided on the last page of the County's MSCP Findings of Conformance Statement and reproduced below, indicates the importance of this site in the regional open space system.

R-O7-37 cont.

MSCP Designations

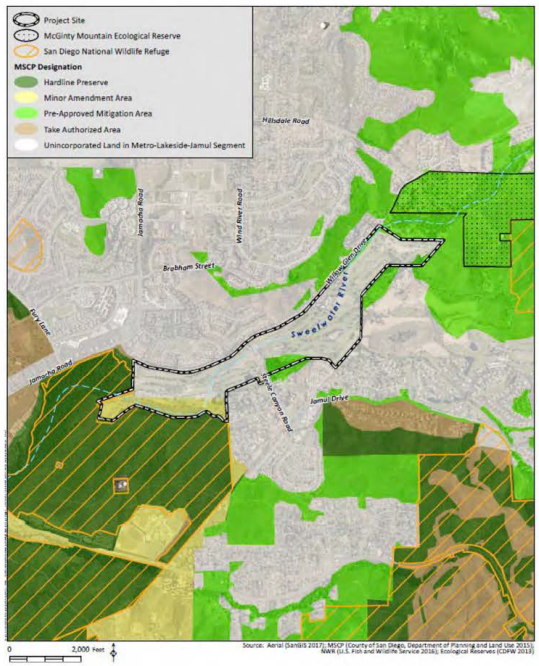


Figure 1. Reproduction of the "MSCP Designations" exhibit provided on the final (un-numbered) page of the County's MSCP Findings of Conformance Statement. As shown, the project site represents the only viable habitat linkage between the San Diego National Wildlife Refuge in the southwest and the McGinty Mountain Ecological Reserve in the northeast.

R-O7-37 cont.

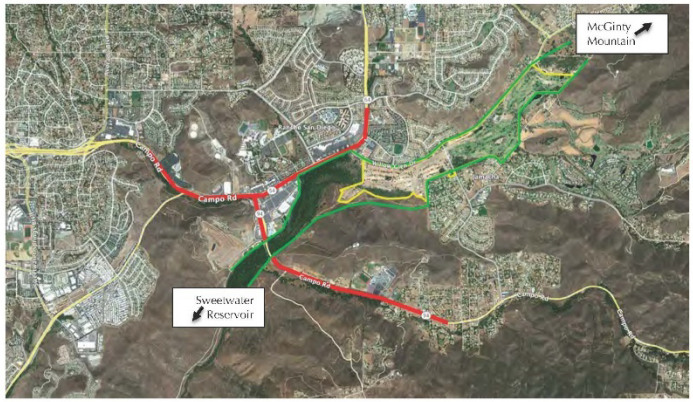


Figure 2. Aerial imagery, without the screens used in Figure 1, showing even more clearly that urban development along Highway 94 and Highway 54 effectively blocks nearly all movement of terrestrial and aquatic wildlife between Sweetwater Reservoir/SDNWR and the McGinty Mountain Ecological Reserve. The project site, an MSCP-designated habitat linkage containing a river channel, provides by far the most viable opportunity for terrestrial and aquatic wildlife to move through this highly fragmented landscape.

R-O7-38

Grasslands Erroneously Misclassified as Disturbed Habitat

As required under the County's Biology Guidelines, the project biologists at Helix cite Holland (1986) and Oberbauer et al. (2008) as the authority for the vegetation classification categories used in the RDEIR. In certain sections of the Biological Resources Technical Report, however, Helix shifts to County (2010a) as the authority for vegetation classification. As discussed below, this should not be a problem since both systems are generally compatible, but in order to explain how the RDEIR erroneously mischaracterizes Non-native Grasslands as Disturbed Habitat, it's necessary to understand the differences and similarities between Oberbauer et al. (2008) and County (2010a).

The category of "Disturbed Habitat" was not included in the vegetation classification system originally developed by Holland (1986). It was added by Oberbauer (1996), in the original update to Holland's system. The latest revised update to the Holland system, and the system Helix cites for classifying most of the vegetation on the Cottonwood project site, is Oberbauer et al. (2008):

> Oberbauer, T., M. Kelly, and J. Buegge. 2008. Draft Vegetation Communities of San Diego County. Based on *Preliminary Descriptions of the Terrestrial Natural Communities of California*, R. F. Holland, Ph.D., October 1986.

R-O7-38 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping, as well as the classification of areas within the Project site as disturbed habitat. The commenter included site photos taken in July 2023. While successional growth of willows in select areas was observed, along with presence of Bermuda turf grass that naturalized following abandonment of the golf course, the presence of these species does not require the continued updating of the baseline condition, which has already been established. Regarding habitat mitigation necessary to reduce impacts to California glossy snakes, western spadefoot, and other sensitive species, the EIR includes several mitigation measures that reduce the potential for impacts to these species to less than significant. The comment does not express whether or upon what grounds the commenter believes these mitigation measures to be inadequate. While impacts to disturbed habitat do not require mitigation, the Project's proposed habitat restoration exceeds the overall habitat mitigation requirements, such that the impacts to 76.1 acres of disturbed successional habitat within abandoned golf course areas would be offset by the overall habitat restoration. An additional 29.9 acres of habitat preservation also would occur, for a total of 150.7 acres of on-site BOS that would connect preserved areas up- and downstream of the site. The Project's on-site native habitat restoration and revegetation would provide higher quality habitat than currently exhibited by the active and abandoned golf course.

R-O7-38 cont.

Nevertheless, when classifying areas as "Disturbed Habitat," both the original Biological Resources Technical Report (Helix 2021:18) and the updated Biological Resources Technical Report (Helix 2023:24) cite a different authority:

> San Diego County. 2010a. Report Format and Content Requirements, Biological Resources. Fourth Revision, September 15.

Page 35 of this County publication states:

> While Holland [1986] gives information regarding habitat attributes, the following additional guidance shall be followed in determining the proper code for disturbed land, non-native grassland, agriculture, coastal sage-chaparral scrub, and native grassland classifications:
>
> **Disturbed Land (Holland 11300)** – Disturbed land includes areas in which the vegetative cover comprises less than 10 percent of the surface area (disregarding natural rock outcrops) and where there is evidence of soil surface disturbance and compaction from previously legal human activity; or 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). 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, such as Russian thistle (*Salsola tragus*), telegraph weed (*Heterotheca grandiflora*), horehound (*Marrubium vulgare*), and sow-thistle (*Sonchus oleraceus*). Although non-native grasses may be present on disturbed land, they do not dominate the vegetative cover. Examples of disturbed land include the following activities, if preformed under legal means: recently graded firebreaks, graded construction pads, construction staging areas, off-road vehicle trails, and old homesites.

The minor differences between the two classification systems should not matter, but because the County and Helix have mixed the systems in the RDEIR, both systems must be reviewed.

Oberbauer et al. (2008) defines Disturbed Habitat (11300) as follows:

> **Description:** Areas that have been physically disturbed (by previous legal human activity) and are no longer recognizable as a native or naturalized vegetation association, but continues to retain a soil substrate. Typically vegetation, if present, is nearly exclusively composed of non-native plant species such as ornamentals or ruderal exotic species that take advantage of disturbance, or shows signs of past or present animal usage that removes any capability of providing viable natural habitat for uses other than dispersal. Examples of disturbed habitat include areas that have been graded, repeatedly cleared for fuel management purposes and/or experienced repeated use that prevents natural revegetation (i.e. dirt parking lots, trails that have been present for several decades), recently graded firebreaks, graded construction pads, construction staging areas, off-road vehicle trails, and old homesites.
>
> **Characteristic Species:** Invasive, non-native forb species, such as, thistles ([*Centaurea*], [*Carduus*], and [*Cynara*] spp.), [*Sonchus* spp.], [*Salsola tragus*], *Heterotheca grandiflora*, [*Marrubium vulgare*], [*Sisymbrium irio*], [*Raphanus* spp.], [*Carpobrotus edulis*], [*Chrysanthemum* spp.], and [*Foeniculum vulgare*]. A limited number of grass species: [Pampas grass (*Cortaderia* spp.)] and [fountain grass (*Pennisetum* spp.)]; most annual grass species are more typical of Non-Native Grassland (42200) and do not dominate vegetative cover in Disturbed Habitat.

Although both definitions of Disturbed Habitat (County 2010a and Oberbauer et al. 2008) share language and are generally compatible with each other, some differences can be seen. For example:

- 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.

The abandoned golf course can be easily recognized as a naturalized grassland with scattered large cottonwoods. Under either system, non-native grasses make up only a minor component of the vegetation in Disturbed Habitat:

R-O7-38 cont.

- The definition provided by the County (2010a) states, "Although non-native grasses may be present on disturbed land, they do not dominate the vegetative cover."
- The definition provided by Oberbauer et al. (2008) states, "most annual grass species are more typical of Non-Native Grassland (42200) and do not dominate vegetative cover in Disturbed Habitat."

This is important because, as shown in site photos included in this letter, the abandoned golf course is dominated by non-native grasses and therefore, under either system, does not fit the classification of Disturbed Habitat.

The RDEIR Presents False and Misleading Information About Grasslands

Both the original DEIR and the RDEIR claim that the entire abandoned golf course, apart from the ponds and the riparian channel—a total of 93.1 acres—fall under the category of Disturbed Habitat (11300). My letter commenting on the original DEIR repeatedly called out the falseness of this claim, on pages 16, 19, 23, 24, 25, 26, and 31. For example, page 16 of my letter stated:

> To erroneously describe the park-like landscape shown in Photos 1-8 of this letter as "disturbed"—a mapping category that the DEIR defines as an area "in which the vegetative cover comprises less than 10 percent of the surface area"—demonstrates lack of accuracy and objectivity on the part of the project biologists and the County.

Rather than addressing the substance of my comments—that the abandoned golf course plainly does not match *any* definition of Disturbed Habitat—Helix has manipulated and altered the County's (2010a) definition of "Disturbed Habitat" in two different ways. First, Helix removed the 10 percent vegetative cover criterion:

- **DEIR Biological Resources Technical Report (2021), Page 18:** "Disturbed habitat includes areas in which the vegetative cover comprises less than 10 percent of the surface area (disregarding natural rock outcrops) and where there is evidence of soil surface disturbance. Disturbed habitat supports a predominance of non-native and/or weedy species that are indicators of such surface disturbance (County 2010a)."

