

8304 Clairemont Mesa Blvd., Ste 101 • San Diego, CA. 92111

TEL: 858-569-6005 • FAX: 858-569-0968

[http://sandiego.sierraclub.org](about:blank)

August 18, 2023

Planning & Developments Services,

Attn: Christopher Jacobs,

5510 Overland Avenue, Suite 310,

San Diego, CA 92123

Sent via email to:

[christopher.jacobs@sdcounty.ca.gov](mailto:christopher.jacobs@sdcounty.ca.gov)

CC:

Nora Vargas, Vice Chairperson, District 1, [District1community@sdcounty.ca.gov](about:blank)

Joel Anderson, District 2, [joel.anderson@sdcounty.ca.gov](about:blank)

Terra Lawson-Remer, District 3, [terra.lawsonremer@sdcounty.ca.gov](about:blank)

Jim Desmond, District 5, [jim.desmond@sdcounty.ca.gov](about:blank)

Dear Mr. Jacobs and County Staff:

This letter is to express Sierra Club’s strong opposition to the Cottonwood Sand Mine as part of the California Environmental Quality Act (CEQA) process. This letter is a response to the Recirculated Draft Environmental Impact (RDEIR) for a second round of public review and comments on two portions of the previously circulated Draft EIR for the Cottonwood Sand Mine Project (hereafter Project). We also note numerous deficiencies and omissions in the RDEIR that need to be corrected prior to any hearings or approvals.

The primary purpose of CEQA is to promote a full and detailed discussion of the environmental impacts of a project. As will be documented in detail below, the REIR itself shows that the Cottonwood Sand Mine will cause **substantial environmental damage** to the environment. Additionally, this letter will demonstrate that the REIR **fails to comply with many provisions of CEQA** including a stunning lack of concurrent mitigation for an incredibly environmentally damaging project.

Sierra Club favors a **no project alternative** for the Cottonwood Sand Mine. As we stated in April 2022 in response to the original DEIR: “Sierra Club San Diego vehemently opposes the proposed Cottonwood Sand Mine and finds the Sand Mine DEIR fatally flawed. The county should reject the EIR and permanently stop this project.” Instead, the former golf course should be turned into a park and a community open space.

As requested in the RDEIR, our comments in this letter pertain only to this Recirculated Draft Environmental Impact Report and not to the full EIR on which we commented in 2022. We reject the RDEIR because of deficiencies in the RDEIR and because new environmental impacts revealed in the RDEIR provide additional reasons for Sierra Club’s opposition to this project.

**Damage the Environment**

It is clear from the RDEIR that the project would result in significant environmental damage. The RDEIR itself admits that:

“Together, the Draft EIR and Recirculated Draft EIR identify significant environmental impacts to the following environmental factors: Aesthetics; Biological Resources; Cultural Resources; Noise, Paleontological Resources, and Tribal Cultural Resources. Impacts to Aesthetics, even with mitigation measures, would remain significant and unavoidable.”

Additionally, the RDERI states that many of the biological impacts would be significant and unavoidable even after mitigation:

“The proposed project would result in significant impacts under above guidelines for the following reasons: Project-related grading, clearing, construction, or other activities would temporarily or permanently remove sensitive native or naturalized habitat (as listed in Table 5 in the County Guidelines for Determining Significance [County 2010b], excluding those without a mitigation ratio) on or off the Project site. Implementation of the proposed project would result in direct impacts to approximately 2.34 acres of sensitive vegetation communities. Impacts to sensitive natural communities would be considered potentially significant.”

The RDEIR also admits that there will be damage to endangered and threatened plant and animal species.

“These surveys determined there was a potential for the Project to impact three additional special status plant species (Palmer’s goldenbush [Ericameria palmeri var. palmeri], San Diego sagewort [Artemisia palmeri], and southwestern spiny rush [(Juncus acutus ssp. Leopoldii]), and five additional special status animal species (white-tailed kite [Elanus leucurus], small-footed myotis [Myotis ciliolabrum], Townsend’s big-eared bat [Corynorhinus townsendii pallescens], western mastiff bat [Eumops perotis], western red bat [Lasiurus blossevillii], and Yuma myotis [Myotis yumanensis]).”

The RDEIR also documents that there would be indirect impacts that would create long-term harm to sensitive species. Clearly this is an environmentally harmful project.

“The project would cause indirect impacts, particularly at the edge of proposed development adjacent to proposed or existing open space or other natural habitat areas, to levels that would likely harm sensitive species over the long term. Potentially significant indirect impacts to sensitive species resulting from lighting, fugitive dust, human access/activity, domestic animals, and exotic species would be avoided through the following project design features and mitigation measures.”

As will be documented subsequently in this letter, the proposed mitigations do not result in reductions to the harms listed above.

The RDEIR examined the cumulative impacts of other nearby projects for biological impacts and concluded:

A total of 15 projects (including the proposed project) were reviewed for this cumulative analysis (Table 10, Cumulative Impacts on Biological Resources; Figure 20, Cumulative Impacts). Of these 15 cumulative projects, nine would result in significant or potentially significant cumulative impacts to sensitive biological resources. The project has the potential to contribute to the cumulative impact on coastal California gnatcatcher and least Bell’s vireo…the loss of coastal sage scrub habitat would represent a potential cumulative impact on the coastal California gnatcatcher. This impact would be potentially significant.”

Thus, the RDEIR demonstrates in numerous ways that the Project would have significant, independent and cumulative, deleterious impacts to the environment. The County of San Diego need look no further than the EIR itself to find that the Cottonwood San Mine does substantial environmental damage to the environment in both the short term and long term.

