

KEVIN K. JOHNSON, APLC

KEVIN K. JOHNSON  
JEANNE L. MacKINNON  
HEIDI E. BROWN

A PROFESSIONAL LAW CORPORATION  
ATTORNEYS AT LAW  
600 WEST BROADWAY, SUITE 225  
SAN DIEGO, CALIFORNIA 92101

TELEPHONE (619) 696-6211  
FAX (619) 696-7516

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SENT VIA EMAIL

Dave Sibbets ([David.Sibbet@sdcounty.ca.gov](mailto:David.Sibbet@sdcounty.ca.gov))  
Beth Ehsan ([Beth.Ehsan@sdcounty.ca.gov](mailto:Beth.Ehsan@sdcounty.ca.gov))  
Maggie Loy ([Maggie.Loy@sdcounty.ca.gov](mailto:Maggie.Loy@sdcounty.ca.gov))  
Kristin Blackson ([Kristin.Blackson@sdcounty.ca.gov](mailto:Kristin.Blackson@sdcounty.ca.gov))  
Mark Wardlaw ([Mark.Wardlaw@sdcounty.ca.gov](mailto:Mark.Wardlaw@sdcounty.ca.gov))  
Doug Gibson ([Doug@SanElijo.org](mailto:Doug@SanElijo.org))

RE: **Comments Upon Draft Environmental Impact Report, Draft Habitat Loss Permit, General Plan Amendment and Valiano Specific Plan**

Dear County Planning and Development Services Staff:

This firm represents the San Elijo Lagoon Conservancy (“SELC”), a non-profit organization dedicated to the preservation and enhancement of the San Elijo Lagoon and its seventy-plus square miles of watershed. Large portions of the proposed Valiano development site drain directly to Escondido Creek which in turn drains through the San Elijo Lagoon into the Pacific Ocean.

Water quality conditions are monitored regularly by SELC at the Lagoon and at multiple sampling stations to the east, along Escondido Creek. In addition we carefully monitor all wildlife within the lagoon and work in cooperation with various government agencies and non-profits in looking after wildlife in the Escondido Creek watershed area. In addition to water quality programs, we have on-going major programs, funded by various agencies, dealing with invasive plant species, vector control and nuisance issues in the watershed.

We are currently working on a project to restore and expand tidal flows into and through the Lagoon and the expected volumes of water coming from the watershed are an important part of our modeling.

Q-1 This comment describes the San Elijo Lagoon Conservancy and related activities at the lagoon and associated watershed, and correctly notes that “Large portions of the proposed Valiano development site drain directly to Escondido Creek, which in turn drains through the San Elijo Lagoon into the Pacific Ocean” (with these drainage conditions also described in Section 3.1.3, *Hydrology/Water Quality*, of the EIR).

Q-1

Q-1 cont. June 15, 2015  
 In reviewing portions of the DEIR, SELC has a number of concerns and believes the document is fundamentally incomplete and should be revised, expanded and recirculated for further public review.

**Water Quality History**

Q-2a The DEIR fails to mention that Escondido Creek has historically been an on-going source of contaminants which reach the lagoon and in many cases the Pacific Ocean. The City of Escondido itself has been responsible for sewage leaks and unintentional releases that have reached the lagoon, via Escondido Creek, many times over the last four decades. Prior to modern water quality standards, raw sewage was dumped regularly by the City into the Creek.

Q-2b There has accordingly been an on-going concern by SELC about the capacity and integrity of the Escondido storm water and run off systems. The proposed up-zoning of the lands in question, raise concerns about both local and regional capacity to handle sewage and storm water run-off. With an El Nino in the forecast for the region, it is particularly important that a detailed and comprehensive assessment of capacity issues be part of the environmental documents.

**General Plan Amendments**

Q-3 As a general proposition, SELC does not object to development that is consistent with existing general plans and consistent with key public safety needs. In this case, the proposed development not only increases density in key areas, but the environmental documents do a poor job of analyzing the growth inducing impacts of changed densities plus the growth inducement associated with bringing new infrastructure to the area.

**Unresolved Contamination Issues**

Q-4 Additionally, the DEIR fails to fully identify multiple contamination issues that the lands in question present. Where contaminants, like diesel fuel, fertilizers and pesticides are reasonably thought to be present, there needs to be pre-approval testing to determine or rule out their presence. Deferring an assessment of what the existing conditions are and thereby deferring evaluation of related avoidance and mitigation options is in direct violation of the California Environmental Quality Act.