- **RDEIR Biological Resources Technical Report (2023), Page 24:** "Disturbed habitat includes areas where there is evidence of soil surface disturbance and compaction resulting from previous legal human activities. Vegetation, if present, has a predominance of non-native and/or weedy species that are indicators of such surface disturbance (County 2010a)."

R-O7-38 cont.

This deceptive edit does not solve the problem, however, since both Oberbauer et al. (2008) and County (2010a) state that areas classified as Disturbed Habitat are *not* dominated by non-native grasses. In a final effort to square the circle, page 2.2-8 of the RDEIR's Biological Resources section further distorts the definition of Disturbed Habitat (County 2010a)—by adding one word, highlighted here in bold: "Although **annual,** non-native grasses may be present on disturbed land, they do not dominate the vegetative cover." This awkward change appears to have been made so that the County and Helix would be able to claim—citing the false criteria they just invented—that Disturbed Habitat **can** be dominated by **perennial** grasses, like Bermuda Grass.

As the site photos provided in this letter show, non-native grasses are dominant across the abandoned golf course. Therefore, applying either Oberbauer et al. (2008) or County (2010a), the abandoned golf course should be classified as "Non-Native Grassland," with scattered native Fremont Cottonwoods forming a savannah. Although the cottonwoods present on the abandoned golf course may have been planted there, this large and biologically valuable tree species undoubtedly occurred naturally throughout the project site historically (as it does downstream in the San Diego National Wildlife Refuge) before the river's floodplain was converted to golf course uses.

Disturbed Habitat is characterized as possessing no "capability of providing viable natural habitat for uses other than dispersal" (Oberbauer et al. 2008). Non-native Grassland is a natural community that provides habitat for a variety of wildlife, including raptors and several special-status species. Had the RDEIR properly designated the site's grasslands, the EIR preparer would have had to acknowledge that the proposed sand mine would impact a large area of Tier III habitat within a Biological Resource Core Area (BRCA) that provides potentially suitable burrowing habitat for California Glossy Snakes, Western Spadefoots, and other severely declining species for which focused surveys have not been conducted. Under the MSCP, Non-native Grassland is a Tier IIIB community that requires 0.5 to 1.0 acre of mitigation for every 1.0 acre of impact. Moreover, under the proper classification, the County would be obligated to propose adequate mitigation per MSCP requirements, including adequate mitigation for grassland/alluvium species not covered under the MSCP.

R-O7-39

RDEIR's Classification of Disturbed Habitat is Inconsistent with CDFW's Approach in Other Areas with Similar Habitat

As noted previously, new information in the RDEIR focuses primarily upon issues raised by CDFW in their comment letter of February 28, 2022. In those comments, CDFW failed to note that 93 acres of Tier III Non-native Grasslands were mischaracterized as Disturbed Habitat. In some cases, however, CDFW has shown awareness of CEQA lead agencies misclassifying grasslands. For example, see the excerpt provided on the next page, from the attached CDFW letter dated April 21, 2021, commenting on the "City of Chula Vista Encompass Health (PROJECT) Mitigated Negative Declaration (MND)." In reviewing the Chula Vista project, CDFW recommended that "the City carefully consider if some or all of the areas presently shown as Disturbed should more appropriately be designated as NNG [Non-native Grassland], and mitigated as such consistent with the SAP requirements."

Misclassification of plant communities to make a project appear more appealing is not uncommon in CEQA documents. The comments from CDFW to the City of Chula Vista show that, in in some cases, CDFW recognizes that "Areas that are dominated by grass species and/or require periodic mowing should be considered as NNG and mitigated appropriately." My recent site photos, on pages 10–16 of this letter, show that CDFW should have raised this issue at the Cottonwood Sand Mine project site.

R-O7-40

The RDEIR's Misrepresentation of Grasslands as Disturbed Habitat is a Fatal Flaw

In misclassifying 93 acres of Non-native Grasslands as Disturbed Habitat based upon fabricated criteria, the County and their consultant have made it practically impossible for the public and decisionmakers to understand the full impacts of the proposed actions. Not only would the County avoid having to provide the required MSCP off-site mitigation ratio for impacts to 93 acres of Tier III habitat, but the misclassification has provided an excuse for the County and its consultants to avoid conducting necessary surveys for the California Glossy Snake and Western Spadefoot, both non-covered species under the MSCP (because the MSCP reserve system has not been determined to adequately conserve their populations). The California Glossy Snake is not so much as mentioned in the RDEIR.

R-O7-41

As discussed later in these comments (page 38), misclassification of the grasslands creates an internal contradiction within the RDEIR: The project biologists have identified a "high potential" for the Western Spadefoot to occur in the abandoned golf course while also classifying all of those uplands as Disturbed Habitat. Actual Disturbed Habitat would not provide suitable aestivation habitat for the spadefoot, but Non-native Grassland is the species' typical aestivation habitat. By giving the Western Spadefoot a "high potential" to occur on the site, the project biologists tacitly admit that the abandoned golf course is Non-native Grassland and not Disturbed Habitat.

R-O7-39 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping. Responses specific to CDFW's comments on the RDEIR for the Proposed Project have been provided. While CDFW did not comment on habitat classification in their comments on the DEIR, they did provide a habitat classification comment on the RDEIR; please see Response to Comment R-A4-2, as well as related Responses to Comments D-A2-1 through D-A2-29 and R-A4-1 and R-A4-3. Please see also the Response to Comment R-O7-38 regarding the commenter's included site photos.

R-O7-40 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping.

Please see Response to Comment R-A4-2 regarding the Project's proposed revegetation of native habitat within BOS fully mitigating the functional loss resulting from impacts to vegetation communities and habitat types located in the western portion of the Project site (i.e., the abandoned golf course).

Please see Response to Comment R-O7-11 for discussion related to California glossy snake and R-O7-14 for discussion related to western spadefoot.

R-O7-41 Please see Response to Comment R-O7-14 regarding western spadefoot.

R-O7-42

Excerpt from pages 2–3 of a CDFW letter dated April 21, 2021, commenting on the City of Chula Vista Encompass Health Project Mitigated Negative Declaration (MND)

I. Potential Impacts to Tier III Uplands

Potential Impacts to Non-native Grassland

COMMENT #1:

Section: Biology Letter Report for Encompass Health Chula Vista, City of Chula Vista, California (BLR), Flora, Page: 2

Issue: The Project will impact land that has been classified as disturbed, but CDFW is concerned that this habitat exhibits characteristics of a Non-native Grassland (NNG), which is a Tier III upland habitat in the City's SAP. Aerial imagery suggests that the Project contains areas that are regularly mowed and maintained. The evidence suggests much of the ongoing disturbance is occurring outside of requisite buffer areas to nearby development; therefore, CDFW recommends the City carefully reconsider if some or all of the areas presently shown as Disturbed should be more appropriately designated as NNG, and mitigated as such consistent with the SAP requirements. To be consistent with the SAP, NNG impacts outside of the preserve need to be mitigated at a ratio of 0.5 to 1.0 acre per acre of impact, dependent on the location of mitigation.

Specific impacts: Most of the Project site (9.38 acres) has been classified as disturbed. The BLR indicates on page 2 that the site has been previously graded. Historic aerials of the site show that only the northern portion of the site was graded sometime between 1991 to 1993 (historicarials.com 2021), recent satellite imagery shows that majority of the site has been mowed periodically over the last several years (Google Earth Pro 2021). The BLR notes that two of the predominant species on site are non-native grass species, *Avena barbata* and *Bromus madritensis*, and also states that the site contains potential suitable habitat for burrowing owls, which are primarily a grasslands species. These factors indicate that the disturbed habitat could alternatively be characterized as disturbed non-native grassland.

Why impact would occur: The Project has the potential to impact disturbed non-native grassland but does not provide appropriate mitigation for these impacts due to the characterization of the land as disturbed.

Evidence impact would be significant: Potential impacts to non-native grassland would be considered significant without mitigation.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #CDFW-REC-1a:

To reduce impacts to less than significant: The MND should reassess the Project site for potential impacts to non-native grassland. Areas that are dominated by grass species and/or require periodic mowing should be considered for designation as NNG and mitigated appropriately.

R-O7-42 The comment is an excerpt from CDFW comments on a different project. CDFW, in their comments on the RDEIR for the Proposed Project, acknowledged the classification used follows the environmental baseline as defined by CEQA. CDFW also acknowledged that habitat succession has occurred since this baseline and recommended that the functional loss of the emerging habitat be offset and accounted for in the reclamation plan. As noted in Response to Comment R-O7-38, these functional losses are already compensated by the Project's proposed habitat restoration, such that the impacts to 76.1 acres of disturbed successional habitat within abandoned golf course areas would be offset by the overall habitat restoration occurring across the site. An additional 29.9 acres of habitat preservation also would occur, for a total of 150.7 acres of on-site BOS that would connect preserved areas up- and downstream of the site.

WILLOW SCRUB MISCLASSIFIED AS DISTURBED WETLAND

Figure 10 in the RDEIR's Biological Resources Technical Report depicts most of the Sweetwater River channel as Disturbed Wetland:

> Disturbed wetland is dominated by exotic wetland species that invade areas that have been previously disturbed or undergone periodic disturbances. These non-natives become established more readily following natural or human-induced habitat disturbance than the native wetland flora. Characteristic species of disturbed wetlands include giant reed, tamarisk, cocklebur (*Xanthium strumarium*), umbrella sedge (*Cyperus involucratus*), and wild celery (*Apium graveolens*).
>
> Disturbed wetland on-site is located along the Sweetwater River and is dominated by Bermuda grass or bare ground. The river channel has been altered from current and past disturbances associated with previous mining activities and golf course development, including ongoing maintenance and operations. It has been planted with turf grass and is regularly mowed as part of golf course maintenance activities. Approximately 10.25 acres of disturbed wetland are mapped within the project site.

