



February 28, 2022

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Robert Hingtgen
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Re: SYCUAN COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED COTTONWOOD SAND MINING PROJECT (PDS2018-MUP-18-023), (PDS2018-RP-18-001); LOG NO. PDS2018-ER-18-19-007; SCH# 2019100513

Dear Mr. Hingtgen:

We submit the following in response to the County's Draft Environmental Impact Report ("DEIR" or "draft EIR") on a proposed project to convert the existing Cottonwood Golf Club golf courses to a sand mining operation ("Project").

The Sycuan Band of the Kumeyaay Nation ("Tribe") is a federally recognized tribe, and one of the twelve bands of the Kumeyaay Nation that has lived in relationship with the lands now known as the San Diego region since time immemorial. The Tribe's current reservation is located in the nearby community of Dehesa Valley, California and the region encompassing the proposed Project is within the Tribe's ancestral and traditional territory. As explained within this letter, the Jamacha region is a known area of special cultural importance, not only to our ancestors who cared for, managed, and resided within the village of Hamchaa, but also to us today as contemporary Kumeyaay people who continue to value the relationship with our traditional territories and all the resources that the cultural landscape provides. Without this continued unique, personal, and generational connection to the land, our identity as Kumeyaay people is fundamentally threatened. The proposed Project severely impacts the sanctity of our cultural landscape.

The cultural sensitivity of the Jamacha region is undisputed and has been well known and well documented for hundreds of years. In fact, the cultural and historical significance of this area is so profound that it has been identified as a cultural landscape eligible for consideration as a national historic site that should

be afforded the protection at all levels of the County, State and Federal governments. Experts in the field have long recognized the cultural significance of the Jamacha cultural landscape and have long recognized the technologies that the Kumeyaay have employed for millennia in relationship with the lands and resources within this area. This relationship continues to this day.

It is for this reason, that the Tribe submits comments in opposition to this proposed Project and expresses its deep disappointment in the flawed, inaccurate, and incomplete draft environmental impact analysis. The County's DEIR fails to recognize that the Project impacts will completely obliterate all cultural resources currently on the site, causing irreparable harm to this sensitive cultural landscape and threatening the erasure of much of our history and current day connection to this place as Kumeyaay people. Further, we are deeply disappointed that the County believes these irreparable harms can be "mitigated" by providing speculative plans to monitor (witness) their destruction. Monitoring and witnessing the unnecessary removal and destruction of culturally sensitive resources is not mitigation, and is contrary to the protections provided by CEQA.

To protect the confidentiality of the location of sensitive cultural resources, the Tribe's comments below will only address areas of cultural importance generally as these resources need to be treated as confidential. The Tribe has previously indicated an interest in consultation with the County regarding this Project pursuant to AB 52 and its requirements and renews that commitment herein.

Notwithstanding the gravity of the Tribe's concerns regarding cultural impacts arising from this Project, our review of the DEIR has indicated that additional errors, omissions and other failures are evident throughout the documents provided for public review. As a result, our comments are not limited to the impacts to cultural resources.

Cultural Resources and Tribal Cultural Resources

The Tribe is deeply disappointed in the County's analysis of potential significant impacts to cultural resources. The County severely under analyzes numerous resources that will inevitably be impacted by the proposed Project in three major ways: resources were under analyzed in terms of the depth of the County's analysis, in terms of the limited geographic scope of the analysis, and in terms of the overall temporal and historical analysis of the area and the potential impact. Each deficiency alone would render the analysis insufficient, but together, the DEIR analysis and the record on which it relies is clearly misleading and incomplete. Finally, after minimizing the impacts that are sure to result from the Project, the County's analysis suggests insufficient and speculative mitigation measures, like entering into monitoring agreements and abiding by applicable regulations to "lower" the impacts to "below significant" without avoiding the cultural resources. The Tribe wholeheartedly disagrees with these false mitigation measures.

CEQA recognizes Tribal Cultural Resources (TCRs) as not only individual sites and sacred places, but also as cultural landscapes. The DEIR analysis is limited only to single archeological sites within the Project site; however, Jamacha and the surrounding areas within the valley encompassing the path of the Sweetwater River should be analyzed on a much broader scale of importance and potential impact, as a cultural landscape. By confining the analysis of cultural or archaeological resources (often recognizing and designating as a "site" the location of each family's trash dump) to an assessment of each individual "site" identified as broken bits of pottery, bone, shell or stone tools, the County displays a fundamental misunderstanding of Tribal Cultural Resources. Such articles are generally associated with Kumeyaay habitation, but may not occur precisely at the site of habitation, given Kumeyaay historic housekeeping methods. These sites and individual articles are often just pixels of a much larger picture. The real story is found in the relationship of these pixels to each other and to the land.

The cultural resource analysis is fatally shallow and avoids a vast body of knowledge regarding indigenous users of the property and the area in an apparent attempt to limit impact disclosure. Other well-known reports and studies not cited to or considered by this DEIR have long recognized that Kumeyaay settlement and land tenure patterns demonstrated that families lived and tended to their own designated lands, and the entire band was spread over the entire valley and side drainages. This has been specifically found to be the pattern of activity at the Project site. The Band's use of the river valley included the land between their houses and agricultural fields, the main village area (the ceremonial and political center), and the trade center (near the largest water source). Thus, the entire valley constitutes one cultural "site" – or as CEQA defines it, one cultural landscape. The DEIR's assessment of potential impacts to cultural resources completely overlooks that the Jamacha region throughout the river valley was one continuous habitation and use area, from the plains, to alongside the river, to the hillsides that stretch up

and down the valley and the side canyons. Because the DEIR findings rely on incomplete or inaccurate information, the DEIR's cultural impact analysis is seriously flawed and unsubstantiated.

The proposed Project could take place within the area known as Jamacha, a well-documented cultural landscape. This cultural landscape was not merely a seasonal village or a travel route as the report suggests. Rather, Jamacha, (or known to the Kumeyaay as Hamchaa), was a major established Kumeyaay village complex and a place of cultural significance to the Kumeyaay people. It is associated with its neighboring village, Matamo, located just up river. Data and analysis indicate that indigenous habitations occurred throughout the Sweetwater River valley from Matamo to near the current Sweetwater Reservoir. Kumeyaay villages include a primary village that housed a Band leader and governmental functions and multiple habitations and villages up for over 5 miles from the primary village along the river valley and particularly at locations of side canyons. The instant property is located at the confluence of Mexican Canyon and the Sweetwater river valley; however, the cultural analysis inexplicably makes no reference to this important cultural and geographic attribute of the site.

Resources already uncovered at/near the Project site and within the region between these neighboring villages reinforce that the entire valley was one continuous habitation area—or one cultural landscape. As recognized by other publicly-available archaeological reports, Kumeyaay settlements were historically scattered throughout the entire valley between the two major villages underscoring why so many culturally sensitive resources are scattered up and down the valley, including at the present-day Cottonwood Golf Course and neighboring properties. This settlement pattern was intentional, as houses and buildings were generally built far enough away from the meandering river so that game animals would also use the water source.

The site identified as culturally significant in its name and in its historic uses, Jamacha is derived from the Kumeyaay word “*xamca*” or “*hamchaa*” meaning gourd or wild squash. In Native America, place names are not given lightly, and were developed over time and passed down from generation-to-generation based on the significance of the place. Place names were made significant through the specific characteristics of the landscape. In Kumeyaay culture, the gourd or wild squash is a native plant of special importance for many reasons. For one, gourds are the primary plant used in making a traditional rattle, an instrument central to the ceremonial and religious songs and dances of the Kumeyaay people, as well as many neighboring tribal nations. Based on those facts alone, it is not difficult to see that this site was used as a location of important indigenous agricultural management associated with the string of habitations. The cultural landscape within the Jamacha region is a place of special cultural significance not only to the Kumeyaay but to our collective history and heritage of San Diego. This important information is completely missing from the record and DEIR analysis.

A. The cultural, historical and archaeological resources present within the Jamacha cultural landscape are significant and their loss is unmitigable.

The DEIR states multiple measures for analyzing whether the proposed Project would adversely impact significant cultural resources, and by all measures, the answer is clearly in the affirmative. For example, the report asks: (1) whether the Project would cause a substantial adverse change in the significance of a historical or archaeological resource to include: the “destruction, disturbance, or any alteration of characteristics or elements of a resource that cause it to be significant...” or the “destruction or disturbance of an important archeological site or any portion of an important archeological site that contains or has the potential to contain information important to history or prehistory”; (2) whether the Project would disturb any human remains, including those interred outside of formal cemeteries; (3) whether the Project would propose activities or uses damaging to significant cultural resources as defined by the Resource Protection Ordinance (RPO) and fails to preserve those resources; and/or (4) whether the Project proposes activities or uses that would impact Tribal Cultural Resources as defined under PRC Section 21074.¹ The Project impacts would trigger each of these criteria.

The Project site has historic significance as it is associated with the lives of specific persons important to the past and should therefore should be protected. Delfina Cuero, a significant Kumeyaay woman in the history of the region, lived in the village on the banks of the Jamacha Steele Canyon area. She worked with anthropologists to better understand the area, as documented in a 1982 APS/SDG&E Interconnection Project archeological analysis document, identifying and evaluating Native American Cultural Resources in the region. (A report ignored in the DEIR analysis).

The 1982 report and others confirm that Kumeyaay villages were customarily and strategically established along the Sweetwater River because of the abundance of resources and extended across the valley to side canyon settlements and smaller villages. Matamo and Hamchaa are well documented major Kumeyaay village sites near Jamacha and Rancho San Diego respectively. While the report attempts to minimize the likelihood that there remains sensitive cultural resources within the site as a result of the previous disturbance of the area (the mostly superficial use as a golf course), the reality is that other reliable studies have found that due to the episodic flooding that historically occurred in the inland valleys, the layers of alluvial deposits which provide evidence of these uses have likely been preserved well below the surface and are yet to be uncovered. For example, important cultural resources continue to be found just up river and adjacent to the proposed Project site, including milling metates, pestal, hammer stones, choppers, pottery, lithic scatters, hand tools and rock shelters—many of

¹ Section 21074 of the Public Resources Code states that “tribal cultural resources” are: (1) sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are listed, or determined to be eligible for listing, in the national or state register of historic resources, or listed in a local register of historic resources; or (2) resources that the lead agency determined, in its discretion, are tribal cultural resources.

which are still intact and preserved. It is very likely that similar resources are also located throughout the proposed Project site but are not yet uncovered.

Other studies indicate that there are documented burial and cremation sites between Hamchaa and Matamo villages. Kumeyaay cultural monitors believe there is a high possibility that traditional cremation sites are located within the Project area due to the known midden soil deposited throughout the region and Project site. If midden soil was “washed in” like the report claims, it would not be concentrated in one area but would be more spread out covering a larger area. The report suggests that the presence of scattered cultural articles on the site surface lessens the likelihood that cultural resources will be significantly impacted by the Project. To the contrary, this demonstrates the high likelihood of the broad and ubiquitous presence of such resources, including resources as sensitive as human remains, burial, and cremation sites. Known Kumeyaay historian Florence Shipek recognized the archeological bias in interpreting the relevance of scattered items, stating

“archeologists, in locating “sites” actually are locating and numbering trash dumps, not the living nor ceremonial areas. Archeologists tend to view each dump as a separate site, rather than recognizing that the entire valley was densely inhabited by one band and thus is one site. The areas between the trash dumps were houses, work areas, ceremonial structures, and a variety of use areas and crop lands. Such lands might also contain irrigation ditches, floors, altars, and on the slopes were the remains of rock alignments.” (emphasis added; in *Kumeyaay: A resilient independent people*, F. Shipek).

In addition, publicly available documents indicate that indigenous bone fragments were recently found immediately adjacent to the Project site, along with other indications of habitation. The likelihood of additional burial areas is high. Appropriate identification of the potential for additional burial sites on the property should precede any approval of the Project to ensure that such sites are protected from disturbance. These sensitive remains were placed in a resting location for a specific reason and should be handled with the utmost care and must be left undisturbed as intended for any gravesites and cemeteries. Sand mining in the presence of such items allows no way to lessen the significant impact to these resources and therefore remain unmitigable.

The DEIR recognizes and acknowledges that the Project is within a culturally significant area but fails to acknowledge that resources on the property would be totally eliminated by the Project. Due to this cultural sensitivity and the alluvial setting of the Project site, the DEIR recommends a pre-survey and monitoring program and a Treatment and Preservation Agreement to be implemented to document the impact to the resource (not avoid the impact). However, this presumes that an impact (removal) is acceptable. Monitoring agreements do not equal mitigation. The DEIR justifies lowering the environmental impact to less than significant based on the erroneous idea that there will be monitors to witness the disturbance and that will eliminate the impact. The

fact that the proposed solution to this significant impact is to monitor the site demonstrates that the County assumes that there are significant cultural and pre-historical resources that will be uncovered, and simultaneously dismisses their in-site importance. The DEIR concludes these impacts are not significant no matter what is found in the witnessing the destruction of the site. The County may assume the acceptability of the removal and destruction of these cultural resources but the Kumeyaay community does not. There is no support for this conclusion and such a position minimizes the value of extant cultural resources to the area tribes.

If the County recognizes that the Project is within a culturally significant area, then the County cannot find that the impacts, whatever they are, would be less than significant. Such a finding is contrary to evidence in the record and the County's own findings. If the County takes the position that any impacts are acceptable (whether or not they have been assessed in place), the impacts are unmitigable as the only result is complete destruction. As a result, any unmitigable impact to cultural resources requires that a Statement of Overriding Considerations accompanies the DEIR. No such document has been prepared for public review. In addition, no statement of public benefits² has been offered that outweigh the costs of significant cultural impact. If the County is determined to allow the wholesale destruction of the culturally significant area, it is required to prepare a benefits analysis as part of a Statement of Overriding Considerations, which should be circulated for public review.

B. The DEIR reports include an incomplete historical timeline.

The historic resources evaluation report does not contain a full or complete history of the local, region or state history in order to properly evaluate the historical significance of the site. The timeline within the historical report begins at the "Mission and Rancho Era" leaving out the majority of history relevant to Kumeyaay people and their activity in the region since time immemorial. The archaeological report also narrowly describes resources from a perspective that would mislead the public into believing that the Kumeyaay people and culture is only prehistoric and extinct. The complete opposite is true. Today, the Kumeyaay are the thriving first people of San Diego. The Kumeyaay have contributed a great deal to the history, science, and management of the entire region and the cultural resources preserved within the Jamacha cultural landscape supports this conclusion. The use of traditional ecological knowledge including land management techniques, flood control structures and native crop development on this site have made significant contributions to our collective history and heritage. A more complete historical report should be provided that details the contributions of the Kumeyaay within this cultural landscape and their importance to the history of the area. It is important to note that the implementation of the National Historic Preservation Act has recognized that historic resources include indigenous cultural resources, on the premise and understanding that indigenous cultures are an

² In fact, County staff have offered in multiple public hearings regarding this Project that the County gains no benefit from this Project, and it is entirely for private benefits.

important part of our National historic heritage. Nevertheless, the County's DEIR treats centuries of the site's historic legacy as though it never happened or that it does not matter. Such an omission is fatal to the analysis and the historic analysis should be completed and recirculated for public review (and education).