**Inadequate Biological Assessment**

Under CEQA biological surveys must be current to meet the biological survey guidelines that are central to the environmental review process under CEQA. Sierra Club contends that the biological assessments reported in the RDEIR are invalid because they were conducted during a record drought in San Diego County. Helix conducted plant survey during the period of “August 2018 to July 2022,” near the end of a record drought. Similarly, “Three motion-activated cameras were deployed within the project site for a 10-week period between May and July 2022 (Figure 8) to document wildlife use and movement within and throughout the site” during a record drought. The drought substantially suppressed the number of plant and animal species in the county. In the winter of 2022-2023 substantial rainfall occurred in San Diego County. If the biological assessment were to occur in 2023 many more plant and animal species would have been observed. To conform to CEQA requirements an additional biological assessment should be conducted this year (2023) when the number of species are not artificially suppressed by a multiyear drought.

**Damage to MSCP and Other Protected Lands**

According to the RDEIR: “HELIX biologists conducted general biological surveys, jurisdictional delineations, rare plant surveys, southwestern pond turtle (Actinemys pallida) surveys, acoustical bat surveys, wildlife camera trapping surveys, and protocol-level surveys for arroyo toad (Anaxyrus californicus), coastal California gnatcatcher (Polioptila californica californica), least Bell’s vireo (Vireo bellii pusillus), and southwestern willow flycatcher (Empidonax traillii extimus) during the period of August 2018 to July 2022. The approximately 280-acre project site supports 15 vegetation communities/habitat types: disturbed wetland, freshwater marsh, southern cottonwood-willow riparian forest (including disturbed), southern willow scrub (including disturbed), tamarisk scrub, arundo-dominated riparian, non-native grassland, open water, Diegan coastal sage scrub (including disturbed), artificial pond, eucalyptus woodland, nonnative woodland, non-native vegetation, disturbed habitat, and developed lands. Four special status plant species were observed within the project site: San Diego sagewort (Artemisia palmeri), San Diego County viguiera (Bahiopsis laciniata), Palmer’s goldenbush (Ericameria palmeri var. palmeri), and southwestern spiny rush (Juncus acutus ssp. leopoldii). Additionally, U.S. Fish and Wildlife Service (USFWS) critical habitat for the federally endangered San Diego ambrosia (Ambrosia pumila) is present in the southwestern portion of the site. Twenty-three special status animal species have been observed or detected on or directly adjacent to the project site during biological surveys conducted for the project: monarch butterfly (Danaus plexippus), Belding’s orange-throated whiptail (Aspidoscelis hyperythra beldingi), Cooper’s hawk (Accipiter cooperii), great blue heron (Ardea herodias), oak titmouse (Baeolophus inornatus), redshouldered hawk (Buteo lineatus), green heron (Butorides virescens), turkey vulture (Cathartes aura), white-tailed kite (Elanus leucurus), peregrine falcon (Falco peregrinus), yellow-breasted chat (Icteria virens), coastal California gnatcatcher (Polioptila californica californica), vermilion flycatcher (Pyrocephalus rubinus), yellow warbler (Setophaga petechia), western bluebird (Sialia mexicana), Lawrence’s goldfinch (Spinus lawrencei), barn owl (Tyto alba), least Bell’s vireo (Vireo bellii pusillus), small-footed myotis (Myotis ciliolabrum), Townsend’s big-eared bat (Corynorhinus townsendii), western mastiff bat (Eumops perotis californicus), western red bat (Lasiurus blossevillii), and Yuma myotis (Myotis yumanensis). Additionally, USFWS critical habitat for the coastal California gnatcatcher and least Bell’s vireo occurs in the southwestern portion of the site, and critical habitat for the southwestern willow flycatcher is located immediately west of the site. The project site supports wetland and non-wetland waters of the U.S. subject to the regulatory jurisdiction of the U.S. Army Corps of Engineers (USACE) pursuant to Section 404 of the federal Clean Water Act (CWA); wetland and non-wetland waters of the State subject to the regulatory jurisdiction of the Regional Water Quality Control Board (RWQCB) pursuant to Section 401 of the CWA; riparian vegetated and unvegetated streambed subject to the regulatory jurisdiction of the California Department of Fish and Wildlife (CDFW) pursuant to Section 1600 et seq. of California Fish and Game Code; and wetlands subject to the regulatory jurisdiction of the County pursuant to the Resource Protection Ordinance (RPO)…The project site occurs within the boundaries of the adopted South County Multiple Species Conservation Program (MSCP) Subarea Plan, within both the South County Segment and Metro Lakeside-Jamul Segment. Within the MSCP, portions of the site along the south and southeastern boundaries occur within areas identified as Pre-Approved Mitigation Area (PAMA), and Minor Amendment lands occur in the southwestern portion of the site along Sweetwater River.”

The DEIR also documents the project’s indirect effects to the MSCP from a variety of detrimental impacts. “The project would cause indirect impacts, particularly at the edge of proposed development adjacent to proposed or existing open space or other natural habitat areas, to levels that would likely harm sensitive species over the long term. Potentially significant indirect impacts to sensitive species resulting from lighting, fugitive dust, human access/activity, domestic animals, and exotic species would be avoided through the following project design features and mitigation measures.”

