

**LL-24**  
**Latham & Watkins LLP**  
**on behalf of the Golden Door Properties, LLC**  
**Dated: June 14, 2018**

1. Introduction

The comment letter submitted by Latham & Watkins on behalf of the Golden Door Properties, LLC, dated June 14, 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 14, 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 letter does not raise any new issues.

The letter includes an Enclosure entitled “Newland Sierra—San Diego County Acoustic and Vibration Review” prepared by the Papadimos Group out of San Francisco and focuses on a perceived lack of rigor in the Newland Sierra project’s EIR Section 2.10 (Noise). The County does not concur and responds to the various claims in the letter in more detail below.

**Claim 1:** “The study is missing an assessment of noise and vibration at the Golden Door property, where quiet ambient conditions are required for operation. Some construction activities identified in the study would likely be disturbing and clearly audible above ambient conditions, even if the San Diego County noise limits are met. The Newland technical analysis should, but does not, address these conditions.”

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**Response:** The County does not concur with this comment. The Golden Door property’s operational noise impacts (which would be limited to traffic noise, because of the distance from the project site to the Golden Door property) is assessed in Tables 2.10-12 and 2.10-19. Noise from on-site and off-site construction is addressed in pages 2.10-16 through 2.10-21. Although not cited specifically—the Golden Door property is one among several noise and vibration-sensitive properties potentially impacted but is not the nearest to project work—the property is represented, and potential impacts are included and assessed.

**Claim 2:** “The Newland technical analysis is generally missing an assessment of noise and vibration impacts to the Golden Door facility, located south-west of the project along Deer Springs Road.”

**Response:** This is a re-statement of the prior summary comment. No further response is required.

**Claim 3:** “This assessment should be included given the Golden Door’s proximity to Deer Springs Road and the project site. This receiver (the Golden Door property) should be assessed using the standards for residential uses and NSLUs since it includes sleeping facilities, and meets the following definition from San Diego County Guidelines for Determining Significance (dated January 2009)...This type of facility relies on quiet ambient conditions with minimal intruding noise common in a rural area to operate successfully. Existing ambient conditions should be maintained to avoid significant impacts and such an assessment is required for CEQA items XI.c and XI.d discussed below.”

**Response:** The County agrees. Impacts from project-related noise at the Golden Door were analyzed and assessed. Measurement receiver M3, conducted just east of the Golden Door structures nearest to Deer Springs Road, and modeled receiver O8, represent the property.

**Claim 4:** “The noise study by DUDEK is incomplete as it has not properly documented existing ambient noise levels in the project vicinity. Only daytime short-term noise measurements (20 mins long) were taken (primarily next to existing roadways). This insufficient to establish ambient noise conditions (CEQA Items XI.c & d) or to address regulatory requirements (CEQA Item XI.a).”

**Response:** The County does not concur with this statement. The characterization of typical ambient noise levels using daytime short-term noise measurements, as conducted by Dudek, is consistent with the County’s *CEQA Guidelines for Determining Significance, Noise* (January 2009) and the County’s *CEQA Report Format and Content Requirements, Noise* (January 2009).

**Claim 5:** “Noise standards in the San Diego County General Plan are in terms of CNEL, which is the average noise level over 24-hours. Accordingly, CNEL inherently requires noise measurements over 24-hour period, at a minimum. Measurements were only taken during mid-day and do not allow for establishing the full range of noise exposure, particularly for congested segments such as Deer Springs Road (currently Traffic Level of Service F).”

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The County does not concur with this statement. See the **Response to Claim 6** below.

**Claim 6:** “Statistical noise metrics (such as  $L_{90}$  and  $L_{99}$ ) (typically required to properly establish existing ambient conditions) are missing from the noise study. We anticipate ambient noise levels are very low away from the road on the Golden Door property and a survey of these conditions should be considered to properly evaluate the impact of construction related noise as discussed in the sections below.”