C. Erroneous Issues raised by the DEIR in the Recording and Mapping Resources.

The DEIR claims that there are errors in the recording and mapping of previously found cultural resources and provides no attempt to reconcile the alleged errors. Instead, it uses this alleged "error" to conclude that previously recorded resources no longer exist within the Project site and will therefore not be impacted. In actuality, such errors create data gaps, not a dismissal of their existence. More likely, these resources have been misplaced or improperly recorded and will be impacted by the Project without acknowledgment. This information is extremely sensitive and imperative to know before any further decisions can be made. The current report creates a high risk that erroneous recording will occur again by failing to survey extant resources and blurring the understanding of the resources. Sites and artifacts simply cannot be misplaced or recorded improperly (this is why they should remain in place rather than be removed and "recorded"), and then act as those items never existed. It is incumbent upon the applicant and the County to research the existence and relevance of any potentially misplaced cultural items and report such findings to the local tribes in consultation with the County on this Project.

In addition, the report does not consider the many more resources on the property that have yet to be recorded. The assessment only accounts for resources that have already been either recorded or listed on a public registry. It appears no independent investigation of the site or comprehensive literature search has been attempted. This paints a very narrow picture of the Project's potential impacts when in reality the likelihood of destruction or disturbance is very high considering the known cultural sensitivity of the area and what we have learned at the neighboring Kumeyaay village of Matamo. Similarly, because the majority of the site has been used as a golf course, the disturbance has been primarily superficial, rather than a subsurface. Notwithstanding the DEIR's depiction of the property as largely "developed", the use as light recreation has likely minimized disturbance of existing resources on site. Therefore, it is very likely that many cultural resources remain yet to be uncovered or recorded. The report hardly considers this reality. If it had, then it would be impossible to come to its conclusion that the Project's impacts will be less than significant. The DEIR's site-by-site, artifact-by-artifact analysis still misses the mark and cannot justify the expected impacts to the broader context of the cultural landscape. As such, the analysis is incomplete, overly narrow, and does not provide adequate information for the County to base an informed decision.

D. Suggesting that “Previous Sand mining” occurred onsite does not excuse appropriate and responsible pre-project analysis or license the total destruction of extant cultural resources.

The DEIR also seeks to minimize the likelihood of locating additional cultural information from the site, by relying on the “historic mining activity” that has occurred on the site. This position appears as a rationalization to avoid a better understanding the connection between known cultural articles, the site, the regional context, and the likelihood of additional resources that could help fill in the relationships – among those elements, a closer look at this rationalization is warranted.

The Mineral Resources and Archaeology reports provide a glimpse (and nothing more) into the past sand and gravel mining activities that took place in and around the Project site. These activities appear localized on specific portions of the property encompassing an estimated 15% of the Project area (see Fig 11). The geographic scope of their influence is extremely limited when considering the entire property. The DEIR provides that previous sand and gravel operations have been conducted at numerous locations along the Sweetwater River valley including “several sand mining efforts within the subject property.” Some of these previous sand mining operations have resulted in a few sub-grade pits along the edge of the golf course, which are an indication of the long-term scars left on the landscape from the activity. But their real extent is limited compared to what is being proposed.

The Archaeology report also recommends monitoring for extant resources during the mining process only in “areas not already mined”. This suggestion is problematic on several levels. First, as previously stated, monitoring is not preservation or mitigation of the resource, but is witnessing the destruction of an extant resource. The reports provide no support or inclination for requiring alteration of the mining activity to avoid resources that are encountered. Placed in that reality, monitoring in choice locations solely for the purpose of witnessing the destruction of cultural resources presents a sort of cultural and scientific morbidity to the “mitigation” of the proposed Project.

Second, the proposition assumes that areas on the Project site subject to past mining activity have removed any existing resource information. However, such a conclusion is premature and unwarranted. The depth of previous mining is unclear and unreported. In many instances, it appears spot minor mining took place for sand trap replenishment and other minor golf course uses. It is irresponsible and unwarranted to conclude that because a small portion of the site was previously mined to an unknown depth, that cultural items no longer exist on the site. In order to fully disclose to the public what level of mining activity has actually impacted the property, the County should release all previous sand mining permits and related documents issued to the site. This would identify the actual the geographical and vertical extent of the previous sand mining so that the

public can better understand or refute the County's representation dismissing the presence of remaining resources on the site. Absent such disclosure, including County monitoring of such historic mining activities, the County is unjustified in using the general statement that "previous sand mining occurred" to dismiss the need to protect areas with extant below ground resources.

In addition, this issue is rendered more important when considering cultural resources located in alluvial plains such as this. In such conditions, cultural items may be found at considerable depth. Previous cultural resource analyses on this property and within the Sweetwater River flood plain acknowledged that the cultural resources that occur in this area date back thousands of years, and as a result have likely been affected and buried by a multitude of significant flooding and sedimentation events. One example that was offered included the 1916 floods that occurred throughout San Diego County and caused river valleys such as this one and Mission Valley to become flooded from side to side, resulting in the deposition of yards of sediment on flood plains. It is certain that such events occurred occasionally of the past thousands of years, causing some of the cultural remains of life in the floodplains to be buried yards below the ground surface.

The County has quietly acknowledged that the Project site is within a significant cultural resource areas. As previously mention, multiple empirical and Project-specific sources have opined that this cultural resource is landscape in scope, throughout this stretch of the Sweetwater River Plain. If this Project is approved as planned without any direction to avoid cultural resources, and is allowed to remove those resources during the proposed mining activity, it is assured that all extant resources will be obliterated by the 40' deep removal of all soils on the property. As a result, the area of cultural resource impact is not limited to individual archeological sites, but will measure approximately 230 acres and 40 feet deep. This type of impact is catastrophic for the Kumeyaay people past and present, and is currently unrecognized by the DEIR. The County has failed to provide valid scientific, factual or moral basis for minimizing the pre-project investigation of cultural resources onsite or to refuse any condition or Project limitation to require avoidance measures to prevent these impacts.

E. Tribal current and past cultural uses of water are recognized by regulators as beneficial uses that should be protected. The DEIR must address and analyze the impacts to all surface waters and associated vegetation as a recognized cultural resource.

Since time immemorial, the Kumeyaay have used, and in many cases continue to use, water to support their cultural, spiritual, ceremonial, and/or traditional rights. The recognition of Tribal Uses of water throughout the state provides support for the linkage of waterways, specific cultural uses of water, and cultural resources. The California Environmental Protection Agency, the California Water Resources Control Board and the San Diego Regional Water Quality Control Board all recognize cultural uses of water as a distinct beneficial use and that

existing water quality standards may not adequately protect Tribal beneficial uses water (e.g., see https://www.waterboards.ca.gov/tribal_affairs/beneficial_uses.html). These cultural uses should be considered in any water related planning process; however, the DEIR has completely failed to mention or include this consideration in its analysis.

For Indigenous land stewards, wetlands are akin to Mother Earth's liver or kidneys, serving many integral purposes including filtering pollutants, purifying and recharging the water flows both above and below ground. Wetlands and marshlands, like those contained in the Sweetwater River basin have served as vital habitats for wildlife since time immemorial. In turn, the ecosystem supported by this water system provided endless resources to the Kumeyaay people in the region – all vital to the connection to place and identity of the Kumeyaay people. This includes supporting the ecosystem to grow the materials needed for cultural basketry, artistry and utility, and supporting the habitat for wildlife and fish that were staple food sources. Before the imposition of the Mission and Rancho systems in the region – an era the Draft EIR almost completely disregards – the entire valley floor and surrounding foothills provided an abundance of agricultural and cultural resources. While there has been development since that time that has caused significant harm to these cultural resources and areas of extreme significance to Kumeyaay people, there are a few remaining locations that can preserve this use and connection. This specific location provides such an opportunity and its loss will be significant.

F. The historic indigenous use of this property and landscape included indigenous agriculture, some remnants of which remain and should be acknowledged and analyzed as part of the landscape scale impacts.

Tribal traditional agricultural resources must also be recognized and protected as a vital and central component to the Jamacha cultural landscape. The DEIR fails to reference the Kumeyaay's traditional agricultural economy, management practices or resources in its cultural, historical, or agricultural assessment of the region. Rather, the County claims that “[n]o impact to agricultural or forestry resources would occur” because the Project site “is not an active agricultural operation; nor does it have a history of agricultural production for over 55 years.” Within the span of a half-page, not only does the County fail to provide an accurate and complete account of the rich agriculture history in the region, but its narrative attempts to completely erase thousands of years of traditional land management and agricultural practices that served as the center of the region's economy since time immemorial. Thus, the findings in the DEIR are misleading, inaccurate, and unsupported, and therefore contrary to CEQA purposes of full and honest disclosure of impacts.

Traditional ecological knowledge is the evolving knowledge and science developed by Indigenous peoples over hundreds or thousands of years through direct contact with the environment. Since time immemorial, the Kumeyaay managed the landscape throughout San Diego County and within the Jamacha

region. Tribally managed agriculture was a way of life and served at the core of the Kumeyaay economy and relationship with the landscape. As clearly documented in the publicly-available archaeological record and in early historical documents (although completely missing from the DEIR analysis), the Kumeyaay practiced a very intensive type of agriculture and plant husbandry based upon long term planning in relation to the erratic nature of the climate and the extremely diverse environment. For example, their land management system included the use of controlled burning on a regular basis combined with a variety of other erosion prevention measures which aided in maintaining the ground water level, springs and streams. They managed and controlled the vegetation, burned off parasites, and replenished the soils through fire management of the valleys and canyons.

In addition, there is strong evidence that the Kumeyaay planted or transplanted vegetation that was of particular importance or value to them. The Kumeyaay people planted tree groves and fields of grain, squash, beans and corn, grew and harvested medicinal plants and herbs, and tended to the native plants in the region that served special purposes to the Kumeyaay way of life. For example, at the recorded location of the village of Jamacha, biologists reported mesquite completely out of context growing within the settlement demonstrating the purposeful planting for special purposes. In addition to transplanting and nurturing plants for foods and medicines, the Kumeyaay also integrated plants into their settlements for defensive purposes by encircling villages with specific plants to protect from intruders. Through such traditional ecological knowledge management practices, the Kumeyaay redefined the landscape and perfected land management, agriculture, and permaculture techniques that provided for a healthy and thriving ecosystem and community. These crucial cultural and agricultural details as contained in other publicly-available reports are completely missing from the DEIR record.

As further evidence of the significant agricultural use of the areas by indigenous people, the Jamacha name is derived from the Kumeyaay word "*xamca*" or "*hamchaa*" meaning gourd or wild squash. When the plant is fresh, the squash was eaten and part of the regular Kumeyaay diet. When mature, the gourd is no longer edible due to bitter compound but still continued to provide many other uses. This versatile staple plant could be used for cleansing purposes similar to soap, for medicinal purposes to heal skin wounds, or for cultural, ceremonial and religious purposes to make a traditional gourd rattle. Rattles are the traditional musical instruments of many tribal nations in the southwest United States, including the Kumeyaay. They are central to bird songs and dances which both historically and contemporarily take place during traditional ceremonies of all kinds.

Failing to identify, discuss or acknowledge the cultural value of landscape and habitation site that is emblematic of the Kumeyaay culture and its practices defies the central tenet of CEQA to disclose all impacts arising from a potential County decision for full disclosure and discussion. Failing to do so is at best, an oversight and could be more appropriately described as intentionally misleading

the public. With these considerations in mind, a more complete report should be provided and put out for secondary public review and comment.

The Draft EIR is Inadequate and Incomplete on multiple additional grounds

In addition to our grave concerns regarding the inadequate cultural resource analysis provided herein, we have reviewed the other elements of the draft EIR and found it similarly flawed, misleading and lacking appropriate analysis and candor regarding Project impacts. As noted in the attached additional comments, the proposed Project would cause unmitigable harm and damage to the residents, wildlife, cultural resources and the surrounding region, and there is no specific benefit articulated to justify such harm. Moreover, because the golf-course sits atop a village site the studies referenced above were insufficient to detect subterranean cultural resources. The method of surveying and spacing will by design, fail to identify significant sites.

It is our concerted belief that, with the vast significant impacts to a variety of cultural, biological and human resources that cannot be mitigated to a level below significance, the project cannot be approved without a statement of overriding considerations, and there is no reasonable basis for finding public benefits for such a statement. As a result, we urge the County to terminate this application and not approvable.

Should you have any questions or need additional information, please contact Sycuan at jlabrake@sycuan-nsn.gov or aday@sycuan-nsn.gov.

Respectfully,



Jamie LaBrake
Sycuan Cultural Director

cc: Sycuan Tribal Council
Adam Day – Sycuan CAO
Mark Radoff – Sycuan General Counsel

Attachment A

1. General Comments

As a general matter, the proposed property use as a sand mine creates an unrecognized and unreported significant impact on the sustainable use of nonrenewable resources. The DEIR fails to recognize that alluvial sand replenishment along the Sweetwater River has significantly diminished since the construction of Loveland Reservoir upstream, and should be treated as a nonrenewable resource. Moreover, the Unsustainable use of sand has been widely recognized as a local and global problem (see *The Unsustainable Use of Sand: Reporting a Global Problem*. Filiho, W.L. et al. *Sustainability*, 2021, 13, 3356]. This publication, which is attached and incorporated herein by reference, details the lasting impacts to alluvial systems arising from sand mining activities, particularly in systems with limited sand replenishment abilities (like the Sweetwater River). This concern has been raised to the County in other recently proposed alluvial sand mining projects (e.g., El Monte basin) and the County has failed to acknowledge or address this concern. We believe that, for this seminal reason, numerous public agencies and groups have formally expressed their opposition to the Project. We urge the County to step back from this Project proposal, consider these non-sustainability data and analyses, and reconsider its comments and suggestions in the DEIR in the context of the acknowledged depletion of a nonrenewable resource at this location.

Our concerns run deep with the County's DEIR, including the failure to grasp the gravity of the proposed Project and its impacts, unsupported conclusions, failure to recognize the validity and relevance of local and regional plans that directly conflict with this use, and reliance on speculative proposals *for* mitigation that are realistically unfeasible. These concerns require the public to seriously question whether the County's conclusions can be believed.

In multiple locations, we have found significant information and data omissions from the DEIR, much of which is readily available to the County. If required information is omitted from a DEIR, the EIR may be inadequate regardless of whether there is substantial evidence in support of the agency's action. *Association of Irrigated Residents v. County of Madera*, 107 Cal. App. 4th 1383 (2003). Mere identification of impacts is not sufficient, the likely impacts must be analyzed. *Sierra Club v. County of Fresno*, 226 Cal. App. 4th 704 (5th Dist. 2014). This analysis requires a hard look that seeks to understand and explain the nature of the impacts from the Project. The current DEIR fails to meet this standard throughout its discussion.

