CENTER FOR BIOLOGICAL DIVERSITY

November 4, 2005

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by e-mail (with attachments)
(planning@co.kern.ca.us)
and fax (without attachments)
(661 862-8601)

Re: NOP/Initial Study for Tejon Mountain Village Project

Dear Ms. Casdorph:

Please accept the following comments on the Notice of Preparation ("NOP")/Initial Study for the Tejon Mountain Village Project (the "project") on behalf of the Center for Biological Diversity (the "Center"). The Center is a non-profit environmental organization dedicated to the protection of native species and their habitats in the Western Hemisphere through science, policy, and environmental law. The Center has over 15,000 members throughout California and the western United States, including within the immediate vicinity of the project.

The project would create within a portion of the Tejon Ranch a sprawling resort community of 3,450 residences, up to 160,000 square feet of commercial development, "various hotel, spa, and resort facilities … recreational and educational facilities, including a nature center, farmers market, day camps, equestrian facilities, sporting clays course, parks, play lawns, trails, swimming, boating, docks on the lake, up to four 18-hole golf courses, and riding and hiking trails." The Initial Study states that the project's developed area would occupy 5,000 acres of the approximately 28,253-acre site, with approximately 23,000 acres remaining as a "nature preserve." This description is misleading, as the Initial Study maps show the project sprawling throughout the entire site. The undeveloped area is incidental open space, and should not be considered to be a nature or preserve or to function in any way as mitigation for the project's many significant impacts.

The Tejon Ranch, which runs from the foothills of the Sierra Nevada at the southern end of the San Joaquin Valley, over the Tehachapi Mountains, and into the Antelope Valley, is a unique and irreplaceable piece of California's natural heritage. The 270,000 acres of habitat is a hotspot of biological diversity that lies at the confluence of three major biogeographic regions. It is a haven for rare and endemic species, ancient oak trees, endangered California condors, rare native vegetation communities, and intact watersheds and streams. At least nine plant communities have been identified in this region, as well as hundreds of plant series (some unidentified), including Pleistocene relicts such as Great Basin Sagebrush and Blackbrush scrub.

The Tejon Ranch is also vital corridor connecting the southern Sierra to the Transverse Ranges and beyond. The Tejon Ranch is surrounded by other public and private protected land, including the Los Padres National Forest and Wind Wolves Preserve to the southwest, Bitterroot National Wildlife Refuge and Carrizo Plain to the west, and the Sequoia National Forest and Bureau of Land Management Lands to the northeast.

Given the exceptional ecological significance of the project site, the proposed project presents intractable environmental difficulties that, in the Center's view, cannot be remedied in the environmental review process. In particular, the project would occupy habitat that is considered essential for the survival and recovery of the California condor, and would disrupt an exceptionally important wildlife movement corridor linking the Transverse Ranges of coastal California with the southern Sierras. While it is appropriate that Kern County prepare an EIR for the project, mere analysis will not make these conflicts go away. Nonetheless, the Center offers these comments regarding the scope of issues that should be addressed in the EIR.

Biological Resources

California Condor

Tejon Ranch has long been recognized as critically important to the survival and conservation of the California condor, a federally-listed endangered species and a state fully protected species. In fact, biologists with the U.S. Fish and Wildlife Service (FWS), California Department of Fish and Game (DFG), and the Condor Recovery Team are on the record in several historical documents stating that success or failure of conservation efforts on behalf of the condor might depend upon preservation of Tejon's condor habitat. In the early 1970's, FWS began a process to evaluate and consider acquisition of Tejon lands known to be heavily used by condors. This area included much of the current project proposal, including Grapevine Peak, Geghus Ridge, Tunis Ridge, and Beartrap Canyon. Although the acquisition effort was subsequently dropped, FWS indicated that the acquisition would be reconsidered if Tejon's ranch operations were to change at a later date. In 1976, in recognition of the importance of Tejon lands, FWS designated a large area of it as critical habitat for the condor. Designated critical habitat comprises about 75% of the project area. Emphasizing the exceptional importance FWS attached to the project site for Condor conservation and recovery, the final rule designating critical habitat described the Tejon Ranch as:

> very important because it contains the only significant feeding habitat remaining in close proximity to the Sespe-Piru Condor nesting area. In most cases, Condor feeding habitat is not so restricted as nesting and roosting sites, and only certain portions of the areas described [in the critical habitat designation] are needed at any one time. Because, however, the location of food is directly related to both Condor distribution and reproductive success, substantial areas of open range, with adequate food, and limited development and disturbance, would have to be preserved in each delineated area in order to maintain the species."