The project would need a major use permit and numerous other permits and mitigation measures to exempt the Sand Mine from the County’s Biological Mitigation Ordinance (BMO). “The BMO is the ordinance by which the County implements the County MSCP Subarea Plan at the project level within the unincorporated area to attain the goals set forth in the County MSCP Subarea Plan. The BMO contains design criteria and mitigation standards that, when applied to projects requiring discretionary permits, protect habitats and species and ensure that a project does not preclude the viability of the MSCP Preserve System. In this way, the BMO promotes the preservation of lands that contribute to contiguous habitat core areas or linkages. Pursuant to Section 86.503(a)(9) of the BMO, the proposed project would be exempt from the BMO requirements provided that the following measures are required as conditions of the project’s Major Use Permit: a. The facility or project is consistent with the County General Plan, the MSCP Plan, and the Subarea Plan as approved by the Board of Supervisors; b. All feasible mitigation measures have been incorporated that meet the standards for mitigation required by CEQA and the State Surface Mining and Reclamation Act of 1975; c. Any wetland buffer area shall be restored to protect the environmental values of adjacent wetlands; d. In a floodplain, reclamation shall result in a net gain in functional wetlands and riparian habitat in or adjacent to the area of extraction; e. Native vegetation shall be used on steep slope lands to revegetate and landscape cut areas and fill areas in order to substantially restore the original habitat value, and slopes shall be graded to produce contours and soils which reflect a landform that is consistent with the approved Reclamation Plan; f. Mature riparian woodland may not be destroyed or reduced in size due to sand, gravel, and mineral extraction; and g. All Critical Populations of Sensitive Plant Species Within the MSCP Subarea, (Attachment C of Document No. 0769999 on file with the Clerk of the Board); Rare, Narrow Endemic Animal Species Within the MSCP Subarea, (Attachment D of Document No. 0769999 on file with the Clerk of the Board); Narrow Endemic Plant Species Within the MSCP subarea, (Attachment E of Document No. 0769999 on file with the Clerk of the Board); and San Diego County Sensitive Plant Species, as defined herein will be avoided as required by, and consistent with, the terms of the Subarea Plan.” It is our opinion that these criteria would be impossible to meet by the developer and the MSCP should be protected and preserved without the intrusion of a sand mine.

The entire purpose of the MSCP is to provide conservation areas that are protected from development and to give developers certainty where they can develop, mine, and build. Sierra Club opposes this development because it violates the MSCP agreements and renders them meaningless if industrial projects of this type are allowed to violate these protected lands. The MSCP and the species listed above in the RDEIR needs protection from industrial development or they will fail to thrive.

Similarly, as the RDEIR indicates above, the wetlands in the Streambed of the Sweetwater River are protected by a Resource Protection Ordinance (RPO). The county should not approve any potential intrusion into the Sweetwater River streambed which is protected by the RPO. The RDEIR reveals numerous impacts on the Sweetwater River.

Finally, it is unacceptable to develop or mine in a Pre-Approved Mitigation Area (PAMA) that is set aside for mitigation from other projects. This is doubling concerning. Not only does the Cottonwood Sand Mine Project fail to acquire mitigation property for the environmental damage produced by the mine, but the project also proposes to destroy PAMA lands that could be used for mitigation from other projects.

**Noise Impacts on the Rancho San Diego Community**

The project would have huge noise impacts on a quiet suburban community that would negatively affect its residents and dramatically alter its community character in violation of CEQA. Moreover, the project would generate noise well about the normal 60db danger level causing harm to people’s hearing, increasing stress, and injuring nearby schoolchildren.

The RDERI states: “The Project would generate elevated noise levels during operation of its individual components that would have the potential to affect nearby NSLUs. Prominent operational noise sources would include processing plant activities (on-site haul truck loading and stationary plant machinery); excavation area grading activities, including vegetation clearing, topsoil removal, and stockpile creation (dozer); raw material extraction, including loading and transport activities (off-road equipment and conveyor belt); and on-road haul truck activities (up to 18 trucks per hour traveling west of the Project driveway along Willow Glen Drive).”

The RDEIR concludes that “noise impacts from mining activities to exterior use areas at NSLUs are conservatively assessed as potentially significant.” The noise would affect human receptors at numerous locations. The DEIR states: “Noise-sensitive land uses (NSLUs) include uses associated with indoor and/or outdoor activities that may be subject to stress and/or substantial interference from noise. NSLUs include any residence, hospital, school, hotel, resort, library, or other facilities where lower noise levels are an important attribute of the environment. NSLUs in the area include single-family residences to the north of the Project site across Willow Glen Drive, adjacent to the southern boundary of the Project site, near the northeast corner of the Project site, and near Steele Canyon Golf Course; Hilton Head County Park located 0.1 mile north of the Project site; the Adeona Healthcare facility located along Steele Canyon Road to the south of the Project site; and Jamacha Elementary.”

One of the solutions proposed to noise mitigation in the RDEIR is the construction of an 8-foot noise barrier. The RDEIR states: “an 8-foot-high noise barrier, constructed to the specifications identified below, shall be provided between excavation activities and the off-site NSLUs, when excavation is occurring within 400 feet of each location.” This is an infeasible solution. The proposed Cottonwood Sand Mine is in a valley surrounded by hills and mountains. Sound can easily pass over an 8-foot barrier, reflect off the higher elevation and reverberate throughout the valley. This is like a Band-Aid on an open wound that has no chance of working.

**Environmental Impact of Truck Trips**

In the RDEIR we learn that an additional 58 round trip truck trips would occur each day. According to the RDEIR “an additional amount of backfill materials would also be required and would necessitate importation to the Project site. This importation of additional backfill material would generate additional truck haul trips to and from the site that were not considered in the Draft EIR circulated for public review.” The RDEIR goes on to say: “This results in 57.7 average import truck trips per day, which was rounded up to 58. This is the same methodology that was used to calculate the number of outgoing haul trips from the Project site reported in the Draft EIR.”

What is now missing from the RDEIR is the cumulative impact of these additional truck trips. The streets surrounding the proposed Sand Mine including Willow Glen, Steel Canyon, Jamul Drive, and others often experience heavy traffic at present. Yet, nowhere in the RDEIR is an analysis of the cumulative impact of traffic, particularly considering the 58 additional round trip truck trips. Sierra Club calls for a traffic study to determine the cumulative impact of these additional truck trips as required by CEQA.

**Underestimation of Truck Trips**

Our analysis shows that the new number of truck trips in the RDEIR is underestimated. The RDEIR reveals that there will be increased numbers of internal trips to backfill the excavation: It says: “Washed fines and materials undesirable for processing would be transported to backfill areas in one of three ways: (1) low-profile haul truck/tractor-trailer, (2) conveyor and haul truck, and (3) haul truck.” Yet nowhere in the RDEIR are these extra truck trips internal to the project accounted for. A thorough search of the EIR showed no analysis of these additional internal truck trips nor any accounting for their impact on air pollution, greenhouse gas, or the streambed of the Sweetwater River. This is a clear omission in violation of CEQA and needs to be amended in future EIRs.