The repeated use of phrases such as "will be developed" or "would be prepared" demonstrate a heavy reliance on a speculative future plan for mitigation. It is arbitrary to assume success of speculative mitigation measures, and on that basis determine that impacts are less than significant. This DEIR does just that. The DEIR should describe in detail how mitigation measures would be effective and enforced and cannot improperly defer or delegate mitigation. Speculation does not constitute substantial evidence.¹ Rather, DEIRs must rely on substantial

¹ § 21082.2(c) Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical

evidence to reach its conclusions regarding significant impacts. The DEIR fails to meet this standard throughout the document.

2. Project Description, Location and Environmental Setting

An accurate description of the proposed Project is the heart of the environmental impact report process. *Communities for a Better Environment v. City of Richmond*, 184 Cal. App. 4th 70, 108 Cal. Rptr. 3d 478 (1st Dist. 2010); *Rio Vista Farm Bureau Center v. County of Solano*, 5 Cal. App. 4th 351, 7 Cal. Rptr. 2d 307 (1st Dist. 1992). If the Project is inadequately described, the report may be inadequate as a matter of law. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal. App. 4th 713, 32 Cal. Rptr. 2d 704 (5th Dist. 1994).

CEQA Guidelines set forth specific technical requirements for the project description. 14 Cal Code Regs §15124. A project description must include: the precise location and boundaries of the proposed project; a detailed map, preferably topographical, and a map showing the project's location in a regional perspective; a statement of project objectives; a general description of the project's technical, economic, and environmental characteristics; and a statement describing the intended uses of the EIR, including a list of agencies expected to use the EIR and a list of approvals for which the EIR will be used.

To be legally adequate, a project description must depict the project accurately and not minimize its environmental effects, include reasonably foreseeable activities associated with the project, and be consistent throughout the EIR. *See County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185 (1977). If the description is deficient because it fails to discuss the entire project, the environmental analysis will likely reflect the same mistake. *See Laurel Heights Improvements Ass'n v. Regents of Univ. of Cal.*, 47 C3d 376 (1988).

A project description should include reasonably foreseeable future activities that are a consequence of project approval. It should address environmental effects of future action, if there is credible and substantial evidence that (1) it is a reasonably foreseeable consequence of the project, and (2) the future action will be significant in that it will likely change the scope and nature of the project and its environmental effects. *Environmental Council of Sacramento v. County of Sacramento*, 45 Cal.App.5th 1020, 1030.

The proposed Project site is currently zoned as Open Space (S80), Specific Planning Area (S88), and Holding Area (S90) is recognized in the Valle de Oro Community Plan as open space recreational. The entire area surrounding the property was purposefully and intentionally planned and developed over many years through public engagement. The property's current use as a golf course is consistent with the community character, and the community has relied upon this precise land use over many decades as it has continued to shape the community character and land use in the surrounding areas, by incorporating homes, educational institutions, health facilities, and other public facilities in the nearby vicinity. An industrial sand mine is not only inconsistent with the current zoning of the property, but it is contrary to the community's developed character and neighboring land uses. To approve such a project in this location, would to be completely disregard

impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

those involved in the intentional planning and locating of these other important community elements for decades. The Project Description outright fails to highlight for the public the stark contradictions and inconsistencies with the current plans and neighboring land uses.

The Project Description defines a project with vague, uncertain phases, which could occur over a 10-year period, or could extend longer. The Project Description provides no limitation on the duration of the activity, which is a gross omission of information and leads to a categorical underestimate of the Project effects. In addition, periods of each of the phases is uncertain, leading to speculation of the duration of impacts proximate to each area of activity by the Project. The DEIR ignores this uncertainty in the Project Description, vaguely referring to nearly all impacts as “temporary” as though the community that is impacted by those impacts should be reasonably content to “grin and bear it” while the impacts are occurring near them. There is no such justification in CEQA.

In addition, and as discussed in more detail herein, the Project Description relies on a vague, uncertain and speculative “reclamation plan” to justify and erase the “temporary impacts” caused by the Project. There is no showing whatsoever that the reclamation plan is feasible or that it will approximate the habitat and other resources that are eliminated by the Project. Nevertheless, the DEIR claims on many occasions that mitigation will provide (without definition or detail) “higher quality habitat” in areas created by the reclamation plan. Such representations are required by CEQA to be supported with substantial evidence, which in the DEIR, they are not and should be removed from the document.

CEQA regulations state that specific details of a mitigation measure may be developed after project approval only if the agency “adopts specific performance standards the mitigation will achieve, and identifies the type(s) of potential action(s) that can feasibly achieve that performance standard” (§ 15126.4). No such standards are provided in the DEIR, perhaps because it is impossible to adopt specific performance standards that can feasibly be achieved when the biological resources in question are eliminated over the course of several years. The California Supreme Court has held that future resources identified and analyzed in an EIR must bear a likelihood of actually proving available: “speculative sources and unrealistic allocations (“paper water”) are insufficient bases for decision making under CEQA” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal.4th 412, 432 (2007)). Similarly, mitigation measures that claim habitat and wildlife functions and values can be restored from nothing after a multi-year period of elimination to effectively equal the functions and values that existed before the area was impacted are speculative and unrealistic “paper mitigations,” as there is no guarantee that protected plant and animal species will return to that habitat after such a delay.

Additional concerns related to the Project Description include the following:

The proposed Project asserts that the materials extracted and processed at the site would be available to customers in San Diego County, and would not rely on delivery from the facility. It is unclear if this is an option or a commitment, as the DEIR relies on this assertion throughout its analysis on long-term aggregate vehicle miles travelled (VMT) projections. If the product is available for pick up from customers, how can there be any certainty or regulation of the traffic

generated by this facility? The Project Description should clarify and disclose the business model and all analysis should be based on this business model.

The proposed Project will implement the installation of a portable conveyor line to transport excavated materials to the processing plant. The conveyor and excavation equipment are described as needing to be moved after each subphase, but associated impacts of moving this major equipment are not thoroughly discussed in noise, emissions, or energy impact assessments. The portable conveyor line is also frequently discussed as being a single conveyor, but the Project Description mentions a separate conveyor used to transport material. The specific machinery proposed and all safeguards and hazards from such machinery should be clearly disclosed.

The Project Description timeline is indefinite, describing three main mining phases, with three to four subphases per phase. The Project Description does not provide a specific timeline for Phase 1, but asserts that Phase 2 will be three years, Phase 3 four years, and Phase 4 eight to ten months (or ~one year). The reclamation timeline is inconsistently described as both a two-year period with a five-year revegetation monitoring period. The timeline for sand mining should be capped for each phase with a hard stop, and the reclamation plan should be open ended, continuing until strict success criteria are achieved. Two, or even 5 years is not a realistic timeline for the re-creation of an alluvial floodplain. These timelines fail to consider temporal loss which occurs during subsequent phases. For instance, an impact on Phase 1 on day 1, that impact continues until the removal of all industrial activity and the actual success of any reclamation plan. Such impacts are not temporary.

The proposed Project refers to the arrangement that private vendors will adequately maintain mobile equipment utilized for Project operations but assumes compliance with state and federal requirements. Regulation and enforcement of such an important part of the Project plan is not addressed in the DEIR—How will this goal be achieved? And will the facility deny noncompliant vendors? How will this be monitored? When working in a sensitive area such as an alluvial floodplain, such precautions are essential. Proper ground protection and spill containment measures and cleanup of possible hazardous materials are reliant on the availability of basic cleanup materials.

The Project reclamation plan is overly vague and the DEIR fails to consistently or clearly define the plan's requirements for success. Reclamation plans are supposed to be developed to identify appropriate measures and standards for adequate reclamation of mined lands. The reclamation goals provided in the Project Description refer to stabilizing the landform and controlling erosion. However, in impacts analysis it promises to re-create higher quality habitat throughout the mining area. What does this mean? What are the actual goals and requirements and how will they be enforced? The timeline for completion is also unclear, as the Project Description does not state how the reclamation measures would be able to re-create a truly annihilated alluvial system on the Project site. The Project Description leaves out the very possible reality that this stabilization and alluvial system creation is only speculative and likely is unattainable. What are the County's remedial requirements on such a situation? This should be provided in the Project Description, and all analysis should flow from the enforceable nature of these plans.

During public hearings on this Project, community members expressed concern that some of the sand excavated at the Project site is to be taken to the nearby off-site Hester's Quarry for processing. If this is the case, the Project Description should be expanded to include the Hester's Quarry and any other facilities not disclosed in the EIR that are intended to be used for any part of the sand mining operation. It is inappropriate to exclude from a Project description reasonably foreseeable activities that arise from the proposed Project. Why has the County completely left this important information out of the Project Description? The DEIR and Project Description must be broad enough to analyze the full scope of impacts, including those impacts caused by exporting the sand resource from the Cottonwood property site to another site for processing and the effects of processing on that site and transporting it from that site. The Project Description is erroneous and misleading to the public, as the current scope does not account for this broader processing impact. Without such information, the DEIR cannot appropriately disclose and consider direct, indirect and cumulative impacts.

In discussing the Project background, the Project Description fails to provide an adequate history of the site by only referencing commercial ranching and agriculture use prior to 1940's. This overlooks thousands of years of history at this site and its use pre-contact and during the Mission-era. The Project background completely leaves out the well-known and major Kumeyaay villages of Hamchaa and Matamo or the history of Kumeyaay agriculture in the region. It also fails to discuss the significant changes to the Sweetwater River sand transport processes that occurred once Loveland Dam was created. Additional detail is required in the Project background to inform the public of the context with which this Project is proposed.

3. Specific Significant Environmental Effects Arising from the Project

(a) AESTHETICS

Significant impacts to aesthetic resources is the only unmitigated significant impact according to DEIR. Residential development in the vicinity of the Project is a relatively recent change to the area, occurring within the past 20-30 years. As development has been considered and approved by the County within the area during this period, considerable planning and development documents have been prepared, reviewed and considered by the County and area residents for compatibility and the impact to incremental development in the area. Throughout this period, the depiction of this property in the Valley de Oro community plan has consistently been as open space recreational area and as part of Resource Conservation Area 77, and the reasonable context of development included the standards for this use at the site as identified in the community plan. In order to allow reliance on future conditions as development is planned, the community plan includes specific goals, background and policies for open space areas in the context of future development of the plan area. Nowhere in these goals, or policies is there even a hint that long term, large scale industrial sand mining would be an allowed use within the context of the community plan. To the contrary, the community plan specifically states the Sweetwater River plain should be preserved and kept in open space/recreational uses. The community plan also provides that "mature trees, shrubs, and significant land forms should be conserved in all public and private development projects." In addition, the plan provides "Significant natural resources as identified in the community plan (see Resource Conservation areas) shall be conserved through open space easement dedication, limited recreation uses, or by any other

appropriate means” and the “Sweetwater River Floodplain shall be protected from urban development and the impacts of urban development.”

Part of the rationale of these requirements is clear—aesthetics in the region are important to community character. In assessing impacts to aesthetic resources, CEQA Guidelines consider whether the project would: (a) have a substantial adverse effect on a scenic vista; (b) substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; (c) substantially degrade the existing visual character or quality of public views of the site and its surrounding or whether the project would conflict with applicable zoning and other regulations governing scenic quality; or (d) create a new source of substantial light or glare which would adversely affect day or nighttime views of the area.

Allowing an industrial mining project in a resource conservation area bounded by a residential area will decimate the community character and historical significance tied to it. One of the purposes of the Valle de Oro Community Plan is to protect and preserve the community character and to purposefully limit and control any land use that would be inconsistent with that vision. The Project site has been used for over 55 years as a recreational golf course and has been purposefully designated as residential open space. There is no starker contrast with a serene golf course in the middle of the community than replacing it with an industrial open pit mine that will leave the land with a gaping wound. There is no clearer inconsistency with the open space recreation designation.

The aesthetic value of a place is not only limited to what can be seen with the eye, but includes the myriad of ways that this will interrupt the character, elements and experience of this community. Measurable aesthetic impacts include deletion of recreational uses on and off the property, increased road congestion, diminished air quality and increased noise where ambient sounds were previously negligible. We agree with the County conclusion that the impacts to the community character and aesthetics is unmitigable; however, we believe that they remain understated in the DEIR.

In light of the finding of significant unmitigable impacts, a Statement of Overriding Considerations should be prepared by the County and should accompany the DEIR for public review. No such document has been prepared for public review. In addition, no statement of public benefits has been offered that outweigh the costs of significant cultural impact (in fact, County staff have offered in multiple public hearings regarding this Project that the County gains no benefit from this Project, and it is entirely for private benefits). If the County is determined to allow the wholesale destruction of the aesthetically significant area, it is required to prepare a benefits analysis as part of a Statement of Overriding Considerations, which should be circulated for public review.

(b) BIOLOGICAL RESOURCES

General Comments

The DEIR, Biological Technical Report and associated documents are troubling due to a number of categorical omissions and a failure to adequately inform the public regarding the biological impacts associated with this Project and its temporal and long-term effects. Some of

these concerns, more completely described below, include an inappropriate depiction of habitat types on the property site, undervaluing certain habitat uses, overstating the use of golf course areas, failure to recognize significant use of day and nighttime use corridors, minimizing impacts on surrounding areas, particularly in the context of the MSCP Preserve and overall natural species movement and population survivability. In addition, the Project analysis relies on vaguely termed “temporary impacts” without defining the term and without discussing temporal impacts associated with the Project. The Project also relies on assumptions of speculative mitigative activities and is internally contradictory about uses of the property and as such is arbitrary in several respects. These issues deserve specific elaboration since they remain under-addressed in the DEIR.

The use of the term “temporary” impacts throughout the DEIR is particularly disturbing, as it is misleading and inappropriate for such a physically transformative project. The proposed Project, by its nature and intent, will physically remove and transform the entire soil column and structure, hydrologic system and ecological baseline for the entirety of the site. Once removed and transformed, the system will be changed permanently, or at least for decades to come. This creates an immediate direct impact (the mining activity) and a prolonged indirect effect on the property. CEQA Guidelines 15358 define impacts to include indirect or secondary effects which are caused by the Project and are later in time or farther removed in distance, but are still reasonably foreseeable.

The concept of the fundamental and significant changes caused by a sand mine to the condition of the property above and below ground appears lost on the County and the DEIR preparers. The DEIR provides an unsupported conclusion that following the fundamental transformation of the property, a speculative “reclamation plan” will return these physical and biological attributes of the property to pre-project functionality and values – in fact, the Project double-downs in many instances by stating, without supporting facts or analysis, that the quality of these attributes will be “higher quality.” Lacking any supportive information to these claims, they should all be stricken from the DEIR and the analysis should acknowledge the long-term effects of the Project.

The DEIR provides misleading descriptions of existing land uses.

The land use discussion that is used as a premise for analyzing biological values and impacts is misleading and dismissive of existing biological values. The DEIR identifies a significant portion of the site as “disturbed habitat” (93.1 acres). These areas are largely in the closed portion of the golf course and discounts the value of the trees and other residual habitat that occur on the property. By defining it as disturbed habitat, the DEIR creates a veiled attempt to lower expectations of the public on the resources that are currently extant on the site, as well as future goals for a reclamation plan and restoration of the area. The areas may be defined as degraded coastal sage or river floodplain areas but should not be defined as disturbed on the property.