See Final Critical Habitat Designation, 41 Fed. Reg. 41914 (September 24, 1976) attached as Exhibit 1.

Tejon Ranch has historically been used throughout the year by breeding and non-breeding condors for foraging and roosting. Current use of Tejon Ranch by reintroduced captive bred condors has been much less frequent than use by the historic wild population, largely due to an intensive supplemental feeding program intended to minimize mortality from lead poisoning. However, the ultimate goal of the Condor Recovery Program is to restore condors to the entirety of their historic range. See Final Recovery Plan for the California Condor, attached as Exhibit 2, at pp. 24-26. FWS expects that as condor recovery proceeds over time, reintroduced condors will utilize their habitat in much the same way as did the historic population. Three condors from the historic wild population have been released back to the wild in order to facilitate that expectation.

If the project is approved and constructed as proposed, habitat that is critical to the condor's survival, indeed, legally designated critical habitat will be developed to an unacceptable level. The project thus has the potential to jeopardize the condor reintroduction program and the very survival of the species in the wild.

There is a considerable public investment in, and support for, the condor conservation program. To date, approximately $40 million dollars of public money has been spent on conservation efforts on behalf of the California condor. The current annual FWS budget for condor recovery efforts stands at about $1 million. A 2004 poll conducted by Decision Research found that 86% of voters nationwide support the Endangered Species Act (ESA), and fully 95% of voters agree that one of the most effective ways to protect species is to protect their habitat. Given these statistics that represent an overwhelming public support for the conservation of endangered species, and the enormous investment the American public has made in the conservation of condors, the economic objectives of the applicant must be considered secondary in any comparison of alternatives in the EIR. Kern County cannot possible justify allowing the destruction of habitat that has been widely recognized as critical to the survival of the endangered California condor in order to promote the applicant's private financial objectives and the project's limited public benefits.

The applicant's record with respect to condor conservation has been mixed and, unfortunately, appears to be declining. Tejon Ranch Company has a significant history of support for the conservation of California condors dating back to the 1960's. Through the 1980's, FWS and National Audubon Society biologists were allowed access to Tejon to carry out field research and management activities. Tejon Ranch Company's recognition of the importance of Tejon to condors and their early willingness to support condor conservation is documented in the 1981 Draft EIR for the El Rancho Tejon project. In this document, Tejon Ranch Company concedes that "it is conceivable that any development, any change in human activity, or any decline in cow-calf livestock operations or game management programs could impact the condor." This draft EIR also stated (in regard to the El Rancho Tejon project) that, "[c]onstruction of all or any portion of these developments may, depending on precise location, ultimate design, and actual size, have a significant impact on the condor". The Mitigation Measures proposed in the 1981

Draft EIR, made broad statements about minimizing impacts to condors and incorporating recommendations from the condor recovery team for those developments within the area identified as important condor habitat.

Tejon Ranch Company's rhetoric in its promotion of the current project attempts to paint a picture of concern and benevolence for the condor. However, when viewed against the backdrop of the applicant's actions since 1994, this rhetoric is shown to be hollow. Tejon Ranch Company's real support for condor conservation ended following the sale of Times Mirror Company's controlling block of stock, and the subsequent re-alignment of the company from a traditional agricultural operation to an emphasis on real estate development. In 1994, FWS was denied renewed regular access to Tejon Ranch for monitoring reintroduced condors. In 1996, Tejon Ranch Company sued FWS in an attempt to require the agency to designate reintroduced condors in California as "Experimental Non-Essential" under section 10(j) of the ESA. The underlying intent of this lawsuit was to eliminate the legal protections afforded to an endangered species in order to remove the condor as an obstacle to approval of their planned development proposals. This litigation was put into abeyance in 1999 based on FWS's agreement to provide Tejon Ranch Company with a Habitat Conservation Plan (HCP) and an Incidental Take Permit (ITP) for condors. The terms of this agreement clear the way for Tejon Ranch Company to develop the current project without fear of objections by FWS based on impacts to the condor, and for future development projects. Furthermore, the agreement reserves Tejon Ranch Company's right to resume the litigation if FWS does not provide an ITP that is "acceptable to Tejon." There is no precedent for an ITP for condors.