This may have been accurate at some point in time, but large sections of the river channel have since regenerated naturally to Southern Willow Scrub, a sensitive natural community described on page 21 of the RDEIR's Biological Resources Technical Report: R-O7-43

> Southern willow scrub consists of dense, broad-leaved, winter-deciduous stands of trees dominated by shrubby willows in association with mule fat (*Baccharis salicifolia*), and with scattered emergent cottonwood and western sycamores. This vegetation community occurs on loose, sandy or fine gravelly alluvium deposited near stream channels during flood flows. Frequent flooding maintains this early seral community, preventing succession to a riparian woodland or forest (Holland 1986). In the absence of periodic flooding, this early seral type would be succeeded by southern cottonwood or western sycamore riparian forest. Disturbed southern willow scrub contains a higher percentage of exotics and non-native species.
>
> This habitat occurs along the downstream portion of Sweetwater River in the southwestern portion of the site. Dominant species include arroyo willow, black willow, and sandbar willow (*Salix exigua*). Disturbed southern willow scrub includes the same species along with intermixed giant reed and tamarisk trees. A total of 4.82 acres of disturbed southern willow scrub occurs on-site.

The following site photos (nos. 9, 10, 12, 13, 16, and 17) show several areas of healthy Southern Willow Scrub, all misclassified as Disturbed Wetland. Despite the logical presumption that heavy rains in 2022/2023 would have substantially altered and improved habitat conditions in the Sweetwater River channel, the County chose not to review the old vegetation mapping for accuracy. As a result, the RDEIR misrepresents the existing conditions in the river channel. Furthermore, the RDEIR fails to note that establishment of a ribbon of Southern Willow Scrub habitat through the middle of the site has improved the existing opportunities for wildlife movement through the site, as well as improving/expanding suitable habitat for such species as the Arroyo Toad, Western Spadefoot, and Least Bell's Vireo, none of which were surveyed for in 2023. For these reasons, the RDEIR's characterization of the site's riparian resources is inaccurate, inadequate, and unreliable.

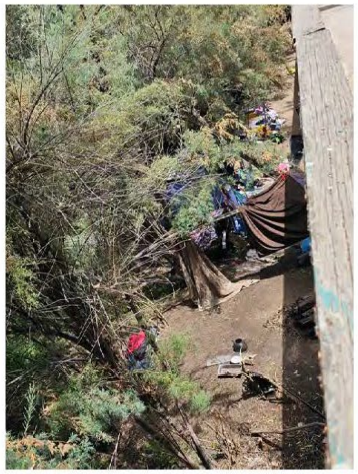
R-O7-43 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping, and Response to Comment R-O7-15 for discussion related to biological surveys conducted for the Project and analysis of Project impacts to special status species. The enclosed photos are addressed in Response to Comment R-O7-38.

SITE PHOTOS

During my visit to the western part of the project site on July 27, 2023, I took photos at the locations shown in Figure 3, below. These photos show that the current condition of the abandoned golf course differs markedly from that described in the RDEIR.

Figure 3. Showing locations where site photos were taken on July 27, 2023.

R-O7-43 cont.



Photos 1 (above) and 2 (right). Showing well-established encampments in the southwestern part of the site.

Robert Hamilton, 7/27/23

Photo 3. View, facing northwest, of a healthy Fremont Cottonwood and California Sycamore in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

R-O7-43 cont.

Photo 4. View, facing southwest, of healthy Fremont Cottonwoods in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

Photo 5. View, facing southwest, of healthy Fremont Cottonwoods in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

R-O7-43 cont.

Photo 6. View, facing north, of healthy Fremont Cottonwoods in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

Photo 7. View, facing north, of one of the large ponds in the western part of the project site.

Robert Hamilton, 7/27/23

Photo 8. View, facing west, of healthy Fremont Cottonwoods in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

R-O7-43 cont.

Photo 9. View, facing northeast, showing healthy Southern Willow Scrub in the channel of the Sweetwater River. The RDEIR misclassifies this habitat as Disturbed Wetland.

Robert Hamilton, 7/27/23

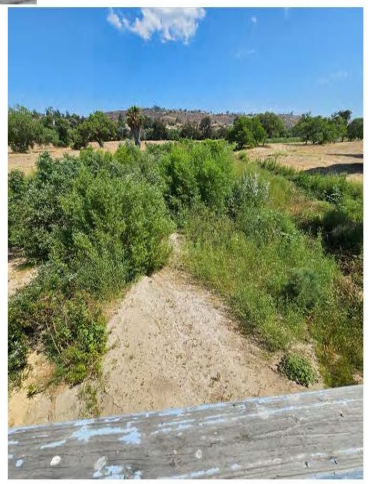


Photo 10. View, facing southwest, showing healthy Southern Willow Scrub in the channel of the Sweetwater River. The RDEIR misclassifies this habitat as Disturbed Wetland.

Robert Hamilton, 7/27/23

R-O7-43 cont.

Photo 11. View, facing northeast, of healthy Fremont Cottonwoods in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

Photo 12. View, facing northeast, showing healthy Southern Willow Scrub in the channel of the Sweetwater River. The RDEIR misclassifies this habitat as Disturbed Wetland.

Robert Hamilton, 7/27/23

Photo 13. View, facing northeast, showing healthy Southern Willow Scrub in the channel of the Sweetwater River. The RDEIR misclassifies this habitat as Disturbed Wetland.

Robert Hamilton, 7/27/23

Photo 14. View, facing west, of healthy Fremont Cottonwoods in an area that the RDEIR misclassifies as Disturbed Habitat. The low, herbaceous vegetation around these trees is Non-native Grassland.

Robert Hamilton, 7/27/23

R-O7-43 cont.

Photo 15. View, facing west, of one of the large ponds in the western part of the project site.

Robert Hamilton, 7/27/23

Photo 16. View, facing southwest from the Steele Canyon Road bridge, showing healthy Southern Willow Scrub in the channel of the Sweetwater River. The RDEIR misclassifies this habitat as Disturbed Wetland.

Robert Hamilton, 7/27/23

R-O7-43 cont.

Photo 17. View, facing northeast from the Steele Canyon Road bridge, showing healthy Southern Willow Scrub in the channel of the Sweetwater River. The RDEIR misclassifies this habitat as Disturbed Wetland.

Robert Hamilton, 7/27/23

Photos 3–17 demonstrate that the RDEIR misrepresents the resources present across large swaths of the project site. In addition to the deceptive misclassification of Non-native Grassland as Disturbed Habitat, the inaccurate representation of Southern Willow Scrub vegetation as Disturbed Wetland reflects the County's decision to not complete updated plant community mapping in 2023. Because the RDEIR grossly misrepresents the existing resources across roughly 100 acres of the project site, the impact analysis grossly misrepresents the potential adverse effects of the project on sensitive biological resources. For these reasons, the RDEIR is inadequate as a CEQA document.

R-O7-44

REVIEW OF THE MSCP CONFORMANCE STATEMENT

To achieve its conservation goals, the MSCP has strict requirements for projects that propose impacts to BRCA's and designated habitat linkages. In 2021, the County produced a Conformance Statement (Multiple Species Conservation Program Conformance Statement for Cottonwood Sand Mining PDS2018-MUP-18-023, December 3, 2021) that found the proposed sand-mining and reclamation actions to be consistent with all of the MSCP's requirements. My comments on the original DEIR, dated February 28, 2022, identified numerous inadequacies in the County's findings of conformance, all of which remain relevant because they were either completely ignored or inadequately addressed in the recirculated CEQA document. The pages of the Conformance Statement are not numbered, so references are to the page numbers specified in the PDF file downloaded from the County's web page.

Pages 1-2: Incomplete and inaccurate description of existing resources

Citing the original Biological Resources Technical Report for the DEIR (Helix Environmental Planning, November 2021), the Conformance Statement lists 17 special-status wildlife species observed on or near the project site and nine additional species determined to have high potential to occur. The updated Biological Resources Technical Report provided in the RDEIR (Helix Environmental Planning, March 2023) superficially

R-O7-44 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping.

Please see Response to Comment R-O7-11 for discussion related to California glossy snake and San Diegan legless lizard.

The comment includes reference to a U.S. Geological Survey (USGS) study that involved herptofauna surveys in El Monte Valley which is located over 8 miles northeast of the Project site in the community of Lakeside where the El Monte Sand Mining Project is proposed. The reference of this study does not take into account the different geographic location, site development, current land uses, and surrounding land uses of Project site and the El Monte Sand Mining Project site.

The commenter notes that Robert Hamilton (of Hamilton Biological, Inc.) observed orange-throated whiptail, a special-status reptile species, within the western portion of the Project site, the abandoned golf course, on July 27, 2023. As detailed in Section 2.2.1.1 of the RDEIR and 1.4.10 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C), orange-throated whiptail was observed within the Project site by HELIX biologists during the biological surveys conducted for the Project. Potential Project impacts to this species are analyzed in Section 2.2.2.1 of the RDEIR and Sections 2.2.1 and

addresses some of the issues I raised, but remains inaccurate, inadequate, and misleading in many respects.

The updated report—like the original report—misclassifies 93.1 acres of Non-native Grassland (a Tier IIIB habitat under the MSCP) as Disturbed Habitat, and also fails to address two California Species of Special Concern closely associated with loose, alluvial soils, that have a high potential to occur on the project site: California Glossy Snake (*Arizona elgans occidentalis*) and Southern California Legless Lizard (*Anniella stebbinsi*). It was the general failure of biologists to recognize that alluvium-dependent reptiles and amphibians can thrive in disturbed alluvial soils that led Jonathan Richmond and colleagues at the U.S. Geological Survey (USGS) to study this phenomenon and to publish their findings:

Richmond, J. Q., C. J. Rochester, N. W. Smith, J. A. Nordland, and R. N. Fisher. 2017. Rare alluvial sands of El Monte Valley, California (San Diego County), support high herpetofaunal species richness and diversity, despite severe habitat disturbance. *Southwestern Naturalist* 61(4):294–306.