Q-5 From a water quality stand point, SELC is concerned about what contaminants will be delivered into the watershed by the grading and blasting that will be done to build the project. In this regard, we note that the water table in the area is typically between 6 and 11 feet but there has not been an assessment of the ground water quality. It is likely that the construction work and the on-going occupancy of the new homes will have some significant degree of impacts to ground water.

Q-6 We note also that the recent fires in the area have resulted in significant losses of vegetation and increased risks of serious erosion and contaminated run-off. Excessive nutrient presence in Escondido Creek and in the Lagoon are continuing serious problems that should not be exacerbated in any fashion.

Q-2a The comment indicates that information regarding contamination of Escondido Creek was missing from the EIR and that the Project may cause new issues related to sewage and stormwater runoff. Section 3.1.3 of the EIR includes an extensive discussion of existing and historic water quality conditions in Escondido Creek, San Elijo Lagoon and associated watershed areas. These conditions are represented by monitoring data collected pursuant to requirements under the federal Clean Water Act/ National Pollutant Discharge Elimination System (CWA/NPDES) and other sources, with a summary of the related EIR text provided below:

*Wet weather monitoring has been conducted seasonally since 2001 at the Escondido Creek Mass Loading Station (MLS, with no monitoring conducted in 2011/2012 or 2012/2013), located approximately 6.7 miles southwest of the Project site at the Escondido Creek/El Camino Del Norte bridge. This monitoring includes numerous physical, chemical and biological parameters, with resulting data for 2010/2011 indicating the following trends: (1) applicable water quality objectives were exceeded at a high frequency for TDS, fecal coliform bacteria, and bioassessment scores (as outlined below); and (2) water quality objectives were exceeded at a low frequency for general chemical parameters (e.g., pH and chloride), toxicity and nutrients. Bioassessment testing involves evaluation of the taxonomic richness and diversity of benthic macroinvertebrate (BMI) communities based on the Index of Biotic Integrity (IBI), which provides a quantified score reflecting biological conditions and associated water quality.*

*In addition to the above efforts, wet weather monitoring was conducted during the 2007/2008 season at the Escondido Creek Temporary Watershed Assessment Station (TWAS), located at the Escondido Creek/Country Club Drive bridge (approximately 0.6 mile south of the Project site). The associated trends at the Escondido Creek TWAS were similar to those noted above for TDS and bacteria in 2010/2011 at the Escondido Creek MLS, although the frequency levels were somewhat lower. Monitoring at the Escondido Creek TWAS in 2007/2008 also identified very low IBI scores, similar to those noted for the Escondido Creek MLS in 2010/2011.*

*Jurisdictional dry weather sampling was conducted most recently in 2011 at a number of locations both up- and downstream of the Project site. These efforts documented that water quality objectives were most commonly exceeded for nitrate, turbidity and conductivity; and less commonly for pollutants including pH and orthophosphate.*