Indeed, under California law, the condor is a fully protected bird species that may not be "taken" at any time. Fish and Game Code § 3511(b)(5). Except for necessary scientific research, which expressly does not include "any actions taken as part of specified mitigation for a project," no provision of the Fish and Game Code "or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected bird, and no permits or licenses heretofore issued shall have any force or effect for that purpose." Fish and Game Code § 3511(a). Accordingly, the EIR may not rely on the any past, present, or future permits authorizing take as mitigation for the project's potential impacts on condors.

In 2003, AC8, a member of the historic wild population that had been re-released to the wild was shot and killed while perched in a traditionally used roost tree at Tejon Ranch. The person who shot AC8 was a hunter, a paying customer of Tejon Ranch Company's commercial hunting program. He claimed he thought it was a turkey vulture, even though Tejon Ranch Company had committed to educating its hunting customers on the identification of condors and to the fact that condors might be found there. It is worth noting that turkey vultures are protected by the Migratory Bird Treaty Act, and it is illegal to shoot them. The applicant, who has actively sought to remove the protections of the ESA from the reintroduced condors, has allowed supervised hunting activities that resulted in the fatal shooting of a condor, and has refused to require non-lead bullets and shot on Tejon Ranch, cannot be relied on to implement project measures designed to protect condors.

The EIR must consider the latest data showing condor sightings and occurrences in the project area. Attached are two maps prepared using information from the California Condor Database Project, developed and administered by the University of California – Santa Barbara Department of Geography. Exhibit 3 is a regional map showing historic condor sightings, sightings in the UCSB database, and telemetry observations for two individual condors in relation to the boundaries of Tejon Ranch and condor critical habitat. Exhibit 4 is a more detailed map of the project site. As these maps indicate, condors have been sighted and tracked throughout the project site, particularly in the upper end of Bear Trap Canyon.

The EIR must consider the project's consistency with the final Recovery Plan for the condor. In particular, the Recovery Plan provides that a basic recovery objective is the provision of habitat for condor recovery in the wild. (Exhibit 1, p. 27.) "[W]henever possible or appropriate, a priority for this habitat should include management for condor recovery." In addition, the Recovery Plan notes that Tejon Ranch is an important condor feeding area throughout the year, "but especially in the fall." (Exhibit 1, p. 29.)

Tejon Ranch Company has claimed that the project would minimize impacts to condors by not building on the tops of ridgelines. Yet maps in the Initial Study clearly show homes sited on or near ridgetops. A house whose roofline is a few feet below the elevation of a ridgetop is functionally being built on a ridgetop. Minor design features for such structures will not make any difference with regards to their resulting impacts to the condor – if a condor chooses to land on a home, it will. In the Pine Mountain Club, condors have landed on homes in various settings (on ridgetops, below ridgetops, and on houses with various roof and deck designs). All such potential interactions with condors must be eliminated in the current project.

Condor ingestion of "microtrash" has been a documented source of condor illness and mortality. According to staff from the U.S. Fish and Wildlife Service's Hopper Mountain National Wildlife Refuge near Fillmore, microtrash has become a preferred foraging food for condors. Adult condors have been observed feeding microtrash to their young, sometimes with fatal results. By introducing a much larger human population and influence to an area currently used for foraging by condors, the project will significantly increase the availability of microtrash resulting in increased take and death of condors. Any potential take of condors must be considered a significant impact that must be avoided or fully mitigated. As discussed above, mitigation may not rely on a permitting process because take of condors is prohibited by state law.

Condor death and illness has also been associated with ingestion of lead shot in scavanged carcasses. The applicant has refused to require hunters participating in their hunting program to use non-toxic alternatives to lead bullets. Although it is not clear from the NOP, the project will facilitate increased access to Tejon Ranch for hunting, thus increasing the potential that condors will be killed or injured by ingestion of lead shot, or directly as a result of poaching or hunter error. At the same time, development of the project area will reduce condor foraging opportunities that currently exist on Tejon Ranch due to the presence of game animals. Any potential take of condors associated with hunting or with loss of foraging habitat must be considered a significant impact that must be avoided or fully mitigated. As discussed above,

mitigation may not rely on a permitting process because take of condors is prohibited by state law.