**Impacts to the Sweetwater River**

The RDEIR like the DEIR assures the reader that no disruption or pollution would occur in the streambed of the Sweetwater River, a river that feeds Sweetwater Reservoir, a source of drinking water for several hundred thousand residents of San Diego County. The RDEIR tries to reassure readers that there will be no damage to the Sweetwater River streambed. The RDEIR states: “Up to three temporary river crossings would be utilized to transport heavy equipment across the low-flow channel during mining operations. Channel crossings would only be used when there is no water flow in the channel.” However, the RDEIR fails to:

1. Specify if the streambed must be completely dry before trucks are allowed to cross the streambed.
2. Specify who will monitor the streambed to make sure it is sufficiently dry to permit truck crossing.
3. Provide details for how many weeks or months the streambed would have no flow from water releases a Loveland Reservoir.
4. Discuss whether the project could cease operations entirely when the streambed is continuously flowing from heavy rains as was the case in the 2022-2023 rainy season.

**Haul trucks violate the streambed of the Sweetwater River.**

In the DEIR the applicant promised not to disturb the streambed of the Sweetwater River. In the RDEIR we learn that is not the case. The RDEIR clearly states: “For backfill areas north of the channel in Phase 1, the fill materials would be loaded onto a low-profile haul truck or tractor-trailer by an excavator at the processing plant and hauled along the conveyor access road (conceptual alignment shown on Figure 1-5a) to the backfill areas. Clearance under the Steele Canyon Road bridge is approximately 11 feet in height, which would allow the low-profile haul truck (approximately 9 feet in height with a capacity of 20 cy) or tractortrailer (approximately 8 feet in height with a capacity of 16 cy) to pass beneath without requiring removal of soil material beneath the bridge.” The Steel Canyon Road bridge crosses the streambed of the Sweetwater River; thus, the earlier assurance that there would be no disturbance to the streambed of the Sweetwater River is obviously an error. To comply with CEQA a new analysis of the recently revealed streambed intrusions into the Sweetwater River need to be conducted.

**Backfill Material Section is Illegally Vague and Dangerous**

The REIR revealed for the first time that imported backfill material would be introduced to the project site upon completion of the mining operation. The REIR states that: “The imported material would consist of inert debris only. Inert debris would consist of excavated soil material from development projects, clean demolition materials, and possibly concrete, asphalt, and rock. The project would be conditioned to only accept materials suitable for the end use of the site.” This plan is a clear violation of CEQA:

1. A more detailed analysis of the so-called “clean” demolitions materials needs to be conducted. Such materials often contain lead, asbestos, or toxic materials. The REIR should lay out, in detail, the standards by which such infill materials will be evaluated.
2. Since the plan is purely hypothetical and would occur a decade from now, there is no assurance the materials will be “inert”, “clean”, or “suitable.”
3. Asphalt is a petroleum-based, volatile organic compound with numerous known toxic effects. Using asphalt as infill to restore a natural area is a dangerous choice and should be rejected as an option.

The final EIR must include much more detailed analysis of the content of the backfill material, analyze that it is indeed “clean”, and remove asphalt from among the backfill materials.

**Impacts to McGinty Mountain Ecological Reserve**

The REIR acknowledges that the McGinty Mountain Ecological Reserve is a core biological resource area. “The project site is shown as a habitat linkage between the McGinty Mountain/ Sycuan Peak-Dehesa Biological Resource Core Area (BRCA) to the east and Sweetwater Reservoir/San Miguel Mountain BRCA to the west, which overlap the extreme southwestern and southeastern portions of the site, respectively. These BRCAs are generally associated with the SDNWR to the west, southwest, and southeast of the site, along with open space areas to the east and southeast located within the McGinty Mountain Ecological Reserve and McGinty Mountain Preserve. The Sweetwater River and Sweetwater Reservoir are expected to be key components to the movement of wildlife in the region, namely birds and mammals.”

The REIR acknowledges that the project would negatively impact these core, biological areas. It states: “The project would impact the viability of a core wildlife area,” “The project would impact the viability of a core wildlife area.” Additionally, the REIR states, “The project would result in direct impacts to lands mapped as BRCA and PAMA, and would impact sensitive habitats found to support, or with the potential to support, special status wildlife species.”

Despite the many mentions of the McGinty Mountain Ecological Reserve, the RDEIR is deficient in that it neither mentions specific harms to the reserve, nor does suggest how the vague harms to the reserve would be mitigated as required under CEQA.

Additionally, the RDEIR is deficient in that no mention is made in the entire RDEIR on air quality impacts to the McGinty Mountain Ecological Reserve and McGinty Mountain Preserve. Human receptors are not the only living things impacted by fugitive dust and air pollution. Mammals, birds, insects, and plants can be negatively affected by air pollution and dust. The McGinty Mountain Ecological Reserve and McGinty Mountain Preserve lies immediately to the east of the project and any emissions would blow right into the reserve on the prevailing westerly winds. A complete environmental impact analysis on these air-bourne impacts is required to be compliant with CEQA.

**Wildlife Corridors**.

The present site proposed for the Cottonwood Sand Mine is an important wildlife corridor connecting McGinty Mountain Ecological Reserve, the San Diego Natural Wildlife Refuge, and other key natural reserves. The RDEIR acknowledges the importance of the former Cottonwood Golf Course as a wildlife corridor. It states: “Large mammals would also be expected to travel along the Sweetwater River valley and riparian corridor. Birds would be expected to move unobstructed between key habitat blocks of coastal sage scrub and riparian habitat providing important breeding, foraging, and dispersal functions. Key blocks of coastal sage scrub where gnatcatchers are known to occur include the SDNWR, with additional habitat extending further northeast within Crestridge and Harbison Canyon, and to the southeast into Proctor Valley and areas surrounding Jamul Mountain.”