The depiction of the active golf course as developed land significantly misleads the public regarding the character of this regarding the greenspace area. The recreational open space area which is the golf course provides significant biological values. By defining this area as “developed land” (139 acres), the Project seeks to lower the expectations of the public and of a later restoration

plan that the recovery success criteria should be based on a fully developed site. The site is a minimally “developed” site. It is largely greenspace with significant decades-old trees and other vegetation that are used by raptors and other species as noted herein. In addition, the lack of hardscape in these areas provide important functions relative to flood control and groundwater recharge when rain events occur within the area. A fully “developed” property (commonly referred to as largely hardscape areas) would be distinctly different from a golf course. We strongly recommend removing the “developed land” description of an active golf course which is lightly used during (only) daylight hours and does not include significant hardscape. Such area should be provided agricultural or other designation and all of its attributes fully disclosed.

The land use section identifies the property in the context of its immediate location but without an adequate description of the context of the site relative to surrounding open space and MSCP overall preserve requirements. While the DEIR identifies that there are core blocks of coastal sage scrub chaparral within adjacent areas and minimal perennial waters and riparian along the Sweetwater River, the analysis fails to identify the importance of these areas to wildlife movement and there is no wildlife movement analysis or survey that has been presented. The analysis acknowledges that there are at least three critical habitat areas associated with the property, including the Southwest Willow Flycatcher, the Least Bell’s Vireo and the California Gnatcatcher. However, the analysis fails to identify and recognize that the constituent elements required for the continued existence of the populations are present for all of these species and each corresponding segment of the property should be considered viable habitat for the species.

In addition, in discussing sensitive species such as those with critical habitat, the biological technical report fails to address the recovery plans that Fish and Wildlife Service has created for these species as part of the listing process which include preserving areas that are available for restoration and expansion of habitat areas. Consideration of endangered species recovery plans is essential to the continuous existence of endangered and threatened species, and natural (undeveloped) areas adjacent to known populations are critical to the continuation of endangered species populations. Conversely, losing the opportunity for such expansion is a significant blow to these species continued existence. Once transformed by sand mining, this property would not become ecologically suitable for any of these species for decades to come. The DEIR contains no discussion of this impact to endangered and threatened species on and adjacent to the Project site.

The MSCP is part of a regional habitat conservation species program that was worked on for years by the County, local cities, Fish and Wildlife Service and other stakeholders to delicately balance the amount of development and open space habitats to ensure the long term viability of the populations of endangered and threatened species and other sensitive species throughout the San Diego County area. This Project occurs in the south county segment as well as the southwest portion of the Metro-Lakeside-Jamul segment of the County’s adopted Subarea Plan for the Project. This depiction has been adopted and transferred into the Valle de Oro Community Planning Area and Rancho San Diego Specific Plan Area and identification of a movement corridor and specific Resourced Conservation Area (77). The DEIR’s depiction in Attachment J and in the text of the site as “developed” as a habitat evaluation is erroneous.

Curiously, the biased biological analysis that’s included uses many modifiers as it relates to descriptions of the onsite Preapproved Mitigation Area (PAMA), including, “small”, “narrow”, again “small portion”, etc. These depictions seek to convince the public or lead the public into

believing that the habitat value on the property is minimized. This is not an objective analysis and should be stricken from the DEIR.

The biological analysis misleads the public to believe that only PAMA areas are the valuable habitat and necessary for the MSCP to work as an overall preserve system. This position is counter to the basic tenets of the MSCP. The interstitial value of other areas of open space, agriculture and greenspaces are vital to the value of PAMAs. The subject site is an excellent example of the interstitial value of non-PAMA areas to the Preapproved Mitigation Areas. In fact, absent the habitat value of the associated greenspace areas on the site, the Preapproved Mitigation Areas would never have been allowed to remain as viable habitat preserve areas within the MSCP. Instead, these areas would be considered postage stamp remnant areas and would be allowed to have been developed through the MSCP. The purpose for the limited PAMA designations on the property is to allow these areas to be the anchors for larger habitat restoration and preservation areas and open spaces such as the golf course.

Biological Surveys are insufficient to support DEIR's conclusions.

It is concerning that the biological surveys done on the property for the DEIR were conducted on limited occasions, up to three years ago. Newer information does not seem to be available or incorporated into the Project site. All biological surveys should be updated and should include daytime as well as nighttime surveys for wildlife usage.

The most recent protocol surveys for the Arroyo Toad, Least Bell's Vireo and Willow Flycatcher occurred in 2019. It is unclear whether these surveys occurred during a year of water release from Loveland Reservoir to Sweetwater Reservoir. The U.S. Fish and Wildlife Service has previously indicated concerns regarding the displacement of estivating Arroyo Toads and their eggs from the Sloan Canyon areas (and above) downstream during the rapid flow of water release events. There is an episodic capability of population distribution from those areas of viable populations downstream to the subject property for new and additional Arroyo Toads. The DEIR fails to address this issue. This analysis should be completed and disclosed.

Regarding surveys for Least Bell's Vireo riparian habitat location, surveys should have included all of the adjacent riparian areas that have suitable roosting and forage habitat in this area. Valuation of these areas provides insight to peripheral potential impacts to the species if these areas are removed by the Project. Species abundance often fluctuates with rainfall and affecting the viable water table to support understory species in riparian areas. There is no discussion and no disclosure regarding the effect of rainfall during the 2019 or other years, or how a disruption of the water table by the action would affect Arroyo Toads or Least Bell's Vireo. That analysis should be used to qualify the value of the surveys that were reported.

DEIR provides misleading Habitat Descriptions.

The DEIR's identification of the different habitats on the property is both misleading and seeks to minimize the resources on the property. In addition, in parts it's significantly inconsistent with other portions of the document in discussion. As it relates to disturbed wetlands, the document identifies the river channel as being "disturbed wetland" and yet also identifies it as part of the golf course development ("mowed regularly") and associated with previous mining

activities. Contrary to the representation, the river channel, if actually identified as a wetland area, wouldn't be mowed by golf course maintenance activities. As a result, it appears that the 10.41 acres of disturbed wetlands is either erroneous or is misrepresented in the document. In many of the discussions regarding other habitats, there is an allegation in the document stating that areas were previously disturbed by "previous" sand mining activities. However, it is unclear from the documentation either the timing or the scope of the previous mining activities. The DEIR uses this descriptor to explain the low value of the Project site as having suffered from previous sand mining; however, it fails to note that the "previous sand mining" reported in other parts of the DEIR appears to be over less than 15% of the property. If in fact the degradation of the property is caused by limited areas of sand mining activities which occurred decades ago, this is a clear indication of the inability for areas that are impacted by sand mining to adequately recover to reach meaningful habitat purposes. If the statement is erroneous that the sand mining activities are the basis for disturbed habitat, then these references should be removed from all of the habitat area discussions. A map should be provided in the documentation that shows the duration, area, and depth of previous sand mining operation on the property and the dates of that activity.

In addition, areas "disturbed from previous sand mining activity" were purportedly reclaimed under a previous sand mining permit and reclamation plan. The DEIR notes on page 1-25 in the Project Description that a separate MUP was provided in 1983 for a sand mining processing and reclamation plan by the County for limited sand mining activity. Given that there was a previous reclamation plan provided for the previous limited sand mining activity, this sand mining plan should be part of the public disclosure package for the instant Project so that the public can assess the success of that plan. Such information is important to understand the viability of biological open space that could occur from the proposed reclamation plan on the property. It is evident based on the description of the habitat types in the EIR that the reclaimed areas of former sand mining are almost universally disturbed habitat which have little biological value. As a result, to rely on a future reclamation plan to recover these areas to viable biological habitat is both inappropriate and not consistent with site conditions or the existing findings of the property. The reliance on reclamation plans for findings of no significance is arbitrary, capricious and contrary to the facts stated in the DEIR.

In discussion of Southern Cottonwood Willow riparian forest, the document should acknowledge the fact that there are cottonwoods scattered throughout the entirety of the property, including on the currently unused golf course and the active golf course area. These species provide seed sources and population support for the species within the area and should not be ignored in the habitat analysis.

In the discussion regarding sensitive vegetation and community types, the DEIR also fails to recognize the biological and ecological importance of subterranean flows which occur throughout the area. Instead, the discussions only focus on jurisdictional waters and surface waters of the Department of Fish and Wildlife Service, U.S. Army Corps and Regional Water Quality Control Board. The areas of subterranean alluvial flow are at least as important as the surface waters to the local ecology and require addressing as a sensitive habitat type and a type of dynamic system that occurs within a river floodplain. Subterranean alluvial flow facilitates nutrient flow, oxygen flow and recovery of the species. By ignoring the surface water flow of the alluvial system,

the County seeks to ignore the likely primary driver of the health of the riparian systems in this area.

DEIR provides inadequate analysis and misleading information regarding species use of the site, particularly downplaying the regional importance of the site.

In reviewing the special status species within the floodplain, the DEIR inappropriately confines its analysis to use of plants and animals on site. The property is located next to surrounding open space, hillside and riparian areas which promote the itinerant use species from these adjacent areas. The scope of the area of impact and analysis and species surveys should be expanded to no less than a quarter of a mile offsite which is consistent with the regional use of the property.

Regarding raptor foraging areas, the County downplays the use of the mature trees and floodplain by raptors by stating that many of the species onsite are limited to peripheral areas. Specifically, the DEIR states that only the disturbed habitat area could be considered for raptor foraging, which is not true. The entirety of the closed golf course and the open golf course area should be considered for foraging value for raptor species given the number of rodents and small mammals that occur on golf courses, as well as the number of mature trees which occur for roosting and nesting purposes. Notwithstanding this basic tenet of open space areas and raptors biology, the biological section guesses that the Project is less likely to function as foraging habitat for raptors. No data is provided to support this conclusion and there is a hopeful assumption that the active use of the golf course by itinerant golfers would discourage or limit raptor foraging activities. This couldn't be further from the truth. As anyone knows, if a golf course is fully sold out every day, a golf course is used by no more than 4 people at a location at a time, moving every approximate 20 minutes. Golfers only occasionally pass through an area of a given golf course. It is also only used during daylight hours. Nighttime uses and interstitial uses of the floodplain by wildlife between golfers are completely ignored by the biological analysis to diminish or minimize likely biological impacts associated with the destruction of the existing habitat. The biological report should be peer reviewed and revised to include these areas.

The biological analysis acknowledges that the Project site is shown as a habitat linkage between the McGinty Mountain and Sycuan Peak Dehesa Biological Resource Core Area (BRCA) and through the adjacent National Wildlife Refuge, the Sweetwater Reservoir/San Miguel Mountain BRCA, but downplay the relevance of its key location. The site is one of regional significance as a linkage area for large and small mammals, as well as bird species.

In discussing the impacts to this habitat linkage, a biological analysis presents more conjecture and false conclusions. In vaguely stating that fences are located along certain portions of the boundaries of the property which impede wildlife access to the site, the analysis fails to indicate what kind of fences these are and whether they actually do impede wildlife access. More likely, small mammals, medium sized mammals and large mammals can traverse such fencing barriers unless they are six-foot chain link fence barriers to entry. These references should be removed.

In addition, the DEIR seeks to diminish the value of the river channel that runs through the property, stating that the areas are subject to "regular human activity" and other disturbances that

would discourage large animals from utilizing the site; however, this analysis ignores that from dusk until dawn these areas are open for wildlife use. Anyone who has ever walked a golf course early in the morning or late in the evening has seen coyotes, deer, fox and other species on the course using these areas as forage areas. Additionally, there is conjecture that common birds and mammals might move through the Project site for forage and dispersal activities, but would not be expected to use the site for the same reasons. No support is provided for this proposition. It is common to see small and large mammals and birds on the golf course facility.

There are a handful of linkage areas identified in the County designed to assist in MSCP preserve design criteria and assessing levels of species conservation. Linkage configuration is used to assist in visualizing the framework for a regional preserve network and are used to link core habitat areas. Subarea plans are used to design “maximizing inclusion of unfragmented core resource areas and linkages in preserve design” In defining linkage areas, an extensive geographic information system database of vegetation, elevation, slopes, soils, drainage and other physical parameters, in order to provide a regional perspective to later site-specific biological assessments (Sec 2.2 MSCP). The proposed sand mine location is identified in the MSCP as “biological linkage L” which joins two biological core areas (San Miguel and McGinty Mountain core areas) throughout the area of the Project location. The instant DEIR and biological reports fail to appropriately bring the regional perspective of the property into the analysis of the impacts of the Project.

The MSCP set separate specific goals for the preservation of core areas and linkage areas within each of the subarea plans. The County subarea plan committed to conserving 76% of linkage areas within its subarea plan. The linkage including the subject property is one of the smallest linkages in the MSCP, and was created because of its recognized high value for movement of species, notwithstanding this limited size.

One of the 5 elements for MSCP preserve design required to be included in the County’s subarea plan is inclusion of a conservation strategy for key existing linkage areas between core habitat blocks, including restoring or enhancing the connections to other private or public open space lands (MSCP 3.6). Notwithstanding these clear requirements, the DEIR provides no information regarding how the loss of this key linkage area, which severs an area of wildlife and gene movement between two Biological Core Resource Areas, affects the County’s subarea plan goals, direction and regional effectiveness. Such an omission is not only misleading to the public, but also calls into question the County’s compliance with its MSCP commitments in the MSCP and its implement agreement with the state and federal wildlife agencies.

DEIR Provides inadequate finding where significant species impacts will occur, as the impacts are significant longer lasting than presented.

County guidelines for determining significant impacts include a required finding of significant impacts where there is an impact to Arroyo Toad estivation, foraging or breeding habitat, impact to Golden Eagle habitat, foraging or nesting habitat, a loss of foraging habitat for raptors, impact on the viability of a core wildlife area and indirect impacts caused particularly at the edge of a proposed development adjacent to proposed or existing open space and natural habitats. Each of these concerns are raised in the biological impacts arising from this Project.

In the context of habitat analysis, two key features need to be clarified and corrected in the DEIR. One is that the Project, which is a minimum ten-year long project for the destructive activity of the sand mining, is a total removal of all habitat that is located on the property. By definition, sand mining activities remove all extant habitat from the area of the sand mine and afterwards leave a void of the resources taken, and sever any existing wildlife connections going through the property for the duration of the Project. The Project through its “reclamation plan” seeks to recreate a natural environment in the areas where all residual habitat and soil structure has been removed. These impacts occurring for a period of at least ten years, which will disrupt population status and movement patterns, potentially permanently. In addition, the lengthy impact will then require a continuous long term reclamation activity to seek to recreate habitat in the area. Given that the existing conditions include hundreds of acres of mature sycamores, eucalyptus, cottonwoods and other trees in the area, it will take decades to replace the existing condition even if it is possible that such plants will grow in the artificial environment that is created by the reclamation plan. As a result, in each of the scenarios where the biological impacts are stated to be “mitigated” by the creation of a reclamation plan, such mitigation is not only speculative but could only be effective in a far off date. The temporal loss of the wildlife movement during the Project and in the disturbed state of failed or incomplete reclamation plan, or complete reclamation plan, as well as the extant resources on the property, must be considered significant to the regional context of the County’s MSCP Subarea Plan as well as to each of the biological resource core areas which are diminished in their value by the long term severance of wildlife movement between them.