The project will create thousands of homes in habitat that is critical to the survival of the California condor, many of them effectively at the tops of ridges. Grazing land and hence foraging and feeding opportunities for condors will be diminished. Human activity in lands legally designated as critical habitat will be increased, and an area that provides not only essential foraging and roosting habitat for condors, but serves as a crucial movement corridor for them between the Coast Ranges and the Sierra Nevada will be developed. Increased human activity will inevitably result in more harmful human/condor interactions, more microtrash, more lead bullets and shot, more poaching, and more accidental condor killings. This critically endangered species, in which the American public has invested enormous sums of money and good will, is not now in a self-sustaining status. This project has the potential to make the difference between the success and failure of the condor reintroduction program, and thus threatens the recovery and very survival of the species. In the Center's view, there are no conceivable design or mitigation measures that would wholly avoid the project's impacts to condors. The EIR, however, must evaluate alternatives that would reduce the project's condor impacts. In particular, Grapevine Peak, Tunis Ridge, Geghus Ridge and Beartrap Canyon should be removed from the project and protected and managed in perpetuity for condor conservation.

Other Listed Species

Where "take" of a species listed under the federal or California Endangered Species Act is anticipated, the EIR must document and quantify past and reasonably foreseeable future take authorizations for that species issued by the FWS and DFG in order to evaluate the project's direct and cumulative impact on the species. The County might consider requesting that FWS and DFG provide a database of take authorizations to assist in the County's analysis.

As with the condor, the EIR must consider the project's impacts on the recovery of other listed endangered and threatened species that may occur on the site. Any potential impairment of species recovery associated with the project must be considered a potentially significant impact.

Rare Plant Communities

According to the State of California (CNDDB 2005), a suite of rare plant communities are also known from the project area. We request that current, agency-accepted plant community classifications be used to describe all of the rare and common plant communities.

Rare plant communities currently identified to occur in the Mountain Village Project Area often in the more mesic areas of the project site:

- Canyon Live Oak Ravine Forest,
- Southern Coast Live Oak Riparian Forest
- Southern Cottonwood Willow Riparian Forest,
- Southern Mixed Riparian Forest

- Southern Riparian Forest
- Southern Riparian Scrub,
- Southern Sycamore Alder Riparian Woodland
- Southern Willow Scrub,
- Valley Needlegrass Grassland
- Valley Oak Woodland
- Wildflower Fields

Many of these rare plant communities directly depend on mesic sites and drainages. In southern California, these communities are regionally rare due to our arid climate. That fact coupled with the removal of these regionally rare communities has further endangered many of these communities or significantly compromised their ecological functioning. Fifteen year ago, Bowler (1989) documented that over 98% of the wetlands in southern California have been extirpated. Undoubtedly more have disappeared in the last fifteen years, but more current studies are not available. The Center requests that the project's direct and cumulative impacts (including impacts associated with other past, current, and planned projects) on these native plant communities be thoroughly documented and analyzed in the document.

Oak Woodlands

The Initial Study indicates that the project is located in an area containing oak woodlands, oak savannah, and oak chaparral. In fact, the site contains some of the most extensive and significant examples of these habitat types remaining in the state. The EIR must provide a thorough disclosure of the project's impacts on these habitats, including an evaluation of the size and functional value of any and all trees that are proposed for removal, as well as the cumulative impact associated with oak habitat destruction throughout the region. The EIR must also include a candid evaluation of the long-term effectiveness of oak mitigation efforts. The potential loss of so many oaks, including many mature trees, cannot be effectively mitigated by relocation or replacement. The EIR must evaluate alternatives, including project redesign, that avoid or minimize oak habitat loss and tree removal to the maximum extent feasible.

Locally Rare Species

The Center requests that the EIR evaluate the impact of the proposed permitted activities on *locally rare species* (not merely federal- and state-listed threatened and endangered species). The preservation of regional and local scales of genetic diversity is very important to maintaining species. Therefore, we request that all species found at the edge of their ranges or that occur as disjunct locations be evaluated for impacts by the proposed permitted activities. While a thorough list is not currently available for the project area, the Vascular Flora of the Liebre Mountains, Western Transverse Ranges, California (Boyd 1999) provides some of the potential species in this category.