**Response:** The County does not concur with this statement. The primary noise metric used to assess project impacts is the  $L_{eq}$  (utilized both as a noise standard itself as well as the basis upon which the 24-hour CNEL is formulated).  $L_{eq}$ ,  $L_{max}$  and  $L_{min}$  noise data were collected and provided for all noise measurement locations (see Appendix B of the project’s Noise Report). Additionally, the measurement locations were selected to be representative of locations likely to be impacted by project-related traffic and other project components; thus it is logical that locations nearest to such sources were chosen, rather than locations farther away. Using locations further away from the noise source would result in significantly reduced noise impacts and result in an inaccurate assessment of significant impacts.

**Claim 7:** “The Newland technical analysis does not use proper instrumentation. Measured daytime levels were as low as 39 dBA, which is near the noise floor (lowest measurable level) of the sound level meter used in the Newland technical analysis (SoftdB Piccolo). This type of instrument may not be adequate in conducting 24-hour noise surveys since nighttime and early morning ambient noise levels are expected to be at or below this level.”

**Response:** The County does not concur with this statement. The low noise level stated (39 dBA) is within the dynamic range of the instrument, and whether the instrument may or may not capture lower levels during 24-hour noise surveys is not relevant, because 24-hour noise surveys were not conducted for this project. Refer to the **Response to Claim 6** above.

**Claim 8:** “Reported existing conditions on Deer Springs Road should be further evaluated and compared to the noise study performed for the San Diego County General Plan Update (FEIR Dated August 2011, Section 2.11), which reports existing noise levels close to 10 dB lower (64 dBA CNEL) than the DUDEK study at a similar distance from the road (100 feet). It is difficult to evaluate the credibility or merits of the Newland technical analysis without analysis as to why existing noise levels are different in the General Plan Update analysis.”

**Response:** The County does not concur with this statement. As shown in Table 2.10-12, the modeled existing noise level at a distance of 100 feet from the roadway centerline is shown to be 68 dBA CNEL. This would be a difference of approximately 4 dB, not 10 dB. The traffic volumes utilized were based upon those provided in the project’s traffic study. The County’s noise analysis for their General Plan Update is based on buildout conditions of the General Plan.

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**Claim 9:** “The Newland noise study has not clearly documented the basis of modeling for future conditions without the project. This is key in assessing noise under CEQA Items a, b and c as described in the sections below. The study has not included adequate documentation of modeled future conditions with the proposed road changes along Deer Springs Road (Options A and B) including adding new lanes (e.x. 6 lane vs 4 lane vs 2 lane with shared turning lane), grading and realignment that all affect traffic noise exposure. Without this information, the accuracy of the modeled future conditions cannot be verified.”

**Response:** The County does not concur with this statement. The traffic noise model files are provided in Appendix B for the Noise Report.

**Claim 10:** “The study is missing assessment of project generated traffic noise against the following noise limits in the San Diego County General Plan (Table N-2, Items 1 & 3). A proper noise survey with minimum 24-hour measurements is required to address these limits as described in the section above.

**Response:** The County does not concur. Refer to **Response to Claim 6** above.

**Claim 11:** “The Newland study has only partially assessed project noise against the following significance criteria (*San Diego County Guidelines for Determining Significance*). The Newland study has not properly documented existing conditions (see Noise Study section above). Further, the basis of the traffic noise modeling may be flawed and require revisiting as described below.”

**Response:** The County does not concur. The project has properly analyzed the project’s noise impacts consistent with the County’s CEQA Guidelines.

**Claim 12:** “Future traffic noise on Deer Springs Road without the project may be overpredicted, considering that this road and nearby intersections are currently operating at Level of Service LOS F as described in the Traffic Impact Analysis (Appendix R1a), which would limit traffic noise due to reduced speed during congestion. Traffic noise should be assessed under free traffic flow conditions (typically at LOS C), as this would result in worst-case noise exposure.”

**Response:** The County does not concur with this comment. Future traffic volumes with and without the project were forecasted based on SANDAG modeling and by accounting for 192 separate cumulative projects (refer to Appendix R1 to the Final EIR).