Q-2a cont.	<p>Based on the data sources noted above and other applicable information, the State Water Resources Control Board and Regional Water Quality Control Boards produce bi-annual qualitative assessments of statewide and regional water quality conditions. These assessments are focused on CWA Section 303(d) impaired water listings and scheduling for assignment of total maximum daily load (TMDL) requirements. The most current (2010) approved 303(d) list identifies the following impaired waters along downstream portions of Escondido Creek and San Elijo Lagoon:</p> <ul style="list-style-type: none"><li>• Escondido Creek (26 miles) is listed for Dichlorodiphenyltrichloroethane (DDT), enterococcus and fecal coliform bacteria, manganese, phosphate, selenium, sulfates, TDS, toxicity, and total nitrogen (as N). The expected TMDL completion date for all of the listed pollutants is 2019.</li><li>• San Elijo Lagoon (566 acres) is listed for eutrophic conditions, indicator bacteria, and sedimentation/siltation. The expected TMDL completion dates are 2015 for indicator bacteria and 2019 for other listed pollutants.</li></ul> <p>From the above discussion, the EIR clearly documents that Escondido Creek and San Elijo Lagoon exhibit ongoing water quality impairment issues associated with bacterial sources and other pollutants. These impairments are reflected in the noted 303(d) listings and other water quality monitoring sources, with associated regulatory standards specifically intended to address these issues through mandatory requirements for applicable development projects (including the Proposed Project). As described in Section 3.1.3 of the EIR, the Proposed Project design includes extensive related drainage and water quality design measures, and Project implementation would conform with all associated regulatory standards. Specifically, the EIR provides a detailed discussion of the Project's regulatory conformance, including: (1) measures to address construction-related erosion/sedimentation (Table 3.1.3-4), use of hazardous materials such as vehicle fuels/lubricants (Table 3.1.3-5), and demolition-related pollutants (Table 3.1.3-6); and (2) long-term low impact development (LID)/site design, source control, and LID/treatment control best management practices (BMPs), as well as related monitoring and maintenance requirements (including funding, schedules and responsibilities).</p>
Q-2b	<p>The Project's Major Stormwater Management Plan (Appendix N to the EIR) identifies all the receiving waters of the Project and the known impairments to those receiving waters. As the comment points out, water quality in Escondido Creek and San Elijo Lagoon is impaired for multiple pollutants resulting from human activity in the watershed. To prevent a contribution by the Project to these existing impairments, the Project has been designed in accordance with the County's current Standard Urban Storm Water Mitigation Plan (SUSMP). As described in Appendix N of the EIR, the Project would implement bioretention</p>

<p>Q-2b cont.</p>	<p>facilities to remove pollutants from storm water runoff prior to discharge to Escondido Creek.</p> <p>The comment also raises a concern about the capacity of the sewage and storm water systems within the watershed. The Project would construct a sewer system with an on-site Wastewater Treatment/Water Reclamation Facility as detailed in Chapter 1.0 as well as Appendix Q of the EIR. The sewer system and WTWRF have been sized per current industry practices including provision of adequate wet weather storage, and would be fully permitted by the Regional Water Quality Control Board (RWQCB). The WTWRF would not discharge to Escondido Creek; rather the reclaimed water would be used for landscape irrigation within the Project.</p> <p>The Project’s storm drain system has been designed per County standards so that post-Project discharges would not exceed pre-Project levels. Detention basins have been provided within the Project to match existing discharges for both the 100-year peak storm event and the range of storm events which are significant for hydromodification. These analyses are found in subsection 3.1.3.2 and Appendix M of the EIR.</p> <p>Based on the Project’s design as described above, the Project would not contribute to flooding or the discharge of pollutants to Escondido Creek or San Elijo Lagoon.</p>
<p>Q-3</p>	<p>The EIR analyses growth inducement and concludes the Project is not growth-inducing as summarized here:</p> <ul style="list-style-type: none"> <li>• As described in Section 1.8.1, the Proposed Project would be generally consistent with project growth in both the County General Plan and SANDAG 2050 RTP with adoption of the GPA. The increase in density proposed would help the Project be growth-accommodating, and not growth-inducing, as hundreds of thousands of new housing units are forecasted to be needed in the region in the near future. The Project would not be expected to be growth-inducing by adding infrastructure to the area. As described in Subchapter 1.8, the Project would not be a major employment center that would attract new residents, and would instead complement existing employment centers. The roadway improvements proposed by the Project would generally serve Project residents and would not create significant roadway infrastructure to induce growth. To increase fire flow capacity and enhance regional and area fire safety, the Project would design and construct the R7 Reservoir for the Rincon MWD. This reservoir has been planned for in the 2014 Rincon MWD Water Master Plan to serve existing growth and growth forecasted in the General Plan. Therefore, the R7 Reservoir would not provide opportunities for additional growth beyond that forecasted in the General Plan and would not be considered growth inducing. With regard to sewer services, residences and businesses in the Proposed Project vicinity currently use septic systems for treatment of wastewater. The Project</li> </ul>