Biological Surveys and Mapping

The Center requests that thorough, seasonal surveys be performed for sensitive plant species and vegetation communities, and animal species under the direction and supervision of the County and resource agencies. Full disclosure of survey results to the public and other agencies without limitations imposed by the applicant must be implemented to assure full CEQA compliance. Confidentiality agreements should not be allowed for the surveys in support of the proposed project. Surveys for the plants and plant communities should follow California Native Plant Society (CNPS) and California Department of Fish and Game (CDFG) floristic survey guidelines (see Exhibits 5 and 6) and should be documented as recommended by CNPS (Exhibit 7) and California Botanical Society policy guidelines. A full floral inventory of all species encountered needs to be documented and included in the EIR. Surveys for animals should include an evaluation of the California Wildlife Habitat Relationship System's (CWHR) Habitat Classification Scheme. All rare species (plants or animals) need to be documented with a California Natural Diversity Data Base form and submitted to the California Department of Fish and Game (Exhibit 8) as per the State's instructions (Exhibits 9 and 10).

The Center requests that the vegetation maps be at a large enough scale to be useful for evaluating the impacts. Vegetation/wetland habitat mapping should be at such a scale to provide an accurate accounting of wetland and adjacent habitat types that will be directly or indirectly affected by the proposed activities. A half-acre minimum mapping unit size is recommended, such as has been used for the Matilija Dam Removal project along the Ventura River. Habitat classification should follow both CNPS' *Manual of California Vegetation* and the modified version of Cowardin et al. (1979) developed by Ferren et al. (1996).

One of the issues with the plants and animals in the project area is the depauperate collection record. Few contemporary records are available. The project area is of great ecological interest because it occurs at the intersection of three biogeographic regions of the California Floristic Province. The recognized Geographic Regions include the Mojave Desert, the Tehachapi Mountains and the Western Transverse Ranges (Hickman 1993).

Impact Analysis

The EIR must evaluate all direct, indirect, and cumulative impacts to sensitive habitats, including impacts associated with the establishment of fuel modification zones, unpermitted recreational activities, the introduction of non-native plants, the introduction of pets, lighting, noise, and the loss and disruption of essential habitat due to edge effects. The best available data on edge effects for southern California habitats document the collapse of native ant population due the invasion of argentine ants up to 200 m (650 ft) from irrigated areas (Suarez et al. 1998), and predation by house cats which decimate small vertebrate populations (Churcher and Lawton 1987, Hall et al. 2000) within 100 to 300 meters (radius of 32 ha home range reported by Hall et al. 2000).

The EIR must identify and evaluate impacts to species and ecosystems from invasive exotics species. Many of these species invade disturbed areas, and then spread into wildlands.

Fragmentation of intact, ecologically functioning communities further aides the spread and degradation of plant communities (Bossard et al 2000).Additionally, landscaping with exotic species is often the vector for introducing invasive exotics into adjacent habitats. Invasive landscape species displace native vegetation, degrade functioning ecosystems, provide little or no habitat for native animals, and increase fire danger and carrying capacity. All of these factors for wildland weeds are present in the project, and their affect must be evaluated in the EIR.

Fire Clearance/Fuel Modification Impacts

Fire clearance/fuel modification management practices must be addressed and clearly identified in the EIR. The impacts from vegetation management for fire (clearance, maintenance, fuel modification, etc.) must then be evaluated as part of the proposed project. The project may be situated in plant communities that require periodic, infrequent fire to persist. At the same time, the project proposes development that will need to be protected from fire. Therefore, "brush-clearance" will occur at the interface between development and "open" spaces. Fire safety concerns and insurance requirements at the wildland urban interface can cause homeowners to clear vegetation up to 61 m (200 ft) around their homes (Longcore 2000). The EIR should identify and evaluate fire clearance/fuel modification management practices associated with the project, including impacts from vegetation management for fire (clearance, maintenance, fuel modification, etc). Areas designated as fuel modification zones should be part of the developed area rather than infringing on habitat and open space. Fuel modification zones should not be counted as habitat or open space as they will be subject to periodic vegetation clearing. Thus, the EIR must evaluate all fuel modification zones for impacts as part of the "development footprint", and address the impact of management practices for fire on native vegetation.

Wildlife Movement

A thorough and independent evaluation of the project's impacts on wildlife movement is essential. The project is situated within, and would sever, a critical wildlife movement corridor and habitat linkage connecting the Transverse Ranges of Los Padres National Forest with the southern Sierra Nevada Mountains via the Tehachapis. The attached excerpt from the September 2003 South Coast Missing Linkages Project Report (Exhibit 11) details the existing features, challenges, and opportunities associated with the Tehachapi linkage.