The RDEIR further acknowledges this important wildlife corridor. “The Project site is shown as a habitat linkage between the McGinty Mountain/Sycuan Peak-Dehesa Biological Resource Core Area (BRCA) and Sweetwater Reservoir/San Miguel Mountain BRCA, which overlap the extreme southwestern and southeastern portions of the Project site, respectively. These BRCA are generally associated with the SDNWR to the west, southwest, and southeast of the Project site, along with open space areas to the east and southeast located within the McGinty Mountain Ecological Reserve and McGinty Mountain Preserve.”

Crucially, the Cottonwood site is in the core of one of the most important MSCP sites in Southern California: “The site is identified as a linkage between these core areas in the MSCP (County 1997), and small portions of the site are identified as PAMA (16.4 acres).”

Unfortunately, after documenting the importance of the project site as a wildlife corridor, the RDEIR attempts to downplay its importance. “The Project site mainly consists of an existing golf course which lacks adequate vegetative cover preferred by many species for use of an area as a corridor… For these reasons, its current linkage/corridor functions are considered low.”

This statement is not exactly true. The golf course has been closed for five years and residents report numerous sightings of birds, reptiles and mammals that were seldom seen previously. Animals are quick to reclaim an abandoned area. During the pandemic there were numerous reports of animals inhabiting urban areas while people were sheltering in place. Similarly, after the Fukushima nuclear disaster in 2011, many wild animals such as boars, macaques, raccoons, and foxes moved into the evacuated zones and thrived in the absence of human activity. Likewise, plants and trees have taken over abandoned spaces in Scotland, such as old factories, railways, and quarries, creating new habitats for wildlife. Nature has a remarkable ability to adapt and recover from human impacts. This is especially the case with the Cottonwood Golf Course since it is located near rich biological areas such as the McGinty Mountain Ecological Reserve and the National Wildlife Refuge. What will resolve this issue more definitively is a new biological survey-one that is conducted before activity resumes. Sierra Club calls for a new biological survey that documents the species that have repopulated the former golf course.

In fact, numerous species have been captured by camera. According to the RDEIR: “Species captured by the cameras include great basin fence lizard (Sceloporus occidentalis longipes), San Diego gopher snake (Pituophis catenifer annectens), black phoebe (Sayornis nigricans), Cassin’s kingbird (Tyrannus vociferans), European starling (Sturnus vulgaris), great blue heron, great-tailed grackle (Quiscalus mexicanus), greater roadrunner (Geococcyx californianus), house finch (Haemorhous mexicanus), mourning dove (Zenaida macroura), northern mockingbird (Mimus polyglottos), redshouldered hawk, Say’s phoebe (Sayornis saya), western bluebird, bobcat (Canis latrans), California ground squirrel, coyote, desert cottontail (Sylvilagus audubonii), long-tailed weasel (Mustela frenata), raccoon (Procyon lotor), and Virginia opossum (Didelphis virginiana). Many of the bird, reptile, and small mammal species detected within the project site are commonly observed in urbanized, residential, and disturbed settings associated with human presence. Medium-sized mammal species such as coyote and bobcat were also detected, though larger species, such as mule deer and mountain lion, were not detected. Coyotes were detected at all camera stations during both daytime and nighttime hours. In addition, coyotes were observed in groups of two and three in the eastern and western portions of the project site during daytime hours on several occasions during the 2022 biological surveys. Bobcat was detected a total of three times (June 25, June 28, and July 14, 2022) at two camera stations.” Please note that these surveys were taken when animal species were suppressed during a decade long drought. Sierra Club for an updated survey conducted after our substantial rains that occurred in winter and spring of 2022-2023.

**Unmitigated Impacts of the Project**

The RDEIR openly admits that the project would have unmitigated impacts to numerous important San Diego County Species. “The project would result in potentially significant impacts to the federally listed threatened coastal California gnatcatcher and federally and state listed endangered least Bell’s vireo, further discussed below. , USFWS-designated critical habitat for the coastal California gnatcatcher, least Bell’s vireo, and federally listed endangered San Diego ambrosia is present in the southwestern portion of the site (Figure 7), and critical habitat for the federally and state listed endangered southwestern willow flycatcher occurs off-site to the west of the project site within the SDNWR.” Additionally, The DEIR admits that the project would have unmitigated impacts on nesting species: “The project could impact nesting success of coastal California gnatcatcher, least Bell’s vireo, and tree-nesting raptors through grading, clearing, fire fuel modification, and/or other noise generating activities such as construction.”

The RDEIR states that: “Impacts to nesting gnatcatchers and occupied habitat would be significant. Potentially significant impacts to coastal California gnatcatcher habitat would be reduced to a less than significant level through the implementation of mitigation measure BIO-1.” This bogus mitigation measure is not a substitute for real mitigation which would require contemporaneous acquisition of habitat of equal or greater quality to that which the project is destroying.

**Indirect impacts**

Construction-related noise from sources related to clearing, grubbing, grading, and extraction and processing activities would temporarily impact wildlife. Construction of the processing plant, aggregate extraction, and processing operations would require the daily use of heavy equipment that would elevate existing noise levels on-site. Breeding birds and mammals may temporarily or permanently leave their territories to avoid disturbances from human activities, which could lead to reduced reproductive success and increased mortality.

**Fugitive Dust**

The RDEIR recognized that probable dangerous fugitive dust emissions from the project. The RDEIR states: “Fugitive dust produced by construction and extraction operations has the potential to disperse onto preserved vegetation, which may reduce the overall vigor of individual plants by reducing their photosynthetic capabilities and increasing their susceptibility to pests or diseases. This in turn could affect animals dependent on these plants. Fugitive dust also may make plants unsuitable as habitat for insects and birds. Breeding birds and mammals may temporarily or permanently leave their territories to avoid construction and/or extraction operations, which could lead to reduced reproductive success and increased mortality. The project would implement a Fugitive Dust Control Plan during mining and reclamation activities that would include fugitive dust control measures to minimize dust emissions and meet applicable dust control requirements. Dust control measures would include the watering of active construction and extraction areas, unpaved surfaces, and stockpiles to minimize dust generation; and watering of all exposed soil a minimum of twice per day. Additionally, outgoing loaded trucks would be surface watered for dust suppression.”