**Claim 13:** “The predicted noise levels appear to be based on the expansion of Deer Springs Road according to the San Diego County General Plan, but this may not be an accurate representation of future conditions....”

**Response:** The predicted future year noise levels for both Option A and Option B are based on the ultimate roadway designations for each of those options. This is a standard approach to modeling future year noise levels, particularly in the County of San Diego.

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**Claim 14:** “The (Deer Springs Road)way expansion may not be an active project or may not occur at all (could be accepted at LOS F)...” and cites language in the General Plan Mobility Element explaining General Plan Mobility Element Policy M-2.1 stating that “Regional connectivity issues would apply when congestion on State freeways and highways causes regional travelers to use County roads, resulting in congestion on the County road network. ***Rather than widening County roads to accommodate this traffic, the deficiencies in the regional road network should be addressed.***” (emphasis added)

**Response:** The County offers two points in response:

- (1) The project is required to widen Deer Springs Road to four lanes as mitigation for project impacts. If the project is approved, the road will be widened.
- (2) As it relates to regional connectivity issues and the regional network, Deer Springs is part of the Regional Arterial System (RAS) (i.e., the “regional network”). Therefore, improvements to Deer Springs Road would be the exact type of improvements this policy is saying should occur (in lieu of widening local County non-RAS roads).

**Claim 15:** “Future traffic on [Deer Springs] road (without the project), if expanded, may not increase, because traffic flow may be limited by the service level of the I-15 interchange area, as the Deer Springs Road segment and turning lanes were accepted at LOS E/F per the Mobility Element of the current general plan.

**Response:** The County does not agree with this comment. Future traffic volumes on the road are forecasted to increase whether the project is approved or not and whether the road is widened or not.

**Claim 16:** “...Caltrans reportedly has no projects in this area, including the I-15 interchange, and has stated that the traffic impact study is “insufficient and misleading” (see letter from Roy Abboud dated August 10, 2017). Since the Newland study appears to be the basis for future traffic noise analysis, it needs to be revised to address any changes in the traffic analysis.”

**Response:** The County does not concur with this statement. As it pertains to Caltrans statements about the project and its traffic impact analysis, refer to the second letter from Caltrans on the project’s Draft EIR dated January 11, 2018 (**Appendix JJ-16** to the Final EIR) addressing the **Response to Comment Letter A-2**<sup>1</sup> requesting that an Intersection Control Evaluation be submitted and approved by Caltrans related to the interchange improvements and stating that:

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<sup>1</sup> The second letter from Caltrans indicating their comments on the Draft EIR had been addressed is in response to then draft responses to their letter submitted by the County to Caltrans for their review and concurrence (which the commenter subsequently received from Caltrans through a PRA request). The Response to Comment Letter A-2 can be found in the Final EIR:

<https://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/NS/NSFEIR/NSresponses/A-2%20California%20Department%20of%20Transportation.pdf>

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“Caltrans is satisfied that the other previous comments from our August 10, 2017 letter have been adequately addressed.”

**Claim 17:** “Section 3.3 of the report provides only a generic assessment of noise and vibration from general construction activities such as grading, earthmoving, batch processing and others. Assessment is only included for residential receivers near the proposed project entrance (I-15 interchange) and is missing assessment for other NSLUs such as residences and the Golden Door property along Deer Springs Road. Assessment of construction of Deer Springs Road is also missing.

**Response:** The County does not concur with this statement. The impacts assessment addressed potential noise impacts for receivers in the vicinity of the proposed project, of which the Golden Door property is one. Project Design Features PDF 33s through 38 (page 2.10-16) would reduce these levels to less than significant.

**Claim 18:** “The study concludes the following are potentially significant impacts but proposes no mitigation (discussed below):

- On-site construction of Town Center neighborhood
- Construction on Mesa Rock Road at proposed project entrance

The study has incorrectly determined the following impacts to be less than significant due to ‘project design features’ such as properly maintained construction equipment, generic setbacks from sensitive receivers, and others, but provides no quantitative evidence to support this claim (mitigation discussed below).