The EIR must evaluate all direct, indirect, and cumulative impacts to wildlife movement corridors. The analysis should cover movement of large mammals, including mountain lion, as well as other taxonomic groups, including small mammals, birds, reptiles, amphibians, invertebrates, and vegetation communities. The EIR should first evaluate habitat suitability within the analysis window for multiple species, including all listed and sensitive species, in addition to target species, such as mountain lion and American Badger. The habitat suitability maps generated for each species should then be used to evaluate the size of suitable habitat patches in relation to the species average territory size to determine whether the linkages provide both live-in and move-through habitat. The analyses should also evaluate if suitable habitat patches are within the dispersal distance of each species. The EIR should address both individual and intergenerational movement (i.e., will the linkages support metapopulations of

smaller, less vagile species). The EIR should identify which species that proposed wildlife movement corridors would function for under baseline conditions and after build out, and for which species they would not. In addition, the EIR should consider how wildlife movement will be affected by other planned approved, planned, and proposed development in the region.

The EIR should analyze whether any proposed wildlife movement corridors are wide enough to minimize edge effects and allow natural processes of disturbance and subsequent recruitment to function. The EIR should also evaluate whether the proposed wildlife movement corridors would provide key resources for species, such as host plants, pollinators, or other elements. For example, many species commonly found in riparian areas depend on upland habitats during some portion of their cycle. Therefore, in areas with intermittent or perennial streams, upland habitat protection is needed for these species. Upland habitat protection is also necessary to prevent the degradation of aquatic habitat quality.

Mitigation and Restoration

For affected sensitive habitat and vegetation types, the EIR should prioritize avoidance, followed by onsite habitat replacement at a mitigation ratio calculated to ensure success, followed by onsite restoration and enhancement, followed by off-site mitigation. The EIR should include alternatives that maximize avoidance of sensitive habitat through clustering and preservation of large, contiguous areas. Identification and purchase of mitigation areas, with establishment of effective long-term management, should occur prior to any grading.

Specific, feasible, and enforceable mitigation measures for impacts associated with fuel modification zones, unpermitted recreational activities, the introduction of non-native plants, the introduction of pets, lighting, noise, and the loss and disruption of essential habitat due to edge effects are available and should be included in the EIR, including but not limited to the following:

- minimum 300-foot setbacks between developed area, including roads, and sensitive habitat areas
- conditions prohibiting non-leashed outdoor pets (including cats)
- requiring, where appropriate, walls or fences that will inhibit domestic animals from harassing and harming native species including “cat-proof” fencing to prevent feral and house cats from accessing sensitive habitat
- capture programs to control feral cats
- incorporation of low-intensity, shielded, and directional night lighting
- techniques to control non-native invasive species
- prohibiting the use of pesticides and other toxic chemicals around homes and golf courses
- requiring the use of native vegetation in landscaping
- providing public education regarding rare, threatened and endangered species and how local communities can help protect them
- requiring gates to restrict access to lands set aside for habitat preservation

If any type of restoration is proposed as part of the project, the Center requests the analysis of

economic advantages of conserving natural vegetation communities versus the costs of restoring them be included in the EIR. Restoration biology has shown that "restored" habitats never support the diversity of species found in undisturbed habitats (Longcore et al. 1997). Therefore, the benefits of maintaining current communities and habitat need versus no action need to be evaluated.

Aesthetics

According to the Initial Study, the project will have a less than significant aesthetic impact. The narrative evaluation states that "[t]he limited development visible from off the site, especially from Interstate 5, would not result in a significant visual impact." We disagree. The visibility of a portion of the project from I-5 constitutes a potentially significant aesthetic impact that must be evaluated in the EIR. Moreover, the project land use plan suggests that the project may encroach on the skyline of the Tehachapis as viewed from the valley floor. Any such viewshed intrusion (or indirect effect due to lighting and glare) must be disclosed and analyzed in the EIR.

The Initial Study further states that "[s]ubstantial producers of light and glare would not be included in the project." Light and glare produced by the project, however, must be considered in the context of the project site, which is relatively free of any light sources except in the immediate vicinity of the I-5 corridor. The EIR must not dismiss light and glare impacts, but must fully evaluate such impacts in the regional context of the project.

