

LL-23
Latham & Watkins LLP
on behalf of the Golden Door Properties, LLC
Dated: June 13, 2018

1. Introduction

The comment letter submitted by Latham & Watkins on behalf of the Golden Door Properties, LLC, dated June 13, 2018, is a late letter that does not require a written response from County.

Under CEQA Guidelines Section 15105, the County was legally required to provide a 45-day public review period on the Draft EIR. In order to provide additional time, the County instead afforded 60 days for public review and comment. The public comment period for the Draft EIR began on June 15, 2017, and ended on August 14, 2017. All comment letters received after expiration of the public review and comment period ending on August 14, 2017, are considered late comments.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Pub. Resources Code, §21091(d); CEQA Guidelines, §15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Resources Code, §21091(d)(1); Pub. Resources Code, §21092.5(c).) Accordingly, the County is not required to provide a written response to late comment letters, including the June 13, 2018, letter from Latham & Watkins. (See, CEQA Guidelines, §15088(a)).

Nonetheless, for information purposes, the County has elected to respond to this late letter, but without waiving its position that written responses to late comment letters are not required by law.

2. The Comment Letter does not raise any new issues, but repeats claims and issues identified in previous letters, including late letters submitted by the commenter.

The comment letter states that there are critical inconsistencies with the Draft North County MSCP Subarea Plan (“Draft North County Plan”) and is a follow-up to letters submitted by the commenter on May 21, 2018, and May 31, 2018. The comment letter reiterates the incorrect claim that the Newland Sierra Draft EIR relies on the project being a hardline project in the Draft North County Plan and states that the EIR must evaluate a non-MSCP hardline alternative. The commenter is referred to **Responses to Late Comment Letters LL-20 and LL-22**. The Newland Sierra Project EIR does not rely on the project site being a hardline area in the Draft North County Plan nor does the EIR rely on the Draft North County Plan to evaluate biological impacts. All of the project

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alternatives analyzed in the Draft EIR are non-MSCP hardline alternatives as none of the alternatives are proposed as hardline projects or hardline areas in the Draft North County Plan.

The letter attaches another review prepared by Dr. Megan Jennings dated June 12, 2018, and entitled “Draft North County Multiples Species Conservation Plan Issues Relating to the Proposed Newland Sierra Project”. The review prepared by Dr. Jennings identifies issues related to preserve connectivity and design and vegetation conservation. The County does not agree with the analysis and conclusions in the review and offers the following responses:

3. The Newland Sierra project proposed hardline has been reviewed by the Wildlife Agencies.

Refer to **Topical Response BIO-1 [North County MSCP]**.

4. The Newland Sierra Project is Consistent with the Connectivity and Conservation Goals of the North County Plan.

Refer to **Response to Comment Letter O-1.5** and **Topical Response BIO-2 [Wildlife Corridors]**

5. The Newland Sierra Project is consistent with the San Marcos—Merriam Mountain Core Area Conservation Goals.

The Newland Sierra Project preserve design improves upon the “All-South” preserve design of the former Merriam Mountains Project hardline which the Wildlife Agencies approved. The Newland Sierra Project preserves the primary east to west wildlife corridor across the northern portion of the project Site with 4,300-foot-wide (0.8-mile-wide), 870-acre unbroken block of preservation (Block 1) and improves upon the Merriam Mountains Project preserve design by eliminating the fire access road proposed by that project (that would have bifurcated this preserve area). The Newland Sierra Project also creates a larger preserve area on the project Site, including by preserving 154 acres (Block 2) along the eastern boundary of the project Site which supports a California gnatcatcher ladder and by preserving 185 acres (Block 3) in the southern portion of the project Site, two areas that were partially or fully impacted by Merriam Mountains Project. Refer also to **Responses to Comments O-2.2-16, O-1-90, and O-16-24, and Topical Response BIO-2 [Wildlife Corridors]**.

6. The Newland Sierra Project would conserve large blocks of Chaparral onsite.

The Jennings review states that the project would result in the loss and degradation of 1,760 acres of Chaparral. The County does not agree as this is a gross overstatement of the project’s impacts to Chaparral habitat. The project’s total onsite and offsite impacts to Chaparral habitat are approximately 673 acres (refer to Tables 2.4-18 through 2.4-20 in Section 2.4 of the Final EIR). Refer also to **Response to Comment O-16-24**.

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7. The Newland Sierra Project minimizes impacts to RPO resources, including steep slopes, sensitive habitat lands, and wetlands.

The project's onsite impacts to RPO wetlands (0.22 acre of permanent loss and an additional 1.91 acres of indirect impacts), specifically in the southwestern portion of the project Site where development was concentrated to avoid habitat and RPO wetland impacts in the more biologically important northern portion of the project Site, require the project's exemption to the County's Resource Protection Ordinance (RPO). The project's offsite road improvements would also impact RPO wetlands, however offsite improvements have been designed to minimize these impacts. The project also identifies mitigation measure **M-BIO-12** to mitigate its impacts to wetlands and waters to less than significant. Finally, as part of its improvements to Deer Springs Road, the project would create a naturalized/earthen drainage channel vegetated with native wetland and riparian habitat approximately 3 acres in size and 70 to 80 feet wide which would effectively restore in form and function Stephenson's Creek. Today, Stephenson's Creek is effectively an earthen roadside drainage ditch 10 to 15 feet in width along Deer Springs Road that is primarily vegetated with ruderal/non-native/invasive weeds and Eucalyptus trees and possessing limited to no biological value. Thus, the new drainage channel will serve as a significant biological enhancement compared to the existing condition. Refer to **Topical Response BIO-3 [Resource Protection Ordinance]**.