These measures are unlikely to thoroughly control dust. According to the United States Center for Disease Control and Prevention: “Fugitive dust is generated along unpaved mine roads from intermittent equipment traffic. Typically, the majority of such traffic consists of trucks hauling either mine product or waste from the surface mine pit and/or the processing plant. Fugitive dust generated along these unpaved mine roads includes particles of all sizes that become airborne. The potential hazards include the deleterious effects to human health of inhaled dust, traffic visibility hazards, and environmental impacts on the localized area by the larger-sized visible airborne dust.” The RDEIR is deficient in several ways:

1. Dust control measures will be overcome by strong, dry Santa Ana Winds. While watering can help to some extent, strong winds can quickly defeat the best dust control measures.
2. The DEIR fails to guarantee that continuous dust monitoring by an independent agency will be available.
3. Some percentage of fugitive dust will escape despite control measures. Indeed, according to a published study by Sairinan, Rinne, & Selonen (2017) in the International Journal of Mining, Reclamation and Environment: “Fugitive dust constitutes one of the most severe environmental problems in quarries because it escapes capture. This review aims to provide overview of dust concentration caused by quarrying by synthesizing the current knowledge. The 25 studies explored here were conducted in open-pit quarries or mines. Three main dust sources surfaced from the studies: drilling, crushing, and hauling. Analysis revealed a range of dust concentrations caused by different quarrying operations. Crushing was the most significant dust source, while drilling caused the highest variation. Dust concentration decrease was observed with increasing distance, but the retention was incoherent due to local dust sources.”
4. The Sand Mine is in an inappropriate location because schools, residences, businesses health care facilities and pedestrians are in close proximity to the mine. Any fugitive dust will adversely affect the human receptors.

**Inadequate biological mitigation in violation of CEQA**

The mitigation measures fail to comply with the intent of the legal requirements of CEQA.

**Restoration is not Concurrent Mitigation**. Most of the biological mitigation measures in the REIR and not real time mitigation at all; they are restoration for the substantial ecological damage that would occur from the destructive sand mine. Restoration can complement real time, concurrent mitigation but not substitute for it. Typically projects such as these require off-site mitigation that would occur prior to excavation. Most projects “compensate for the impact by replacing or providing substitute resources of environmental conditions.” No such mitigation is proposed in the REIR; this is restoration, not true contemporaneous mitigation. Species would have to wait more than a decade for any mitigation to occur. This sham mitigation approach is used in BIO-1, BIO 3, BIO 6, BIO-7, BIO-8, BIO-9 BIO-10 that would result in over a decade long delay in mitigation. Real mitigation as defined by Merriam-Webster is “the process or result of making something less severe, dangerous, painful, harsh, or damaging.” Attempting to restore an environment years after it has been destroyed is not true concurrent mitigation, but simply an attempt at restoration. Under BIO-1, 3, 7, 8, 9, and 10 no attempt is made to make something less severe or dangerous, only to attempt restoration many years later.

This approach is sham mitigation because 1) any mitigation would not occur until a decade from now when mining has stopped. The REIR suggests that we must be satisfied for species to suffer for over 10 years until mitigation will begin. 2) During this decade species may not be available to return, their wildlife corridors will have been disrupted and they will suffer from habitat segmentation or worse, extinction. 3. There is no assurance that a restored habitat will be equivalent to the original natural habitat; species may find their habitat too disturbed and impacted to return.

Additionally, CEQA requires that government agencies monitor mitigations and report on progress annually through the Mitigation Monitoring and Reporting (MMR) requirement. The MMR is used to determine whether mitigation is being implemented as required and whether it is sufficient and effective. When the primary means of mitigation are delayed for over a decade it is impossible for government agencies to meet the MMR requirements because no mitigation is being done. Instead, additional mitigation property needs to be purchased outside of the project to ensure that mitigation is occurring and demonstrate through the MMR that mitigation is actually occurring.

**Paltry preservation is not mitigation**. Among the mitigation measures that are not really mitigation at all but merely preservation of “.6 acres of Diegan coastal sage scrub.” (Bio-1). In short, all the Diegan coastal sage scrub will be destroyed except for slightly more than half an acre. This is mitigation, not preservation and a paltry bit of mitigation at that. “According to the REIR: “Mitigation shall occur through the on-site preservation of 0.6 acres of Diegan coastal sage scrub and on-site revegetation of 11.3 acres of Diegan coastal sage scrub for a total of 11.9 acres of Diegan coastal sage scrub to be preserved within the biological open space easement.” This preservation as mitigation in BIO-1 and BIO-10 masked the biological destruction by preserving a small portion of the habitat that the project destroys.

**Threats to the gnatcatcher**: “In the REIR, BIO-2 mitigation measure proposes that: “Grading or clearing of vegetation within 500 feet of occupied Diegan coastal sage scrub during the breeding season of the coastal California gnatcatcher (March 1 to August 15) shall be avoided to the extent feasible. If clearing or grading would occur within 500 feet of suitable gnatcatcher habitat during the breeding season for the gnatcatcher, a qualified biologist shall conduct a pre-construction survey no more than three days (72 hours) prior to commencement of activities to determine whether gnatcatchers occur within 500 feet of the proposed impact area(s). If there are no gnatcatchers nesting (includes nest building or other breeding/nesting behavior) within that area, grading and clearing shall be allowed to proceed. If any gnatcatchers are observed nesting or displaying breeding/nesting behavior during the pre-construction survey or additional surveys within the area, construction shall be postponed within 500 feet of any location at which gnatcatchers have been observed until a qualified biologist has determined that all nesting (or breeding/nesting behavior) has ceased or until after August 15.”

Mitigation measure BIO-2 is inadequate for three reasons.