- Construction staging areas
- Equipment repair
- Portable Rock-Crushing/Processing Facility”

**Response:** The County does not concur with this statement. See the **Response to Claim 17** above.

**Claim 19:** “Construction traffic on Deer Springs Road is improperly assessed by comparing the anticipated number of vehicles on the road to what appears to be the peak hour and average daily traffic volume (ADT). Construction traffic is typically comprised of large trucks and other heavy vehicles, which generate higher noise levels than typical automobiles. According to observations made during the Newland noise study, traffic on Deer Springs Road is primarily automobiles, with trucks accounting for less than 5% total volume. Construction traffic would therefore be out of character for this existing rural area and should instead be assessed based on noise increase over ambient conditions and the county’s limits at sensitive receivers.”

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**Response:** The County does not concur with this statement. As stated on page 2.10-20, the maximum anticipated number of construction-related trips would be approximately 800 employee commute trips and up to 40 daily vendor trips. Compared to the existing ADTs on I-15 of 125,000 and Deer Springs Road and 19,400, the incremental increase would be negligible. Further, the majority of construction trips generated by the project on Deer Springs Road would be from construction workers that typically drive automobiles or light-duty trucks.

**Claim 20:** “Some other construction activities may include blasting, pile driving, rock crushing, cement batch plant, and possibly others. The Newland study confirms such activities will likely be used for this project. The Newland study does not include a technical assessment of blasting noise but identifies it as a potentially significant impact requiring further analysis (mitigation discussed below). The Newland study has not properly analyzed noise from pile driving, claiming the county’s impulsive noise limits do not apply since the pile driver would not generate noise for more than 20% of the hour, which is below the county’s threshold of 25% of the measurement time claimed 20% use time is based on a generic “use factor” used by noise prediction software issued by the Federal Highway Administration (FHWA). The Newland study does not even attempt to make an estimate of actual usage time. A project specific analysis should therefore be provided based on the actual and detailed project construction schedule and plan as discussed in the mitigation section below.”

**Response:** The County does not concur with this statement. As stated on page 2.10-22, it is acknowledged that the maximum noise levels from a pile driver could exceed the County’s maximum noise level threshold within 1,000 feet of active pile driving, the proposed project would implement PDF 38, which would limit pile driving to generate maximum noise levels 20 percent of an hour. With the implementation of PDF 38, maximum noise levels would not exceed the County’s impulsive threshold for 25 percent or more of an hour. Based on duration and distance, impulsive noise levels are anticipated to be below the County’s 82 dBA threshold. Thus, impacts would be less than significant.

**Claim 21:** “The study only provides generic assessment of construction vibration but confirms various activities including grading, blasting, and others are potentially significant. Specific assessment including all sensitive receivers near the project site and along Deer Springs Road should be carried out. Such assessment currently does not exist.”

**Response:** The County does not concur with this statement. Assessment of vibration during construction is provided on pages 2.10-22 and 2.10-23. Because construction-related vibration was determined to be a potentially significant impact, mitigation was provided. Mitigation Measure M-N-8 would require preparation of a vibration monitoring plan that would require data be sent to the County noise control officer. The officer would then take the steps necessary to ensure that future vibration levels do not exceed applicable limits, including suspending further

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construction activities that would result in excessive vibration levels until either alternative equipment or alternative construction procedures have been identified that would reduce vibration levels below County standards. With implementation of M-N-8, vibration impacts during construction would be less than significant.

**Claim 22:** “Increases in traffic noise above existing conditions in the project vicinity would need to be reassessed once a proper noise study has been completed as discussed in the section above.”

**Response:** The County does not concur with this statement. As previously stated and established, noise from project-related traffic has been properly addressed.