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Q-3 cont.	includes provision of a system of private sewer mains and a private on-site WTWRF. The on-site WTWRF would be a small treatment facility proposed to accommodate only the wastewater generated by the Project and would not include the processing equipment or capacity to treat effluent from other areas or future growth. As such, the WTWRF is not considered to be growth inducing.
Q-4	<p>The County appreciates the comments. However, the following information regarding the potential occurrence and assessment of the noted contaminants within the Project site is summarized from applicable portions of the EIR:</p> <ul style="list-style-type: none"><li>• As described in Subchapter 2.9 of the EIR, Phase I and II Environmental Site Assessments (ESAs; Appendix I of the EIR) were conducted for the Proposed Project and identified the following potential sources of diesel soil contamination within the Project site: (1) an approximately 500-gallon above ground storage tank (AST) labeled "Diesel "in the central portion of the site, near the west end of Eden Valley Lane; and (2) a 200 gallon steel AST containing dyed diesel fuel in the southern portion of the site, approximately 1,500 feet southwest of the Mt. Whitney Road/Country Club Drive intersection. The associated investigations conducted as part of the Project ESAs noted that "minimal soil staining was observed" adjacent to the 200-gallon AST (with this area designated as a de minimus condition), and no staining (or other signs of discharge, such as odors or pooled liquid) was observed in association with the 500-gallon AST. Based on these conditions and subsequent (Phase II) testing at the 500-gallon AST site (which identified an historical release), the ESAs (and Subchapter 2.9 of the EIR) require standard mitigation measures including: (1) monitoring by a Registered Environmental Assessor (REA) for the potential presence of hydrocarbon contaminated soils at the 200-gallon AST; and (2) assessment of soils to identify the vertical and lateral limits of contaminated soils associated with the 500-gallon AST. Both of these measures also include standard requirements to properly test, manage, and/or dispose of any observed contaminated soils at a licensed facility in accordance with San Diego County Department of Environmental Health requirements. Because any diesel contamination at the noted ASTs would be confined to adjacent soils and limited in extent, the noted monitoring, assessment and (if applicable) management/disposal requirements are standard in nature as noted, and would result in all applicable diesel-contaminated soils being removed from the site for proper disposal as described. As a result, no significant potential water quality (or other) issues related to diesel-contaminated soils would be associated with implementation of the Proposed Project.</li><li>• The Project ESAs identified one occurrence of on-site fertilizer, consisting of an open box of fertilizer within the on-site avocado grove, measuring "...approximately 2 feet by 1.5 feet..." Based on</li></ul>

<p>Q-4</p>	<p>the limited number and size of observed on-site fertilizer occurrences as noted, the associated ESA concluded that this represents a de minimus condition, and no associated recognized environmental concerns (RECs) were identified. The ESA also notes that “This material should be removed from the Site and disposed of properly.” Because no REC was identified in association with the described fertilizer occurrence, no associated mitigation was required, although it should be noted that the removal and proper disposal of this material would occur as part of the standard grading operations described in Subchapter 1.2 of the EIR. As a result, no significant potential water quality (or other) issues related to fertilizer-contaminated soils would be associated with implementation of the Proposed Project.</p> <ul style="list-style-type: none"> <li>• The Project ESAs included investigations related to the past use and potential residual occurrence of agricultural-related pesticides on the Project site. The results of these efforts indicated the following results: (1) records search results received from the County of San Diego Department of Agriculture, Weights and Measures identified historical pesticide use in association with agricultural activities in the western portion of the site; (2) site investigation, including field reconnaissance, record search and interviews with site owners/operators, confirmed the previous on-site use of agricultural-related pesticides; and (3) based on the noted results in items 1 and 2 (and related recommendations in the Project Phase I analyses), Phase II testing was conducted in associated portions of the site for organochlorine pesticides (OCPs) and arsenic, with the resulting conclusions indicating that “Arsenic and OCPs were not detected at or above the laboratory reporting limits...” in applicable areas, “... it does not appear that OCPs...have impacted soil at the Site...” and “No additional assessment is warranted at this time.”</li> </ul> <p>It should also be noted that EIR Section 3.1.3 of the EIR identifies a number of Project Design Features intended to limit and/or control the use of chemical pesticides, herbicides and fertilizers in association with Project implementation, in conformance with applicable regulatory standards (e.g., the CWA/National Pollutant Discharge Elimination System). Specifically, these include measures related to landscaping and Integrated Pest Management, with additional information provided in Response K-44.</p> <p>Based on the above information, no significant potential water quality (or other) issues related to chemical pesticides would be associated with implementation of the Proposed Project.</p>
<p>Q-5</p>	<p>The County appreciates the comment. Section 3.1.3 of the EIR outlines applicable groundwater quality data for the site and vicinity, and concludes that “...from... local aquifer and well data..., as well the use of local groundwater for on-site agricultural irrigation, groundwater quality in the Project site and immediate vicinity is anticipated to be generally moderate to good.” This comment is correct in noting that “...</p>