Air Quality

The San Joaquin Valley Air Basin is an extreme non-attainment area based on the one hour ozone standard, and a serious non-attainment area for the 8-hour ozone standard and PM_{10}. The EIR must consider the project's potential to impair attainment goals for the Air Basin.

The EIR should not rely on air quality mitigation measures that have not been subject to a public review and comment process. In particular, the County should not rely on third-party agreements not subject to the public process as it did in the case of Tejon Industrial Complex - East.

The EIR should consider specific mitigation measures to reduce air quality impacts associated with construction, including a firm requirement for construction equipment to use low-sulfur diesel fuel and particulate traps.

The EIR must disclose the project's net contribution to greenhouse gas emissions and incorporate feasible mitigation measures and alternatives to reduce this impact. For mobile sources, since consistency with the AQMP or conformity with the San Joaquin Valley APCD guidelines will not necessarily achieve the maximum feasible reduction in mobile source greenhouse emissions, the EIR should evaluate specific mitigation measures to reduce greenhouse emissions from mobile sources.

The analysis of the project's contribution to greenhouse gas emissions must also disclose and evaluate the net emissions due to energy use in the project's residential, hotel, and commercial units. Specific mitigation measures should be incorporated to reduce these emissions to the maximum extent feasible, including but not limited to the following:

- Requiring the use of ultra-efficient appliances and air conditioners capable of exceeding California Energy Commission requirements by at least 25% (i.e. using 75% or less energy than the CEC standards)
- Design standards for residential units and landscaping providing for maximum energy efficiency in order to reduce energy usage associated with cooling and heating
- Use of light-colored roofing and building materials
- Requiring photovoltaic generators for all residences, hotels, and commercial buildings as a design feature

Transportation/Traffic

The EIR should provide updated traffic models for I-5 and other major highways and roadways that incorporate traffic projections based on current traffic levels and other existing, approved, and planned projects, including full operation of the Tejon Industrial Complex, full buildout of the Centennial, Newhall Ranch, and other projects affecting the I-5 corridor.

Environmental Safety

The EIR must disclose existing soil contamination, and the discuss in detail the plan for remediating the project site so that it is suitable for residential use. Where those remediation measures may themselves have environmental impacts, the impacts must be disclosed and mitigated.

Water Quality

The EIR must provide detailed descriptions of the project's stormwater impacts and mitigation measures required to control project-related stormwater. The EIR must specify the location, size, and design specifications of stormwater basins and other control measures. Where, as here, the control measures themselves may have environmental effects, these effects must be described in detail and further mitigated.

Studies and research conducted by "[r]egional agencies, academic institutions, and universities have identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California… Development and urbanization increase pollutant load, volume, and discharge velocity" by converting natural pervious ground, which has the ability to absorb rainwater runoff and remove pollutants, to impervious surfaces such as roadways, which act as pollution highways. *California Regional Water Quality Control Board, Los Angeles Region, Order No. 01-182, NPDES Permit No. CAS004001, Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles, December 13, 2001* ("LA County MSWP"), p. 4.

Furthermore, the "increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development." LA County MSWP, p.5

The EIR should be directed toward minimizing or avoiding impervious surfaces within the Project area. The environmental effects associated with the dramatic increase in the area covered by impervious surface must be disclosed and evaluated. Alternatives that cluster development or reduce the total developed and hard-surfaced area should be considered. The baseline for evaluating stormwater impacts should be the project site in a pre-development, fully vegetated condition. The project should equal or improve on runoff conditions in such a baseline condition.

In particular, the EIR must evaluate the water quality impacts associated with pesticide, irrigation, and fertilizer runoff from the four golf courses proposed as part of the project. Runoff control measures such as collection ponds tend to have their own adverse environmental consequences on water quality, amphibians, and birds. These impacts must also be disclosed and analyzed in the EIR. The EIR should consider golf course design alternatives that minimize or avoid the need for irrigation, and that prohibit the use of chemical fertilizers and pesticides.

Water Supply

The EIR must identify the sources of water for the project, including water for domestic use, commercial use, and irrigation for the proposed four golf courses. The EIR must also evaluate all environmental impacts associated with use of any identified water sources.