The DEIR acknowledges that impacts to the Coastal California Gnatcatcher foraging habitat would be potentially significant and in addition, the noise impact into adjacent nesting Gnatcatchers is also potentially significant. This impact is focused on the habitat onsite. As mitigation for this impact, the DEIR claims that following reclamation (years into the future), if such habitat restoration is successful would provide additional habitat for the species through revegetation of 11.91 acres of Diegan coastal sage scrub along the cut slopes constructed in the river floodplain. The fallacy in this statement is that there is no guaranty of success of the reclamation plan or the revegetation plan. By destroying the existing soil profile and seeking to recreate an artificial soil profile, there is no guaranty that coastal sage scrub vegetation or any riparian plants will successfully recolonize and develop in the area. More importantly, the ecosystem of a coastal sage scrub or riparian system that include all the life sustaining qualities required of a species to thrive are not likely to exist.

In understanding the ability to re-create an ecological system, sufficient consideration must be provided to the complexity of the system, and how it has evolved. In each of the ecological systems that are affected by this Project, mature levels of those systems take decades to develop. Literally, the basis of that development is the content of the soils structure upon which the trees, shrubs and other plants rely for nutrient uptake, anchoring, microbial support and commensal relationships. Such development will be erased by the sand mining activity and replaced with a back filled fines and other “nonmarketable” substrate. This wholesale disruption of the soil profile will impede water movement and nutrient exchange, diminish anchoring capability, and likely lead to unhealthy systems. And, this is just looking at whether the plants can survive in the restructured soil. The planting of trees and shrubs does not necessarily lead to the creation of viable habitat.

Unsuccessful habitat creation efforts are more common than successful ones, particularly where an artificial soil profile is the foundation for creation.

The DEIR fails to present that development of some elements of a system of vegetation does not create a habitat area. California Gnatcatchers, for example, require the full suite of the habitat to be created in order to colonize and thrive and continue to exist, including food sources for the species which require multi-levels of ecological monitoring to determine their existence. Similar requirements are needed for riparian systems which, when poorly created, often provide little habitat value. None of these elements are included in the reclamation plan. In their absence, depending on a reclamation plan to bring these impacts to a level below significance is not only irresponsible of scientifically unsupported.

The DEIR acknowledges that there will be direct impacts to occupied Vireo habitat and if mining reclamation activities occur within 500 feet of suitable Vireo habitat that noise impacts would affect nesting Vireos as well. Again, the DEIR relies on a fallacious reclamation plan to develop the revegetation of 110 acres of wetland riparian habitat which it claims will be “higher quality habitat for the species”. There is no indication that development of additional riparian vegetation will be successful at some point or when it might succeed, particularly when using an artificial soil profile system. The statement that higher quality habitat for this species or habitat for this species to even occupy would be generated, is unsupported. More likely, the unsuccessful riparian vegetation that occurs, which will lack understory species and other ecological elements that protect the species from nest predation and actual predation, will make the species more vulnerable to population decreases. It is a well-known fact that nest predation is a significant concern for Least Bell’s Vireo in areas where disturbance has occurred immediately adjacent to nesting habitat. This very strong concern is not included in the biological technical analysis for the DEIR. The impact to the Least Bell’s Vireo are significant and unmitigated.

Impacts are assumed not to occur to the Southwest Willow Flycatcher in this area because of the very dated surveys that have occurred onsite. However, there is no acknowledgment of the previous existence of Southwest Willow Flycatcher just upstream in the Sloan Canyon area historically and the ability for that species to recover into this area. This omission in the discussion is concerning as it misleads the public as to the viability of the area for the Southwest Willow Flycatcher.

The DEIR acknowledges that there may be impacts to potentially nesting and foraging habitat for several raptors including the Cooper’s Hawk, Peregrine Falcon, Red Shouldered Hawk, Sharp-Shinned Hawk and White-Tailed Kite and Loggerhead Shrike. This is curious because in the previous biological section, the DEIR states that the developed areas of the golf courses have virtually no biological value and are unused by these very same raptors. This inconsistency in the document needs to be corrected and recirculated for public review. Notwithstanding this inconsistency, it is likely that these impacts to foraging and/or nesting habitat for these important raptor species will occur through the total elimination of their roosting and nesting sites (trees throughout the Project). As purported mitigation for these impacts, the DEIR claims that “following (successful) reclamation, the Project would provide ‘additional higher quality habitat for the species’ through revegetation restoration of the floodplain.” However, there is no assurance of success of a restoration plan that is being created through an artificially created soil profile. Moreover, the amount of time that would be taken to develop trees of significant size to support

the roosting and nesting activities for these species is in the order of decades, not years, after the completion of all activity on the property. The impacts to the raptors and birds that are nesting on the site are likely to occur for at least 30 years, if not longer for the site. These impacts should be considered permanent and unmitigable.

Impacts to the Two-Striped Garter Snake and the Western Spadefoot Toad are found to be potentially significant. Given the complete removal of the habitat of a ground-oriented species which would be to eliminate the entire population over the 250 acres of the subject property justified concluding that this is a definite significant impact. Not only are the individuals being removed through the habitat decimation that would occur, any potential egg sources or for a recolonization in these areas would also be removed. As a result, there is little likelihood that any remainder of the species would reoccur in the area following this Project. Nevertheless the DEIR claims that following reclamation the Project would provide “additional higher quality habitat for the species” through revegetation and restoration of the floodplain. This unsupported suggestion for a ground-oriented species is completely scientifically unfounded and misleading. The only way additional higher quality habitat, even if it could be created onsite, would benefit the species is if the species was actively recolonized into the area given that all the extant habitat on the property has been removed. The DEIR must reflect this significant impact.

The Project also finds potentially significant impacts to the Yellow-Breasted Chat, Yellow Warbler, California Horned Lark, Canadian Geese, Blue Herons and Green Herons, Merlins, Monarch Butterfly and Western Bluebird, all of which would be completely removed from the property and would be unmitigated impacts. This acknowledgment needs to be stated in the document and appropriate mitigation must be provided (not a speculative reclamation plan).

The DEIR simultaneously states that impacts to raptors is found to be significant in several instances, and in later sections claims that impacts to raptor foraging habitat would be less than significant. This type of confusing and inconsistent terminology misleads the public as to the actual impacts arising from this Project and should be corrected and recirculated.

The DEIR correctly states that the location of the Project site along the Sweetwater River between two MSCP core areas gives it high restoration potential that could significantly increase the function and viability of this linkage. This is true in the current situation absent total decimation of the habitat. It is not true when the elements that provide the potential value are completely removed.

While the analysis includes a statement that impacts to habitats in the core areas would be considered significant, the DEIR then makes the unsupported claim that 142.8 acres of newly created artificial reclaimed habitat would be preserved by the biological open space easement. However, the DEIR does not state the quality of this preserved rehabilitated restored habitat, anticipated species use in these areas, or success criteria for the ecological value of these areas. With empty assumptions regarding the reclamation plan, the DEIR nevertheless proposes that a less than significant impact on the viability of core wildlife areas would occur because of the speculative reclamation plan. At best, if successful, such mitigation and restoration to create viable habitat would be complete decades after the sand mining activity has completed, and the temporal impacts would be decimating to the linkage corridor areas. These are significant impacts that need to be explained and analyzed and recirculated with a revised DEIR.

Indirect Impacts are Understated.

All of the indirect effects discussed in the DEIR assume a temporary impact on wildlife. However, it cannot be denied that the impacts to wildlife, whether onsite or to adjacent to wildlife areas, will occur throughout the life of the Project through the very significant movement of heavy machinery, loud activities, human disturbance and complete removal of the basis of habitats and substrates that support those habitats. There is no way to claim temporary impacts of any direct or indirect impacts.

Moreover, the analysis regarding noise and indirect impacts assumes that wildlife are only affected by a noise level occurring over an hourly average or over ambient level for an extended period of time. However, nesting birds such as Gnatcatchers, Least Bell's Vireo and raptors are more sensitive to episodic and high volume activities, which act to startle and affect these species more so than hourly average noises would. Additional significant indirect effects that include fugitive dust (see air quality analysis) which is likely to be smothering to species due to the separation of the existing soil profile removing heavier materials (which are carted offsite) and leaving finer and silt materials, which are more likely to become airborne. Fugitive dust is a significant impact which must be mitigated.

In addition, human activity in the form of large vehicle use and heavy machinery would be an impact. Golf play onsite is a low impact, occasional and quiet use of the property. Changing golf use to heavy, loud machinery in multiple locations as well as truck traffic in the area would clearly be a significant impact to sensitive resources and other biological resources in the surrounding area. No mitigation is proposed by the Project for this impact and it must be considered significant.

Impacts associated with domestic predators and pest species such as rats are understated and apparently misunderstood by the DEIR writers. The larger effect of the impact of the Project is the creation of a large scale disturbed area with a manufactured artificial soil profile and a likely ineffective revegetation activities. A remnant degraded and artificial open space area during and after the sand mining activities invites the intrusion of exotic species and domestic predators into adjacent viable habitat areas. The Project places adjacent valuable habitat areas at risk by creating an avenue for exotic and pest intrusion. These impacts are ignored by the analysis. This analysis should be included in the Project DEIR and recirculated for review.

(c) NOISE

While the DEIR concedes that the proposed Project would have potentially significant noise impacts, it provides an inadequate conclusion that the proposed mitigation measures would reduce these impacts to less than significant through uncertain measures. This inadequate conclusion is due to the fact that current studies and considerations on noise impacts provide an incomplete review of all noise-related factors and potential effects. The DEIR minimizes the fact that the noise-sensitive land uses (NSLUs) include numerous nearby schools, single-family residences, and a healthcare facility. Just west of the Project site is the National Wildlife Refuge where sound-sensitive endangered songbirds live. The DEIR fails to address whether the noise or vibration associated with mining would negatively impact species that inhabit the site or nearby habitats. The addition of noise into a currently low noise area could discourage species from the

site or surrounding habitats. Noise impacts should include mobile as well as stationary sources, and they should include onsite and offsite sources and receptors. This includes noise generated by trucks accessing the site, as well as the operation itself. The current use (golf) is essentially silent to surrounding traffic, residences and other users, including the high number of runners, walkers, cyclists and equestrian riders that frequent the adjacent streets. The introduction of truck and mining noise into these areas will be a significant impact for each such users, and the noise could become a safety threat to road users (cyclists, runners, walkers, equestrian riders and horses) unaccustomed to large trucks steaming past them.

Moreover, these impacts will be very long-term. The assessment of noise impacts also does not adequately factor the timeline of the Project and how the noise will change use patters to avoid it. The Project proposes sand mining on 251 acres over the span of ten years, with reclamation anticipated to last an additional (at least) two years. The screening machine that induces a vibration for particle separation will produce a new and consistent level of noise for years. Because the reclamation of the proposed Project site also includes industrial activity such as backfilling and grading activities, noise impacts will be present longer than the ten years stated. Any additional episodic noises will occur on top of the consistent noise produced by the Project. This will include the periodic major construction activities as well as the major increase in traffic and hauling through residential areas, redirection of normal traffic, and may also include unaccounted noise impacts due to emergency services.

The DEIR cites the County's Noise Ordinance and the requisite limits as the standard for noise control, but fails to adequately address how this Project complies with its purpose of controlling disturbing, offensive, and excessive noise. The Ordinance states that "disturbing, excessive or offensive noise" means any sound or noise that: (1) Endangers the health or safety of any person. (2) Causes discomfort or annoyance to a person of normal sensitivity (County Code Sections 36.402[g]). The DEIR concedes that the noise and vibrations emitted from the proposed Project will meet the threshold for significant impacts in residential areas but does not address how mitigation measures would fully protect nearby residents and users in a manner that aligns with the purpose of the County's Noise Ordinance.

Further, the County Noise Ordinance does not consider episodic noise in comparison to average and consistent noise. The proposed Project's Noise Report also does not include the impacts of episodic noise during the span of the Project nor does it recognize their importance.

Most importantly, using the County Noise standards as a measure of impact is inappropriate. The noise ordinance was created to ensure that existing County businesses, individuals and operations maintain an appropriate level of noise to avoid burdening other surrounding users. That standard is not the same as then standard that should be considered when determining the impact to the human and natural environment when introducing a new source of noise into an area that is essentially silent, other than minor traffic noise. The degree of that change in noise source and reactions to it is what is relevant to the environmental impact. The noise ordinance is relevant only after a project is permitted to be developed, to ensure the project does not exceed County standards. These are very different standards, which the County seems to have confused.

The DEIR refers to studies which have concluded that more specific research needs to be conducted on the environmental effects of transportation noise on endangered birds. Therefore, only utilizing associated guidelines does not provide a complete or accurate conclusion on this proposed Project's potential noise impacts on sensitive and endangered birds. It is apparent that the DEIR preparers failed even a reasonable literature search to determine the noise and vibration effects on songbirds. There is plenty of scientific data available to demonstrate these effects. The County needs to provide a genuine, defensible analysis of these impacts.

The DEIR assesses noise levels based on the assertion that the processing plant would be stationary, but does not take into account that the conveyor belt would be moved with each subphase to serve the processing plant. Given the literal "moving noise" source throughout the Project, it is overly simplistic and unsupportable to conclude that levels of operational noise would be less than significant everywhere on the Project site, at all times.

The DEIR seems to reluctantly recognize this in one location, stating nine of the receiver locations exceed the applicable 60 dB CNEL limit, noise impacts from mining activities to exterior use areas at NSLUs are conservatively assessed as potentially significant (Impact N-1). Given this ambiguity in the DEIR text, the Noise analysis should provide a clear depiction of anticipated noise levels at each location adjacent to the Project on no less than a monthly interval throughout the duration of the Project to appropriately inform the public of the sound impacts. These sound impact intervals should include both new stationary and new mobile sources of noise introduced by the Project. If there are any offsite processing activities (e.g., Hester's quarry), these should also be included in the analysis.

Whereas the Project's Acoustical Site Assessment Report utilizes the Federal Highway Administration's (FHWA) standards for measuring construction equipment noise levels, the DEIR ignores the FHWA standards on mitigation approaches. When determining noise impacts and possible mitigation measures for construction projects involving non-human species, noise analysts are supposed to closely coordinate assessments and plans with qualified biologists. The mitigation measures narrowly focus on the construction of the noise barriers without any mention of the impacts these barriers themselves will have on biological life. The current mitigation measures are completely devoid of any coordination with qualified biologists and are therefore incomplete and inadequate.