R-O7-44 cont.

As described by Richmond et al. (2017:294-295, citations omitted), the adverse ecological effects of widespread sand and gravel operations across western San Diego County and the wider region have elevated the ecological importance of the relatively few areas of alluvial soil that remain:

> Large portions of the southwestern United States, particularly coastal areas of western San Diego County, California, near the USA-Mexico international border, have undergone rapid development that has either eliminated or encroached upon what little is left of alluvial sand and gravel habitats. These habitats are generally found in river and stream valleys, at the base of topographic features where there is a pronounced change in slope, and in intermountain valleys. Deposits typically consist of variable grain sizes that are compactable, but retain good internal drainage. This feature makes them a preferred substrate for numerous reptiles and amphibians occurring within the region, particularly those with burying or burrowing tendencies such as the southern California legless lizard (*Anniella stebbinsi*), the California glossy snake (*Arizona elgans occidentalis*), Blainville's horned lizard (*Phrynosoma blainvillii*), the Gilbert skink (*Plestiodon gilberti*), and the western spadefoot (*Spea hammondii*).

Golf course operations may have rendered most of the site unsuitable for Blainville's Horned Lizard, but this is not true for other alluvium-dependent species, and for the California Glossy Snake in particular. During my site visit on July 27, 2023, I observed an Orange-throated Whiptail in the abandoned golf course. As described by Richmond et al. (2017:304):

> We observed *A. e. occidentalis* [California Glossy Snake] in four of the five sampling sections, including some of the most disturbed parts of the valley. Many of the 23 observations were in old agricultural plots that have been plowed or graded within the two past decades, and two were in otherwise "disturbed" or "developed" habitat. This is consistent with the observations of Klauber (1946) on *A. e. occidentalis* more than 70 years ago, where individuals were often found in association with uncultivated grasslands or cultivated fields. This suggests that as long as there is a suitable matrix of sandy habitat and appropriate prey resources, *A. e. occidentalis* will occupy intervening or surrounding areas of lower habitat quality.

R-O7-44 (cont.) 3.0 of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C). 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 Technical Report recirculated with the RDEIR (FEIR Appendix C), would reduce potential direct impacts to suitable habitat for this species to a less than significant. These measures require reclamation and revegetation of the site following the completion of mining activities and habitat-based mitigation.

The observation of orange-throated whiptail is noted in the comment in relation to discussion of alluvium-dependent reptile species. Though orange-throated whiptail is associated with sandy areas supporting alluvial fan sage scrub and riparian habitats, the species is not exclusive to alluvial soils located along rivers, streams, and other watercourses. Suitable habitats for the species include chaparral, non-native grassland, coastal sage scrub, and juniper woodland and oak woodland with friable soils that allow for excavating burrows. Friable soils include other soil types besides alluvium derived soils.

R-O7-44 cont.

The California Glossy Snake is nocturnal, and the Southern California Legless Lizard lives underground, and so general wildlife surveys are inadequate to detect these species. Because the project site's loose, alluvial soil represents ideal habitat for these species, they must be assumed to be present in the absence of focused surveys demonstrating otherwise. Impacts to loose, alluvial soils required by the California Glossy Snake and Southern California Legless Lizard would be significant. The impacts would not be mitigated to less than significant by the proposed revegetation plan, even if the revegetation were to be successful, because the site's alluvial soils would have been removed.

R-O7-45

The RDEIR mentions that a visual assessment for the Southwestern Pond Turtle (*Actinemys pallida*) was conducted in 2022, but provides no results of those surveys.

R-O7-46

The MSCP Conformance Statement, like the EIR itself, cannot be based upon misclassified vegetation communities, inadequate survey information, and unfounded assumptions about the project's potential adverse effects.

Page 2: Mitigation does not address all potentially significant impacts

R-O7-47

The Conformance Statement states:

> Mitigation measures are proposed to mitigate potentially significant impacts to special status species, sensitive vegetation communities/habitats, and compliance with local policies/ordinances. Implementation of these mitigation measures would mitigate potential impacts to below a level of significance.

The existing linkage/corridor is 850 to 1,700 feet wide, and the proposed project would narrow the corridor to "an average width of approximately 600 feet" with a bottleneck 350-400 feet wide at the western end of the project site. For reasons discussed in this letter, the substantial narrowing of the habitat linkage represents a potentially significant impact to wildlife movement, and to the functioning of the MSCP preserve system, that cannot be mitigated to below the level of significance.

R-O7-48

Additionally, the proposed mitigation:

- Does not address the project's potentially significant impacts to the Glossy Snake or Southern California Legless Lizard, special-status species not mentioned in the RDEIR and for which surveys were not conducted.
- Does not effectively address potentially significant impacts to the Western Spadefoot, another species for which focused surveys were not conducted, because the impact/mitigation analysis focuses only on breeding pools and ignores aestivation habitat that is no less important to the species.
- Mentions surveys for the Southwestern Pond Turtle in 2022, but provides no results of those surveys.

R-O7-45 Please see Response to Comment D-A1-6. No southwestern pond turtles were detected within the Project site.

R-O7-46 Please see Response to Comments R-O7-11, and R-O7-12 through R-O7-15, which address habitat classification and mapping, biological surveys conducted for the Project, and analysis of Project impacts to special status species.

R-O7-47 Please see Response to Comment R-O7-18, which explains that the FEMA 100-year floodplain is not the same as the linkage width. As explained in Response to Comment R-07-18, the Project would not narrow the existing linkage width and would instead restore and enhance the linkage and expand the river channel width.

R-O7-48 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 and DEIR Appendix C), would reduce potential direct impacts to special status reptile and amphibian species, including California glossy snake and San Diegan legless lizard, to a less than significant level. This mitigation measure requires that a pre-construction survey be conducted within two weeks of vegetation removal, grading, and/or other ground disturbing activities, and if special status amphibian or reptile species are found to occur within the impact area(s), that a species-specific protocol for handling and relocation procedures be prepared and approved by the CDFW and any other required Wildlife Agency. Please refer to Response to Comment R-O7-24 in regard to western spadefoot mitigation. Please also see Response to Comment D-A1-6. No southwestern pond turtles were detected within the Project site. Please refer to 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. In addition, please see

R-O7-48 cont.

- Assumes that proposed revegetation/reclamation will fully mitigate all significant impacts to wildlife movement and MSCP preserve design, even though the proposed actions will not address the reduction in width of the regional habitat linkage, and successful replanting of the site is not assured.

R-O7-49

Finally, as discussed on page 38 of this letter, the report on the 2019 Arroyo Toad survey by Helix 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. For these reasons, project implementation could result in significant impacts to this species that would not be mitigated to below a level of significance.

R-O7-50

Until the site's 93.1 acres of Non-native Grasslands are correctly classified, and surveys are conducted that accurately establish the baseline ecological conditions on the project site in 2023, the County will not be able to substantiate the RDEIR's finding that all potentially significant impacts have been mitigated to below a level of significance.

R-O7-51

Page 4: Project is not "sited in areas to minimize impact to habitat"

The project site is designated as a regional habitat linkage, and a BRCA, 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. By improperly redefining "habitat" to refer only to "riparian and other sensitive natural communities," and by misclassifying 93 acres of grasslands as disturbed areas, the County falsely portrays the project site as consisting of something other than "habitat."

To help understand the impropriety and inconsistency of the County's approach, consider the example of the California Glossy Snake. As discussed previously, this snake is an alluvium-dependent species that is rare and declining across the region due mainly to past and ongoing mining of the loose, sandy soils that comprise the most important feature of its required **habitat**. Because the RDEIR fails to mention the California Glossy Snake, however, the Conformance Statement fails to make the connection that removing the loose sand from more than three-quarters of the project site represents a massive impact to the required **habitat** of this special-status species. The project has not been sited to minimize impacts to this important **habitat**, and because the RDEIR is incomplete and inadequate, decision-makers have no way of knowing this.

The project site provides **habitat** for many other species, such as for foraging raptors, but by improperly redefining "habitat" to exclude the great majority of the project site—a regional habitat linkage and BRCA—the County falsely asserts that "project development has been sited in areas to minimize impact to habitat."

R-O7-48 (cont.) Response to Comments R-O7-18 and R-O7-21, which address the habitat linkage width and MSCP preserve design requirements.

R-O7-49 Please see Response to Comment R-O7-11 regarding arroyo toad.

R-O7-50 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping, as well as Response to Comment R-O7-9 in regard to the Project's baseline condition.

R-O7-51 Please see Response to Comment R-O7-13 for a discussion on habitat classification and mapping, as well as Response to Comment R-O7-11 for discussion related to California glossy snake.

As detailed throughout the RDEIR and Biological Resources Technical Report recirculated with the RDEIR (FEIR and DEIR Appendix C), proposed mining activities would primarily occur within disturbed and developed portions of the Project site which have previously been disturbed by golf course development and operations. Of the 216.74 acres that would be impacted by Project implementation, a small portion, 2.34 acres (one percent), would occur to riparian habitat and other sensitive natural communities. Therefore, the Project has not been sited in areas to minimize impact to riparian habitat and other sensitive natural communities, including BRCAs.

Page 7: MSCP requires that the proposed project "preserve the biological integrity of linkages between BRCAs."

In a document dated May 19, 2019, commenting on the application for a Major Use Permit for the proposed project, the County Planning & Development Services stated the following on page 77:

> 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. **Analysis of potential project impacts to wildlife movement through this linkage will be required and BMO findings will need to be made prior to project approval.** [emphasis added in bold]

Despite the project site occupying a critically important location in the assembled MSCP preserve system, and the County's self-stated requirement to analyze potential impacts to wildlife movement, the original DEIR provided no observation-based information on the movement of wildlife through the site. Even with no information to evaluate, the original DEIR found the project to have no significant impacts to wildlife movement, and the Conformance Statement found the project to be consistent with the MSCP. The letter from CDFW commenting on the original DEIR failed to mention this lack of observational data, but I raised the issue several times in my comments.