The EIR should disclose the legal status of any water rights asserted as a basis for the project's water supply, and indicate any further administrative or legal proceedings that are necessary to perfect such rights. If local surface water or groundwater supplies are used to supply the project, the EIR must document the existing state of such supplies, and evaluate the impact of any surface water diversions and/or groundwater pumping.

The water supply analysis should consider the long-term lack of reliability of the State Water Project. If the State Water Project is a potential source of water for the project, the EIR should base water quantities on actual long-term yield, not on entitlement or paper water. In addition, a state appellate court recently ruled that the California Bay-Delta Authority failed to consider reducing water deliveries to southern California in order to protect the Bay-Delta system. See *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings,* Third Appellate District Case No. JCCP No. 4152 (October 7, 2005)). This decision may result in

curtailment of water deliveries available for project use, and must be considered in the EIR's analysis of the potential water supplies for the project.

Cultural Resources

The area around Castac lake contains important Indian cultural and village sites. It is essential that the County consult at the earliest possible opportunity with the Native American Heritage Commission and with local tribal representatives regarding the cultural and archaeological significance of these sites. The EIR should include an independent peer-reviewed analysis of the project's potential impacts on cultural, archaeological,and historical resources.

Cumulative Impacts

As proposed, the project represents piecemeal development of a portion of the 270,000-acre Tejon Ranch property. The applicant has not, to date, submitted a public master plan for Tejon Ranch development, but is proceeding according to an undisclosed master plan with this project and other Tejon Ranch projects. Even though some of these projects, such as Centennial, are located in Los Angeles County, the applicant should be required to disclose its ranch-wide development scheme. The EIR must also disclose and evaluate this master plan. It is impossible to fully understand the impacts of the project, particularly its regional impacts on the California Condor, wildlife movement, and traffic, without full disclosure of all other approved, proposed, and planned Tejon Ranch projects.

As required by CEQA, the EIR must include a list of past, present, and probable future projects producing related or cumulative impacts, together with a summary of the expected environmental impacts from those projects and a reasonable analysis of the cumulative impacts of the relevant projects. At a minimum, these projects should include the Tejon Industrial Complex projects at full buildout and operational capacity, the Centennial project at full buildout, Gorman Ranch, Falling Star, and Newhall Ranch at full buildout.

Alternatives

The EIR should consider a range of smaller alternatives that reduce or avoid the project's significant environmental impacts. The County should undertake an independent evaluation of the financial viability of the project, as well as the clustered and reduced-scale alternatives, rather than relying on the unsupported statements of the applicant.

Environmental Baseline

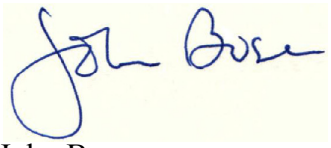
The baseline for environmental analysis should not simply be set based on the existing environmental conditions because the environment itself is changing. Instead, the EIR analysis should be based on a dynamic baseline that accounts for global warming (this may particularly affect water supply and demand and wildlife movement patterns). The EIR should also consider the increasing future demand for water from existing customers and for anticipated future growth.

Project Objectives

The applicant's objectives stated in the NOP (pp. 4-5) are both unreasonably narrow and self-serving. The applicant's objectives are clearly financial, while the various environmental and "stewardship" objectives are not objectives at all, but are imposed as legal requirements. In addition, the stated objectives must not unreasonably constrain the range of feasible alternatives evaluated in the EIR. The County must establish an independent set of objectives that does not unreasonably limit the EIR's analysis of feasible alternatives.

Thank you for your consideration of these comments. Please add me to the distribution list for the EIR and all notices associated with the project.

Sincerely,



John Buse
Staff Attorney
Center for Biological Diversity

Ileene Anderson
Ecologist
Center for Biological Diversity

Attachments (email only)

Ex. 1 Final Critical Habitat Designation, California Condor
Ex. 2 California Condor Recovery Plan, Third Revision
Ex. 3 Regional Condor Sighting Map
Ex. 4 Project Area Condor Sighting Map
Ex. 5 CNPS Botanical Survey Guidelines
Ex. 6 CDFG Survey Guidelines
Ex. 7 CNPS Documentation Guidelines
Ex. 8 CNDDB Form
Ex. 9 CNDDB Instructions
Ex. 10 CNDDB GIS Instructions
Ex. 11 Tehachapi Linkage Design (from South Coast Missing Linkages Project Report)

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