(d) PALEONTOLOGY

The DEIR's impact assessment concluded that of the paleontological resources (i.e., fossils and prehistoric plant and non-human animal life) located within the Project site, the alluvial deposits were assigned a "low sensitivity" rating and the granite rocks were assigned a "no sensitivity" rating. To support this conclusion, the report relies on the Soil and Geologic Reconnaissance also within the DEIR (see our comments at V.B.1.2 below). The report argues that based on the relatively young age of the surface alluvial deposits within the site, they are unlikely to produce unique fossil remains. However, this is contrary to the APS/SDG&E anthropological report referenced above in our cultural resources comment. In that report, with the help of local Kumeyaay woman Delfina Cuero, anthropologists recognized the likely possibility that resources exist well below the present surface level because the known reoccurring flooding deposited deep layers of sand and silt throughout the San Diego region valleys. This

reinforces that surface material in these inland river valleys is not indicative of resources farther below the surface. The DEIR's impact analysis including the Paleontology and the Soil and Geology reports fail to recognize the deeper sedimentary deposits caused by historic episodic flooding events, such as the 1916 floods. The County's Guidelines as recognize that when fossils are found in these alluvial formations, they are often very significant additions to the geologic understanding of the area.

This has been proved to be true in a similar inland river valley in north county San Diego within the San Luis Rey River passage. For example, construction-related excavation at Interstate 15 and State Route 76 near Pala Mesa in 2013 resulted in the discovery of a giant bison (*Bison latifrons*), the most complete *Bison* remains yet found in San Diego County and representing the first record of a giant bison in this region. The San Diego Natural History Museum report (entitled "Discovery of remains of an extinct giant bison (*Bison latifrons*) in Pleistocene (Rancholabrean) fluvial strata in the San Luis Rey River Valley, San Diego County, California, USA") acknowledges that an important part of the regional Pleistocene history has been largely overlooked, namely that of the non-marine (fluvial and lacustrine) deposits that accumulated in the coastal river valleys upstream from the Pleistocene bays and estuaries. These kinds of deposits are quite extensive, especially in the larger river valleys such as the Sweetwater River Valley, where the proposed Project is to take place.

CEQA requires an assessment of impacts associated with the direct or indirect destruction of unique paleontological resources or sites that are of value to the region or state. Here, similar to the giant bison discovery in the San Luis Rey River valley, the Sweetwater River valley also contains layers upon layers of alluvial deposits dating back to the Quaternary and Pleistocene period. Because the site so far has been used primarily as a surficial use, as a golf course, and has not experienced significant subsurface disturbance previously, there is a high likelihood that there are in fact significant paleontological resources located within the proposed Project site and cultural landscape.

The DEIR acknowledges that development in the San Diego region has resulted in the disturbance of important paleontological resources yet states that such development has also led to the discovery of many fossils that have added to the natural history record, painting a biased picture for development. Discovery and disturbance are not the only ways to achieve a fuller understanding of history, as there are other non-destructive means to preserve resources and add to the natural history record than continued and unfettered development in culturally sensitive landscapes. Moreover, the DEIR does not provide adequate mitigation measures to resolve the significant impacts to resources. Rather, the DEIR states that impacts to sensitive resources can be mitigated to less than significant through conformance with applicable regulatory requirements and monitoring. First, simply complying with current baseline regulations does not equate to mitigation and does not lower the risks associated with the Project. Second, monitoring the removal and destruction of paleontological resources is bearing witness to an impact, not mitigation. The DEIR prioritizes "preserving data" over the preservation of the actual resource.

The DEIR states without support that because of the geographic extent of the potential impacts to paleontological resources, the development of a cumulative project list for this topic is not practical. Why is this not practical and where is the support for this statement?

Finally, the DEIR states that if resources are encountered during grading, then a letter shall be prepared stating that “the field grading monitoring activities have been completed, and that resources have been encountered.” This is not mitigation, but rather a destroy-then-report plan. This is an impact. Because these impacts would be mitigated, the County is obligated to prepare a Statement of Overriding Considerations and benefits analysis as required by CEQA. No such document has been provided for this Project.

The DEIR falls short of providing a full picture of the impacts that the proposed Project may have on these undiscovered resources and therefore fails to provide an adequate analysis to fully inform the public.

(e) AIR QUALITY

The assessment of air quality and the stated impacts from the proposed Project are inappropriately assessed as “less than significant.” Critical information/studies are missing that results in an underestimation of the air quality review. It is highly unlikely that the surrounding area, including but not limited to two high schools, two elementary schools, and a middle school, will be significantly unaffected by emissions resulting from continued use of heavy machinery. The proposed Project does not take into account that these community facilities were placed in this location with the reasonable anticipation that this site would remain in a designated Open Space that includes heavy recreational activity. Now, the community is left to deal with a Project that will produce numerous potential hazardous air quality impacts to these educational and recreational facilities. Many of these health risks, such as the Valley Fever, affect both human and animal life and are drastically minimized in the DEIR.

Overall, the Air Quality section is missing a complete assessment of the proposed Project’s mining operations and resulting emissions. Given the description of the Project, periodic extraction would continue through development for at least ten years. This is inconsistent with the assertion that “construction of the Project would not result in a cumulatively considerable contribution to a significant air quality impact pertaining to emissions of criteria air pollutants and ozone precursors.” Emissions resulting from extraction as well as fugitive dust emissions are certainly underestimated in the current air quality assessment. It is unrealistic to assume that the removal of all manmade structures as proposed in the Project plan will not result in a level of fugitive dust emissions unhealthy for the local community.

The proposed Project expects that approximately 6.40 million tons of material will be extracted. Mining and extraction activities are expected to produce approximately 5.7 million tons of sand and gravel. Despite best practices at the project site, fugitive dust and emissions will inevitably travel to nearby communities due to commonly strong winds. Winds in San Diego County are marked as being gusty, episodic and multidirectional. As a result, seeking to shield dust, fines, silica and other potentially airborne particulates only from prevailing winds will ensure failure to control air contaminants. All of the possible impacts to air quality will only be exacerbated by the climate conditions already presented in the DEIR, such as the fact that air pollutants in the area become trapped near the ground and do not mix with the air above it. These climate conditions are the basis of how the DEIR measures its accountability to regulations and impacts, yet nowhere in the DEIR or related reports is climate change mentioned regarding air

quality impacts. This major lack of consideration critically alters any type of environmental evaluation for both current and future impacts.

Further, the risks that this proposed Project poses its own employees and the surrounding communities are constantly overshadowed by an assumption that (1) regulations will be followed, and (2) the regulations are a good indicator of risk prevention. The DEIR inappropriately assumes that a commitment to policies of the County general plan will mitigate significant air quality impacts. However, it is inadequate for an environmental impact review to rely on consistency with County codes as a sole source of significance for determination. County codes are established for regulatory compliance of facilities and do not factor in itinerant or episodic impacts on the environment. Most importantly, using the County air standards as a measure of impact is inappropriate. The air quality ordinance was created to ensure that existing County businesses, individuals and operations maintain an appropriate level of air emission to avoid burdening the health and safety of other surrounding users. That standard is not the same as then standard that should be considered when determining the impact to the human and natural environment when introducing a new source of air pollution into an area that is essentially without stationary sources of any kind. The degree of that change in air pollutant source and reactions to it is what is relevant to the environmental impact. The air quality ordinance is relevant only after a project is permitted to be developed, to ensure the project does not exceed County standards. These are very different standards, which the County seems to have confused. In addition, the DEIR's reliance on these County codes limits the review to only light, daytime winds and does not identify the impact of seasonal episodic, high-velocity winds. Episodic winds typically occur on a seasonal basis but may be unpredictable and unstable, and should still be considered a critical factor in assessing potential impacts.

Episodic impacts can be addressed in regulations, but are often hidden in compliance measures. It is therefore critical that the full range of impacts are analyzed during environmental review to account for any gaps in information. For instance, gusty Santa Ana winds are not accounted for in regulatory compliance because they are not prevailing winds. However, they are usually much more impactful to dust sources. This leads to current analysis not considering wind speed and the increased risk of sand, silica, and other particles being transported during these episodic, variable winds. Changing winds will send fumes in random directions through a valley that has specific attributes of air movement. The environmental review process needs to account for the fact that San Diego is defined by variable conditions and not average conditions. It is inappropriate to rely solely on regulatory compliance in a situation where full environmental review is required to fully inform the public of Project impacts. Mere identification of impacts is not sufficient, the likely impacts must be analyzed. *Sierra Club v. County of Fresno*, 226 Cal. App. 4th 704 (5th Dist. 2014) (merely identifying air quality impacts is not sufficient if the health impacts were not analyzed).

Because the Attainment Plan relies on information from CARB and SANDAG, and the CARB mobile source emission projections and SANDAG growth projections are based on population and vehicle trends and land use plans, it is critical that all factors are considered in these projections if cumulative impact conclusions are to be made. This information from CARB and SANDAG is supposed to include information from "all other source emissions" in order to make proper determinations. Yet, the DEIR assumes that the proposed Project would not conflict with

or obstruct the implementation of the San Diego Attainment Plan or applicable portions of the SIP based on an accommodation of emissions from all sources.

The DEIR relies on vehicle trends that do not encompass emissions projections from all possible sources. The DEIR assumes traffic control will be consistent with on-the-ground measures, and fails to account for redirection of vehicles due to external factors. The assessment of emissions does not fully encompass the range of traffic trends which are largely affected by mobile applications. The current VMT makes this conclusion insubstantial, as discussed below in energy, greenhouse gas emissions, and transportation/traffic impacts. The emissions analysis also does not appear to recognize a business model of direct customer access to the proposed facility. Such direct customer access avoids control over the source and distance of mobile sources for the transportation of the sand, and presents a wildcard for trying to determine mobile source emissions arising from the Project. The County should require a complete description of the actual limits to direct customer sources, or the accurate assessment of mobile emissions from the Project is not reasonable attainable.

Additionally, the current assessment's reliance on the assumed reduction aggregate VMT related impacts is inappropriate. The DEIR continuously overestimates the postulation that there would be an offset of environmental impacts produced by the proposed Project due to the alleged reduction of aggregate import transportation impacts. This projection is based off of the Transportation Impact Analysis that utilizes information about San Diego County's sand import demands from a 2014 and 2017 report which looked at sand demand from years earlier. It is erroneous to make current projections of sand need based on reports that are outdated. These projections ignore the increasing incidents of sand mines being closed down and the shift away from utilizing these materials.

The four main pollutant emissions from diesel engines (carbon monoxide- CO, hydrocarbons-HC, particulate matter-PM and nitrogen oxides-NOx) all have serious and lasting health effects, especially damaging to children. The proposed Project will introduce diesel fuels into the environment, which is considered a toxic pollutant by the California Air Resources Board. The health effect of such emissions, as well as airborne silica, fine material and dust all left exposed by the Project, are not adequately considered.

The DEIR also does not include an analysis of impacts on human health associated with Project-generated regional ROG and NOX emissions. It is highly likely that localized pollutants generated by a project will directly affect nearby sensitive receptors, including residences, schools, hospitals, resident care facilities, and day-care centers.

San Diego County Air Pollution Control District, Regulation IV, Rule 51 (Nuisance):

A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.

The DEIR incorrectly cites the California Health & Safety Code, Division 26, Part 4, Chapter 3, Section 541700. The correct code Section is 41700:

Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.

San Diego County's Zoning Ordinance, Section 6318:

All commercial and industrial uses shall be so operated as not to emit matter causing unpleasant odors which are perceptible by the average person at or beyond any lot line of the lot containing said uses.

The DEIR acknowledges that the odor of diesel exhaust from the mining equipment may be objectionable to some; however, emissions would be intermittent based on the mobile nature of mining activities and the Project's proposed phasing and would disperse rapidly with distance (CARB 2005); therefore, the Project's mining activities would not affect a substantial number of people. As such, impacts associated with odors during construction and operation of the Project would be "less than significant."

This analysis fails to consider the many recreational users of the areas surrounding the property. Beyond residences, other users, include the high number of runners, walkers, cyclists and equestrian riders and horses that frequent the adjacent streets, which would all be impacted by noxious diesel odors. Suggesting that such the mobile and phasing nature of the mining activity somehow minimizes the impact is absurd. This assumes that absorbing noxious fumes for a 2 year (phase) period would not be significant to neighboring users and residents, because they would be reduced in the next two years. This is a thinly veiled statement to the community that their two year impact should not be significant, which I am certain they would disagree with.

The DEIR lacks a substantial analysis of the critical risks of Coccidioidomycosis (Valley Fever), which is one of the most frequent concerns already voiced by community members regarding the proposed Project. The DEIR essentially sweeps the risk of Valley Fever under the rug by concluding that on-site soil properties and golf course turf management activities "do not favor the occurrence of the Coccidioides fungus." The DEIR fails to provide rationale why such activities would not be conducive to the occurrence of yellow fever spores. This rationale should be provided. If the rationale is due to the high number of herbicides and pesticides regularly used on golf courses, then the air quality analysis should also include specific risks assessment associated with airborne residual pesticides and herbicides used for years by the golf courses. Additionally, it has already been studied and reported that San Diego is a suspected endemic area for Valley Fever, despite the fact that testing methods do not always detect present spores. Further, the actual mining of the sand is a clear health concern for causing Valley Fever and other respiratory diseases among anyone who is breathing in the air in proximity of the proposed Project Site.

The assessment needs to also factor the specific risk that Project employees will have at the site, considering it is possible to contract Valley Fever through mere contact with objects contaminated with Valley Fever. This proposed Project could tentatively expose all of its own employees to Valley Fever, which has no available vaccine for treatment. Further, Valley fever causes cold and flu-like symptoms, and can be exacerbated by pre-existing conditions. Yet, this DEIR does not consider the heightened risk of severe symptoms or death if someone were to already have COVID-19 and also contract Valley Fever. In fact, the entire backdrop of the COVID-19 pandemic is not present in this analysis or the Valley Fever Report. Whereas numerous studies have illuminated how the COVID-19 flu has exacerbated public health risks in specific communities due to socio-economic factors, there is no comparable study for how these factors will heighten the risk for various populations in the Jamacha Valley. The CDC has found that the following groups are at higher risk of severe symptoms if they have Valley Fever: older adults, Black and Filipino populations, pregnant people, people with diabetes, and people with pre-existing health conditions. This risk is unreasonably heightened by placing a sand mine within a residential neighborhood.

The proposed Project repeatedly relies on the assumption that a properly implemented Fugitive Dust Control Plan will minimize the chances of Valley Fever transmission, yet this Plan does not yet exist. The Valley Fever Report essentially concedes that because tests are unreliable, the potential for transmission of the virus is unlikely. This is an inadequate conclusion that has severe public health implications. The DEIR therefore relies on the lack of information, unreliable testing, and the fact that there is no established significance threshold for the potential exposure of workers, nearby residents, or visitors, to reach the conclusion that the impacts are less than significant.

(f) ENERGY

The energy impacts section is missing critical information leading to inconsistencies in assessments across multiple sections, including greenhouse gas emissions and transportation/traffic. The energy impacts section also does not address how the proposed Project's implementation of temporary power poles for the plant location and conveyor system will factor into energy consumption. Further, the assessment does not consider how environmental changes caused by climate change or an increased risk of wildfire will have an impact on energy production and demand for electricity.