R-O7-52

To address the complete lack of data on wildlife movement through the project site, in 2022 the County retained Helix to undertake a bare-bones wildlife movement analysis. A valid study of wildlife movement would explain the rationale for the study design, present all of the results in an organized manner, analyze the results, and discuss the potential implications and the limitations of the information gathered. Burton et al. (2015:676) described numerous important considerations for camera trap studies:

> While the adoption of new survey technologies such as camera trapping can open avenues for novel insights, it could convey a false sense of progress if data collection outpaces rigorous sampling designs and statistical analyses (cf. Hebblewhite and Haydon 2010). Although CTs [Camera Traps] show great promise for facilitating standardized surveys, increasing knowledge on data-deficient species and capturing public attention, concerns about substandard applications and weak inferences have been raised (O'Connell, Nichols and Karanth 2011; Meek, Ballard & Fleming 2015). As with any wildlife survey methodology, CT surveys must address common sources of sampling error, particularly the problem of imperfect detection – where individuals or species present within a sampling area are not always detected (Anderson 2001; Williams, Nichols and Conroy 2002).

The wildlife movement study completed for the RDEIR addressed none of the important issues identified by Burton et al. (2015). The methods of Helix's study are briefly outlined in a single paragraph on page 14 of the Biological Resources Technical Report. In summary:

- Three motion-detecting cameras were deployed at four locations each for a period of two to three weeks per deployment.

R-O7-52 Please refer to Topical Response 9 for a discussion on wildlife movement, habitat linkages, and connectivity, as well as a summary of Project impacts to habitat linkages and wildlife movement. In addition, please see Response to Comment R-O7-17 for a discussion of the wildlife camera trapping survey methods and results.

- Two deployments failed completely, leaving data from only ten deployments.

The results of Helix's study occupy a single paragraph on page 38 of the Biological Resources Technical Report. In summary, the cameras detected a variety of wildlife, including Coyotes, Bobcats on three different occasions, and a Long-tailed Weasel. The RDEIR does not provide so much as a table indicating which species were detected at which locations on which dates. The wildlife observations were not analyzed or placed in any context, and they had no effect upon the County's previous analysis of potential wildlife movement impacts.

The ineffective and inadequate wildlife movement study presented in the RDEIR raises more questions than answers. For example:

R-O7-52 cont.

- Why did Helix not develop an explicit study-design rationale to determine the number of cameras that should be deployed, and during what time periods, to develop data that could be statistically analyzed as part of a legitimate analysis of the likely and potential impacts of the proposed actions?

- Instead of deploying three cameras between May 19 and July 22, why didn't the project biologists deploy additional cameras for a longer period, or during different times of year, when different terrestrial wildlife species may have been moving through the area, and to provide greater opportunity to capture data on species that may move through the area only occasionally?

- When two of the twelve the camera deployments failed and could not be used, why was this considered irrelevant to the study?

Given the lack of a study-design rationale, the minimal effort expended, the failure of 17% of the camera deployments, and the lack of detailed results or any kind of analysis, there was little chance of Helix's wildlife movement study affecting the predetermined impact analysis presented in the original DEIR. The RDEIR's revised discussion of wildlife movement removed the original DEIR's most obviously flawed and biased statements while leaving in place the initial findings and conclusions.

The DEIR's brief discussion of wildlife movement issues concludes on page 2.2-19 with the following passage:

R-O7-53

> Larger blocks of open space areas associated with the SDNWR occur further south between Steele Canyon Golf Club and Jamul that provide better access to resources and connectivity between preserved lands, open spaces areas, and pockets of undeveloped lands located to the east and west of the site. However, the presence of two major roadways, Campo Road and Jamul Drive, connecting these two communities could impede wildlife movement.

These confusing statements have nothing to do with wildlife movement through the project site.

R-O7-53 Please refer to Topical Response 9 for a discussion on wildlife movement, habitat linkages, and connectivity, as well as a summary of Project impacts to habitat linkages and wildlife movement. In addition, please see Response to Comment R-O7-17 for a discussion of the wildlife camera trapping survey methods and results and a response to each of the listed points in the comment.

The following points are relevant:

- 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.

- 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 in this letter, 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 study was not designed to provide adequate information upon which to base a legitimate impact analysis.

In the absence of adequate data from a properly designed study that studies the project site in its current condition, the assumption must be that a variety of terrestrial and aquatic wildlife species can and do utilize the project site for movement between the two BRCA's. Given the proposal to greatly narrow the existing linkage, the proposal to remove 6.4 million tons of material from 209.6 acres of the project site clearly would not "preserve the biological integrity" of this designated habitat linkage.

R-O7-53 cont.

Page 7: MSCP requires that the project "Achieve the conservation goals for covered species and habitats."

The Conformance Statement claims that the "proposed project achieves the conservation goals" for covered species through implementation of various mitigation measures. Hydrologist Greg Kamman analyzed the DEIR and RDEIR and concluded that changes to project grades may alter the configuration of the low-flow channel that feeds into an existing stand of dense riparian habitat that was found to be occupied by Least Bell's Vireos during the most recent protocol surveys in 2019. Proposed removal of the high ground on the north side of the low-flow channel and creation of a wider equal-elevation floodplain upstream of the entrance to the riparian habitat has potential to redirect high flows into the floodplain north of the berm, which otherwise would have fed into

R-O7-54

R-O7-54 The comment generally contends that the post-reclamation condition of the Project site could result in the existing low-flow channel of the Sweetwater migrating northward and no longer supply surface water to the existing patch of riparian habitat located in the southwestern portion of the Project site, thereby potentially resulting in a loss of riparian habitat. Channel migration is not expected to occur as the existing channel banks would remain in place for the channel to continue to receive water transfers and controlled releases as initiated by the Sweetwater Authority. Hydrologic modeling indicates that large flood events, such as 100-year floods, would overtop the channel banks and extend across the floodplain in the post-reclamation condition, similar to the existing current condition in which high flows have potential to overtop the banks.

The presence of wider areas of riparian habitat immediately upstream and downstream of the Project site indicates that the Project site contains suitable hydrology to support riparian habitat within a much broader area than the existing low-flow channel. For example, the width of riparian forest immediately downstream of the Project site extends approximately 600 feet to the north of

R-O7-54 cont.

the riparian habitat area. The re-grading could also result in the existing low flow channel migrating northward and establishing a new alignment north of the berm. If this occurs, all the water deliveries conveyed by the low-flow channel would no long feed into the existing riparian habitat area, with potential adverse impacts to this habitat due to reduced hydroperiod. This represents a potentially significant adverse effect to the mature riparian woodland vegetation and to the Least Bell's Vireo. This would represent a failure to achieve the MSCP's conservation goals for covered species and habitats, and would also violate Condition (f) of the BMO's exemption for sand and gravel operations ("Mature riparian woodland may not be destroyed or reduced in size due to sand, gravel and mineral extraction").

R-O7-55

Pages 8-12: Project violates nine MSCP design criteria for linkages and corridors

For project sites located within a regional linkage and/or that support one or more potential local corridors, the County must affirm that the proposed actions would not violate any of **11 numbered MSCP criteria** developed to protect the most important ecological values of regional linkages and movement corridors. **Nine of these design criteria are applicable to the project, and the proposed actions would violate all of them.**

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

The Conformance Statement states:

> As part of the reclamation process, the proposed project would substantially improve the condition of the existing linkage through widening of the Sweetwater River floodplain and planting of riparian habitat. A riparian corridor would be re-established throughout the site, which would encourage and facilitate wildlife movement within the region. Therefore, the project would ultimately conserve and enhance the functions and values of the habitat linkage in accordance with the MSCP and BMO.

The 100-year floodplain is 850 to 1,700 feet wide through the site. Throughout the RDEIR—*except in the Biological Resources section*—the term "floodplain" refers the 100-year floodplain. In the Project Description, for example, page I-33 states, "The entire site also is subject to Special Area Designator F (Flood Plain), which prohibits placement of permanent structures for human habitation in a floodway." Appendix O, the Drainage Study-Hydraulic Analysis, refers exclusively to the 100-year floodplain. There is no valid reason for the Biological Resources section to use a different definition of "floodplain" than is used in the rest of the RDEIR. **Implementation of the proposed actions would clearly *reduce* the width of the 100-year floodplain throughout the project site.** See Figure 2.2-9 in the RDEIR, reproduced on the next page as Figure 4

R-O7-54 (cont.) the stream channel, indicating that groundwater is a component of hydrology in this area; it is not reliant solely on surface water transported within the river channel. Thus, even in the hypothetical situation that the low-flow channel was to migrate north of its current location as a result of an extreme storm event, sufficient hydrology would still exist across the site to support the existing riparian area that provides breeding habitat for least Bell's vireo, and the mature riparian woodland would not be impacted. Furthermore, approximately 99 acres of riparian forest and riparian scrub habitats would be restored and revegetated within the Project site as part of the Project's reclamation process, significantly increasing suitable habitat for least Bell's vireo, and other special status animal species, on the Project site.

R-O7-55 Please see Response to Comment R-O7-21 regarding the Project's conformance with the County's MSCP preserve design criteria for linkages and corridors, as well as Response to Comment R-O7-18 for a discussion of the habitat linkage width.

The comment includes a reproduction of Figure 2.2-9 in the RDEIR, referred to as Figure 4 in the comment letter. The comment indicates that the width of the existing habitat linkage at the western end of the Project site would be substantially reduced as a result of the Project. Currently, this area is characterized by the abandoned golf course. The Project would widen the Sweetwater River floodplain and associated riparian corridor in the southwestern potion of the site, provide additional habitat and cover for animal species moving within and throughout the site, and restore wildlife linkage and corridor functions.

R-O7-55 cont.

Figure 4. Reproduction of Figure 2.2-9 in the RDEIR, showing how project implementation would **reduce** the width of the existing habitat linkage through the project site. At the western end of the site, where the river channel empties into the SDNWR (red circle), the **1,050-foot-wide Linkage** would be diminished to a **400-foot-wide Corridor** in direct violation of Design Criterion 1.