1. This measure presumes that a biologist will be on hand continuously to monitor the presence of gnatcatchers. But the mitigation measure does not propose that a biologist be present. Certainly, sand miners do not have the expertise to discern the presence of gnatcatchers.
2. If gnatcatchers are detected then operations will be suspended from March 1 to August 15, severely limiting extraction from the sand mine. In such a case the EIR needs to specify if the total production of the Sand Mine will be reduced if the operations will be extended beyond the hours of years specified in the EIRs.
3. There is no promise not to harm gnatcatchers in the REIR, just to avoid them “to the extent possible.” The term, “to the extent possible is vague and insufficient” and is up to the discretion of the developer offering no assurance of protection for the gnatcatcher.

**Threats to the Least Bell’s Vireo**. Mitigation measures BIO-3 and BIO-4 are inadequate to protect the Least Bell’s Vireo habitat. BIO-3 proposes that: “Mitigation for impacts to 0.58 acre of potential nesting and foraging habitat for least Bell’s vireo (southern cottonwood-willow riparian forest, disturbed southern willow scrub, and tamarisk scrub) shall occur at a minimum 3:1 ratio with at least 1:1 creation (establishment/reestablishment) for a total mitigation requirement of 1.74 acres. Mitigation shall occur through on-site preservation of 13.86 acres of wetland and riparian habitat, on-site rehabilitation of 7.36 acres of riparian habitat, and on-site re-establishment and revegetation of 107.62 acres of riparian habitat for a total of 128.84 acres of wetland riparian habitat to be preserved within the biological open space easement.”

BIO-3 and BIO-4 in the REIR states: “Grading or clearing of riparian habitat during the breeding season of the least Bell’s vireo (March 15 through September 15) shall be avoided to the extent feasible.” BIO-3 and BIO-4 are inadequate because:

1. It destroys more vireo habitat than it preserves.
2. Like several mitigation measures it restores habitat only after more than a decade with little assurance that the initial destruction did not harm or eliminate the gnatcatchers permanently.
3. Like the mitigation measure for the California Gnatcatcher, it only protects Vireo habitat “to the extent possible.” The term, “to the extent possible” is vague and inadequate. Ominously, the determination is up to the discretion of the developer with no biological experience, offering no assurance of protection for the gnatcatcher.
4. Operations will be stopped if Vireos are observed during the breeding season from March 15 to September 15 further limiting the time when extraction can occur. But the EIR needs to specify if the total production of the Sand Mine will be reduced or if the operations will be extended beyond the hours or years specified in the EIRs.

**Threats to Birds will be Substantial.**

Mitigation measure BIO-5 is inadequate to protect nesting gnatcatchers, vireo, raptors, and other bird species. According to the REIR: “If pre-construction surveys determine the presence of active nests belonging to these sensitive species, then activities shall: (1) be postponed until a qualified biologist determines the nest(s) is no longer active or until after the respective breeding season; or (2) not occur until a temporary noise barrier or berm is constructed at the edge of the impact footprint and/or around the piece of equipment to ensure that noise levels are reduced to below 60 dBA or ambient, whichever is greater. The type(s) and location(s) of noise barrier(s) shall be provided to the County and Wildlife Agencies along with the associated noise measurements demonstrating compliance with required noise level reductions. Decibel output would be confirmed by a County-approved noise specialist and intermittent monitoring by a qualified biologist to ensure that noise levels remain below 60 dBA at occupied areas.”

1. Since mining is a continuous activity, “intermittent monitoring” is inadequate to assess noise spikes in the DBA levels.
2. Noise and biology specialists will be under great pressure not to postpone mining activities resulting in overlooking of excessive noise levels.
3. It is unclear if noise and biology specialists will be hired by the developer (which will constitute a fatal conflict of interest) or by some impartial body.
4. Creating noise barriers to protect birds is an inadequate and pitiful mitigation measure. Bird nest in trees up to 40 or 50 feet above ground and will fly over and around the area.
5. Erecting a barrier 40-50 feet above ground is not particularly feasible. The applicant needs to demonstrate that this is feasible and effective.
6. If it were feasible, construction of such a barrier would create substantial noise during construction of the barrier.
7. The proposed Cottonwood Sand Mine is in a river valley surrounded by hills at substantially higher elevations above the project. These elevated hills would reflect sound from the opposite site of the barrier which would produce reverberations that would impact bird species.

**The mitigation plan proposed in BIO-7 is inadequate to project other bird species.** According to the EIR: “Potential impacts to nesting birds, including but not limited to barn owl, California horned lark, Canada goose, coastal California gnatcatcher, Cooper’s hawk, great blue heron, green heron, Lawrence’s goldfinch, least Bell’s vireo, loggerhead shrike, oak titmouse, red-shouldered hawk, vermilion flycatcher, Biological Resources Technical Report for the Cottonwood Sand Mine Project | March 2023 94 western bluebird, white-tailed kite, yellow-breasted chat, and yellow warbler would be mitigated through the implementation of the following measure BIO-7:Grubbing or clearing of vegetation during the general avian breeding season (February 15 through August 31) or raptor breeding season (January 15 through July 15) shall be avoided to the extent feasible.”

This measure is clearly misleading and lacks credibility. If the collective protections recommended in the REIR are implemented the potential exists to prohibit sand mining from January 15 to September 15. The project manager will be under great pressure to keep the mine in operation, ignoring this mitigation measure. Additionally, if they avoid mining during streambed flow in the Sweetwater River (See other part of EIR) the potential mining season may be reduced to a single month (Sept 15 to October 15).