The DEIR referring to the construction activities as "short-term" is inconsistent with the 12-17-year likely timeline of the proposed Project. The preparers do not provide support for their assertion that the anticipated construction energy consumption would be 5,462 gallons of diesel fuel and 396 gallons of gasoline total and operational energy consumption would be 168,562 gallons of diesel fuel and 7,134 gallons of gasoline **per year** is "less than significant." The preparers are concluding that at minimum, the proposed Projects benefits justify using 1,691,082 gallons of diesel fuel and 71,736 gallons of gasoline over 10 years. These numbers do not even include estimations for the reclamation activities that will be ongoing. Yet, the DEIR fails to offer a complete comparison of the benefits and justifications for this substantial use of energy consumption. The energy use analysis also does not appear to recognize a business model of direct customer access to the proposed facility. Such direct customer access avoids control over the source and distance of mobile sources for the transportation of the sand, and presents a wildcard

for trying to determine mobile source energy use arising from the Project. The County should require a complete description of the actual limits to direct customer sources, or the accurate assessment of mobile energy use from the Project is not reasonable attainable.

The DEIR concludes that the proposed Project would not conflict with the County's 2015-2020 Strategic Energy Plan which includes transportation measures to reduce trips and VMT. This conclusion cannot be properly reached if the DEIR is not properly measuring VMT (see Traffic/Transportation). The DEIR therefore needs to reevaluate this assessment.

The cumulative impact analysis only takes into consideration the proposed long-term open space reclamation, but does not address that actual reclamation period is undetermined and could take much longer than the DEIR proposes due to multiple corrective measures required for the plan. The reclamation period's energy consumption has been essentially left out of the energy impacts analysis and a new calculation is needed to reach the "less than cumulatively considerable" conclusion.

(g) GREENHOUSE GAS EMISSIONS

The GHG analysis describes the proposed Plan as consistent with the SANDAG Regional Plan and the CARB Scoping Plan based off an assumption that there would be a reduction in VMT. This reduction for only one type of vehicle as well as the missing information about a more wide-ranging VMT analysis makes this conclusion insubstantial, as discussed below.

As required by CEQA, the DEIR fails to realistically "make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project" because it continuously makes sweeping conclusions on multiple thresholds based on missing information. The DEIR asserts that the proposed Project would result in a regional VMT reduction based on the alleged benefits of producing materials from inside the County. This is an attempt to overshadow the very real impacts that this proposed Project alone will produce at the detriment of the local communities at the proposed Project site. The preparers choose to emphasize this far-off projection at the expense of overlooking the community impact at the proposed Project site, which CEQA requires them to do. This possibility can only actually happen by "locating future development within and near existing infrastructure" (App. K), yet the reduction of VMTs and GHGs somehow does not take into account this future development.

The GHG impact analysis also does not appear to recognize a business model of direct customer access to the proposed facility. Such direct customer access avoids control over the source and distance of mobile sources for the transportation of the sand, and presents a wildcard for trying to determine GHG generation arising from the Project. The County should require a complete description of the actual limits to direct customer sources, or the accurate assessment of GHG generation from the Project is not reasonable attainable.

Overall, the DEIR creates a large gap of missing data by assuming traffic control will be consistent with on-the-ground measures, and failing to account for redirection of vehicles due to external factors. This assessment of emissions does not fully encompass the range of traffic that will be affected, for instance, by redirection due to mobile applications alone. Further, the impact

data is confined to the proposed Project area of 251 acres, but does not account for the necessary trucks needed to complete the Project in the “future development” that will inevitably travel through and around residential areas. It is critical that these neighborhoods are considered within the scope of impact assessment as legitimate areas of potential effect.

The GHG cumulative impact again over-relies on the assumption that VMT would be overall reduced, which would minimize any long-term cumulative impacts. This is a reductive approach to quantifying the actual GHG impacts that this proposed Project will surely have on the surrounding community both during the construction timeline and immediately afterwards. To utilize an approach on such a wide-ranging scale and conclude that the proposed Project’s GHG emission impacts would be “less than cumulatively considerable” diminishes the on-the-ground impacts that a mining development of this magnitude will certainly produce.

(h) HAZARDS AND HAZARDOUS MATERIALS

The DEIR acknowledges that there are numerous projects and sensitive receptors in the near vicinity of the proposed Project, including residential developments, a church, updates to an existing school, a new school, a commercial development, and a retail/self-storage development. However, the assessments for potential impacts appear to ignore the close range of many sensitive receptors by narrowing the analysis to impacts that are only site specific. It is unacceptable for the public to be responsible for dealing with the repercussions of hazardous impacts due to construction activities and transport through their neighborhoods. This impacts section therefore requires a more detailed assessment of the risks that local residents will be subject to beyond the narrow scope of distance technicalities or whether or not only a minority of the populator will face increased exposure to hazardous materials-related death.

The analysis of impacts associated with removal of existing on-site hazardous materials is entirely too brief in its lack of consideration of improper disposal. This is an inherent risk associated with hazardous material disposal and removal, yet this section entirely ignores its possibility. The conclusion that its impacts “would be less than significant” is therefore not an adequate conclusion without this consideration.

Further, in accounting for proper hazardous substance handling, the DEIR assumes that an approved Hazardous Materials Business Plan (HMBP) would be prepared that would properly implement a plan for emergency response to a release or threatened release of a hazardous material. However, this HMBP does not yet exist. The assessment that any possible impacts related to the handling of hazardous substances “would be less than significant” is therefore not a viable conclusion based off of the lack of these critical details.

It is inadequate to conclude that impacts related to the use of hazardous substances within close proximity of a school or day care facility “would be less than significant” based on a technicality that they are not within the 0.25 mile requirement. This analysis relies on the assertion that Jamacha Elementary School is approximately 0.25 miles south of the Project site, but not *within* 0.25 miles. Furthermore, this assessment bets on the fact that the majority of the machinery maintenance and associated hazardous materials will be further away from the school, but it does not relieve them of the obligation to assess the risk factor of impacts from all equipment.

Work is still being done within .25 miles of the school. The fact that the majority of the machinery is not within .25 miles does not erase the fact that some machinery may still be in the vicinity and causing significant environmental impacts. A school .24 miles away is similarly positioned to a school .25 miles away. The .01 geographic difference does not operate on a binary, nor does it diminish the possibility of a significant impact.

The hazardous substances analysis completely ignores the high number of herbicides and pesticides regularly used on golf courses, which would be disturbed and become potentially airborne by the proposed Project. The DEIR cannot make a significance determination without properly assessing this risk, including a health risk assessment associated with airborne residual pesticides and herbicides used for years by the golf courses.

(i) HYDROLOGY AND WATER QUALITY

All analysis related to groundwater use is misleading and inaccurate in the DEIR, by overstating the existing groundwater use by the golf course by at least 100%. This is evident by reviewing the 2021 Groundwater Use Analysis included in the appendices for the DEIR. This Analysis by Enviromine (project applicant associated), includes an estimate of the groundwater use if BOTH golf courses were active and drawing from the groundwater resource. However, this is not the existing conditions. The Lakes course is stated as not active “closed” and has reverted to “disturbed” due to nonuse. As a result, the groundwater use data associated with that portion of the property, should not be included in the analysis. In addition, the analysis of groundwater use states that in active irrigation activities, groundwater is pumped from the aquifer into ponds which are then used for irrigation of the golf course. This may be the use pattern for the active golf course, but would not be the patter for the closed course. This is important because the evapotranspiration rates that the analysis uses found that 85% of the evapotranspiration arose from the projected evaporation of the lakes course ponds (which is closed). As a result, the analysis significantly overinflated the estimated groundwater use of the existing conditions.

In addition, the basis for data and equation variables used in the groundwater analysis are not supported as being applicable to the site (one is for a desert golf course) and no empirical support has been provided for the report. In actuality, even if these unsupported terms were used in the analysis, assuming that the water use on the Ivanhoe course is 50% of the golf course area (an approximation), the existing irrigation water use would actually be estimated as 394 af per year, and when you add the evapotranspiration arising from the used ponds on the Ivanhoe course (2.56 af/yr), ***the actual existing water use is 396.56 af/yr not the stated 803 af/yr.*** It is clear that the County did not take the required “hard look” at the reality of this baseline situation before passing judgement on the impacts associated with the Project. The entirety of the groundwater impacts analysis should be invalidated and all conclusions regarding significance of impacts stricken from the DEIR.

In the event the County seeks to rely alternative bases for groundwater estimates, these estimates (purportedly arising from the golf course maintenance worker) are unsubstantiated and no data is made available to support those estimates. To use mere hearsay from a non-expert that is also not a hydrologist as a basis for estimated groundwater use would be arbitrary and capricious of the County.

The hydrologic analysis also fails to analyze the significant effect that will occur from the mine by restructuring the existing alluvial soil profile. Current alluvial water flow occurs in a natural system of mixed-grain soils that support the species in the valley and transport water flows in a predictable manner. However, the Project will significantly change that soil structure by removing “marketable sands” and backfilling areas with fines and silt, which have much less pore-space than sands. As a result, the below surface hydrology of the alluvial system will necessarily change, as it will be physically altered by the Project. The hydrologic analysis fails to even mention this impact from sand mining operations. This wholesale disruption of the soil profile will also impede water movement and nutrient exchange for trees, diminish anchoring capability of trees, and likely lead to unhealthy riparian systems.

Groundwater Impacts to habitat are not analyzed.

The DEIR fails to acknowledge that the most significant impact on the viability of the riparian habitat on and off site is going to be the disruption of the groundwater table that will occur with the backfilling of portions of the river that have been previously sand mined. In the backfilling activity, the DEIR acknowledges that finer sediments will be used for the backfill, and significant open water areas would be created arising from the removal of material. The disruption of the soil column by creating uniform fine sediments in the backfill of the resource will significantly deter alluvial water movement through the soil column, changing the hydrology of the river system. The ultimate effect of such a change in the hydrology of the system could significantly negatively affect the viability of riparian plant species to colonize and expand over time, and may isolate pockets of flowing groundwater away from the Project site. Notwithstanding these impacts, the DEIR concludes through a complete lack of analysis, that the Project would have less than a significant impact on downstream waters and habitats. Meaningful analysis of this impact should be completed and distributed for public review.

The analysis provided as it relates to groundwater impacts and hydrology focus entirely on surface water impacts arising from stormwater flows as opposed to subterranean alluvial water flows which occur and affect groundwater basins. This omission should be corrected in the recirculated DEIR. Further, unidentified groundwater impacts would occur due to prolonged consumptive use of the sand mine, as opposed to the use and recharge use of a greenspace golf course.

As a result, a comparison of the two is not exact. The DEIR states a “conservative estimate” of 803-acre feet per year as groundwater use for the existing Cottonwood Golf Club. However, this figure is completely overstated.

Finally, the use of groundwater for the extractive purpose and year-round use should be part of a sustainable groundwater management plan and should be coordinated under the Sustainable Groundwater Management Act policies and procedures to ensure that such impacts do not affect surrounding property owners as well.

Further confusion and contradiction arises in later discussion regarding adequate corridor width and a dismissal of any impacts arising from species due to the disturbed or developed areas associated with golf course development, and yet one paragraph later an acknowledgment is provided that species are currently accessing the Project site by passing beneath Steele Canyon

Road bridge along the riparian corridor. Such inconsistencies bely an attempt to minimize impacts arising from this Project.

The analysis also claims that the Project would not include the construction or placement of any barriers to wildlife movement paths; however, such a statement ignores the fact that the intense mechanical and human movement in the area would necessarily disrupt wildlife movement with or without an actual barrier to movement created onsite. Human-caused effects are as important as actual physical barriers in the effect on wildlife movement.

(j) LAND USE AND PLANNING

The Project conflicts with all applicable land use plans for the area, including the General Plan, the intent of the Zoning Ordinance, the Valle De Oro Community Plan, and the Multi Species Conservation Plan. These plans provide the approval context, developed over many years and many public hearings to create an appropriate balance within the County of open space and development activities. This Project defeats that purpose and is contrary to the purpose of the designation that they provide. The DEIR minimizes all of the ways in which the proposed Project conflicts with those guidelines and regulations. These land use plans and regulations provide for the preservation and protection of natural and cultural resources, by avoiding development that would provide more harm than good to the community. The proposed Project has obtained zero support from the local community groups, residents, and planning officials due to the incompatibility with the surrounding use and plans.

The purpose of general and community plans is to intentionally design a community and institute land use and planning to achieve the intended community character. When looking to the General Plan, Valle De Oro Community Plan, and Multi Species Conservation Plan, the proposed industrial mining Project was never in the plans for the communities of Jamacha and Rancho San Diego. Rather, the areas is designated as S80 Open Space (“generally unusable for intensive development”), S88 Specific Planning Area (“used to accommodate Specific Planning Area Use Regulations”), and S90 Holding Area (“to prevent isolated or premature land uses from occurring on lands for which adequate public services and facilities are unavailable”). However, the reports contained in the DEIR overly simplify the discussion that the proposed use as an industrial open pit sand mine is inconsistent and contrary to the current zoning designations above, and therefore must thoroughly justify why the proponent should be granted a Major Use Permit. Without a critical eye, one would believe by reading these reports that any project could be justified to take place in this area, no matter the cultural significance of the place and no matter the intended zoning designation. This type of project, as communicated effectively and loudly by local community members and residents, will destroy the community character of the region, which has a long and prominent history California.

(i) General Plan

The General Plan Land Use Element provides maps, goals, and policies and serves as the regulatory document guiding land use, conservation and development in the unincorporated regions of the County – like Rancho San Diego and Jamacha. The General Plan provides a framework to accommodate future development in an efficient and sustainable manner that is compatible with the character of the surrounding communities and the protection of valuable and sensitive natural resources. The General Plan and accompanying polices are intended to minimize impacts between adjacent land uses and encourage environmental sustainability.

(ii) Zoning Ordinance

The Project site includes three zoning designations: S80 (Open Space); S90 (Holding Area); and S88 (Specific Planning Area). The County Zoning Ordinance also identifies a Special Area Designator that applies to the Project site, Special Area Designator F (Flood Plain).² None of these designations state “sand mine.” Moreover, the S80 (Open Space) zoning classification is used to provide appropriate controls for land generally unsuitable for intensive development, including hazard or resource areas, public lands, recreation sites, or land subject to open space easements or similar restrictions. This designation is consistent with the previous land use as a golf course, and provides for other recreation and preservation purposes. This use was consistent with the community character in Rancho San Diego and Jamacha, especially as it is located within the valley floor surrounded by open space trails, housing developments and other essential community and public services like schools, health facilities, senior facilities, etc. The passive recreation use is part of the whole community and to remove such a use and substitute a long term mining pit would disrupt the entire community.

However, the proposed use as an industrial sand mine would not only be incompatible with the surrounding land uses already established in the community, but would be detrimental to the community character by replacing a recreational hub like a golf course with an open pit mine. This is contrary to the intent and purpose of the General Plan, Zoning Ordinance, and Valle De Oro Community Plan as it would outright contradict the current and surrounding use, diminish the community character by creating numerous hazards to the health and welfare of the community, and will likely destroy some of the preserved natural and cultural resources that have been maintained in the region.

(iii) Multi-Species Conservation Program

As noted elsewhere in these comments, the proposed Project is inconsistent with the Multi-species Conservation Program (MSCP), an element of the County’s General Plan. An industrial project like this, on a site located within an alluvial plan, with the Sweetwater River runs through, and that ultimately flows downstream through to a National Wildlife Refuge, is absolutely incompatible and destructive to the current measures the County and the local community has taken

² Special designation “F” is in recognition of the special interest and unusual value of the area and is intended to protect the public health, safety, and welfare from flooding.

to protect open space recreation areas and provide for habitat recovery by providing wildlife corridors.