As defined in Section 86.508(d) of the Biological Mitigation Ordinance (BMO):

> "Corridor" is a specific route that is used for movement and migration of species. A corridor may be different from a "Linkage" because it represents **a smaller or more narrow avenue for movement**. [emphasis added in bold]

Project implementation would narrow the existing **Linkage** down to the width of a **Corridor**, in direct violation of Design Criterion 1.

R-O7-56

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

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

To address these two criteria, the Conformance Statement states:

> The site is currently an active golf course that lacks sufficient vegetative cover to conceal and encourage wildlife movement through the linkage. As part of the reclamation process, the proposed project would substantially improve the condition of the existing linkage through widening of the Sweetwater River floodplain and planting of riparian habitat. A riparian corridor would be re-established throughout the site, which would encourage and facilitate wildlife movement through the site.

R-O7-56 Please see Response to Comment R-O7-17 for a discussion of the wildlife camera trapping survey methods and results, as well as Response to Comment R-O7-13 for a discussion on habitat classification and mapping. Please refer to 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. Additionally, please refer to Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors.

And:

> The site is currently an active golf course that lacks sufficient vegetative and topographic cover to conceal and encourage wildlife movement through the linkage. As part of the proposed reclamation, the project would increase topographic complexity of the site by establishing a widened Sweetwater River floodplain with bordering constructed slopes and elevated graded pads to the north and south. This would create topographic features more favorable to wildlife species movement along the linkage path. The project would also increase vegetative cover within the widened riparian corridor providing adequate coverage for wildlife species that would utilize the linkage.

The wildlife movement study conducted by the project biologists is inadequate to identify "existing movement corridors within linkages," as required by Design Criterion 2. As discussed on pages 20–21 of this letter, the wildlife movement study conducted in 2022 was, by design, virtually incapable of changing the RDEIR's predetermined finding that project implementation would improve opportunities for wildlife moving through the site.

R-O7-56 cont.

The assertion that "The site is currently an active golf course" is factually incorrect and misleading. The western third of the site is an abandoned golf course with minimal human presence and a landscape that has been rewilding itself since 2017.

The statement that the site "lacks sufficient vegetative cover to conceal and encourage wildlife movement through the linkage" is not substantiated, especially since the extent of Southern Willow Scrub habitat in the Sweetwater River channel has greatly increased in 2023 (see photos 9, 10, 12, 13, 16, and 17 in this letter). The river channel passes through a floodplain 850 to 1,700 feet wide vegetated with a mix of grasses, trees, and shrubby thickets.

Based upon its width, mix of vegetation, lack of conspicuous human presence at night, and only limited/localized night-lighting, the project site appears to be conducive the nocturnal movement of wildlife between BRCAs that exist to the southwest and northeast of the site. The RDEIR fails to substantiate its claims that implementing the project will improve the site's functionality as a BRCA and habitat linkage.

The proposed actions to "increase topographic complexity of the site by establishing a widened Sweetwater River floodplain with bordering constructed slopes and elevated graded pads to the north and south" would **constrict** the floodplain instead of expanding it, in violation of Design Criterion 1, and would decrease visual continuity in violation of Design Criterion 7.

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.

R-O7-57

The Conformance Statement states:

> The project site is located within an identified habitat linkage between the McGinty Mountain/Sycuan Peak-Dehesa BRCA and Sweetwater Reservoir/San Miguel Mountain BRCA, in

R-O7-57 Please see Response to Comment R-O7-17 for a discussion of the wildlife camera trapping survey methods and results, Responses to Comments R-O7-54 and R-O7-86 through R-O7-93 regarding hydrologist comments on the proposed post-reclamation condition, and Response to Comment R-O7-18 for a discussion of the habitat linkage width. Additionally, please refer to Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors.

R-O7-57 cont.

> the South County MSCP. The site is currently an active golf course that lacks sufficient vegetative cover to conceal and encourage wildlife movement through the linkage. As part of the reclamation process, the proposed project would substantially improve the condition of the existing linkage through widening of the Sweetwater River floodplain and planting of riparian habitat. A riparian corridor would be re-established throughout the site, which would encourage and facilitate wildlife movement for a wide range of species through the site.

This response repeats false and misleading statements already addressed in these comments. The project site already does "accommodate travel for a wide range of wildlife species" and already does "support resident populations of wildlife." For reasons discussed in this letter, and in the comments of hydrologist Greg Kamman, the RDEIR's promises to improve the site by mining the sand, constricting the width of the linkage, and attempting to reclaim part of the site are speculative and unproven.

R-O7-58

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.

The Conformance Statement states:

> As part of the project's reclamation process, the Sweetwater River floodplain, which is currently disturbed, would be expanded throughout the entire length of the project site (approximately 10,040 linear feet). The channel and associated flood prone area, currently measuring between 35 and 120 feet wide, would be substantially expanded to an average width of approximately 250 to 300 feet. This additional width would be more consistent with both historical conditions on the site and current conditions downstream of the site. 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. The established widened riparian corridor would re-establish connectivity between upstream and downstream areas by providing increased vegetative cover and access to higher quality resources which would promote and facilitate wildlife use and movement in the region and local area that is currently constrained by the existing golf course development. 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 biological open space easement.

The 100-year floodplain, which coincides with the MSCP-designated habitat linkage, measures between 850 and 1,700 feet wide. Rather than **expanding** the floodplain "to an average width of approximately 250 to 300 feet," project implementation would **narrow** the floodplain by hundreds of feet.

The criterion states, "The width of a linkage will be based on the biological information for the target species," but the project biologists have not identified "target species" or identified "biological information" upon which they have based their claim that the "minimum width" of the linkage can be greatly reduced.

To maintain a fully functioning MSCP preserve system, the linkage between the McGinty Mountain/Sycuan Peak-Dehesa BRCA and the Sweetwater Reservoir/San Miguel Mountain BRCA should be able to accommodate the movement of Mountain Lions

R-O7-58 Please see Response to Comment R-O7-18 for a discussion of the habitat linkage width. Additionally, please refer to Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors.

The comment asserts that the habitat linkage should be able to accommodate the movements of mountain lions as a target species. However, mountain lions and mountain lion signs (i.e., tracks, scat, etc.) were not detected within the Project site during the wildlife camera trapping survey or other biological surveys, nor was their primary prey species, mule deer. Mountain lion and mule deer were analyzed for potential to occur within Project site in Appendix L of the Biological Resources Technical Report recirculated with the RDEIR (FEIR and RDEIR Appendix C) and both species were determined to have low potential to occur. As such, the selection of mountain lion is inappropriate as the target species for analyzing the habitat linkage width. Furthermore, the Project site is located within a residential area and the presence of mountain lions would pose a public safety concern.

(Cougars). Researcher Paul Beier conducted extensive radiotelemetry studies of the movement of Mountain Lions through fragmented landscapes of southern California (Beier 1995). Following are some relevant points from Dr. Beier's research on dispersal of young male Cougars through corridors:

- "Cougars will disperse via habitat corridors in a landscape fragmented by urbanization, and some dispersers will use corridors containing un-natural features such as golf courses and major freeways."
- "Cougars frequently used dirt roads and trails. Where dense woody vegetation impedes cougar travel, a trail or dirt road running the length of the corridor can facilitate use by cougars and discourage travel into adjacent urban areas. Mock et al. (1992) found that all functional wildlife corridors in urban San Diego County, California, had a path, drainage, railroad, or other linear feature, and speculated that these features helped guide animals through the corridor."
- "Some native woody vegetation should be present to provide visual cover. I observed cougars move >400 m across unlit open terrain when the surrounding areas were in native woody vegetation, but they did not cross this span of open terrain with urban areas nearby on either side."
- "If disturbance level, cover, and the other factors discussed above are suitable, I suggest that a corridor designed for use by cougars should be >100 m wide if the total distance to be spanned is <800 m, **and >400 m wide for distances of 1-7 km**. To the extent that other factors are suboptimal, and as the corridor length increases, corridor width should be increased." [emphasis added in bold]

R-O7-58 cont.

Dr. Beier's study points to a need for a linkage/corridor roughly 400 meters (1,312 feet) wide in this location, which is comparable to the existing linkage/corridor width of approximately 259 to 518 meters (850 to 1,700 feet). His research suggests that the proposed reduction of the width of the linkage/corridor—to an average width of approximately 600 feet (183 meters) and as narrow as 350 to 400 feet (107 to 122 meters) at the western end of the project, where it interfaces with the SDNWR—would substantially reduce or possibly even eliminate the potential for Mountain Lions to move between Sweetwater Reservoir and McGinty Mountain.

Because the project biologists did not provide the required "biological information for the target species," and because the proposed actions would reduce the width of the existing habitat linkage to far below that recommended for Mountain Lions in the peer-reviewed literature, the project would not conform to Design Criterion 5.

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 Conformance Statement states:

> The project would not narrow the existing wildlife linkage width. The proposed post-reclamation condition of the site would consist of an expanded Sweetwater River floodplain that would be restored and revegetated with wetland/riparian habitat. Graded slopes would be created on either side of the channel and planted with coastal sage scrub. This would increase the width of the existing linkage and restore available vegetative cover that would encourage and adequately conceal wildlife movement within the area. The preserved, rehabilitated, restored, and revegetated riparian habitat along Sweetwater River would be conserved within a biological open space easement that directly abuts existing riparian habitat to the west located within the San Diego National Wildlife Refuge (SDNWR). The biological open space would follow the path of the river across the entire site, extending approximately 10,040 feet from end to end, with an average width of approximately 600 feet. The project does not propose any additional development following reclamation of the site, though select areas outside of the biological opens space would be available for land uses allowed by the existing land use designation and zoning classifications.

R-O7-59

This response states, "The project would not narrow the existing wildlife linkage width," but clearly it would. See Figure 4 on page 24 of this letter. Only by redefining "floodplain" to mean something other than its common meaning, and the meaning used throughout the rest of the RDEIR, is the County able to claim that the project would result in "an expanded Sweetwater River floodplain."

Design Criterion 6 posits, "Generally, wide linkages are better than narrow ones." Project implementation would narrow the existing habitat linkage by hundreds of feet.