**Claim 23:** “The study is missing an assessment of construction noise and vibration in comparison to local ambient conditions, and this would require a proper study as discussed above. Assessment should include the full range of planned construction processes such as blasting, batch processing, grading etc. as well as construction related traffic that may be out of character for this rural area. This assessment should be used to author specifications that are included in bidding (sic) and contract documents to accurately reflect project delivery methods that would affect construction costs. Ambient noise levels on the Golden Door property are likely very low (40 dBA or less), particularly away from the road, and we anticipate construction activities such as blasting, pile driving and construction on Deer Springs Road would be clearly audible as estimated in Table 1 below<sup>2</sup>. This type of facility requires a quiet environment, and such a large increase in noise levels would be disruptive and alternatives to loud construction methods (such as pile driving) may need to be required if there is no other feasible mitigation. This is particularly important for this large-scale development where construction reportedly could span close to 10 years.”

**Response:** The County does not concur with this statement. As previously stated and established, noise from project-related construction has been properly addressed. The commenter states, without apparent basis, that ambient noise levels on the Golden Door property are 40 dBA or less, “particularly away from the road”. This claim may or may not be valid, very far from the roadway (Deer Springs Road), but the nearest project-related construction would take place on or adjacent to the roadway. The ambient noise measurement (M3) conducted east of the Golden Door property at a distance of approximately 25 feet from the edge of Deer Springs Road was approximately 69 dBA  $L_{eq}$ , substantially higher than 40 dBA. Because construction noise, like roadway noise, diminishes with distance, construction noise would also be lower far from the road. Furthermore, the levels shown in Table 1 for activities taking place on the project site do not account for topographical shielding effects, which generally would result in substantially lower noise levels. Finally, blasting along Deer Springs Road would be confined to an area near the Town Center and, due to the fact that blasting would occur along Deer Springs Road and close to the Deer Springs Mobile Home Estates community, blasting levels would be restricted. Further, blasting events would be limited to one per day and the blast event itself sounds like a dull thud, not a large

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<sup>2</sup> Refer to Table 1 in LL-24.



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explosion. Refer to **Topical Response AQ-1 [Blasting Impacts]** and **Topical Response AQ-2 [Blasting Schedule]**.

**Claim 24:** “The study states mitigation for traffic noise is infeasible due to adverse community response but provides no assessment of potential benefits for this project, which is required by CEQA in order for the public to make informed decisions. Noise barriers are a common and effective mitigation for traffic noise and would likely benefit NSLUs (such as the Golden Door) along project impacted roadways such as Deer Springs Rd. There are a limited number of driveways on Deer Springs Road and periodic breaks in a noise barrier for driveways would not render these barriers ineffective. Any NSLUs that would receive limited or no benefit from installing noise barriers should be clearly identified in the study and mitigation and/or alternatives proposed. The remaining traffic noise mitigation such as reduced speed limits and other traffic calming measures may not be undesirable since they may also be considered for traffic congestion relief on already overcrowded roadways such as Deer Springs Road.”

**Response:** The County does not concur with this statement. The discussion of potential mitigation for noise-sensitive land uses along Deer Springs Road (all three of which are single-family residences on the north side of Deer Springs Road) determined to experience cumulatively considerable noise impacts under Deer Springs Road Option B with the proposed project is on pages 2.10-37 and 2.10-38. It is noted moreover that the Golden Door Property was assessed (in Tables 2.10-12 and 2.10-19) and found to not be significantly impacted by project-related traffic. Noise mitigation is therefore not required for this location.

**Claim 25:** “Except for impulsive types of activities (discussed below), the Newland study only recommends deferred analysis (for vibration) or cites “project design features” that would likely not mitigate construction noise since they are generally considered industry standard practice (such as properly maintained construction equipment with working mufflers). The Newland study also states these project design features have already been considered in the assessment and therefore cannot be proposed as mitigation. A proper study needs to first predict anticipated noise and vibration exposure during various construction phases, identify impacted areas and develop specific mitigation measures quantitatively shown to reduce impacts below threshold of significance. For some high-noise and vibration activities (such as pile driving, jackhammer, etc.), the only feasible mitigation may be use of alternative construction methods, and this should be confirmed with mock-up testing of such activities prior to EIR approval. The Newland study fails to employ the proper methodology. In addition, use of noise barriers to mitigate construction noise should be based on a project specific study used to evaluate feasibility and identify specific locations, heights and extents for such mitigation measures. This is essential since noise attenuation provided by a barrier varies greatly depending on barrier height and location of source, receiver and barrier and topographical parameters. A construction noise and vibration monitoring plan should be included as a mitigation measure to ensure regulatory noise limits continue to be met throughout construction and to provide a quantifiable record in the event of complaints. This