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Q-5  
cont. the water table in the area is typically between 6 and 11 feet...” (as stated in Section 3.1.3 of the EIR), however, as stated in Subsection 3.1.3.2 of the EIR, the construction work and the on-going occupancy of the new homes will not result in significant impacts to groundwater:

*Potential Project-related water quality impacts are associated with both short-term construction activities and long-term operation and maintenance. Project-related activities that could potentially result in direct effects to groundwater quality are limited to the percolation of Project related surface runoff and associated pollutants (e.g., in pervious portions of the proposed storm drain system). Accordingly, the following assessment of potential water quality impacts is applicable to both surface and groundwater resources.*

The referenced analysis provides a detailed assessment of potential short-(construction) and long-term (operational) water quality impacts from the Proposed Project, and concludes that all potential impacts to surface water (and thus groundwater) quality from Project implementation: “...would be less than significant prior to mitigation, based on the implementation of identified proposed design measures and conformance with applicable regulatory requirements.” (See Response Q-2 for additional information on Proposed Project conformance measures.)

Q-6 The comment notes increased risk of erosion resulting from recent fires. In existing conditions, no erosion controls or storm water treatment measures are in place nor required to prevent erosion and discharge of pollutants from recently burned areas. Potential erosion of burned areas would be reduced by construction of the Project, since the Project would comply with strict erosion control requirements during construction through the implementation of a Storm Water Pollution Prevention Plan. Post-construction, as mentioned in Response Q-2, the Project would implement bioretention facilities to remove pollutants from storm water prior to discharge from the Project site. Additionally, graded slopes would be stabilized by irrigated landscaping, which would be resistant to damage during a wildfire.

June 15, 2015

**Drought and Water Supplies to Prevent and Suppress Wildfire Occurrences**

Q-7 Given the direction the State is headed in with water supply restrictions, the DEIR should be redrafted to comprehensively address the practical consequences of the Governor’s emergency drought declaration. This will relate to both water quality and to available water quantities because there may be insufficient water to fight fires in the area. In addition, there needs to be guaranteed water (and money to pay for it) available for maintaining fuel buffer zones, etc.

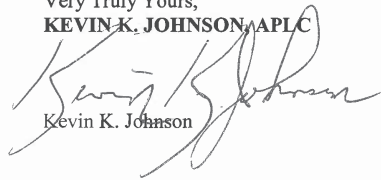
Q-8 SELC opposes any development which potentially creates greater risks of wildfire occurrence and greater risks of wildfire events becoming more damaging and durable in the watershed. The burning of large habitat areas often creates major run-off and erosion issues which in turn affect water quality and flow.

Q-9 We note also that the FPP’s treatment of evacuation issues is limited at best. One key concern in this area is whether existing residents and farm animals can get out of the area and not stop responders from coming in and fighting any on-coming fire. Such interference, which is very predictable without detailed contingency planning, can result in fires burning longer and destroying more habitat/watershed.

Q-10 In this regard, the DEIR needs to fully address the fact that “first responders” to a fire event will not likely be available if there are other fires in the region. In that circumstance, who is going to, for example, direct an evacuation effort? In order to look meaningfully as this problem, the DEIR should specifically exam a reasonable range of places where a fire can start, how quickly it will arrive and how long, realistically, it will take to evacuate.

Thank you for the opportunity to comment on the DEIR.

Very Truly Yours,  
**KEVIN K. JOHNSON, APLC**



Kevin K. Johnson

Q-7 The comment concerns current water restrictions and the availability of water for fire-fighting. See Responses C-2, C-3, C-5 and K-99 regarding the Project’s consistency with the Rincon MWD Water Master Plan, which specifically includes increased water supply for fire-fighting.

Q-8 The provisions in the Project’s FPP (Appendix L) would increase fire safety and reduce the spread of wildfires within Eden Valley by providing fuel modification zones which would serve as fire breaks. Regarding run-off and erosion control issues after a wildfire, please refer to Response Q 6.

Q-9 The comment concerns fire evacuation. See Topical Response: Fire/ Evacuations.

Q-10 The comment concerns fire evacuation. See Topical Response: Fire/ Evacuations.