(iv) Valle De Oro Community Plan

The Valle De Oro Community Plan's stated vision is to retain a unique balance of urban, semi-rural, agricultural, and open space land uses. Any new development in the community must conserve natural resources and topography and provide a pleasant, safe environment for community residents. The area's current land use designation as Open Space purposefully indicates the goals of the community in preserving open space in project design. Moreover, the Project inherently removes a major recreational facility while tangentially affecting the surrounding recreational activities. This includes the biking corridor along Willow Road which will be removed to accommodate construction vehicles. The DEIR does not consider the impact of the limited number of roads for recreational activities, such as cycling, which the surrounding communities have relied upon for recreation and transportation purposes.

(k) TRANSPORTATION/TRAFFIC

The DEIR considers major roadways located within the immediate vicinity of the proposed Project site, but fails to factor in the full area over which the proposed Project would affect travel behavior. Redirected traffic will be travelling through residential and non-residential areas, which should all be considered in analysis of transportation traffic, air quality, noise, and other impacts. A complete assessment of the far-reaching effects of this traffic, which the DEIR assumes on a daily basis would be 106 new vehicles to the vicinity, is missing. Further, there is a missing consideration in this report of the 15 over-the-highway trucks parked on site each day near the processing area and entrance to the site. This is a critical component of how emergency access will be impacted, which remains unaccounted for. Additionally, there needs to be a consideration of the traffic that will result in enforcement resources during the completion of the proposed Project, such as local law enforcement and other emergency services. Overall, the DEIR appears to rely on a Traffic Control Plan that has not yet been compiled or circulated and its conclusions are therefore unreliable.

The proposed Project does not properly account for the impacts of a typical mining day including 88 heavy vehicles, 14 employee and visitor light vehicles, and 4 vendors accessing the Project site. Traffic analysis is assessed based on the proposal that a Traffic Control Plan would be prepared to ensure safe and efficient movement of traffic through the Project area, but this Plan has not been presented or circulated with the DEIR. How, then, were the preparers able to conclude that impacts would be "less than significant" without the Plan? This conclusion is inadequate as it is unsupported by either a plan or a study on these particular impacts.

The traffic analysis also does not appear to recognize a business model of direct customer access to the proposed facility. Such direct customer access avoids control over the source and distance for the transportation of the sand, and presents a wildcard for trying to determine traffic impacts arising from the Project. The County should require a complete description of the actual limits to direct customer sources, or the accurate assessment of traffic from the Project is not reasonable attainable.

Preparers note that neither the Governor's Office of Planning and Research (OPR) nor the County has specified models or methods to estimate VMT thresholds of significance, yet the VMT analysis section concludes that a proper significance threshold should be based on the OPR Technical Advisory De-Minimis screening. This threshold is inadequate in that it does not factor in heavy duty trucks that will be used for the proposed Project. Although the DEIR asserts that OPR has allowed the lead agency to have discretion in choosing the appropriate VMT methodology and threshold, this Project-specific VMT is inappropriate and therefore nonconclusive.

While the DEIR notes that proper VMT analysis includes a total change in annual VMT accounting for the full area over which the Project affects travel behavior, which should also include indirect VMT. Yet the DEIR assumes traffic control will be consistent with on-the-ground measures, and fails to account for redirection of vehicles due to external factors. The assessment of emissions does not fully encompass the range of traffic that will be affected by redirection due to mobile applications.

Some design features that are factored into the analysis of significant traffic hazards, but there is no inclusion, as referenced above, of how the redirection of movement around these hazards will affect overall traffic and transportation. The traffic hazard analysis also disregards the Project's proposed trails and bike lanes by stating that pedestrian activity in the Project area is not expected to increase as a result of Project implementation. These activities, in addition to general interest in the proposed Project on a site that was previously a publicly used golf course, will inherently attract more pedestrian activity. While the section concludes that the proposed Project meets the County's standards for roadway design and avoidance of traffic hazards, it does not provide any adequate studies. It also references the Traffic Control Plan (discussed above) which does not yet exist.

The DEIR hastily concludes that the Proposed Project would not result in inadequate emergency access during construction by again referencing the Traffic Control Plan that would be implemented but is yet to be circulated. This analysis also relies on the statement that there would not be road closures, so access would be unaffected. Potential impacts to emergency impacts being regarded as "less than significant" is an unfounded conclusion that is not supported by a complete analysis. Given the numerous average daily trips and number of trucks and commute vehicles that the proposed Project will bring to the site, a more thorough study of emergency access is critically needed. Further, this assessment lacks any mention of how different emergency vehicles will need access to different spaces, such as ambulances, fire trucks, or law enforcement. This inadequate analysis also contributes to the incomplete section on wildfire prevention impacts.

(I) GEOLOGY AND SOILS

The geology and soils report is incomplete and dismisses and minimizes the known risks associated with the Project. The Project would completely remove the unique soil profile that has been developed over thousands of years, yet makes no mention in its analysis or the impact its destruction will have on any so-called reclamation plans. The report and analysis must be redone to adequately address the impacts of the proposed Project on the soil, groundwater, neighboring residents and community members, and the potential risks associated.

The report does acknowledge, briefly, the shallow proximity of groundwater given the fact that this Project is proposed in a known natural alluvial floodplain and drainage area. (Soil and Geologic Reconnaissance, Sections 4, 6, and 8). However, the report does not elaborate on the risks associated with the shallow groundwater a mere five to 18 feet below the ground surface. The report briefly touches on the potentially high liquefaction hazard, but does not further discuss the potential risks and impacts of liquefaction on the area, the neighboring residents, the wildlife, or the ability to continue to use the site for open space recreation in the near future (Section 6.3). Rather, the report dramatically minimizes any potential risks or hazards, like liquefaction, flooding, earthquakes, landslides, or groundwater impacts.

The geologic analysis also fails to analyze the significant effect that will occur from the mine by restructuring the existing alluvial soil profile. Current alluvial water flow occurs in a natural system of mixed-grain soils that support the species in the valley and transport water flows in a predictable manner. However, the Project will significantly change that soil structure by removing “marketable sands” and backfilling areas with fines and silt, which have much less pore-space than sands. As a result, the below surface hydrology of the alluvial system will necessarily change, as it will be physical altered by the Project. The hydrologic analysis fails to even mention this impact from sand mining operations. This wholesale disruption of the soil profile will also impede water movement and nutrient exchange for trees, diminish anchoring capability of trees, and likely lead to unhealthy riparian systems. These are associated with geologic impacts which have not been assessed.

This fact alone is clearly detrimental and without question should be considered a significant impact on the geology and soil resources because all native soils, which play an integral role in the local ecosystem by providing for and sustaining native plant vegetation, would be completely removed and would no longer exist. This integral relationship and interdependence developed since time immemorial would fail to exist as well. This is an irreplaceable resource that would face irreparable harm and complete destruction yet this issue is completely missing from the report.

(m) MINERAL RESOURCES

The proposed sand mine creates an unrecognized and unreported significant impact on the sustainable use of nonrenewable mineral resources. The DEIR fails to recognize that alluvial sand replenishment along the Sweetwater River has significantly diminished since the construction of Loveland Reservoir upstream, and should be treated as a nonrenewable resource. Moreover, the Unsustainable use of sand has been widely recognized as a local and global problem (see *The Unsustainable Use of Sand: Reporting a Global Problem*. Filiho, W.L. et al. *Sustainability*, 2021, 13, 3356]. This publication, which is attached and incorporated herein by reference, details the lasting impacts to alluvial systems arising from sand mining activities, particularly in systems with limited sand replenishment abilities (like the Sweetwater River). This concern has been raised to the County in other recently proposed alluvial sand mining projects (e.g., El Monte basin) and the County has failed to acknowledge or address this concern.

Much of the data and studies relied upon in the Mineral Resources report are decades old and should be considered outdated. For example, the data used to categorize the site MRZ-2 and MRZ-3, pursuant to the State Mining and Geology Board (SMGB) classification, is derived from

a 2017 report that relied upon data from a 2004 and/or 2006 geological investigation. Also confusing are the different report dates cited to in this report. Are the 2004 and 2006 reports two separate and distinct reports or the same report? An even older report relied upon in this analysis is a 1996 report that concluded it would not be possible to mine all identified resources, as access to these resources could become restricted by competing conservation measures such as the Multiple Species Conservation Plan (MSCP).

The mineral resources report also includes vague phrases in an attempt to describe the benefits of the Project by using phrases like the “*potential to be extremely marketable*” and “*assuming*” pricing to justify the potential economic value of the sand resource (Section 6.1). This level of speculation is arbitrary and unacceptable and should not constitute information adequate for County officials to make an informed decision on this Project. According to CEQA Guidelines, speculation, unsubstantiated opinion or narrative, or evidence of economic impacts which do not contribute to physical impacts to the environment is not substantial evidence on which the County may base its decision.

The report discusses the economic benefits of the Project from a County-wide perspective. Economic benefits are not a relevant environmental concern and therefore should not be included in or contemplated in the DEIR. However, what relevant benefits or positive impacts will the local community experience, if any?

The report states that the gross value of the total 5.7 million tons of aggregate materials mapped as MRZ-2 is estimated to be approximately \$68,400,000. However, the economic and monetary value of a resource has no business in an environmental impacts analysis and should be removed.

The report states that one end use following mining would include the “creation of native plant communities.” This concept is speculative and unsupported. There is nothing in the report that demonstrates the ability to “create” viable native plant communities. Also, this is not a benefit. What would be better and closer in the direction of a benefit is no Project and no further destruction. What evidence does the County have that this “new” native plant community will replenish once it is completely destroyed?

(n) POPULATION AND HOUSING

The DEIR concludes that there is “no impact” to the population or residential housing due to the assertion that the proposed Project would not generate population growth or displace people or existing housing. This section does not address possible impacts on the senior population or local schools, health facilities, or housing developments surrounding the proposed Project site. Rather than only addressing the generation of population growth, the section needs to consider how the effects of this Project would discourage population growth in a community where the stability and health of school children will be impacted on a long-term basis. This section also needs to address how housing in the surrounding region may potentially face depreciation due to the impacts of the proposed Project. While people and housing may not potentially be displaced, there is inadequate consideration of how the community will be impacted long-term if the residential housing becomes undesirable.

(o) PUBLIC SERVICES

As describe herein, the Project will undoubtedly cause a strain on public services not only within the local community, but will also interfere more broadly stretching into neighboring communities and farther reaches of the County. For example, due to the Project's inevitable strain on traffic and transportation, the Project impacts will be felt broadly and will interfere with essential public services like emergency services and their time and ability to respond to emergency incidents throughout the region. The more construction and sand vehicles on the road will lead to more traffic congestion and a heightened risk of accidents on the roads.

Additionally, the proposed Project will require the resources, time, and attention of already strained services like County code and law enforcement, fire protection, health facilities, and other public services and facilities. The employees and vendors that will be accessing the site every day will inevitably need to use public services. The more public resources that are diverted to responding to the adverse impacts caused by the Project, the more resources that are taken away from the local community needs like public safety, schools, parks and other valued public facilities and institutions.

With these considerations and the known broader impacts in mind, a full impact analysis is needed not only on the local community but all surrounding regions as well and should be submitted for public review.

(p) RECREATION

The DEIR's determination that impacts on recreation would be "less than significant" is not an adequate conclusion as it only reports on two activities: golf and trails. The proposed Project inherently removes the major recreational facility of the golf course but also tangentially affects the surrounding recreational activities. This includes the biking corridor along Willow Road which will be significantly affected to accommodate construction vehicles. Overall, the DEIR does not consider the impact of limited the number of roads for recreational activities, such as cycling, which the surrounding communities have come to rely on as part of their residential community features. Recreational opportunities are also a factor in the value of residential communities and will impact the desirability of housing in the area.

Despite the proposal to implement bike lanes on both sides of the roadway, the DEIR states that there will be a maximum of 88 heavy vehicles, 14 employee and visitor light vehicles, and 4 vendors accessing the Project site on a typical mining day. These drastic changes to the area and roadways are not factored into the impacts on recreational use or the proposed bike lanes or trails.

(q) WILDFIRE

The DEIR implies that the proposed Project site is designated as a Moderate Fire Hazard Severity Zone due to its past use and maintenance as golf courses. This assessment fails to consider that incidents of wildfires and brushfires in the area are not unusual. It also fails to account for the historical uses of the area pre-1963, the year that the property started to be used as golf courses. As noted by the Project Description, the site and surrounding lands of the Jamacha Valley were predominantly used for commercial ranching and agriculture prior to the site's use as a recreational

golf facility. Neither the Project Description, Wildfire section, Agricultural Resources section, nor the Fire Protection Plan acknowledge that Kumeyaay inhabitants before these times were regularly utilizing fire management practices of controlled burning. When such fire management practices are used, the buildup of fuel in woody plants and chaparral is reduced, minimizing the effects of natural brush and grass fires.³ As these traditional practices have been inhibited, there is an increased risk of uncharacteristically large high-severity fires. This risk is even more significant given the strong Santa Ana winds that regularly come through the area.

The DEIR inherently contradicts its conclusion that impacts related to wildfire would be “less than significant” by specifically noting that areas south of the Project site are designated as within a Very High Fire Hazard Severity Zone by the state. It is therefore inadequate to conclude that mining activities that would take place in an area that is already at risk for wildfires to occur should not be considered a significant effect. This inadequate conclusion is based off the assumption that “if a fire were to occur at the site, from a fire started either on or off site, it would be a smoldering, creeping ground or surface fire with minimal flame lengths.” (3.2-7). This again does not consider the possible buildup of fuel in the vegetation or the movement of a possible fire due to strong winds.

The DEIR also claims that there is an assessment and description of fire risk using fire behavior modeling in Appendix U. The DEIR document entitled “Appendix U: Vector Management Plan” does not address anything related to fire. Finally, this section does not account for the fact that unexpected fires will result in further significant impacts to air quality, cultural and biological resources, transportation, traffic, emergency services—essentially all of the resources we are considering.

CONCLUSION

In light of the above comments and concerns, we urge the County to recognize that the DEIR is not approvable. It is flawed and incomplete in significant ways and requires significant restructuring and additional analysis, which should be followed by a second round of public review. Numerous public agencies and groups have formally expressed their opposition to the project and provided similar comments.

The proposed Project would cause unmitigable harm and damage to the people, wildlife, cultural resources and surrounding region, and there is no public benefit articulated to justify such harm. The Project is contrary to the current long time planning for the site and is incompatible with current and contemplated future use of the surrounding area in the area and region. We appreciate your sincere consideration of our concerns.

³ See Shipek, Florence C., “Kumeyaay Plant Husbandry: Fire, Water, AND Erosion Control Systems,” in *Before the Wilderness: Environmental Management by Native Californians*, ed. Thomas C. Blackburn and Kat Anderson (Menlo Park: Ballena Press, 1993).