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measure should also establish protocols for mitigation if regulatory noise or vibration limits are exceeded such time restrictions, use of sound barriers and possibly others. The plan should include procedures to be followed when noise and vibration limits are exceeded. This is also recommended by Caltrans guidelines for construction vibration (*Transportation and Construction Vibration Guidance Manual*, September 2013).”

**Response:** The County does not concur with this statement. Assessment of noise during construction is provided on pages 2.10-15 through 2.10-23, and vibration during construction is addressed on pages 2.10-22 and 2.10-23. Project design features 33 through 38 would ensure that construction noise is less than significant by maintaining minimum distances between noise-sensitive land uses and noisy activities, the use of sound blankets or temporary sound barriers and other measures. Because construction-related vibration was determined to be a potentially significant impact, mitigation was provided. Mitigation Measure M-N-8 would require preparation of a vibration monitoring plan that would require data be sent to the County noise control officer. The officer would then take the steps necessary to ensure that future vibration levels do not exceed applicable limits, including suspending further construction activities that would result in excessive vibration levels until either alternative equipment or alternative construction procedures have been identified that would reduce vibration levels below County standards. With implementation of M-N-8, vibration impacts during construction would be less than significant.

**Claim 26:** “The Newland study states that blasting will be used on this project and would be the primary source of construction vibration but only proposes deferred analysis for mitigation. This is not consistent with CEQA, which requires such studies be part of the EIR process and used to develop mitigation measures for identified significant impacts. A project specific blasting study should be included in the EIR that identifies and includes all sensitive receivers in the project vicinity that may be impacted, including the Golden Door property. Given the proximity to existing residential uses, a pilot study of limited blasting should be undertaken to develop appropriate mitigation or determine if such activities should even be allowed, as it is conceivable that alternative construction methods may be warranted to control noise and vibration levels. The Newland study only requires blasting vibration to meet the county’s limit of 1 in/sec PPV *San Diego County Guidelines for Determining Significance, Noise, Section 4.2.C*). However, this criteria may not be stringent enough given the sensitive nature of the surrounding uses. Blasting noise and vibration should be assessed against the existing local ambient conditions since blasting noise would be out of character in this rural area. In the absence of a specific study used to establish appropriate limits above the existing ambient, we recommend limits of 50 dB (linear) for airborne noise and 0.02 in/sec PPV for vibration levels, based on the *Transportation and Construction Vibration Guidance Manual*, issued by Caltrans September 2013. Blasting noise and vibration monitoring should be included as discussed above for general construction activities. Where blasting would exceed noise and vibration levels discussed above, alternative demolition methods

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should be used. This could include manual methods (such as saw-cutting, expansive demolition (expansive mortar), electrical rock disintegration, and possibly others.”

**Response:** The County does not concur with this statement. The mitigation for blasting (as detailed on page 2.1-33, M-N-5) does not constitute deferred mitigation. M-N-5 specifies preparation of a blast drilling and monitoring plan prior to approval of the grading permit for any portion of the proposed project, at such time as the details needed to prepare such a plan are known. Potential blasting locations have been identified in EIR Figure 2.10-11. Refer to **Topical Response AQ-2 [Blasting Schedule]**.

**Claim 27:** “This project proposes a large mixed-use development in a primarily rural area, and over time the project may encourage further development in this area. Future development should be assessed against the current ambient conditions to avoid incrementally allowing higher and higher noise and levels at nearby NSLUs. This mitigation measure should be considered for the proposed Specific Plan for the development area.”

**Response:** The County does not concur with this statement and notes that the claim does not present any supporting evidence.