**Mitigation measure BIO-11 will not protect reptile and amphibian species**. The REIR states: “Direct impacts to special status reptile and amphibian species not covered under the County’s MSCP (including two-striped garter snake and western spadefoot), if found to occur within the proposed impact area(s), would be mitigated through the implementation of the following measure BIO-11: BIO-11 Prior to any vegetation removal, grading, and/or other ground disturbing activities, a qualified biologist familiar with special status reptile and amphibian species behavior and life history shall conduct a pre-construction survey no more than two weeks prior to commencement of activities to determine whether reptile and amphibian species designated as sensitive by CDFW, but not covered under the County’s MSCP, occur within proposed impact area(s). If special status reptile or amphibian species are detected during the pre-construction survey, consultation with CDFW shall be initiated to prepare species-specific protocols for proper handling and relocation procedures.”

This measure does not call for practices that would actually protect reptile and amphibian species; it only calls for consultation with CDFW. In absence of a specific protocol for protection of these species it is uncertain if, and when, consultation with CDFW would occur and what the disposition of such consultations are. CEQA require specific plans for the protection of species; BIO-10 is hopelessly vague and provides not specific protections.

**Mitigation Measure BIO-12 Fails to Project the Western Spadefoot**.

The REIR states: “Direct impacts to western spadefoot, if found to occur within the proposed impact area(s), would be mitigated through the implementation of the following measure: BIO-12 If western spadefoot toads, tadpoles, or egg masses are identified within the proposed impact area(s), the following measures shall be implemented: (1) A suitable relocation site(s) outside the proposed impact area(s) shall be identified by a qualified biologist. The relocation site(s) shall be located a minimum of 50 feet outside of the proposed impact area(s), or 100 feet if available, and shall be approved by CDFW; (2) All western spadefoot adults, tadpoles, and egg masses encountered in the proposed impact area(s) shall be collected and released in the identified relocation site(s); (3) The relocation site(s) shall be monitored annually for five years during and immediately following peak breeding season (late winter to March).”

This measure is inadequate for 4 reasons.

1. Spadefoot eggs and tadpoles require opportunistic harvesting. Spadefoot eggs are laid in puddles following rain and usually at night. The REIR offers no measure to ensure this sort of continuous monitoring and rapid response.
2. Bio-12 fails to project spadefoot habitat-it just attempt to protect individual animals and their eggs.
3. The relocation area may be too close to the project (50 feet) to insure survival of toads and their eggs.
4. There is no assurance that relocation sites will be monitored for 5 years.

**Fencing would be environmentally damaging as recommended in BIO 12.**

Mitigation measure BIO 12 recommends: “To help ensure errant impacts to sensitive vegetation communities outside of the impact footprint are avoided during construction, environmental fencing (including silt fencing where determined necessary by the SWPPP), would be installed at the edges of the impact limits prior to initiation of grading. All construction staging shall occur within the approved limits of construction.” Fencing in a wildlife corridor is environmentally harmful because it reduces migration and results in species segmentation. Ironically, what is included as a biological mitigation measure may result in increased environmental harm.

**Bio 13 Mitigation for Bats is Disingenuous.**

According to the RDEIR. “A letter report summarizing the survey methods and results of the survey, including negative findings, shall be submitted to the County and CDFW for review at least two weeks prior to the commencement of Project activities. If bats are detected within the proposed impact area(s) during the initial pre-construction survey, the letter report will identify measures to be implemented to avoid and minimize potential direct and indirect impacts to roosting bats, including those identified in this measure…If bats are detected during the final pre-construction survey, the following avoidance measures shall be implemented, depending on the time of year, including additional measures identified in the letter report. If an active maternity roost is detected during the bat maternity season (April 15 through August 15), the biologist shall flag the active roost site and construction activities shall avoid the roost site until after the maternity season (August 16).”

1. It is hard to believe that there will be an active search for Bats during a 4-month period from April 15 to August 15. In fact, nothing in the RDEIR identifying a mechanism or assigning a biologist for identifying bats.
2. In the absence of an ongoing presence of a biologist it is hard to believe that miners and construction workers would recognize a bat maternity roost if they saw one.
3. If a worker did find a bat roost there would be powerful disincentives from disclosing its presence.
4. The RDEIR is vague and unclear what construction activities would be suspended to avoid the roost site.

Draft EIRs can write whatever the authors want but the procedures in BIO-13 strain credulity.

**What Will this Property become after restoration? A park? Dedicated parkland?**

**Bio 14 and 15** According to the EIR, “BIO-14 The applicant shall dedicate 150.7 acres of biological open space to be managed by a long-term manager approved by the County in accordance with a Resource Management Plan. The biological open space easement shall include native habitat revegetation areas located within the expanded Sweetwater River floodplain and bordering constructed slopes. Permanent open space fencing and signage shall be installed around the perimeter of the biological open space as detailed in the final Resource Management Plan. BIO-15 The project requires preparation of a Resource Management Plan (RMP) for on-site biological open space to be approved by the County and Wildlife Agencies (USFWS and CDFW). The RMP would provide direction for the permanent preservation and management of the on-site biological open space in accordance with County regulations.” The RDEIR needs to be much more specific regarding the restored project site and its future uses.

Mitigation in this RDEIR is deficient. In sum, according to the RDEIR despite mitigation the: “Project implementation could result in potentially significant impacts to federally and state listed animal species, state Species of Special Concern animals, County List B and D plant species, County Group 1 and 2 animal species, and raptors with the potential to nest and/or forage over the site and immediate vicinity. Potential significant impacts could result from direct disturbance, loss of habitat, and noise.”

The County can approve a project only if the agency adopts a Statement of Overriding Considerations detailing the specific overriding economic, legal, social, technological, or other considerations that outweigh the project's significant, unavoidable impacts. Under CEQA, the lead agency is required to mitigate all " significant" adverse environmental impacts to "**the maximum extent feasible.** and

In conclusion, Sierra club ask for the following outcomes:

1. **That County of San Diego staff recommend against approval of Cottonwood Sand Mine.**
2. **That the San Diego County Planning Commission recommend against approval of the Cottonwood Sand Mine.**
3. **That the County of San Diego dedicate the former Cottonwood Golf Course for Open Space and a Community Park.**

Sincerely,

Dr. Peter Andersen, Vice-Chairperson

Conservation Committee

Sierra Club San Diego