Design Criterion 6 posits, "If narrow corridors are unavoidable, they should be relatively short." The linkage/corridor is approximately 1.8 miles (3 km) long, and a narrow corridor is not "unavoidable."

Design Criterion 6 posits, "A width of greater than 1,000 feet is recommended for large mammals and birds." The existing linkage is 850 to 1,700 feet wide. The proposed project would substantially narrow the linkage, to an average width of 450 to 720 feet, with a bottleneck 350-400 feet wide at the western end of the project site. Furthermore, the areas proposed to be graded and not preserved as natural open space must be expected to be subject to future development, which would further degrade the site's function as a regional habitat linkage.

For these reasons, the proposed project clearly violates Design Criterion 6.

R-O7-59 Please see Response to Comment R-O7-18 for a discussion of the habitat linkage width and Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors. In addition, please refer to Response to Comment D-A1-17, which describes the currently proposed uses of the Project site following mining. No other future development is proposed or would be permitted upon approval of the Project, and the proposed Project does not include any change to the General Plan designation of the Project site. CEQA does not require that speculative future impacts be analyzed in an EIR.

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.

The Conformance Statement states:

> The project would not impair visual continuity within corridors or linkages within the local area. The site is currently an active golf course that lacks sufficient vegetative cover to conceal and encourage wildlife movement through the linkage. The proposed project would predominately result in impacts to disturbed and developed areas associated with the golf course development; only 1.63 acres of the 209.63 acres of the onsite impacts would occur to native or sensitive habitats. These impacts would occur in 20- to 30-acre subphases across the site, rather than the entire project footprint impacted concurrently, during mining and reclamation activities leaving other portions of the site either undisturbed or in the five-year restoration and revegetation monitoring period and accessible for foraging. Reclamation of the site would include widening of the Sweetwater River floodplain and planting the area with native wetland/riparian habitat, first occurring adjacent to existing riparian habitat along the Sweetwater River channel in the western portion of the site. As mining activities progress eastward and reclamation is completed, active revegetation areas would provide a buffer between later extraction areas and existing riparian habitat off-site improving visual continuity within the linkage.

Contrary to these statements:

R-O7-60

- Proposed grading would substantially increase the site's topographic complexity, thus reducing visual continuity.
- If the proposed riparian plantings were to become successfully established, this would further reduce visual continuity.
- The 209.6 acres of habitat that the DEIR and Conformance Statement write off as "disturbed and developed areas" consist of grassy areas interspersed with shrubby thickets, extensive stands of Southern Willow Scrub in the river channel, and hundreds of large cottonwood trees. The project biologists have not collected adequate wildlife movement data to substantiate their claim that the project site is not fulfilling its role as a designated habitat linkage between nearby BRCA's.
- Project implementation would narrow the floodplain, not widen it.
- The statement that "active revegetation areas would provide a buffer between later extraction areas and existing riparian habitat off-site improving visual continuity within the linkage" makes no sense. If riparian habitat were to be successfully revegetated, as promised, the resulting growth of willows and other dense riparian vegetation would inhibit visual continuity within the linkage.

Because the proposed actions would **reduce** visual continuity (long lines-of-site), the County has no basis for finding the project in conformance with Design Criterion 7.

R-O7-60 Please refer to Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors. In addition, this comment references the MSCP preserve criteria related to maintain visual continuity (i.e., long lines-of-site) within movement corridors and includes an excerpt of the RDEIR impact analysis but does not include the entirety of the analysis. 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.

This comment states that the proposed grading would "substantially increase the site's topographic complexity" which would result in reduced visual continuity. As stated in Chapter 1.0, in the existing condition, the site gently slopes from the east to the west, with elevations ranging from approximately 380 feet amsl in the northeastern portion of the site to 320 feet amsl in the southwestern portion of the site. As described in Section 2.2.2.2 of the RDEIR, the final landform of the Project site post-reclamation would be a relatively flat plain that gently slopes downward from east to west, with an expanded floodplain bisecting the length of the site. The expanded floodplain is expected to average approximately 450 to 720 feet in width and would be slightly higher in elevation than the existing low-flow river channel. The post-reclamation condition of the site would retain the low-flow river channel in its current alignment, but with an expanded floodplain that be slightly higher in elevation than the low-flow channel. Slopes bordering the expanded floodplain would slope up at a 3:1 ratio or shallower with an elevation difference of up to 25 feet between the top of slope and bottom of the expanded floodplain.

As stated in the Project's Conceptual Revegetation Plan (Appendix N of the Biological Resources Technical Report recirculated with the RDEIR), the proposed revegetation has been designed to ensure areas disturbed as part of mining activities are reclaimed (i.e., adequately revegetated and stabilized) in accordance with the Surface Mining and Reclamation Act and County requirements, and that existing wetland buffer areas are appropriately restored pursuant to the County Resource Protection Ordinance (RPO). No permanent structures are proposed. The expanded floodplain would be revegetated with wetland and riparian forest and scrub habitat in order to yield a net gain in functional wetlands and riparian habitat on site. The stated goals of revegetation are to "provide sufficient vegetative cover to the reclaimed site such that the soil surface is stabilized, existing wetland buffer areas are restored, long-term erosion is prevented, and the post extractive land use objectives of the site are met." Of the approximately 120.79 acres of BOS within the central corridor of the Project site that are

R-O7-60 (cont.) proposed for reclamation revegetation, approximately 9.94 acres would consist of streambed within the existing low-flow channel areas, 84.84 acres would consist of riparian scrub, 14.09 acres would consist of riparian forest, and 11.92 acres would consist of upland coastal sage scrub vegetation (see Figure 1-10 of the FEIR). The majority of the expanded channel would consist of riparian scrub vegetation that would be similar to areas up- and downstream of the site and maintain visual continuity with off-site areas.

Please see Response to Comment R-O7-17 for a discussion of the wildlife camera trapping survey methods and results and Response to Comment R-O7-18 for a discussion of the habitat linkage width.

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

The Conformance Statement states:

> The project occurs along the path of a constrained linkage that is already subjected to noise and nighttime lighting impacts associated with operation of the Cottonwood Golf Club. The reach of river traversing the site currently has low function as a wildlife corridor as it is narrow, lacks suitable vegetative cover, and is adjacent to developed golf course operations. Large portions of the project site are fenced, further impeding wildlife access across the site.

R-O7-61

The RDEIR provides no evidence that the project site is either especially noisy or heavily lit at night, or that fencing actually impedes the movement of wildlife through the site. The general lack of night lighting and potential sources of nocturnal noise both appear to increase the site's value as a designated habitat linkage/movement corridor in the existing condition. The proposed sand mining operation would have massive noise impacts during the day for at least ten years, and lighting of the site would also increase, at least for the duration of mining operations.

The large graded pads that would be built as part of the project, for which the end use is undetermined, may ultimately be lit at night. The RDEIR must provide a comparison between the existing and potential future lighting conditions on the site, both during mining operations and after reclamation.

The areas proposed to be graded and not preserved as natural open space should be expected to be subject to future development, with additional night-lighting, further degrading the site's function as a regional habitat linkage.

Because the proposed actions would increase both lighting and noise in the habitat linkage—definitely in the short term and possibly in the long term—the County has no basis for finding the project in conformance with Design Criterion 8.

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

The Conformance Statement states:

> The project would not include the construction or placement of barriers in any wildlife movement paths. Currently, Steele Canyon Road crosses the site north to south bisecting the entirety of the east-west linkage; therefore, species that are currently accessing the project site and crossing below the road will continue to be able to do so following project implementation. No additional road crossings are proposed as part of the project.

R-O7-62

Project implementation involves installing 20-foot-high bands of grouted riprap as grade-control structures across 1.74 acres of the floodplain. Two of these bands would span nearly the entire width of the post-project floodplain, one at the eastern edge of the project site and the other just west of the Steel Canyon Road bridge, and the third would be constructed across the mouth of Mexican Canyon. These bands of new hardscape pose a barrier to movement of some types of wildlife through the habitat

R-O7-61 Please refer to Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors. In addition, this comment references the MSCP preserve criteria related to human disturbances, particularly noise and nighttime lighting, to movement corridors and includes an excerpt of the RDEIR impact analysis . Noise and nighttime lighting are 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." Noise impacts would be less than significant. Further, extraction activities would not take place across the entire site at one time. Mining would progress in phases and subphases across the site, with subphases consisting of no more than 30 acres.

As stated in the RDEIR, the only proposed night lighting would be installed around the processing plant for security purposes. In the existing condition, lighting provided at the clubhouse and appurtenance buildings, maintenance yard, and parking areas remains on during nighttime hours for security/safety purposes. Similar to the existing golf course uses, lighting is restricted to buildings and other appurtenances for security purposes only. Also similar to the existing golf course uses, sand excavation and processing would be restricted to daytime hours between 7:00 a.m. and 5:00 p.m. Therefore, no lighting associated with night work would occur. All Project-related lighting is further required to adhere to Division 9 of the San Diego County Light Pollution Code. Lighting within the Proposed Project footprint adjacent to undeveloped habitat (including reclaimed areas) would be of the lowest illumination allowed for human safety, and would be selectively placed, shielded, and directed away from these areas.

Please see Response to Comment D-A1-17, which describes the currently proposed uses of the Project site following mining. Future uses that would reasonably include nighttime lighting are not proposed and would not be permitted upon approval of this Project. CEQA does not require that speculative future impacts be analyzed in an EIR.

R-O7-62 Please refer to Response to Comment R-07-21 regarding the Project's consistency with the MSCP preserve design criteria for linkages and corridors. In addition, this comment references the MSCP preserve criteria related barriers and roads within movement corridors and includes an excerpt of the RDEIR impact analysis. Barrier and roads are addressed in Section 2.2.2.4 (Guideline 21) of the

R-O7-62 (cont.) 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.

The comment references the three permanent grouted riprap drop structures that would be constructed within the expanded Sweetwater River floodplain as part of the Project's reclamation process. Two of the drop structures would be located along the constructed upland slopes bordering the expanded floodplain: one at the eastern of the site where the Sweetwater River enters the property along the eastern, western-facing slope; and one east of Steele Canyon Road along the southern, north-facing slope where Mexican Canyon Creek flows into the Sweetwater River. These drop structures would protect the proposed slopes against upstream head cutting and would be built onto and along the slope, generally at grade, and would not provide a barrier for wildlife movement. It should be noted that Mexican Canyon Creek is an ephemeral drainage that enters the site from Ivanhoe Ranch Road, just east of Steele Canyon Road, and flows north across the existing golf course fairways, where it eventually converges with Sweetwater River along the western channel bank of Sweetwater River (refer to Figure 2.2-7 of the RDEIR). Mexican Canyon Creek lacks a defined bed and bank, does not support wetland or riparian vegetation, and has already been altered by development of the golf course and on-going operation and maintenance activities. The post-reclamation condition of the Mexican Canyon Creek and Sweetwater River confluence would be similar in nature to the existing condition (i.e., entering perpendicular at a bank slope) but with the slope protection present (i.e., the drop structure) to prevent erosion and head cutting. A third structure would be located perpendicular to the Sweetwater River on the west side of the Steele Canyon Road bridge and would prevent head cutting of the channel during infrequent, high flow events. This drop structure would not represent a "20-foot-high" band of riprap across the floodplain as described by the commenter.

The drop structure would mimic a natural fall in a drainage feature and would generally be constructed at grade at 3:1 slope in the direction of flow. The drop structure would not represent a substantial elevation change across the river channel or larger floodplain and would not provide a barrier for wildlife movement. The drop structures are depicted on Figures 1-6a and 1-6b of the RDEIR and described in additional detail in Topical Response 12.

R-O7-62 cont.

linkage/movement corridor, which currently has no such barriers. The RDEIR must analyze all potential effects of installing these massive riprap structures on the movement of various forms of wildlife through the project site.

Because the RDEIR fails to recognize these hardscaped grade-control structures as potential barriers to wildlife movement, provides no analysis of their potential effects on the functionality of the existing linkage/corridor, and provides no mitigation for any potential adverse effects to wildlife movement, the County has no basis for finding the project in conformance with Design Criterion 9.

R-O7-63

CONCLUSION: A project in a designated habitat linkage that violates all applicable MSCP design criteria would not only fail to conform to the MSCP but could also render the MSCP inoperable moving forward.

The County's BMO contains design criteria and mitigation standards that, when applied to projects requiring discretionary permits, protect habitats and species and ensure that a project does not preclude the viability of the MSCP preserve system. The BMO identifies 11 design criteria for linkages and corridors, providing multiple lines of defense against any action that would erode the ecological integrity of the MSCP preserve system. Of the 11 design criteria, nine are applicable to the proposed project, and the proposed project violates all nine design criteria.

A project located within an MSCP-designated habitat linkage that violates design criteria for linkages and corridors cannot be found to conform to the MSCP Subarea Plan, the BMO, or the Implementation Agreement between the County, the California Department of Fish and Wildlife (CDFW), and the US Fish and Wildlife Service (USFWS). In this case, because the biological investigations undertaken for the RDEIR are inadequate and unresponsive to specific MSCP planning requirements, the County and the project biologists cannot point to data from a carefully designed and implemented study of wildlife movement, or any other relevant data or analyses, upon which to credibly claim conformance with any of the applicable BMO design criteria.

Preserving the function of habitat linkages and movement corridors is a fundamental tenet of MSCP preserve design in a fragmented landscape. County approval of a project within an MSCP-designated linkage/corridor that violates several design criteria would signal that all of that these carefully crafted requirements can be waved away without so much as a well-designed study of wildlife movement. Such an approval would completely undercut the MSCP as a predictable, credible, and hence coherent approach to regional planning.

R-O7-64

Pages 12-15: Project violates Subarea Plan Findings

The RDEIR provides inadequate basis for the County to conclude that the project conforms to all applicable findings of the County Subarea Plan. As detailed below, the proposed actions would violate Findings 9 and 11.

R-O7-63 Please see Responses to Comment R-O7-55 through R-O7-62, which address the above comments related to the Project's conformance with the County's MSCP preserve design criteria for linkages and corridors.

R-O7-64 The comment asserts that the Project does not conform with all applicable findings of the County's MSCP Subarea Plan. The comment goes on to refer to specific findings that are included in the following responses below. No additional response is required.

9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.

The Conformance Statement states:

> The proposed project will not jeopardize the preserve system assembly within the Subarea Plan. The proposed project will contribute to preserve assembly by adding 142.8 acres to the preserve that will be managed through an RMP.

R-O7-65

The assembly, and ultimately the functioning, of the MSCP preserve system depends upon the County, USFWS, and CDFW working together to ensure that any action proposed within a designated habitat linkage be consistent with the MSCP's specified design criteria for linkages and corridors. County certification of the EIR for this proposed mining project, which violates multiple linkage/corridor design criteria, would clearly jeopardize the assembly of a functioning preserve system. The jeopardy would arise not only from degradation of this one designated linkage/corridor, **but from establishing precedent that any or all of the MSCP design criteria can be completely ignored when proposing impacts within designated regional habitat linkages.** The County, therefore, has no basis for finding that approval of this non-conforming project would *not* jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.

11. Every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

The Conformance Statement states:

> The proposed project has made every effort to avoid impacts to BRCAs, sensitive resources, and sensitive species as defined in the BMO. Since the proposed project site is located within a BRCA and supports many sensitive resources, the impact footprint was concentrated within disturbed habitat and developed lands, associated with the existing golf course, minimizing impacts to sensitive resources. The proposed project does not contain covered plant species. However, the proposed project provides for the conservation of habitat for covered wildlife species including Belding's orange-throated whiptail, coastal California gnatcatcher, Cooper's hawk, least Bell's vireo, peregrine falcon, and western bluebird. Following mining activities, the site would be reclaimed and revegetated, as described in the Reclamation Plan, Revegetation Plan, and Wetland Mitigation Plan. The revegetated area, including 142.8 acres, would be preserved within an open space easement. The proposed open space will be protected by a recorded conservation easement, fencing, and signage, and will be managed and monitored in perpetuity by an approved conservancy following an approved RMP, funded by a non-wasting endowment. The proposed project is consistent with the goals of the MSCP.

R-O7-66

The Conformance Statement provides no evidence or legitimate line of reasoning in support of its finding that the project makes "every effort to avoid impacts to BRCAs, sensitive resources, and sensitive species as defined in the BMO." Rather, the project proposes to aggressively mine for aggregate across more than three-quarters of the site (211.9 acres of 276.6 acres), with impacts to another 4.8 acres off-site.

R-O7-65 The comment states that the Project would jeopardize the assembly of a functioning preserve system and refers to previous comments related the MSCP design criteria for linkages and corridors. Please see Responses to Comments R-O7-55 through R-O7-62, which address the above comments related to the Project's conformance with the County's MSCP preserve design criteria for linkages and corridors.

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-O7-66 Please see Response to Comment R-O7-18 for a discussion of the habitat linkage width, Response to Comment R-O7-13 for a discussion on habitat classification and mapping, Response to Comment R-O7-11 for discussion related to California glossy snake and San Diegan legless lizard, Response to Comment R-O7-54 for discussion on hydrology and on-site native habitat restoration and revegetation, Response to Comment R-O7-17 for a discussion of the wildlife camera trapping survey methods and results, and Responses to Comments R-O7-54 through R-O7-66 which address the Project's conformance with the County's MSCP Subarea Plan. 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 biological resource data and mapping represent the current baseline condition of the Project site.

The project site was designated as a regional linkage/corridor, and hence a BRCA, not because it supports an abundance of sensitive natural communities, but because (a) it occupies an extremely important position between two larger BRCA's, and (b) despite having been developed for golf course use, the site has many important characteristics of a valuable linkage/corridor, including:

- The existing width of 850 to 1,700 feet is comparable to the minimum habitat width recommended for use by Mountain Lions (Beier 1995).
- The linkage consists of extensive grassy areas interspersed with shrubby thickets, extensive stands of Southern Willow Scrub in the river channel, and hundreds of large cottonwood trees.
- Lighting, noise, and human presence are all minimal at night, when most terrestrial wildlife movement takes place.

R-O7-66 As described in this letter, the proposed actions would substantially narrow the habitat linkage. CEQA requires a complete description of the project setting and a legitimate analysis of all potentially significant adverse effects of the project. By contrast, the RDEIR (a) misclassifies 93.1 acres of Tier III Non-native Grasslands as Disturbed Habitat; (b) misclassifies several acres of Southern Willow Scrub as Disturbed Wetland; (c) provides inadequate information about the current functioning of the existing habitat linkage; and (d) provides no information regarding the abundance or distribution of several special-status species with high potential to occur within the site's alluvial soils. The project biologists, having collected only fragmentary baseline information, are unable to acknowledge and analyze all of the project's potential impacts. Instead, the RDEIR glosses over major aspects of the impact analysis while repeatedly assuring readers that the habitat linkage will be greatly improved at the end of the long mining and reclamation process. CEQA does not, however, allow the lead agency to provide an incomplete baseline that feeds into an inadequate impact analysis.

For reasons identified in Greg Kamman's detailed hydrological analysis (comments on DEIR dated February 24, 2022; comments on RDEIR dated August 11, 2023), the ultimate success of the promised revegetation of the narrowed linkage is far from assured.

The Conformance Statement asserts, "the impact footprint was concentrated within disturbed habitat and developed lands, associated with the existing golf course, minimizing impacts to sensitive resources," but the putative Disturbed Habitat is accurately classified as Non-native Grassland, a Tier III MSCP sensitive community. Several acres of Disturbed Wetland are accurately classified as Southern Willow Scrub, a Tier I MSCP sensitive community; see pages 10–16 of this letter. The project site represents the only viable conduit for terrestrial and aquatic species moving between the McGinty Mountain/Sequan Peak-Dehesa BRCA and the Sweetwater Reservoir/San Miguel Mountain BRCA, and yet the County did not require the Applicant to conduct an adequate study of the existing pattern of wildlife movement through the site—i.e., a study designed to